

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

O. P. MURPHY COMPANY, INC.	)	Case Nos.	77-CE-31-M
dba O. P. MURPHY & SONS,	)		77-CE-37-M
	)		77-CE-41-M
Respondent	)		77-CE-42-M
	)		77-CE-43-M
and	)		77-CE-53-M
	)		77-CE-57-M
UNITED FARM WORKERS	)		77-CE-60-M
OF AMERICA, AFL-CIO,	)	13 ALRB No.	27
	)	(5 ALRB No.	63)
Charging Party.)		

SUPPLEMENTAL DECISION AND ORDER

On August 29, 1983, Administrative Law Judge (ALJ) Stuart A. Wein issued the attached Decision in this matter. Thereafter, Respondent, General Counsel and Charging Party timely filed exceptions to the ALJ's Decision with briefs in support of exceptions.

The Agricultural Labor Relations Board (ALRB or Board)^{1/} has considered the record and the ALJ's Decision in light of the exceptions and briefs of the parties and has decided to affirm the ALJ's rulings, findings, and conclusions,- except as modified herein, and to adopt his recommended Order, with modifications.

Background

The United Farm Workers of America, AFL-CIO (UFW or

^{1/}The signatures of Board Members in all Board Decisions appear with the signature of the Chairman first (if participating), followed by the signatures of the participating Board Members in order of their seniority. Member McCarthy has disqualified himself from participation as he did in the underlying liability phase of this case. Member Ramos Richardson took no part in the consideration of this case.

Union) was certified by the Board on March 17, 1977, as the exclusive bargaining representative of all agricultural employees of O. P. Murphy Company (OPM), the Respondent herein. (O. P. Murphy S Sons (1977) 3 ALRB No. 26.) Thereafter, Respondent and the UFW engaged in 11 bargaining sessions between June 29, 1977 and October 13, 1977. Those meetings comprise the extent of the bargaining history litigated in the underlying liability phase of the instant case. (O. P. Murphy Produce Co., Inc. dba O. P. Murphy & Sons (1979) 5 ALRB No. 63.) In the liability phase, the Board found that Respondent violated the duty to bargain in good faith in violation of Labor Code section 1153(e) and (a),^{2/} beginning with the first bargaining session, by engaging in dilatory tactics designed to preclude consummation of a collective bargaining agreement during the 1977 tomato harvest season. The Board also found that Respondent engaged in several per se violations of the duty to bargain by instituting unilateral changes in the terms and conditions of employment for its employees and that those violations contributed to the inability of .the parties to reach agreement. As a remedy for its failure or refusal to bargain in good faith, Respondent was ordered to make its employees whole by paying them a sum based on the difference between their actual rate of pay and the prevailing wage as reflected in a comparable industry contract. The makewhole award was assessed for the period commencing on June 29, 1977, the date of the first bargaining meeting, and ending on the date on which

^{2/}All section references herein are to the California Labor Code unless otherwise specified.

Respondent "commences to bargain in good faith and thereafter bargains to a contract or a bona fide impasse."

In addition to the bargaining violations discussed above, the Board found that Respondent violated section 11530 and (a) by discriminatorily discharging a significant portion of its tomato harvest work force on September 13, 1977, in retaliation for the employees' participation in a one-day work stoppage on September 12 as well as threatened strike activity on the morning of the discharge. Thereafter, employees picketed various of Respondent's work sites for approximately one month. The Board concluded that the discharged employees were entitled to backpay from the date of their discharge until October 15, 1977, the date on which Respondent offered to reinstate them. Thus, all employees found to have been unlawfully discharged would be entitled to the standard backpay remedy as well as a supplemental makewhole award, whereas employees who had not been discharged would receive only the makewhole award.

On November 10, 1980, the California Court of Appeals for the First Appellate District denied Respondent's Petition for Review of O. P. Murphy, supra, 5 ALRB No. 63, and the California Supreme Court denied Respondent's request for hearing on December 10, 1980. Accordingly, the Regional Director of the Board's Salinas Region computed backpay specifications for the discharged discriminatees. In addition, he compiled and issued a proposed bargaining makewhole schedule based on a comparable contract.

Following a full evidentiary hearing pursuant to

Respondent's objections to the proposed wage specifications, the ALJ determined that the contractual makewhole period ended contemporaneously with the close of the 1977 harvest season, which occurred sometime in November of that year. He found no contractual makewhole liability for the basic wage rate as Respondent's wage scale equalled the relevant UFW contract rate, but did find that Respondent had a monetary obligation for employee fringe benefits. Of the 174 individual discriminatees whom General Counsel alleged were in the class of employees wrongfully discharged', the ALJ ruled that only those employees who actually testified in the compliance hearing were potentially entitled to a backpay remedy. Since the discharge occurred prior to the start of work on September 13, 1977, there is no payroll data for that date for the alleged discriminatees. Of the 114 employees who testified, he found that 105 of them credibly testified as to their presence and discharge on the pertinent date. He also recommended that the record in this matter remain open for a period not to exceed two years in order to permit other potential claimants to come forward should they seek to qualify themselves as discriminatees. All parties filed exceptions to the ALJ's Supplemental Decision and Order which, in combination, go to virtually every ruling, finding and conclusion of the ALJ, as discussed below.

"Sure-Tan" Motion to Reopen Record

On January 17, 1985, Respondent filed a Motion to Reopen Record in light of the U.S. Supreme Court's decision which held that, although undocumented alien workers are employees within the

meaning of the National Labor Relations Act (NLRA), and are otherwise entitled to all remedies under that Act, they are not eligible for the standard reinstatement and backpay remedies when not legally present in the United States as they would not have been "available" for work. (Sure-Tan, Inc. v. NLRB (1984) 467 U.S. 833 [116 LRRM 2857] (Sure-Tan); see Rigi Agricultural Services, Inc. (1985) 11 ALRB No. 27).)

Reinstatement was never an issue in this case, as Respondent offered reinstatement to the entire class of alleged discriminatees prior to issuance of the complaint in O. P. Murphy, et. al., supra, 5 ALRB No. 63. Therefore, reinstatement was neither prayed for in the complaint nor ordered in the Board's Decision in the underlying liability case.

In any event, it is important to observe that the discriminatees were discharged, as well as reinstated, nearly nine years prior to enactment by the 99th Congress of the Immigration Reform and Control Act of 1986 (IRCA). Section 101(a)(3) of that Act makes clear that it has no application to "continuing employment of an alien who was hired before the date of the enactment of CIRCA]." See also 8 CFR section 274a.2(b) (viii), adopted pursuant to IRCA, which defines "continuing employment" to include situations where, as here, an employee is reinstated following a termination which an administrative body has ruled was wrongful. Thus, but for Respondent's unlawful discharge of the discriminatees, their employment would not have been interrupted and thus there would have been no question concerning their immigration status, even were the new Immigration Act applicable

here.^{3/} Accordingly, the Motion to Reopen Record is denied.

Striker Misconduct

We are not persuaded that, as Respondent would have us find, the ALJ erred in denying Respondent an opportunity to introduce evidence of striker misconduct in the compliance hearing for the purpose of mitigating its backpay liability.

In the underlying unfair labor practice proceeding, the Board acknowledged that employees engaged in misconduct in Respondent's fields during the course of a one-day work stoppage or strike on September 12, 1977, as well as on certain occasions following their subsequent discharge. The Board ultimately concluded that the incidents of violence were not so flagrant as to justify withholding remedy for the entire class of strikers, but did find that certain named employees engaged in conduct sufficient to warrant forfeiture of their individual backpay award.^{4/} The Board also found that although some employees suffered vehicular damage, there was an absence of proof that the damage was caused by striking employees.

^{3/} Moreover, as we acknowledged in *Sam Andrews' Sons, Inc.* (1986) 12 ALRB No. 24, passage of the Immigration Reform and Control Act makes it "even more unlikely that the Board's order would ever present an actual conflict with final action by the immigration authorities" as a result of the increased availability of means by which illegal aliens may establish legal residency.

^{4/} For example, the Board found that Fidel and Guadalupe Alcantar made threats which would tend to coerce and restrain employees and on that basis declined to include them within the class of discriminatees entitled to backpay. The Board also found that while Salvador Hurtado engaged in conduct sufficient to deprive him of backpay, Hurtado also was deemed to have been lawfully discharged and thus not entitled to backpay on that basis.

Since the issue of misconduct was, or could have been, litigated and decided in O. P. Murphy, supra, 5 ALRB No. 63, the ALJ did not abuse his discretion in denying Respondent an opportunity to raise that question in the compliance phase of this proceeding.^{5/}

Employees Entitled to Receive the Makewhole Supplement

Respondent excepts to the ALJ's ruling that employees hired on or after September 13, 1977 are entitled to benefit from the contractual makewhole remedy in the same manner as employees who were employed prior to that time. We find no merit in the exception.

Respondent argues that since the replacement workers

^{5/}The ALJ based his ruling denying Respondent's request to submit evidence relative to alleged striker misconduct on what he found to be an insufficient offer of proof by Respondent. Because we find that the ALJ's result was a correct one, albeit on different grounds, we need not reach the question of the offer of proof. However, if our resolution of the matter were to turn on the sufficiency of the offer of proof, we note that under the Federal Rules of Civil Procedure, which bind the National Labor Relations Board (NLRB), Respondent did not proffer a sufficient offer since it "contains only general allegations and, therefore, raises no issue of fact." (Neuhoff Brothers Packers, Inc. (1965) 154 NLRB 438 [59 LRRM 1761].) A similar situation arose in Louisiana Industries, Inc. (1968) 170 NLRB 1257 [67 LRRM 1593], enforced sub nom. NLRB v. Louisiana Industries, Inc. (5th Cir. 1969) 414 F.2d 227 [71 LRRM 2975], cert. den. (1970) 396 U.S. 1039 [73 LRRM 2129], although in the context of a technical refusal to bargain. There, the employer sought leave to present evidence relative to the underlying representation matter on the grounds that the evidence was not available at the time of the hearing on objections. The NLRB excluded the evidence on the grounds that Respondent had "failed to describe with any specificity the nature of the evidence it seeks to present." Here, Respondent has not in any manner set forth the nature of the evidence it would present and thus the Board has no way of knowing, for instance, whether the alleged misconduct constitutes specific acts engaged in by individual discriminatees or whether Respondent's reference is to generalized group misconduct which it intends to assert as a defense to the reinstatement of the entire class of discriminatees.

would not have been hired in the first instance absent vacancies created by the strike, it is error to permit them to share in the makewhole supplement in the same manner as those employees who worked prior to the strike.

The ALJ properly found that the replacement workers whom Respondent hired on or after September 13, 1977, were, in actuality, hired to replace employees who had been unlawfully discharged on that date and not to fill vacancies created by departing strikers. Accordingly, he concluded that all employees who were employed during the makewhole period, as well as those employees who would have worked but for their unlawful discharge, are entitled to the makewhole supplement. We adopt his conclusion in this regard.

Extent of Makewhole Period

Both Respondent and General Counsel except to the ALJ's November 1977 termination date for the makewhole period. Respondent believes that the makewhole period should not extend beyond that conduct which was actually litigated in the underlying liability phase of this case; i.e., a period which would end on October 13, 1977. General Counsel, on the other hand, believes that Respondent failed to establish that it commenced good faith negotiations prior to January 6, 1978. We find no merit in either of the exceptions.

The ALJ first relied on the Board's finding, as expressed in O. P. Murphy, supra, 5 ALRB No. 63, that Respondent was not bargaining in good faith on October 13, 1977, the date on which the hearing closed. Next, he took notice of a subsequent case involving this same Respondent in which the parties stipulated

that they did not meet for the purpose of collective bargaining until October 27, 1977 and, upon conclusion of that meeting, agreed to meet again on January 5, 1978. (O. P. Murphy Produce Co., Inc. (1981) 7 ALRB No- 37.) That case also revealed that Respondent did not tender a package offer to the Union until an unspecified day in November 1977. The offer was still pending at the time of the January meeting. The ALJ herein also observed that the ALJ in 7 ALRB No. 37 had found that "the formal offer of 6 January 1978 -- General Counsel concedes to have been made in good faith -- was identical to the 'package' proposed previously in November 1977" He then found that neither General Counsel nor the Union succeeded in rebutting the inference that the January package proposal evidenced good faith negotiations by Respondent. He concluded that the makewhole period ended when Respondent initially submitted that same package proposal, that is, in November 1977. We agree with his analysis and adopt his findings and conclusions.

Method of Computing Makewhole Liability

In selecting the "model" union-negotiated contract with another employer to serve as the basis for ascertaining what Respondent's basic wage rate might have been had it in fact bargained to contract, General Counsel, with approval of the ALJ, relied on the bargaining agreement entered into between the UFW and the Meyer Company, also a Salinas area tomato grower, whose operations compare to those of Respondent. But, in determining the amount of the fringe benefits for which Respondent would also be liable, the ALJ adhered to the prevailing Board, formula which

assigns a finite 22 percent of the basic wage rate. Respondent argues in the main that where, as here, General Counsel prevails in establishing that a particular contract is the most appropriate measure of the basic wage rate, logic dictates that that same contract, rather than the Board's 22 percent formula, would also be a more accurate assessment of the fringe benefit package Respondent would have assumed had it consummated a bargaining agreement with the Union.

The standard for evaluating Respondent's exception was set forth in Kyutoku Nursery, Inc. (1982) 8 ALRB So. 73 (Kyutoku) in this manner:

. . . where the General Counsel has established at the hearing that the proposed makewhole formula(s) and calculations are reasonable and conform to the standards set forth in our decisions, we shall adopt the General Counsel's formulas and computations. We may reject or modify his or her formulas and/or computations where-a respondent proves that the General Counsel's method of calculating makewhole is arbitrary, unreasonable, or inconsistent with Board precedents, or presents some other method of determining the makewhole amount which is more appropriate, (Emphasis added.)

Because we construe the second sentence quoted directly above in the disjunctive, we are not required to find that General Counsel's proposed backpay specifications are "arbitrary, unreasonable, or inconsistent with Board precedents" before exercising our discretion to determine whether a different computation submitted by a respondent is a preferable alternative.

In Perry Farms, Inc. (1978) 4 ALRB No. 25, the Board established a standardized formula for computing the value of the fringe benefit portion of a makewhole award in order to avoid the complexities and delay attendant to a "costing-out" approach.

complexities and delay attendant to a "costing-out" approach. Thus, in reliance on U.S. Bureau, of Labor Statistics (BLS) data showing the relative proportions which various fringe benefits occupy in relation to total employee compensation in nonmanufacturing industries, the Board concluded that henceforth it would weigh the basic makewhole wage at 78 percent of the total makewhole compensation package employees are entitled to receive from a wrongdoing employer, with the balance of 22 percent representing fringe benefits. Thereafter, in October 1982, the Board reexamined BLS data, found it unchanged since 1978, and reaffirmed the 22 percent formula initially derived therefrom.

(Kyutoku Nursery, Inc., supra, 8 ALRB No. 73.)

Rarely has the Board deviated from the concept of averaging multiple "comparable contracts" for determining the average general labor hourly wage. There are, however, two notable exceptions to the general rule first enunciated in Adam Dairy dba Rancho Dos Rios (1978) 4 ALRB No. 24 (Adam Dairy). In Holtville Farms, Inc., (1984) 10 ALRB No. 13, affirmed (1985) 165 Cal.App.3d 388 (Holtville), the Board approved of the General Counsel's reliance on only one contract (i.e., Sun Harvest) for the general labor base rate because Holtville operated in the same general area as Sun Harvest, raised the same crops, drew from the same labor pool, and, in particular, had twice raised wages to meet the Sun Harvest contract rate. Similarly, in Kyutoku, the Board affirmed General Counsel's reliance on a single contract for the basic measurement but on the grounds that the nature of the nursery business is unique and there were no other industry guidelines. Although measuring the basic wage rats by a single

contract in both Holtville and Kyutoku, supra, the Board nevertheless continued to adhere to the 22 percent formula for determining the fringe benefit component of a model contract in order to avoid a cumbersome costing out and to achieve uniformity of remedy.

Thereafter, following a presentation of views by interested parties as to the manner in which the Board has historically calculated the fringe benefit component of a make-whole award/ we concurred in the General Counsel's proposal that the Board periodically undertake a survey of collective bargaining agreements in order to assure that the fringe benefit formula is premised on current data. Toward that end, we agreed to attempt to seek funding for such a survey. We also held that, in the interim, we would calculate fringe benefits on a case-by-case basis and indicated that such an analysis would be based (as is the general labor wage rate) on an averaging of comparable contracts. (J. R. Norton Company, Inc. (1984) 10 ALRB No. 42 (Norton).)

However, we limited Norton, insofar as we held in that case that any deviation from the established fringe benefit formula could be had only in those cases which had not yet gone to hearing before an ALJ. Since the ALJ's Supplemental Decision in the instant case issued on August 29, 1983, prior to issuance of Norton, the standard 22 percent fringe benefit formula ostensibly should control here. But, in his Supplemental Decision in this case, the ALJ expressly invited the Board to consider that, should it find a particular non-Adam Dairy contract "comparable" for

purposes of the basic makewhole hourly wage rate, it might accept that same contract as an equally suitable basis for computing the fringe benefit component. We agree with his observation that:

Were the Board inclined to depart from the .22 fringe factor mandated by Adam Dairy, the instant action provides, in some aspects, a paradigm case for such reformulation. Respondent herein is able to refer to one existing contract (Meyer)-- which General Counsel concedes contains the prevailing wage rate upon which to base make-whole earnings. The fringe benefits of the 'model' contract are readily calculable as a percentage of the entire 'package' (see RX 44). And, the actual bargaining history between the UFW and Respondent suggests the acceptability of the Meyer contract during the period in question (ALJD, p. 18, fn. 14)

We recognize that Norton, as well as the Board's prior approach to both the wage rate and fringe benefit components, contemplates an averaging of multiple contracts. Here, however, it is General Counsel's position that there is no comparable contract other than the Meyer contract. A's General Counsel argues, the Meyer contract was negotiated in 1977, contemporaneously with the bargaining violations at issue herein, both Meyer and Respondent are Salinas area operations, and fresh market tomato contracts from other areas of the state generally exhibited a lower wage rate than did the Meyer contract. In any event, General Counsel concedes that even when measured against the Meyer contract, Respondent paid prevailing wages and therefore incurs no actual monetary liability for the basic wage rate.

Under present circumstances, where only one contract may be deemed comparable for purposes of assessing the basic makewhole wage rate, we believe that same contract provides a useful basis for computing the fringe benefit portion of the overall

contractual makewhole remedy. Our finding in that regard should not be construed as an indication that the Board has necessarily abandoned its belief in the appropriateness of a single and consistent formula for computing fringe benefits. Rather, we simply look to the intent of the interim procedure approved in Norton , but only insofar as the record herein permits. Norton calls for a survey of the fringe benefit components of multiple contracts whereas here we look only to the Meyer contract. Norton also establishes a specific procedure for computing fringe benefits on the basis of precise data measured by actual hours worked. Strict adherence to that procedure would require that we remand this matter to the Salinas Regional Office of the Board for new makewhole specifications. However, we are persuaded that, as the ALJ acknowledged, we can derive a workable percentage formula from available data, specifically, Respondent's -Exhibit No. 44.

The foregoing exhibit is the result of a stipulated agreement between General Counsel and Respondent as to the actual dollars expended by the Meyer Company in fringe benefits. That stipulation also sets forth the total dollar expenditure in wages by Meyer and thus provides a means by which we may derive a ratio of earnings to fringe benefits.

During 1977, the relevant year for measuring Respondent's monetary liability for makewhole fringe benefits, Meyer paid out \$967,231.23 in general labor wages plus \$56,511 in nonmandatory negotiated fringe benefits. Those benefits break down as follows :

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Bonuses paid under contract	\$ 8,329.00
Vacation Pay	142.67
Overtime Pay	131.95
R. P. Kennedy Fund.	17,305.28
Juan de la Cruz Fund.	10,488.05
Martin Luther King Fund	5,244.04
Labor Day Holiday Pay	14,870.23

Thus, for every dollar Meyer paid in basic wages, the Company paid out an additional .058425546 in nonmandatory fringe benefits.

Appendix A attached to the ALJ's Decision represents General Counsel's revised post-hearing calculations for approximately 600 individuals who were employed by Respondent during the relevant makewhole period, excluding the discharged discriminatees. As noted previously, since Respondent incurs no makewhole liability for its basic wage rate, Appendix A pertains only to the fringe benefit component of the makewhole remedy for the employees listed therein.

The formula utilized by General Counsel, and affirmed by the ALJ, (subject to corrected payroll data for employees listed in ALJ Decision, p. 19, fn. 15), is consistent with Board practice as set forth in Adam Dairy, supra, and Robert H. Hickam (Hickam) (1983) 9 ALRB No. 6. That formula contemplates that of the total makewhole package (wages and fringe benefits combined), 15.7 percent represents negotiated nonmandatory fringe benefits and 6.3 percent represents employer contributions to government mandated employee benefit programs. Accordingly, General Counsel first divided each employee's year-ending gross earnings by .78

(100 percent minus 22 percent for fringe benefits), then took 93.7 percent of the resulting amount (i.e., 100 percent minus the 6.3 percent which Hickam permits an employer to deduct for actual payments into mandatory funds) and, finally, subtracted the total gross earnings from the amount derived from application of the 93.7 percent figure.

In accordance with, our Decision herein, all of the figures in the Net Makewhole columns of the ALJ's Appendix A are subject to revision pursuant to the fringe benefit percentage factor drawn from the Meyer contract. To facilitate that computation, Respondent is directed to compute the net makewhole due the employees in the ALJ's Appendix A by multiplying its employees actual gross year-end earnings by the 6 percent (i.e., 1.058425546 rounded off) Meyer fringe factor. Since the Meyer 6 percent figure is in this instance a substitution for only that portion of the Adam Dairy formula which is assigned to negotiated nonmandatory benefits, the Meyer add-on is not subject to the Hickam setoff for mandatory contributions.^{6/} Final computations are subject to review and approval by the Regional Director.

With respect to those employees whom the ALJ found were discriminatorily discharged, and therefore were not employed by Respondent during the backpay period, he computed their individual

^{6/} Since government mandated employee benefit programs are not covered by collective bargaining agreements but must be made by the employer even in the absence of a collective bargaining agreement, they are not a factor when computing monetary liability for backpay or makewhole. (J. R. Norton (1984) 10 ALRB 42, at p. 17.)

backpay amount, the makewhole supplement due them based on the Adam Dairy formula, and added expenses where applicable. Those computations are attached to the ALJ's Decision as Appendices B-1 through B-105. Attached herewith as Appendix A to the Board's Decision is a list of the discriminatees found by the Board to have been discriminatorily discharged on September 13, 1977, and the net amount due each of them. Appendix B to the Board's Decision is a summary of the worksheet computations by which the Board recomputed the ALJ's figures to comport with the Meyer 6 percent fringe benefit figure. As we have done with nondiscriminatees entitled to the makewhole remedy, we make no allowance for mandatory contribution setoffs for the dischargees.

The Dissent argues that it is error for us to apply a fringe-benefit formula derived from the Meyers contract "because there is nothing in the record to indicate that Murphy and Meyers would have spent the same proportion of their payroll on [fringe benefits]." Accordingly, we are urged to apply an Adam Dairy-type formula. However, application of an Adam Dairy-type formula assumes no less than what we have assumed in this case, namely, that the makewhole amount the employer would pay is the same percentage of fringe benefits as the sample of employers from whom the formula is derived. In the final analysis, the only real difference between the approach we utilized and the approach urged by the dissent is the sample from which our respective formula is derived. Implicit in the dissent's approach is the assumption that an average derived from a survey of nonmanufacturing

employers is more likely to represent what the UFW and Respondent would have agreed to than would a contract negotiated between the UFW and an almost exactly situated tomato grower. We have rejected that assumption.

Computation of the Backpay Amount

Respondent objects to the amount of the uniform gross backpay amount which the ALJ recommended serve as the threshold award to each of the discriminatees, subject of course to deductions for individual interim earnings setoffs. Respondent contends that the ALJ should have computed earnings on the basis of a weekly rather than a daily average on the grounds that some employees work less than a full week.^{7/} We find no merit in the exception.

In High & Mighty Farms (1982) 3 ALRB No. 100, the Board affirmed its policy of computing net backpay (gross backpay minus interim earnings) on a daily basis. Utilization of a daily formula to compute backpay remedies was approved in Nish Noroian Farms v. Agricultural Labor Relations Board (1984) 35 Cal.3d 726 and properly followed by the ALJ in this case. Respondent has not demonstrated extraordinary circumstances to warrant a deviation from the standard formula, particularly where, as here, the backpay period is of approximately one month duration and concerns employees who were employed in a clearly seasonal tomato harvest operation.

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^{7/} Respondent arrived at an average gross earning of \$789.44 on the basis of weekly rather than daily averaging.

Recovery of Travel Expenditures

Respondent excepts to the ALJ's allowances for recovery of the cost of gasoline incurred by discriminatees while seeking interim employment. The exception lacks merit.

The NLRB does not add such expenses to an employee's gross backpay award but rather deducts them from interim earnings. Thus, expenses are irrelevant under the federal rule where there are no interim earnings. (NLRB Case Handling Manual, Part III; Harvest Queen Mill & Elevator Company (1950) 90 NLRB 320 [26 LRRM 1189].) This Board, however, has not followed the NLRB rule, distinguishing NLRB precedents on the basis of our adoption of a daily rather than a quarterly computation of gross and/or net backpay. Earnings are not computed on a quarterly basis, as under the NLRA, but rather for the entire backpay period. For that reason, we allow a discriminatee to deduct expenses incurred "seeking or working at interim employment at any time during the backpay period from interim earnings accumulated during the entire backpay period." (High & Mighty Farms, *supra*, 8 ALRB No. 100, citing Butte View Farms (1978) 4 ALRB No. 90.) The ALJ's addition to gross backpay for travel expenses incurred in conjunction with efforts to seek work is consistent with our prior holdings which have followed a uniform approach.

Applicable Interest Rate

The UFW excepts to the ALJ's ruling that the interest rate formula as set forth in the Board's Decision in LU-Ette Farms, Inc. (1982) 8 ALRB No. 55 be applied prospectively from the

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date of this Supplemental Decision and Order.^{8/} We find no merit in the exception, and adopt the ALJ's rationale.

Missing Discriminatees

Respondent excepts to the ALJ's recommendation that the record in this proceeding remain open for a period not to exceed two years in order to permit an additional sixty alleged and named discriminatees to come forward and attempt to prove that they were discharged on the morning of September 13, 1977.

We find merit in Respondent's exception. As General Counsel has never moved the Board to reopen, the hearing for the taking of evidence with regard to any other discriminatees, we do not believe it would further the purposes and policies of the Act to prolong this matter. Our ruling does not preclude General Counsel from filing a Motion for Reconsideration of this issue on the grounds that he possesses information concerning potential discriminatees other than those covered by the Order herein.

Alleged Discharge of Crews 4 and 5

Respondent excepts to the ALJ's inclusion of members of Crews 4 and 5 within the class of discriminatees entitled to remedy. We find no merit in the exception.

Respondent contends that an estimated 41 members of those crews were not discharged but voluntarily joined the strike. The

^{8/} On January 20, 1983, prior to issuance of the ALJ's Supplemental Decision in the instant proceeding, and in reliance on High and Mighty Farms, supra, 8 ALRB No. 100, General Counsel moved the Board to modify its Order in 5 ALRB No. 63 so as to provide for the Lu-Ette formula whereas Respondent argued that the Board is not free to modify the interest rate after appellate court review. The positions of both parties was considered by the ALJ herein in rendering his ruling.

ALJ observed that while there is language in both the ALJ's and the Board's Decisions in the underlying liability proceeding in support of Respondent's position, he finds the record in that case to be ambiguous. Accordingly, he ruled that the ambiguity requires an analysis of the testimony of each of the alleged discriminatees regarding his/her presence during the events in question. In our review of the record, we find that the employees for whom the ALJ granted remedial relief were those who credibly testified that they reported to work on the morning of September 13, found entrances to the fields blocked, and were advised by supervisors Frances Arroyo and/or Mike Murphy that there was no longer any work for them. Respondent did not succeed in rebutting that testimony.^{9/}

The Individual Discriminatees

We have carefully reviewed Respondent's and General Counsel's numerous exceptions to the ALJ's findings and conclusions that 107 of the 114 alleged discriminatees who testified at the compliance hearing were discriminatorily discharged.^{10/}

^{9/}The UFW did not except to any of the ALJ's findings as to the backpay awards of the individual discriminatees who testified at the hearing. Neither did the Union except to any of the ALJ's conclusions that certain employees failed to qualify as members of the class of discriminatees. Thus, we adopt, pro forma the ALJ's findings and conclusions as to the following discriminatees for whom no party filed exceptions: Jose Luis Gomez (Cabrera), Concepcion Gomez, Roque T. Lopez, Esequiel Z. Villalobos, Ventura Luna, Angel Ramirez, Angel Villagomez and Rafael Guzman.

^{10/}See Respondent's exceptions to the ALJ's findings relating to Natividad Morales Lopez, Augustin Nava, Rafael Monroy, Lucia Campos, David Campos, Socorro Campos, Maurilio Vasquez, Carmen Vasquez, Alberto Zavala Chavez and Manuel Sanchez.

Respondent's exceptions do not present any factual or legal-argument which the ALJ failed to either consider or properly analyze in his Supplemental Decision. We will only briefly discuss them here.

Respondent's exceptions to the backpay findings can be grouped into the following categories: (1) some discriminatees willfully failed to report their earnings, thus rendering them ineligible for any backpay;^{11/} (2) the interim earnings of some discriminatees were not properly credited;^{12/} (3) the bulk, of the discriminatees failed to make an adequate job

^{11/} See Respondent's exceptions to the ALJ's findings relating to Nicolas Chavez Morales, Joaquin Chavez Chavez, Ricardo Gonzales, Irma Morales Lopez, Surelia Chavez, Virginia onzales, . Cervando Gonzales, Adela L. Perez, Maria Guadalupe Perez, Salvador Zavala Lara, Ismael Zuniga, Maria Guadalupe Zuniga, Micaela Villalobos Zuniga, Aflredo Gallardo (Moreno), Angelina Perez, Clementina Perez/ Ramon C. Perez, Gregorio Gonzales, Rafael Zavala, Adela C. Zavala and-Maria Luz Sanchez.

^{12/} See Respondent's exceptions to the ALJ's findings relating to Natividad Lopez Morales, Rene Gonzales, Jose Gonzales, Maria Orejel, Richardo Rojas, Antonio Vaca, Gloria Chavez, Amelia L. Chavez, Joaquin Chavez Chavez, Maria Aldaco Melchor, Trinidad Vaca Aldaco, Jose Carmen Vaca Aldaco, Amelia C. Chavez, Angelina Chavez, Ricardo Gonzales, Faustino Contreras, Irma Morales Lopez, Jose A. Garcia, Maria Garcia, Jose N. Chavez, Everado Contreras, Jose Luis Ramirez, Nicolas Gasco Zavala, Surelia Chavez, Daniel Torres, Yolanda Lopez Guzman, Miguel Andalon, Nicolas Zavala, Maria de Jesus Contreras, Euedina Macias Contreras, Maria de Jesus Chavez, Antonio Ruiz, Jose Luis Zavala, Vicente Martinez, Emma Pizano, and Nicolas Pizano. See additional exceptions to the ALJ's findings relating to Margarita Hernandez, Virginia Gonzales, Lidia Z. de Vasquez, David Sanchez Gaytan, Cervando Gonzales, Maria Martinez, Adela. L. Perez, Maria Guadalupe Perez, Salvador Zavala Lara, Luis Ramirez Lopez, Anita M. Lopez, Ismael Zuniga, Maria Guadalupe Zuniga, Micaela Villalobos Zuniga, Alfredo Gallardo (Moreno) , Clementina Perez, Ramon C. Perez, Margarito Chavez, Antonio Andalon, Isidro C. Puente, Pedro Gonzales, .Jose Luis Zamudio, Ernesto Gonzales, Guadalupe Alcantar, Manuel Mora Luna, Rafael P. Chavez, Julian Gonzales, Delfina M. Hernandez, Gregorio Gonzales, Rafaeplo Zavaloa, Adela C. Zavala, Manuel Sanchez, Maria Luz Sanchez, Delia H. Morales, Miguel Gonzeles, Idolina Martinez, Emma Martinez Sanchez.

search as evidenced, inter alia, by their failure to recollect the names of the contractors to whom, they spoke, by their reliance on contacts with family members and friends to find work, or by the discriminatees failure to recall the number of employers they contacted;^{13/} (4) the travel expenses of some discriminatees were not reasonable;^{14/} and (5) the recollections of some witnesses were generally so vague that no findings can properly be made.^{15/} Respondent also challenged the status of nine of the discharged workers as discriminatees. Respondent claimed that Guadalupe Chavez Morales, Guadalupe Morales Chavez, and Merced P. Chavez, Virginia Gonzales, David Sanchez Gaytan and David Aguilera Hernandez worked for OPM during the afternoon of September 13, and

^{13/} See Respondent's exceptions to the ALJ's findings relating to travel expenses claimed by discriminatees Rene Gonzales, Antonio Vaca, Nicolas Chavez Morales, Augustin Garcia, Jose Luis Ramirez, and Jose Luis Zamudio. For the most part, Respondent indirectly challenged the travel expenses awarded by the ALJ by challenging the sufficiency of the job search or discriminatees' veracity in describing their job searches, see, e.g., exceptions relating to Arturo Juarez Mendoza and Augustin Garibay. In computing expenses, the ALJ took into account the whole of each witnesses' testimony. He arrived at an estimated allowance for expenditures incurred by 45 of the 105 discriminatees which were directly related to their search for interim employment. Those allowances range from a low of \$2.50 (Everardo Contreras) to a high of \$108.00 (David Sanchez Gaytan). We perceive no basis in fact for altering his findings in that regard.

^{14/} See Respondent's exceptions to the ALJ's findings concerning the alleged vague testimony of David Aguilera Hernandez, Roberto Lemus, Ronaldo G. Miramontes, Arturo Torres, Aurelia Garcia de Chavez, Guillermo Gonzales, Ricardo M. Hernandez, Jose T. C. Chavez.

^{15/} But each of the foregoing credibly described the events of September 13, 1977 in detail and with sufficient specificity to warrant the ALJ's findings that they indeed qualified for inclusion within the class of discriminatees wrongfully discharged on that date.

thus were not discharged with the other discriminatees on the morning of September 13. Respondent asserts that Delfina M. Hernandez, Maria Luz Sanchez, Miguel Gonzales and Rafael Chavez were not present at all at the worksite on September 13, 1977, and thus could not have been discharged.

Respondent's exceptions to the ALJ's Decision are grounded in fundamental misapprehension of our backpay proceedings. In our supplemental proceedings, "the burden is on the employer to establish facts which would negative the existence of liability to a given employee or which would mitigate that liability." (NLRB v. Brown & Root, Inc. (8th Cir. 1963) 311 F.2d 447, 454 [52 LRRM 21151.]) Respondent must establish its affirmative defenses, including interim earnings and any willful loss of interim earnings, by a preponderance of the evidence. Moreover, it is axiomatic that any uncertainties in the record in these proceedings are to be resolved against the employer as wrongdoer. (NLRB v. Pilot Freight Carriers, Inc. (5th Cir. 1979) 604 F.2d 375, 378 [102 LRRM 2579].)

The record in this case indicates that Respondent failed to carry its burden of proof as to its assertions that certain discriminatees inflated the expenses which they incurred in seeking interim employment and that the interim earnings of some discriminatees were not properly credited so as to reduce Respondent's backpay liability. Respondent failed to demonstrate that the discriminatees' estimate of their travel expenses was unreasonable. In excepting to the ALJ's recommended awards of travel expenses, Respondent offers no concrete information or

argument as to how the ALJ erred or why the workers' testimony should be disregarded. Our review of the record convinces us that it supports the travel expenses claimed by the discriminatees in seeking interim employment. Respondent likewise failed to provide information as to when challenged earnings were actually received; the only information in the record – other than the workers' own testimony -- was provided by Employment Development Department (EDD) printouts, which show only a quarterly listing of earnings. The EDD printouts, with the incomplete and inconclusive information which they offered, could not negate the testimony of those discriminatees who denied working during the strike.

We agree with the ALJ that each of the discriminatees engaged in a reasonable search for interim employment. It is important to reemphasize that the discriminatees were unlawfully discharged on September 13, 1977, while the compliance hearing did not take place until October and November 1982, some five years later. The backpay period was only one month. It is not surprising, then, that many of the discriminatees could not recall the names of each of the labor contractors with whom they spoke, the location of the fields which they visited in search of work, or the names of the companies to which they applied for work. Although their testimony may have lacked the specificity that Respondent demands, each testified to a reasonable effort to mitigate the losses caused by Respondent's unlawful conduct.

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Indeed, many of the discriminatees found interim employment.^{16/}

Respondent also challenges some discriminatees' reliance on personal contacts with family members/ friends, and O. P. Murphy (OPM) coworkers as a means of securing interim employment. However, this method of job-seeking is common in agricultural employment, and some of the discriminatees customarily sought and found employment in this manner. It can hardly be said to be unreasonable to have utilized this same method following their unlawful discharge by OPM.

Respondent also argues that, because some discriminatees did not recall all of their interim earnings, they should be denied all backpay. However, given the five-year lapse between the interim employment and compliance proceedings, as well as the very short backpay period, it is hardly surprising that some of the discriminatees were confused as to their interim earnings.

^{16/} For example, Respondent argues that Rene Gonzales did not conduct an adequate job search because he contacted only one interim employer. However, in addition to contacting Gonzales Packing, Gonzales actually obtained work, with two other employers during the backpay period. Respondent also argues that Gloria Chavez did not conduct a reasonable job search because she only checked at two companies; however, Chavez also testified that she relied on her family to find work as she had done in the past. Respondent also argues that Trinidad Vaca Aldaco should be denied backpay because he only checked for work with labor contractors. However, Vaca testified that he also went to the UFW hiring hall and EDD. Likewise, Respondent challenges Amelia C. Chavez's job search, saying that she only asked friends for work. Chavez also testified that she checked with labor contractors. Respondent claims that Aurelia Chavez asked only one employer for work; however, her testimony clearly indicates that she principally relied on her husband who repeatedly sought work for the two of them. Respondent also states that Maria de Jesus Contreras only looked for work at one place, yet her testimony indicates that she checked with friends and checked at various places where she saw people working.

Certainly Respondent failed to demonstrate that any discriminatee intentionally concealed information or fraudulently attempted to claim backpay for periods in which he/she was actually working.

We believe that the ALJ correctly rejected the picker cards of Guadalupe Chavez Morales, Guadalupe Morales Chavez, and Merced P. Chavez introduced by Respondent as conclusive evidence of their employment in the afternoon of September 13. The three all testified very specifically that they did not work that afternoon, and the date on the cards appears to have been altered. Thus, we uphold the ALJ's recommended backpay award to the three workers.

The General Counsel excepts to the ALJ's award of less than three-days' backpay to discriminatees Faustino Orejel and Delfina Perez Orejel. The exception lacks merit. The ALJ found that both Faustino and Delfina Orejel testified credibly about their search for interim employment. Also, based on their testimony, he found that they were present when Frances Arroyo fired the discriminatees on September 13. However, he determined that Respondent's backpay liability was cut off as of September 16, in light of picker cards submitted by Respondent showing that a Faustino Orejel and a Delfina Orejel Perez worked for Respondent on September 16 although Delfina Orejel testified emphatically that she and her husband did not return to Respondent's employ following the discharges and during the subsequent strike. She also specifically testified that she had not filled in the picker card with her name and that the card was not hers. On the card for September 12, she is listed as Delfina

P. Orejel, the name Ms. Orejel testified that she used while working at OPM. However, our review of numerous picker cards admitted into evidence indicates that employees themselves probably never fill in their own names; that task belongs to the respective crew checkers. One card for September 16/ 1977, clearly designates Faustino Orejel, crew No. 5. Another card for the same date is in the name of Delfina O. Perez, with O. Perez crossed out and replaced with Orejel Perez, also crew No. 5.

The General Counsel's exception to the ALJ's decision not to award backpay to Josefina Guzman is without merit. Guzman nowhere appears in Respondent's payroll records for the 1977 harvest, thus the ALJ correctly concluded that she was not a discriminatee since, if not employed, she could not have been fired on September 13. Likewise, the General Counsel's exceptions as to Gabino Chavez, Jose Garcia Zavala, and Armando Lopez Paul are without merit. The ALJ correctly limited their backpay awards to the period prior to their reinstatement by OPM. Chavez admitted that he returned to OPM on September 15; the General Counsel stipulated that Zavala returned on September 17, and Paul never specifically denied returning to OPM on September 17; as indicated by the Company's payroll records. The General Counsel nowhere argued that, the three workers' subsequent departure/discharge from OPM were violative of the Act, and the record does not establish why they left and/or were terminated. The ALJ concluded that in light of their reinstatement by OPM, Respondent's backpay liability terminated. General Counsel offers no persuasive argument as to why the backpay period should not be

terminated.

General Counsel excepts to the ALJ's exclusion of Guillermo Gonzales from the class of discriminatees. We find no merit in the exception. Gonzales testified that he always worked under the same name and social security number, as well as his own picker card. However, he does not appear anywhere on Respondent's 1977 payroll records. For that reason, the ALJ believed that even though Gonzales testified in a sincere manner, something more was required such as coemployee witnesses or evidence corroborating his employment during the time pertinent herein. We agree.

General Counsel believes the ALJ, in excluding Maria Ana Lemus, Aurelia Garcia de Chavez, and Francisco Mendez Hinojosa from the class of discriminatees on the grounds of insufficient recall of operative events failed to accord adequate consideration to the lapse of time between their alleged discharge and the hearing. We find no merit in the exception.

Failure of recall was only one factor in the ALJ's analysis concerning Maria Ana Lemus and Aurelia Garcia de Chavez.^{17/} Unlike most of the other discriminatees, there was no independent supporting evidence placing them in Respondent's employ at times material herein. Mrs. Lemus testified that she had been on maternity leave, returned to OPM on September 13,

^{17/} We note that failure to recall also would have worked to Respondent's advantage but for other independent data. For example, Miguel Alonzo Espinoza's failure to recall the dates of his interim employment almost cost him nine days backpay. Espinoza believed he had worked at Paul Masson from late September: 1977 through the end of the harvest that following November. However, Masson payroll records reveal employment there only through October 6.

worked under her own picker card and was paid for approximately 1½ hours of work that day. However/ she does not appear on Respondent's payroll until November 4, 1977. Although Mrs. Chavez testified that, she looked for work without success during the strike, and participated, in picket line duty, she could not testify at all about the events of September 12 and 13, 1977. She said she always worked under her own picker card but does not appear on the payroll for September 12, or, for that matter, at any time after September 7.

With regard to Mr. Mendez, the ALJ found that he was not discharged on September 13, but had in fact worked 6% hours that day. Moreover, Mr. Mendez testified that he subsequently joined the strike, did not look for work during the two weeks following, returned to Respondent's employ on September 30, 1977, during the strike, for about eight, days and then voluntarily left to work for Paul Masson where he remained through November of that year.

In light of the thoroughness of the ALJ's analysis of the backpay claims of the discriminatees who testified, which, analysis we have adopted, we believe no further discussion is necessary.^{18/}

Respondent's Motion to Reopen Record in light of the

^{18/} Upon conclusion of the hearing, the ALJ granted General Counsel's motion to exclude the following individuals from the list of alleged discriminatees: Rafael Guzman, Jose Luis Gomez, and Concepcion Gomez. General Counsel conceded that none of the above had been employed by Respondent at any time during the relevant 1977 tomato harvest season. We affirm the ALJ's findings that four additional employees failed to qualify as members of the class.-of employees discharged on September 13, 1977 on grounds, for example, that they did not report for work on that date and thus could not have been discharged. They are Josefina Guzman, Gabino G. Chavez, Guillermo Gonzales, and Francisco Mendez Hinojosa.

Decision of the Third District Court of Appeal in William Dal Porto & Sons v. Agricultural Labor Relations Board (1987) 191 Cal.App.3d 1195 is hereby denied without prejudice to refile said Motion in accordance with the Board's Order in Mario Saikhon, Inc., Case No. 81-CE-5-EC (13 ALRB No. 8), dated November 16, 1987.

ORDER

Pursuant to Labor Code section 1160.3, the Agricultural Labor Relations Board (ALRB or Board) hereby orders that O. P. Murphy Company, Inc., dba O. P. Murphy & Sons, its officers, agents, successors, and assigns shall:

1. Pay to the employees listed in the attached Board Appendix A the amounts set forth therein beside their respective names, plus interest thereon compounded at the rate of seven percent (7%) per annum, computed quarterly, through the date of this Supplemental Decision, and thereafter in accordance with our Decision in Lu-Ette Farms, Inc. (1982) 8 ALRB No. 55.

2. With reference to the basic wage data reflected in Appendix A of the ALJ's Decision, but pursuant to our Decision herein approving utilization of the Meyer 6 percent fringe benefit factor in lieu of the standard Adam Dairy formula, Respondent will recompute the fringe benefit portion of the makewhole award within 30 days of the issuance of this Decision and, upon review and approval by the Regional Director, pay the amounts resulting therefrom to the employees listed in the ALJ's Appendix A, plus interest thereon, compounded at the rate of seven percent (7%) per annum, computed quarterly, through the date of this Supplemental

Decision, and thereafter in accordance with our Decision in Lu-Ette Farms, Inc. (1982) 3 ALRB No. 55.

Dated: December 30, 1987

BEN DAVIDIAN, Chairman

GREGORY L. GONOT, Member

MEMBER HENNING, Concurring and Dissenting:

By recalculating the fringe benefit portion of the makewhole award pursuant to the Administrative Law Judge's (ALJ) ill-advised suggestion that O. P. Murphy's fringe benefits are "readily calculable" from the Meyers' costs "as a percentage of the entire package," the Agricultural Labor Relations Board (ALRB or Board) has made an unfounded assumption that under the United Farm Workers of America, AFL-CIO (UFW or Union) contract, Murphy would have spent the same percentage of its overall pay package on fringes as did Meyers. There is nothing in the record before us to indicate that Murphy and Meyers would have spent the same proportion of their payroll on such items as overtime, vacation and standby. It was precisely the realization that even otherwise comparable employers spend different amounts under the same contract provisions that prompted the Board, in J. R. Norton Company, Inc. (1984) 10 ALRB No. 42, (Norton) to announce its intention to survey the cost-out figures of many employers to

develop an updated fringe benefit percentage with which to replace the Adam Dairy 22 percent formula. (Adam Dairy dba Rancho Dos Rios (1978) 4 ALRB No. 24 (Adam Dairy).)

The Adam Dairy figure is an average derived from a 1974 survey of nonagricultural employers by the Bureau of Labor Statistics of the U.S. Department of Labor. The Board was concerned that the figure may not accurately reflect actual expenditures under more recent UFW contracts. On the other hand, it recognized the excessive amount of litigation likely to be generated by attempts to procure through subpoena cost-out information from a representative sample of comparable employers who were not even party to the case. Therefore, the Board decided that, in the intervening period between the issuance of its decision in Norton and its planned development of a survey and new formula, it would attempt to apply the fringe benefit provisions of comparable contracts to the Respondent's operations as reflected in the Respondent's own payroll records. The new approach announced in Norton is admittedly complex and unwieldy, (see my dissent to 10 ALRB No. 42) compared to the percentage formula approach, especially with respect to calculation of such elements as vacation pay, overtime and standby time. For that very reason, the Board held in Norton that in cases such as Murphy's, in which the ALJ's decision had already issued, the calculation of fringes by the Adam Dairy formula should not be disturbed. (Adam Dairy dba Rancho Dos Rios, supra, 4 ALRB No. 24.) Stated the Board:

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The new formula for calculating makewhole fringe benefits announced in this Decision shall be applied to all cases which have not yet gone to hearing before an ALJ. Given the amount of time and expense that has gone into makewhole cases which have already been decided by ALJs, we find it improvident and unnecessary to utilize additional limited resources on those cases. In those cases in which an administrative hearing has been held, but in which an ALJ's Decision has not yet been transferred to the Board, we shall leave to the discretion of the ALJ whether to reopen the record and/or order recalculation in accordance with this Decision. The limited retroactive application of this makewhole fringe benefit formula effectuates the policies of the Act without unduly burdening or delaying the administrative process and without unfair surprise to parties who relied on our prior rules. (See *In Re Marriage of Brown* (1976) 51 Cal.3d 838.) (J. R. Norton Company, Inc., supra, 10 ALRB No. 42, pp. 23-24; emphasis added.)

The Board now disregards its own precedent and seeks to change the formula on an incomplete record.

There is one other aspect of the Board's Decision that requires comment. I stongly oppose the majority's suggestion that the decision in William Dal Porto & Sons v. ALRB (1987) 191 Cal.App.3d 1195, has any application to this case. Aside from the pervasiveness of the bad faith conduct which easily distinguishes this case on its facts from Dal Porto, the makewhole award against this Respondent was long ago finalized by the appellate courts. The Board's decision to reopen this and other similarly-situated cases for reconsideration in light of a single decision from a different appellate district is contrary to the principles of res judicata and law of the case and is inconsistent with this Board's statutory mandate to promote stability in agricultural labor relations. (See Holtville Farms v. Agricultural Labor Relations Board (1985) 158 Cal.App.3d 388; see

also NLRB v. Deena Artward (1960) 361 U.S. 398, 411, Justice Frankfurter concurring; ALRB v. Abatti Produce, Inc. (1985) 168 Cal.App.3d 504; United Dredging Co. v. Industrial Acc. Com. (1930) 208 Cal. 706, 713-714; International Union of Mine, Mill and Smelter Workers v. Eagle Pilcher Lead Company (1945) 325 U.S. 335, 341-342.)

After taking four years to review this compliance case, and after laboriously recomputing the ALJ's makewhole award for over 600 employees, the Board now invites the Respondent to convince it that makewhole should never have been awarded in the first place. Such an approach can serve neither farmworker nor employer interests. This case has gone on long enough.

Dated: December 30, 1987

PATRICK W. HENNING, Member

APPENDIX A

(Net Amount Due Employees Discriminatorily Discharged)

1. Natividad Morales Lopez	\$1,240.68
2. Rene Gonzales	\$1,107.63
3. Jose Gonzales	\$1,346.26
4. Augustin Nava	\$1,057.20
5. Faustina Orejel	\$ 131.38
6. Maria Orejel	\$1,346.26
7. Rafael Monroy	\$ 989.45
8. Ricardo Rojas	\$1,486.26
9. Lucia Campos	\$ 804.40
10. Beatrice Zavala	\$1,391.26
11. David Campos	\$1,035.04
12. Socorro Campos	\$ 542.83
13. Antonio Vaca	\$1,476.26
14. Gloria 3. Chavez	\$1,346.26
15. Nicolas Chavez Morales	\$ 616.65
16. Amelia L. Chavez	\$1,106.76
17. Joaquin Chavez Chavez	\$ 736.64
18. Maria Aldaca Melchor	\$1,346.26
19. Tinidad Vaca Aldaco	\$1,346.26
20. Jose Carmen Vaca Aldaco	\$1,346.26
21. Amelia C. Chavez	\$1,001.64
22. Angelina Chavez	\$1,001.64
23. Ricardo Gonzales	\$1,346.26
24. Faustino Contreras	\$1,134.26
25. Irma Morales Lopez	\$1,247.39

26. Jose A. Garcia	\$ 682.32
27. Maria Garcia	\$ 846.79
28. Jose N. Chavez	\$1,396.26
29. Everardo Contreras	\$ 928.05
30. Agustin Garcia	\$1,355.39
31. Jose Luis Ramirez (Alonzo)	\$1,263.52
32. Guadalupe Chavez Morales	\$1,380.01
33. Nicolas Gasca Zavala	\$1,358.76
34. Merced P. Chavez	\$1,346.26
35. Aurelia Chavez (Pantoja)	\$1,346.26
36. Daniel Torres	\$ 733.13
37. Yolanda Lopez Guzman	\$1,346.26
38. Miguel Andalon (Sanchez)	\$1,360.32
39. Nicolas Zavala	\$ 652.61
40. Maria De Jesus Contreras (Macias)	\$1,346.26
41. Enedina Macias Contreras	\$ 982.68
42. Maria De Jesus Contreras	\$1,421.26
43. Antonio Ruiz (Estrada)	\$1,346.26
44. Armando Lopez Paul	\$ 185.49
45. Jose Luis Zavala	\$.912.05
46. Vicente Martinez	\$1,162.86
47. Emma Pizano	\$1,064.30
48. Nicolas Pizano	\$1,064.30
49. Jose Garcia (Zavala)	\$ 179.86
50. Margarita Hernandez	\$ 730.69
51. Virginia Gonzales	\$1,342.16
52. Maurilio Vasquez	\$ 472.68

53. Carmen Vasquez (Ramirez)	\$ 550.38
54. Lidia Z. De Vasquez	\$1,346.26
55. Delfina P. Orejel	\$ 131.38
56. David Sanchez (Gaytan)	\$ 948.88
57. Cervando Gonzales	\$1,395.76
58. Roque T. Lopez	\$ 252.79
59. Maria Martinez	\$ 739.94
60. David Aguilera Hernandez	\$1,391.26
61. Adela L. Perez	\$1,020.00
62. Maria Guadalupe Perez	\$1,020.00
63. Salvador Zavala (Lara)	\$ 694.46
64. Luis Ramirez Lopez	\$1,150.63
65. Anita M. Lopez	\$1,108.21
66. Miguel Alonzo Espinosa	\$1,099.01
67. Roberto Lemus	\$1,406.26
68. Romaldo G. Miramontes	\$1,346.26
69. Arturo Torres	\$1,399.59
70. Ismael Zuniga	\$1,155.46
71. Maria Guadalupe Zuniga	\$1,070.11
72. Micaela Villalobos Zuniga	\$1,080.42
73. Ezequel Z. Villalobos	\$ 800.06
74. Alfredo Gallardo	\$1,155.46
75. Angelina Perez	\$1,020.70
76. Clementina Perez	\$1,081.26
77. Ramon C.. Perez	\$1,031.39
78. Margarito Chavez	\$1,346.26
79. Antonio Andalon	\$1,451.26

80. Isidro C. Puente	\$1,135.14
81. Pedro Gonzales	\$ 993.08
82. Jose Luis Zamudio	\$1,190.34
83. Ernesto Gonzales	\$ 706.83
84. Guadalupe Alcantor	\$1,346.26
85. Manuel Moral Luna	\$ 989.23
86. Rafael P. Chavez	\$1,416.26
87. Julian Gonzales	\$1,346.26
88. Delfina M. Hernandez	\$1,346.26
89. Gregorio Gonzales	\$1,346.26
90. Rafael Zavala	\$ 595.75
91. Adela C. Zavala	\$1,083.60
92. Alberto Zavala Chavez	\$1,117.66
93. Arturo Juarez Mendoza	\$1,346.26
94. Agustin Garibay	\$ 664.57
95. Manual Sanchez	\$ 661.75
96. Maria Luz Sanchez	\$ 675.39
97. Celia H. Morales	\$ 868.96
98. Ricardo M. Hernandez	\$1,400.26
99. Jose T. C. Sanchez	\$1,018.99
100. Miguel Gonzales	\$1,346.26
101. Ventura Luna	\$ 0
102. Angel Ramirez	\$ 745.66
103. Angel Villagomez	\$ 999.01
104. Idolina Martinez	\$ 831.93
105. Emma Martinez	\$ 795.50

Backpay Computation Worksheet

O. P. Murphy Company, Inc., dba O. P. Murphy & Sons

Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

		1	2	3	4	5	6
	EMPLOYEE NAME	GROSS BACKPAY AMOUNT	INTERIM EARNINGS (-)	MULTIPLIER (x 1.06) (=)	GROSS MAKE-UP AMOUNT	EXPENSES (+)	NET AMOUNT OWED
1	App B-1						
2	Natividad Morales Lopez	1270.06	99.61	70.23	1240.68	0-	1240.68
3							
4	B-2 Rene Gonzales	1270.06	260.50	60.57	1070.13	37.50	1107.63
5							
6	B-3 Jose Gonzales	1270.06	0-	76.20	1346.26	0-	1346.26
7							
8	B-4 Augustin Nava	1270.06	301.00	58.13	1027.20	30.00	1057.20
9							
10	B-5 Faustina Orejel	1239.44	0-	7.44	1313.88	0-	1313.88
11							
12	B-6 Maria Orejel	1270.06	0-	76.20	1346.26	0-	1346.26
13							
14	B-7 Rafael Monroy	1270.06	407.37	51.76	914.45	75.00	989.45
15							
16	B-8 Ricardo Rojas	1270.06	0-	76.20	1346.26	140.00	1486.26
17							
18	B-9 Lucia Campos	1270.06	511.19	75.53	804.40	0-	804.40
19							
20	B-10 Beatrice Zavala	1270.06	0-	76.20	1346.26	45.00	1391.26
21							
22	B-11 David Campos	1270.06	373.80	53.78	950.04	85.00	1035.04
23							
24	B-12 Socorro Campos	1270.06	757.96	30.73	542.83	0-	542.83
25							
26	B-13 Antonio Vaca	1270.06	0-	76.20	1346.26	130.00	1476.26
27							
28	B-14 Gloria B. Chavez	1270.06	0-	76.20	1346.26	0-	1346.26
29							
30	B-15 Nicolas Chavez						
31	Morales	605.25	32.00	34.40	607.65	9.00	616.65
32							
33	B-16 Amelia L. Chavez	1270.06	325.00	56.70	1010.76	105.00	1106.76
34							
35	B-17 Joaquin Chavez						
36	Chavez	1270.06	575.12	41.70	736.64	0-	736.64
37							
38	B-18 Maria Aldaca						
39	Melchor	1270.06	0-	76.20	1346.26	0-	1346.26
40							
41							

Backnav Computation Worksheet

O. P. Murphy Company, Inc., dba O. P. Murphy & Sons
Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

	1	2	3	4	5	6	
	GROSS	INTERIM	MULTIPLIER	GROSS	EXPENSES	NET	
EMPLOYEE NAME	BACKPAY	EARNINGS	(x 1.06)	MAKEHOLE	(+)	AMOUNT	
APP	AMOUNT	(-)	(=)	AMOUNT		OWED	
B-19	Trinidad Vaca						
	Aldaco	1270.06	0-	76.20	1346.26	0-	1346.26
B-20	Jose Carmen						
	Vaca Aldaco	1270.06	0-	76.20	1346.26	0-	1346.26
B-21	Amelia C. Chavez	1270.06	325.12	56.70	1001.64	0-	1001.64
B-22	Angelina Chavez	1270.06	325.12	56.70	1001.64	0-	1001.64
B-23	Ricardo Gonzales	1270.06	0-	76.20	1346.26	0-	1346.26
B-24	Faustino Contreras	1270.06	200.00	64.20	1134.26	0-	1134.26
B-25	Irma Morales						
	Lopez	1270.06	93.28	70.61	1247.39	0-	1247.39
B-26	Jose A. Garcia	1270.06	692.40	34.66	612.37	70.00	682.32
B-27	Maria Garcia	1270.06	471.20	47.93	846.79	0-	846.79
B-28	Jose N. Chavez	1270.06	0-	76.20	1346.26	50.00	1396.26
B-29	Everardo Contreras	1270.06	396.90	52.39	925.55	2.50	928.05
B-30	Agustin Garcia	1134.80	0-	68.09	1202.89	152.50	1355.39
B-31	Jose Luis						
	Ramirez (Alonso)	1134.80	0-	68.09	1202.89	60.63	1263.52
B-32	Guadalupe						
	Chavez Morales	1270.06	0-	76.20	1346.26	33.75	1380.01
B-33	Nicolas Gasca						
	Zavala	1270.06	0-	76.20	1346.26	12.50	1358.76
B-34	Merced P. Chavez	1270.06	0-	76.20	1346.26	0-	1346.26
B-35	Aurelia Chavez						
	(Pantoja)	1270.06	0-	76.20	1346.26	0-	1346.26

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Backpay Computation Worksheet

O. P. Murphy, Company, Inc., dba O. P. Murphy & Sons

Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

		1	2	3	4	5	6
	EMPLOYEE NAME	GROSS BACKPAY AMOUNT	INTERIM EARNINGS (-)	MULTIPLIER (x 1.06) (=)	GROSS MAKEHOLE AMOUNT	EXPENSES (+)	NET AMOUNT OWED
1	B-36 Daniel Torres	1270.06	611.45	39.52	698.13	35.00	733.13
2							
3	B-37 Yolanda Lopez						
4	Guzman	1270.06	0-	76.20	1346.26	0-	1346.26
5							
6	B-38 Miguel Andalon						
7	(Sanchez)	1270.06	0-	76.20	1346.26	14.06	1360.32
8							
9	B-39 Nicolas Zavala	1015.67	400.00	36.94	652.61	0-	652.61
10							
11	B-40 Maria De Jesus						
12	Contreras (Macias)	1270.06	0-	76.20	1346.26	0-	1346.26
13							
14	B-41 Eredina Macias						
15	Contreras	1270.06	343.00	55.62	982.68	0-	982.68
16							
17	B-42 Maria De Jesus						
18	Chavez	1270.06	0-	76.20	1346.26	75.00	1421.26
19							
20	B-43 Antonio Ruiz						
21	(Estraza)	1270.06	0-	76.20	1346.26	0-	1346.26
22							
23	B-44 Armando Lopez						
24	Paul	169.68	0-	10.18	179.86	5.63	185.49
25							
26	B-45 Jose Luis Zavala	1270.06	471.90	47.89	846.05	66.00	912.05
27							
28	B-46 Vicente Martinez	1015.67	0-	60.94	1076.61	86.25	1162.86
29							
30	B-47 Emma Pizano	1270.06	266.00	60.24	1064.30	0-	1064.30
31							
32	B-48 Nicolas Pizano	1270.06	266.00	60.24	1064.30	0-	1064.30
33							
34	B-49 Jose Garcia						
35	(Zavala)	169.68	0-	10.18	179.86	0-	179.86
36							
37	B-50 Margarita Hernandez	1270.06	637.33	37.76	670.67	60.00	730.67
38							
39	B-51 Virginia Gonzalez	1266.19	0-	75.97	1342.16	0-	1342.16
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Backpay Computation Worksheet

O. P. Murphy Company, Inc., dba O. P. Murphy & Sons
 Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

		1	2	3	4	5	6
	EMPLOYEE NAME	GROSS BACKPAY AMOUNT	INTERIM EARNINGS (-)	MULTIPLIER (x 1.06) (=)	GROSS MAKEWHOLE AMOUNT	EXPENSES (+)	NET AMOUNT OWED
B-52	Maurilio Vasquez	127006	85008	2520	44518	2750	77268
B-53	Carmen Vasquez (Ramirez)	127006	75083	3115	55038	0-	55038
B-54	Lidia Z. De Vasquez	127006	0-	7620	134626	0-	134626
B-55	Delfina P. Orejel	12394	0-	744	13138	0-	13138
B-56	David Sanchez (Gaytan)	127006	54470	4352	76888	18000	94888
B-57	Cervando Gonzales	127006	0-	7620	134626	4950	139576
B-58	Rogve T. Lopez	127006	1103158	1431	25279	0-	25279
B-59	Maria Martinez	127006	57200	4188	73994	0-	73994
B-60	David Aguilera Hernandez	127006	0-	7620	134626	4500	139126
B-61	Adela L. Perez	127006	30780	5774	102000	0-	102000
B-62	Maria Guadalupe Perez	127006	30780	5774	102000	0-	102000
B-63	Salvador Zavala (Lara)	127006	61491	3931	69446	0-	69446
B-64	Luis Ramirez Lopez	127006	24116	6173	109063	6000	115063
B-65	Anita M. Lopez	127006	22458	6273	110821	0-	110821
B-66	Miguel Alonzo Espinosa	127006	29269	5864	103601	6300	109901
B-67	Roberto Lemus	127006	0-	7620	134626	6000	140626

Backpay Computation Worksheet

O. P. Murphy Company, Inc., dba O. P. Murphy & Sons
Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

		1	2	3	4	5	6
	EMPLOYEE NAME	GROSS BACKPAY AMOUNT	INTERIM EARNINGS (-)	MULTIPLIER (x 1.06) (=)	GROSS MAKEHOLE AMOUNT	EXPENSES (+)	NET AMOUNT OWED
1	8-68 Romaldo G Miramontes	127006	0-	7620	134626	0-	134626
2							
3							
4	8-69 Arturo Tarres	127006	0-	7620	134626	5733	139759
5							
6	8-70 Ismael Zuniga	127006	18000	6540	115546	0-	115546
7							
8	8-71 Maria Guadalupe Zuniga	127006	26052	6057	107011	0-	107011
9							
10							
11	8-72 Micaela Villalobos Zuniga	127006	25080	6116	108042	0-	108042
12							
13							
14	8-73 Ezequiel Z. Villalobos	127006	51529	4529	80006	0-	80006
15							
16							
17	8-74 Alfredo Gallardo	127006	18000	6540	115546	0-	115546
18							
19	8-75 Angelina Perez	127006	32600	5664	100070	2000	102070
20							
21	8-76 Clementina Perez	127006	25000	6120	108126	0-	108126
22							
23	8-77 Ramon C. Perez	127006	37960	5343	94389	8750	103139
24							
25	8-78 Margarito Chavez	127006	0-	7620	134626	0-	134626
26							
27	8-79 Antonio Andalon	127006	0-	7620	134626	10500	145126
28							
29	8-80 Isidro C. Puente	127006	20625	6383	112764	750	113514
30							
31	8-81 Pedro Gonzales	127006	34074	5576	98508	800	99308
32							
33	8-82 Jose Luis Zamudio	107108	0-	6426	113534	5500	119034
34							
35	8-83 Ernesto Gonzales	127006	61739	3916	69183	1500	70683
36							
37	8-84 Guadalupe Alcantar	127006	0-	7620	134626	0-	134626
38							
39	8-85 Manuel Moral Luna	127006	33682	5599	78923	0-	78923
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Backpay Computation Worksheet

O. P. Murphy Company, Inc., dba O. P. Murphy & Sons
Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

	1	2	3	4	5	6
	GROSS	INTERIM	MULTIPLIER	GROSS	EXPENSES	NET
EMPLOYEE NAME	BACKPAY	EARNINGS	(x 1.06)	MAKEHOLE	(+)	AMOUNT
	AMOUNT	(-)	(=)	AMOUNT		OWED
Apo						
B-86 Rafael P. Chavez	127006	0-	7620	134626	7000	141626
B-87 Julian Gonzales	127006	0-	7620	134626	0-	134626
B-88 Delfina M. Hernandez	127006	0-	7620	134626	0-	134626
B-89 Gregorio Gonzales	127006	0-	7620	134626	0-	134626
B-90 Rafael Zavala	127006	70803	3372	59575	0-	59575
B-91 Adela C. Zavala	127006	24780	6134	108360	0-	108360
B-92 Alberto Zavala Chavez	127006	28170	5930	104766	7000	111766
B-93 Arturo Juarez Mendoza	127006	0-	7620	134626	0-	134626
B-94 Agustin Garibay	127006	65778	3674	64962	1555	66457
B-95 Manuel Sanchez	127006	66652	3621	63975	2200	66175
B-96 Maria Luz Sanchez	127006	63290	3823	67539	0-	67539
B-97 Celia H. Morales	127006	45029	4919	86896	0-	86896
B-98 Ricardo M. Hernandez	127006	0-	7620	134626	5400	140026
B-99 Jose T.C. Sanchez	127006	30875	5768	101899	0-	101899
B-100 Miguel Gonzales	127006	0-	7620	134626	0-	134626
B-101 Ventura Luna	127006	139003	0-	0-	0-	0-
B-102 Angel Ramirez	70345	0-	4221	74566	0-	74566
B-103 Angel Villagomez	127006	32760	5655	99901	0-	99901

Backpay Computation Worksheet

O. P. Murphy Company, Inc., dba O. P. Murphy & Sons
Case Nos. 77-CE-31-M, et al (5 ALRB No. 63)

		1	2	3	4	5	6
	EMPLOYEE NAME	GROSS BACKPAY AMOUNT	INTERIM EARNINGS (-)	MULTIPLIER (x 1.06) (=)	GROSS MAKE-UP AMOUNT	EXPENSES (+)	NET AMOUNT OWED
1	8-104 App Idolina Martinez	127006	52484	4471	78993	4200	83193
2							
3	8-105 Emma Martinez	127006	54412	4356	76950	2600	79350
4							
5							
6							
7							
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CASE SUMMARY

O. P. Murphy Co., Inc.
(UFW)

13 ALRB No. 27
Case Nos. 77-CE-31-M et al.

BACKGROUND

In the underlying liability phase of this proceeding (5 ALRB No. 63), the Agricultural Labor Relations Board (ALRB or Board) found that Respondent O. P. Murphy Company had engaged in unlawful surface bargaining for the purpose of delaying agreement on a collective bargaining agreement until after the end of the then current tomato harvest season. Respondent was ordered to make its agricultural employees whole for its violation of the statutory duty to bargain; that is, to compensate employees for the difference between their actual wages and that which they likely would have been receiving had Respondent bargained in good faith and reached contract with the Union as to employees' wages and other terms and conditions of employment. The makewhole period would commence with the date of the first negotiations session in July 1977/ and continue until such time as Respondent commenced bargaining in good faith. In addition, the Board found that Respondent discharged virtually all its tomato harvesting crews in retaliation for their having engaged in concerted activities protected by the Agricultural Labor Relations Act (ALRA or Act). Since Respondent had offered such employees reinstatement approximately one month following their discharge, prior to issuance of the Board's decision on that question, the Board waived the standard reinstatement order but directed Respondent to pay the discharges what they would have earned during that time had they not been discharged in violation of the Act, such amounts to be offset by earnings those same employees may have received from other employment during the backpay period.

ALJ'S DECISION

In determining the extent of the makewhole period, the ALJ concluded that Respondent's obligation in that regard ceased in November 1977, shortly after close of the relevant tomato harvest season. He found that the discharged employees, as well as their replacements, were entitled to receive the makewhole supplement since the makewhole amount represented what either group of employees would have been earning but for Respondent's failure to bargain in good faith to contract. In order to determine the basic or general hourly wage rate Respondent should have been paying, General Counsel argued successfully that there was only one relevant measure; that is, the contract between the Union and the Meyer Company, also located in the Salinas area with operations similar to those of Respondent's. Although he adopted the Meyer contract as the "comparable" benchmark for the basic wage rate, the ALJ continued to adhere to the established Board formula of adding 22 percent to the basic wage rate to represent the fringe benefit portion of the total makewhole package. However, the ALJ also observed that should the Board decide to deviate from the standard fringe benefit formula in any given

case, and to instead adopt the whole of the "model" contract for both the basic wage and fringe benefits, this was such a case. With respect to the discharged discriminatees, their individual identities had not been established by the Board in the underlying unfair labor practice proceeding. As they were discharged prior to the start of work, there are no payroll records establishing who did in fact report to work that morning. Accordingly, the ALJ ruled that claimants potentially entitled to backpay would be those who could credibly testify in the compliance proceeding that they reported for work on the pertinent date but were discharged. Of the 174 employees whom General Counsel alleged were discharged, only 114 actually testified. Of those, the ALJ found that 105 of them were able to prove by a preponderance of the evidence that they fall within the class of discriminatees entitled to the backpay remedy.

BOARD'S DECISION

The Board adopted the ALJ's rulings, findings and conclusions in most respects and, in particular, followed his recommendation to look to the whole of the "model" contract for both the basic wage rate as well as the fringe benefit package. The Board differed from the ALJ insofar as it rejected his recommendation that the record in this matter be kept open for a period not exceeding two years in order to permit other potential discriminatees to come forward in an attempt to perfect their claim to backpay.

CONCURRENCE/DISSENT

Member Henning dissented from the majority's decision to calculate the fringe benefit percentage of the makewhole remedy due discriminatees here based upon the benefit expenditures of a separate employer. He finds no basis in the record to support the formula chosen to calculate the monies due, and noted that J. R. Norton Company, Inc. (1984) 10 ALRB No. 42 required the Board to utilize the formula set forth in Adam Dairy dba Rancho Dos Rios (1978) 4 ALRB No. 24.

Member Henning also opposed the majority suggestion that the underlying liability matter could be reconsidered in light of recent case authority. He noted the massive amount of time it took to resolve this matter and rejected retroactive application of new case law to finally resolved Board cases.

* * *

This Case Summary is furnished for information only and is not an official statement of the case, or of the ALRB.

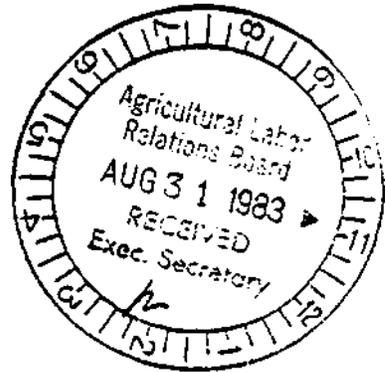
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STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
O. P. MURPHY COMPANY, INC.,)
dba O. P. MURPHY & SONS,)
)
Respondent,)
)
and)
)
UNITED FARM WORKERS)
OF AMERICA, AFL-CIO,)
)
Charging Party.)

Case Nos. 77-CE-31-M, et al.
(5 ALRB No. 63)



APPEARANCES:

Jose B. Martinez, Esq.
Devon McFarland, Esq. of
Salinas, California for
the General Counsel

Howard D. Silver, Esq.
Dressler, Quesenbery, Laws & Barsamian
of Watsonville, California
for the Respondent

Claire M. McGinnes of
Keene, California for the
Charging Party

Before: Stuart A. Wein
Administrative Law Judge

SUPPLEMENTAL DECISION OF THE
ADMINISTRATIVE LAW JUDGE

Stuart A. Wein, Administrative Law Judge:

On 26 October 1979, the Agricultural Labor Relations Board issued a Decision and Order in the above-captioned proceeding (5 ALRB No. 63) finding, inter alia, that Respondent had discriminatorily discharged its tomato harvesting employees for striking in violation of section 1153(a) and (c) of the Agricultural Labor Relations Act.^{1/} The Board directed that Respondent make whole the discriminatorily discharged employees for any losses they suffered as a result of these discharges, by payment to each of them of a sum of money equal to the wages they lost plus the expenses they incurred as a result of Respondent's unlawful discharge from 13 September to October 15, 1977, less respective net interim earnings, together with interest at the rate of 7% per annum (backpay).

Further, Respondent was found to have violated Labor Code section 1153(e) and (a) by refusing to bargain in good faith with the UFW. Respondent was ordered to make Respondent's employees whole for all losses of pay and other economic losses sustained by them as the result of Respondent's refusal to bargain from 29 June 1977 to the date Respondent "commences to bargain in good faith and thereafter bargains to a contract or a bona fide impasse" (make whole).

Respondent's Petition for Review was denied by the Court of Appeal for the First Appellate District, Division Four, on November 10, 1980, and hearing was denied by the California Supreme Court on December 10, 1980.

1. Hereinafter referred to as the "Act".

The parties were unable to agree on the amount of backpay or make whole due any of the discriminatees/employees, and on 20 October 1981, the Regional Director of the ALRB issued a partial backpay specification. The Respondent filed an answer on 16 November 1981. An amended make whole and backpay specification was issued by the Regional Director on 24 August 1982, and an answer was filed by Respondent on 3 September 1982. A second amended backpay and make whole specification issued 29 September 1982, and a third amended backpay and make whole specification issued 5 October 1982. Respondent filed its answer to the second and third amended make whole and backpay specifications on 14 October 1982. A hearing was held before me in Salinas, California, on October 5, 6, 7, 8, 13, 14, 15, 19, 20, 21, 22, 25, 26, 27, November 1, 2, 3, 4, and 5, 1982. All parties were given a full opportunity to participate in the hearing, and General Counsel and Respondent filed post-hearing briefs.

Upon the entire record, including my observation of the demeanor of the witnesses, and after consideration of the briefs filed by the parties, I make the following findings:

I. BACKGROUND

The tomato harvesters involved in this compliance proceeding engaged in a one-day work stoppage in support of discharged co-worker Salvador Hurtado on 12 September 1977 (5 ALRB No. 63, p. 17). The following day, September 13, the employees entered the fields to begin to work. When the president of the employees' negotiation committee (Antonio Margarito) stated that the harvesters would not work until Hurtado was rehired, supervisor

Frances Arroyo threatened that they could all be considered discharged. Most of the employees subsequently left the fields (5 ALRB No. 63, pp. 18-19). The Board concluded that the workers had been fired en masse, and that the Respondent's liability for the discharged strikers extended from 13 September until October 15, 1977 -- the date they were all offered reinstatement (5 ALRB No. 63, pp. 21-23).

The Board further found that the Respondent unlawfully attempted to delay negotiations until the end of the tomato harvest of 1977, in an effort to preclude the possibility of agreement on a contract and committed various per se refusals to bargain in violation of Labor Code sections 1153(e) and (a), which illegal conduct was responsible for the parties' failure to reach an agreement. (5 ALRB No. 63, pp. 12, 26). The Board found that Respondent first demonstrated its intention not to bargain in good faith on 29 June 1977, the date of the first negotiation session.

II. ISSUES

By way of pleadings, motions, stipulations, or references in post-hearing briefs, the parties have placed at issue the following:^{2/}

A. Make Whole

1. The Identity of Employees Entitled to Make Whole.

General Counsel suggests that all employees on the Respondent's payroll during the pertinent payroll period plus the

2. General Counsel and Respondent have included their revised calculations in post-hearing briefs. The differences contained therein constitute the focal point of this supplemental decision regarding make whole and backpay.

discharged employees should be awarded this remedy. Respondent denies that any of the discharges should receive make whole.

2. The Make Whole Period.

General Counsel urges that the make whole period runs from 29 June 1977 until 6 January 1978 -- the date it agrees that Respondent commenced bargaining in good faith. (General Counsel's Brief, p. 297). Respondent contends that the cut-off date should be 13 October 1977 -- the period for which the Board had received evidence of Respondent's bargaining posture in the underlying unfair labor practice proceeding. Alternatively, Respondent presented evidence that the parties met for the purpose of collective bargaining on 27 October 1977, with a meeting scheduled for the same purpose on 6 January 1978 (5 ALRB No- 63, Reporter Transcript, Vol. XXXVI, pp. 35-36). Thus, it suggests that 27 October 1977 would be the outside cut-off date for liability.

3. Prevailing Wage Rates.

General Counsel has conceded that Respondent paid prevailing wages during the period in question and therefore requests no additional wage supplement in its proposed make whole formula. Respondent argues that the make whole wage of \$4.26 per hour was established in Perry Farms (1978) 4 ALRB No. 25, and that a statewide survey of fresh market tomato contract suggests that there is no make whole liability. (Respondent's brief, p. 84.)

4. Fringe Benefits.

Both parties suggest some divergence from the Adam Dairy formula (4 ALRB No. 24). General Counsel requests that an adjustment be made to give Respondent credit for mandatory contributions -- workers' compensation, unemployment insurance, and FICA -- at the 1974 rate, rather than credit for actual contributions made.^{3/} Respondent, on the other hand, suggests that the fringe package should be identical to that provided in the Meyer Contract (which was General Counsel's basis for determination of actual wage rates).

B. Backpay

1. The Identity of the Discriminatees Discharged on 13 September

General Counsel contends that all employees who do not appear on Respondent's weekly payroll for the period following September 13 who established through testimony or payroll records that they were present on 13 September 1977 should be entitled to backpay. Thus, General Counsel's second and third amended make whole and backpay specifications (GCX 1-X and 1-Z) list 174 discriminatees categorized as follows:

Employees who appear on Respondent's payroll as having

3. By letter of 12 April 1983, General Counsel submitted revised calculations based on the Board's recent order in Robert H. Hickam (1982) 9 ALRB No. 6 -- crediting Respondent for mandatory contributions at 6.3 percent. Respondent, by letter of 19 April 1983, opposed General Counsel's recalculations as untimely and punitive. By letter of 29 April 1983, Charging Party suggested that the 6.3 percent deduction for mandatory fringe benefits compelled by Hickam is inappropriate with respect to the discharged employees for whom no contributions were made.

worked their last day on 10 September 1977 and do not reappear until October 1977 (Category 1-Appendix 8, GCX 1-X).

Employees who appear on Respondent's payroll as having worked their last day on 10 September 1977 and do not reappear thereafter (Category 1A- Appendix 9, GCX 1-X).

Employees who appear on Respondent's payroll as having worked their last day on 12 September 1977 and do not reappear until October 1977 (Category 2-Appendix 10, GCX 1-X).

Employees who appear on Respondent's payroll as having worked their last day on 12 September 1977 and do not reappear thereafter (Category 3-Appendix 11, GCX 1-X).

Employees who do not appear on Respondent's payroll (Category 4-Appendix 12, GCX 1-X).

Additionally, various witnesses testified at the hearing claiming to be among the group of discriminatees, but who were not listed in the specifications.

Respondent contends that only those employees who signed an agreement requested of them by supervisor Frances Arroyo on 9/13/77 have established their presence on 13 September. (RX 9.) Furthermore, all employees in crews #4 and #5 were not fired, but voluntarily joined the strike on 13 September (see Respondent's brief, p. 3, referring to 5 ALRB No. 63, p. 18, ALOD, pp. 62-64). As such, employees in either of these two crews are not entitled to backpay. These employees have been listed in RX 47 and Respondent's

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2. The Disposition of Non-Testifying Discriminatees.

General Counsel seeks backpay for deceased discriminatees, as well as for those who did not testify because of unavailability. Respondent suggests that any discriminatee who has not testified should be dismissed from the specifications and not awarded backpay.

3. Methodology of Gross Backpay Calculations.

General Counsel contends that backpay should be calculated on a daily basis. Respondent counters that calculations be made on a weekly basis.

C. The Applicable Interest Rate

General Counsel has requested that interest be computed in accordance with Lu-Ette Farms, Inc. (1982) 8 ALRB No. 55.^{5/}

4. Alberto Zavala, Nicolas Zavala Chavez, Jose Luis Zamudio, Maria A. Melchor, Micaela Villalobos, Beatrice Zavala, Arturo Torres, Daniel Torres, Trinidad Vaca, Jose Carmen Vaca, Antonio Vaca, Ezequiel Villalobos, Maria Luz Sanchez, Celia H. Morales, Miguel Gonzales, Arturo Juarez Mendoza, Manuel Sanchez, Margarito Chavez, Everardo Contreras, David Campos, Lucia Campos, Gabino Chavez, Maria Zuniga, Socorro Campos, Gregorio Gonzales Jr., Augustin B. Garcia, Rene Gonzales, Ernesto Gonzales, Ricardo Gonzales, Alfredo Gallardo, Jose Gonzales, Pedro Gonzales, Yolanda Lopez Guzman, Jose Garcia, Ismael Zuniga, Salvador Zavala Lara, Armando P. Lopez, Rafael Monroy, Delfina Orejel, Maria Orejel and Ricardo Rojas.

5. By Motion to Modify Board Order filed on 20 January 1983, General Counsel has contended that the Board's recent decision in High and Mighty Farms (1982) 8 ALRB No. 100 compels reliance on the Lu-Ette formula.

Respondent argues that interest remain at seven percent (7%) per annum.

D. Expenses

General Counsel contends that expenses incurred in seeking interim employment are reimbursable and that strike benefits paid by the union to discriminatees are not deductible from gross backpay. Respondent, on the other hand, argues that expenses are not recoverable under applicable NLRB precedent, and that all employees who denied receiving reimbursement from the union should either be denied backpay or receive reduced compensation.

E. Individual Cases

Respondent has raised various defenses to the claims of individual discriminatees – on the basis that the individual could not establish that s/he was discharged, that s/he failed to mitigate damages, or that s/he failed to reveal interim earnings. Additionally, Respondent has disputed the reasonableness and appropriateness of individual expense claims of many of the discriminatees.

III. MOTIONS

At pre-hearing and hearing, the parties have raised by motion various issues with respect to procedural and substantive

aspects of the case.

A. Evidentiary Issues.

Respondent has raised several potential defenses applicable to the general group of discriminatees including violence on the part of the discriminatees, Board agent misconduct, and company offers of reinstatement to a portion of the discharges prior to October 15, 1977. At pre-hearing, and again at hearing, I indicated my intention to prohibit Respondent from introducing evidence on these issues pursuant to the Board's order in 5 ALRB No. 63, which defined the backpay period of 13 September through 15 October 1977, and which rejected Respondent's evidence of instances of violence as being insufficiently specific to deprive the discharges of backpay.^{5a/} Additionally, the Executive Secretary had previously denied Respondent's motion to reopen the hearing to hear evidence regarding alleged Board agent misconduct. (See Order Denying Respondent's Motion for Reopening of Record and Stay of Compliance Hearing, dated 4 October 1982.)

B. Exhibits.

Following the close of the hearing and pursuant to stipulation of the parties, the record was reopened to receive various exhibits -- records of alleged interim earnings of several

5a. Respondent was afforded the opportunity to show why such evidence was not produced during the underlying ULP case. Respondent was unable to justify its original failure of proof.

discriminatees (RX 28, 29, 34, 35, 37, 40, 44, 49 and 50). Charging Party and General Counsel waived their objections regarding the authenticity of these documents, but maintained all other objections. I reserved ruling on these issues pending filing of the parties' briefs. Upon review of the briefs, I have decided to admit these documents into evidence as relevant to the issue of net backpay owing. The weight to be given to each will be discussed, separately along with the analysis of the particular discriminatee. Additionally, I have received into evidence the following exhibits whose authenticity had been agreed to among the parties: (RX 30, 31, 32, 33, 36, 38, 39, 41; 45, 46 and 47). Finally, the parties were unable to agree upon a mileage chart of various locations in the Salinas Valley area (see GCX 9 and RX 44, last page). I have included these exhibits only for identification, to be used for illustration of the parties' positions re the mileage between the various cities in the Salinas Valley.

C. Request to Admit Declaration of Unavailable Witness.

On the last day of the hearing, General Counsel presented a Motion to Admit Declaration of Unavailable Witness (Guadalupe Guzman) on the basis that the alleged discriminatee was in Mexico and unavailable, and that counsel were unable to arrange for her deposition prior to her departure. I have reviewed the parties' positions re this issue, and recommend denying General Counsel's motion on the basis that the Declaration is improper hearsay under Evidence Code section 1200, and not admissible under any exception.

I find insufficient grounds^{6/} to allow Ms. Guzman's testimony to be received into the record without being subject to cross-examination. See discussion, infra, concerning unavailable witnesses.

Following discussion of the general issues raised by the parties regarding make whole and backpay, I have set forth facts and analysis with respect to each of the 114 alleged discriminatees who testified at the hearing. Appendices are attached to reflect the make whole and backpay due each employee and/or discriminatee.

IV. MAKE WHOLE

A. Employees Entitled to Make Whole Relief

This Board has previously defined an appropriate award for discriminatees as the wages they would have earned had they remained in Respondent's employ, including the make whole supplement emphasis added), less any net earnings from other sources during the backpay period. Dutch Brothers (1977) 3 ALRB No. 80, review denied, Second Appellate District, Division One, August 18, 1979. Thus, the dischargees, as well as Respondent's other employees during the relevant period are entitled to the make whole supplement. Unlike the situation in Admiral Packing (1981) 7 ALRB No. 43, the workers herein hired between September 13 and October 15 replaced the group of discriminatees unlawfully discharged by OPM. To include these "replacements" in the make-whole supplement is thus

6. I do not attribute counsel's inability to arrange the deposition to any party.

no more punitive than to award backpay to a discriminatee who did not work in the wrongdoer's employ. I recommend that the entire list of employees reflected in the relevant payroll documents^{7/} (in addition to the discharges) be awarded the make whole supplement.

B. Period of Make Whole Liability

Respondent has been ordered to make whole its employees in the appropriate bargaining unit from 29 June 1977 "to the date Respondent commences to bargain in good faith and thereafter bargains to a contract or a bona fide impasse" (5 ALRB No. 63, supra, at p. 58.) General Counsel concedes that good faith bargaining commenced on 6 January 1978.

Respondent, on the other hand, contends that make whole liability is terminated on 13 October 1977, the last day on which the Board found bad faith bargaining in the underlying case. Respondent suggests that the finding of a continuous violation -- one that is extinguished only by the employer's establishment of good faith bargaining by a preponderance of the evidence -- conflicts with Labor Code section 1160.3 which places the burden of proof to establish violations of the Act upon the General Counsel.

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7. See Appendix A; RX 42

I disagree^{8/} I would recommend that the "burden" placed on Respondent be made analogous to the requirement that Respondent establish that it has reinstated unlawfully discharged employees. In the latter instance, the violator is charged with proving by a preponderance of the evidence that a valid offer of reinstatement was tendered to the discriminatee. See Rafaire Refrigeration Corp. (1973) 207 NLRB 523 [84 LRRM 1535]. In the make whole situation, Respondent must prove that it has ceased unlawful conduct and commenced bargaining in good faith.^{9/} Initially, then, it must come forward (burden of production) with some evidence of its good faith conduct. Then, the burden (of production) shifts to General Counsel to present evidence of Respondent's continuous bad faith. In the instant case, there is no evidence that any "good faith bargaining" took place on 13 October, 1977. Indeed, the Board has already found the company to be in bad faith through this date. On the other hand, the parties stipulated in the underlying case that the Respondent and Charging Party had met for the purpose of collective bargaining on 27 October with a meeting scheduled for the

8. This Board has heretofore not addressed the issue of the standard by which the make-whole period is to be fixed. I note that the California Supreme Court has approved the ALRB's (limited) prospective backpay requirement to remedy an employer's unlawful failure to bargain with the Union over the effects of its decision to sell the business. See Highland Ranch v. Agricultural Labor Relations Board (1981) 29 Cal.3d 848, citing Transmarine Navagation Corp. (1968) 170 NLRB 389 [66 LRRM 1419],

9. I do not interpret the Board's use of the conjunctive "and" to require proof of a contract or impasse to extinguish liability. Rather, I view the latter terms to modify and/or define "good faith".

same purpose on 6 January 1978 (R.T. Vol. XXXVI, pp. 35-36).^{10/} This Board has also found that the Respondent made a "package offer" to the union in November 1977: Respondent would accept the Meyer contract (with local supplements) in consideration for the union's withdrawal of all pending unfair labor practice charges and the settlement of Chavez v. Fitzsimmons, a lawsuit charging anti-trust violations engaged in by certain growers in the International Brotherhood of Teamsters. This offer was pending when the parties resumed negotiations in 1978. O. P. Murphy (1981) 7 ALRB No. 37, at p. 6. On January 6, 1978 -- the date on which General Counsel concedes to be the commencement of Respondent's good faith negotiation posture -- Respondent formally offered the Meyer contract and the union conditionally accepted. From the decision of the Administrative Law Judge in 7 ALRB No. 37 (supra, ALOD pp. 4-5), it is clear that the formal offer of 6 January 1978 -- which General Counsel concedes to have been made in good faith -- was identical to the "package" proposed previously in November 1977. I find this evidence to be sufficient to shift the burden of production to General Counsel. Neither General Counsel nor Charging Party has brought forth any evidence to rebut the inference that the new proposal commenced good faith negotiations. I thus recommend that the make whole period run from 29 July 1977 through the "package"

10. Contrary to General Counsel's assertions (see General Counsel Brief page 298), I find the stipulation of the parties to be binding upon them. See Estate of Burson (1975) 51 Cal.App.3d 300, 306 [124 Cal.Rptr. 105]; Pistorosi v. City of Madera (1982) 138 Cal.App.3d 284, [188 Cal.Rptr. 136].

offer of November 1977.^{11/}

C. Prevailing Wage Rates

General Counsel concedes that Respondent paid "prevailing wages" for make whole purposes. In determining this rate, Board agent Roger Smith considered geographical location to be the most important factor. He surveyed the Salinas Valley area and found that the only fresh market tomato UFW contract in effect in 1977 was the Meyer Contract.^{12/} Mr. Smith determined that different wage rates prevailed in different areas and that the union usually negotiated contracts by area. Mr. Smith rejected the use of UFW fresh market tomato contracts from other areas because the wage rates in those other areas were generally lower than the wage rates in the Salinas Valley area. (R.T. Vol. XIX, P. 32, 11. 3-16; Stipulation in Lieu of Hearing to Receive Documents Riled January 21, 1983.)

Respondent's "survey" of 1977 UFW fresh market tomato contracts excluding Meyer (RX 43) suggests an average hourly wage of

11. I note that Respondent's total liability would be identical were the "cut-off" date to be anywhere from the end of the tomato harvest (approximately 4 November 1977) to the January 1978 date suggested by General Counsel. (Compare GCX 1-X, Appendix 5, with Appendix A). Apparently this situation is due to the cessation of Respondent's operations following the harvest season. Thus, the absence of evidence on this record of a more precise date for the November "package" offer and/or the cessation of the harvest season does not affect the extent of Respondent's liability.

12. Respondent's 1977 wage rate for the tomato harvest was 325* per bucket for first pick and .375^c per bucket for second pick. The Meyer 1977 wage rats was .325* per bucket.

§3.11. It further views this Board's decision in Perry Farms (1978) 4 ALRB No. 25, to require a make whole wage of \$4.26 per hour. No evidence was introduced by Respondent to support its contention that either the Perry Farms rate, or its "survey" more accurately reflects the actual wage rates for the period and area in question. I thus recommend utilization of the Meyer Contract in ascertaining the prevailing wage rate as the most accurate method of determining Respondent's make-whole liability. (See Kyutoku Nursery, Inc. (1982) 8 ALRB No. 73.) In any event, all parties concede that no additional wage factor is required to calculate make whole due. The parties differ, then, only with respect to the calculation of fringe benefits.

D. Fringe Benefits

Respondent would calculate fringe benefits owing as a "package" based on the Meyer Contract. It further suggests that since OPM paid substantially above the prevailing hourly "average" ascertained above, there should be no make whole liability even if computed at General Counsel's fringe benefit percentage figure. (GCX 1, RX 19-25, 27.)

On the other hand, General Counsel requests a fringe benefit factor which would take into account revised Bureau of Labor Statistics figures for mandatory benefits post-Adam Dairy.^{13/}

I interpret the Adam Dairy decision to require implementation of the .22 fringe factor regardless of the wage

13. (1978) 4 ALRB No. 24.

determination. Insofar as this "arbitrary" percentage factor is to be utilized to prevent protracted litigation at the compliance proceeding, then it is appropriate in the instant case. While Respondent contends that wages and fringe benefits are negotiated as a "whole", it is equally likely that greater or lesser fringe benefits would be negotiated from a higher-than-prevailing wage rate base. As the Adam Dairy formula has purported to avoid just such reconstitution of the negotiation process, I recommend utilization of the .22 fringe factor.^{14/} In light of the Board's recent decision in Robert H. Hickam (1983) 9 ALRB No. 6, I recommend fixing the mandatory wage contribution -- which the parties concede to have been made by Respondent -- at 6.3 percent. However, this adjustment is made only with respect to those employees for whom mandatory contributions have been made. Clearly, these contributions would not have been made for the discharged employees and, therefore, calculations for the latter group would bear no such adjustment.^{15/}

14. Were the Board inclined to depart from the .22 fringe factor mandated by Adam Dairy, the instant action provides, in some aspects, a paradigm case for such reformulation. Respondent herein is able to refer to one existing contract (Meyer)-- which General Counsel concedes contains the prevailing wage rate upon which to base make-whole earnings. The fringe benefits of the "model" contract are readily calculable as a percentage of the entire "package" (See RX 44). And, the actual bargaining history between the UFW and Respondent suggests the acceptability of the Meyer contract during the period in question. (See discussion, supra.)

15. Apparently the calculations in General Counsel's second amended specification (Appendix 7) incorrectly incorporate the 6.3 percent mandatory fringe figure. The appropriate formula should be as follows: Basic make whole wage divided by .78 equals "X" (total package due) less 6.3 percent. By letter of 12 April 1983, General Counsel has revised these calculations based upon the Hickam methodology. While Respondent appropriately objects to the

(Footnote continued----)

V. BACKPAY

A. Identity of Discriminatees

The Board order directs "make whole" (backpay) for each of the agricultural employees discriminatorily discharged on September 12, 1977 .

. . ."^{16/} Individual discriminatees are not identified. Respondent contends that some 41 employees working in crews \$4 and #5 were not discharged, but chose voluntarily to support their co-workers who were discharged. While there is certain language both in the Board decision and the ALO decision (see 5 ALRB No. 63, p. 18; ALOD pp. 62-64) supportive of Respondent's position in that regard, I find the record ambiguous.

Respondent payroll records of

(Footnote 15 continued----)

form of this revision (see Regulation section 20240(a)), which requires post-hearing motions to be filed with the Executive Secretary, I am bound to follow applicable Board precedent. The 6.3 percent adjustment will be made only with respect to those employees (e.g. other payroll employees and replacements) for whom actual mandatory contributions have been made. With respect to the 'discriminatees - for whom no such payments were made as they were no longer on the O. P. Murphy payroll - no such adjustment is recommended. I have attached General Counsel's revision hereto as Appendix A, and have reviewed same to assure that the proper methodology has been followed. As Respondent has not previously had an opportunity to verify the accuracy of these calculations, I recommend that all discrepancies be directed to the Board by way of exception. To facilitate these computations, I note that the net make whole due may be calculated by simply multiplying the actual OPM wage by .20 (.201282051), which number represents the ratio derived by the Adam Dairy factory and the Hickam credit for mandatory contributions. Finally, with respect to those employees for whom I have found inaccurate payroll information (Guadalupe Morales Chavez - \$2197, Rafael P. Chavez - &613, and Merced P. Chavez - £912), I have deducted the (eroneous) amounts from the actual earnings reflected in Appendix A and recalculated the net make whole due accordingly. (See discussion, infra.)

16. It is clear from the record that the discharge occurred on the morning of 13 September. See O. P. Murphy (1979) 5 ALRB No. 63, p. 21.

13 September reflect less than full crews working on the morning in question (see GCX 7).^{17/} Testimony in the underlying case places the number of striking employees between 200 and 250 on the day following the discharges (See 5 ALRB No. 63, ALOD p. 65, fn. 78). The Board affirmed the ALO's conclusion that supervisor Arroyo stated that if the employees did not begin work within 15 minutes they could all be fired. Even those who might have been in the field (approximately one-half mile from the site of the threat) could be considered members of the group of discriminatees insofar as they joined all the others who were fired for protesting the events of the previous day. At the very least, I believe this ambiguity in the record suggests an individual-by-individual approach -- to wit, analysis of the testimony of each of the discriminatees regarding his/her presence during the events in question. General Counsel would, of course, have the burden of establishing membership in the class of people entitled to backpay under the Board's order. See Mastro Plastics Corporation (1962) 136 NLRB 1342.

B. Disposition of Non-testifying Discriminatees

This individual-by-individual analysis also leaves me to reject General Counsel's suggestion that gross backpay should be established and an escrow account opened for all those witnesses who

17. Indeed, fewer than 30 time cards for 13 September were identified by the parties, as a great majority of harvesters were not permitted into the fields on that day.

do not testify because they were unavailable.^{18/} While there is certain NLRB precedent which suggests General Counsel is not compelled to produce the testimony of each discriminatee entitled to backpay (see N.L.R.B. v. Mooney Aircraft, Inc. (5th Cir. 1966) 366 F.2d 80.9 [63 LRRM 2208]; Brown and Root (1961) 132 NLRB 486), those cases applied to clearly identified discriminatees. General Counsel has the burden of proving the identity of the discriminatees entitled to relief. See Mastro Plastics Corporation (1962) 136 NLRB 1342. I am not convinced that Respondent's payroll records alone adequately sustain this burden.^{19/} As General Counsel has suggested, the payroll information (time cards and computer printouts derived from the time card information) retained by Respondent does not offer a completely accurate indicator of who was actually-discharged, since no records of employees who arrived at the fields but did not work were kept on the day of the firing on September 13. At best, these records establish that employees were present through September 12, and did not work thereafter or did not return until October 15, 1977. Some of the cards (over 20) are apparently duplicative -- listing the same employee with the same

18. Individuals that General Counsel was unable to locate through the last day of the hearing (R.T. Vol. XIX, pp. 45-46.)

19. At best, payroll information reflecting a worker's presence on 12 September (the day prior to the discharges) and not thereafter, might raise a (rebuttable) presumption that a certain individual should be included among the discriminatees. Because of the inadequacy of the documentation involved, however, as well as the indication at the hearing that sizeable numbers of individuals not reflected in the payroll information may claim entitlement to back pay, I decline to recommend an escrow at this stage of the proceeding, or to decide the status of those for whom no other evidence (except payroll information) has been established. Obviously, any competent evidence -- not necessarily the testimony of the alleged discriminatee -- could satisfy General Counsel's burden in this regard.

employee number on a different card, and in a different crew.^{20/} Indeed, one employee (Gustavo Soares) appears on three separate cards. While most employees worked under his/her own name, there is testimony from several discriminatees that a family unit might have shared a card and received a joint weekly paycheck. Additionally, General Counsel has contended that some employees who do not appear on Respondent's payroll records following September 10, or who do not appear at all on Respondent's payroll records, are entitled to be included in the group.^{21/} Thus, of the 114 discriminatees who testified at the hearing, only 69 could be linked to time cards for September 12 (and therefore includable in categories 2 and 3 -- (Appendices 10, 11, GCX 1-X). Some 45 others -- for whom no time card could be found for September 12 -- claimed that they were present on the day of the firing (September 13).

In balancing the rights of the discriminatees to backpay due them as ordered by the Board, with Respondent's desire to cross-examine these individuals at hearing, I recommend the

20. See GCX 6, 7.

21. The following witnesses testified: Forty-one of the seventy-five employees listed in Category 2 (employees last working 12 September and returning after the strike -- GCX 1-X (Appendix 10)); twenty-eight of the fifty-four employees listed in Category 3 (employees last working 12 September and not returning thereafter, GCX 1-X (Appendix 11)); seven of the nineteen employees listed in Category 1 (employees last working 10 September with return after the strike -- GCX 1-X Appendix 3)); ten of the nineteen employees listed in Category 1-A (employees last working 10 September and not appearing thereafter, GCX 1-X (Appendix 9)); six of the fourteen employees listed in Category 4 (employees not listed in payroll records, but entitled to backpay according to General Counsel, GCX 1-X (Appendix 12)). Additionally, some twenty-two other witnesses testified who were not listed in the amended specifications. Each claimed entitlement to backpay.

following approach: I find that the gross backpay calculations (\$1,270.06) apply to all potential discriminatees. (See discussion, infra.)

Individuals who claim entitlement to backpay (whether or not identified in the latest specification) would have a maximum period of two (2) years from the date of the Board's supplemental order to litigate their claims - - either by hearing or deposition -- insofar as the matters cannot be resolved informally through the Regional Director. I would include among the potential claimants Guadalupe Guzman, Noel Nava (deceased),^{22/} Jesus Torres (deceased), Julia Ozuna, and Seprian Ozuna^{23/} all of whom would have the same right to have their claims heard within the two years following the supplemental Board order.

C. Methodology of Gross Backpay Calculations

General Counsel has calculated the average earnings of all tomato picker employees (replacements) on a daily basis for each of the 28 days involved herein. Said methodology conforms with one of the four basic formulae utilized by the NLRB.^{24/} See O. P. Murphy Produce Company (1982) 8 ALRB No. 54; NLRB Case Handling Manual,

22. The heirs or representatives of the decedent's would be entitled to backpay less interim earnings insofar as competent evidence established the inclusion of Mr. Nava or Mr. Torres among the group of people discharged on 13 September.

23. Although the Ozunas were apparently "available" if Respondent had chosen to subpoena them from out-of-state (see R.T., Vol. XIX, p. 34), there is insufficient evidence on the record at this time to include them among the discriminatees.

24. Use of earnings or hours of replacement employees or employee.

Part 3, compliance proceedings, sections 10538-10544 (August 1977).

Respondent's contention that gross earnings (and consequently interim earnings) should be calculated on a weekly basis is grounded primarily on the theory that the total weekly average of General Counsel's "daily calculations" greatly exceeds the pre-strike earnings of the discriminatees. Respondent's position is defective, however, to the extent that its calculations merely total the number of employees per week by reference to the payroll roster of names. That is, Respondent's calculations will distort an "average employee's" earnings by giving equal weight to those employed less than the entire week.^{25/} While such a calculation may be appropriate where there is an indication that work is not available for all the discriminatees for the entire period in question, such is not the instant case. Respondent's only contention regarding the lack of availability of work relates to causes directly accruing from the discharges -- to wit, the strike that followed the mass firing. That Respondent's unlawful conduct ultimately reduced the harvest potential for the 1977 season cannot creditably be relied upon to justify reduction of the potential earning base for the group of discriminatees. There was certainly work available for all those terminated on the day of the discharge. There is no record evidence that work availability would have diminished for the duration of the harvest. Since in this

25. For example, in any given week, 50 different individuals may have earned a total gross pay of "X" dollars. By including in the calculations those individuals who worked only one or two days per week in averaging the total earnings over one week, the gross weekly figures per individual would be significantly less than the "daily average" per individual for any particular day.

particular case, the discharges occurred in the midst of the tomato harvest, and there is no evidence that the group of discriminatees (reasonably) expected any less than full employment throughout the duration of the harvest season, I find that General Counsel's utilization of the daily average methodology for the entire tomato harvest season to be the most appropriate approximation of the lost gross earnings^{26/} See High and Mighty Farms (1982) 8 ALRB No. 100.

VI. APPLICABLE INTEREST RATE

This Board has recently ruled that it had authority to

26. I do not find the General Counsel's daily calculations in the instant case to be defective as contemplated by the Court of Appeal in Nish Noroian Farms v. Agricultural Labor Relations Bd. (1983) 141 Cal.App.3d 935. Here, the interim wages earned during the backpay period have been attributed (on a daily average basis if not available for each day) to the six-day work week of Respondent's employees. Respondent would be denied "full credit" only for those days on which the discriminatee earned a greater sum at the place of interim employment than he/she could have expected to earn at O.P. Murphy. I do not find this (minimal) differential to be punitive insofar as Respondent's unlawful conduct placed the discriminatees in a situation where they had lost the expectation of earnings for an entire tomato harvest season, and, in the great majority of cases, were compelled to seek interim work on a daily basis. Those who were fortunate enough to find employment often did so for very limited periods of time (I-3 days). I conclude that the daily calculations, when averaged fairly over the discriminataes' expected work week, provide the best approximation of the latters' wage loss. I have revised the daily gross calculations in attached Appendices B-1 through B-105 in light of certain minor mathematical errata contained in General Counsel's specification (see GCX 1-X, Appendix 6). Finally, I note that since the date of Respondent's request to consider the Nish Noroian decision (letter of 25 April 1983), the California Supreme Court has accepted the latter case for hearing (week of 11 July 1983, \$83-88). Any further citation to the appellate court decision is therefore inappropriate. California Rules of Court, Rules 976, 977.

modify its orders where the Board has not lost jurisdiction by virtue of appellate court review. High and Mighty Farms (1982) 8 ALRB No. 100. The Board reasoned that if judicial review was summarily denied, its jurisdiction remained intact, because a denial of petition for review by the Court of Appeals neither affirmed nor reversed a Board decision. The Board thus retained the power to modify its order as if there had been no appeal. Here, review was denied summarily by the Court of Appeals, First District, and by the California Supreme Court. I thus recommend in accordance with Board precedent that the Lu-Ette interest rate formula be applied prospectively from the date of the Board's supplemental order, as the original Board order specified 7 percent per annum (High and Mighty, supra, p. 14).^{27/}

VII. EXPENSES

This Board has approved reimbursement for reasonable expenses incurred in seeking interim employment. Frudden Produce, Inc. (1982) 8 ALRB No. 26. It is irrelevant whether or not the discriminatee actually obtained work for entitlement to such compensation. High and Mighty Farms (1982) 8 ALRB No. 100.

Such expenses include transportation costs which would not

27. General Counsel's Amended Make Whole and Backpay Specifications dated August 24, 1982 sought interest at 20 percent from August 18, 1982 until January 1, 1983 pursuant to Lu-Ette Farms (1982) 8 ALRB No. 55. General Counsel further filed a Motion to Modify Board Order dated January 20, 1983 (after close of hearing) to allow for computation of interest in accordance with the High and Mighty decision.

have been incurred but for the discrimination and the consequent necessity of seeking employment elsewhere. See High and Mighty, supra, citing Aircraft and Helicopter Leasing and Sales, Inc. (1976) 227 NLRB 644 [94 LRRM 1556]. I shall thus recommend compensation therefor where proven by the individual discriminatee.

VIII. RECEIPT OF UNION (STRIKE) BENEFITS

Under NLRB precedent, strike benefits are not interim earnings deductible from gross pay, provided that the discriminatee makes reasonable efforts to locate suitable interim employment. Sioux Falls Stockyards (1978) 236 NLRB 543. Where, however, it has been proven that certain union expenses were directly attributable to gasoline expenses claimed by the discriminatee, I have deducted this benefit from the requested compensation. If the discriminatee has been reimbursed for gasoline expenses, s/he has really suffered no economic loss as a result of the discriminatory conduct. I decline, however, to follow Respondent's suggestion that any witness who denied receiving money for expenses from the union should either be denied all backpay or fined \$200.00 (\$50.00 per week for four weeks)-- the amount Respondent claims the union was paying the strikers. Consistent with the individual-by-individual approach suggested previously, I shall analyze the testimony and documentary evidence relating to each individual case and recommend amounts due accordingly.

IX. INDIVIDUAL DISCRIMINATEES

(1) NATIVIDAD MORALES LOPEZ

A. Facts

Mr. Lopez testified that he worked for Respondent in 1977 until mid-September when he was fired along with his co-workers. He indicated that on the day prior to his termination, he had engaged in a work stoppage at approximately 10:00 a.m., but when he returned to work on the following day, general foreman Frances Arroyo fired the crews. Family members fired with him included his father Luis Lopez, his mother Anita Lopez, and other relatives Ramon Perez, Clementina Perez Lopez, Adela Perez Lopez, Nicolas Perez, and Guadalupe Puente.

Mr. Lopez participated in the strike but in the afternoons went to other fields to attempt to look for work from King City to Salinas. He would go with Ramon Perez and paid Mr. Perez \$2.00 daily for gasoline. Lopez testified that he obtained work with Gonzales Packing through labor contractor Jose Silva in mid-October.

On further examination, Mr. Lopez denied working for Gonzales Packing during the strike. He denied seeking work through a union hiring hall or the Employment Development Department. He also conceded to having paid Mr. Perez \$2.00 per day for rides to work even prior to the strike.

B. Analysis and Conclusions

Mr. Lopez sufficiently detailed the events of 12 and 13

September 1977 to be included among the discriminatees.^{28/} I find his efforts to seek work -- by going to various fields in the afternoons and speaking directly with labor contractors -- to be reasonable, and I therefore reject Respondent's contention that he failed to mitigate his losses during the interim period. See N.L.R.B. v. Midwest Hanger Co, (8th Cir. 1977) 550 F.2d 1101 [94 LRRM 2878], cert. den. 434 U.S. 830.

I likewise reject Respondent's contention that Mr. Morales should be denied backpay for failing to recall interim earnings at Gonzales Packing or at Esquivel.^{29/} I find insufficient evidence to establish his employment with the latter company, as no payroll or other documentation was provided except for the rather imprecise recollection of Ramon Perez. (See RX 17, p. 91.) With respect to the Gonzales Packing earnings, RX 33 indicates interim earnings of \$182.33. However, RX 46 (page 20, week ending 10/12/77) (Employee No. 8209) indicates earnings of \$16.90, with an additional \$165.42 for the week ending 10/19/77. I have therefore deducted interim earnings of \$16.90 for October 12, and one-half (\$165.43) for October 13 and 14 (averaged daily over four days) as GCX 1-X, Appendix 10, indicates that Mr. Perez returned to Respondent on 17

28. Respondent time card for 12 September 1977 identifies Mr. Lopez as working in Crew 1-8 on the day prior to the discharge (GCX 6).

29. I do not interpret the Flite Chief decision ((1979) 246 NLRB No. 55) cited in Respondent's brief, page 10, footnote 3, to mandate exclusion of backpay for a witness' inability to recall precise dates and identities of interim employment, particularly, as in this case, where the violative conduct occurred some five years prior to the compliance hearing, and the backpay period is for only one month.

October, and October 15 and 16 are beyond the backpay period.

While Mr. Lopez seemed quite certain that the work with Gonzales Packing in 1977 was following the strike, the payroll information contained in RX 33 and RX 46, the recollection of Ramon Perez (R.T. Vol. XIII, p. 3), Mr. Lopez' reference to the interim earnings in ALOX 1, as well as the latter's recall that the work might have occurred in mid-October 1977 sufficiently establish these interim earnings. I have calculated the net backpay money owing Mr. Lopez on a daily basis in the appendix attached hereto (B-1). I recommend no reimbursement for gasoline expenses as the record evidence suggests that Mr. Lopez' payments in this regard did not change during the strike period. That is, he incurred no additional expense due to his discharge, and consequently suffered no additional loss for which compensation would be appropriate.

(2) RENE GONZALES

A. Facts

Mr. Gonzales worked for the Respondent around mid-September 1977 picking tomatoes. He appeared on Respondent's payroll for the week ending 9/14/77 as having worked his last day on 9/10/77, but did not appear thereafter (during the 1977 tomato harvest). See GCX 1-X, Appendix 9.

Mr. Gonzales at first denied that he had been fired, testifying that he simply joined the strike in protest of supervisor Frances Arroyo's accusations that the workers were picking dirty. (R.T. Vol. II, p. 41, II. II-25.) On further examination, Mr.

Gonzales recalled leaving on the same day and for the same reasons as co-workers Richardo Gonzales and Arnulfo Gasca.

He sought work at Gonzales Packing (about two to three days per week) for approximately two weeks and claimed gasoline expenses of \$5.00 per day for 7.5 days for a total of \$37.50. On cross-examination, he admitted that the travel to seek work was from Soledad to Gonzales (approximately 9.5 to 10 miles), and his major gasoline expense was for driving to the picket line.

Mr. Gonzales started picking grapes in Gonzales and Soledad with General Vineyards about September 29, 1977, where he earned approximately \$240.00 per week through the end of October. He did not recall working at Somoco during the interim period.

B. Analysis and Conclusions

Although his recollection was less than precise, Mr. Gonzales detailed sufficient events of September 12 and 13 to establish his presence among the group of discriminatees. Co-workers (Jose Gonzales and Augustin Nava) corroborated his presence on the day of the firing as did brothers Ricardo, Ernesto, and Miguel Gonzales. Nor do I find that the various subjective reasons given by this witness for joining the strike -- fear of co-workers or protest against the supervisor's accusations -- require his preclusion from the group of discriminatees entitled to backpay. This Board has already determined that the various crews were wrongfully discharged en masse -- and I recommend that Mr. Gonzales be included in this class.

Mr. Gonzales' concession that he started picking grapes with General Vineyards during the strike and payroll records

indicating earnings of \$84.00 for the week ending 10/9/77 (24 hours at \$3.50 an hour) and \$152.50 for the week ending 10/16/77 {43 hours at \$3.50 per hour),^{30/} sufficiently establish interim earnings.

While Mr. Gonzales did not recall working with Somoco, I note that the payroll records of this company indicate earnings of \$26.00 for 24 September 1977, and identify Mr. Gonzales by name and social security number. I conclude that this evidence sufficiently establishes interim earnings of the discriminatee and will include same in the calculation of net backpay owing.

I also recommend that Mr. Gonzales be reimbursed for his gasoline expenses incurred in seeking work of \$5.00 per day for 2.5 day per week for three weeks (\$37.50).

Finally, Mr. Gonzales' statement that he checked with Gonzales Packing two to three times per week for three weeks, coupled with the corroborating testimony of Julian Gonzales who detailed efforts that the pair made every morning to seek work suggest reasonable diligence on the part of the discriminatee, and I would recommend that backpay be awarded for the entire period. The daily calculations are included in Appendix B-2 attached.

30. RX 28. These records indicate the following hours worked for week ending 10/9/77: Thursday-7.5; Friday-9; Saturday-7.5. For the week ending 10/16/77, the records indicate the following hours worked: Monday--9; Tuesday--7; Wednesday--9; Thursday--9; Friday--9; Saturday--3.5. I did not include the 3.5 hours worked on Saturday (October 15) as this day is not included in the backpay period.

(3) JOSE GONZALES

A. Facts

Mr. Gonzales testified that he worked for Respondent in the tomato harvest commencing early in September 1977, until he was fired by supervisor Frances Arroyo along with an entire group in front of the Oasis Restaurant. On the day prior to the firing he worked the entire day. On the day of the firing he worked approximately 1-3 hours.

Respondent payroll records for the week ending 9/14/77 list Mr. Gonzales' as having worked his last day on 9/10/77 and not appearing thereafter {GCX 1-X, Appendix 9). Mr. Gonzales recalled that his foreman was named Rafael, and that he believed he worked in Crew 15- His "cousin" Rene also worked_ in the same crew and was fired, along with co-workers Angel Villagomez, Fidel Alcantar, Gualdalupe Alcantar, Antonio Margarito, and Augustin Garcia.

Mr. Gonzales participated in the strike by joining the picket line but also claimed to have looked for work with Gonzales Packing. He would go every day in the morning with Rene Gonzales in the latter's car. Mr. Gonzales requested reimbursement for gasoline expenses of \$5.00 which he paid Rene Gonzales every other day for 7.5 days for a total of \$37.50.

On further examination, Mr. Gonzales conceded that he received \$50 per week from the union during the strike for gasoline expenses (R.T. Vol. II, p. 71, II. 23-28; p. 72, II. I-2; p. 74, II. 10-15.)

B. Analysis and Conclusions

While Respondent's payroll records do not indicate Mr. Gonzales was present on 12 September -- the day before the firing -- I find his testimony regarding the events of 13 September sufficiently precise and definite to include him in the group of discriminatees. He was able to identify several co-workers fired along with him and he conceded participation in the strike, as well as receipt of \$50 per week in gasoline expenses.^{31/}

I find Mr. Gonzales' daily efforts to seek work after leaving the picket line to be sufficiently diligent to entitle him to backpay for the entire period. While he was able to identify only one company and his efforts were unsuccessful, the burden is upon the Respondent to demonstrate that the discriminatee's efforts were unreasonable. I conclude it has not met such burden in the instant case, and recommend that backpay be awarded for the entire period. See High and Mighty (1982) 8 ALRB No. 100. Because Mr. Gonzales was reimbursed for gasoline expenses and therefore suffered no actual loss in this regard, I recommend that his claim for such expenses be denied. See Appendix B-3.

(4) AUGUSTIN NAVA

A. Facts

Mr. Nava picked tomatoes for the Respondent in 1977

31. Of some interest is picker card \$6077 dated 9/13/77 which indicates the crossed out name of co-worker Rene Gonzales. Both Rene Gonzales and the witness testified to being together on 13 September. (GCX 6.)

commencing about August 15. He didn't finish the season, stopping "around" 15 September as he was fired by Frances Arroyo in a group close to the Oasis Restaurant in Soledad at approximately 9:00 a.m. Mr. Nava testified that he worked the day before the firing, but not a full day because of a work stoppage. He listed fellow co-workers -- Jose Gonzales, Rene Gonzales, Nicolas Pizano, and Emma Pizano -- as other members in his crew who were also fired.

Mr. Nava participated in the strike and joined the picket line daily for approximately 3-4 weeks. He claimed to have looked for work between 6:00 a.m. and 10:00 a.m. at Meyer Tomatoes, "Monterey" (in the garlic), at El Topo near Greenfield, with labor contractor Jose Lopez, and at various ranches in King City and San Lucas. He would go every day in the morning with his cousin Noel Nava and paid the latter \$10 per week for gasoline for 4 weeks. He also sought work by checking newspapers, and going to the EDD office in Soledad at the end of September 1977, but never went to a union hiring hall to look for work. While he spent 7 hours' per day on the picket line, he received no money from the union for gasoline.

Mr. Nava testified on cross-examination that he next obtained work in the grapes with General Vineyards in approximately November 1977. Records from the latter company indicate that an "August in Gonzales" (the name utilized by Mr. Nava) with Nava's social security number worked during the weeks ending 8 October and 15 October.

B. Analysis and Conclusions

Although not appearing on Respondent's payroll records for

12 September,^{32/} I find that Mr. Nava adequately established his presence on the day of the firing and recommend his inclusion among the discriminatees. In light of his recollection of having worked at General Vineyards in "November" 1977, and the pertinent payroll records (RX 29) reflecting earnings during the weeks ending 10/9/77 and 10/16/77, I find sufficient evidence of interim earnings to be reflected in the net backpay due -- specifically \$150.50 for the week ending 10/9/77 (43 hours at \$3.50 per hour), and \$150.50 for the week ending 10/16/77 (43 hours at \$3.50 per hour).^{33/}

However, I cannot conclude that Mr. Nava's failure to recall the precise month of interim employment constituted deliberate "misconduct" which should deprive him of backpay due. See N.L.R.B. v Flite Chief (1981) 566 F.2d 1182 [106 LRRM 2810]. : do not find it particularly unusual that he would not recall the precise dates that he worked in the grape harvest some five years prior to the time of his testimony.

I also recommend that Mr. Nava be reimbursed for his gasoline expenses of \$10 per week for the three-week period he was without work for a total of \$30.00. (See Appendix 8-4.)

32. Mr. Nava is listed in GCX 1-X, Appendix 9, as last having worked with Respondent on 10 September 1977.

33. The daily breakdown for the week ending 10/9/77 is as follows: Tuesday-9 hours; Wednesday-9 hours; Thursday-7.5 hours; Friday-9 hours; Saturday-8.5 hours. For the week ending 10/16/77: Monday-9 hours; Tuesday-7 hours; Wednesday-9 hours; Thursday-9 hours; Friday-9 hours. I did not include 3.5 hours worked for Saturday, October 15, as this day was not included in the gross backpay calculations.

(5) FAUSTINO OREJEL

A. Facts

Mr. Orejel testified that he picked tomatoes for Respondent from 1975-77 until he was fired in September. He was discharged in a group in front of the tracks near the Oasis Restaurant in Soledad, California. He testified that on the previous day he worked from approximately 8:00 in the morning until 10:00 a.m. when the work stoppage occurred. The next day, he returned to work and was fired by "Frances" (Arroyo). He recalled working under foreman Roberto Gonzales with co-workers the Chavez family, the Rodriguez family, the Alcantar family, Fidel Alcantar, Trinidad, Antonio, and Carmelo Vaca, Garibay, and Don Augustin.

Mr. Orejel participated in the strike for approximately 3 weeks by joining the picket line. Because he had to support 7 children he would seek work in the morning. If he did not find work, he would' return to the picket line at approximately 10-11 a.m.

Mr. Orejel named Greenfield, Gonzales (packing sheds), Pete Rocha and labor contractor Jose Lopez as locations where he sought work. He did not recall working during the interim period.

Mr. Orejel requested expenses of \$4 per day for gasoline, but testified that the maximum distance he drove to seek work was 3 miles (one-way). He stated that his residence was one and one-half miles from the picket line and that on one occasion he went to San Ardo (approximately 32 miles one-way) in order to picket. He received no money from the union.

Respondent's payroll records do not indicate that Mr.

Orejel. worked at all during the week ending September 14, 1977, or thereafter except for September 16, 1981. Mr. Orejel's wife Delfina -- but not his daughter Maria -- testified that he was fired along with the others on 13 September.^{34/}

B. Analysis and Conclusions

General Counsel has suggested that because of the disturbances of 12 and 13 September 1977, there may well have been inaccuracies in Respondent's reporting system on those days. Because the pickers did not actually fill out their own cards in any event (this was the task of the checkers), and because the absence of a picker's card for September 13 is not really dispositive of the issue of the employee's presence on the day 'of the firing (e.g., the great majority of the work force were not issued cards on that date), General Counsel suggests that it has met its burden of establishing that Mr. Orejel is a discriminatee. Additionally, the testimony of his wife Delfina corroborates his presence on September 13, and it is clear that the latter did have a picker card through September 12 (GCX 6).

On the other hand, in its second amended specifications (Category No. 6, Appendix 14), General Counsel conceded that Mr. Orejel did not appear on Respondent's payroll from August 4, 1977 through September 12, 1977. The payroll records for Mr. Orejel indicate only work for the week ending September 21 (RX 18). As there is no indication that Mr. Orejel worked under his wife's card, Respondent contends that General Counsel has not met its burden of

34. Compare Reporter Transcript, Vol. IX, p. 88, 11. 19-25, with Reporter Transcript, Vol. II, pp. 120, 130.

proving that he is entitled to be included among the discriminatees.

A closer analysis of the payroll records, however, suggests that the total hourly work (37.08 hours) for the week ending 9/14/77 shown in Respondent payroll records (RX 18) is more likely the work of two employees since Mrs. Orejel was hired on 9/9/77 and September 11 (a Sunday) was an off day. Assuming that Mr. and Mrs. Orejel participated in the stoppages as they testified, and worked only 2-3 hours apiece on September 12, that would leave some 32 hours work for September 9 and 10 or 16 hours per day (8 hours per person per day) for those two days. Such a conclusion is thus consistent with Mr. Orejel's testimony that he was present during the disturbances. As I found nothing in Mr. Orejel's demeanor to question his sincerity, and his recollection was reasonably precise regarding these events, I would include him among the discriminatees.

Since Mr. Orejel returned to Respondent on September 16, 1977, however, I would terminate backpay liability as of that date. While the workers were under no duty to accept Respondent's offer to partially reinstate portions of the striking employees (see 5 ALRB No. 63, pp. 21-23), any employee who returned and then voluntarily left to rejoin the strike cannot be included among the group of dischargees. While General Counsel has contended that the interim earnings of the employees who returned to O. P. Murphy during the strike should be treated as interim earnings at any other employer, it is clear that in the instant case the discriminatees are entitled to backpay for having been discharged. Once having been fully reinstated to their former positions, these employees cannot claim continuous status as discriminatees. Rather, they would be mere

(unfair labor practice) strikers entitled to reinstatement upon bona fide offer to return.

As Mr. Orejel returned to work within three days of the firing, I recommend that there be no reimbursement for his gasoline expenses during the interim period. (See Appendix B-5.)

(6) MARIA OREJEL

A. Facts

Ms. Orejel testified that she worked with Respondent in 1976 and 1977 in the tomato picking' until she was "let go" in mid-September (1977).^{35/} She recalled the work stoppage, and on the following day she returned to work and was fired in & group in front of the Oasis near Soledad. She did not recall who told the workers to leave, or precisely recollect the time of day or day of the week. She did recall that others fired along with her included crew members Trinidad Vaca, Everardo Contreras, Trinidad Chavez and their families (Angelina, Amelia Chavez, Antonio and Carmelo Vaca). All worked under foreman Leandro Gonzales.

She participated in the strike joining the people at the Oasis and meeting them in the park after looking for work early in the morning (6-7 a.m.) at Gonzales, and occasionally in King City. She would go with her father (Faustino) but was unable to find interim employment.

35. Ms. Orejel appears on Respondent's payroll during the week ending 9/14/77 as having worked her last day on 9/10/77 (GCX 1-X, Appendix 9).

B. Analysis and Conclusions

I find Ms. Orejel's testimony sufficiently specific and precise to include her in the group of discriminatees – particularly her identification of co-workers Everardo Contreras and Trinidad Chavez, both of whom were clearly present on 13 September (RX 9).

Her early morning efforts to seek work were reasonably diligent (albeit unsuccessful) and I recommend that she be awarded backpay for the entire period. (See Appendix B-6.)

(7) RAFAEL MONROY

A. Facts

Mr. Monroy testified that he worked for the Respondent picking tomatoes in 1976 and 1977 from mid-September until Frances Arroyo fired him and his co-workers in the field next to the Oasis in Soledad.^{36/} He recalled picking about 6 buckets the day before he was fired until a stoppage occurred due to the firing of co-worker Salvador Hurtado. He specifically recalled forewoman Arroyo stating that "if you don't go in the fields, you'll all be fired." (R.T. Vol. II, p. 132, 11. 1-2.)

Mr. Monroy participated in the strike but also looked for work every day from 6 a.m. to 9 a.m. in Salinas (at Sun Harvest and D'Arrigo), in Greenfield (with Jose Lopez and "Rocha"), and in King

36. Respondent's payroll records for the week ending 9/14/77 indicate Mr. Monroy worked his last day on 9/10/77 and not thereafter. (GCX 1-X, Appendix 9.)

City at South Down (grapes), but was unable to find work. He denied going to the EDD office, looking through want ads or going to the union hiring hall in order to find interim employment. He had his own car and claimed \$5.00 per day in gasoline expenses. He conceded that at least a portion of the money he claimed for gasoline was used driving to the picket line (on one occasion to San Ardo).

B. Analysis and Conclusions

I find that Mr. Monroy testified with sufficient detail to be included in the group of discriminatees. He precisely recalled the events surrounding Salvador Hurtado's firing, and detailed Frances Arroyo's accusation that the workers were picking dirty.

As the payroll records for Paul Masson designate Mr. Monroy by name and social security number, and indicate earnings for the weeks ending 10/6/77 (\$255.38 for 38.7 hours) and 10/13/77 (\$151.99 for 16.5 hours), I shall deduct these sums from the total of backpay due, averaged on a daily basis (with Sunday off).^{37/}

I also recommend that he be awarded gasoline expenses of \$5.00 per day for 15 days (\$75.00).^{38/} (See Appendix B-7.)

(8) RICARDO ROJAS

A. Facts

Mr. Rojas testified that he picked tomatoes for Respondent in 1977 commencing in August. He was fired by Frances Arroyo in a

37. Mr. Monroy at first denied and then stated that he did not recall this interim employment (R.T., Vol. II, pp. 138, 142.)

38. See ALOX 7.

field near the Oasis Restaurant in Soledad, along with his entire crew.^{39/} Mr. Rojas worked the day before the firing, but not for

the entire day because of the stoppage (when Salvador Hurtado was fired). He stated that on the day after the stoppage, he picked approximately 4 buckets of tomatoes, and was then fired along with Rafael Monroy, Julio Garcia, and his father Nicolas Rojas.

Mr. Rojas participated in the strike throughout the interim period but also looked for work in the mornings going to Meyer Tomatoes (King City), and to labor contractors ("Omar") in Greenfield, and to various fields in Salinas almost every day.

Rojas paid approximately \$5 per day to his father when he went with the latter to look for work from their home in Soledad. On those occasions when he did not go with his father, he would pay for gas out of his own pocket (approximately \$5 per day).

On cross-examination, Mr. Rojas conceded that' he spent approximately 6-7 hours on the picket line per day, but denied receiving any money from the union for expenses.

B. Analysis and Conclusions

Mr. Rojas testified with sufficient detail to be included in the group of discriminatees.

His daily searches for work -- even though he was unable to specifically name every labor contractor and company from whom he sought work and did spend a great deal of time on the picket line -- were sufficiently diligent to justify backpay for the entire period.

39. Respondent's payroll records for the week ending 9/14/77 indicate Mr. Rojas worked his last day on 9/10/77, and not thereafter. (GCX-1X, Appendix 9.)

I recommend that he be reimbursed for gasoline expenses of \$5.00 per day for 28 days (\$140.00). (See Appendix 3-8.)

(9) LUCIA CAMPOS

A. Facts

Ms. Campos picked tomatoes for Respondent in 1977 commencing in August. She did not finish the season because she was fired along with her co-workers in mid-September in a field near Soledad. She worked the day before the firing but not the entire day due to a work stoppage which occurred because co-worker Salvador Hurtado was fired. On the following day she went to work until Frances Arroyo told the workers that everybody was fired.^{40/}

Ms. Campos participated .in the strike until she found a job at Garin Company where she recalled working for approximately 2-5 days during the last week of the strike and earned some \$180.^{41/} Ms. Campos sought work in the fields surrounding King City, Soledad, Greenfield, and Gonzales from 5:30 to 7:30 a.m. and specifically identified labor contractors Pascual Lemus and Nino Garcia. She also went to the union hiring hall on various occasions to look for work, but was never dispatched.

40. All parties concede that Ms. Campos was present on the day of the firing. (Respondent's Brief, p. 8; RX 9.)

41. RX 39 indicates that Ms. Campos worked during the weeks ending 9/14, 9/21 and 9/28/77, earning \$218.06. RX 40 (p. 16) also indicates that Ms. Campos found work at General Vineyards during the latter part of the strike (for the period ending October 11, 1977).

B. Analysis and Conclusions

Ms. Campos should be included among the group of discriminatees. Pertinent payroll records (RX 39, 40) indicate interim earnings of \$218.06 at Garin Company (\$31.03 for week ending 9/14/77; \$51.20 for week ending 9/21; \$135.83 for the week ending 9/28).^{42/} Since the witness identified her correct name as Maria L. Campos Sanchez, I have also included the interim earnings at General Vineyards for the latter portions of the strike pursuant to the testimony of Socorro Campos (R.T. Vol. III, pp. 139-140): for the period 10/3/77 to 10/9/77, 45 hours at \$3.50 per hour (\$157.50); and for the period ending 10/16/77, 46.5 hours at \$3.50 per hour (\$162.75). These earnings have also been averaged on a daily basis -- six days per week excluding Sundays, with the exception of the earnings for October 15 which date is not included in the backpay period.

I reject Respondent's contention that Ms. Campos deliberately withheld this information re interim earnings, as she did recall some 2-5 days work at the Garin Company. Likewise, I reject the theory that her incomplete memory with respect to the Garin Company earnings should discredit her testimony as to the reasonable efforts she made to mitigate her losses. I thus recommend that she be awarded backpay for the entire period. (See Appendix B-9.)

42. These earnings have been computed on a daily basis -- six days per week excluding Sundays. I have attributed the earnings for the week ending 9/14/77 to 9/14/77 -- the second day of the strike.

A. Facts

Ms. Guzman testified that she picked tomatoes for Respondent in 1977 commencing around the first of August. She did not finish the season because there was a work stoppage about mid-September.^{43/} The following day there was a strike after Frances Arroyo had told all the workers to get out of the fields. Ms. Guzman did not recall the time of day but identified the location of the field where the firing occurred as near the Oasis Restaurant. She did not recall her crew number, but identified other family members – Socorro Guzman, Yolanda, Guadalupe, Josefina and Yolanda Martinez, as well as Idolina Martinez, Emma Martinez, Luz Sanchez, Manuel Guzman, and Rafael Guzman – as people who worked with her.

Ms. Guzman participated in the strike by standing on the picket line but would look for work at Meyer Company (at its King City office) and in the fields in Greenfield. She would look daily from 4 a.m. to 5 a.m. and return to the picket line at about 6 a.m. when the (replacement) workers would arrive. She would normally go with her relatives and her husband. She denied working during the strike, but upon further examination, recalled having worked one

43. Respondent's payroll records do not indicate Ms. Guzman's employment throughout the 1977 tomato harvest. (GCX 1-X, Appendix 12.) Nor is there any record of Mr. Guzman's employment with Respondent during this period. Ms. Guzman stated that she and her husband (Rafael Guzman) utilized the same picker card during work which contained either her name or her husband's but not both. The payroll check was received in her name alone.

week at. Paul Masson during October 1977 earning approximately what she would have earned at OPM.

B, Analysis and Conclusions

In view of the absence of all documentation regarding Ms. Guzman's employment with Respondent during the relevant harvest, the decision in O.P. Murphy (1978) 4 ALRB No. 106, (see discussion, infra), and General Counsel's motion to exclude her husband Rafael Guzman (with whom she usually sought work) from the group of discriminatees, I believe the evidence insufficient to categorize Ms. Guzman as one of the discriminatees. While she was knowledgeable about some of the events surrounding the strike, I found her memory for detail to be particularly weak. Although she may well have participated in the strike activities, I do not agree that she was employed on the day of the firing. Therefore, I would recommend that ,she not; be awarded backpay.^{44/}

(11) RAFAEL GUZMAN

A. Facts

Mr. Guzman testified that he picked tomatoes for Respondent in September 1977 but did not finish the season because he was fired at a ranch close to Soledad in front of the Oasis Restaurant. The day before the firing he went to work but did not work all day

44. In the event Ms. Guzman ultimately is included among the discriminatees, I would find her efforts to seek interim employment reasonably diligent. Interim earnings (\$144.10 for the week ending October 6 and \$316.38 for the week ending October 13) should be deducted from the gross backpay due. (See GC Brief, o. 122; RX 30.)

because of the work stoppage due to the firing of Salvador Hurtado. The following day, Mr. Guzman recalled that the workers were not allowed to enter the fields. Frances Arroyo told all those who participated in the stoppage that they no longer had jobs. Mr. Guzman recalled that he worked in crew 3 and that his wife worked with him. He and Josefina had one punch card and the payroll check came in Josefina's name. He also identified as co-workers: the Martinez family, the Alcantar family; the Sanchez family, the Gomez family, the Contreras' and the Pizanos.

B. Analysis and Conclusions

At the close of its case, General Counsel moved to exclude Mr. Guzman from the group of discriminatees on the basis of the Board's previous finding in O. P. Murphy Produce Co., Inc. (1978) 4 ALRB No. 106.^{45/} The unopposed motion was granted at the hearing. I therefore recommend that Mr. Guzman be excluded from the group of discriminatees.

(12) BEATRICE ZAVALA

A. Facts

Ms. Zavala testified that she picked tomatoes for Respondent in 1977, but did not work the entire season because of the work stoppage and subsequent firing. She recalled that the

45. That decision, inter alia, indicated that Mr. Guzman did not return to work for Respondent during the 1977 tomato harvest at any time prior to the September 13 strike. The Guzman's (Rafael and Josefina) jointly applied for work during the 1977 season. (See 4 ALRB No. 106, supra, ALOD pp. 12-13.)

firing occurred close to the packing shed between Soledad and Gonzales when Arroyo told the workers that the company would not give further work. She was not sure that she worked on the day before the firing because she had to return home to get a permit to show the forewoman. On her return, the stoppage had begun and Ms. Zavala did not recall if she had completed any buckets on that day. She did not recall her crew number but remembered that her foreman's name was Roberto and that another person in her crew was Lucia Campos. Ms. Zavala testified that she worked under her mother's social security number because she had previously lost her own card and mistakenly utilized her mother's (who had the same address) when the company asked for verification.^{46/}

Ms. Zavala participated in the strike by joining the picket line for about one month. She looked for work at Paul Masson in Gonzales and at other labor contractors from Salinas to King City. She would go in the afternoons, but did not recall finding work during the strike.

She requested \$10 per week for expenses for gas in seeking work which was her share among relatives Adela Zavala, Guadalupe Hernandez and Virginia Chavez.

B. Analysis and Conclusions

I find Ms. Zavala's recitation of the events of September 12 and 13 and payroll records establishing her presence through 7 September to adequately support her claim to having been discharged.

46. Respondent's payroll records for the week ending 9/14/77 do not include Ms. Zavala (GCX 1-X, Appendix 12; GCX 2; RX 18). The records indicate her presence from 3/10/77 through 9/7/77 and then again on 10/19/77, 11/02/77 and 11/04/77.

In addition, she offered a plausible explanation for not having appeared on the payroll records, for the 12th. I therefore recommend that Ms. Zavala be included among the group of discriminatees.

I also find Ms. Zalvala's afternoon efforts to seek work to be reasonably diligent attempts to mitigate damages and recommend that she be awarded backpay for the entire period.

Finally, I find her request for gasoline expenses of \$10 per week for 4-5 weeks to be a reasonable approximation of expenses she incurred in looking for interim employment. I recommend that she be awarded \$45 for such expenses. (See Appendix B-10.)

(13) DAVID CAMPOS

A. Facts

Mr. Campos worked for Respondent in 1977 but did not finish the season because he was fired.^{47/} He recalled the stoppage and

the firing on the following day in front of the Oasis. The workers were not allowed to enter the fields.

Mr. Campos participated in the picket line regularly after looking for work in the morning. He sought work at the EDD (field work or tractor driving) but did not check want ads because he did not know how to read English. He checked with the union hiring hall every Monday, but no jobs were available. He also looked with his mother (Socorro Campos), and his sister (Lucia Campos), and although the latter two obtained work at Garin Company, he did not as only

47. Respondent payroll records indicate Mr. Campos last worked on 12 September 1977 (GCX 1-X, Appendix 11; GCX 6).

women were hired. Campos also sought work from Bruce Church and from labor contractors Pascual Lemus and Secundino.

Mr. Campos next worked driving a tractor for General Vineyards in October 1977.^{48/}

Mr. Campos claimed \$5 per day gasoline expenses in looking for work stating that neither his mother nor his sister helped contribute for gas. He claimed that the union gave \$10 per week for gas to certain workers (approximately 10) but he did not recall who they were. This money was utilized to cover the gasoline expenses in driving to and from the picket lines.

B. Analysis and Conclusions

Mr. Campos has amply demonstrated that he should be included among the discriminatees. Additionally, I find that he was reasonably diligent in seeking interim employment. I would include as interim earnings wages from General Vineyards during the weeks ending 10/9/77 and 10/16/77. I have computed these interim earnings on a daily basis pursuant to the pertinent payroll information as follows:

Monday - October 3	2 hrs. at \$3.90 = \$ 7.80
Tuesday - October 4	6 hrs. at \$4.00 = 24.00
Wednesday - October 5	10 hrs. at \$4.00 + 1 hr. at \$6.00 = 46.00
Thursday - October 6	10 hrs. at \$4.00 = 40.00
Friday - October 7	10 hrs. at \$4.00 = 40.00
Saturday - October 8	4 hrs. at \$4.00 = <u>16.00</u>
	\$173.80

48. General Vineyards payroll records indicate Mr. Campos earned \$464.70 during the weeks ending 10/9/77 and 10/16/77, (RX 40).

Monday-October 10	10 hrs.	at \$4.00 = \$	40.00
Tuesday - October 11	10 hrs.	at \$4.00 =	40.00
Wednesday - October 12	10 hrs.	at \$4.00 =	40.00
Thursday - October 13	10 hrs.	at \$4.00 =	40.00
Friday - October 14	10 hrs.	at \$4.00 =	<u>40.00</u>
			\$200.00

(RX 40.)

I also recommend reimbursement of gasoline expenses as requested -- \$5 per day for 17 days (\$85.00), as the money received from the union was utilized solely for driving to the picket lines. (See Appendix B-11.)

(14) SOCORRO CAMPOS

A. Facts

Ms. Campos testified that she worked for Respondent in 1977 but was fired in mid-September.^{49/}

Ms. Campos denied registering with the EDD or looking at want ads to find employment during the strike. She did go to the union hiring hall on two or three occasions in Salinas, as well as looked in various fields (with her son David), and with labor contractors (Lupe Hernandez and Pascual Lemus).^{50/} Ms. Campos and her daughter obtained work at Garin in the lettuce wrap for 2 to 5

49. All parties concede Ms. Campos presence on September 13 (Respondent's Brief, p. 11; RX 9).

50. Sometimes she paid for gas and sometimes David paid approximately \$5 per day. Her daughter Lucia did not contribute to this expense.

days and were laid off because they did not have seniority. They then went to work in the grapes at General Vineyards in Gonzales.

B. Analysis and Conclusions

There is no question re Ms. Campos' inclusion among the group of discriminatees, or her efforts to mitigate damages during the interim period. Although Ms. Campos could not recall her interim earnings at Gonzales Packing, RX 33 and 46 identify her by name and social security number. From RX 33, Ms. Campos appears to have earned \$144.30 between 9/18/77 and 10/13/77. RX 46 indicates that she earned \$144.30 during the week ending 10/5/77 (page 18). I therefore will average her earnings on a daily basis (excluding Sunday) during the days 9/29 through 10/3, as she commenced work at General Vineyards on 10/04/77.

At Garin Company, Ms. Campos earned \$31.03 during the week ending 9/14/77, \$138.80 during the week ending 9/21/77, and \$135.83 during the week ending 9/28/77, for a total of \$305.66. I have averaged these wages on a daily basis (six days per week, excluding Sundays) with the exception of the earnings for the week ending 9/14 which I have attributed to 9/14/77 since the date of firing was September 13.

From RX 40, I have calculated Ms. Campos' interim earnings at General Vineyards for the period 10/4 through 10/14/77 as follows:

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Tuesday, October 4	9 hrs.	at \$3.50 = \$ 31.50
Wednesday, October 5	9 hrs.	at \$3.50 = 31.50
Thursday, October 6	9 hrs.	at \$3.50 = 31.50
Friday, October 7	9 hrs.	at \$3.50 = 31.50
Saturday, October 8	9 hrs.	at \$3.50 = <u>31.50</u>
		\$157.50

Monday, October 10	9 hrs.	at \$3.50 = \$ 31.50
Tuesday, October 11	7 hrs.	at \$3.50 = 24.50
Wednesday, October 12	9 hrs.	at \$3.50 = 31.50
Thursday, October 13	9 hrs.	at \$3.50 = 31.50
Friday, October 14	9 hrs.	at \$3.50 = <u>31.50</u>
		\$150.50

Grand Total - \$308.00

I specifically reject Respondent's contention that Ms. Campos should be denied backpay for failing to recall the Gonzales Packing earnings (of approximately 1 week) or for underestimating the Garin Company earnings. She testified in a sincere, straightforward manner and I do not find it particularly unusual that she might forget precise dates of employment which occurred for a very brief period of time some 5 years prior to the date of her testimony. I therefore recommend that she be awarded backpay less interim earnings for the entire period. (See Appendix B-12.)

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(15) ANTONIO VACA

A. Facts

Mr. Vaca testified that he picked tomatoes for Respondent since 1970» He was fired in September, 1977, stating that on Monday there was a work stoppage because the workers wanted a wage increase and the following Tuesday he was fired at the Huntington Ranch. Mr. Vaca returned to work for Respondent in October 1977,^{51/} and had no interim earnings.

Mr. Vaca conceded that he was on the picket line almost every day during the strike, but stated that he looked for work in the mornings until approximately 7 a.m. He registered with the EDD in Soledad and looked for work with different labor contractors in Soledad (with Tito Garcia, Jesus Aldarate and Pascual Lemus), Chualar, Gonzales and Greenfield.

Vaca requested gasoline expenses of \$25 to \$30 per week (\$5 per day). He went with his family (four members).^{52/} On one occasion his son contributed \$10 for the gasoline.

B. Analysis and Conclusions

I find sufficient evidence to include Mr. Vaca among the discriminatees despite the absence of a time card for him on 12 September. Also, his efforts to seek work through the EDD and

51. Respondent payroll records indicate Mr. Vaca last worked on September 10, 1977, and did not return until October 15, 1977 (GCX 1-X, Appendix 8).

52. The Vaca family traveled together to seek work including Jose Carmen Vaca, Trinidad Vaca, Antonio Vaca, and Maria Vaca.

various labor contractors in Soledad, Chualar, Gonzalez and Greenfield constitute reasonable diligence to support his claim for backpay through the entire period.

I recommend that Mr. Vaca be reimbursed for gasoline expenses of \$5 per day for 28 days (\$140.00) less the \$10.00 contribution from his son for a total of \$130.00. (See Appendix B-13.)

(16) GLORIA B. CHAVEZ

A. Facts

Ms. Chavez picked tomatoes for OPM in September of 1977 and was fired the day after the work stoppage^{53/} when Frances Arroyo told the workers that there was no more work.

Ms. Chavez did not find work during the backpay period nor did she return to Respondent until recalled in October 1977. She participated in the strike by joining the picket line every day (all day) for approximately one month and received \$25 from the union on one occasion for being on strike. Despite her daily participation in the picket line, she registered at the EDD and applied for garlic work with Monterey Company and also went to seek work with David Walsh in the strawberries. She customarily relied upon her brothers-in-law to find work for her.

53. Respondent payroll records indicate Ms. Chavez worked with Respondent through 12 September 1977 and returned following the strike (GCX 1-X, Appendix 10; GCX 6.).

B. Analysis and Conclusions

The focal point of contention with respect to this discriminatee is the reasonableness of her efforts to seek work. I find her efforts in this regard (application at two companies)-- particularly in light of her customary reliance upon family members (brothers-in-law) to find work for her -- combined with the limited period in question to constitute reasonable (albeit minimal)^{54/} diligence. Therefore, I recommend that she be awarded backpay for the entire period.

As discussed previously, strike benefits are not interim earnings deductible from gross backpay provided the discriminatee makes reasonable efforts to locate suitable interim employment. (Sioux Falls Stockyards (1978) 236 NLRB 543.) I find that the record reflects that Ms. Chavez did make such reasonable efforts. As there is no claim for gasoline expenses, I have made no deduction of the money received from the union from the calculation of backpay owing. (See Appendix B-14.)

(17) NICOLAS CHAVEZ MORALES

A. Facts

Mr. Chavez testified that he picked tomatoes for Respondent during 1977 until fired by Frances Arroyo across the street from the

54. Ms. Chavez commenced her search for work after losing hope that she would return to Respondent's work force prior to the end of the tomato harvest. This hope was shared by many other OPM striking employees. See discussion supra.

Oasis Restaurant.^{55/}

Mr. Chavez sought interim work through labor contractors and foremen from Green Thumb as well as others whose names he could not recall. He also asked for work from his friends and relatives. He did not recall registering with the EDD, checking want ads, or going to the union hiring hall.

Chavez spent a few hours (4-6) in jail. He obtained work from Green Thumb for approximately 2-3 days picking chiles and earned approximately \$100. He also said that he helped his father during the strike picking strawberries (on his father's card) earning approximately \$32 for 3-4 days work, which money went directly to his father.^{56/} He left for Mexico one week after working at Green Thumb and stayed for 5 months.

Mr. Chavez claimed gasoline expenses of \$8.00-\$10.00 -- one-half of which was spent seeking work.

B. Analysis and Conclusions

I conclude that Mr. Chavez is a discriminatee entitled to backpay less interim earnings for the entire period. RX 31 reflects earnings of \$30 on September 18 at Green Thumb which I credit over Mr. Chavez' imprecise recollection. However, as September 18 was a Sunday, I have made no deduction for backpay owing. I have deducted \$32 for 3-4 days work with his father in the strawberries before he left for Mexico. (Averaged daily for 21 September through 24 September.) Although Mr. Chavez stated that he gave the money to

55. All parties agree that Mr. Chavez was present on 13 September. (Resp. Brief, p. 13; RX 9.)

56. His father paid him gasoline and 35.00.

his father, the earnings are included in the net backpay calculations as they were the product of Mr. Chavez' work. Whether he kept his earnings or gave them to his relatives should not be determinative of the question of his earned income during the period. He was thereafter unavailable for work during the interim period, and I concur with the Respondent's contention that he receive no backpay for the balance of the backpay period.

The earnings for N. Morales^{57/} (\$562.80 with Pascual Lemus during the fourth quarter of 1977) do not appear to be sufficiently definite to attribute to this discriminatee. Given Mr. Chavez' testimony that he left for Mexico on 29 September and the sporadic work history he detailed prior to that time, I find that Respondent has not met its burden of proving these earnings.^{58/} Nor have I excluded the 4-6 hour jail time as there is no record evidence of when (day or night) this occurred. There is therefore insufficient evidence to conclude that Mr. Chavez was unavailable for work during regular work hours at any other time during the backpay period.^{59/}

(See Appendix B-15.)

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57. RX 17, p. 22.

58. Since these fourth quarter earnings coincide precisely with the dates on which the discriminatee conceded that he was no longer seeking work, the gross backpay has been excluded from the calculation in any event.

59. I also recommend that Mr. Chavez be reimbursed for gasoline expense of \$4.50 per week times two weeks for \$9.00.

A. Facts

Mrs. Chavez worked for Respondent in the 1977 tomato harvest until the September 12 work stoppage.^{60/} On the next day, Frances Arroyo told the employees that there was no more work. Mrs. Chavez returned in October.

Mrs. Chavez worked at Monterey (Vineyards) during the interim period picking grapes and earned approximately \$325 for 1-1½ weeks' work. She left that job in order to return to OPM. She looked for work elsewhere but could not find it. She asked friends and acquaintances, returned to the picket line in the hope of being rehired, as well as went to Tony Guzman (strawberries) and Pascual Lemus, but was unable to find other work. She would go to look for work with her husband, Trinidad Chavez, in the latter's car, and with other family members (children) Jose Trinidad Chavez, Joaquin Chavez, Angelina Chavez and Amelia Chavez. The family received \$50 from the union on one occasion.

All worked at Monterey and earned approximately the same amount until their return to Respondent.

B. Analysis and Conclusions

I recommend including Mrs. Chavez among the discriminatees. I find her efforts to seek work by asking friends, acquaintances, and visiting labor contractors (2-3 times per week) to be reasonably diligent.

60. Respondent payroll records indicate Mrs. Chavez' presence through 12 September 1977 (GCX 1-X, Appendix 10; GCX 6.

Mrs. Chavez concedes interim earnings of \$325.00 at Monterey Vineyards during the last days of the strike, which I have averaged over 8 days (approximately 1½ weeks)^{61/} pursuant to her testimony. (R.T. Vol. IV, p. 45; ALOX 21.)

As discussed earlier, the money received from the union is not deductible from gross backpay owing. Since there is no indication that the money was reimbursement for gasoline expenses, I recommend that the Chavez family be awarded \$30 per week for 3.5 weeks (\$105.00) as requested (ALOX 21). (See Appendix B-16.)

(19) JOAQUIN CHAVEZ CHAVEZ

A. Facts

Mr. Chavez recalled being fired by Frances Arroyo at "Huntington Farms."^{62/}

Chavez indicated that he worked for approximately one week (6 days) for Esquivel picking tomatoes and earned approximately \$250 during the interim period. He also earned \$325.12 at Monterey Vineyards for approximately one week of work. During the two-week period he was without work following his discharge, Mr. Chavez would

61. Daily Average :	10/6	\$ 40.62
	10/7	40.62
	10/8	40.62
	10/10	40.62
	10/11	40.63
	10/12	40.63
	10/13	40.63
	10/14	40.63
		\$325.00

62. Respondent payroll records indicate Mr. Chavez' presence on 12 September 1977 (GCX 1-X, Appendix 10; GCX 6.)

go to the picket line every day but would also look for work 2-3 times a week through labor contractors (Pascual Lemus, Tito Orquidez) and friends.

B. Analysis and Conclusions

The only issues with respect to this discriminatee are the reasonable diligence of his efforts to seek work during the backpay period, and the interim earnings which should be deducted from gross backpay due. I find that the efforts to find work detailed by Mr. Chavez (2-3 times per week during the two-week period Mr. Chavez was without work) through friends and labor contractors Lemus and Orquidez to be sufficiently diligent to warrant backpay for the entire period.

All parties agree to interim earnings of \$325.12 at Monterey Vineyards for approximately one week of work (6 days) which I have averaged on a daily basis from 10/8 through 10/14. Mr. Chavez recalled earnings of approximately \$250 for some 6 days work at Esquivel. While Respondent's Exhibit 17 reflects third quarter interim earnings with Esquivel of \$355.88 and fourth quarter earnings of \$913.25 (RX 17, p. 90), there is insufficient evidence to connect these entire earnings to the strike period. Any portion of these wages may have been earned either before or after the strike, i.e. from July 1 through September 12 or from October 20 through December 31. In the absence of any further payroll documentation from Esquivel, and as the Respondent is charged with the burden of proof on the issue of interim earnings to be

deducted,^{63/} I shall credit Mr. Chavez' approximation of one week earnings of \$250 which I have averaged on a daily basis from October 1 through October 8. (See Appendix 3-17.)

(20) MARIA ALDACO MELCHOR aka MARIA DE LA LUZ VACA MELCHOR

A. Facts

Ms. Vaca testified that she picked tomatoes for Respondent commencing in August 1977. She did not finish the season^{64/} because of the work stoppage (to request a wage increase and to protest the firing of a co-worker), and the discharge of the following day. She recalled Frances Arroyo saying that the workers could leave if they didn't want to work at the present rate. She identified family members Antonio Vaca, Trinidad Vaca, Jose Carmen Vaca, and Maria Isabel Vaca as co-crew members fired on the same day.

Ms. Vaca participated in the strike daily for about 3 or 4 weeks, if only for a while, sometimes spending 1-3 hours on the picket line. She would look for work early in the morning starting at 5 a.m. and then would join the picket line at about 10 a.m. She inquired of workers and friends, labor contractors (including Mr. Lemus and Jesus Aldarate), Nino Garcia in Greenfield, and a foreman "Pedro" in Gonzales. She went to the fields to ask different crews if there were jobs available, but was unable to find work during the

63. See O. P. Murphy Produce Co., Inc. (1982) 8 ALRB No. 54; N.L.R.B. v. Brown S Root (8th Cir. 1963) 311 F.2d 447 [52 LRRM 2115, 2120].

64. Respondent's payroll records indicate Ms. Vaca last worked on 9/9/77. (GCX 2; R.T., Vol IV, p. 69, 11. 4-11.)

strike.

B. Analysis and Conclusions

Although there is no documentary evidence indicating Ms. Melchor's presence on either September 10 or September 12, I find that she described with sufficient detail the events of September 13 to be entitled to inclusion among the group of discriminatees.^{65/} Additionally, her efforts to seek work -- through co-workers, friends, labor contractors and group foremen -- I find to be reasonable in the agricultural context and for the limited period here in question. I cannot infer willful idleness by the mere fact that Ms. Melchor was unsuccessful in her efforts. I therefore recommend that she be awarded backpay for the entire period. (See Appendix B-18.)

(21) TRINIDAD VACA ALDACO

A. Facts

Ms. Vaca picked tomatoes for Respondent in 1977 until she was fired in September. She recalled the stoppage of the previous day when the company rejected buckets and a co-worker was fired.^{66/} She returned in October.

Ms. Vaca participated in the strike for approximately one month. She looked for work but could not find any. She joined the

65. She was also identified by discriminates Trinidad Vaca (her mother) as among the group fired on 13 September (R.T., Vol. IV, p. 100).

66. Respondent payroll records indicate Ms. Vaca was present through 12 September 1977 (GCX 1-X, Appendix 10).

picket line on an almost daily basis for some 2-3 hours per day after looking for work in the early morning. She went to the EDD twice in Salinas, checked with the union several times, and spoke with various labor contractors in Soledad, Greenfield and Gonzales/ naming Mr. Aldarate and Mr. Lemus in Soledad, Nino Garcia and "Vicente" in Greenfield, and "Licha" in Gonzales. She stated that her daughter Maria Vaca was in the same crew on the day of the firing and each worked under her own punch card.

B. Analysis and Conclusions

Although Ms. Vaca was somewhat confused about the events of September 12 and September 13 (claiming to have worked 1½ hours on the day of the firing), she testified in sufficient detail to entitle her to be included among the discriminatees. She appeared to be a particularly sincere witness who made a real effort to answer all questions to the best of her recollection.^{67/}

I also find her efforts to seek work -- checking with the union several times, going to the EDD on two occasions, and contacting various labor contractors in Soledad, Greenfield and Gonzales -- to indicate reasonable diligence. I thus recommend that she be awarded backpay for the duration of the strike. (See Appendix B-19.)

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67. Ms. Vaca was also identified as among the group fired by witnesses (family members) Maria Aldaco Melchor, aka Maria de la Luz Vaca Melchor, and Jose Carmen Vaca Aldaco.

A. Facts

Mr. Vaca picked tomatoes with Respondent in 1977 until he was fired in September, one day after the work stoppage.^{68/} His entire family was involved in the stoppage and fired by Supervisor Frances Arroyo at the "Huntington Farms" ranch in Soledad.

Mr. Vaca participated in the strike by going to the picket line daily for approximately one month. He could not get a job until he returned to OPM at the end of the strike. His efforts to seek work included registering with the EDD in Soledad, checking at the union hiring hall in King City and asking friends. He also went with his family to check with various labor contractors in Greenfield, Gonzales and Soledad.

B. Analysis and Conclusions

The only issue raised with respect to Mr. Vaca is the reasonableness of his efforts to seek interim employment.^{69/} I find his efforts of registering with the EDD, checking at the union hiring hall in King City, and contacting various labor contractors in Greenfield, Gonzales and Soledad to constitute a diligent search for work during the one-month period he was unemployed. Therefore, I recommend that he be awarded backpay for the duration. (See

68. Respondent payroll records indicate Mr. Vaca was present on 12 September 1977 (GCX 1-X, Appendix 10).

69. There is sufficient detail in Mr. Vaca's testimony which, when coupled with documentary evidence of his employment through 12 September 1977, indicate his presence on 13 September. I would thus include him among the group of discriminatees.

(23) AMELIA C. CHAVEZ

A. Facts

Ms. Chavez testified that she was fired by Frances Arroyo following the one-day work stoppage.^{70/}

She went to the picket line daily during the strike, sometimes spending up to 5 to 8 hours. She would ask her friends for work on the picket line and elsewhere as did her other family members. The family sought work from labor contractors Tony Guzman and Pascual Lemus, as well as others.

Ms. Chavez recalled working approximately one week picking grapes (piece rate) at Monterey Vineyards during the strike. Along with her mother, father, two brothers and sister, she left Monterey to return to Respondent. She had no other work during the interim period.

B. Analysis and Conclusions

I credit Ms. Chavez' recollection of the events of September 13 and would include her among the discriminatees. Her efforts to seek work (along with her family) -- asking friends at the picket line, as well as contacting various labor contractors -- constitute reasonable diligence during the short period of unemployment involved herein. I have averaged the interim earnings of \$325.12 on a daily basis (over 8 days excluding Sunday) from

70. Respondent payroll records indicate Ms. Chavez was employed through 12 September 1977 (GCX 1-X, Appendix 10.)

October 6 through October 14 (RX 17, p. 31; ALOX 24). (See Appendix 8-21.)

(24) ANGELINA CHAVEZ

A. Facts

Miss Chavez picked tomatoes for Respondent in 1977 until she was fired at the Huntington Ranch.^{71/} she did not recall joining a picket line, but did remember going to the strawberries to look for work, albeit unsuccessfully (David Walsh/Tony Guzman). She would ask for work from acquaintances, coworkers, and friends, and would go directly to the fields. She found work at Monterey Vineyards for 1 to 1½ weeks, but does not recall how much she earned.

Finally, Miss. Chavez said that many of her friends found work at Gonzales Company, but when she asked if there were any openings she was told there were none.

B. Analysis and Conclusions

I find Miss Chavez' testimony re the events of September 13 and the payroll data sufficient to entitle her to inclusion among the discriminatees. Her efforts to seek work, as those of other family members, were also reasonably diligent. I shall deduct interim earnings at Monterey Vineyards Company for 1 to 1½ weeks -- \$325.12 averaged on a daily basis (8 days, excluding Sunday) between October 6 and October 14, 1977 (RX 17; p. 12; ALOX 25). (See Appendix B-22.)

71. Respondent payroll records indicate Ms. Chavez worked through 12 September 1977 (GCX 1-X, Appendix 10).

A. Facts

Mr. Gonzales picked tomatoes for Respondent in 1977 but did not complete the season as he was fired.^{72/} He returned to work for O.P. Murphy on the last two days of the tomato harvest. Mr. Gonzales testified- that the workers were in a field in Soledad across from a gas station and were discharged after having stopped work in protest of a co-worker's firing.

Mr. Gonzales participated in the strike by joining the picket line in San Ardo, Greenfield and Soledad for some five weeks. He would go to the picket line every day arriving at approximately 5:00 a.m. and spend the entire day. He hoped to return to work for the Respondent but did not do so until the offer of reinstatement at the end of the season.

He asked coworkers and friends if they knew where work was available, but did not recall finding interim employment.^{73/}

Gonzales requested reimbursement for gasoline expenses incurred seeking work of \$5 per day for 25 days (\$125.00), but could recall driving only to the picket line on a daily basis.

b. Analysis and Conclusions

While there is no dispute about Mr. Gonzales'

72. Respondent payroll records indicate Mr. Gonzales was employed through 12 September 1977 (GCX 1-X, Appendix 10).

73. Payroll records at Somoco identify Mr. Gonzales by name and social security number and indicate earnings of \$23.25 during September. (RX 34.) Additionally, the EDD records indicate fourth quarter earnings with Hansen Farms (\$51.81), "Greenfield" (\$60.75), and Somoco (\$38.40). (RX 17, p. 65.)

classification as a discriminatee,^{74/} Respondent contends that Mr. Gonzales' efforts to seek work -- by asking workers and friends while hoping to return to Respondent's employ -- are legally insufficient to mitigate damages. Relying upon the reasonable diligence standard of ALRB and NLRB precedent (see Bruce Church, Inc. (1983) 9 ALRB No. 19; N.L.R.B. v. Miami Coca Cola Bottling Co. (5th Cir. 1966) 360 F.2d 569 [62 LRRM 2155]; Saginaw Aggregates, Inc. (1972) 198 NLRB 598 [81 LRRM 1025]), I find that Mr. Gonzales' efforts to be adequate (albeit minimally) given the short duration of unemployment, and the expectation among many workers that they would be rehired before the end of the tomato harvest season (see 5 ALRB No. 63, p. 23, fn. 15, suggesting the Respondent's willingness to reinstate at least some of the striking workers, and testimony of workers, inter alia, Everardo Contreras, Maria de Jesus Contreras, Enedina Contreras, Emma Pizano, Nicolas Pizano, Roque T. Lopez, Rafael P. Chavez, and Rafael Zavala.)

While Mr. Gonzales denied finding interim employment, the Somoco payroll records indicate earnings of \$23.25 on 9/24/77. These records were not confirmed by the EDD reports (RX 34; RX 17, p. 65.) As Mr. Gonzales was quite certain that he did not work at Somoco during the relevant period, and the payroll information is doubtful at best, I shall therefore exclude these alleged earnings in the calculation of net backpay due. (See Brown & Root, Inc. (8th Cir. 1963) 311 F.2d 447 [52 LRRM 2115, 2120].) With respect to the

74. I find that his testimony was sufficiently detailed regarding the events of 13 September to include him in the group of fired employees.

earnings at Hansen Farms and Greenfield which appear for the fourth quarter of 1977, I decline to compute these earnings as "interims" without further proof that they fell within the relevant time period, i.e., October 1 through October 14. As the earning reports listed on the EDD printouts are arranged in order of receipt -- rather than by actual date of employment -- there is insufficient evidence to conclude that these earnings fell within the backpay period. Additionally, RX 34 (Somoco records) indicates that "J. Gonzales" earned \$38.40 during the fourth quarter of 1977 (November 30 and December 7). As Mr. Gonzales could not recall these earnings (which in any event fell outside of the backpay period) and the payroll records do not sufficiently identify the discriminatee on their face, I decline to include them in the calculation of backpay due.

Finally, I decline to recommend reimbursement to Mr. Gonzales for gasoline expenses in seeking work as he could recall no travel other than to the picket line for the entire backpay period. (See High & Mighty Farms (1982) 8 ALRB No. 100; Charles T. Reynolds Box Company (1965) 155 NLRB 384 [60 LRRM 1343].) (See Appendix B-23.)

(26) FAUSTINO CONTRERAS

A. Facts

Mr. Contreras testified that he picked tomatoes for Respondent in 1977 until he was fired in September by Frances Arroyo who told the workers that "if we are not going to work for us to go

home and sleep".^{75/} (R.T. Vol. V, p. 30, 11. 15-16.) He remembered working approximately one hour and being in the field near the Oasis Restaurant at the time of the discharge.

Mr. Contreras participated in the strike by joining the picket line in Soledad and San Ardo for "some time". For the first 15 days he spent the entire day at the picket line, arriving around 6:00 a.m. He hoped to return to Respondent but was unsuccessful. He obtained work from Esquivel (labor contractor) picking tomatoes for the Frudden Company -- through friends who worked there at the time. Mr. Contreras worked approximately five days earning some \$200. He left his job with Esquivel to return to Respondent at the end of the strike.

B. Analysis and Conclusions

I find that Mr. Contreras testified with sufficient detail to entitle him to be classified as one of the discriminatees. While he recalled working approximately 1 hour on 13 September, his recollection of the events surrounding the discharge and particularly his recitation of the statements of Frances Arroyo on the day in question adequately establish his right to backpay.

Although Mr. Contreras' efforts to seek interim employment were somewhat meager -- asking friends, hoping to return to the Respondent, and speaking with a labor contractor (Esquivel) -- there is insufficient evidence to conclude that he failed to mitigate his losses for the very limited period he was without work. And I would be reluctant to categorize a discriminatee as unavailable for work

75. Respondent payroll records indicate Mr. Contreras was employed through 12 September 1977 (GCX 1-X, Appendix 10).

because s/he held for a limited time (unarticulated) aspirations of returning to Respondent before the end of the tomato season, particularly in this context where a portion of the striking workers were offered immediate reinstatement. I therefore find Mr. Contreras' conduct to be reasonably diligent. I have deducted interim earnings of \$40 per day for the five days Mr. Contreras worked with Esquivel prior to his return to O. P. Murphy (October 10, 11, 12, 13, and 14). (See Appendix B-24.)

(27) IRMA MORALES LOPEZ (CONTRERAS)

A. Facts

Mrs. Contreras (wife of Faustino Contreras) picked tomatoes for Respondent until she was fired in "October" of 1977.^{76/} She did not recall whether or not she returned to work for OPM after the strike. On her last day, she was in Soledad when Frances Arroyo fired the workers in group stating that there was no more work for all of those who had stopped working. (R.T. Vol. V, p. 39, 11. 7-8.)

Mrs. Contreras joined the picket line for some two weeks. In the mornings she went to look for work and then would join the picket line at approximately 7:00-8:00 a.m. She would then spend the entire day there. She hoped to obtain work from Respondent during this period. Mrs. Contreras detailed her efforts to seek

76. Respondent payroll records -indicate Mrs. Contreras worked for Respondent through 12 September 1977 (GCX 1-X, Appendix 10.)

work as follows: When she saw people working in the fields -- tomatoes or anything else -- she would ask if there was work available. She could not remember places or times but recalled going toward King City one morning to look for a job thinning and hoeing, going to King City some two days later and checking in the morning, and on a third occasion going toward Salinas. She obtained work at Gonzales Packing (picking tomatoes) in October for some three days (which she secured through relatives) and earned approximately \$90.

B. Analysis and Conclusions

I find that Mrs. Contreras has testified with sufficient detail to be included among the discriminatees. Additionally, her efforts to look for work in the early mornings by asking people in the fields and going to King City (on two occasions), and Salinas (on one occasion) constituted reasonable diligence during the one month interim period.

I have deducted interim earnings at Gonzales Packing -- for three days in October (\$93.28)^{77/} and have averaged these over the three-day period October 11, 12 and 13. I decline to include the Esquivel earnings reflected in the EDD printouts for Mrs. Contreras during the third and fourth quarters of 1977 (RX 17, p. 90) as such employment might well have occurred outside the interim period -- e.g. before September 14 or after 14 October. Without further corroboration, I find that Respondent has not met its burden of proving these interim wages. (See Appendix B-25.)

77. RX 33; GCX 1-X, Appendix 6q.

A. Facts

Mr. Garcia testified that he picked tomatoes for Respondent: in 1977 until he was fired in October in a field in Soledad around 11:00 a.m. after having worked approximately three hours.^{78/}

He recalled joining the picket line and going every day for the entire day for approximately one week.

Garcia sought work by contacting Gonzales Packing, Meyer Tomatoes, and co-workers in the morning (on more than one occasion). He also recalled working for Victor Azcona (Somoco Company) after leaving Respondent. He could not recall when he commenced work at Somoco or the duration of his employment.

Mr. Garcia requested gasoline expenses of \$10 per day because he had his own car which he used to drive to the picket line as well as to seek interim employment. He could not recall the number of trips he made to seek work.

B. Analysis and Conclusions

Mr. Garcia detailed the events of September 13 with sufficient clarity to justify his inclusion among the discriminatees. While he seemed to confuse the stoppage of September 12 with the firing of September 13, and his overall memory was not precise, I found him to be a relatively sincere witness who attempted to answer questions in a straight-forward manner.

I find Garcia's efforts to seek interim employment --

78. Respondent payroll records indicate Mr. Garcia worked through 12 September 1977 (GCX 1-X, Appendix 10).

contacting various companies and co-workers in the mornings – reasonable for the limited period involved (approximately 10 days). While RX 34 indicates employment of a J. Garcia at Somoco from 22 September through the end of the strike (15 October), the total earnings are not broken down on a daily basis for that time period. Rather the document indicates earnings of \$1,350.06 for 39 days work -- 16 prior to the interim period.

Although those earnings are not reflected in RX 17 (p. 21) which indicates employment only with Tony Guzman for the third quarter of 1977 (apart from earnings with Respondent in the third and fourth quarters), Mr. Garcia did recall working with Somoco during the relevant period. His recollection was corroborated by the testimony of Maria Garcia (his wife) for whom EDD records were available (RX 17, p. 11). I have therefore computed the Somoco earnings as follows: \$1,350.06 divided by 39 days equals \$34.62 per day for 22 September through 14 October (20 days) for a total of \$692.40.

I also recommend reimbursement for gasoline expenses of \$10 per day for the seven-day period Mr. Garcia was without work (\$70.00). (See Appendix B-26.)

(29) MARIA GARCIA

A. Facts

Mrs. Garcia picked tomatoes for Respondent until she was

fired in a field near the Respondent's packing shed.^{79/} She arrived early that morning but did not remember who fired her.

Mrs. Garcia participated in the strike by joining the picket line but would look for work early in the morning. She could not specifically recall dates, names, locations, or the number of attempts she made to seek interim employment.

Mrs. Garcia worked for Victor Azcona (Somoco) with her husband (picking chiles) and earned the same amount as the latter. Both returned to work for Respondent at the end of the strike for approximately two days.

B. Analysis and Conclusions

Although Mrs. Garcia could not recall many of the specific events of September 13, I found her to be a sufficiently credible witness to include her among the discriminatees. As she apparently was unemployed for only some eight working days, I conclude that her minimal efforts to find work -- going to Somoco, and hoping to return to Respondent constituted a reasonably diligent attempt to mitigate losses for the very short period involved.

While Mrs. Garcia recalled working for the same period as an her husband at Somoco, neither the latter's payroll records^{80/} or the EDD printouts^{81/} specify the precise dates of her employment.

79. Respondent payroll records indicate Mrs. Garcia worked through 12 September 1977 (GCX 1-X, Appendix 10).

80. RX 34 makes no reference to Maria Garcia.

81. RX 17, page 11, indicates interim earnings of \$293.12 for the third quarter of 1977 and \$625.86 for the fourth quarter of 1977.

I have thus calculated her interim earnings as follows: \$918.98 total earnings divided by 39 days equals \$23.56/day times 20 days within the interim period September 22-October 14 (\$471.20). (See, discussion of Jose A. Garcia.) (See Appendix B-27.)

(30) JOSE N. CHAVEZ

A. Facts

Mr. Chavez testified that he picked tomatoes for Respondent in 1977 and was fired in September near the Oasis Restaurant in Soledad. He recalled reporting to work between 6:30 and 7:30 a.m. and working for some 2-4 hours before being fired by "Francisca".

After he was fired, Mr. Chavez went on strike for some four to five weeks, going to the picket line every day for the entire day. He received no money from the Union and did not work during the strike. He checked with friends who were working with crews in various fields toward King City and Salinas where he saw people in the mornings before arriving at the picket line. He did not recall the names, locations, or dates re these searches, but stated that he would see his friends around town and ask them if they were working. He could not recall the number of times he made such efforts stating that he went "usually every day sometimes" (R.T. V, p. 94, 11. 13-15). He denied asking EDD for work or going to the union hiring hall. On further examination, Mr. Chavez conceded that he did not seek work (during the first two weeks of the strike) because he was told by other workers that he would have his work for the Respondent. He claimed gasoline expenses of \$20.00 per week for

some 2 to 3 weeks.

B. Analysis and Conclusions

Although confusing the events of September 12 and September 13, I find that Mr. Chavez credibly chronicled sufficient details of the firing to warrant inclusion among the discriminatees.^{82/}

His efforts to seek work were minimal -- he hoped to return to Respondent for the first two weeks of the strike and did not look elsewhere. He finally checked with friends and with crews he saw working in the fields and around town, but could not recall names, locations or dates of these searches. As per the NLRB, "... an employee discriminatorily laid off or discharged need not instantly seek work; rather the test is whether, on the record as a whole, the employee has diligently sought work during the entire backpay period." (Saginaw Aggregates, Inc. (1972) 198 NLRB 598 [81 LRRM 1025].) The NLRB Casehandling Manual, section 10616, further recognizes a 'reasonable grace period (several weeks) before which a discriminatee is expected to seek other work. While such a "grace period" may be of shorter duration at harvest time in the agricultural context, I conclude that Mr. Chavez' efforts in this regard are (minimally) diligent under the circumstances,^{83/} and I recommend that he be awarded backpay for the entire period. I also recommend that he be reimbursed for gasoline expenses of \$20 per

82. Respondent payroll records also confirm his employment through 12 September 1977 (GCX 1-X, Appendix 11).

83. Of particular import in the instant case was the expectation of the striking workers that they would be able to return to Respondent prior to the end of the tomato harvest, as well as the informality by which agricultural employment was often obtained. See discussion, supra.

week for 2.5 weeks (\$50.00). (See Appendix B-28.)

(31) EVERARDO CONTRERAS

A. Facts

Mr. Contreras picked tomatoes for Respondent in 1977 until fired "around 12 September" at a field one mile north of Soledad at Huntington Ranch. He recalled that the firing occurred one day following the stoppage. Contreras returned the final days (2-3) of the season (on 15 October 1977).^{84/}

Mr. Contreras presented himself to work every day thereafter, but the sheriffs did not allow him to enter the fields. He spent the days on the picket line from approximately 6:00 a.m. to 4:00-5:00- p.m. until the (replacement) workers left.

Mr. Contreras conceded that he might have worked at D'Arrigo Brothers during the interim period earning approximately \$90.00 for the week ending October 1; \$127.00 for the week ending October 8; and \$178.00 for the week ending October 15. (RX 30.) The D'Arrigo work involved picking mustard where he worked with his wife Enedina Contreras.

Mr. Contreras recalled going to look for work once at Gonzales Packing (King City), but not obtaining a job. He hoped to keep working with Respondent in the tomatoes (where he had worked since 1969) and therefore did not look for other jobs.

Mr. Contreras claimed \$2.00-\$3.00 in gasoline expenses for

84. See GCX 1-X, Appendix 10.

his trip to King City to seek work at Gonzales Packing.

b. Analysis and Conclusions

All parties concede Mr. Contreras was present on September 13 (Respondent Brief, p. 20; RX 9). It is clear that he should be included among the discriminatees.

Mr. Contreras' efforts to seek work were minimal at best -- going to King City to seek work on one occasion, and "hoping" to return to OPM. However, I find him to be sufficiently diligent in this context where he found interim employment from 26 September. As he was without work for only some 11 days, and had worked with Respondent for the past 8 seasons, I do not find his meager efforts constituted a failure to mitigate damages.

I have followed General Counsel's daily averaging calculations (G.C. Brief, p. 68), but have included the full earnings (\$178.85) for Mr. Contreras' final week at D'Arrigo Brothers (see RX 30). Since the record indicates he resumed work with OPM on 15 October, I have averaged the \$178.85 over five days. Additionally, full credit was given for the earnings for weeks ending October 1 and October 8.

I have also included \$2.50 reimbursement for gasoline expenses for Mr. Contreras' attempt to find work at Gonzales Packing. (See Appendix B-29.)

(32) AUGUSTIN GARCIA

A. Facts

Mr. Garcia picked tomatoes for Respondent in 1977, but did

not complete the season because he was fired in August or September. He reported for work at 7:00 a.m. across from the Oasis Restaurant and recalled that "Frances" stopped the workers.

Mr. Garcia joined the picket line daily but not for the entire day (from 7:30-8:30 a.m. until approximately 3:00-4:00 p.m.). On one occasion Mr. Garcia received \$10.00 for gasoline from the union.

Garcia detailed his efforts to seek work as follows: He needed money to eat so he went to look for work with labor contractors or crews that he saw in the fields. He started the search the day he was fired, and he would ask for work in the mornings and sometimes in the afternoons. He specified labor contractor Jose Lopez in Greenfield, Secundino Garcia in Greenfield, "Vicente" in Greenfield, as well as others. He spent three days in jail during the interim period.

As a seniority worker, Mr. Garcia was rehired by Paul Masson' in 1977 but did not remember whether he worked there during the strike. He believed he went to work approximately 4-5 weeks after the strike commenced (R.T. Vol. V, p. 128, 11. 13-16). This work involved picking grapes (summer) and cutting grapes (winter). He was paid by piece rate but could not recall his earnings.

Mr. Garcia specifically denied working for "Green Thumb" Company in King City. He claimed that he lost his social security card on one occasion and although he always used the same number, it was possible that someone else was using that number as well.

Mr. Garcia claimed gasoline expenses in looking for work of approximately \$6.00 to \$7.00 per day. He stated that he lived in

Greenfield, that labor contractor Secundino Garcia was approximately 2 miles from his house, and that "Vicente" was 3 to 3⁵ miles from his house. He looked for work six days per week going every day to check with Secundino Garcia and every third day to check with "Vicente". He also drove his car to the picket line without passengers and went to San Ardo to picket on some 2-3 occasions.

B. Analysis and Conclusions

All parties concede Mr. Garcia's presence on 13 September (Respondent's Brief, p. 21; RX 9). His testimony was sufficiently detailed concerning the events of the 13th to include him among the discriminatees.

I find his efforts to seek work (because he needed money to eat) by asking labor contractors or crews in the fields in the mornings and afternoons to be reasonably diligent.

I decline to include as interim earnings the work at Paul Masson Vineyards, as the pertinent payroll records do not indicate Mr. Garcia's employment until after the strike – for the week ending 20 October 1977 (RX 36). Also, in light of Mr. Garcia's specific denial of work with Green Thumb, his explanation of having lost his social security card on one occasion, and the fact that the payroll records for Green Thumb list an incorrect social security number (RX 32), I decline to include those amounts as interim earnings.

I will exclude three days' backpay for Mr. Garcia's time in jail. Although the days were unspecified, he conceded that the time was within the relevant period. I have excluded earnings for September 19, 20, and 21, immediately following the confrontation

that occurred at the San Ardo Ranch (See 5 ALRB No. 63, p. 24, ALOD p. 21).

I also recommend reimbursement for gasoline expenses of \$6.50 per day for 25 days (\$162.50) less the \$10.00 received from the union on one occasion: \$152.50. (See Appendix B-30.)

(33) JOSE LUIS RAMIREZ (ALONZO)

A. Facts

Mr. Ramirez picked tomatoes for Respondent until he was fired in September by "Francisca" who told all the workers that those who stopped the previous day could not work.^{85/}

Mr. Ramirez participated in the strike and spent 3-4 days in jail during the interim period. He recalled the picket line being set up in San Ardo on 2-3 days as well as in Soledad and Greenfield (Arroyo Seco). The picketing lasted approximately 3 to 4 weeks and Mr. Ramirez attended every day for most of the day. On one occasion he received money from the union -- \$5.00 -- for gasoline. Mr. Ramirez did not work during the strike.

Mr. Ramirez detailed his efforts to seek work as follows: He went to ranchers and crews that he saw working on several occasions about 4 to 5 days after the strike started, naming Bud Antle in Salinas (several times -- before the people caught the bus), Secundino Garcia in Greenfield (several times -- at the latter's house and in the fields), Pascual Lemus in Soledad (2-3

85. Respondent payroll records reflect Mr. Ramirez' employment through 12 September 1977 (GCX 1-X, Appendix 11).

times), plus others both in the mornings and in the afternoons. He would go with friends or his uncle.

Mr. Ramirez requested reimbursement for gasoline expenses in looking for work of approximately \$7.00 to \$8.00 per day for some 2-3 days per week for 3-4 weeks. On occasions he went to Salinas and Chualar in his searches for employment and drove his Dodge RT. He did not include in this request expenses incurred in driving to the picket line. Ramirez testified that the distance from his house to labor contractor Lemus was 8 miles; to Garcia (house) -- 1½ miles; and to Garcia (field) -- somewhat greater than 1½ miles.

B. Analysis and Conclusions

I find Mr. Ramirez' recollection of the events of 13 September to adequately establish his inclusion among the group of discriminatees.

His efforts to seek interim work -- going to ranchers and crews on several occasions both in the mornings and afternoons -- constituted reasonable diligence.

I have disallowed backpay for the three days in jail (September 19, 20, 21) which days immediately followed the confrontation at the San Ardo ranch. (See discussion, supra.)

I recommend Mr. Ramirez be reimbursed for gasoline expenses in seeking work of \$7.50/day for 2.5 days/week for 3.5 weeks (\$65.63), less \$5.00 received from the union (\$60.63). (See Appendix 31.)

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(34) GUADALUPE CHAVEZ MORALES

A. Facts

Mr. Chavez testified that he picked tomatoes for Respondent in 1977 until fired by Frances Arroyo in September on the Huntington field. He reported at approximately 6:00 or 7:00 a.m. on the day of the firing and stated that he did not work. He was issued his own picking card, and indicated that another Guadalupe Chavez also worked at OPM during the time period.^{86/} Mr. Chavez' foreman was Bonifacio Galvin (Crew No. 1.)

Mr. Chavez joined the strike and participated in the picket line on a daily basis arriving at approximately 6:00 to 7:00 a.m. He received no money- from the Union and did not work during the strike. He detailed his efforts to seek work as follows: He looked around for anything available at Gonzales Packing and other companies along with family members (Nicolas Gasca, Merced P. Chavez, and Aurelia Chavez Pantoja). He did not recall going to the EDD to look for work or going to the Union hiring hall. He took no vacations and had no illnesses during the relevant period. Mr. Chavez returned to work for Respondent for approximately two days at the end of the strike.

Mr. Chavez listed gasoline expenses of approximately \$10.00 per day for three days per week for some four to five weeks.

86. The name Guadalupe Chavez Morales (No. 671) appeared on a timecard dated 9/13/77 indicating employment for the entire day (RX 1). The name Guadalupe C. Morales (No. 2197) appeared on a timecard dated 9/13/77 which also indicated employment for the entire day (RX 3).

He admitted that some of his money went for driving to the picket line (R.T. Vol. VI, p. 15, 11. 15-16). Mr. Chavez had no recollection of the amount of money spent on gasoline in looking for work. He had his own car but drove with Nicolas Gasca. The latter suggested that Mr. Morales' contribution for gasoline was approximately \$10 per week for some 5 weeks -- both for seeking interim employment and for driving to the picket line. According to Mr. Gasca, one-fourth of the money went to look for work and three-fourths went to join the picket line (R.T. Vol. VI, p. 37, 11. 10-26).

B. Analysis and Conclusions

The critical issue in Mr. Chavez' case is whether or not he worked on the afternoon of September 13, and thus was not fired along with the other discriminatees early that morning. Respondent relies on the picker card of Guadalupe Morales Chavez - Employee No. 671 dated 9/13/77 which indicates work at least through 4:00 p»m. (RX 1). However, Mr. Chavez vigorously denied working that afternoon, and indicated that there was another Guadalupe (M.) Chavez who worked at OPM. While RX 13 suggests that the witness was Employee No. 2197 rather than the Guadalupe Chavez referred to in RX 1,^{87/} the time card itself indicates that the date has been rewritten such that a "3" appears to be written in a different ink from the "2" which it seems to be covering.^{88/} As I found Mr. Morales to be a very sincere witness with a fair memory, I credit

87. See the social security number referred to in ALOX 35.

88. I note such discrepancy particularly in RX 3, but RX 1 is also somewhat suggestive of a "3" being transposed over a "2".

his testimony over the uncertainty of the entries in the time cards and recommend that he be included among the discriminatees.^{89/}

I further find his efforts of seeking work with various companies in the Salinas Valley area some three days per week to be reasonable.

I recommend that he be reimbursed for gasoline expenses of \$7.50 per week for 4.5 weeks (\$33.75) -- one-fourth of \$30.00 per week for 4.5 weeks. (See Appendix B-32.)

(35) NICOLAS GASCA ZAVALA

A. Facts

Mr. Gasca picked tomatoes for Respondent in 1977 in Crew No. 1 under foreman Bonifacio Galvan. He did not finish the season as he was stopped in a group by Frances Arroyo at Huntington Ranch in Soledad at approximately 8:00 a.m. Mr. Gasca denied working on the day he was fired and recalled protesting the firing of a coworker on the previous day.^{90/}

89. Discriminatee Merced P. Chavez (Mr. Chavez' wife) corroborated Mr. Chavez' presence among the group fired. (R.T. Vol. VI, pp. 41-42.) The employment pattern of each was consistent with that of the other discriminatees -- that is, they did not return to Respondent until recalled en masse at the end of the tomato season. Finally, while picker cards of both Guadalupe Morales Chavez (f671) and Guadalupe C. Morales (f2197) have been identified for the morning of September 12 (GCX 6), I cannot ascertain whether the cards in question (RX 1, 3), indicate work (for 2½ hours -- 1:30 to 4:00 p.m.) on the afternoon of the 13th or 12th, or indeed identify this witness.

90. Respondent time card reflects Mr. Gasca's employment through 12 September 1977 (GCX 6.)

Mr. Gasca participated in the strike for about one month arriving daily at the picket line in San Ardo, Greenfield, and Soledad at approximately 4:00 a.m. and staying until the (replacement) workers left at 4:00 to 4:30 p.m. He also would look for work at Meyer Company in King City (at the company office), Gonzales Packing in Gonzalez (in the fields), another company near Soledad, as well as with labor contractors (Jose Lopez, Johnny Ramirez formerly Vicente Garcia) in Greenfield. He would check with each at approximately 6:30 p.m. two times per week for about two weeks, but did not obtain work during the strike. He returned to Respondent at the end of the strike for approximately two days.

Mr. Gasca claimed gasoline expenses in looking for work of approximately \$10.00 per week for five weeks. He stated that he owned his own car and took his people, including his brothers-in-law, father and mother-in-law, plus his wife. His father-in-law (Guadalupe Chavez Morales) paid him approximately \$10.00 per week. He received no money from the union for gas, but stated that he also utilized the \$10.00 per week to go to the picket line. Approximately one-fourth of the money went to look for work and about three-fourths went for driving to the picket line.

Since Gasca lived in Soledad, his house was approximately 15 miles from Jose Lopez, 12 miles from Vicente Garcia, 8 miles from Gonzales Packing, and an unknown distance from Meyer Company in King City.

B. Analysis and Conclusions

In light of the timecard indicating Mr. Gasca's employment through 12 September 1977, and the witness' recollection of the

September 13 firing, I recommend his inclusion among the discriminatees.^{91/}

I also find Mr. Gasca's efforts to seek work two times per week for approximately two weeks at companies in Greenfield, Soledad, Gonzales, and King City to constitute reasonably diligent efforts, even though he would conduct these searches in the late afternoon or early evening. While it might be expected that he would have had a better opportunity to find employment by going in the early mornings, I do not believe his schedule suggests a failure to diligently pursue job opportunities during the short period Mr. Gasca was unemployed. I would therefore recommend that he be awarded backpay for the entire period. I further recommend that he be reimbursed for gasoline expenses in seeking work of \$2.50 per week for five weeks (\$12.50). (See Appendix B-33.)

(36) MERCED P. CHAVEZ

A. Facts

Mrs. Chavez testified that she picked tomatoes for Respondent in 1977 starting in August. On 12 September she worked for a short while before the work stoppage began. On 13 September she stated that she returned to work in the morning at the

91. I am unable to ascertain if the Nicolas G. Zavala referred to in RX 18 is the same person as this witness, as the social security number written on the payroll document is not the social security number referred to by the witness in ALOX 36. The payroll document reflects that the individual Nicolas G. Zavala had no earnings after 8/31/77 until the week ending 10/19/77. Furthermore, Respondent does not challenge Mr. Gasca's presence on September 13 (see Respondent's Brief, p. 22.)

Huntington Ranch near the Oasis gas station but Frances Arroyo stood up on the back of a pickup and said that there was no work.^{92/} Ms.

Chavez worked in Crew No. 1 with her entire family: Rafael Chavez (son), Aurelia Chavez Garcia (her daughter-in-law), Aurelia Chavez Pantoja (wife of Nicolas Gasca Zavala), and Guadalupe Chavez Morales (husband).

Ms. Chavez participated in the strike for approximately one month, went to the picket line daily until very late, and looked for work only at Gonzales Packing in the tomatoes. She did not recall the date but did remember going to the field in the morning with her husband Guadalupe Chavez Morales and son-in-law Nicolas Gasca to speak to the foreman. She did not recall other places where she sought interim employment, but stated that she went with her husband and son-in-law everywhere to look for work. She did not find interim employment.

B. Analysis and Conclusions

The crucial issue in determining the appropriateness of including Ms. Chavez among the discriminatees is whether or not she worked during the afternoon of September 13. Respondent contends that the daily picker card (RX 2) indicates such work (at least through 4:00 p.m. on that afternoon). Balanced against this documentary, evidence was Mrs. Chavez' very specific denial of having worked that afternoon following the firing and her rather specific recitation of the details of the firing on the morning of the 13th.

92. A timecard for September 13 (RX 2) indicates that Merced P. de Chavez (Employee No. 912) worked during the afternoon of September 13.

Respondent payroll records (RX 18) are not helpful because they are not broken down by days and indicate only that Ms. Chavez worked during the week ending 9/14/77.^{93/} Because the time card has some indication of having altered -- the "3" in "9/13/77" appears to be written over another number, possibly a "2"^{94/} and because Ms. Chavez testified in a sincere, straightforward manner, I credit the latter's testimony in this regard, and recommend that she be included in the group entitled to backpay.^{95/}

I also conclude that her efforts to seek work (she went with her husband) were reasonably diligent under the circumstances as previously discussed. As this was her customary method of finding employment, I cannot conclude that she was willfully idle by relying on these family members. She is therefore entitled to backpay for the entire period. (See Appendix B-34.)

(37) AURELIA CHAVEZ (PANTOJA)

A. Facts

Mrs. Chavez picked tomatoes for Respondent in 1977. She was fired in September by "Frances" who stated she would not give

93. But, see GCX 2 which suggests that employee 1912 worked two hours on 9/13/77.

94. I note such apparent discrepancies in the cards of this witness, Guadalupe C. Morales (#2197), Guadalupe Morales Chavez (#671), and Smokie A. Villanueva.

95. The testimony of Ms. Chavez' son Rafael does not specifically confirm that the former was among the group fired on 13 September. (R.T., Vol. XIII, pp. 65-66.) See also RX 8 which indicates that the latter worked from 1:30 p.m to 4:00 p.m on September 13. See discussion, infra.

any more work. Mrs. Chavez did not work that day although she had reported at the Huntington field.

Mrs. Chavez participated in the strike by joining the picket line for approximately one month. She and her husband (Nicolas Gasca Zavala) picketed daily and spent about the same amount of time on the line. She did not recall returning to Respondent after the strike was over.^{96/} She did recall going to look for work on one occasion coming from San Ardo and seeing a crew picking tomatoes "kind of late one day." She relied upon her husband to look for work and at times would accompany him in their search for interim employment.

B. Analysis and Conclusions

I find Mr. Chavez' testimony sufficiently specific regarding the events of 13 September to include her among the discriminatees. I also find her efforts to find work (relying principally upon her husband, Nicolas Gasca Zavala) reasonably diligent for the limited period involved as previously discussed.

With respect to Respondent's contention that Mrs. Chavez worked with Esquivel during the interim period (see Respondent Brief, p. 22; RX 17, page 12}, I am unable to conclude that the \$116.34 earned at Esquivel during the third quarter of 1977 applies to this backpay period (September 13 through September 30), as it is equally possible that the money was earned prior to that date -- e.g., from July 1 through September 14. As Respondent has the

96. Respondent payroll records indicate Mrs. Chavez was employed through 12 September 1977 and returned 17 October 1977 (GCX 1-X, Appendix 10).

burden of proof on this issue (see Miranda Mushroom (1982) 8 ALRB No. 75), I recommend that no interim earnings be deducted from the backpay due this discriminatee. (See Appendix B-35.)

(38) DANIEL TORRES

A. Facts

Mr. Torres picked tomatoes for Respondent in 1977 until he was fired in the area in front of the Oasis. He reported before 7:00 a.m. but did not work that morning. He quoted Frances Arroyo as saying that there was no more work on the day following the stoppage.^{97/}

Mr. Torres joined the strike for approximately three weeks in San Ardo, Greenfield and Soledad picketing every day although not the entire day. He would arrive before 7:00 a.m. and spend about 7 hours per day. He did not receive any money from the union.

Mr. Torres recalled working for Gonzales Packing (as a dumper) and Paul Masson (in the grapes), but denied working for Basic Veg during the strike. He could not recall how much he earned or the particular dates. He obtained these jobs through friends. He looked for work anywhere, but could recall no names or places. He would go to the fields or to labor contractors' homes, recalling the names of Secundino Garcia, and the areas of Greenfield, King City and Soledad, as well as the EDD office in King City. He resided in Greenfield during this period. Torres identified

97. Respondent payroll records reflect Mr. Torres' employment through 12 September 1977 (GCX 1-X, Appendix 10).

coworkers (family members Arturo Torres and Augustin Garcia) who worked with him in the same crew at OPM as well as at Paul Masson.

Mr. Torres claimed gasoline expenses of \$10 per day in looking for work for some 24 days. He had his own car and drove to work to Gonzales Packing and Paul Masson, as well as to look for work. Approximately three-fourths of the money went for driving to the picket line and one-fourth for seeking work.

B. Analysis and Conclusions

Mr. Torres sufficiently described the events of 13 September to be entitled to inclusion among the discriminatees. His efforts to seek work -- going to the fields and labor contractors' houses -- constituted reasonably diligent efforts to find interim employment.

Mr. Torres' recollection and pertinent payroll records (RX 33, 46 and 36) establish interim earnings at Gonzales Packing (\$28 for the week ending 9/28/77 -- page 28; \$308.43 for the week ending 10/5/77 -- page 17; and \$244.40 for the week ending 10/12/77 -- page 16); as well as \$183.74 for the period ending 10/20/77 at Paul Masson. I have attributed the \$28.00 to September 28, on the assumption that the Gonzales Packing employment was continuous. The remaining earnings have been averaged daily (6 days per week excluding Sunday) with the exception of the Paul Masson earnings. Since only one day of the Paul Masson pay period falls within the backpay period, I shall attribute one-sixth of the earnings (1/6 of \$183.74 or \$30.62) to October 14.

I also recommend that Mr. Torres be reimbursed for gasoline expenses of \$2.50 (one-fourth of \$10.00) per day for the period he

was without work -- September 13 through September 27 (14 days)
(\$35.00). (See Appendix B-36.)

(39) YOLANDA LOPEZ GUZMAN

A. Facts

Mrs. Guzman testified that she picked tomatoes for Respondent in 1977 in Crew No. 4 but could not recall the exact time or day of her discharge. She did recall the stoppage one day before the firing and that the latter occurred at Huntington Ranch. She recalled coworker Salvador Hurtado being fired on the day of the stoppage. On the day of the firing she reported at Huntington Ranch in front of the Oasis. Frances Arroyo climbed on the top of a pickup and stated that as of this moment all the workers are fired. "You can just leave." (R.T. Vol. VI, p. 106, 11. 14-16.) Mrs. Guzman said she had been working for approximately one to two hours that day.^{98/}

Mrs. Guzman joined the strike after the firing and participated in the picket line between one and two months. She did not stay on the picket line the entire day but would leave to look for work. She would picket from approximately 4:00 a.m. to 4:00 p.m. and would take turns with others in going out to look for work. She received no money from the union for being on the picket line and stated that she did not find work during the interim period.

98. Respondent payroll records indicate Mrs. Guzman was employed through 10 September 1977 and returned 15 October 1977. (GCX 2, GCX 1-X, Appendix 8.)

Mrs. Guzman checked with Meyer Tomatoes, Gonzales Packing, D'Arrigo, Bruce Church, and labor contractors but could not recall dates. She went to the fields to check at Meyer (in the morning); she spoke to foremen at Gonzales Packing (three to four days after the strike started) both at the field and at the office. At D'Arrigo she checked at the field and spoke to the foremen during the mustard harvest and the hoeing. At Bruce Church, she checked in the morning in the fields. She stated that she went to all the named companies during the same week, and also went to some others whose identities she could not recall.

B. Analysis and Conclusions

Although Respondent payroll records do not support her contention of being present on September 12, I credit Ms. Guzman's precise recollection of events of the 12th and 13th. This testimony, her sincere demeanor, -and the payroll records establishing her presence at least through 10 September 1977 lead me to conclude that she should be considered among the discriminatees.

I find that Mrs. Guzman's efforts to find work were reasonably diligent and she is entitled to backpay for the entire period.

Although the EDD printouts (RX 17) indicate earnings with Esquivel for third quarter of 1977 (\$929.19) and for the fourth quarter of 1977 (\$111.80) (page 133), I find this information insufficient to attribute them to the backpay period. As the third quarter runs from 1 July through 30 September, the earnings could well have been accumulated prior to her employment with Respondent. And the fourth quarter (October 1 through December 31) earnings

could well have followed the end of the season with OPM in raid-October. As Mrs. Guzman denied finding work during the strike, I conclude that Respondent has not met its burden of proof on this issue and recommend that no deduction be made for interim earnings. (See Appendix B-37.)

(40) MIGUEL ANDALON (SANCHEZ)

A. Facts

Mr. Andalon picked tomatoes for Respondent for many seasons, the last of which was 1977. He did not finish the 1977 season because he was fired (Monday or Tuesday morning) in "August" by Frances Arroyo in a field at Huntington Ranch close to the packing shed. Mr. Andalon did not recall working that morning but did work the previous day for a short while (approximately ½ hour) when everybody stopped because a coworker was fired ("Salvador").^{99/}

Mr. Andalon participated in the strike for some 3-4 weeks arriving at the picket line at approximately 7:00-7:30 a.m and leaving at times early and sometimes staying later until the afternoon. He looked for work (2-3 times per week) at Yoshita (sic) Company in Gonzales, at D'Arrigo Brothers checking some days at Ranch No. 12 near Mission and Ranch No. 1 in Salinas in the broccoli, and through friends he met (on the street and at the picket line), but could not find any work during the strike.

99. Respondent payroll records for the week ending 9/14/77 indicate Mr. Andalon last worked on 9/10/77 and not thereafter (GCX 2; GCX 1-X, Appendix 9).

Mr. Andalon requested gasoline expenses of \$4 to \$5 per day in seeking work and going to the picket line. He conceded, however, that about 3/4 of this money went for driving to the picket line, as he received no money from the union. He drove (both to the picket line and to seek work) with his brother Antonio, but the latter did not contribute any money for gasoline.

B. Analysis and Conclusions

I credit Mr. Andalon's recollection of the stoppage of the 12th and the firing of the 13th and would include him among the discriminatees, even though the payroll records do not reflect his presence on September 12.

I also find his efforts to look for work some 2-3 times per week at various companies and through friends to be reasonably diligent for the limited period of time he was unemployed.

I recommend that he be reimbursed for gasoline expenses of one-fourth (\$4.50/day) for 2.5 days per week for 5 weeks (\$14.06). (See Appendix B-38.)

(41) NICOLAS ZAVALA

A. Facts

Mr. Zavala testified that he picked tomatoes for Respondent in 1977 commencing in August. He did not work the entire season because he was "taken out" of the field. He stated that on the day of the stoppage, he started about 7 a.m. and stopped at 10:00-10:30 a.m. when the sheriffs arrived and took the workers out near a place called the Oasis. On the next day, the employees showed up for work

at about 6 a.m. when Frances announced in front of the Oasis that everyone was fired and that new people were hired. Mr. Zavala worked in Crew No. 1 with other crew members Nicolas Gasca, Guadalupe Gasca, Rafael and Beatrice Zavala and Salvador Zavala.^{100/}

Mr. Zavala participated in the strike which lasted about one month by joining the picket line for approximately two weeks arriving daily at about 5:00-6:00 a.m. He asked his friends for work every day because his father was ill in Mexico and he needed money to go see him. He asked Rafael Garcia at a Soledad labor camp as well as friends who were working with Esquivel in the tomatoes, including Refugio Morales (cousin), Jose Morales, Nicolas Chavez (brother-in-law), Guadalupe Ramirez, and Nicolas Gasca (from El Centro). Mr. Zavala finally obtained work with Esquivel for approximately two weeks picking tomatoes earning a little less than what he earned at Murphy (approximately \$400.00). He stated that when the Esquivel work was almost over, he left in a hurry to go see his father who was ill in Mexico. The strike was still going on but he could not recall the exact date. Mr. Zavala had been out of work approximately two weeks before securing employment with Esquivel (on September 15).

B. Analysis and Conclusions

While there is no clear documentation of Mr. Zavala's employment with Respondent during the relevant periods, I credit his decent memory of the details of the stoppage and firing to include

100. Respondent payroll records for the week ending 9/14/77 do not indicate Mr. Zavala's employment. (GCX 1-X, Appendix 12).

him among the discriminatees.^{101/} His daily efforts to find work -- by asking friends and going to a labor camp in order to earn money to visit his sick father in Mexico -- I find to have constituted reasonable diligence for the period in question.

While there is no documentation of the interim earnings at Esquivel, I have credited Mr. Zavala's memory in this regard and have deducted the \$400.00 he estimated having earned for the two-week period commencing September 28 -- \$40 per day for 10 days. Additionally, Mr. Zavala is not entitled to backpay thereafter as he left for Mexico to be with his father and was unavailable for work. (Bruce Church (1983) 9 ALRB No. 19; NLRB Casehandling Manual, Part III (1975) Section 10612.) (See Appendix B-39.)

(42) MARIA DE JESUS CONTRERAS (MACIAS)

A. Facts

Ms. Contreras stated that she picked tomatoes for Respondent until she was fired in September. She recalled the work stoppage and the termination of the following day across from the Oasis, when Frances Arroyo told everybody to stop working. She was a member of Crew No. 1 under foreman Bonifacio Galvan.^{102/}

101. Compare GCX 1-X with RX 18. Respondent identifies a Nicolas Zavala Chavez, Employee No. 3989, Crew No. 4, in its crew roster (RX 47). There is a 12 September 1977 timecard for Nicolas Chavez -- Employee No. 657 (GCX 6). Respondent does not specifically contest Mr. Zavala's status (see Respondent Brief, p. 24).

102. See GCX 2, and GCX 1-X, Appendix 10 which reflect Ms. Contreras' employment through 12 September 1977.

Ms. Contreras did not recall working during the strike, although she conceded having joined the picket line every day for the entire day. She went to look for work with her father (Everardo Contreras) and although the latter found employment, she did not. She made the same efforts to seek work as did Mr. Contreras. She recalled going to one company on one occasion during the entire strike period, but stated that she would look where people were working or ask people she knew who went by. She also hoped to return to Respondent. Ms. Contreras testified that her father customarily found work for her and that she obtained work with OPM originally in that manner.

B. Analysis and Conclusions

Although there is some confusion regarding whether this witness appeared on Respondent's payroll records for September 12 (compare GCX 1-X, Appendices 12 and 10),^{103/} Ms. Contreras amply detailed the events surrounding the firing to be included among the discriminatees. While she could only recall going to one company to seek interim employment, she stated that she would search where people were working and relied upon her father to find work for the family. Since this was her custom, she had obtained work with OPM originally in this manner, and I have already found Mr. Contreras' efforts to be adequate in this regard, I find that she was reasonably diligent in her efforts to find interim employment and I recommend that she be awarded backpay for the entire period. (See Appendix B-40.)

103. There is a timecard dated 12 September 1977 for Maria M. Contreras -- Employee No. 624 (GCX 6).

A. Facts

Mrs. Contreras was fired from Respondent on September 13, 1977, having worked in Crew No. 1.^{104/} She recalled working for D'Arrigo during the strike in 1977 and worked the same period as her husband. She did not recall precisely how she obtained her job at D'Arrigo, but believed that her husband was the person who arranged the employment for both of them. However, other efforts to seek work were accomplished separately from her husband: On one occasion she asked labor contractor Secundino Garcia for work while the latter had stopped to put gas in his car at the Oasis gas station early one morning while she was on the picket line. Mrs. Contreras also spoke with coworkers and stated that on one occasion her husband went out to look for both of them. On another occasion she asked neighbors (Rafael Puente) from Guanajuato who worked with a labor contractor in Soledad.

Mrs. Contreras stated that she made the above-referenced efforts to find work either during the afternoon or prior to arriving at the picket line. Mrs. Contreras "hoped" to return to Respondent while she participated in the strike.

B. Analysis and Conclusions

There is no dispute regarding Mrs. Contreras' presence on 13 September and entitlement to be included among the discriminatees. I find her efforts to seek interim employment -- by

104. RX 9; R.T. Vol. VII, p. 14.

speaking with coworkers, asking neighbors, speaking to at least one labor contractor, and on at least one occasion relying upon her husband to find work -- constitute reasonable diligence during the backpay period.

As pertinent payroll records indicate earnings of \$313.19 at D'Arrigo.^{105/} I have averaged the earnings on a daily basis (6 days per week excluding Sundays). As GCX 1-X, Appendix 10/ indicates Mrs. Contreras returned to Respondent on 10/15/77, I have computed the last week's earnings over a five-day period ending on October 14, 1977. (See Appendix B-41.)

(44) MARIA DE JESUS CHAVEZ (CHAVEZ)

A. Facts

Mrs. Chavez testified that she worked for Respondent in August 1977 until fired on 12 September 1977 by Francisca Arroyo in the field across from the Oasis in Soledad.^{106/} She recalled the stoppage of the previous day and stated that workers assembled in the same field which was the site of the firing. She was a member of Crew No. 1 under foreman Bonifacio Galvan.

Mrs. Chavez participated in the strike for about six weeks arriving every day at approximately 6:00-6:20 a.m., and leaving at 4:00-5:00 p.m. She looked for work with labor contractor Esquivel

105. For the week ending 10/1/77 (393.10); for 10/3/77 (\$71.05); and for 10/15/77 (\$178.35). (RX 30.)

106. Respondent timecard for 9/12/77 identifies Maria Jesus Chavez -- Employee No. 605 (GCX 6).

approximately three times (in King City) and with labor contractor Pascual Lemus in Soledad on one occasion. She would look before 6:00 a.m. by going to the fields in search of work in the tomatoes or other available crop. She also went to other places, but could not recall the names of the contractors or the companies in Greenfield, near Soledad, and between Chualar and King City. She did not work during the strike.

Mrs. Chavez claimed gasoline expenses of \$15 per week in seeking work for about six weeks from her residence in Soledad. She denied receiving any money from the union for gasoline or having any passengers that helped contribute toward expenses.

B. Analysis and Conclusions

Although the documentary evidence is unclear,^{107/} I credit Ms. Chavez' recollection of events of the 12th and 13th. She had a particularly good memory and answered questions in a clear and concise fashion. She is therefore entitled to be included among the discriminatees.^{108/} She also precisely recalled her efforts to seek work – specifying places and names of labor contractors. I find such efforts to constitute reasonable diligence.

I recommend that she be reimbursed for gasoline expenses of \$15 per week for 5 weeks (\$75.00). (See Appendix B-42.)

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107. Compare GCX 6 with GCX 1-X, Appendices 10, 11.

108. Respondent does not contest this issue in its Brief (p. 25).

(45) ANTONIO RUIZ (ESTRADA)

A. Facts

Mr. Ruiz testified that he picked tomatoes for Respondent in 1977, starting in July or August until the work stoppage and the company "threw him out".

He recalled Frances Arroyo stating that the workers either pick large tomatoes or leave. He worked the morning of the stoppage (September 12) and arrived the next morning but was not allowed to enter the fields. The firing occurred across from the Oasis Restaurant in Soledad.^{109/}

Mr. Ruiz participated in the strike until recalled by Respondent. He went to the picket line daily reporting at 6:00a.m. and sometimes a little bit later. He sought work in the tomatoes with Gonzales Packing in King City (to a field where he saw people picking), and in the grapes (Paul Masson, Chaloun, and Wente Bros.), but nothing was available. He also discussed with friends and his wife -- who worked in the lettuce -- the possibility of finding work elsewhere. Ruiz looked for work during each week of the strike because his family had to eat.

B. Analysis and Conclusions

I credit Mr Ruiz' specific recollection of the events of 12 and 13 September and recommend his inclusion among the

109. Mr. Ruiz does not appear in the Amended Backpay Specification, but a time card for 12 September 1977 identifies worker Antonio Ruiz E. -- employee #3218, crew \$23. (GCX 6.)

discriminatees.^{110/} His efforts to seek work in the tomatoes and grapes -- identifying some four companies he visited as well as discussing available work possibilities with his friends and wife -- establish his reasonable diligence. I recommend that he be awarded backpay for the entire period. (See Appendix B-43.)

(46) GABINO G. CHAVEZ

A. Facts

Mr. Chavez worked for the Respondent as a tomato picker and was present on 12 September during the work stoppage. He reported the following day, and testified that a lady (Frances Arroyo) fired everybody in a group. Mr. Chavez thought that he worked a short while that day but was not too sure. He participated in the strike and returned to work at the invitation of Frances Arroyo for a day or two.^{111/} He believed he returned on 15 September, stating that he was on the outskirts of the field by the tracks in front of the gasoline station when Frances Arroyo asked him if he wanted to return to work. He then worked for two days and was told that there were no more tomatoes to be picked as the fields were finished.

Mr Chavez participated in the strike by going to the picket line often for 3-4 weeks. He looked for work at Esquivel, and in the fields stopping to speak to the various foremen whenever he saw

110. Respondent does not specifically contest this issue in its brief (page 25).

111. Time cards indicate Mr. Chavez worked 6 hours on 13 September and also worked on September 15, 16 and 17. (RX 4)

crews working in Soledad, Greenfield, and King City. He looked for work in the early mornings some 3-4 times per week for some 3-4 weeks before joining the picket line. He customarily found work through friends or foremen. Chavez had his own car and claimed gasoline expenses of \$20 per week in seeking work.

B. Analysis and Conclusions

Mr. Chavez' poor recollection of events, his admission of having returned to work for Respondent during the strike for a day or two, and the time cards indicating his work on the days of September 13, 15, 16 and 17 suggest he was not fired along with the others. I would thus recommend that he not be awarded backpay.

Should Mr. Chavez be included among the discriminatees, I would find that he was reasonably diligent in seeking interim employment by looking in the fields and speaking to various foremen some-3-4 days per week for 3-4 weeks. I would also recommend reimbursement for gasoline expenses of \$20 per week for 3.5 weeks (\$70).

(47) ARMANDO LOPEZ PAUL

A. Facts

Mr. Lopez picked tomatoes for Respondent in 1977 until fired by Frances Arroyo who wanted the workers to pick big tomatoes. He worked 10-15 minutes on the day he was fired, but did not recall his crew number. The firing occurred across from the Oasis Restaurant at Hunting ton Ranch, when Frances Arroyo threw everyone out of the field. He returned to Respondent for one to two days at

the end of the season.^{112/}

Mr. Lopez did not work elsewhere during the strike but went to Greenfield and King City to ask labor contractors for jobs. He asked Saturnine Garcia (Greenfield}, Vicente Garcia and Esquivel (King City), in the mornings before joining the picket line. He did not recall dates when he sought such jobs, but thought that he went to speak to Saturnine during the first week of the strike. At night, Mr. Lopez would ask friends who worked in the fields if they knew of available work and stated that he attended the picket line with the hope of getting his job back.

He went to the picket line every day for approximately 2-3 weeks. On one occasion he drove to the picket line in San Ardo (35-40 miles round trip from his home near Soledad) and on other occasions he joined the picket line in Soledad (some 2-3 miles from his home). Mr. Lopez denied receiving any money from the union for gasoline. He requested \$20.00 to \$25.00 per week in gasoline expenses, three-fourths of which he conceded was spent on driving to the picket line.

B. Analysis and Conclusions

The time card for 9/17/77 (RX 14) and payroll records (RX 18) indicate Mr. Lopez returned to work for at least one day during the strike.^{113/} While I find his testimony sufficiently precise to include him among the class of discriminatees, I would extinguish

112. Respondent time card indicates Mr. Lopez worked on 9/17/77 (RX 14).

113. Mr. Lopez never expressly denied returning to Respondent on said date.

the backpay period on September 17 -- the day of his return to Respondent, since he could no longer be considered discharged as of that date. I thus recommend reimbursement for gasoline expenses of one-fourth of \$22.50 for one week (\$5.63).

I find Mr. Lopez' efforts to seek work-by asking labor contractors for jobs throughout the Salinas Valley in the mornings before attending the picket line to constitute reasonable diligence (See Appendix B-44.)

(48) JOSE LUIS ZAVALA

A. Facts

Mr. Zavala testified that he picked tomatoes for Respondent in 1977 under foreman "Leandro" but did not work the whole season because of the strike in September. He recalled that "Francisca" stopped all the people. Mr. Zavala stated that he worked for a short while on that day. He thought that he worked the entire day the day before the firing, and recalled the location as the Huntington Ranch in Soledad. He worked with various family members: Luis Zavala (father), Trinidad Chavez, Trinidad Chavez, Jr., Joaquin, Amelia, Angelina, and Mrs. Amelia Chavez, Isidro Puente and Elena Puente. ^{114/}

Mr. Zavala participated in the strike and went, to the picket line each day for the entire day except to go to the doctor

114. Although Mr. Zavala is not listed in the Amended Backpay Specification, Respondent time card for September 12, 1977, identifies employee Jose L. Zavala (£3965) Crew #2 A. (GCX 6.)

or to do some chore. He obtained employment at Gonzales Packing about three weeks after he was fired and worked for some two weeks picking tomatoes in October 1977. He was paid piece rate earning less than what he earned with OPM because he worked fewer hours and therefore picked fewer buckets. He testified that his earnings were \$471.90—which information was verified by Mr. Zavala's W-2 form.^{115/} He left Gonzales Packing when the work as over.

Mr. Zavala detailed his efforts to seek work as follows: He would leave early and stop to ask crews he saw working in the fields. He would also ask friends. He traveled to King City (approximately 2-3 times) and to Gonzales from his Soledad residence looking for work wherever tomatoes (or other crops) were being harvested. Mr. Zavala requested gasoline expenses incurred while seeking work of approximately \$6 per day for some 5-6 days per week.

B. Analysis and Conclusions

I credit Mr. Zavala's recollection of the events of September 13 and would include him among the group of discriminatees. I also find his efforts to seek interim employment by going early to speak with crews, talking to friends, and driving throughout the Salinas Valley in search of work in all crops to be reasonably diligent.

I have averaged the interim earnings at Gonzales Packing Company on a daily basis (6 days per week excluding- Sunday) over the last 2 weeks of the strike.

115. Gonzales Packing payroll records (RX 46) indicate the following earnings for employee J. L. Zavala (\$1459): \$160.55 for week ending 10-5-77 (p. 19); \$311.35 for week ending 10-12-77 (p. 16). (See also, RX 33).

I also recommend reimbursement for gasoline expenses of \$6.00 per day for 5.5 days per week for 2 weeks (\$66.00).. (See Appendix B-45.)

(49) VICENTE MARTINEZ

A. Facts

Mr. Martinez picked tomatoes for Respondent in 1977 commencing some two weeks after the season started. He testified that he was fired in September, working a little while that day across from the Oasis Restaurant at Huntington Ranch. He recalled Frances Arroyo stating that if workers went out on strike, the company had a right to replace them. He did not recall his crew number, but believed it was Number 4 and that his foreman was named "Leandro" from Texas.^{116/}

After he was fired, Mr. Martinez went on strike, joining the picket line in San Ardo, Greenfield and Soledad and also near King City. He attended the picket line for approximately one month every day but not the entire day. He would go at 7 a.m. but also went to look for work. Mr. Martinez did not work during the strike period but testified that he did not refuse work either.

He detailed his efforts to find work as follows: He went to all companies where they were picking tomatoes but nobody would give him work. He looked exclusively for tomatoes because that was the work that was most available during that time period. Although

116. Respondent payroll records reflect Mr. Martinez' employment through 12 September 1977 (GCX 1-X , Appendix 11).

he did not recall the dates, Mr. Martinez stated that he went to the fields at Gonzales Company and to the Meyer Company, to a labor contractor (Esquivel) in King City (fields), as well as to a labor contractor in San Ardo. He went to look for work every day from Chualar to King City and then returned to the picket line.

Mr. Martinez had a car accident and was hospitalized during the latter days of the strike (on a Sunday). The strike had ended by the time he left the hospital (one week hospitalization).

Mr. Martinez requested gasoline expenses of \$7.00-\$8.00 per day, one-half of which was incurred in looking for work. He drove to the King City picket line on 5 or 6 occasions, and to the San Ardo picket line on two occasions. He received no money from the union for gas.

B. Analysis and Conclusions

Although Mr. Martinez was somewhat confused about the events of September 12 and September 13, I found him to be a very sincere witness who gave sufficient detail of the circumstances surrounding the firing to warrant his inclusion among the discriminatees.

His daily efforts to seek work (although not specifically identified by place and date) which included searches throughout the Salinas Valley amply justify a finding of reasonable diligence.

I would extinguish the backpay period as of 8 October in light of Mr. Martinez' testimony that he was hospitalized for approximately one week commencing on a Sunday. As he testified that the strike was over when he left the hospital, his return to the labor force would not commence until 15 October—following the

interim period. I also recommend reimbursement for gasoline expenses of \$3.75 per day for 23 days (\$86.25). (See Appendix B-46.)

(50) EMMA PIZANO

A. Facts

Ms. Pizano worked the day before the firing for about 4 hours until the stoppage, stating that the workers wanted an increase in their salary and that coworker Salvador Huertado was fired. On the next day, Ms. Pizano recalled the firing, quoting Frances Arroyo to the effect that if the workers did not pick, "[N]ew people would go in". (R.T. Vol. VIII, p.23, 11. 24-25.)

Following the firing, Ms. Pizano went every day to the picket line (for some 4 weeks) to see if she could get her job back. Respondent did not offer reinstatement until the very end of the season. She found work at General Vineyards picking grapes during the last weeks of the strike, but did not recall how much money she earned, or the rate (she thought that it was hourly pay for approximately 1 week.)^{117/}

Ms. Pizano denied refusing work during the strike. She said that she sought work by asking relatives and friends at their homes (on a daily basis) after leaving the picket line in the afternoon.

117. General Vineyard's payroll records indicate employment for Ms. Pizano during the weeks ending 10/9/77 and 10/15/77 (RX 50).

B. Analysis and Conclusions

All parties concede Ms. Pizano's presence on 13 September although payroll records indicate she last worked on 10 September and did not return until the strike was over.^{118/} I conclude that she was fired along with the other discriminatees and thus entitled to backpay. I find her efforts in seeking interim employment to be reasonable--by asking friends and relatives at their homes in the afternoons in addition to her actually having obtained work at General Vineyards during the week ending 10/9/77. I recommend that she be awarded backpay for the entire period. I have computed interim earnings as follows:

<u>Date</u>	<u>Hours</u>	<u>Rate Per Hour</u>	<u>Total</u>
October 5	9	\$3.50	\$ 31.50
October 6	7.5	3.50	26.25
October 7	9	3.50	31.50
October 8	7.5	3.50	<u>26.25</u>
Subtotal			\$115.50
October 10	9	\$3.50	\$ 31.50
October 11	7	3.50	24.50
October 12	9	3.50	31.50
October 13	9	3.50	31.50
October 14	9	3.50	<u>31.50</u>
Subtotal			\$150.50
GRAND TOTAL			\$266.00

(RX 50; see Appendix B-47.)

118. Compare GCX 1-X, Appendix 8, with Resp. Brief p. 27;

RX 9.

A. Facts

Mr. Pizano picked tomatoes for Respondent in 1977 until fired. On the day before the firing, he worked for approximately 4 hours. On the day of the firing, Pizano stated that the crews worked approximately one hour. He recalled that Frances Arroyo told the workers that if they didn't work, she would bring in new people.

Mr. Pizano went on strike stating that he would go back to Respondent's premises daily to see if he could get his job back. Although others were offered work, he was not.

Mr. Pizano worked for General Vineyards picking grapes, but did not recall how much he earned or the length of employment during the interim period.^{119/} He believed it was more than one week but did not recall if there was a gap between the date that he worked for General Vineyards and his reinstatement with Respondent at the end of the tomato season. He recalled that it had started raining and there was little work in the grapes at about the time that he rejoined OPM.

Mr. Pizano spent about 3-4 hours in jail and approximately one hour in court appearances in Soledad during the interim period.

Mr. Pizano and his wife (Emma Pizano) looked for work together, asking friends and relatives if there was work around town. He asked relatives every second or third day.

119. General Vineyard payroll records indicate interim earnings of \$278.25 for the weeks ending 10/9/77 and 10/15/77 (RX 40).

B. Analysis and Conclusions

All parties concede Mr. Pizano's presence on 13 September (Resp. Brief, p. 27; RX 9), although Respondent's payroll records for the week ending 9/14/77 indicate Mr. Pizano last worked on 9/10/77 and did not return until the strike was over (GCX 2; GCX 1-X, Appendix 8). I conclude that he was among the discriminatees fired by Frances Arroyo on 13 September and therefore entitled to backpay.

His efforts to find work -- asking friends and relatives every second or third day, and looking with his wife -- demonstrated reasonable diligence for the very limited period the Pizanos were without work. As the jail time was less than one day, and there is insufficient record evidence to infer that Mr. Pizano would have been "unavailable" for work on any given .day during the backpay period, I will make no deductions in that regard.

I have itemized the earning at General Vineyards on a daily basis pursuant to pertinent payroll information:

<u>Date</u>	<u>Hours</u>	<u>Rate Per Hour</u>	<u>Total</u>
October 5, Wednesday	9	\$3.50	\$ 31.50
October 6, Thursday	7.5	3.50	26.25
October 7, Friday	9	3.50	31.50
October 8, Saturday	7.5	3.50	<u>26.25</u>
Subtotal			\$115.50

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<u>Date</u>	<u>Hours</u>	<u>Rate Per Hour</u>	<u>Total</u>
October 10, Monday	9	\$3.50	\$ 31.50
October 11, Tuesday	7	3.50	24.50
October 12, Wednesday	9	3.50	31.50
October 13, Thursday	9	3.50	31.50
October 14, Friday	9	3.50	<u>31.50</u>
Subtotal			\$150.50
GRAND TOTAL			\$266.00

(RX 40; see Appendix B-48.)

(52) JOSE GARCIA (ZAVALA)

A. Facts

Mr. Garcia testified that he picked tomatoes for Respondent in 1977. He did not work the full season because of the stoppage in September. He stated that the stoppage occurred between 10-10:30 a.m. when co-worker (Salvador Hurtado) was fired, and all the workers wanted the union. Mr. Garcia reported the next day at the same time (5 a.m.) but did not work because Frances said (to the group) there was no work. The statement was made by the side of the train tracks near the Oasis Restaurant. Mr. Garcia said that he was in Crew 3 with other family members (cousins.) Manuel Chavez, Jose Chavez, Alfredo Ramirez, and Rafael Chavez.^{120/}

120. It is unclear whether Respondent records indicate Mr. Garcia's presence on September 12 or 13. Compare GCX 1-X, Appendix 12, with GCX 6 (picker time card for Employee \$1234, Crew 4-A).

Mr. Garcia participated in the strike by joining the picket line in the mornings when work started. Prior to September 17, he sought work, by looking with various labor contractors including Esquivel, Azcona, Jose Lopez, and others.

Toward the end of the strike, Garcia looked for work at Gonzales Packing where many OPM employees went. He obtained a job there picking tomatoes at the piece rate earning roughly the same that he earned with OPM, although he worked fewer- hours at Gonzales Packing, and there was no second picking. He also conceded working with Esquivel, but could not recall how many days. Garcia estimated these earnings at approximately \$300.00. He did not recall the number of days, if any, between the jobs at Esquivel and Gonzales Packing.

Mr. Garcia at first recalled working for Respondent for 2-4 days around 17 September, then agreed that perhaps it was for only one day.^{121/}

On 17 September, Mr. Garcia went to the Oasis as a passenger in another employee's car. Frances Arroyo asked the pair whether they wanted to work. Although the witness was afraid, the driver (Augustin Chavez) said that it was okay and drove in. Mr. Garcia stated that he thought that they only worked that afternoon but did not know the number of hours. He did not recall working after 17 September. When asked why he stopped working after September 17, Mr. Garcia stated alternatively that Frances Arroyo

121. All parties stipulated that Mr. Garcia worked for Respondent on 17 September 1977 (see RX 5? RT, Vol. VIII, pp. 51-52).

told him that there was no work or that he could not recall the reasons for not returning. (R.T. Vol. VIII, pp. 73-76.) He denied that he was afraid of the strikers or that they either interfered with his work or stopped him from working.

Garcia conceded that he rejoined the strike following September 17. He looked for work at Azcona through foreman Guadalupe Hernandez. He also looked for work with Jose Lopez through foreman "Jose" with whom he had worked previously.

B. Analysis and Conclusions

Although the documentary evidence is not clear on the issue, Mr. Garcia amply described the events of 12 and 13 September and thus should be included among the discriminatees. He returned for one day (on September 17). As discussed previously, this reinstatement of Mr. Garcia extinguishes Respondent's liability. I therefore recommend that he be awarded backpay only for the period September 13-16.

Should it be determined that the reinstatement extinguishes backpay for that one day only, I would find that Mr. Garcia's efforts to seek work were reasonably diligent. I would also deduct interim earnings for the last seven days of the strike at Esquivel (approximately \$300) and fully offset his gross pay earnings with his earnings at Gonzalez Packing for the preceding week. (ALOX 53.) (See Appendix B-49.)

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A. Facts

Ms. Hernandez testified that she was fired from Respondent in September 1977 by Frances Arroyo. She reported for work and worked a short while (3 hours), recalling that the supervisor stated that there was no more work for the people.^{122/}

Ms. Hernandez went on strike and joined the picket line. She worked for Esquivel in September for a "short time" and perhaps 1-2 days in October (for approximately 2 weeks total). She was not sure how much money she earned picking tomatoes on piece rate, but thought that it might have been more than the money she was earning with OPM.^{123/} She obtained the job through her brother-in-law Ricardo Hernandez, who was working at Esquivel and who also had worked for OPM.

Ms. Hernandez conceded joining picket lines in Soledad, San Ardo, and in Greenfield, but stated that she did not go every day. She spent approximately 7 hours per day on the picket line. She did not receive any money from the union.

Ms. Hernandez went to many places to seek work including Meyer Tomatoes and Gonzales Packing. She also spoke to other people regarding work -- friends who were working at Gonzales Packing or ac Meyer -- whenever she saw them.

122. OPM payroll records indicate Ms. Hernandez was employed through 12 September 1977 and returned 17 October 1977. (See GCX 1-X, Appendix 10.)

123. RX 17, page 41, indicates earnings of \$637.33.

She claimed gasoline expenses in seeking work of \$30 per week for approximately two weeks. She went one time to King City to seek work, four times per week to Gonzales, and three times per week to Greenfield. She also drove to the San Ardo picket line on one occasion during this period but could not recall the number of occasions she drove to Greenfield and Soledad to join the picket lines. The picketing in Soledad was about one mile from her house, but she was unable to state what percentage of the gasoline money went toward driving to the picket line as distinguished from seeking work.

B. Analysis and Conclusions

Although Ms. Hernandez seemed to confuse the events of 12 and 13 September, I find that she has sufficiently detailed the firing to be included among the discriminatees, particularly in light of Respondent's payroll records which support her contention of having worked at least through 12 September.

Although she could only identify two companies where she sought work, I find her efforts of speaking with friends whenever she saw them, juxtaposed with the two weeks she actually did work at Esquivel constituted reasonable diligence. The EDD printouts (RX 17, page 41) indicate earnings with Esquivel of \$585.98 during the fourth quarter of 1977 as well as \$51.35 during the third quarter. I have attributed the latter to the last day of September,^{124/} and averaged the balance daily (excluding Sundays) through October 14 in light of Respondent's payroll records showing her return on 17

124. This figure more closely approaches the "average" daily earnings in October.

October.

I recommend Ms. Hernandez be reimbursed for gasoline expenses of \$30 per week for two weeks (\$60.00). (See Appendix B-50.)

(54) JOSE LUIS GOMEZ (CABRERA)

A. Facts

Mr. Gomez testified that he picked tomatoes for Respondent in 1977, but did not work the entire season because of the stoppage (October 1977), On the day of the stoppage, he arrived at his customary time (6:30 a.m), but denied working. He did not recall his crew number, but identified his foreman as "Roberto". Coworkers in his crew included relatives Concepcion Gomez, Rafael Guzman, Josefina Guzman and Emma Martinez.

Mr. Gomez stated that the stoppage was caused by Salvador's firing and occurred in the field near the Oasis. On the next day, Frances Arroyo would not give the employees work. Gomez at first denied there was a strike, but finally conceded that he participated in the picket line, going for approximately 3 weeks, 5 days per week, arriving at 7 a.m. and leaving between 11 a.m. and 1 p.m.

Mr. Gomez sought work elsewhere by going to Meyer Company (on three occasions through the union hiring hall) and to Gonzales Packing on one occasion. He commenced working at Paul Masson approximately two weeks before the strike ended picking grapes, and worked 5 days per week, Monday through Friday, on the piece rate, earning approximatley what he earned with Respondent. Mr. Gomez claimed gasoline expenses of \$5 per day in seeking work.

B. Analysis and Conclusions

At the close of the hearing, General Counsel conceded that Mr. Gomez should be excluded from the category of discriminatees on the basis of O.P. Murphy (1978) 4 ALRB No. 106 (R.T. Vol. XIX, p. 34.) I concur in this action because of the indication in that decision that Mr. Gomez did not return to work for Respondent during the entire 1977 tomato harvest. See 4 ALRB No. 106, supra, ALJD, p. 13.

(55) VIRGINIA GONZALES

A. Facts

Ms. Gonzales testified that she picked tomatoes for Respondent in 1977 until she was fired. She did not recall the crew number, but her foreman was Leandro Gonzales (her father). She reported to work on the day of the firing but did not work stating that only the checkers plus some foremen and strikebreakers worked on that date. When she entered the field in the morning, the roads were closed and the workers could not enter. Frances and Mike told the workers to leave because of the prior stoppage.

Ms. Gonzales participated in the strike by joining the picket line for approximately one month. She went every day in the morning at approximately 6:00 a.m., but looked for work in the afternoon. She received no money from the union.

Ms. Gonzales did not recall working during the strike or returning to Respondent thereafter. She went to seek work approximately one day per week. She asked her friends who worked for other companies and went with brothers (Cervando and Julian) as well as her mother (Francisca) to seek work. She left for Los

Angeles on 15 October -- to get married.

Respondent records for September 13 identified Virginia Gonzales as having worked one hour as a checker. (GCX 4.) Ms. Gonzales denied working on this date as a checker, but conceded occasionally working as a (substitute) checker during this time period, on four or five occasions. She could not recall precise dates, and when recalled to the stand could not remember whether or not she actually worked for a little while on the morning of September 13.

B. Analysis and Conclusions

Balanced against Ms. Gonzales' contention that she did not work on the day she was fired are Respondent's weekly time books indicating her work as a checker on 13 September for one hour.^{125/} Even if I were to find that she did work one hour on September 13,^{126/} however, I would be reluctant to exclude her from the group of discriminatees. As mentioned with respect to the discussion of the employees of crews 4 and 5 (who joined the strike immediately after Ms. Arroyo threatened discharge for the work stoppages), the limited work in the morning would not deprive them of classification as discriminatees insofar as they joined the strike immediately following the supervisor's illegal communication. I would thus

125. Although Ms. Gonzales' name is written with a different ink than the other checkers listed for the week ending September 14, this may be attributable to her position as substitute. (See entry for week ending September 7 wherein Ms. Gonzales' name also seems to be written in a different ink.)

126. Because of Ms. Gonzales' rather imprecise recollection of the dates involved, I credit the payroll documentation in this regard and conclude that it is more likely than not that she did work for one hour before the firing occurred

recommend she be included among the class of discriminatees. Ms. Gonzales' minimal efforts to find work -- looking in the afternoons approximately one time per week, and going with family members Cervando and Julian (see discussion, infra), I find to reflect reasonable diligence for the limited period she was unemployed.

I would deduct the \$3.87 for the one hour she worked on 13 September from backpay owing.^{127/} However, the interim earnings listed in the EDD printouts (RX 17, page 19) for Esquivel -- \$288.93 for the third quarter 1977 and \$380.25 for the fourth quarter 1977 -- could well be attributed either to the pre-strike period from July 1 through early September, or post-strike period from 15 October through December 31. Because Ms. Gonzales did not recollect such earnings, I find that Respondent has not met its burden in this regard, and would not deduct them from gross backpay owing. (See Appendix B-51.)

(56) CONCEPCION GOMEZ

A. Facts

Ms. Gomez testified that she picked tomatoes for Respondent in 1977. She did not recall the month, but stated that the tomato season usually started in August. She could not recall her crew number, but her foreman was "Roberto". Ms. Gomez testified that she did not work the whole season because co-worker Salvador was fired.

127. I have made this deduction directly from the gross backpay owing to avoid "double recovery" of the makewhole supplement.

Workers stopped at mid-day at the Oasis. On the next day, she reported for work, but Francisca Arroyo said there was no more work and that all the workers were fired. She therefore did not work that day. Ms. Gomez named co-workers in her crew -- Rafael and Josefina Guzman, as well as her husband, Jose Luis Gomez.

Ms. Gomez participated in the strike for approximately four to five weeks going to the picket line daily for the entire day, but also looked for work wherever she could find it: Meyer Tomatoes in King City and Gonzales Packing in Gonzales. She went in the mornings before picketing and some afternoons, almost everyday, as well as going to other companies and other labor contractors in Greenfield. She did not find work during the strike.

Ms. Gomez testified that she had a car which she used to seek work, claiming gasoline expenses of \$10 to \$15 per week for five weeks, but conceded that some of the money went to driving to the picket line. She lived in Soledad and went to the picket line in San Ardo on one occasion, to Greenfield and King City on various occasions, and to Soledad daily for some four to five weeks.

B. Analysis and Conclusions

At the conclusion of its case, the General Counsel moved to exclude Ms. Gomez from the discriminatees entitled to backpay on the basis of O.P. Murphy (1978) 4 ALRB No. 106. I granted General Counsel's motion for the same reasons indicated with respect to her husband Jose Luis Gomez -- that is, the indication in 4 ALRB No. 106, supra, ALJD pp. 11-13, that neither worked with Respondent during the entire 1977 tomato harvest.

A. Facts

Mr. Vasquez picked tomatoes for Respondent in 1977 in Crew No. 3 under foreman "Roberto" or "Castruista" until fired. He went to work in Soledad on the morning of the firing arriving at approximately 6:30 a.m. He entered the field, began working, and worked for approximately one to one-and-one-half hours, when the workers were thrown out of the fields by the police, Francis Murphy, and Mike. Frances Arroyo ordered the officers to take the workers out if they were not going to work.^{128/}

Mr. Vasquez joined the strike by picketing every day for approximately one month in San Ardo, King City, Soledad, and Greenfield. He went to look for work in the mornings, and then joined the picket line at about 7:30 a.m. staying the entire day. He received no money from the union.

Mr. Vasquez denied working during the strike but stated that he obtained work with Somoco/Azcona after the strike in November or December. He denied being recalled by Respondent and denied refusing any job offer during the strike. On further examination, Vasquez admitted that he could not recall when the strike ended and conceded that he might have found work with Somoco in October of 1977.^{129/} (Compare R.T. Vol. IX, p. 47, 11. 18-28

128. Respondent payroll records indicate Mr. Vasquez' employment through 12 September 1977. (GCX 1-X, Appendix 11.)

129. Payroll records indicate employment with Somoco from 25 September through 15 October 1977 with earnings of \$963.32 (RX 34).

with R.T. Vol. IX, p. 48, 11. 20-22.)

Mr. Vasquez detailed his efforts to seek work as follows: He got up early to go to Soledad, Greenfield, Salinas, Gonzales, and King City to look for work in the thinning or in the mustard. He went to King City approximately one to two times for four weeks (to Frudden Company and Meyer Tomatoes). He looked for work in San Ardo going one to two times per week for four weeks to labor contractor Willis (thinning broccoli). He went to look for work in Salinas two to three times per week for four weeks (to Oshita Company and D'Arrigo (thinning broccoli)).

Vasquez requested expenses for gasoline of \$5 per day for five weeks (Monday through Friday) – one half of which money went for driving to the picket line. He received \$5 on one occasion from the union for gasoline which was used to drive to the picket line.

B. Analysis and Conclusions

I find that Mr. Vasquez has sufficiently described the events of September 13 to be included among the discriminatees.

While he recalled working with Somoco/Azcona after the strike (in November or December 1977), pertinent payroll records indicate employment during the relevant period (RX 34). These earnings were also reflected in the EDD printouts (RX 17, p. 83). I have therefore included these earnings in calculating the net pay due Mr. Vasquez. They have been averaged on a daily basis (6 days per week excluding Sundays) as follows: For week ending 23 September (\$229.76); for week ending 5 October (\$266.56); for week ending 12 October (\$289.60); for October 13, 14 and 15 (\$182.40).

I do not believe Mr. Vasquez' faulty recollection in this

regard -- he did admit to having worked at Somoco shortly after the period reflected in the payroll records -- warrants exclusion of backpay under the Flite Chief doctrine. See N.L.R.B. v. Flite Chief (9th Cir. 1981) 566 F.2d 1182 [106 LRRM 2910]. There, the Ninth Circuit found a discriminatee to be less than truthful after having failed to reveal (until the eleventh hour) three of four interim jobs which immediately preceded the hearing. Here, this discriminatee did not recall the precise months during which he had limited earnings some five years prior to the date of his testimony.

I also recommend that Mr. Vasquez be reimbursed for gasoline expenses of one-half (\$5.00 per day times 11 days) for a total of \$27.50. (See Appendix B-52.)

(58) CARMEN VASQUEZ (RAMIREZ)

A. Facts

Ms. Vasquez picked tomatoes for Respondent in 1977. She was fired in September when the strike started, working approximately one-and-one-half hours with her husband Maurilio Vasquez, when Frances Arroyo told the workers there was no more work.^{130/}

Ms. Vasquez joined the picket line for approximately one month going every day for the entire day. She also looked for work, saying that she finally found work at Somoco after the strike had

130. Respondent payroll records indicate that Ms. Vasquez was employed through 12 September 1977 (GCX 1-X, Appendix 11).

ended but could not recall the precise date.^{131/} Ms. Vasquez denied working during the strike, or refusing work during this period. She detailed her efforts to seek work as follows: She looked for work in King City (at a carrot packing shed), in Greenfield with Vicente Garcia (thinning and hoeing), in Soledad with Pascual Lemus (hoeing in the chiles), and in Gonzales (Oshita and Gonzales Packing). She and her husband would seek work in the mornings and sometimes in the afternoons.

B. Analysis and Conclusions

I credit Ms. Vasquez' recitation of the events of 13 September and recommend her inclusion among the discriminatees. Her efforts to seek interim work reflected reasonable diligence. While she also recalled that the Somoco work occurred after the strike, pertinent payroll records (RX 34) reflect earnings on September 15, 19, 21, 22, 23, 24, 26, 27, 28, 29, 30, October 1, 3, 4, 5, 6, 8, 10, 11, 12, 13, and 15 for total wages of \$832.06 which I have attributed as follows:^{132/} For week ending September 21 (\$48.96); for week ending September 28 (\$256.32); for week ending October 5 (\$203.52); for week ending October 12 (\$206.72); for October 13 (\$35.31).

Respondent has not established that Ms. Vasquez has intentionally concealed these interim earnings by her faulty recollection, and I recommend that she be awarded backpay for the

131. RX 34 indicates interim earnings for Ms. Vasquez at Somoco of \$332.06 for the periods 15 September through 15 October. See also R.T. Vol. IX, p. 61, 11. 1-22.

132. Also verified by RX 17, p. 46.

entire period. (See Appendix B-53.)

(59) LIDIA Z. DE VASQUEZ

A. Facts

Ms. Vasquez testified that she picked tomatoes for Respondent in 1977, but did not complete the season because of the strike. She arrived at 6:30 a.m. (as was her custom) on the last day at the field in Soledad by the Oasis. The company (Frances Arroyo) stopped the workers by not allowing them to enter the field. She could not recall her crew number, but stated that her foreman was "Roberto" and identified relative Maurilio Vasquez as a co-worker.^{133/}

Ms. Vasquez participated in the strike for approximately two weeks arriving at the picket line at 6:30 a.m. She denied looking for work during this time, but said that she looked for work during the strike at King City (five to six times) and at San Lucas (seven times), naming Meyer Tomatoes and Esquivel. She denied working during the strike. On further examination, Mr. Vasquez testified that she did not picket during the last two weeks of the strike because she was looking for work. She looked for work during the first two weeks of picketing on two to three occasions per week in the afternoons. She went to the fields at Meyer Company in King City and to Esquivel, but could not recall the dates.

133. Respondent payroll records indicate that Ms. Vasquez was employed through 12 September 1977 (GCX 1-X, Appendix 11).

B. Analysis and Conclusions

Although Ms. Vasquez did not specifically testify that she was fired, she stated that she was "stopped" in September 1977 because Frances would not allow the workers into the fields. I find her testimony to be consistent with that of the other discriminatees, and taken in conjunction with Respondent's payroll records indicating her employment through September 12, 1977, is sufficient to establish her entitlement to backpay.

I also find that her efforts to seek work (by reference to Meyer and Esquivel and various cities in the Salinas Valley area) constituted reasonable diligence at least for the limited period she was unemployed. (See Appendix B-54.)

(60) DELFINA OREJEL (PEREZ)

A. Facts

Ms. Orejel picked tomatoes for Respondent in 1977. She could not recall where she worked on her last day, but stated that she was fired. She remembered the police being present but could not recall Frances Arroyo stating anything on that day. She named her husband Faustino and her daughter Maria de Jesus as co-workers in her crew (under foreman "Beto").

Ms. Orejel went many times to the picket line, but did not spend the entire day. She made the same efforts as her husband in seeking work as he was responsible for looking for jobs for the family. They would go to Greenfield and to King City two to three days per week, and she specifically recalled asking labor contractor

"Vicente" for work, as well as others, including the latter's brothers Luis and Juventino.

Ms. Orejel could not identify her picking card (RX 6), dated 16 September 1977, but denied having worked for Respondent following the day of the firing. She indicated that the card which named Delfina O. Perez was not her card since she was known as Delfina Orejel P.

B. Analysis and Conclusions

While I credit Ms. Orejel's recollection of the events of 13 September, and would thus include her among the discriminatees, I also conclude that she returned to O. P. Murphy on September 16. In reviewing the date on the picker card in contrast to Ms. Orejel's very sincere, but very faulty memory, I find that the preponderant evidence establishes her return on 16 September.^{134/} The card identifies her by employee number, and social security number (which are corroborated by ALOX 61 and RX 18).^{135/} I thus recommend that the backpay period be terminated as of that date.

As suggested with respect to the discussion of her husband Faustino, I find that the Orejel family efforts to seek interim employment were reasonably diligent. I would otherwise award backpay for the entire period. (See Appendix B-55.)

134. I made a similar finding with respect to her husband Faustino Orejel. (See discussion, supra.)

135. These records indicate earnings of \$7.43 during the period 9/14/77 through 9/21/77.

A. Facts

Mr. Sanchez worked for the Respondent in 1977 picking tomatoes, starting about July 28 until he was fired around 14 September by Frances and an "American man" (the owner of the company). He thought that he worked in crew number 3 and identified crew members Fidel Perez, Roque Tejada, Emerjildo Zavala, Cecilia and Ramon Perez. Mr. Sanchez said the firing took place near Respondent's premises between Soledad and Gonzales. He worked until 11:00 in the morning on the day he was fired and thereafter went to look for work. He participated in the strike for 28 days being present every day for approximately 4 hours per day in the mornings and some afternoons.

Mr. Sanchez detailed his 'efforts to seek work as follows: He went to look for work in the lettuce thinning, the tomato picking, the grape picking, and the cauliflower tying. He named the following companies: Meyer (tomato picking); Paul Masson (grape picking); D'Arrigo (thinning); Bruce Church (thinning); "Barendo" (Bud Antle-tying cauliflower). Mr. Sanchez went to D'Arrigo in Salinas approximately six times per week, to Bruce Church in Salinas; to San Ardo (Juan Guerra) approximately six days per week; to King City (Meyer Company, Jose Silva, Jose Lopez) approximately six days per week. On some occasions he would go back to the same places.

Mr. Sanchez had his own car and claimed gasoline expenses in seeking work of \$10 per day.

He stated that approximately 5 days before the strike was over he found a job with Gonzales Packing picking tomatoes. He worked one-and-one-half weeks, but recalled that the strike was over by the time he left Gonzales Packing. He was paid piece rate (35¢ per bucket) and earned approximately \$80 per day -- for a total earnings of \$500.00. He believed he was without work following the firing for approximately 18 days.^{136/}

B. Analysis and Conclusions

Although Mr. Sanchez seems to have confused the dates (September 13 and 14), and the documentary evidence is incomplete,^{137/} I find his testimony sufficiently specific to include him among the discriminatees. His recollection of detail was fairly decent, and there was no documentary evidence (e.g., picker cards) which would indicate that he worked on 13 September as suggested by Respondent (Resp. Brief, p. 29).^{138/} I find his efforts to seek work in the lettuce, tomatoes, grapes, and cauliflower easily constituted reasonable diligence. I have averaged the earnings at Gonzales Packing on a daily basis for the period October 3 through October 12 (excluding Sunday).

I also recommend Mr. Sanchez be reimbursed for gasoline expenses of \$10 per day for 18 days (\$180.00). (See General Counsel

136. Payroll records at Gonzales Packing indicate earnings of \$360.10 for the week ending 12 October and \$184.60 for the week ending 5 October. (RX 46, p. 16, 18 - Employee #1453.)

137. Compare GCX 6 (picking card for David Sanchez, Employee No. 1270, Crew No. 2-A) with GCX 1-X.

138. GCX 2 indicates that employee #1270 worked four hours on 9/14/77. Because the documentary evidence is confusing at best, however, I credit the witness' recollection and sincere demeanor.

Brief, pp. 90-91; Appendix B-56.)

(62) CERVANDO GONZALES

A. Facts

Mr. Gonzales worked with Respondent on September 12, 1977, and was fired on the morning of the following day. He did not work on the 13th, reporting at approximately 6:30 a.m., but stated that nobody was given work.^{139/}

Mr. Gonzales first worked in his father's crew (Leandro Gonzales), but changed crews and did not recall his crew number on the day of the firing. He worked with his brother Julian.

Mr. Gonzales joined the picket line for approximately two weeks nearly every day. He conceded finding work picking tomatoes with a labor contractor or a company, but could not recall how much he earned because he was paid piece rate. He did recall working more hours with O. P. Murphy (leaving the interim employer at approximately noon, while not leaving O. P. Murphy until approximately 3:00 p.m.).

During the two weeks he was unemployed, Mr. Gonzales asked other companies for work in whatever crop was available. He did not recall the names, but stated that he would go at noon during his lunch break. Mr. Gonzales checked for work in King City approximately four to five times. He also asked his friends whether there were jobs available.

139. Respondent payroll records reflect Mr. Gonzales employment through 12 September 1977. (GCX 1-X, Appendix 10.)

He claimed gasoline expenses of \$5 to \$6 per day for four to five days per week in looking for work from his residence in Soledad. On one occasion, he received some money from the union but could not recall the amount.

B. Analysis and Conclusions

Mr. Gonzales' testimony regarding the events of 13 September amply supports his claim to be included among the discriminatees.

I also find his efforts to seek work -- by asking other companies during his lunch break -- to demonstrate reasonable diligence. While Mr. Gonzales conceded finding interim employment in the tomatoes (approximately two weeks after the strike started -- see ALOX 63), he could not recall his earnings or the name of the employer. There is no record evidence of such fourth quarter 1977 employment in the EDD printouts (RX 17), and no basis by which to compare the wage rate. Thus, Mr. Gonzales' recollection that he left the interim job much earlier than while at O. P. Murphy (12:00 rather than 3:00 p.m.), still does not provide sufficient information to approximate these interim earnings. As Respondent has not met its burden of proof in this regard, I make no deduction from gross backpay owing.

I also recommend Mr. Gonzales be reimbursed for gasoline expenses of \$5.50 per day for 4.5 days per week for two weeks (\$49.50). (See Appendix B-57.)

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(63) ROQUE T. LOPEZ

A. Facts

Mr. Lopez picked tomatoes for Respondent in 1977. He was fired in September after having reported to work at Huntington Ranch in Soledad. He worked approximately two to three hours on the previous day when the stoppage occurred and co-worker Salvador was fired. He said that the workers tried to go back to work but were not allowed. Approximately one week after the strike started, Mr. Lopez asked Frances Arroyo for his job back, but was turned down. At the end of the 1977 season, he returned to work at O. P. Murphy.^{140/}

Mr. Lopez participated in the strike for approximately two weeks on a daily basis for the entire day. He received no money from the union. He detailed his efforts to seek work as follows: He went to the fields to look for work at Gonzales Packing and to the union dispatch office in King City to seek work at Meyer Tomatoes. He looked for work in tomatoes and other crops, but could not recall the dates and times other than that he went to Meyer during the second week of the strike. He asked friends who worked elsewhere if they knew where jobs were available and specifically referred to one friend who worked at D'Arrigo in the lettuce. He started working with Gonzales Packing as a picker, but did not recall his earnings. He worked approximately two to three weeks on the piece rate earning about the same as he earned with Respondent. He obtained his job at Gonzales Packing by speaking to foremen in

140. Respondent payroll records reflect Mr. Lopez' employment through 12 September 1977 (GCX 1-X, Appendix 10).

the fields.

B. Analysis and Conclusions

There is ample evidence linking Mr. Lopez to the group of discriminatees fired on 13 September, and I recommend he be included among them.

His efforts to seek work during the very limited period he was unemployed (two weeks) reflected a real effort to mitigate damages, and I recommend he be awarded backpay for the entire period.

The payroll records at Gonzales Packing indicate the following interim earnings, which I have averaged on a daily basis (six days per week excluding Sundays): Week ending 9/28 (\$131.30); week ending 10/5/77 (\$111.45); week ending 10/12/77 (\$488.83).^{141/} I have averaged the earnings for the period ending 9/28/77 over two days (September 27 and 28) to reflect the witness' testimony that he was unemployed for some two weeks and also to more closely approximate his average daily earnings during the remainder of the interim period. (See Appendix B-58.)

(64) MARIA MARTINEZ

A. Facts

Ms. Martinez testified that she was fired from Respondent in 1977, but did not recall her crew number although she worked along with Roque Lopez. She recalled all crews working

141. RX 46, p. 21, p. 17, p. 16 (Employee No. 1440).

approximately two hours before being fired.^{142/}

During the strike, Ms. Martinez attended the picket line every day for the entire day. After two weeks she obtained work at Gonzales Packing where she earned about what she had earned with O. P. Murphy for two weeks. She detailed her efforts to seek work as follows: She would ask at Meyer Company (in the fields) and at Gonzales Packing (several times before being accepted). She could not recall the dates. She recalled being laid off from Gonzales Packing when the season was over before returning to Respondent, but did not recall the number of days which lapsed before she returned to O. P. Murphy.

B. Analysis and Conclusions

While she seemed to confuse the events of September 12 (work stoppage) with those of the firing (September 13), I credit Ms. Martinez' recollection of having been fired, in conjunction with payroll records establishing her presence with O. P. Murphy through September 12. She thus merits inclusion among the discriminatees.

Although she could not recall precise dates, I find her efforts to seek work -- by asking at Meyer Company (in the fields) and at Gonzales Packing (on several occasions) -- demonstrate reasonable diligence. The Gonzales Packing payroll records reveal interim earnings as follows (Employee Number 1441): For week ending

142. O. P. Murphy payroll records indicate Ms. Martinez was employed through 9/12/77 and returned 10/15/77. (See GCX 1-X, Appendix 10.)

9/28 (\$70.85);^{143/} for week ending 10/5/77 (\$324.65);^{144/} for week ending 10/12/77 (\$266.50).^{145/}

As Ms. Martinez identified Roque T. Lopez as a co-worker, and their Gonzales Packing numbers are sequential, I have calculated daily averages of her earnings at Gonzales Packing for the same period as for Mr. Lopez (9/27 through 10/13). (See Appendix B-59.)

(65) DAVID AGUILERA HERNANDEZ

A. Facts

Mr. Aguilera testified that he picked tomatoes for Respondent in 1977 but did not work the entire season. Rather, the first day he started was the day of the stoppage (September 12). He arrived at approximately 7:00 a.m., worked one-and-one-half hours at which point Frances Arroyo accused workers of picking dirty. On the next day, Mr. Aguilera reported for work but did not work because the police blocked the entrance roads. He did not believe that anybody worked that day. He recalled Frances being present.^{146/}

Mr. Aguilera participated in the picket line for some 15-20 days reporting every day at approximately 7:00 a.m. and staying until 11:00 a.m. or 12:00 noon. He detailed his efforts to seek

143. RX 46, p. 21.

144. RX 46, p. 18.

145. RX 46, p. 16.

146. He conceded that he was afraid to return to work because of the damage that might happen to his car, stating that Frances Arroyo wanted the people to go to work, but that the strikers did not want to.

work as follows: He went to Ventana (then December-Pacific) Vineyards on some four 'to five occasions and to other locations. He went looking for work approximately three to four days a week for some four weeks (also naming Pik-D-Rite in the strawberries) from King City to Chualar. Mr. Aguilera said that he had six children and had to work, but could not recall finding interim employment.

At one point, Mr. Aguilera thought that he had worked at Ventana Vineyards in September 1977 (earning approximately \$2.75-\$3-.35 per hour, 9-10 hours per day, 5-6 days per week, picking and pruning grapes). On further examination, he stated that the grape picking usually commenced in October, and that the pruning commenced in November and December.

He claimed gasoline expenses in seeking work of approximately \$4 to \$5 per day for two to three days per week for some four weeks.

B. Analysis and Conclusions

The absence of documentary evidence supporting Mr. Aguilera's testimony that he was hired by Respondent is perhaps best explained by the fact that he worked only on the morning of September 12.^{147/} When he returned the next day, he was not allowed to work as police blocked the entrance roads. While Mr. Aguilera conceded that he was afraid to return to work because of potential damage to his car, I would include him among the group of discriminatees fired on 13 September. The operative facts of the Board decision indicate that the workers were fired en masse. I

147. There is no payroll record of Mr. Aguilera working for Respondent (see GCX 2, GCX 6).

found him to be a very sincere witness with a decent memory of the events in question. I therefore conclude that he has detailed sufficient events of the day in question to be included among the group of discriminatees, regardless of his (unarticulated) subjective reasons for not having returned after 13 September.

Mr. Aguilera's efforts to seek work -- three to four times per week to support his family -- constituted reasonable diligence.

As there is no documentary evidence of interim earnings during the relevant period, I make no deduction for the Ventana Vineyards work which Mr. Aguilera alternatively characterized as starting in September, October, November, and December 1977. As Respondent has the burden of proof on this issue, I find insufficient evidence on the record to reduce the gross backpay owing.

I also recommend that Mr. Aguilera be reimbursed for his gasoline expenses -- \$4.50 per day for 2.5 days per week for four weeks (\$45.00). (See Appendix B-60.)

(66) ADELA L. PEREZ

A. Facts

Ms. Perez claimed she was fired but could not recall the date. She worked in Crew #1 with her family^{148/} and worked approximately three hours on the day that she was fired. She recalled the police and Frances Arroyo "throwing all the workers

148. Family members include Ramon C. Perez, Maria Guadalupe Perez, and Clementina L. Perez.

out".^{149/}

After the firing, Ms. Perez went on strike for approximately one month. She did not go to the picket line every day, but did so during those days that she was not working. She sought work at Esquivel, Gonzales Packing, and Meyer Tomatoes (fields) but could not recall specific dates.

Ms. Perez worked at Gonzales Packing during the interim period earning approximately \$200 picking tomatoes (for approximately one-and-one-half weeks). She also worked for Esquivel (picking tomatoes) before Gonzales Packing for some two to three days. She believed she earned less there than, with Respondent (less than \$40 per day). She could not recall whether or not she was on piece rate or how many hours she worked with Esquivel but thought that it was fewer than with O.P. Murphy. She quit Esquivel to go directly to Gonzales Packing. She named her father Ramon C. Perez, and her mother, Clementina L. Perez as well as her sister Maria Guadalupe Perez as co-workers with her at Gonzales Packing and at Esquivel. She also believed that (relative) Natividad Lopez Morales worked, at Gonzales Packing. She denied working for Somoco Company during the strike.

B. Analysis and Conclusions

Although Ms. Perez seems to have confused the work stoppage of 12 September with the firing of 13 September, I find she testified with sufficient specificity regarding the firing and in a very sincere manner to warrant inclusion among the discriminatees.

149. Respondent payroll records reflect that Ms. Perez was employed through 12 September 1977. (GCX 1-X, Appendix 10.)

Although she could not recall specific dates, I find that her efforts to seek work at Esquivel, Gonzales Packing, and Meyer to be reasonably diligent for the limited period she was unemployed.

The EDD printouts (RX 17, p. 41) reflect interim earnings with Gonzales Packing of \$202.80 during the fourth quarter 1977 which is consistent with the witness' recollection of having worked (1-1½ weeks) and I have incorporated General Counsel's daily averaging calculations for the period 10/1 through 10/12/77 (see also RX 33).

I have also included three days' work at Esquivel (earnings of \$35 per day) consistent with the testimony of the witness and other family members for the period September 26-28.

As Ms. Perez denied working at Somoco, which denial was corroborated by her sister Maria Guadalupe Perez, I shall not deduct the \$26 reflected on 9/24/77.^{150/} There is no confirming evidence of this interim wage (it is not included in the EDD printout), and I find that Respondent has not met its burden in this regard. (See Appendix B-61.)

(67) MARIA GUADALUPE PEREZ

A. Facts

Ms. Perez stated that she was fired from her job picking tomatoes with Respondent (Crew fl) at about 8:00 to 9:00 a.m. in the morning. There was a stoppage, and on the following day she

150. RX 34.

attempted to enter the fields in Soledad near the Oasis, but patrol cars blocked the entrance. Ms. Perez joined the picket line daily for the entire day while unemployed. She returned to Respondent during the final days of the season.

Ms. Perez recalled working with Esquivel and Gonzales Packing stating that she was unemployed for approximately three weeks. She did not remember dates and times, but thought that she worked for Esquivel for approximately two to three days and with Gonzales Packing for approximately one-and-one-half weeks.

Ms. Perez detailed her efforts to seek work as follows: She looked for work in the tomatoes and grapes but could find no openings. She could not recall the names of any companies, but stated that the entire family went to look and that her father asked for everybody.

B. Analysis and Conclusions

Although Ms. Perez was somewhat confused about the events of 12 September and 13 September, I find that she detailed the firing with sufficient specificity to be included among the discriminatees. Pertinent payroll records also reflect her employment with Respondent at least through 12 September 1977 with return on 15 October 1977 (GCX 1-X, Appendix 10).

The family efforts to seek work -- as those of her sister Adela L. Perez -- constitute reasonable attempts to mitigate losses.

I have averaged the interim, earnings at Gonzales Packing over a 10-day period from October 1 through October 12 (RX 33), as well as included, three days' work at Esquivel (September 26, 27, 28) at \$35.00 per day. (See Appendix B-62.)

A. Facts

Mr. Zavala testified that he picked tomatoes for Respondent in September 1977 until fired. He could not recall his crew number. He worked only about one hour on his last day and then joined the strike. On further examination, Mr. Zavala stated that the day following the stoppage he reported to work at approximately 7:00 a.m., but was not allowed to work. He stated that Frances Arroyo told the crew to stop.

Zavala went to the picket line on some days for the entire day. On other occasions he would go to look for work because he needed money to eat.

Mr. Zavala denied working (picking celery) for Sakioka Farms between 15 September and 30 September in Santa Ana, California. He stated that he worked at that location in March or April of 1973, but not during the strike period. He did not know of any relatives who worked there or if anyone used his social security number. Mr. Zavala did recall working for Gonzales Packing for a few days during the strike.

He detailed his efforts to seek work as follows: He asked for work on two occasions in the strawberries (Osuki) near Salinas and at the Coop (on three occasions) near Salinas. He could not recall the dates however. He also went to San Ardo to look for work in the tomatoes on one occasion and asked Secundino Garcia for work on another occasion.

B. Analysis and Conclusions

While Mr. Zavala initially confused the events surrounding the work stoppage with those of the firing on the subsequent day, and had a generally poor memory of the incidents which gave rise to this hearing, I find his testimony to be sufficiently detailed to warrant inclusion among the discriminatees. Respondent's payroll records also reflect his employment through 12 September 1977.^{151/}

The several occasions he specified of seeking work during the very limited period he was unemployed constitute a reasonably diligent effort to find interim employment.

While Mr. Zavala denied working at Sakioka Farms in 1977, he is identified by name and social security number as having worked between 15 September and 28 September (earnings of \$374.37),^{152/} These earnings are corroborated by the EDD printouts (RX 17, p. 9) which reflect earnings at Sakioka for both the third (\$705.22) and fourth quarters (\$68.33) of 1977.

Mr. Zavala also recalled working for Gonzales Packing, and the latter payroll records reflect earnings of \$643.71.^{153/} AS I find it more likely than not that Mr. Zavala was not simultaneously picking celery in Santa Ana with Sakioka and harvesting tomatoes in King City for Gonzales Packing, I shall deduct the earnings at Gonzales Packing (averaged daily, six days per week, excluding

151. GCX 1-X, Appendix 11; GCX 6.

152. RX 35.

153. For the week ending 10/5/77 (\$262.28); for the week ending 10/12/77 (\$240.83); and for the week ending 9/28/77 (\$111.80). (See RX 46, p. 17, 16, 20 -- Employee #1424.)

Sundays), but not at Sakioka Farms. While it is conceivable that Mr. Zavala might have worked September 15 through the 20 at Sakioka Farms, I am reluctant to attribute these earnings to this period given his denial of work there and the obvious difficulty in ascertaining which, if any, days he might have worked. Additionally, it appears that the individual working under Mr. Zavala's name and social security number was employed steadily at Sakioka Farms from 15 September through 30 September. As Respondent has the burden of proof on this issue, I would exclude the Sakioka interim earnings. (See Appendix B-63.)

(69) LUIS RAMIREZ LOPEZ

A. Facts

Mr. Lopez picked tomatoes for Respondent in 1977 until fired. He stated that the stoppage occurred on 12 September and the next day the sheriffs blocked the entrances near the Oasis. Replacements were working.

Lopez was on the picket line every day for approximately 3 weeks but would look for work in the mornings and some afternoons. He could not recall whether he sought work during the first week of the strike. He would look for work everywhere, including grapes and several companies and labor contractors but could not recall names or dates. He stated that on an average he would look for work approximately four days per week.

Mr. Lopez admitted that he earned approximately \$225-250 at

Gonzales Packing for three days in October.^{154/}

Mr. Lopez lived in Soledad and sought work in Salinas (four times per week) and King City (three times per week). He claimed gasoline expenses of \$5 per day in looking for work.

B. Analysis and Conclusions

All parties concede Mr. Lopez was present on 13 September (Respondent's brief, p. 31; RX 9). There is thus no issue regarding Mr. Lopez¹ inclusion, among the discriminatees. His efforts to seek work in the mornings and afternoons -- going to companies and labor contractors approximately four times per week for the limited time he was without work -- constituted a reasonably diligent effort to mitigate damages.

I have calculated the earnings at Gonzales Packing which occurred during the weeks ending 10/12/77 and 10/19/77 as follows: I have averaged the earnings for 10/12/77 over one week (six days excluding Sunday)^{155/} and have attributed the earnings for the week ending 10/19/77 (\$36.08) to October 13^{156/} -- as Respondent's payroll records indicate Mr. Lopez returned on 10/15/77 (GCX 1-X, Appendix 10). I also recommend that Mr. Lopez be reimbursed for gasoline expenses of \$5 per day, four days per week, for three weeks (\$60.00). (See Appendix B-64.)

154. RX 46 indicates interim earnings of \$241.16.

155. This computation leads to a more "average" daily earning (\$34.18) than would strict adherence to Mr. Lopez' recollection of having worked only three days.

156. RX 46, pp. 17, 19 (Employee #1475).

A. Facts

Ms. Lopez testified that she went on strike after being fired from Respondent. She worked with her husband (Luis R. Lopez) in Crew #1.

She attended the picket line for many days and worked at Gonzales Packing toward the end of the strike for three days with her husband. She stated that she earned approximately \$224.28 (GCX 1-X, Appendix 6m). On further examination, Ms. Lopez testified that she earned approximately \$40 per day at Gonzales Packing (R.T. Vol. X, p. 108, 11. 1-3). She obtained her job with Gonzales Packing through people on the picket line who told her that there was work available.

Ms. Lopez stated that she would look for work (with her husband) in the fields in the mornings and would go from King City (in the chiles) to Greenfield. She did not give her husband money for gas and did not recall whether her husband received any money from the union for gas.

B. Analysis and Conclusions

All parties agree that Ms. Lopez was present on 13 September (RX 9; Respondent's brief p. 31.) There is thus no dispute regarding her status as a discriminatee.

Similar to my findings with respect to her husband, I conclude that Ms. Lopez' efforts to find, work were reasonably diligent.

As Ms. Lopez worked with her husband at Gonzales Packing

and the latter's payroll records indicate interim earnings of \$224.58 for the week ending 10/12/77, I shall average these sums on a daily basis (six days per week excluding Sunday). Although Ms. Lopez recalled only working for some three days, her recollection of having earned \$40.00 per day suggests attributing these earnings to an entire week. (See Appendix B-65.)

(71) MIGUEL ALONZO ESPINOZA

A. Facts

Mr. Alonzo testified that he was fired in mid-September after having worked one hour.^{157/} He stated that the firing occurred next to the Oasis near the railroad tracks after all the workers rushed the fields at around 10:30-11:00 a.m. in order to "take out" the people working. He could not recall his crew number but believed that his foremen were "Roberto" and Ezequiel Castruista.

He sought work approximately 3-4 times per week in King City, in Greenfield with labor contractor Omar, and in Soledad with Nunez in the lettuce. He also went to Meyer in King City on one occasion, and to Maggio in the carrots on one day between 18 and 20 September.

Mr. Alonzo worked for Paul Masson during the strike from the end of September until (he believed) the beginning of November. He claimed gasoline expenses of \$6-\$10 per day, 4-5 days per week

157. Respondent payroll records indicate Mr. Alonzo was employed through 12 September 1977 (GCX 1-X, Appendix 11).

for 3-4 weeks, one-half of which went to driving to the picket line. He stated that he went to the picket line (from his residence in Greenfield) in San Ardo on one occasion, to the King City picket line on some 2-3 occasions, and to Soledad approximately 6-7 days. He received no money from the union for gas.

B. Analysis and Concluions

Mr. Alonzo detailed the events of 12 September and 13 September with sufficient specificity to warrant inclusion among the discriminatees. His admission to having assisted "rushing" the fields does not alter this conclusion. His efforts to find work -- going to King City, Greenfield and Soledad some 3-4 times per week -- were sufficient to justify backpay for the entire period.

I have included interim earnings at Paul Masson^{158/} -- (\$9.02) far the week ending 29 September and (\$283.67) for the week ending 10/6/77, averaging the latter over 6 days (excluding Sunday). There is insufficient evidence to attribute interim earnings for the weeks following 10/6/77. Although Mr. Alonzo believed he had worked at Paul Masson until laid off in early November, the payroll records indicate employment only through 10/6/77, and there is no supporting information from the EDD printouts (RX 17).

I also recommend that Mr. Alonzo be reimbursed for gasoline expenses of \$4 per day for 4.5 days per week for 3.5 weeks (\$63.00). (See Appendix B-66.)

158. RX 36.

A. Facts

Mr. Lemus worked in Crew #2 for Respondent having picked tomatoes since 1974. He was fired after the stoppage in September,^{159/} when the workers were not allowed to enter the fields near the Oasis as sheriffs had blocked the entrances and Frances Arroyo came by on a pickup truck to say everyone was fired. Mr. Lemus conceded joining picket lines in San Ardo, Greenfield, and Soledad -- picketing every day for approximately one month -- but also went to look for work. He did not receive any money from the union, did not refuse any job, and found no work during the interim period.

Lemus detailed his efforts to seek work as follows: He went to the EDD office, to the union hiring hall, to tomato companies and grape companies as well as asked friends. He named General Vineyards in Gonzales (where he spoke with a supervisor in the field), Meyer Company in the tomatoes (where he spoke to a foreman), as well as crews working in the fields, and friends who worked elsewhere in the broccoli, cauliflower, grapes, and tomatoes. Mr. Lemus also checked with Paul Masson, stating that he went to Salinas approximately 3-4 times per week.

He claimed gasoline expenses of \$30 per week in seeking work, one-half of which went to driving to the picket line.

159. Respondent payroll records confirm that Mr. Lemus was employed through 12 September 1977 (GCX 1-X, Appendix 10).

B. Analysis and Conclusions

While Mr. Lemus' memory was poor and he was a somewhat surly witness/ he detailed the events of 12 and 13 September adequately. Additionally, Respondent payroll records indicate his employment at least through September 12, with return on October 15, 1977. I would thus recommend including him among the discriminatees.

Lemus' efforts to seek work -- going to the EDD office, to the union hiring hall, to tomato and grape companies, as well as asking friends etc. -- constitute reasonable diligence which entitles him. to backpay for the entire period.

I recommend reimbursement for gasoline expenses of \$15 per week for four weeks (\$60.00). (See Appendix B-67.)

(73) ROMALDO G. MIRAMONTES

A. Facts

Mr. Miramontes worked in Crew #2 under foreman Leandro until discharged in 1977 when the sheriffs did not allow workers to enter the fields.^{160/} He stated that Frances told the workers they were fired.

Mr. Miramontes joined the strike and picket line every day for the entire day. He did not work during the strike but sought employment as follows: He went to several companies and talked to friends, naming Armando Sanchez. He went to Gonzales, King City,

160. Respondent payroll records indicate Mr. Miramontes was employed through 12 September 1977 (GCX 1-X, Appendix 10).

Salinas, Soledad, and Chualar. In Gonzales he went to speak with labor contractors in the thinning; in King City he went to markets and stores approximately two times per week; in Chualar he spoke to labor contractors; and in Salinas he spoke to contractors and went to the fields where there was work in the chiles, celery, grapes and lettuce. Sometimes Mr. Miramontes would be accompanied by co-workers and on other occasions he would go by himself. Additionally, approximately three times per week he went to the union hiring hall in King City and Salinas but never received an offer for work.

B. Analysis and Conclusions

Mr. Miramontes' description of the events surrounding the firing entitles him to be included among the discriminatees. I also find his attempts to seek work -- by going to labor contractors, markets, stores, and the fields in Gonzales, King City, Salinas, Soledad, and Chualar -- constitute reasonable diligence although he could not specifically identify companies or labor contractors. I thus recommend that he be awarded backpay for the entire period. (See Appendix B-68.)

(74) MARIA ANA LEMUS

A. Facts

Ms. Lemus recalled picking tomatoes for Respondent in 1977 starting on the date of the strike.^{161/} She had been recalled

161. It is unclear whether Ms. Lemus is referring to September 12 or September 13. Respondent payroll records indicate that she worked only 11/3/77. (RX 16.)

earlier as a seniority employee but could not work because of her child. She therefore waited until the day which coincidentally marked the commencement of the strike. She stated that she reported at 7:00 a.m. across from the Oasis and worked approximately 1½ hours (20-25 buckets) in Crew #2 with her husband Roberto. She said people were unhappy with the salary and the mistreatment at the hands of the company and therefore went out on strike. The next day she reported for work at 7:00 a.m. but was not allowed to enter because the company told her that they no longer had any jobs. She recalled sheriffs being present.

For approximately 3-4 weeks, Ms. Lemus participated in the picket line every day for the entire day, but would also look for work. Sometimes she accompanied her husband to Salinas (Sun Harvest); to a labor contractor near Castroville; to Greenfield (two times per week); and to King City. She further specified seeking work at Meyer Company in King City; at Gonzales Packing in Gonzales, as well as with labor contractors whose names she could not recall. She denied being offered work during this time.

On cross-examination, Ms. Lemus conceded that she had her own picking card and worked under her own name and social security card, insisting that she worked for OPM for 1½ hours on the day of the stoppage. Ms. Lemus denied any plan to pick dirty, and could not recall a co-worker being fired. She did not recall tomatoes being thrown, being asked to sign a paper, or having anyone from the company tell her anything on the day of the firing.

B. Analysis and Conclusions

Balanced against Ms. Lemus' contention that she worked

approximately 1½ hours on the day of the stoppage (and upon her return the following day was not allowed into the fields) are Respondent's payroll records (RX 18) indicating employment only during the period ending 11/4/77, and a picker card dated 11/3/77 (RX 16). No witness corroborated Ms. Lemus ' presence on the date of the firing. As Ms. Lemus insisted that she had her own picking card, worked under her own name and social security number, and was a somewhat unresponsive and nervous witness, I find insufficient evidence to include her among the dlscriminatees.^{162/}

(75) ARTURO TORRES

A. Facts

Mr. Torres was employed by Respondent during the 1977 tomato harvest. He recalled the day that Frances did not allow the workers to enter the fields, stating that he did not work on that day after having reported at approximately 7:00 a.m.^{163/}

During the strike, Mr. Torres worked for Paul Masson in October but could not recall how much he received, or the precise dates he worked. He believed it was about the beginning of October.^{164/}

Mr. Torres sought work as follows: He looked where other

162. If she were to be included, I would find her efforts to seek work (similar to those of her husband Roberto Lemus) to be reasonably diligent.

163. Respondent payroll records indicate that Hr. Torres was employed through September 12, 1977 (GCX 1-X, Appendix 11).

164. RX 36 indicates earnings of \$201.36 for the week ending 20 October (32 hours of work).

crews were working (in the fields) and spoke to foremen, but could not recall dates or names (other than a packing shed in King City -- Basic). He went to look for work approximately 6-7 days per week during the strike, going to Soledad, Greenfield, King City, Gonzales, and Chualar. He looked with his friend Nicolas Castro in the latter's car and gave Mr. Castro \$20 weekly for gasoline, 2/3 of which was spent for seeking work.

Mr. Torres went to the picket line every day for approximately one month -- to San Ardo (two times) and to Greenfield -- but denied picketing in Soledad. He spent the entire day on the picket line but received no money from the union.

B. Analysis and Conclusions

Mr. Torres' testimony and Respondent's payroll records reflect his employment through September 12 and presence on September 13. He is thus a discriminatee. His efforts to seek work -- by going to crews and speaking to foremen some 6-7 days per week in Soledad, Greenfield, King City, Gonzales, and Chualar (although he could only recall one company by name) -- constitute reasonable diligence.

While he conceded working at Paul Masson during October 1977, payroll records indicate earnings of \$201.36 for 32 hours work during the week ending 10/20/77. There is thus insufficient evidence to attribute any portion of these earnings to the one day (October 14) which falls within the backpay period. Therefore, I have not deducted these sums from the backpay owing.

I recommend that Ms. Torres be reimbursed for gasoline expenses of \$53.33 (2/3 times (\$20.00 per week times four weeks)).

(Appendix B-69.)

(76) ISMAEL ZUNIGA (JIMENEZ)

A. Facts

Mr. Zuniga testified that he was fired from Respondent in 1977.^{165/} On the day of the firing, he worked across from the Oasis in the morning. He recalled somebody from the company ordering the crew to stop: "You're fired. If you don't leave, you'll go to jail." (R.T. Vol. XI, p. 80, 11. 7-11.)

Mr. Zuniga admitted joining the picket line until finding work. Sometimes he would go all day, but stated that he would go to look for work in the mornings and some afternoons. He received no money from the union. He sought work for approximately 12-14 days until he found a job with Esquivel for approximately one week. He could not recall the precise length of employment or his earnings, but believed his piece rate wages were less than \$35.00 per day.

Mr. Zuniga found work with Paul Masson following his job at Esquivel, but did not know whether or not the strike was over at that time. He did not recall what his earnings were at Paul Masson.

Mr. Zuniga detailed his efforts to seek work as follows: He went around asking" crews who were working until he found work at Esquivel. He asked whenever he saw workers in the fields in various crops. He could not be more specific regarding names or dates, but

165. All parties concede Mr. Zuniga's presence on 12 September. (See R.T. Vol. XI, p. 87, 11. 25-27; GCX 1-X, Appendix 11.)

stated that he went every day while on strike. He listed King City, Soledad, and Greenfield as the areas in which he sought work. He would go with his family -- including wife Maria, daughter Micaela, son Ezequiel, and his son-in-law Alfredo Gallardo.

B. Analysis and Conclusions

Mr. Zuniga's testimony supports his inclusion among the discriminatees.^{166/} The efforts of the Zuniga family (wife Maria, children Micaela Villalobos and Ezequiel Villalobos and son-in-law Alfredo Gallardo) -- by going in the mornings and some afternoons to various companies and to various crews working in the fields in King City, Soledad, and Greenfield -- constitute sufficient efforts to mitigate losses during the interim period.

While Mr. Zuniga recalled working approximately one week at Esquivel, the EDD printouts indicate earnings of \$237.90 for the third quarter of 1977 and \$441.02 for the fourth quarter of 1977. (RX 17, p. 53.) As there is no further evidence linking these earnings to the backpay period, I have included interim earnings for one week -- commencing 28 September at approximately \$30 per day -- pursuant to Mr. Zuniga's testimony. (R.T. Vol. XI, pp. 82-83.)

While the discriminates believed he found work with Paul Masson after his employment with Esquivel, the records from the-former company do not indicate any earnings through 10/20/77 (RX 36). I have therefore not deducted any additional earnings from the gross backpay due. (See Appendix B-70.)

166. Respondent has raised no issue with respect to the inclusion of the Zuniga family among the discriminatees. I find that all should be so included.

A. Facts

Mrs. Zuniga testified that she worked in Crew #5 with her husband and other family members until fired. They worked only a short while before the stoppage occurred across from the Oasis. On the next day the workers were not allowed to enter the fields.^{167/}

Mrs. Zuniga participated in the strike by going to the picket line every day but also hoped to return to work. The family would look for work with other crews -- in every crew that was working from Greenfield to King City -- but she could not recall names or dates.

Mrs. Zuniga worked for Esquivel a few days during the strike but could not recall how much she earned. The family then went to work with Paul Masson but she could not recall when. She conceded that it could have been the week ending October 13, 1977, but did not know when the strike ended.

B. Analysis and Conclusions

The payroll records of Paul Masson (RX 36) indicate interim earnings of \$80.52 for week ending 10/13/77 which I have averaged on a daily basis (four days) as per General Counsel's specification (G.C. 1-X, Appendix 6aa; G.C. Brief p. 287.) The EDD printouts (RX 17, p. 33) reflect earnings at Esquivel of \$396.50 for the third quarter 1977 and \$408.52 for the fourth quarter 1977. As there is no more specific data, I have included interim earnings of \$30.00

167. Respondent payroll records reflect that Mrs. Zuniga was employed through 12 September 1977. (GCX 1-X, Appendix 11.)

per day for the week ending October 4, pursuant to the computations for Mr. Zuniga's backpay. (See Appendix B-71.)

(78) MICAELA VILLALOBOS ZUNIGA

A. Facts

Ms. Villalobos picked tomatoes for Respondent in 1977 with her family in Crew \$5. She claimed that she was fired, after having worked approximately 1-1½ hours on the morning of the stoppage on. the previous day. On the day of the firing, she was not allowed to enter the fields.

She went to the picket line every day but did not spend the whole day, as she would go to look for work with her family on a daily basis (with her husband Alfredo Gallardo and parents Ismael Zuniga and Maria Guadalupe Zuniga). They went to various crews that were working from Soledad to King City. Her father and brother would get out of the car and ask the various foremen for work. She could not specifically name dates or places.

Ms. Villalobos recalled that she earned approximately \$35 per day at Esquivel for approximately one week, but stated that not all the family earned that much because they worked by piece rate and some members would earn less. She stated that the family then went to Paul Masson believing that it was right after the work with Esquivel but that she was not too sure.

B. Analysis and Conclusion

Paul Masson payroll records^{168/} reflect 7 hours of

168. RX 36.

employment for the week ending 10/13/77 with earnings of \$40.88 which I have included on 13 October in the calculations of net backpay owing.

The EDD printouts indicate earnings of \$326.95 at Esquivel for the third quarter 1977 and \$849.22 for the fourth quarter 1977 (RX 17, p. 34). Pursuant to Ms. Villalobos' testimony, I shall include interim earnings of \$35 per day for one week (6 days per week) for the period immediately prior to her work at Paul Masson (October 6, 7, 8, 10, 11, 12). As there is insufficient evidence to attribute any further sums from third quarter and fourth quarter earnings at Esquivel to the backpay period in question, I have made no other deductions. (See Appendix B-72.)

(79) EZEQUIEL Z. VILLALOBOS

A. Facts

Mr. Villalobos stated that he was fired from Respondent when the workers were not allowed to enter the fields.

He joined the picket line every day for the entire day but received no money from the union. The family sought work from many companies and labor contractors as well as crews in the field. He could not recall names or dates but stated that they looked in the tomatoes and other crops. At times they would go in the mornings and on occasion in the afternoons after the strike.

Mr. Villalobos worked with Esquivel during the strike for approximately one week earning about \$35 per day. He stated that the family started working with Paul Masson right after the Esquivel

employment but could not recall his earnings.

B. Analysis and Conclusions

Paul Masson payroll records reflect earnings of \$88.31 for the week ending 10/13/77 (13.69 hours); and \$251.13 for the week 10/20/77 (42.10 hours).^{169/} with respect to the employment at Esquivel, RX 17, page 23, lists fourth quarter earnings of \$385.12, which I have averaged over nine days consistent with Mr. Villalobos' testimony that he earned approximately \$35 per day (10/1-10/11).^{170/} (See Appendix B-73.)

(80) ALFREDO GALLARDO (MORENO)

A. Facts

Mr. Gallardo was fired from O. P. Murphy in 1977 after having worked in the same crew with his family. He joined the strike and went to the picket line each day for most of the day but received no money from the union.

He sought work as follows: He would go with his in-laws and his wife and they would ask wherever there was work. He could

169. I have averaged the earnings for the week ending 10/13/77 over two days (10/12 and 10/13), and the earnings for the week ending 10/20/77 (\$41.86) over six days and attributed 1/6 of these latter wages to 10/14.

170. Although this daily average is somewhat greater than the \$35 per day recalled by Mr. Villalobos, I have averaged the fourth quarter total wages over the only remaining days available in that quarter (October 1-11) on the assumption that Mr. Villalobos remained at Paul Masson after October 12 (supported by RX 17, page 23, which indicates fourth quarter earnings of \$1,135.33 at Paul Masson). Note that said assumption cannot be made with respect to Micaela Villalobos who had no other Paul Masson earnings apart from those identified during the strike.

not recall names or dates but stated that they looked for tomato work or whatever was available.

Mr. Gallardo worked for Esquivel for approximately one week but could not recall his earnings. He stated that he went to Paul Masson for a short time thereafter and thought that his earnings were less than with OPM. Finally, Mr. Gallardo denied refusing any jobs during the interim period.

B. Analysis and Conclusions

There is no record of any earnings for Mr. Gallardo at Paul Masson (RX 36), nor does he appear on the EDD printouts (RX 17). To attribute some portion of Ms. Villalobos' earnings to Mr. Gallardo would seem to be pure speculation in the absence of any evidence that they worked under the same card (see Respondent's brief, p. 33, fn. 14.) As Mr. Gallardo was unable to recall any specific earnings at Esquivel, I have calculated daily earnings of \$30.00 per day for the week ending 10/12/77 consistent with the testimony of the other members of the Zuniga family. (See Appendix B-74.)

(81) ANGELINA PEREZ

A. Facts

Ms. Perez was fired by Respondent in September 1977 having worked in Crew #1. She recalled the stoppage and then reporting to work the next day with the police being present. She was not allowed to enter the field. Frances told her "You are not going to work anymore. You are fired." (R.T. Vol. XII, p. 5, 11. 23-28.)

Ms. Perez joined the picket line for approximately one

month near Arroyo Seco and Soledad, going every day but not for the whole day (approximately 7:00 a.m. to 2:00 p.m.). She would then go to look for work. She detailed her efforts to seek work as follows: She asked Pascual Lemus during the first week of the strike for work in the thinning in Greenfield. She went to Secundino (thinning and hoeing lettuce) in Greenfield approximately four times; to Meyer on two occasions (to the packing shed in King City). In all, she looked seven days per week for approximately one month.

Ms. Perez recalled working for Esquivel for approximately 10 days during the strike earning about \$30 per day. She picked tomatoes starting at approximately 8:00 a.m. and worked until 12:00 noon to 1:00 p.m. She was paid piece rate, but did not recall how much per bucket, nor did she know how many buckets she could pick per hour. She only worked Monday through Friday with Esquivel, and returned to Respondent at the end of the strike.^{171/}

Ms. Perez stated that she spent approximately \$10 per week for gasoline in seeking work. She conceded that one-half of the gas money went for driving to the picket line, but suggested that the entire family helped pay, and that the total weekly outlay for gasoline was \$20.00 (ALOX 81).

B. Analysis and Conclusions

All parties agree that Ms. Perez was present on 13 September (Respondent's brief p. 33; RX 9). Ms. Perez is therefore entitled to be included among the discriminatees. Nor is there any real dispute regarding her efforts to seek interim employment along

^{171.} GCX 1-X, Appendix 10, indicates Ms. Perez returned 10/15/77.

with her family.

While she did not testify regarding any earnings other than with Esquivel, payroll records at Somoco indicate one day employment (24 September 1977) and earnings of \$26, which were confirmed in the EDD printouts (RX. 17, p. 49). I have deducted this amount from backpay owing, but find insufficient grounds to deny Ms. Perez backpay for having failed to recall this extremely limited work some five years subsequent to the fact.

With respect to the earnings at Esquivel, Ms. Perez recalled 10 days work and wages of approximately \$30 per day for five days per week. RX 17, pages 48-49, indicates third quarter earnings of \$206.70 and fourth quarter earnings of \$1196.64. As there is insufficient evidence to attribute these earnings to precise dates during the backpay period, I shall credit Ms. Perez' recollection of 10 days work at \$30 per day as calculated for September 29 through October 12.

I recommend Ms. Perez be reimbursed for gasoline expenses of \$10 per week for two weeks (\$20.00). (See Appendix B-75.)

(82) CLEMENTINA PEREZ

A. Facts

Ms. Perez was fired by Respondent in 1977 having worked in Crew #1. She stated that a co-worker was fired and all the people stopped after having worked approximately 2-3 hours. She did not recall the name of the field nor could she recall whether any crews worked on the day that they were fired, but stated that the location

was near Soledad by a restaurant whose name she could not recall.^{172/}

Ms. Perez joined the picket line each day for the entire day. She sought work in the tomatoes from Esquivel and also with Meyer. She would go with her husband (Ramon C. Perez), who customarily looked for work for the family and her daughters Adela and Maria.

After looking for work some three weeks, Ms. Perez was employed by Gonzales Packing for approximately one week and earned approximately \$185.00. She also recalled working in the tomatoes at Esquivel for 2-3 days, but could not remember the earnings or precise dates. She returned to Respondent on 15 October 1977.

B. Analysis and Conclusions

Ms. Perez has sufficiently detailed the events of 12 September and 13 September to be included among the discriminatees. Her efforts to find work with her family -- traveling some three days per week to San Ardo, as well as asking at Meyer Tomatoes and Gonzales Packing -- constitute reasonably diligent attempts to find work during the interim period.

The testimony and payroll records reflect the following interim earnings at Gonzales Packing:^{173/} For the period ending 10/12/77 (\$184.93) which I have averaged on a daily basis (six days excluding Sunday).

The EDD printouts (RX 17, p. 30) also indicate earnings at

172. Respondent payroll records indicate Ms. Perez was employed through 12 September 1977. (GCX 1-X, Appendix 10.)

173. RX 46, Employee No. 1479, p. 18; RX 17, p. 30.

Esquivel for third quarter 1977 (\$65.97), and fourth quarter 1977 (\$188.32). ^{174/} As Ms. Perez returned to Respondent on 10/15/77, it would appear that the Esquivel earnings preceded the work at Gonzales Packing. However, there is insufficient evidence to attribute these entire wages to the backpay period in light of the witness' recollection of having worked only 2-3 days during the strike. I thus average the third quarter Esquivel earnings only for the period September 26 and 27. See discussions of Adela L. Perez, Maria Guadalupe Perez. (Appendix B-76.)

(83) RAMON C. PEREZ

A. Facts

Mr. Perez was fired from Crew #1 in September on the day following the stoppage. He entered the field at Huntington Ranch but was not allowed to work as the police were at the entrances and all the workers were told they were fired once they got inside.

Mr. Perez joined the strikers and the picket lines at San Ardo, Greenfield, King City and Soledad for approximately one month every day for the entire day. He received no money from the union.

Mr. Perez testified that he sought work by asking Esquivel and Meyer (at the fields and at the labor contractor's house at a labor camp near San Lucas) approximately three times per week. He also went to San Ardo about three times a week and to other areas including Gonzales Packing where he spoke to a foreman on three

174. RX 17, p. 30.

occasions. Mr. Perez claimed approximately \$25 per week for gasoline expenses in looking for work. He denied that other family members gave him money towards gasoline.

Mr. Perez obtained work at Gonzales Packing for approximately one week and at Esquivel for (he believed) 2-3 days. He believed he earned approximately \$25-\$30 per day, but could not recall the dates.

B. Analysis and Conclusions

Mr. Perez' description of the events of September 12 and 13 entitles him to be included among the discriminatees.^{175/} I also find his efforts to seek interim employment to have been reasonably diligent. The payroll records from Gonzales Packing reflect earnings of \$275.28 for the week ending 10/13/77.^{176/} I have averaged these earnings on a daily basis (six days excluding Sunday).

The EDD printouts (RX 17, p. 82) also reflect earnings at Esquivel of \$104.32 for the third quarter of 1977 and \$263.57 for the fourth quarter of 1977 which I have averaged daily only for the period September 26 through September 28, similar to the calculations for his wife Clementina Perez, and other family members Adela L. Perez and Maria Guadalupe Perez.

I recommend Mr. Perez be awarded expenses for gasoline in looking for work of \$25 per week for 3.5 weeks (\$87.50). (See

175. Respondent's payroll records indicate Mr. Perez was employed through 12 September and returned at the end of the strike on 10/15/77 (GCX 1-X, Appendix 10).

176. See RX 33; RX 17, p. 82; RX 46, p. 18, Employee #1482.

(84) MARGARITO CHAVEZ

A. Facts

Mr. Chavez worked in Crew #4 until fired around "August" 1977. He worked approximately one hour on the previous day -- when the stoppage took place. He quoted Frances Arroyo as stating, "If you don't want to work, you can get out". (R.T. Vol. XII, P. 48, 1777 11. 5-18.)^{177/}

Mr. Chavez went to the picket line for approximately two months for some 6-8 hours per day. He also looked for work hut was unable to find same during the strike. He did not refuse any work during this period.

Chavez detailed his efforts to seek work as follows: He did not have a car and would get a ride from his uncle or would ask friends (naming Gonzalo Barrigan) in town. He asked for work in Soledad and Greenfield identifying Nino Garcia, Pascual Lemus, Tito Orquitez, and a grape rancher. He stated that he was willing to do any type of work even though he only had experience picking tomatoes and dried chiles.

B. Analysis and Conclusions

Pertinent payroll records confirming Mr. Chavez' employment with Respondent through September 12, 1977, with return on 15

177. Respondent payroll records indicate that Mr. Chavez was employed through 12 September 1977. (GCX 1-X, Appendix 10.)

October 1977, coupled with Mr. Chavez' description of the events surrounding the firing support his claim to be included among the discriminatees. I find his efforts to seek work -- by asking in Soledad and Greenfield, and naming three labor contractors as well as a grape rancher, in addition to asking friends in town -- reflected reasonable diligence even though he was unable to provide any greater detail. I thus recommend that Mr. Chavez be awarded backpay for the entire period. (See Appendix B-78.)

(85) ANTONIO ANDALON

A. Facts

Mr. Andalon testified that he was fired from Respondent's employ in July or August 1977 after having worked in Crew #3. He reported to work near the Oasis at approximately 7:00 a.m. on the day he was fired. He worked approximately two hours at a field near the packing shed and was fired because other co-workers were fired and because of the work stoppages. Andalon recalled Frances saying that the co-workers were fired and that if the others didn't like it they were also fired (R.T. Vol. XII, p. 69, ll. 5-11).^{178/}

Andalon looked for work every day at several places including Gonzales for work in the grapes ("the vineyards") and strawberries; Salinas (grapes or strawberries); and Greenfield (in the chiles with labor contractor Jose Lopez). He was unable to approximate the dates on which he sought work at these places.

178. Respondent payroll records reflect that Mr. Andalon was employed through 12 September 1977 (GCX 1-X, Appendix 11).

Mr. Andalon denied working during the interim period. He claimed gasoline expenses of \$7-8 for every two days in looking for work from his home in Chualar. He stated that he usually went with his brother Miguel Andalon in a car owned by both. Miguel Andalon did not contribute to the gasoline.

B. Analysis and Conclusions

Apparently Mr. Andalon confused the events of the work stoppage of September 12 with the firing of September 13. However, Respondent's payroll records establish his employment with O. P. Murphy at least through 12 September, and I find his description of the firing sufficiently precise to support his inclusion among the discriminatees.

Andalon's daily efforts to seek work -- in the grapes, strawberries, and chiles -- I find constitute reasonable diligence even though he was unsuccessful in these efforts.

I further recommend that Mr. Andalon be reimbursed for gasoline expenses of \$7.50 per day for 14 days (\$105.00).^{179/} (See Appendix B-79.)

(86) ISIDRO C. PUENTE

A. Facts

Mr. Puente testified that he was fired by O. P. Murphy in

179. Although each Andalon brother denied that the other contributed toward gasoline expenses, I have awarded reimbursement as they apparently made at least some individual efforts to seek work. (See R.T. Vol. XII, 11. 73-74.) I note also that the total gasoline expense of the Andalon family is less than \$25.00/week for the period in question.

September 1977 at the Huntington Farms Ranch. He believed he worked for two hours on the day of the firing, stating that there was a stoppage because the workers asked for a salary increase.^{180/}

He was on strike for two weeks, going to the picket line every day for the entire day until he found work as Esquivel. Puente denied receiving money from the union. Mr. Puente picked tomatoes for Esquivel on piece rate during the strike for 7-8 days, and earned roughly \$25-30 per day.

He sought work as follows: He asked friends (whose names he did not recall) who were working in the tomatoes in Soledad; he looked around the areas of Soledad, King City (Meyer), Greenfield (4-5 times per week), and Gonzales (approximately 2-3 times per week in the tomatoes -- Gonzales Packing). He denied refusing work during this period.

Mr. Puente claimed gasoline expenses of \$5 per week in looking for work. On further examination Mr. Puente stated that one-half of the \$5 per week was spent driving to the picket line. He did not own a car and would ride with others.

B. Analysis and Conclusions

While Mr. Puente has also apparently confused the events of the work stoppage with those of the subsequent day, I find that his testimony in conjunction with Respondent's payroll records establishing his employment at least through 12 September 1977 (with return on 15 October 1977) are sufficient to include him among the discriminatees. His efforts to find work (some four times weekly)

180. Respondent payroll records indicate that Mr. Puente worked through 12 September 1977 (GCX 1-X, Appendix 10).

amply entitle him to backpay for the entire period.

I have computed the interim earnings at Esquivel (of 7-8 days) at \$25-30 per day for the period October 1 through October 10.

I recommend Mr. Puente be reimbursed for gasoline expenses of \$2.50 per week for 3.0 weeks (\$7.50). (See Appendix B-80.)

(87) PEDRO GONZALES

A. Facts

Mr. Gonzales claimed that he was fired from Respondent in 1977 the day following the work stoppage. He reported for work at a field near the packing shed and began to work, but was told to stop by Frances Arroyo.^{181/}

Mr. Gonzales joined the strike against the company, attending the picket line in San Ardo (two times), Greenfield, and Soledad every day for approximately two weeks. He would arrive at about 10:00 a.m. after having looked for work in the morning. Gonzales denied receiving any money from the union.

Mr. Gonzales sought work by asking friends and acquaintances wherever he could find crews working around Soledad and Greenfield (in thinning and hoeing). He could not recall names, dates or places.

He obtained work at Gonzales Packing through a foreman and at Paul Masson through the office. He worked 1-2 weeks at Gonzales Packing earning approximately \$200. He could not recall the precise

181. Respondent payroll records establish Mr. Gonzales employment through 12 September 1977 (GCX 1-X, Appendix 11).

dates he worked at Paul Masson.

Mr. Gonzales claimed gasoline expenses of \$4 per week (which he paid to friends) in looking for work for two weeks.

B. Analysis and Conclusions

Mr. Gonzales' testimony plus payroll records indicating his employment through 12 September 1977 qualify him for inclusion among the discriminatees. His efforts to seek work -- asking friends and acquaintances, as well as speaking with crews working around Soledad and Greenfield -- are sufficient to establish reasonable diligence during the limited period he was without pay.

Relevant payroll records indicate employment at Paul Masson for the week ending 10/13/77 (10.5 hours at \$73.91) and 10/20/77 (40.70 hours at \$307.99). I have averaged these earnings daily for the period October 12, 13 and 14 (1/6 of \$307.99) -- on the assumption that they reflected continuous employment.

Additionally, I have averaged the \$210.50 earned at Gonzales Packing on a daily basis for the period September 29 through October 10 pursuant to General Counsel's recommendation (G. C. Brief, pp. 110-11) and Mr. Gonzales' testimony.

I recommend reimbursement for gasoline expenses of \$4 per week for 2.0 weeks (\$8.00). (See Appendix B-81.)

(88) JOSE LUIS ZAMUDIO

A. Facts

Mr. Zamudio testified that he worked for Respondent in 1977 and previously. He was fired in September 1977 when one crew made a

stoppage (as one worker was fired) and all the workers stopped.^{182/}

He believed he was in Crew #4 or #6 and the stoppage occurred in the fields across from the Oasis.

Zamudio attended the picket line every day for most of the day for a month (or more) going to San Ardo (twice) and to Greenfield, King City, Gonzales and Soledad. He recieved about \$10 from the union for gasoline.

He denied finding work during the strike although he looked by going to the union (2-3 days per week after picketing) in Salinas for dispatch in celery (Interharvest). He also checked with a labor contractor (Secundino) in Greenfield (tomatoes), with crews he could see from the road from Castroville (celery), and at flower nurseries in Chualar (Tawajira).

Mr. Zamudio requested 'gasoline expenses in seeking work of \$5-6 per day 2-3 times per week. (See R.T. Vol. XIII, P. 120, 11. 4-6; p. 126, 11. 24-28; p. 127, 11. 1-6; ?. 130, 11. 3-9.)

B. Analysis and Conclusions

Mr. Zamudio is clearly entitled to be included among the discriminatees. RX 13 and RX 18 indicate his return on 11 October which would extinguish the backpay period as of the latter date.

His efforts to seek work (after picketing) -- 2-3 days per week going to the union hiring hall in Salinas, checking with labor contractor in Gonzales, and with various crews from Castroville to Chualar -- demonstrate reasonable diligence.

182. All parties agree Mr. Zamudio was present on September 13 and returned October 11. (See Respondent Brief, p. 35; RX 9; GCX 1-X, Appendix 8.)

I shall recommend that he be reimbursed for gasoline expenses of \$5.50 per day for 2.5 days per week for four weeks (\$55.00). I have not deducted the \$10 received from the union as this money was apparently spent for gasoline expenses connected with picket line duty. (See Appendix B-82.)

(89) ERNESTO GONZALES

A. Facts

Mr. Gonzales worked for Respondent in 1977 under foreman Leandro Gonzales and was fired around September 10-12. On the day prior to the firing, he worked about 1½ hours across from the Oasis when there was a stoppage in support of fired co-worker "Salvador". He reported for work at 7:00 a.m. the next day but was not allowed to enter the fields as Frances said she didn't need the workers.

Gonzales went on strike and joined the picket line at San Ardo (two times), Greenfield (two times), King City (one day), and Soledad (about three weeks). Mr. Gonzales attended the picket line every day for approximately three weeks for some four hours and then would go look for work. He received \$20 from the union for gas.

Mr. Gonzalez sought work by asking friends working in other places if there were jobs available. He could not recall specific names or dates, but did specify labor contractors Nino Garcia (two times) and Vicente Martinez (three times). He would look 3-4 times per week for about three weeks until recalled to Paul Masson around the first of October.

Mr. Gonzales claimed to have earned approximately \$300-400

per week picking grapes at piece rate some five days per week at Paul Masson.

Mr. Gonzales requested reimbursement for gasloine expenses of \$7-8 per week for three weeks which sum he gave to his brother (Ricardo Gonzales)while they looked for work.

B. Analysis and Conclusions

Mr. Gonzales' description of the events surrounding the 13th of September and Respondent payroll records establishing his employment through 12 September 1977,^{183/} entitle him to inclusion among the discriminatees. His attempts to find work -- by asking friends, labor contractors and people working in the fields some 3-4 weeks for about three weeks -- demonstrate reasonable diligence.

Paul Masson payroll records reflect interim earnings of \$308.05 for the week ending 10/6/77 and \$417.46 for the week ending 10/13/77.^{184/} Additionally, General Counsel has conceded that Mr. Gonzales' interim earnings were equivalent to his expected O.P. Murphy earnings from 30 September (GCX 1-X, Appendix 6d). The EDD printouts (RX 17, p. 3) suggest there is no backpay owing following that date. I also recommend that he be reimbursed for gasoline expenses of \$7.50 per week for two weeks (\$15.00). (See Appendix B-83.)

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183. GCX 1-X, Appendix 11.

184. RX 36.

A. Facts

Mr. Alcantar picked tomatoes for Respondent in 1977 and believed he worked in Crew #2 until fired when the sheriffs and Francisca would not let the people in. On the previous day, he recalled that the workers protested the firing of co-worker "Salvador".^{185/}

Alcantar went on strike and joined the picket line every day for about one month. He denied receiving money from the union or working during the interim period. Mr. Alcantar sought work by asking friends (in the afternoons) who were working at Meyer Tomatoes, General Vineyards, and Maggio. He could not recall specific names and dates but would ask 2-3 times per week.

B. Analysis and Conclusions

Mr. Alcantar sufficiently detailed the events of 12 September and 13 September which, when coupled with payroll evidence establishing his employment through 12 September, entitle him to be included among the discriminatees. His efforts to seek work - by asking friends (who were working at other companies) some 2-3 times per week -- I find to be reasonably diligent for the limited period he was without employment. I recommend he be awarded backpay for the entire period. (See Appendix B-84.)

185. Respondent payroll records indicate Mr. Alcantar was employed through 12 September 1977 (GCX 1-X, Appendix 10).

A. Facts

Mr. Luna testified that he picked tomatoes for Respondent in 1977 in Crew \$3 but did not work the entire season because of the stoppage. On the day of the stoppage (September 12), Mr. Luna did not go to work as he was ill.^{186/} On the following day, he reported at 7:00 a.m. to a field nearby the packing shed in Soledad by a restaurant and gas station. The police officers and sheriffs and a woman -- Frances Murphy (sic) -- would not let the workers enter the field.

Luna participated in the strike about 15 days before being recalled to work in the grapes at General Vineyards. He worked some five days per week earning approximatley \$50 per day through the end of the strike.

While on strike, Mr. Luna sought work with Pascual Lemus in the chiles (two times), with Meyer Tomatoes (one time by asking friends who worked there); and at Gonzales by asking friends (Javier Trujillo) on two occasions. He conceded going to the picket line for most of the day.

B. Analysis and Conclusions

Although Mr. Luna admitted his absence on 12 September (because he was ill) his testimony establishes that he was present on 13 September and I recommend that he be included among the discriminatees. His efforts to seek work -- specifying five

186. Respondent payroll records reflect Mr. Luna's employment through 10 September 1977 (GCX 1-X, Appendix 9).

different attempts -- I find to be reasonable for the limited period he was without employment (approximately three weeks), particularly in light of his interim earnings at General Vineyards. In the latter regard, I have itemized the wages pursuant to General Vineyards payroll records as follows (RX 40): Wednesday, October 5 - 9 hours at \$3.50 (\$31.50); Thursday, October 6 - 7.5 hours at \$3.50 (\$26.25); Friday, October 7-9 hours at \$3.50 (\$31.50); Saturday, October 8-7.5 hours at \$3.50 (\$26.25); Monday, October 10 - 10 hours at \$3.90 (\$50.70); Tuesday, October 11 - 8.5 hours at \$3.90 (\$33.15); Wednesday, October 12 - 10 hours at \$3.90 and 2.5 hours at \$5.85 (\$53.62); Thursday, October 13 - 10 hours at \$3.90 and 1 hour at \$5.85 (\$44.85); and Friday October 14 - 10 hours at \$3.90 (\$39.00). (See Appendix B-85.)

(92) AURELIA GARCIA de CHAVEZ

A. Facts

Ms. Chavez testified that she picked tomatoes for Respondent in 1977 with relatives Merced P. Chavez, Guadalupe Chavez, and her husband Rafael P. Chavez in Crew #1 under foreman Bonifacio Galvan. She did not work the entire season because of the strike in September. She recalled the stoppage on the previous day and then reporting to work but was not allowed to enter the fields (Huntington).

Ms. Chavez participated in the strike by going in the mornings and some afternoons. She did not work but sought employment as follows: She went with, her husband and recalled going

to Gonzales (tomatoes) and to Esquivel (fields). She could not recall any other companies by name, but said she looked in the tomatoes and would have worked in other crops if work was available.

B. Analysis and Conclusions

Ms. Chavez' memory of the events of September 12 and 13 was poor. Respondent payroll records indicate she last worked for Respondent for approximately 11 hours during the week ending 9/7/77.^{187/} While she testified to having her own picker card each day, no such card was produced for 12 September 1977. Her husband (Rafael P. Chavez) did not specifically include her among the workers fired on 13 September. (See R.T. Vol. XIII/ p. 65, 11. 15-27.) I thus conclude that Ms. Chavez was not among the discriminatees.

If she were to be included, I find her efforts to seek interim employment -- accompanying her husband to Gonzales and Esquivel -- and other companies whose names she could not recall -- to be sufficiently diligent to merit an award of backpay for the entire period.

(93) RAFAEL P. CHAVEZ

A. Facts

Mr. Chavez stated that he picked tomatoes for Respondent in 1977 but did not finish the entire season because Frances stopped the workers. He recalled that the stoppage occurred on September 12

187. See RX 18.

at Huntington Ranch, near Soledad across from the Oasis Restaurant. He denied working on the day following the stoppage because the police officers, Frances, and "Mike" would not allow the workers to enter the fields. He identified relatives Aurelia Chavez (sister), Guadalupe Chavez (father), Merced Pantoja (mother) and Aurelia Garcia Chavez (wife) as co-workers at Respondent. He also indicated that there were other workers named Rafael Chavez with Respondent in 1977, but only he used the "P" as a middle initial.

Mr. Chavez participated in the strike by attending the picket line at 6:30 a.m. for approximately 4-5 weeks. He hoped to return to work at Respondent, as Frances indicated that they would be able to return in a day or two.

When shown RX 8 (time card for 13 September 1977) Mr. Chavez denied working that date.^{188/} He stated that checkers would fill out the cards and the worker would carry them over to another person.

Mr. Chavez denied finding interim employment, but stated that he sought work at Gonzales Packing (2-4 times), at Esquivel (7-8 times in San Ardo), and at Paul Masson (four times in the grapes).

They^{189/} would go out almost every day with his family and ask friends and co-workers. They would go sometimes around 9:00

188. Mr. Chavez indicated that another Rafael Chavez also was employed at OPM (see GCX 1-X, Appendix 5), although he utilized the middle initial "P" which was included on the time card in question.

189. His wife, Aurelia Garcia de Chavez, would accompany him, but Mr. Chavez was usually the one who asked for work.

a.m. and also in the afternoons (5:00-6:00 p.m.) -- to contractors' houses, including Pascual Lemus in Soledad, Tito Orquitez and Lupe Hernandez. He claimed gasoline expenses of \$5 every two days for 4-5 weeks.

Mr. Chavez denied receiving money from the union for gasoline but conceded driving to the picket line in San Ardo, King City, Greenfield, and Soledad from his residence at the Jimenez Camp in Soledad.

B. Analysis and Conclusions

Mr. Chavez testified in a sincere, straight-forward manner and had an excellent recollection of the events of 12 and 13 September. Although a time card bearing Mr. Chavez' name and employee number (see RX 8, 18) indicated that he worked through the afternoon of 13 September, Mr. Chavez steadfastly denied that he worked at all on the day of the firing. The Respondent payroll records reflect that Chavez last worked the week ending 14 September and did not return until the 'week ending 19 October -- a pattern that was consistent with that of the group of workers fired on the day of the 13th and not reinstated until the final days of the tomato harvest. Because there is apparently unexplained errata contained in the payroll sheet for Mr. Chavez for the week ending 14 September (RX 18; R.T. Vol. XVIII, pp. 111-114, 119-120), I am inclined to include him among the discriminatees similar to my treatment of family members Aurelia Chavez Pantoja, Guadalupe

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Chavez, and Merced P. Chavez.^{190/}

I further find his "almost daily" efforts to find work -- although unsuccessful -- to demonstrate ample diligence during the interim period.

I recommend he be reimbursed for a gasoline expenses of \$70 (14 days at \$5 per day). (See Appendix B-86.)

(94) JULIAN GONZALES

A. Facts

Mr. Gonzales claimed that he was fired in September 1977 from his tomato picking work with Respondent (Crew #3 or #4). The firing occurred across from the Oasis. On the preceding day, there had been a stoppage (for reasons which Mr. Gonzales could not recall), and he was not allowed to enter the fields because Mike and Frances said there was no more work.^{191/}

Mr. Gonzales remained on strike for 3-4 weeks, going to the picket line for 5-6 hours per day. He would arrive at 7:00 a.m. and leave about 12:00 noon. He did not recall working during the strike. Mr. Gonzales asked friends (some of whom were employed at Meyer Tomatoes) for work. He also went to the fields in Greenfield

190. GCX 2 merely corroborates that employee \$613 worked 2.5 hours on September 13. Since the witness specifically denied working or being paid on the day of the discharges, I conclude that it is more likely than not that Mr. Chavez was among the group fired and did not work on 13 September.

191. Respondent payroll records indicate Mr. Gonzales was employed through 10 September 1977 and returned on 17 October 1977 (GCX 1-X, Appendix 8).

and King City to speak with workers, but he could not recall how often or give specific locations. He would make these efforts in the afternoon at about 2:00-3:00 p.m., some 3-5 days per week. His brother Cervando would drive the car but the witness denied giving the latter any money for gasoline.

B. Analysis and Conclusions

Although not appearing on Respondent's payroll for September 12, Mr. Gonzales sufficiently described the events surrounding the firing of 13 September to be included among the discriminatees. Additionally, documentary evidence corroborates his employment at least through 10 September. His efforts to seek work -- by asking friends and going to the fields in King City and Greenfield in the afternoons some 3-5 times per week -- I find to be sufficiently diligent to entitle him to backpay for the entire period. (See Appendix B-87.)

(95) DELFINA M. HERNANDEZ

A. Facts

Ms. Hernandez testified that she picked tomatoes for Respondent in 1977 in Crew #3. She did not work the entire season because of the strike. On the first day of the strike, Ms. Hernandez reported for work at her usual time (7:00 a.m.), and worked approximately three hours in a field across from the Oasis. A co-worker was fired, and the people stopped. On the next day, Frances said "There's no work for you guys anymore". (R.T. Vol. XIV, P. 19, 11. 22-26.) On cross-examination, Ms. Hernandez

recalled her co-workers stating that all had been fired.

Ms. Hernandez participated in the strike for approximately one month reporting to the picket line at 6:00 a.m., about four times per week. Ms. Hernandez would leave at 9:00 a.m. to look for work with other companies (in the tomatoes). On occasion she went with her friend Margarita Hernandez. She named Meyer Tomatoes (several times), Gonzales Packing (four times), and Esquivel (many times). She was unable to find work until the strike was over (in late October).

When confronted with GCX 2 (Respondent payroll records) which indicated Ms. Hernandez last worked 8 September, the witness insisted that she went on strike, and was present on the day of the firing.

B. Analysis and Conclusions

Although not appearing on Respondent's payroll following September 8, I credit Ms. Hernandez' recollection of the events surrounding the firing and work stoppage and her fairly precise, straight-forward responses to examination. I would thus include her among the discriminatees. I find also that her efforts to seek work some four times per week in the mornings constitute reasonable diligence which entitle her to backpay for the entire period. (See Appendix B-88.)

(96) GUILLERMO GONZALES

A. Facts

Mr. Gonzales testified that he picked tomatoes for

Respondent in 1977 in Crew #3 or 14 with foreman Roberto and was working at Huntington field in Soledad on the day that the strike started.^{192/} On that day, he reported at his customary hour of 3:00 a.m., and worked approximately 2-3 hours until the stoppage which occurred because the workers wanted a raise and the general forewoman (Francisca) wanted the job to be done extremely clean. The next day, Mr. Gonzales reported for work, worked approximately 1½ hours, but was informed that the company would not pay anymore. If people did not work, they were to leave the fields. As this was Mr. Gonzales' first season in Soledad, he did not recall the names of any co-workers.

Mr. Gonzales denied attending the picket line stating that he needed to look for work. He sought employment with labor contractors Nino Garcia, Tito Orquitez, and Azcona (at the offices and the fields). He obtained work with Esquivel approximately 14 days after the start of the strike, earning between \$1,000-1,200 (piece rate) for 3-4 weeks of work. He recalled earning approximately \$160-165 for the first week (three days) of work; \$240-250 for the second week; \$290-310 for the third week.

Mr. Gonzales claimed gasoline expenses of \$2.00 per day which he gave to a person who gave him a ride to look for work.

B. Analysis and Conclusions

While Mr. Gonzales appeared to sincerely respond to the examination at hearing, there is no corroborating evidence -- either

192. Although Mr. Gonzales used the same name and social security number given at the hearing, and worked under his own picking car, he does not appear on any of Respondent's 'payroll records. (See GCX 2.)

through payroll information or identification by other co-workers -- which establishes his presence on 13 September or, indeed, at any time during Respondent's 1977 tomato harvest.^{193/} I conclude that General Counsel has not met its burden of proving that this witness should be included among the discriminatees. Should a contrary finding be made, I would find his efforts to seek work (by asking various labor contractors) to be reasonably diligent particularly in light of his interim employment with Esquivel some two weeks after the commencement of the strike. Net backpay would of course take into account these Esquivel earnings itemized for a five-day week (excluding Saturdays and Sundays) as per General Counsel's recommendation (see General Counsel Brief, p. 61). In said event, I would also recommend Mr. Gonzales be reimbursed for gasoline expenses of 52 'per day times 10 days (\$20). (See ALOX 96.)

(97) GREGORIO GONZALES

A. Facts

Mr. Gonzales testified that he was fired from O. P. Murphy in September 1977, All the workers stopped in the fields near the Oasis to protest for more money and better benefits. On the following day, Gonzales reported to work but was told by Frances that there was not any more work and that the workers were, all

193. It is this complete absence of any documentation linking Mr. Gonzales to OPM, and/or a plausible explanation for the lack of same, as well as the lack of corroborative witness(es) which lead me to distinguish his situation from that of other witnesses -- e.g., Delfina Hernandez, David Aguilera Hernandez.

fired. (R.T. Vol. XIV, p. 65, 11. 19-21.) He was near the tracks at the Oasis at the entrance to the field with the rest of his crew when he heard Frances fire the workers.

The strike lasted four weeks and Mr. Gonzales went to the picket line every day for the entire day. He denied finding employment during the strike, but recalled working for approximately two weeks in a tomato company near King City sometime after his cousin Cervando Gonzales found such work. He earned less than his cousin.

Mr. Gonzales sought work as follows: He went to fields such as Gonzales Packing and Meyer Tomatoes, and spoke to foremen. He also looked in Salinas -- in all seeking work some 3-4 times per week with relatives Guadalupe and Cipriano Ozuna.

B. Analysis and Conclusions

Mr. Gonzales' recollection of the events surrounding the firing and Respondent's payroll records indicating his employment through 12 September with return on October 17^{194/} are sufficient to include him among the discriminatees. He also made reasonably diligent efforts to find work -- some 3-4 times per week by going to the fields, and speaking to foremen from King City to Salinas.

Although Mr. Gonzales recalled working with his cousin Cervando, he did not recall the company, and stated that he started later than his cousin and that the latter earned more since he was a better picker. Since there is no other evidence in the record regarding these alleged interim earnings, I do not find sufficient

194. GCX 1-X, Appendix 10.

information to make any deductions from the backpay due. (See Appendix B-89.)

(98) RAFAEL ZAVALA

A. Facts

Mr. Zavala testified that he picked tomatoes for Respondent in 1977 (Crew #2 with foreman Leandro Gonzales) but did not finish the season because of a work stoppage in September. His wife Adela Zavala also worked with him in the same crew and was present on the day of the stoppage and the firing. On the day following the stoppage, he reported for work between 6:30-7:00 a.m. at the Oasis beside the railroad tracks, but was told he could not enter the fields by Francisca.

Mr. Zavala attended the picket line for approximately one week before finding work at Gonzales Packing which he obtained by going to the packing shed and asking if they needed more workers. He made no other efforts to find work during the week that he participated in the strike as he had hoped to return to Respondent. He worked at Gonzales Packing about 10 days but could not recall his earnings. He was paid piece rate and believed he was earning more or less the same as with O. P. Murphy -- approximately \$60 per day. He returned to O. P. Murphy at the end of the strike (on 10/15/77)^{195/} Mrs. Zavala also worked at Gonzales Packing but only for some three days. As she only worked toward the latter portion

195. See GCX 1-X, Appendix 10.

of his employment, the Zavala's worked under Mr. Zavala's name alone.

After leaving Gonzales Packing, Mr. Zavala checked at the union office in King City and Salinas for other work -- in the strawberries, or thinning and hoeing -- and also checked with Tony Guzman. He recalled being unemployed for approximately 5-7 days between his last day at Gonzales Packing and his return to Respondent.

B. Analysis and Conclusions

All parties concede Mr. Zavala's presence on 13 September (see Respondent's Brief, p. 37; RX 9.) His testimony entitles him to be included among the discriminatees.

Although he did not seek work during the first week of the strike (because he hoped to return to Respondent) I find that his efforts to mitigate damages under the circumstances to be reasonably diligent since he began working with Gonzales Packing within two weeks from the commencement of the strike. Additionally, co-workers of Mr. Zavala shared the latter's expectation of returning to OPM, which does not seem unreasonable for this very limited time period (one week), particularly in view of the indications from company representatives that at least some employees would be invited back (see 5 ALRB No. 63, supra, p. 19). I have itemized his interim earnings pursuant to the payroll records provided:^{196/} For week ending 9/28/77 (\$108.55); for week ending 10/5/77 (\$351.65); for week ending 10/12/77 (\$495.63). For the interim earnings of 10/6 to

196. RX 33; RX 46, p. 20, p. 17, p. 16 (Employee #1416).

10/12, I have divided the total by two to reflect the joint efforts of Mr. and Mrs. Zavala. I have averaged the earnings daily, six: days per week (excluding Sundays). For the week ending 9/28/77, I have attributed the wages to 9/27 and 9/28 to more closely approximate an "average" daily earnings. (See General Counsel Brief, p. 285.)

Although there are earnings at Esquivel of \$131.30 for the third quarter 1977 reflected in the EDD printouts (RX 17, p. 93), I find insufficient evidence to attribute these earnings to the relevant backpay period -- commencing 9/13/77, as they encompass the entire quarter from 1 July through September 1977. As Mr. Zavala made no reference to such earnings, I find Respondent has failed to meet its burden in this regard and will not include them in the daily calculations. (See Appendix B-90.)

(99) ADELA C. ZAVALA

A. Facts

Mrs. Zavala worked for Respondent in 1977 picking tomatoes in Crew 13 or #4 but did not finish the season because of a stoppage which took place in September near the Oasis in Soledad. She worked approximately three hours and the workers stopped because a co-worker (Clementina) was fired and the company started deducting buckets. She reported to work the next day but Frances Arroyo told the workers there was no more work. She did not work that day.

Mrs. Zavala participated in the strike for approximately one month going to the picket line every day until about noon. She

sought work with Tony Guzman (strawberries), with Azcona^{197/} in Greenfield (tomatoes), and with another labor contractor in Greenfield (chiles), as well as at Gonzales Packing (in the tomatoes). Sometimes she would go in the car (by herself); at other times she would go with her husband to look for work. At times her husband would go alone for the two of them. She estimated that she looked for work about three days per week. Mrs. Zavala did not recall working during the strike, but did say that she worked under her husband's name at Gonzales Packing for approximately three days. She believed that they each earned about \$30-40 per day.

B. Analysis and Conclusions

As all parties concede Mrs. Zavala's presence on 13 eptember,^{198/} Mrs. Zavala should be included among the discriminatees. She also made reasonable efforts to secure interim employment. I have itemized her earnings for the week ending 10/12/77 (6 days) pursuant to her testimony that she worked under her husband's (Rafael Zavala) name, along with the applicable payroll records which indicate Mr. Zavala's earnings., of \$495.63 for the week ending 12 October. (See Appendix B-91.)

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197. Mrs. Zavala conceded that she and other strikers tried to stop Azcona's crews from working in the tomatoes in San Ardo on one occasion.

198. RX 9; Respondent brief, p. 37.

A. Facts

Mr. Zavala stated that he picked tomatoes for Respondent in 1977. He did not work the entire season because the "company stopped the workers at the ranch in Soledad and did not want to give them anymore work". (R.T. Vol. XIV, p. 99, ll. 22-24.) He did not recall his crew number, but identified his sister Beatrice Zavala as a co-worker. He worked about two hours until the workers stopped because the company accused them of picking dirty and did not give full credit for all the buckets picked. The next day, Mr. Zavala reported for work but the company (Frances) would not give the employees any work.

Mr. Zavala participated in the strike for about one month, going to the picket line every day. He looked for work with Pascual Lemus (thinning and hoeing); Secundino Garcia in Greenfield (thinning and hoeing); and with crews that he saw working in the fields from Salinas to King City. He could not recall exact dates. He would check about three times per week but did not find any work during the strike.

Mr. Zavala claimed gasoline expenses of \$8 per day in looking for work. He conceded that he drove to picket lines at San Ardo and Greenfield from his Soledad residence, but recalled that his expenses were an additional \$2 per day in driving to these picket lines. He denied receiving any money from the union for gasoline.

B. Analysis and Conclusions

Although company records do not indicate Mr. Zavala having worked on 12 September, he adequately described the events surrounding the firing to be included among the discriminatees. Additionally, Respondent has placed him in Crew \$4 during the relevant season (RX 47). His efforts to find interim work were reasonable and although he did not recall interim earnings (3 days) 1997 at General Vineyards^{199/} I do not find this omission from his testimony sufficient to deny him backpay.

I have calculated the interim earnings as follows:

Thursday, October 6-7.5 hours at 33.50 for \$26.25; Friday, October 7 - 10 hours at \$3.90 for \$39.00; Saturday, October 8-9 hours at \$3.90 for \$35.10; Monday, October 10-2 hours at \$5.35 and 10 hours at \$3.90 for \$50.70; Tuesday, October 11, 8.5 hours at \$3.90 for \$33.15; Wednesday, October 12 - 3.5 hours at \$3.90 for \$13.65; Thursday, October 13 - 10 hours at \$3.90 and 1 hour at \$5.85 for \$44.85; Friday, October 14 - 10 hours at \$3.90 for \$39.00.

I also recommend that Mr. Zavala be reimbursed for gasoline expenses of \$8/three times per week for three weeks (\$72). (See Appendix B-92.)

(101) ARTURO JUAREZ MENDOZA

A. Facts

Mr. Juarez picked tomatoes for Respondent in 1977 and was

199. RX 50.

fired in September. He had worked for O. P. Murphy many years previously and showed up after the strawberry season. He believed he worked in Crew #4. On the day of the firing, the workers gathered in front of the Oasis at approximately 6:00-7:00 a.m. and wanted to go into work, but were not allowed as Frances Arroyo stood at the entrance.

Mr. Juarez joined the strike every day for approximately one month until the workers finished. He would then go out and look for work, but was unable to find same during the strike. He received money from the union of approximately \$50 per week for 4-5 weeks as did "everyone who was on strike".

Mr. Juarez stated that he went to look for work at Meyer and at Gonzales Packing. He went to Meyer approximately three times per week with others including the Vaca family and sought work at Esquivel (near King City) and at Fawler Company in Gonzales (an irrigating job). He also went to the Salinas union hall, but could not be more specific as to dates or places.

B. Analysis and Conclusions

All parties agree that Mr. Juarez was present on 13 September.^{200/} Mr. Juarez' testimony further supports his inclusion among the discriminatees.

His efforts to seek work in the afternoons after picketing (naming Gonzales Packing, Meyer, Esquivel, and Fawler) constitute reasonable diligence. I have not deducted the money received from the union pursuant to applicable NLRB precedent. See discussion of

200. Respondent's brief, p. 38; RX 9.

(102) AGUSTIN GARIBAY

A. Facts

Mr. Garibay testified that he worked part of the 1977 season for Respondent until fired in September when the sheriffs arrived and did not allow the workers to enter the fields. He could not recall his crew number but stated that his foreman was Leandro. On the day before the firing there was a stoppage and he only worked about three hours.^{201/} On the next day, he reported to work but did not work as he was not allowed to enter the field.

Mr. Garibay found work with Meyer Tomatoes on approximately 28 September and his interim earnings are reflected in GCX 1-X, Appendix 6i. Garibay detailed his efforts to seek work as follows: He went to the union office and to Meyer Tomatoes in King City (every day) as well as to Salinas, to a lady named Maria who was working with machines (red tomatoes) and wherever he would see people working. Mr. Garibay received approximately \$50 from the union for expenses which money he utilized for gasoline.

Mr. Garibay claimed gasoline expenses of approximately \$10 per day for two weeks. However, he conceded that family members (father Agustin Garibay Ruiz, mother Josefina Garibay Ceja, sisters Maria de los Angeles Garibay and Teresa Garibay, brothers Alejandro

201. All parties agree that Mr. Garibay was present on September 12 (R.T. Vol. XV, p. 33, 11. 4-8; GCX 1-x, Appendix 10).

Garibay, Francisco Garibay, and cousin Rafael Garibay (the latter two of whom did not always contribute to the gasoline expenses)) also contributed equally to this expense. Mr. Garibay stated that perhaps one-half as much of his money for gasoline went for seeking work as for driving to the picket line, but he could not approximate how much he paid out of his pocket for gasoline expenses in seeking work.

B. Analysis and Conclusions

Mr. Garibay's testimony and pertinent payroll records establishing his employment with Respondent through 12 September (with return on 15 October 1977) are sufficient to include him among the discriminatees. His efforts to find work -- by going to the union office, to various fields and crews along the highway, and to a contractor -- are sufficient to mitigate his losses. I have calculated interim earnings (averaged daily) pursuant to General Counsel's specification (GCX 1-X, Appendix 6i; GC Brief, p. 88; RX 38) as follows: \$31.00 for week ending 9/28; \$324.15 for week ending 10/5; \$215.53 for week ending 10/12. I have also credited to October 13 and 14 the earnings for the week ending 10/19 in light of Respondent's payroll records which reflect that Mr. Garibay returned to O. P. Murphy on 15 October. Thus, interim earnings total \$657.78.

I also recommend Mr. Garibay be reimbursed for gasoline according to his testimony: \$10 per day for 14 days (\$140.00) times 2/3 (the percent spent looking for work) times 1/6 (Mr. Garibay's share of the family expense) for a total of \$15.55. (See Appendix B-94.)

A. Facts

Mr. Sanchez started working for Respondent with his wife Maria toward the end of August 1977 and worked approximately two weeks until the stoppage. Mr. Sanchez claimed that he was fired after the stoppage and protest during which the workers worked about two hours and then were not allowed to enter the fields (in front of the Oasis) on the subsequent day.

Mr. Sanchez reported to the picket line for approximately 5-6 weeks -- until he began working for Paul Masson.^{202/} He worked six days per week Monday through Saturday at Paul Masson.

Mr. Sanchez went to the picket line every day for the entire day, to San Ardo, Greenfield, King City and Soledad. He received approximately \$100-150 from the union which money he spent on gasoline which cost him approximately \$8-9 per day. On further examination, he stated that his expenses in looking for work included gasoline of \$10-12 per week for 2½ weeks.^{203/}

Sanchez sought work with labor contractors Tito Orquitez (5-6 times), Pascual Lemus in the lettuce and thinning (4-5 times), and other contractors or crews that he saw working in the fields.

202. General Counsel stipulated that this work commenced the week ending 29 September 1977 (R.T. Vol. XV, p. 45, 11. 23-25).

203. Mr. Sanchez claimed that the union money went for driving to the picket line, but upon further examination by Respondent's attorney, he conceded that he would seek work after leaving the picket line and utilize at least some of the gasoline he purchased from the union money. But cf. R.T. Vol. XV, p. 50, 11. 13-17, wherein Mr. Sanchez claims that the money from the union was not spent on gasoline used to seek employment.

He would go every day to speak with various contractors after leaving the picket line because his family was "greatly in need of money".

Mr. Sanchez conceded being overnight in jail during the strike period.

B. Analysis and Conclusions

Mr. Sanchez' testimony and the documentary evidence amply support his claim to be included among the discriminatees.^{204/}

His daily efforts to seek work after picket line duties -- through labor contractors Orquitez, Lemus, and others that he saw -- I find to be satisfactory indicia of reasonable diligence.

I have calculated interim earnings (averaged daily, excluding Sundays) pursuant to General Counsel's brief (p. 200) and payroll information from Paul Masson (RX 36) which indicate employment of 1.1 hours for week ending 9/29 (\$4.51); 59.1 hours for week ending 10/6/77 (\$260.60); 47 hours for week ending 10/13/77 (\$347.58); and 41 hours for week ending 10/20/77 (\$322.96).^{205/}

Although the EDD printouts (RX 17/ p. 59) indicate earnings at Esquivel (\$553.90) for third quarter 1977, it is impossible to attribute these wages to the relevant period e.g. -- 9/13 through 9/29 -- without further information, as they could well be attributable to the period prior to his employment with Respondent (i.e., for July through late August). As Respondent has not met its

204. All parties concede Mr. Sanchez' presence on September 13 (RX 9; Respondent brief, p. 38).

205. I have attributed 1/6 of these latter earnings to 10/14/77.

burden of proof with respect to the Esquivel earnings, I shall not deduct them from the backpay owing. Further, there is insufficient evidence to attribute Mr. Sanchez' overnight stay in jail and/or unavailability for work to any given day during the backpay period.

Finally, I recommend Mr. Sanchez be reimbursed for gasoline expenses of \$11 per week for 2.0 weeks (\$22.00). (See Appendix B-95.)

(104) MARIA LUZ SANCHEZ

A. Facts

Mrs. Sanchez claimed she was fired after the stoppage and the protest which occurred because the company would not negotiate in good faith. On the day following the stoppage, she reported to the field in front of the Oasis in Soledad but the company would not "hire" workers and sheriffs were present.

Mrs. Sanchez worked the same days as her husband (during the strike) at Paul Masson. She sought work as follows: After leaving the picket line, she and her husband would go in the afternoons and evenings to speak to labor contractors, including Pascual Lemus (several times) and Tito Orquitez. She could not recall specific dates or times. She stated that she went to the picket line during the days that she was unemployed every day and received no money from the union except for gasoline.

B. Analysis and Conclusions

I do not believe that Mrs. Sanchez' failure to sign RX 9 to

be conclusive of her presence on 13 September.^{206/} She detailed the events of the firing and the stoppage of the previous day with sufficient specificity and clarity to be included among the discriminatees.

Respondent payroll records indicate her presence through 12 September 1977 (GCX 1-X, Appendix 11), and the corroborating testimony of her husband suggests that she is properly a discriminatee.

Mrs. Sanchez' efforts to find work with her husband were reasonably diligent as I have previously described.

I have calculated the interim earnings (averaged daily, excluding Sundays) from Paul Masson records (RX 36) as follows: 55.5 hours for week ending 10/6 (\$245.84); 44 hours for week ending 10/13 (\$335.28); 38 hours for week ending 10/20 (\$310.56). As she worked with her husband, I have attributed 1/6 of the latter wages to October 14.

Although the EDD printouts (RX 17, p. 17) indicate interim earnings at Esquivel of \$236.93 for the third quarter 1977, I am unable to attribute this sum to the balance of the backpay period (9/13-9/29) without further evidence as to when they were earned. (See Appendix B-96.)

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206. Obviously, many of the 150-250 employees who were discharged on September 13 did not sign the document which contains approximately 50 signatures.

A. Facts

Ms. Morales picked tomatoes for Respondent in 1977 and worked in Crew #4 until she was fired in September. She stated that she worked approximately two hours when fired by Frances while working at Huntington Ranch. The sheriffs arrived after the workers stopped. On the next day, Ms. Morales presented herself to work at 7:00 a.m. but did not work as she was not allowed to enter the fields.

Morales joined the picket line for approximately 2-5 hours per day but would also go look for work. She denied receiving any money from the union. Ms. Morales detailed her efforts to seek work as follows: She had heard from her sister-in-law that there would be work with contractor Lupe Hernandez in the tomato machines and went to speak with Mr. Hernandez about the third day after the strike started. She also sought work by checking with Meyer Tomatoes in King City at the office on one occasion, in Salinas with Tony Guzman (strawberries), and would check almost daily in the fields from Salinas to Soledad. She could not recall the names of any other companies or specific dates when she sought work.

Ms. Morales worked for Meyer Tomatoes under the name Celia Martinez at the end of September.^{207/} She obtained her work at Meyer through the union dispatch and believed about four other

207. General Counsel admitted her employment from 30 September through 15 October 1977. (See R.T. Vol. XVI, p. 6, 11. 15-17.)

workers from O. P. Murphy (the Garibays) also worked at Meyer.

B. Analysis and Conclusions

Although Ms. Morales apparently confused the events of 12 September (work stoppage) with those of 13 September (firing), I find that she has testified in sufficient detail and with apparent sincerity to be included among the discriminatees. Additionally, Respondent's payroll records reflect her employment through 12 September 1977. (GCX 1-X, Appendix 11.)

She sought work by checking almost daily with various companies and labor contractors and I find these efforts to demonstrate reasonable diligence on her part. I have deducted interim earnings at Meyer Company as follows:^{208/} 9/30 (\$31.35); 10/1 (\$22.75); 10/3 (\$33.15); 10/4 (\$42.25); 10/5 (\$44.35); 10/6 (\$31.85); 10/7 (\$32.50); 10/8 (\$33.05); 10/10 (\$35.75); 10/11 (\$40.63); 10/12 (\$41.93); 10/13 (\$38.03); 10/14 (\$21.70). (See General Counsel brief, p. 180; see Appendix B-97.)

(106) RICARDO M. HERNANDEZ

A. Facts

Mr. Hernandez testified that he was fired from Respondent's Crew #3 across from the Oasis. He worked about two hours when the people stopped working and the sheriffs arrived. On the next day he reported to the field at the regular starting time, but Frances told the people to stop and that they no longer had work. Hernandez did

208. RX 38.

not enter the field that day.

Mr. Hernandez joined the picket line in Greenfield (Arroyo Seco) on many occasions stating that he went daily (6:00 a.m. to 12:00 noon) for approximately one month except when he went to look for work. He received no money from the union.

Mr. Hernandez did not recall working during the strike and denied refusing work during this period.^{209/} He detailed his efforts to seek work as follows: He asked at Meyer Tomatoes (field), Gonzales Packing (field), and labor contractors (Esquivel and Azcona), but could not recall the dates, times or any other names.

Mr. Hernandez claimed gasoline expenses of \$3 per day, four days per week, for 4.5 weeks in seeking work driving between King City, Gonzales, and Salinas. He returned to Respondent at the end of the strike (October 17, 1977).

b. Analysis and Conclusions

Although Mr. Hernandez' recollection of the events of 13 September was somewhat murky, I find his testimony, coupled with the payroll records indicating his employment through 12 September 1977 with return on 17 October 1977 (GCX 1-X, Appendix 10) to be sufficiently precise to include him among the discriminatees.

While he could identify only Meyer and Gonzales Company, as well as "labor contractors" Esquivel and Azcona in describing his

209. Although Margarita Hernandez identified Mr. Hernandez as a co-worker at Esquivel during the backpay period, Mr. Hernandez could not recall such employment, and there is no corroborative documentation in this regard. There is thus insufficient evidence to include any sums as interim earnings for this discriminatee.

efforts to find work, I decline to find that Mr. Hernandez failed to mitigate his losses by virtue of the fact that he was unable to obtain work during the interim period. His efforts constituted a reasonably diligent effort to secure interim employment. I recommend that Mr. Hernandez be reimbursed for gasoline expenses in seeking work of \$3.00 per day for four days/week for 4.5 weeks (\$54.00). (See Appendix B-98.)

(107) JOSE T. C. CHAVEZ (TRINIDAD CHAVEZ)

A. Facts

Mr. Chavez picked tomatoes for Respondent in 1977 in Bonifacio Galvan's crew. He was fired on the day after the stoppage. He recognized his signature on the list presented to the workers by Frances Arroyo on 13 September (RX #9). Chavez denied entering the field that day but stated that he reported at 6:00 a.m. and Frances Arroyo told the workers that there was no more work.

Mr. Chavez joined the picket line for about one month and went daily, but could not recall the number of hours he would spend there per day. He received no money from the union for expenses.

Mr. Chavez sought work by asking at Frudden Company through contractor Esquivel and with Monterey Vineyards. He also asked friends in Greenfield, King City, and Gonzales looking for whatever work he might find. He would go alone or with a friend. Chavez could not be more specific with respect to names, places, or dates, but did recall that the work was in the tomatoes and chiles. Mr. Chavez conceded working approximately one-and-one-half weeks at

Monterey Vineyards as a tractor driver.

B. Analysis and Conclusions

Mr. Chavez' testimony and the documentary evidence indicating his presence on 13 September (RX 9) are sufficient to include him among the discriminatees.

His efforts to seek work by asking friends three to four times per week and going to the fields throughout the Salinas Valley area, as well as naming Frudden Company and Monterey Vineyards demonstrate reasonable diligence even though he could not precisely recall dates, places or names.

As Mr. Chavez recalled employment at Monterey Vineyards during the strike for some 1½ weeks (ALOX 107) and the EDD printouts reflect earnings of \$308.75 for fourth quarter 1977 (RX 17, p. 89), I have computed the "interims" (on a daily average) for 10 days, excluding Sundays from October 1 through October 12. (See Appendix B-99.)

(108) MIGUEL GONZALES

A. Facts

Mr. Gonzales testified that he worked for Respondent in 1977 picking tomatoes until the stoppage occurred when a co-worker was fired. He recalled this took place in front of the standard gas station across from the Oasis Restaurant. He stated that all the workers stopped and left the fields after having worked one-and-one-half to two hours. On the next day, Mr. Gonzales reported for work with his brothers Ricardo and Rene (his other

brother Ernesto rode with another friend). They were told along with all the other workers that they were fired, (by Frances Arroyo and Mike). Mr. Gonzales did not recall whether or not he worked on the Saturday or Friday before the Monday stoppage, but did recall working on Thursday, September 8.^{210/} He denied working on his brother's picking card, stating that he would pin his own card on his clothes in the mornings.

Mr. Gonzales stated that the strike lasted about 3-4 weeks and that he went to the picket line daily until the (replacement) workers left. He received no money from the union for expenses.

Mr. Gonzales denied working during the strike, stating that he sought work by going with his brother (Ricardo) or a friend (Ruben Munoz) 2-3 days/week to King City, to labor contractors, to Basic (packing garlic), to General Vineyards, to Gonzales Packing, to Central (in the tomatoes), and to Soledad with labor contractor Jose Lopez (in the chiles). He was unable to find work.

B. Analysis and Conclusions

Although Respondent's payroll records substantiate Mr. Gonzales' employment only through 8 September and Mr. Gonzales' memory of events of September 12 and 13 was somewhat less than precise, I find sufficient evidence to include him among the discriminatees.^{211/} His recitation of numerous attempts to find

210. GCX 2 indicates Mr. Gonzales last worked for Respondent on 8 September.

211. His employment with Respondent was further corroborated by brother Rene Gonzales. (R.T. Vol. II, pp. 60-61.) I found Mr. Gonzales to be a sincere witness (with average recollection of the events in question), who attempted to respond to examination in a direct manner.

work -- through labor contractors and with various companies from King City to Gonzales -- entitle him to backpay for the entire period. (See Appendix B-101.)

(109) VENTURA LUNA

A. Facts

Mr. Luna stated that he picked tomatoes for Respondent in 1977 under foremen "Roberto" and "Casitas". He did not work the whole season because everyone was fired by forelady Frances in the fields near Soledad. Mr. Luna worked for approximately 2-3 hours on the day of the firing until all the workers stopped because they were not getting a raise. On the next day, he reported to work, but the sheriffs were present and the gates were closed.

Mr. Luna stated that he participated in the strike on 2-3 occasions by going to meetings, but did not join the picket line. He went to look for work 2-3 times per week at several places including General Vineyards in Gonzales, Meyer Tomatoes in King City, Gonzales Packing, and D'Arrigo Brothers (by waiting for the buses in Salinas), and by going to other companies in Salinas (to the offices and to the buses).

Mr. Luna obtained work at Gonzales Packing during the interim period approximately 3 weeks after the strike started by speaking with friends including a foreman. However, he admitted that he could not recall the precise date on which he commenced

work.^{212/}

Mr. Luna claimed gasoline expenses of approximately \$30 per week -- \$20-25/week spent looking for work from his residence in Salinas. He denied receiving any money from the union for gasoline.

B. Analysis and Conclusions

Mr. Luna's testimony was sufficiently detailed to entitle him to inclusion among the discriminatees, particularly in light of Respondent payroll records indicating his employment at least through 10 September 1977 (GCX 1-X, Appendix 9). As he worked at Gonzales Packing for the major part of the strike and had looked at several other places for interim employment, I find that the discriminatee demonstrated reasonable diligence in mitigating his losses.

I have calculated Mr. Luna's interim earnings pursuant to the payroll records of Gonzales Packing and averaged them on a daily basis excluding Sundays:^{213/} For week ending 9/14/77 (\$167.05); for week ending 9/21/77 (\$260); for week ending 9/28/77 (\$176.15); for week ending 10/5/767 (\$376.68); for week ending 10/13/77 (\$352.95); and for week ending 10/19/77 (\$57.20) -- which I have attributed to 10/14 as Mr. Luna apparently had secured continuous employment at Gonzales Packing.^{214/}

212. Payroll records indicate Mr. Luna worked at Gonzales Packing for the week ending 9/14/77 (RX 46, p. 18, Employee #1371).

213. General Counsel conceded the Gonzales Packing employment for the week ending September 28 and the individual identified in the payroll records bears the same name and social security number as the discriminatee. (See R.T. Vol. XVI, p.71). Mr. Luna did not recall the precise dates.

214. RX 46, pp. 18, 19, 17, 15, 14, 3 -- Employee #1371.

As Mr. Luna found interim employment immediately following his discharge from Respondent, I recommend no reimbursement for gasoline expenses in seeking such work. (See Appendix B-101.)

(110) ANGEL RAMIREZ

A. Facts

Mr. Ramirez testified that he worked for Respondent under foreman Leandro in 1977. He stated that the stoppage occurred at approximately 10:00 a.m. and that he reported the next day as usual between 7:00 and 8:00 a.m. but did not work or go into the fields because the police and Frances were at the entrance.

Mr. Ramirez joined the strike after that date. He went to the picket lines on a daily basis, but also sought work as follows: He went in the mornings to Soledad to the main street and to the buses and pickups which would carry people to the fields; he asked foreman Lupe Hernandez (approximately four times) and a lady contractor by the name of Chelo (approximately four times) for work in front of the liquor store in downtown Salinas. He could not recall exact dates. Mr. Ramirez denied refusing work during the interim period, but spent a few days in Mexico between 1 October and 5 October. He also spent approximately 3 days in jail, but could not recall the precise dates, other than that it was prior to his trip to Mexico. He returned to work (surreptitiously) for Respondent on or about October 10, and worked October 10, 11, and 14 (RX 18).

B. Analysis and Conclusions

Mr. Ramirez' testimony and Respondent's payroll records reflecting his employment through 9/12/77^{215/} (with return on 10/10/77) entitle him to be included among the discriminatees. I find his morning ventures to the buses and contacts with various foremen and labor contractors to constitute reasonable diligence. I have excluded backpay for a three-day period (September 19, 20, 21)-- which dates most nearly coincide with the strike-related violence described in the underlying decision (see O. P. Murphy (1979) 5 ALRB No. 63; ALJD, pp. 70-71) -- while Mr. Luna was in jail, as well as October 1, 3, 4, and 5 when he was in Mexico, His return to O. P. Murphy on 10 October would extinguish backpay for the balance of the period. (See Appendix B-102.)

(111) FRANCISCO MENDEZ HINOJOSA

A. Facts

Mr. Mendez testified that he picked tomatoes for Respondent in 1977 under foreman "Gastritas". He did not work the whole season because of the strike in September. He recalled working a while in the morning for approximately 3-4 hours and the next day reporting to the fields by the railroad tracks in front of a restaurant in Soledad but not working because the police would not let the workers enter. On cross-examination Mr. Mendez recognized his signature on RX 9 and stated that he did not recall whether or not he worked on

215. GCX 1-X, Appendix 10.

the day after the stoppage.^{216/}

Mr. Mendez stated that he went to the picket line daily for approximately 2 weeks, but did not go on two occasions because he did not have a ride. During the third week, he went to seek work. He asked his brother for irrigating work at Arrow Company next to Chualar; he asked one time at Pik-D-Rite in the strawberries near Chualar; and he asked sharecropper Virgilio Sibaja for work. Mendez stated that he made no effort to seek work during the first two weeks of the strike because he hoped that he would get his job back with Respondent. Nobody in the company or the union indicated that he would have his job back, but co-workers (including Antonio Margarito) told him that it was a possibility. He did not ask anybody from the company for his job back during the first or second week and indicated that he arrived early to the picket line (7:00 a.m. to 8:00 a.m.) to try to stop people (replacements) from going to pick the tomatoes.

When shown time cards for September 30 and October 3, Mr. Mendez admitted that he worked with Respondent during the strike for some 8 days. He then decided to leave and immediately started working with Paul Masson where he was employed until the grape season was over. He stated that he earned approximately \$250-300 per week at Paul Masson but had earned more at O. P. Murphy. He obtained the work through Antonio Margarito who was in his crew.

B. Analysis and Conclusions

All parties conceded that Mr. Mendez was present on 13

216. GCX 2 indicates that Mr. Mendez worked 6½ hours on September 13. No time card, however, could be located.

September (RX 9; Respondent's Brief, p. 41). Respondent suggests, however, that he was not among the group fired and therefore is not entitled to any backpay. General Counsel recommends that Mr. Mendez be awarded backpay through 29 September (see G.C. Brief pp. 113-134).

I conclude that Mr. Mendez worked the afternoon of September 13, and returned to Respondent in the midst of the strike.

While he denied working on the day of the firing, I find that his testimony^{217/} and subsequent conduct more likely suggest that he was not among the group fired on 13 September. There is documentary evidence (GCX 2) to support this conclusion. I would thus exclude him from the group of discriminatees.

(112) ANGEL VILLAGOMEZ

A. Facts

Mr. Villagomez testified that he picked tomatoes for Respondent and worked 2 to 2½ hours on 12 September. He went out on strike joining the picket line and returned to work for 2-3 days at the end of the tomato season. He stated that the stoppage occurred because a co-worker was fired and Respondent, would not negotiate in good faith. The day following the stoppage, Mr. Villagomez reported at the usual time (between 6:30 and 7:00 a.m.) with Guadalupe and Fidel Alcantar but he was not allowed to enter as the police blocked the fields. Then all the workers gathered at the Oasis. Mr.

217. I found Mr. Mendez to have had a particularly faulty memory re the events in question.

Villagomez could not recall his crew number but believed he worked for foreman Leandro Gonzales.

Villagomez participated in the strike for about two weeks going to the picket line at times and at other times looking for work. He would go and ask crews working in the fields -- identifying Gonzales Packing (by the Topo Ranch close to King City); Paul Masson (to the office and to the field); and Oshita (on two occasions, the second of which he was hired).

Mr. Villagomez stated he was out of work for approximately two weeks, and then worked two weeks for Oshita before returning to work at O. P. Murphy. At Oshita he was paid hourly and earned approximately \$3.90 per hour (bunching spinach) for 5½ days per week usually 8-9 hours per day, but some days less. He believed he earned more when he worked at O. P. Murphy. Mr. Villagomez denied refusing any work during this period.

B. Analysis and Conclusions

Mr. Villagomez' testimony and Respondent records reflecting his employment through 12 September^{218/} amply support his claim to be included among the discriminatees. His efforts to seek interim employment were reasonable and I would recommend he be awarded backpay for the entire period.

As there is no documentation of interim earnings at Oshita, I have calculated the amounts pursuant to the witness' recollection of having earned \$3.90 per hour for 3 hours/day, 5½ days per week including 4 hours on Saturdays for the period commencing October 3.

218. GCX 6.

(See Appendix B-103.)

(113) IDOLINA MARTINEZ

A. Facts

Ms. Martinez testified that she was fired from Respondent the day after the stoppage. She reported for work but was not allowed to enter the fields.

She went to the picket line every day for the whole day, going to San Ardo, Greenfield, King City and Soledad from her residence in Soledad. She looked for work at the union office in Salinas and King City but could not recall dates. Ms. Martinez further detailed her efforts to seek work as follows: During the first week she went to the fields where crews were working from King City to Salinas. She could not recall names or dates. She stated that she drove her car and that her passenger was her sister Emma Martinez who contributed gasoline money on alternate days. She denied refusing work or receiving any money from the union.

She requested gasoline expenses of \$7 per day in looking for work, 2-3 days per week.

General Counsel has admitted that Ms. Martinez worked approximately two weeks at Paul Masson and that her interim expenses should include gasoline for approximately 2-3 weeks^{219/}

B. Analysis and Conclusions

All parties concede Ms. Martinez' presence on 13 September

219. See GCX 1-X, Appendix 6p.

(RX 9, Respondent Brief, p. 41) and she is clearly entitled to be considered among the discriminatees. I would find her efforts to seek work (along with those of her sister Emma Martinez) -- by going to the union office in King City and Salinas, as well as to the fields throughout the Salinas Valley area -- to constitute reasonable diligence regardless of her ability to more precisely recall names, dates and locations.

I have calculated her interim earnings from the data provided by RX 36 which indicates 43 hours worked for the week ending 10/6/77 (\$210.65); 48.5 hours for the week ending 10/13/77 (\$283.47); and 32 hours for the week ending 10/20/77 (\$184.31).^{220/} I have averaged these wages on a daily basis (6 days per week excluding Sundays) for a total interim wage of \$524.84.

I recommend Ms. Martinez be awarded gasoline expenses as requested -- \$7/day for 6 days (\$42.00). (See Appendix B-104.)

(114) EMMA MARTINEZ SANCHEZ

A. Facts

Ms. Martinez testified that she was fired in September after reporting to work. She did not recall her crew number, but worked with her sister Idolina while at O. P. Murphy. The police were at the entrance to the fields near the Oasis and Frances told the workers that they were all fired -- hollering these remarks from

220. I have divided the latter weekly total by 1/6 and attributed the day's earnings to October 14 on the assumption that Ms. Martinez' employment with Paul Masson was continuous.

the top of a truck.

Ms. Martinez stated that she went to the picket line every day for the entire day in San Ardo, Greenfield, Soledad and King City. She did not recall receiving any money from the union, but did recall receiving approximately \$10 on one occasion for gasoline which was utilized for driving to the picket line. She requested gasoline expenses of approximately \$6-7 per day (\$2 of which went to driving to the picket line) -- for contributions she made to her sister on alternate days during the 2-3 weeks she was without work.

Ms. Martinez detailed her efforts to find work as follows: She went to crews in the fields in the Salinas Valley area (around Greenfield, Soledad and Gonzales) naming Gonzales Packing (near Arroyo Seco) and Merrill Farms in Soledad. She could not recall any dates or be more specific with respect to locations, but did remember that some of the work involved thinning and hoeing (grapes and tomatoes). She also went to the union in King City and in Salinas to seek work. She would look for work with her sister in the latter's car. Both Idolina Martinez and Emma Martinez obtained work at Paul Masson on the same day.

B. Analysis and Conclusions

Ms. Martinez is entitled to inclusion among the discriminatees.^{221/} I find that she has also been reasonably diligent in seeking interim employment. With respect to earnings at Paul Masson, I have calculated daily averages (6 days per week excluding Sundays) from the payroll data provided by RX 36: 47.1

221. All parties concede her presence on 13 September (Respondent Brief p. 41).

hours for week ending 10/6/77 (\$227.46); 46.0 hours for week ending 10/13/77 (\$269.60); 38.0 hours for week ending 10/20/77 (\$282.37).^{222/}

I recommend Ms. Martinez be reimbursed for gasoline expenses of \$4.50 per day times 6.0 days (\$26.00). (See Appendix B-105.)

X. CONCLUSION

Respondent's obligation to make whole its employees for all losses sustained as a result of Respondent's refusal to bargain shall be discharged by the payment of the amounts identified in Appendix A, plus interest at the rate of 7% per annum until the Board's supplemental decision in this regard, and thereafter in accordance with the formula set forth in Lu-Ette Farms (1982) 8 ALRB No. 55.

Respondent's obligation to make whole the agricultural employees discriminatorily fired on 13 September 1977 shall be discharged as to those employees who have testified^{223/} in the instant compliance proceeding by payment of the amounts identified

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222. I have attributed 1/6 of this latter sum to 10/14/77 on the assumption that Ms. Martinez was continuously employed at Paul Masson.

223. The list of the testifying "employees" is attached as Appendix C.

in Appendices B-1 through B-105,^{224/} plus interest at the rate of 1 percent per annum until the Board's supplemental decision in this regard, and thereafter in accordance with the formula set forth in Lu-Ette Farms (1982) 8 ALRB No. 55.

DATED: August 29, 1983



STUART A. WEIN
Administrative Law Judge

224. The make whole supplement has been added to the net owing each discriminatee pursuant to Dutch Brothers (1977) 3 ALRB No. 80, review denied, 2d App. Dist., Div. 1, August 18, 1979. Said sum for each discriminatee has been calculated by dividing the gross backpay owing by the 78 Adam Dairy factor and then subtracting the gross backpay owing from the latter figure. (For example, \$1,270.06 divided by .78 equals \$1,628.28 less \$1,270.06 equals \$358.22 net make whole owing during the backpay period.) No credit for mandatory contributions has been allowed as the discriminatees were not on Respondent's payroll during the relevant period. In one instance (Ventura Luna) the make whole supplement was reduced by the amount the discriminatee's interim earnings exceeded gross backpay owing.

EMPLOYEE NAME	SOC. SEC. NO.	QUARTER	YTD GROSS	NET MAKEHOL
ABUNDIS, JUAN	467-72-1914	2,400.00	6,400.00	X
ANDALON, MIGUEL S.	557-11-3638	108.50	1,081.13	
ANDALON, ANTONIO S.	566-13-8412	0.00	1,106.23	
ALCANTAR, FIDEL M	566-13-8751	0.00	1,158.18	
ALCANTAR, GUADALUPE P	564-62-5912	378.96	1,663.72	
ALCANTAR, GUADALUPE J.M.	562-90-8217	329.72	876.30	
ALCANTAR, CIRILO	559-94-4484	165.75	1,389.17	
ACEVEDO, FRANCISCO J.	566-60-0220	0.00	458.27	
ALCANTAR, FIDEL JR	560-04-4241	4.23	4.23	
ACEVES, MARTIN OROSCO	569-39-1204	0.00	1,066.31	
ARGUETA, ESTEBAN	566-06-9296	113.10	1,045.91	
ALONZO, MIGUEL ESPINOZA	559-47-9905	0.00	1,015.46	
AGUILERA, RAMON MARTINEZ	553-23-6396	0.00	1,108.38	
AREVALO, EUTIMIO PEREZ	546-47-4852	0.00	528.51	
ALONZO, DAVID R.	552-98-3851	234.78	1,574.86	
ARROYO, FLAVIO	570-39-1226	166.30	1,424.05	
ARREDON, JOSE	559-21-7678	0.00	584.32	
ALVAREZ, CARLOS SANDOVAL	547-46-2160	0.00	30.00	
ALATORRE, JOSE L.	548-94-0685	0.00	626.97	
ALVARADO, ANTONIO GASACA	568-43-5781	0.00	194.50	
ABRIL, ERNESTO	564-42-0356	0.00	645.86	
ADAME, PEDRO CERDA	563-64-1100	117.33	238.40	
ALVAREZ, JESUS	556-27-0109	690.96	1,499.80	
ARAUJO, SALVADOR	000-00-0000	163.15	653.36	
ARAUJO, REFUGIO	573-21-3132	0.00	301.71	
ALCANTAR, ROSENDO	563-33-1097	510.23	992.01	
AMESQUITA, ROBERTO	000-00-0000	0.00	129.36	
AMESQUITA, ENRIQUE	000-00-0000	0.00	65.00	
AMESCUA, IGNACIO	000-00-0000	125.64	181.54	
ACEVES, ONOFRE	000-00-0000	0.00	35.43	
ADAME, HERLINDO	557-19-6152	0.00	22.10	
AMADOR, RAMIRO	551-21-0071	155.03	422.43	
TRUJILLO, MARTA	569-29-6319	0.00	15.00	
ALBURRTO, JUVENAL	554-04-6057	988.11	988.11	
ARROYO, ANDRES ORTIS	557-37-2938	32.83	32.83	
ALFARO, MANUEL	564-23-0386	476.86	476.86	
ACEVEDO, LUIS RICO	000-00-0000	61.10	61.10	
ALFARO, LUIS	552-47-2963	155.68	155.68	
VERELA, CERARDO ARCHUNDIA	529-29-1800	269.58	269.58	
AGUILAR, JESUS	569-60-8884	254.31	254.31	
ACEVEDO, ISABEL J.	556-04-9052	87.80	87.80	
BANUELOS, JOSE P	000-00-0000	3.25	3.25	
BANUELOS, MARIE S.	568-88-1854	57.20	1,295.52	
BAILON, LORENZO	569-19-2666	0.00	28.40	
BAILON, DARIO P	568-66-0406	375.83	1,520.96	
BRICENO, AURELIO	568-66-0571	217.01	1,290.41	
BALTRAN, ANTONIO PEREA	547-82-1951	762.53	1,320.52	
BRABO, PAUL	555-96-2001	861.36	1,510.27	
BEGWELL, JESSE	530-40-3616	166.73	335.41	
BARBOZA, ISAIS	560-41-3112	72.63	110.84	
BARRIOS, ALFREDO	000-00-0000	0.00	0.00	
BARRIOS, FRANCISCO	459-44-8024	26.65	25.55	
BURCIAGA, GUADALUPE	000-00-0000	25.98	25.98	
BELTRAN, YOLONDA A.	563-82-9513	493.26	493.26	
CHAVEZ, AMELIA C	565-04-5946	368.55	368.55	
CHAVEZ, AMELILA L	553-13-0979	281.48	1,531.47	
CHAVEZ, ANGELINA C	568-94-5529	312.79	1,484.59	
	546-90-5783	432.14	2,040.43	

P/R BALANCE LIST

11-14-77

PAG 2

Net
Makewhole

EMPLOYEE NAME	SOC. SEC. NO.	QUARTER	YTD GROSS	Net Makewhole
CHAVEZ, ARELIA AGARCIA	570-92-3123	0.00	813.02	183.85
CHAVEZ, JESUS	560-76-1079	322.23	1,654.21	322.96
CHAVEZ, JUAQUIN CHAVEZ	573-19-4755	272.16	1,532.30	306.42
CHAVEZ, TRINIDAD M.	552-58-4130	285.64	1,304.45	264.86
CONTRERAS, ENEIDINA M.	562-02-2419	267.56	1,315.17	264.72
CONTRERAS, FAUSTINO M.	573-19-4212	255.37	1,566.97	315.40
CONTRERAS, JESUS	568-35-8108	0.00	30.18	6.07
CHAVEZ, JOSE T.C.	573-19-4732	258.84	1,510.20	303.98
CHAVEZ, RAFAEL P	557-11-5992	127.88	1,685.57	39.33
CHAVEZ, CLEMENTINA P	572-25-9913	279.93	1,622.36	326.55
CONTRERAS, MARIA M	561-31-4842	56.88	1,003.17	201.92
CHAVEZ, MARGARITO	567-78-6279	422.66	1,759.48	354.15
CHAVEZ, GLORIA	555-31-3615	109.53	1,002.22	201.73
CHAVEZ, CLEMENTINA	557-86-2960	0.00	732.77	147.49
CHAVEZ, EMILIO P.	570-25-4298	279.69	1,512.84	304.51
CANCHOLA, OFELIA	557-70-9225	591.12	1,805.73	363.46
CANTU, RAYMUNDO	259-40-4639	0.00	264.08	53.15
CONTRERAS, EVERARDO C.	564-64-2499	355.89	568.54	114.44
CHAVEZ, NICOLAS	550-24-1760	0.00	1,043.70	210.08
CHAVEZ, RAFAEL L	570-21-5934	0.00	1,079.31	217.25
CHAVEZ, GPE. MORALES	551-13-0499	103.83	1,437.30	289.30
CASTRUITA, RAUL	558-90-1607	248.00	1,179.96	237.50
CANTU, HILDA CRISTELA	466-44-5375	1,042.25	2,864.73	580.26
CHAVEZ, JOSE	454-04-4265	507.63	1,740.24	350.26
CHAVEZ, JOSE	547-94-0642	0.00	940.64	183.30
CALDERON, ANTONIO	522-82-5121	0.00	570.60	114.85
CRUZ, GUADALUPE	547-82-2268	64.03	1,390.58	279.90
CAMPOS, DAVID	558-33-8119	152.58	1,132.53	227.96
CAMPOS, LUCIA	558-33-4151	100.05	926.27	186.44
CHAVARIN, ROSALIO	540-72-3717	0.00	120.25	24.20
CHAVARRIA, MARIA	570-47-1169	0.00	54.93	11.06
CRUZ, JUVENFINO	554-41-7139	0.00	519.96	104.66
CANTU, RENE	559-25-4444	0.00	100.48	20.22
CHAVEZ, OMAR	553-13-0647	0.00	217.68	43.82
CANCHOLA, LUIS	557-08-0226	877.91	1,867.94	375.98
CHAVEZ, AURELIA RAMIREZ	554-04-6058	0.00	1,007.90	202.87
CHAVEZ, JOSE N.	555-96-8710	98.48	998.43	200.97
CHAVEZ, GABINO	567-92-5811	37.05	845.87	170.26
CHAVEZ, JOSE TRINIDAD PANTOJA	568-84-1523	0.00	1,283.14	258.27
CORNEJO, JESUS V.	550-75-1580	0.00	158.83	31.68
CERDA, JOSE	463-66-4314	1,094.50	1,812.25	4.45
CAMACHO, JUAN LOPEZ	458-44-0550	0.00	22.13	36.23
LOPEZ, JORGE	564-64-0403	180.00	180.00	120.17
CAMACHO, JAVIER TRUJILLO	451-38-7585	597.00	597.00	9.79
CHAVEZ, ERNESTO	552-25-2416	18.85	18.85	1.90
CONTRERRAS, JUAN L.	853-20-7167	9.43	9.43	73.00
CAMACHO, ROBERT E.	565-27-8131	362.66	362.66	114.98
CONTRERAS, JOSE	552-82-7561	571.24	571.24	17.53
CRUZ, REFUGIO	572-11-6356	87.10	87.10	116.22
CONTRERRAS, ARMANDO	556-06-6913	627.06	627.06	4.62
CASTRO, ANTONIO	568-78-2302	22.95	22.95	7.24
CASTILLO, RICARDO MEDINA	000-00-0000	36.45	36.45	6.08
CHAVEZ, JAVIER O.	449-76-5238	30.23	30.23	7.72
CASTRO, RUBEN VIDALIS	550-39-7280	38.35	38.35	25.91
CAMACHO, JESUS	550-15-6279	128.70	128.70	1.70
CONTRERAS, ISHAEL	000-00-0000	8.45	8.45	48.80
DE LOPEZ, ANITA M	550-64-4177	232.51	232.51	262.55
DE LOPEZ, ANITA M LES	552-98-7022	0.00	1,304.37	

MONTH 11	P/R BALANCE LIST	11-14-77	PAGE 3	YTD GROSS	
EMPLOYEE NAME	SOC. SEC. NO.	QUARTER 4			
DE CHAVEZ, MERCED P.	553-35-7618	204.72		1,446.64	251.18
DE ZUNIGA, MARIA GPE. C.V.	553-96-7992	0.00		858.16	172.73
DE ZAVALA, AMALIA ZAVALA	572-23-7804	99.21		323.57	100.00
DE PIZANO, EMMA Z.	566-45-0130	17.23		799.63	100.00
DE CAMPO, SOCORRO S.	554-37-4372	129.24		958.95	100.00
DIAS, RUBEN	565-08-7766	0.00		201.90	100.00
DE VASQUEZ, LIDIA ZAMBRANO	565-98-1945	0.00		618.31	100.00
DELGADILLO, SALVADOR SANCHEZ	557-29-6686	0.00		414.76	100.00
DIAZ, RAFAEL PIZANO	341-30-7907	124.15		124.15	24.99
DOMINGUEZ, EMMA	567-06-0555	0.00		104.08	20.90
DOMINGUEZ, MARIA	570-25-2091	0.00		86.78	17.47
DOMINGUEZ, PEDRO	567-64-0604	0.00		104.45	21.00
DELGADO, REFUGIO	550-06-5846	176.69		218.74	44.00
DE LEON, RICARDO	548-04-3437	166.25		166.25	33.46
DOMINGUEZ, JOSEFINA	573-39-1599	723.16		723.16	143.00
DIAZ, ANDRES	559-25-5938	446.56		446.56	89.00
DIAZ, JOSE GUADALUPE	328-56-9752	100.93		100.93	20.32
ESTRADA, ELENA CONCHOLA	566-72-0510	186.88		463.32	93.26
	551-84-0322	1,168.75		3,476.50	
ESPINOSA, JUAQUIN M.	554-92-8116	0.00		205.38	41.04
ESPINOSA, CARLOS	555-96-2454	0.00		763.39	150.66
ESPINOSA, ISIDRO H	553-13-1289	0.00		672.61	135.00
ESPINOSA, LUPE M.	526-33-3102	0.00		582.96	117.04
ESTRADA, JOSE DELGADO	566-08-7741	0.00		180.75	36.00
ESPINOSA, RUBEN ROJAS	553-27-3786	0.00		62.08	12.00
ESTRADA, SALVADOR	558-23-3068	547.79		580.29	116.00
SAMUNDIO, RAFAEL ESQUEDA	546-47-7752	83.85		83.85	16.00
ESPINOSA, SERGIO	000-00-0000	338.01		338.01	66.00
FRANCO, ERLINDA URSUA	559-86-4168	0.00		48.75	9.81
FLORES, J. CARMEN ORTIZ	568-90-7255	17.55		17.55	3.50
FREAZ, JOSE ALFREDO	000-00-0000	98.48		98.48	19.00
	463-58-7483	676.50		2,574.15	
GONZALES, FRANCISCO G	548-56-0068	54.28		1,015.22	204.35
GONZALES, GREGORIO JR.	554-04-6297	53.63		603.15	121.40
GONZALEZ, MAGDALINA	554-04-6308	0.00		96.08	19.04
GONZALES, VIRGINIA G	552-84-7867	0.00		1,265.17	254.66
GONZALES, SERVADO G	557-31-3647	82.88		1,465.21	294.92
GONZALES, JULIAN G	557-31-4066	88.73		1,844.33	371.00
GONZALEZ, ESTELA	555-96-0074	0.00		56.58	11.00
GUTIERREZ, MIGUEL	567-29-5166	0.00		526.27	105.00
SALVAN, JOSE BONIFACIO	566-08-9263	302.31		739.28	148.00
SALVAN, GUADALUPE L.	566-08-9252	441.76		1,418.28	283.47
SARCIA, AUGUSTINE	554-74-6611	0.00		1,428.85	287.00
SARCIA, JOSE A.	548-98-3396	88.40		1,527.25	307.41
GARIBAY, AGUSTIN GARIBAY	553-13-0777	297.91		1,707.29	340.00
GARIBAY, M DE LOS ANGELES	553-13-0788	270.06		1,431.30	288.10
SOMEZ, MERCEDES	553-54-2171	0.00		15.50	3.12
EUZMAN, JOSEFINA	554-04-6771	0.00		48.25	9.71
GARIBAY, JOSEFINA	559-37-5044	215.40		1,223.59	246.29
GARIBAY, FRANCISCO	556-37-4973	0.00		1,003.58	202.00
GARIBAY, M TERESA G	553-27-5138	226.33		1,334.16	266.34
SARCIA, LUCIO	559-14-6029	0.00		65.00	13.00
SALVAN, BONIFACIO	466-60-2557	1,023.50		3,046.10	610.18
SARCIA, MARIA	545-35-1260	67.60		1,237.54	247.00
GONZALES, YOLONDA	566-94-4546	40.61		40.61	8.12
GAYTON, DAVID SANCHEZ	551-33-6726	426.43		1,950.68	390.14
GARIBAY, ALEJANDRO GARIBAY	553-13-0766	87.43		1,128.71	225.74
GONZALES, ESPERANZA	565-21-4480	0.00		684.03	136.81

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EMPLOYEE NAME	SOC.SEC.NO.					251.62
GARCIA, LEOPOLDO M	545-92-2774			240.48	1,150.73	254.47
GONZALES, EDUARDO P	551-23-4193			0.00	1,313.91	254.02
GONZALES, FIDEL TRUJILLO	557-98-0292			0.00	1,262.03	202.23
GARCIA, JULIO M.	554-04-6072			0.00	1,004.71	235.12
GUERRERO, LAUREANO,	549-23-4281			141.70	1,168.13	196.11
GARCIA, AJURURO	571-35-4928			0.00	676.20	257.64
GARCIA, RAMON.	564-13-7681			293.78	1,280.00	126.86
GARCIA, ROBERTO	000-00-0000			0.00	630.27	78.29
GONZALES, RENE	345-60-0609			0.00	388.98	153.96
GONZALES, ERNESTO.	342-58-9848			0.00	764.93	102.17
GONZALES, MIGUEL	335-58-7207			0.00	507.62	188.21
GONZALES, RICARDO	563-37-9788			50.05	935.08	198.04
GARCIA, AUGUSTIN B.	562-41-9141			0.00	983.91	59.77
GALVAN, DOMINGO	464-88-1324			0.00	296.95	35.56
GONZALES, EFRAIN OZUNA	570-47-7567			0.00	176.65	192.75
GALLARDO, ALFREDO	521-41-5115			0.00	962.59	261.68
GARCIA, MARIA AYDE	570-70-4532			201.51	1,300.07	143.20
GONZALES, GIL	552-43-3275			0.00	711.42	153.29
GONZALES, JOSE	552-47-3823			0.00	771.52	103.96
GONZALES, PEDRO	552-31-5429			0.00	516.49	201.78
GARCIA, GUADALUPE	561-02-6024			513.72	1,151.54	22.96
GARCIA, RAUL CHAVEZ	566-13-8760			0.00	114.05	123.21
GOMEZ, SALVADOR	551-31-4345			99.78	612.11	126.59
GARIBAY, RAFAEL G.	567-82-6204			141.70	628.92	10.06
GOMEZ, JOSEFINA GUZMAN	572-25-0546			0.00	50.00	11.27
GUZMAN, SOCORRO PISANO	553-90-0688			0.00	55.98	90.79
GUZMAN, PEDRO	558-90-4847			100.10	451.06	70.37
GUZMAN, YOLANDA	558-90-4841			57.85	349.59	143.65
GUZMAN, GUADALUPE	554-04-6782			332.24	713.68	83.93
GARCIA, JOSE	559-13-6029			146.25	416.98	37.68
GUERRERO, JUAQUIN	596-48-6450			0.00	487.21	18.58
GUZMAN, JOSE M.	000-00-0000			0.00	92.30	5.38
GUERRERO, SILVESTRE	000-00-0000			0.00	26.65	91.64
GOMEZ, GLORIA	466-82-6088			95.15	155.28	6.54
GONZALES, SAN JUANA OSUNA	558-78-6221			0.00	32.50	6.80
GONZALES, OSCAR	570-29-3015			0.00	33.80	8.24
GUERRERO, GUADALUPE HARO	562-82-7212			0.00	40.95	19.05
GARCIA, JOSEFINA	000-00-0000			0.00	96.14	8.08
GONZALES, ROSALIO	554-98-7589			0.00	40.15	34.39
GUERRERO, ANGEL	000-00-0000			170.83	170.83	70.61
GONZALES, PAUL	000-00-0000			350.78	350.78	90.22
GARCIA, JORGE	561-45-9280			448.23	448.23	100.01
GUERRERO, ROBERTO	553-23-4850			496.83	496.88	31.27
GUITERREZ, ERNESTO	555-02-5083			155.33	155.33	7.65
GOMEZ, MODESTA	543-25-3955			38.03	38.03	71.24
GOMEZ, JESUS LOPEZ	563-68-2008			353.95	353.95	53.01
GALVAN, MARIA	458-84-0487			263.37	263.37	74.34
GOMEZ, JULIO	570-48-7854			369.33	369.33	6.24
GARZA, EVARISTO JR.	570-82-3680			31.00	31.00	10.39
RAMIREZ, JOSE JESUS	573-90-2968			51.60	51.60	19.60
GALVAN, FRANCISCO	490-72-9401			97.40	97.40	15.02
GALVAN, FELIX	550-04-5291			74.63	74.63	14.08
GALVAN, CAIN	291-64-9568			69.96	69.96	5.87
GARCIA, SERGIO	560-29-2700			29.18	29.18	1.13
GARCIA, MANUEL M.	562-21-0610			5.63	5.63	11.12
GALVAN, JUAN	478-73-3377			55.25	55.25	
	571-90-8084			328.55	2,454.65	
HERNANDEZ, MARGARIT	557-80-1212			18.20	794.30	

200.13

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EMPLOYEE NAME	SOC. SEC. NO.	QUARTER 4	YTD GROSS		
HERNANDEZ, DELFINA M.	570-96-0114	0.00	755.40		
HERNANDEZ, RICARDO M.	571-39-7482	74.43	1,232.24		
HERNANDEZ, LOURDES	548-62-7952	414.63	1,426.02		
HERNANDEZ SALVADOR.	455-96-8621	0.00	215.78		
HERNANDEZ, CARMEN	561-88-9930	0.00	256.40		
HERNANDEZ, DORA	563-60-9106	296.44	1,482.04		
HEROJOSE, FRANCISCO MENDEZ	554-04-7220	126.75	934.46		
HERMANDEZ, GUILLERMINA	000-00-0000	0.00	29.90		
HERNANDEZ, VIRGINIA CHAVEZ	546-21-1080	189.33	677.03		
HERNANDEZ, CIRO	555-60-2713	743.36	1,222.00		
HERNANDEZ, GONZALO	561-29-7771	0.00	19.13		
HERNANDEZ, JESUS	570-62-4803	107.25	206.00		
HERNANDEZ, JAVIER SUAREZ	000-00-0000	92.30	92.30		
HEREDIA, PABLO	551-19-4589	393.16	393.16		
HEREDIA, EMILIANO	000-00-0000	202.39	202.39		
HIGUERA, ADELELMO ARENAS	566-13-8123	136.15	136.15		
ISAIS, DELFINO JR	558-45-5750	22.75	439.02		
IXTA, ARNOLDO	555-78-7542	31.00	31.00		
JUAREZ, ARTURO M.	563-80-8738	193.70	1,643.24		
JIMENEZ, ISMAEL ZUNIGA	560-64-8090	0.00	872.34		
JIMINEZ, JOSE	000-00-0000	0.00	158.28		
JACOBO, FREDERICO	552-49-1281	565.17	733.45		
JACOBO, JISIFREDO	000-00-0000	765.10	983.66		
JARAMILLO, AGUSTIN O.	569-47-5738	373.94	373.94		
JURON, JUVENAL	550-06-3011	426.09	426.09		
JUAN, FRANCISCO DON	548-38-5488	520.81	520.81		
JUAREZ, OMAR	550-46-2854	5.85	5.85		
JIMINEZ, ELISEO	548-25-1793	41.60	41.60		
JIMINEZ, GRACIELA O. DE	563-80-9278	85.80	85.80		
JIMINEZ, LUZ MARIA	570-96-0387	40.95	40.95		
LOPEZ, LUIS RAMIREZ	558-70-9693	221.68	1,495.18		
LOPEZ, MARISELA C.	566-74-7664	521.19	1,699.20		
LEMUS, MARIA ANA	561-88-7666	40.63	40.63		
LOPEZ, LOUIS	264-49-0608	338.98	1,561.93		
LOPEZ, ROQUE	571-86-0104	388.43	1,566.32		
LUNA, VENTURA	548-50-1107	0.00	1,023.40		
LOPEZ, GPE. PEREZ	570-27-4344	268.84	1,360.74		
LOPEZ, PAULA G.	557-84-1093	125.94	1,102.46		
LOPEZ, CONSUELO	568-27-9707	0.00	259.82		
LUNA, ALICIA MORA	563-35-3708	0.80	106.93		
LARA, SALVADOR SAVALA	545-21-6519	0.00	323.21		
LUNA, JOSE M.	547-37-1939	0.00	605.22		
LEDESMA, JOSE G. HERNANDEZ	562-35-6879	134.76	558.40		
LOPEZ, ARMANDO PAUL	571-86-2066	161.85	1,245.29		
LOPEZ, MARIA ELENA	000-00-0000	429.13	1,200.14		
LOPEZ, MARIANO	560-80-3132	98.80	98.80		
LIZARRAGA, GUSTAVO	566-13-9191	0.00	7.15		
GOMEZ, ALFREDO L.	568-39-3745	996.00	996.00		
LOPEZ, JUAN V.	078-24-3195	13.00	-13.00		
LOPEZ, FRANCISCO D.	566-13-9047	40.63	40.63		
LOPEZ, ROBERTO D.	566-13-9003	831.09	831.09		
LOZANO, MANUEL L.	562-29-8001	77.35	77.35		
LOPEZ, RAUL	565-03-1818	154.78	154.78		
LOPEZ, DANIEL	523-32-3540	434.98	434.98		
LOPEZ, FILIPE	571-58-1717	154.36	154.36		
MEDINA, LETICIA M.	567-11-7893	0.00	1,013.71		
MARTINEZ, SAMUEL	556-01-2829	44.83	58.43		
MORAN, MANUEL	562-21-2610	0.00	513.15		

EMPLOYEE NAME	SOC. SEC. NO.	QUARTER	YTD GROSS	NET MAKEWHOLE
RALES, ELISA	305-42-4952	123.83	123.83	229.68
RALES, BERADINO	562-63-1719	92.28	1,141.07	278.86
RRROI, JESUS MEDINA	568-62-9523	0.00	1,360.60	601.79
RES, JOSE	554-92-8532	1,096.58	2,989.76	508.80
RES, MARIA	555-96-2528	926.44	2,502.97	208.01
RTINEZ, MARIA	563-80-7900	259.78	1,023.47	218.93
DINA, CELIA M	567-11-9448	0.00	1,062.85	268.92
RTINEZ, EDUARDO	547-82-2968	130.65	1,311.18	231.15
RALES, IRMA LOPEZ	573-29-6686	203.04	1,148.37	268.87
RALES, NATIVIDAD LOPEZ	573-29-9242	215.91	1,335.80	547.81
RES, LUIS CRUZ	552-33-2013	996.91	2,721.61	295.97
RALES, J GPE CHAVEZ	553-35-4313	173.85	1,470.19	198.19
AMONTES, ROMALDO G.	559-78-5832	259.66	959.78	4.78
TINEZ, ROBERTO C.	463-11-5306	0.00	23.73	188.32
GARITO, ANTONIO PONCE	566-42-0293	0.00	935.60	5.36
GARITO, GUADALUPE V.	000-00-0000	0.00	26.63	201.06
GARITO, RODOLFO VELASQUEZ	554-88-7834	40.63	998.88	251.31
TINEZ, LUIS GONZALES	571-47-2239	172.90	1,248.54	105.92
TINES, MARIA D. G.	558-35-2641	0.00	526.21	208.28
A, JESSE P.	441-68-8937	141.18	1,034.78	47.88
TINEZ, JORGE	556-25-2436	0.00	236.88	178.59
TINEZ, VINCENTE	527-68-6555	0.00	887.24	54.61
TINEZ, ELENA	527-92-1303	87.86	271.29	181.77
TINEZ, IDOLINA	527-92-1313	0.00	903.05	14.26
TINEZ, JULIO GARCIA	401-72-7219	0.00	70.85	78.95
TINEZ, MARIA LUISA	460-94-8572	0.00	392.23	82.96
ZO, BENJAMIN CORTEZ	552-02-9550	0.00	412.18	149.03
ROY, RAFAEL	551-84-0846	0.00	740.39	8.90
PONCE, EUGENIO MARTIN	566-13-9230	0.00	44.20	67.13
IN, ANA MARIA	543-68-3843	0.00	333.49	80.82
ALES, CELIA HERNANDEZ	573-39-4129	0.00	401.55	373.19
ENO, LUIS G.	562-85-6638	879.73	1,863.98	20.41
DUJANO, ELVIA	561-75-0239	0.00	101.38	4.68
TINEZ, ABEHAM	000-00-0000	0.00	23.25	5.46
IEL, JOSE LUIS	557-04-8192	0.00	27.13	268.86
TINEZ, JESUS	462-98-2733	67.60	1,310.88	3.01
VLES, JOSE	000-00-0000	0.00	44.95	142.80
NAR, JOSE M. JR.	463-08-0528	255.45	709.46	18.61
NEZ, MIGUEL	959-30-3685	0.00	67.60	24.86
AYO, EMERALDA	562-02-1251	100.75	123.50	8.50
E, BRENDA	549-78-8346	0.00	42.25	117.75
E, EDUARDO	526-62-6000	45.00	585.00	61.05
LIQUEZ, NICOLAS	547-92-0834	50.38	303.33	58.18
INEZ, LORENZO	567-34-4485	210.63	264.23	98.33
LLAN, RAMON G.	569-45-8433	488.53	488.53	50.31
Z, JUAN	322-50-4676	249.94	249.94	3.76
UJANO, PROSIDENTE	546-49-4487	28.60	28.60	175.97
UJANO, FRANCISCO	569-92-7757	874.24	874.24	14.92
INEZ, RUBEN	571-64-0577	74.10	74.10	184.80
UJANO, MIGUEL	456-11-2310	669.71	669.71	36.90
INEZ, GERARDO	566-29-3102	183.30	183.30	100.84
UJANO, DOROTEO	573-98-0032	500.98	500.98	108.65
UJANO, FILIMON	547-21-1037	529.86	529.86	88.34
INEZ, BALTAZAR NUNEZ	526-66-7351	189.96	189.96	108.24
UJANO, JAVIER	566-45-6120	512.73	512.73	108.20
ERO, JOSE	551-82-7861	123.83	123.83	24.92
RAFAEL GOMEZ	539-05-3855	548.91	548.91	110.49
UJANO, RODOLFO	573-23-8133	528.60	528.60	106.60

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EMPLOYEE NAME	SOC. SEC. NO.	QUARTER 4			
MANDUJANO, GREGORIO	546-47-4600	141.50		141.50	28.48
MANCERA, JOSE JUAN	573-35-5009	675.80		675.80	135.16
MADO, JESUS	000-00-0000	24.50		24.50	4.90
MENDEZ, IGNACIO	548-39-5548	117.18		117.18	23.44
MARTINEZ, MARIA	571-35-6870	37.38		37.38	7.48
MESA, RUBEN	546-49-6994	344.38		344.38	68.88
MAGDALENO, JERONIMO	323-58-9132	229.31		229.31	45.86
MADRIGAL, LUIS Z.	558-34-8502	146.25		146.25	29.25
MADRIGAL, JOSE H.	557-84-2284	200.85		200.85	40.17
MUNIZ, JUAN	000-00-0000	86.78		86.78	17.35
MONTEZ, ANTONIO	564-11-0343	95.91		95.91	19.18
MORALES, LUIS	557-33-2731	77.16		77.16	15.44
MORA, JOSE M.	000-00-0000	104.78		104.78	20.96
MORALES, ISIDRO	545-25-2003	113.23		113.23	22.65
NOVELO, FAUSTO	557-11-6589	150.55		150.55	30.11
NICASIO, IRINEO	560-47-2305	0.00		955.74	191.15
NAVA, JOSE VILLAGOMEZ	563-27-6025	0.00		659.09	131.82
NAVARRO, TOMAS	553-13-1561	0.00		749.50	149.90
NAVARRO, GUILLERMO	570-45-2500	0.00		522.08	104.42
NAVA, NOEL	566-96-0692	0.00		544.84	108.97
NAVA, AUGUSTIN GONZALES	545-41-5499	0.00		624.85	124.97
NUNEZ, JESUS	568-25-8845	577.23		577.23	115.45
NIGRITE, ROBERTO	553-01-9241	319.29		319.29	63.86
BENTANCOURT, JOSE GPE. NAVA	567-17-1736	192.73		192.73	38.55
OZUNA, JULIA L.	552-84-8561	131.30		629.61	125.92
OZUNA, GPE GARZA	549-88-5437	276.56		1,293.35	258.67
ORFJEL, FAUSTINO	449-46-9426	0.00		7.80	1.56
ORFJEL, DELFINA P.	551-84-7076	0.00		485.18	97.04
ORFJEL, MARIA	555-08-6525	0.00		155.51	31.10
OCHOA, LORENZO	573-78-3339	28.28		669.48	133.89
OZUNA, SIPRIAN	570-98-1699	0.00		721.69	144.34
ORTEGA, YOLANDA R.	558-13-1381	0.00		485.34	97.07
CROZCO, RICARDO	461-13-1287	0.00		95.90	19.18
OROIGO, REGINALDO G.	557-84-1214	0.00		451.83	90.37
OSUNA, HIPOLITO	545-68-9227	0.00		28.60	5.72
OSUNA, FLORINDA	545-68-9348	0.00		29.25	5.85
OLVERA, MANUEL	506-72-9014	524.64		524.64	104.93
ORTIZ, VICTOR M.	558-37-8996	580.45		580.45	116.09
ORTIZ, AUDELIA	562-25-4839	42.25		42.25	8.45
ORTIZ, MARIA I. JIMINEZ	557-11-7297	126.43		126.43	25.29
OCHOA, MANUEL	568-28-1231	78.23		78.23	15.65
PEREZ, ADELA LOPEZ	557-11-7089	248.66		1,421.45	284.29
PEREZ, ANGELINA	558-90-0369	352.21		1,823.28	364.66
PEREZ, CLEMENTINA LOPEZ	553-13-0041	259.96		1,279.27	255.85
PEREZ, NICOLAS	547-68-4864	124.80		1,886.32	377.26
PEREZ, RAMON C	569-66-7801	377.86		2,025.22	405.04
PUNTE, GUADALUPE L	571-82-1251	145.60		1,393.91	278.78
PUNTE, ISIDRO C	552-31-5344	176.48		1,932.71	386.54
PUNTE, SALVADORE	568-42-4235	148.20		1,489.36	297.87
PEREZ, FIDEL PEREZ	546-60-9776	191.53		1,342.74	268.55
PANTOJA, ARELIA CHAVEZ	545-41-0834	67.93		1,141.25	228.25
PEREZ, MIGUEL BANCHEZ	569-74-3326	0.00		106.28	21.26
PEREZ, CECILEA AREVALO	573-98-6867	229.48		1,262.64	252.53
PEREZ, DANIEL P.	515-21-7206	418.07		1,986.10	397.22
PEREZ, RAFAEL	561-95-0678	924.00		2,671.53	534.31
PEREZ, GREGORIO M.	555-76-3954	0.00		1,349.00	269.80
PEREZ-PEREZ, ROBERTO	553-31-7936	328.65		1,757.23	351.45
PEREZ, NICOLAS C	562-90-8657	22.10		347.99	69.60

MONTH 11	P/R BALANCE LIST	11-14-77	PAGE 8	QUARTER 4	YTD GROSS
EMPLOYEE NAME	SOC. SEC. NO.				
POLANCO, DENNIS R.	558-43-4911	0.00		1,089.39	219.27
PEREA, SALVADOR H.	565-37-3125	237.08		1,583.23	219.88
PATTAN, AGUSTIN	526-86-7048	0.00		447.93	90.18
PEREZ, MARGARITO	547-82-0571	0.00		230.31	45.08
PENCE, CARMEN ARROYO	451-36-9500	0.00		394.24	79.35
PANTOJA DE PANTOJA, VELERIA	567-94-0725	0.00		96.53	19.48
PANTOJA, LUIS	554-66-1523	0.00		65.65	13.21
PUGA, ANTONIO	000-00-0000	0.00		395.26	79.56
PEREZ, TOMAS	547-82-4337	0.00		248.36	49.99
PANTOJA, CELIA	553-13-2345	0.00		1,021.53	205.62
PEREZ, GONZALO	558-04-7577	0.00		184.17	37.07
PAZ, MANUEL	464-08-5078	7.48		7.48	1.51
PACHECO, CARMELO	568-02-0487	491.83		491.83	99.00
PEREZ, PEDRO SUAREZ	571-41-1974	69.88		69.88	14.07
PUGA, NOE	553-01-4704	600.59		600.59	120.89
PACHECO, CARMILQ. JR.	568-98-7288	516.76		516.76	104.01
PACHECO, TELESFORO	568-98-7258	1,022.50		1,022.50	205.81
PACHECO, LUIS	562-56-4241	596.84		596.84	120.18
PACHECO, ROBERTO	570-29-5089	373.40		373.40	75.10
PINEDA, EMILIO D.	561-21-7884	27.30		27.30	5.50
PADILLA, TOMAS	550-94-4055	98.15		98.15	19.76
PACHECO, JESUS	000-00-0000	100.43		100.43	20.21
PEREZ, JORGE	573-98-8394	231.08		231.08	46.51
PACHECO, ANGEL	000-00-0000	134.23		134.23	27.02
PEREZ, GUADALUPE	000-00-0000	0.00		0.00	0.00
QUINTANILLA, MARTA CONCEPTION	463-58-5871	682.01		1,904.58	389.26
QUINTANA, ARNULFO GASCA	554-04-5889	308.68		1,515.13	304.97
RAMIREZ, ANGEL	566-13-9721	350.35		1,685.03	339.17
RAMIREZ, JOSEFINA	556-64-0923	125.78		1,091.98	219.80
RAMIREZ, DAVID QUEZADA	570-86-8480	200.85		1,660.75	335.28
RUIZ, AGUSTIN GARIBAY	571-06-0871	0.00		873.14	175.76
RODRIGUEZ, DOMINGO	451-23-2842	0.00		1,088.50	219.10
RUIZ, MAURICIO	547-85-9340	810.73		1,242.48	250.09
RAMIREZ, JORGE A.	533-60-2164	113.04		978.56	196.97
ROCHA, FRANCISCO MAGONA	562-72-8950	0.00		636.78	128.17
RUELAS, JACOB	570-96-0808	0.00		171.50	34.52
ESPINOSA, DOMINGO RAMIREZ	453-04-0762	0.00		712.58	142.48
RAMIREZ, JOSE LUIS	554-41-2440	0.00		1,090.36	219.47
RAMIREZ, MANUEL	562-04-0818	0.00		1,413.34	284.48
RAMIREZ, ANTONIO	555-43-8322	0.00		120.58	24.27
RUBIO, ADRIAN	340-52-7746	956.11		2,177.53	436.00
ROJAS, RICARDO	573-33-2567	0.00		556.02	111.92
ROJAS, NICOLAS	552-41-5684	0.00		524.87	105.85
ESTRADA, ANTONIO RUIZ	560-23-5989	272.53		1,129.96	227.44
RODRIGUEZ, RAFAEL	568-21-8973	0.00		133.91	26.95
ROMERO, RAMON M.	563-29-0840	0.00		193.07	38.66
RODRIGUEZ, ALEJANDRO R.	563-45-4601	561.36		1,485.80	299.06
G., ROMERO SOLOMON	560-08-0782	0.00		228.13	45.92
RAMOS, VINCENTE	694-37-2308	0.00		73.45	14.78
RAMOS, JOSE	000-00-0000	0.00		61.43	12.26
RODRIGUEZ, EDUARDO V.	548-21-3616	232.38		357.38	71.83
RAMIREZ, ROBERTO	000-00-0000	0.00		146.00	29.39
RAMIREZ, ISAIS	563-23-5336	0.00		15.75	3.17
ROBLES, EVERADO	573-41-4167	0.00		0.00	0.00
ROBLEDO, RAFAEL	564-38-7898	157.80		218.23	43.93
RIVERA, ROSA M.	552-25-9980	216.79		216.79	43.93
RIVA, ANTONIO	559-23-8170	519.23		519.23	104.86
RODRIGUEZ, WALTER	564-35-8183	500.43		500.43	100.86

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 175.76
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 24.27
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 111.92
 105.85
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 26.95
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 12.26
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 29.39
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MONTH 11	P/R BALANCE LIST	11-14-77	PA 9	9	135.47
EMPLOYEE NAME	SOC. SEC. NO.	QUARTER 4	YTD GROSS	140.44	134.11
ROJAS, EDUARDO RIOS	554-43-5856	673.06	673.06	134.11	1.95
REYES, ROBERTO G.	573-92-2746	697.71	697.71	1.95	54.80
REVELAS, JOSE	543-68-1742	666.28	666.28	2.75	76.39
RUIZ, ALEX VALDEZ	553-42-6138	9.75	9.75	7.10	60.88
RIOS, MARIA R.	566-08-8382	470.36	470.36	10.01	97.54
RIVAS, FAUSTINO	550-49-3428	13.65	13.65	56.98	10.58
RIOS, MARIA	573-48-6306	379.51	379.51	48.17	78.48
REIVSCH, TERRY A.	541-86-9783	35.25	35.25	12.85	7.72
REYES, RAQUEL	534-43-5270	299.98	299.98	17.40	14.85
ROBLES, RAMIRA	523-49-8456	49.73	49.73	219.70	187.88
RUIZ, JOSE	571-29-2155	484.58	484.58	36.21	365.42
RAZURA, ANTONIO SANCHEZ	568-88-5254	283.07	283.07	18.88	126.48
RUIZ, MARIA DE	547-25-8406	52.33	52.33	8.86	8.86
RAMOS, TRINIDAD	554-14-6643	214.48	214.48	28.49	5.66
RUIZ, SERGIO	548-25-1793	375.06	375.06	58.03	259.74
RIOS, JOE R.	556-08-0321	63.84	63.84	164.05	178.28
RIOS, J. CARMEN	325-50-1197	38.35	38.35	170.49	2.01
RODRIGUEZ, LUIS LOPEZ	597-46-1892	86.44	86.44	28.71	490.28
REYNOSA, MAGDALENO	563-86-4034	73.80	73.80	197.26	422.47
SAVALA, ADELINA	569-23-1178	77.50	1,091.49	184.05	178.28
SAVALA, GUSTAVO	562-02-1768	0.00	933.43	170.49	0.00
SAVALA, LUIS GASCA	562-25-9650	0.00	294.18	04.01	28.71
SALINAS, SOCORRO GARCIA	554-54-1899	685.88	1,815.45	490.28	197.26
SANCHEZ, SALVADORE	557-29-6686	0.00	93.78	126.48	8.86
SAVALA, TRINIDAD	548-31-4395	202.97	628.12	28.49	5.66
SALINAS, SYLVIA	573-98-8423	26.65	26.65	58.03	259.74
SERRANO, JOSE R	569-68-2276	0.00	116.68	164.05	178.28
SALINAS, ROBERTO	555-96-4316	27.95	27.95	170.49	2.01
BALTAZAR, MARTINEZ SANCHEZ	057-35-0078	0.00	313.12	84.00	142.65
SANCHEZ, EMMA MARTINEZ	554-92-8784	25.13	1,290.44	259.74	164.05
SILVA, ANSELMA	554-52-1266	0.00	914.39	178.28	170.49
SILVA, RAMON	343-34-7730	0.00	885.45	170.49	0.00
SOLIS, JOSE LUIS	454-04-2995	0.00	847.03	04.01	28.71
SERRANO, FREDERICO	000-00-0000	0.00	168.98	04.01	28.71
SERRANO, RAQUEL	000-00-0000	0.00	142.65	28.71	490.28
SUAREZ, GUSTAVO	561-29-5514	269.03	2,137.59	490.28	197.26
SALINAS, JOSE GENARO	464-88-1808	0.00	980.00	197.26	422.47
SANCHEZ, RAUL TORRES	561-21-6736	750.56	2,247.96	422.47	259.74
SASEDRA, GILBERTO T	555-23-5420	477.23	1,270.85	259.74	164.05
SANDOVAL, RAMON GILBERTO	552-37-3721	0.00	373.12	164.05	178.28
SANCHEZ, MANUEL	561-88-9161	0.00	450.34	78.11	90.65
SANCHEZ, MARIA L.	547-80-9593	0.00	343.25	90.65	90.65
SANCHEZ, BENJAMIN	566-64-0194	28.70	73.23	90.65	14.74
SERRANO, MARIA	570-70-3555	0.00	127.49	14.74	25.86
SOTOMAYER, GUILLERMO	571-42-5243	981.66	1,335.72	25.86	25.86
SUASTEZ, EDELMIRO	573-45-5081	0.00	80.20	25.86	0.00
SILVA MANUELA	000-00-0000	0.00	19.50	18.14	0.00
SAENZ, DAVID	568-80-4642	0.00	22.55	0.00	4.54
IAMORA, IGNACIO SANCHEZ	566-08-8744	403.00	493.00	4.54	81.12
SALCEDO, RAFAEL G.	572-04-3586	109.51	109.51	81.12	22.04
SAUEZ, SALVADOR	536-21-7810	434.87	434.87	22.04	87.50
SALDANA, ADALBERTO PEREZ	571-39-5474	6.18	6.18	87.50	1.24
SALINAS, RAYNALDO	570-20-1810	53.63	53.63	1.24	564.27
SANCHEZ, RICARDO	546-20-0206	564.27	564.27	564.27	10.79
SANCHEZ, RUAL E.	572-06-5283	393.83	393.83	10.79	118.35
SERRANO, JOEL	000-00-0000	118.35	118.35	118.35	154.45
SANCHEZ, JAVIER TORRES	592-93-6247	164.45	154.45	154.45	561.61
SUAREZ, JAVIER HERNANDEZ	557-43-8964	561.61	561.61	561.61	

MONTH 11	P/R E ANCE LIST	11-14-77	PAG 10	NET MAKEWHOLE
EMPLOYEE NAME	SOC. SEC. NO.	QUARTER 4	YTD GROSS	
SARMIENTO, RAMON	556-76-6874	294.73	294.73	59.32
SANCHEZ, SANTIAGO	000-00-0000	235.95	235.95	47.49
SANCHEZ, LUIS	545-12-1005	331.68	331.68	66.76
TURRUBIARTES, RAUL GARCIA	248-45-5862	0.00	38.81	7.81
TORRES, JESUS	526-35-9029	204.16	1,230.07	247.59
TORO, MIGUEL C.	550-98-8601	191.10	1,470.52	295.99
TOROMENDES, SANTIAGO	560-92-6201	160.88	1,341.98	270.12
TRUJILLO, JOSEFINA O.	551-37-5967	0.00	171.28	34.48
TURIBIATIS, ANITA	248-10-4532	0.00	30.18	6.07
TAFOYO, FREDERICO	570-27-7230	55.90	578.96	115.53
TORRES, ARTURO	327-58-8102	22.10	559.27	112.57
TORRES, DANIEL	545-25-0354	38.35	1,027.38	206.79
TORRES, JIMMY	571-04-7194	159.76	988.89	199.05
TIENDA, ARTURO	000-00-0000	0.00	14.30	2.88
TRUJILLO, SOFIA	334-42-1381	366.18	1,120.34	225.50
TRUJILLO, JUAN	000-00-0000	0.00	85.75	17.26
TRUJILLO, JESUS	553-13-1262	803.16	803.16	161.66
TRUJILLO, MIGUEL	000-00-0000	92.30	92.30	18.58
TRUJO HERNANDEZ	459-33-7544	80.85	80.85	16.27
TINIJERO, SILVERO L.	561-45-6215	558.85	558.85	112.49
TORRES, FRANCISCO MANDUJANO	557-45-4024	646.04	646.04	130.04
TORRES, FELIS	546-29-4477	381.54	381.54	78.80
TORRES, ALFREDO	563-20-4906	500.58	500.58	100.76
TORRES, DIONICIO	555-96-4746	42.55	42.55	8.56
TRUJILLO, MARIA	562-24-7358	35.38	35.38	7.12
TAVARES, SALOME L.	558-83-2406	156.88	156.88	31.58
TINOJERO, MARIA R. TORRES	565-47-2614	189.80	189.80	38.20
TORRES, ANTONIO	455-11-4692	90.93	90.93	18.30
TORRES, JOSE	553-88-5814	161.53	161.53	32.51
TRUJILLO, MARIA	556-31-3284	184.91	184.91	37.22
TRUJILLO, PAS	000-00-0000	40.30	40.30	8.11
VACA, TRINIDAD	554-88-0414	405.64	1,578.36	317.70
VACA, JOSE CARMEN	562-25-7741	348.68	1,332.78	268.26
VACA, ANTONIO	571-88-9774	277.73	1,374.75	276.71
ALVARADO, RAFAEL VALDEZ	458-33-9555	0.00	191.43	38.53
VILLAGOMEZ, ANGEL TEMORIO	567-15-3547	169.61	1,495.47	301.01
ALVARADO, JESUS VALDEZ	459-33-9924	138.45	345.30	69.46
VALDEZ, NICOLAS SANCHEZ	363-74-0390	185.73	1,070.61	215.49
VILLAZOS, EZEQUIEL Z.	551-25-3648	0.00	788.54	158.72
VILLANUEVA, SMOKIE ARREDONDO	573-35-4458	60.45	1,639.50	330.00
VALADES, ROSA MENA	568-47-3762	134.55	1,217.74	245.11
VALADEZ, MIGUEL RAMIREZ	536-07-8118	258.26	1,307.63	268.20
VACA, MARIA DE LA LUZ	563-25-0266	55.90	765.78	154.14
VILLAGOMEZ, IGNACIO	561-43-0159	0.00	641.10	129.04
VILLALOBOS, MICAELA ZUNIGA	554-04-6734	0.00	937.15	188.63
VASQUEZ, ALFREDO	564-04-9561	0.00	239.39	48.18
VASQUEZ, CARMEN	558-47-9678	0.00	737.85	148.52
VASQUEZ, MAURILIO E.	570-25-8222	0.00	912.44	183.66
VILLAPUDUAL, CARMEN LEON	564-15-6775	0.00	108.56	21.85
VILLAPUNUA, LUCIANO	554-04-5656	0.00	106.01	21.34
VALADEZ, RUBEN	000-00-0000	0.00	22.75	4.58
VALLASENOR, DOMIFACIO	562-64-3235	0.00	37.70	7.59
VITAL, JOSE	567-94-2860	9.10	9.10	1.83
VENGARA, EVERADO	533-70-5411	866.61	866.61	174.43
VASQUEZ, TERESA	550-44-7045	79.43	79.43	16.00
VILLES, ALVISO	462-44-2814	42.08	42.08	8.47
ZAVALA, AURELIA L.	555-96-9777	476.94	476.94	96.00
ZAVALA, ISIDRO R	563-23-3417	028.50	2,867.70	577.26

EMPLOYEE NAME	SOC. SEC. NO.	QUARTER 4	YTD GROSS	Net Makewhole
PARRA, NICOLAS CASTRO	552-33-2013	0.00	482.12	37.0
ZAVALA, ADELA	551-84-2133	382.53	975.95	200.0
RAMIREZ, RAFAEL ZAVALA	000-00-0000	145.28	1,443.54	200.0
ZAVALA, RAFAEL	557-11-5994	314.56	1,172.03	200.0
ZAVALA, CARMEN	561-88-9930	0.00	337.16	100.0
ZAVALA, LUIS VILLAGOMEZ	460-52-2772	52.55	923.63	200.0
ZAVALA, MARIA PUENTE	553-13-0976	0.00	1,198.14	200.0
ZAVALA, JOSE LUIS	551-13-4677	318.65	1,681.31	188.0
RENTERIA, JOSE LUIS ZAMUNDIO	554-04-6413	65.00	911.67	100.0
ZAVALA, NICOLAS G.-	558-23-3528	148.11	541.87	100.0
ZAVALA, REFUGIO	550-21-6962	232.51	232.51	40.0
ZAVALA, LUIS QUIROZ	561-64-4162	342.09	1,779.94	200.0
SAVALA, RAUL	566-06-9238	797.50	2,657.01	500.0
ZAVALA, MEREJILDO	553-23-9084	263.50	1,265.66	200.0
ZAVALA, BEATRIZ	570-66-0248	154.07	571.70	110.0
WELGAND, MARIA	556-25-6635	0.00	167.55	100.0
ZAVALA, ALBERT	553-13-0052	76.43	678.23	100.0
ISABEL ZAVALA VILLAGOMEZ	563-43-7028	0.00	702.28	100.0
ZAVALA, ELVIRA V.	567-43-1762	0.00	676.97	100.0
ZAVALA, MARGARITA	563-43-2412	0.00	683.20	100.0
ZAVALA, ANTONIO	000-00-0000	0.00	116.71	20.0
ZAVALA, NICOLAS	566-13-8106	334.86	1,045.78	210.0
ZAVALA, JOSE	553-82-3122	164.13	942.67	180.0
ZAMUNDIO, LUIS ESQUEDA	653-74-8375	94.25	706.07	140.0
ZEPEDA, ISSAC MANDUJANO	571-86-0129	0.00	302.35	60.0
WILSON, CHARLES	560-80-4932	0.00	0.00	0.0
ZAMUNDIO, JAVIER RAMIREZ	553-74-7324	0.00	31.95	0.0
WILTRON, ARTURO	570-78-6547	10.40	10.40	0.0
ZAMORA, ALICIA	552-27-8347	40.95	40.95	0.0

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APPENDICES B-1 THROUGH B-105

APPENDIX B-1

NATIVIDAD MORALES LOPEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08	16.90	36.18
10/13	50.42	41.36	9.06
<u>10/14</u>	<u>41.01</u>	<u>41.35</u>	<u>0.00</u>
28	\$1,270.06	\$ 99.61	\$ 1,170.79
		Make-whole Supplement :	<u>358.22</u>
		TOTAL OWING :	<u><u>\$1,529.01</u></u>

APPENDIX B-2

RENE GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	26.00	11.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	26.25	21.55
10/7	47.28	31.50	15.78
10/8	45.14	26.25	18.89
10/10	55.40	31.50	23.90
10/11	54.48	24.50	29.98
10/12	53.08	31.50	21.58
10/13	50.42	31.50	18.92
<u>10/14</u>	<u>41.01</u>	<u>31.50</u>	<u>9.51</u>
28	\$1,270.06	\$260.50	\$ 1,009.56
		Expenses :	37.50
		Make-whole Supplement :	<u>358.22</u>
		TOTAL OWING :	<u><u>\$1,405.28</u></u>

APPENDIX B-3

JOSE GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
	Make-Whole Supplement :		<u>358.22</u>
	TOTAL OWING :		<u><u>\$1,628.28</u></u>

APPENDIX B-4

AUGUSTIN NAVA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96	31.50	15.46
10/5	48.50	31.50	17.00
10/6	47.80	26.25	21.55
10/7	47.28	31.50	15.78
10/8	45.14	29.75	15.39
10/10	55.40	31.50	23.90
10/11	54.48	24.50	29.98
10/12	53.08	31.50	21.58
10/13	50.42	31.50	18.92
<u>10/14</u>	<u>41.01</u>	<u>31.50</u>	<u>9.51</u>
28	\$1,270.06	\$301.00	\$ 969.06
		Expenses :	30.00
		Make-whole Supplement :	<u>358.22</u>
		TOTAL OWING :	<u><u>\$1,357.28</u></u>

APPENDIX B-5

FAUSTINO OREJEL

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16			
9/17			
9/19			
9/20			
9/21			
9/22			
9/23			
9/24			
9/26			
9/27			
9/28			
9/29			
9/30			
10/1			
10/3			
10/4			
10/5			
10/6			
10/7			
10/8			
10/10			
10/11			
10/12			
10/13			
<u>10/14</u>			
28	\$ 123.94	\$ 0.00	\$ 123.94
	Make Whole Supplement:		<u>34.96</u>
	TOTAL OWING :		<u>\$ 158.90</u>

Make-Whole Supplement :

$$\$123.94 / .78 = \$158.90$$

$$\$158.90 - 123.94 = \$34.96$$

APPENDIX B-6

MARIA OREJEL

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$ 1,270.06	\$ 0.00	\$ 1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$ 1,628.28

APPENDIX B-7

RAFAEL MONROY

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43	42.56	4.87
10/1	34.79	42.56	0.00
10/3	45.10	42.56	2.54
10/4	46.96	42.56	4.40
10/5	48.50	42.57	5.93
10/6	47.80	42.57	5.23
10/7	47.28	25.33	21.95
10/8	45.14	25.33	19.81
10/10	55.40	25.33	30.07
10/11	54.48	25.33	29.15
10/12	53.08	25.33	27.75
10/13	50.42	25.34	25.08
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$ 407.37	\$ 870.46
		Expenses:	75.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,303.68</u></u>

APPENDIX B-8

RICARDO ROJAS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	140.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$ 1,768.28</u></u>

APPENDIX B-9

LUCIA CAMPOS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95	31.03	4.92
9/15	51.05	8.53	42.52
9/16	45.74	8.53	37.21
9/17	37.78	8.53	29.25
9/19	37.44	8.53	28.91
9/20	53.10	8.54	44.56
9/21	46.33	8.54	37.79
9/22	50.33	22.63	27.70
9/23	38.60	22.64	15.96
9/24	39.83	22.64	17.19
9/26	37.36	22.64	14.72
9/27	47.86	22.64	25.22
9/28	46.94	22.64	24.30
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10	26.25	18.85
10/4	46.96	26.25	20.71
10/5	48.50	26.25	22.25
10/6	47.80	26.25	21.55
10/7	47.28	26.25	21.03
10/8	45.14	26.25	18.89
10/10	55.40	27.12	28.28
10/11	54.48	27.12	27.36
10/12	53.08	27.13	25.95
10/13	50.42	27.13	23.29
<u>10/14</u>	<u>41.01</u>	<u>27.13</u>	<u>13.88</u>
28	\$1,270.06	\$ 511.19	\$ 758.87

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,117.09

APPENDIX B-10

BEATRICE ZAVALA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	45.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u>\$ 1,673.28</u>

APPENDIX B-11

DAVID CAMPOS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10	7.80	37.30
10/4	46.96	24.00	22.96
10/5	48.50	46.00	2.50
10/6	47.80	40.00	7.80
10/7	47.28	40.00	7.28
10/8	45.14	16.00	29.14
10/10	55.40	40.00	15.40
10/11	54.48	40.00	14.48
10/12	53.08	40.00	13.08
10/13	50.42	40.00	10.42
<u>10/14</u>	<u>41.01</u>	<u>40.00</u>	<u>1.01</u>
28	\$1,270.06	\$373.80	\$ 896.26
		Expenses:	85.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,339.48</u></u>

APPENDIX B-12

SOCORRO CAMPOS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95	31.03	4.92
9/15	51.05	23.13	27.92
9/16	45.74	23.13	22.61
9/17	37.78	23.13	14.65
9/19	37.44	23.13	14.31
9/20	53.10	23.14	29.96
9/21	46.33	23.14	23.19
9/22	50.33	22.63	27.70
9/23	38.60	22.64	15.96
9/24	39.83	22.64	17.19
9/26	37.36	22.64	14.72
9/27	47.86	22.64	25.22
9/28	46.94	22.64	24.30
9/29	47.42	36.07	11.35
9/30	47.43	36.07	11.36
10/1	34.79	36.08	0.00
10/3	45.10	31.50	9.02
10/4	46.96	31.50	15.46
10/5	48.50	31.50	17.00
10/6	47.80	31.50	16.30
10/7	47.28	31.50	15.78
10/8	45.14	31.50	13.64
10/10	55.40	31.50	23.90
10/11	54.48	24.50	29.98
10/12	53.08	31.50	21.58
10/13	50.42	31.50	18.92
<u>10/14</u>	<u>41.01</u>	<u>31.50</u>	<u>9.51</u>
28	\$1,270.06	\$757.96	\$ 513.39

Make-Whole Supplement: 358.22

TOTAL OWING: \$ 871.61

APPENDIX B-13

ANTONIO VACA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	130.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,758.28</u></u>

APPENDIX B-14

GLORIA B. CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement:	<u>358.22</u>
TOTAL OWING:	<u><u>\$1,628.28</u></u>

APPENDIX B-15

NICOLAS CHAVEZ MORALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33	8.00	38.33
9/22	50.33	8.00	42.33
9/23	38.60	8.00	30.60
9/24	39.83	8.00	31.83
9/26	37.36		37.36
9/27	47.86		47.46
9/28	46.94		46.94
9/29			
9/30			
10/1			
10/3			
10/4			
10/5			
10/6			
10/7			
10/8			
10/10			
10/11			
10/12			
10/13			
<u>10/14</u>			
28	<u>\$ 605.25</u>	<u>\$ 32.00</u>	<u>\$ 573.25</u>
		Expenses:	9.00
		Make-Whole Supplement:	<u>170.71</u>
		TOTAL OWING:	<u><u>\$ 752.96</u></u>

$\$605.25 / .78 = \775.96

$\$775.96 - 605.25 = \$ 170.71$

APPENDIX B-16

AMELIA L. CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		38.33
9/22	50.33		42.33
9/23	38.60		30.60
9/24	39.83		31.83
9/26	37.36		37.36
9/27	47.86		47.46
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	40.62	7.18
10/7	47.28	40.62	6.66
10/8	45.14	40.62	4.52
10/10	55.40	40.62	14.78
10/11	54.48	40.63	13.85
10/12	53.08	40.63	12.45
10/13	50.42	40.63	9.79
<u>10/14</u>	<u>41.01</u>	<u>40.63</u>	<u>.38</u>
28	\$1,270.06	\$325.00	\$ 945.06
		Expenses:	105.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,048.28</u></u>

APPENDIX B-17

JOAQUIN CHAVEZ CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.78	41.67	0.00
10/3	45.10	41.67	3.43
10/4	46.96	41.67	5.29
10/5	48.50	41.67	6.83
10/6	47.80	41.66	6.14
10/7	47.28	41.66	5.62
10/8	45.14	54.18	0.00
10/10	55.40	54.18	1.22
10/11	54.48	54.19	0.29
10/12	53.08	54.19	0.00
<u>10/14</u>	<u>41.01</u>	<u>54.19</u>	<u>0.00</u>
28	\$1,270.06	\$575.12	\$ 728.92

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,087.14

APPENDIX B-18

MARIA ALDACO MELCHOR

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-20

JOSE CARMEN VACA ALDACO

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>

28	\$1,270.06	\$ 0.00	\$1,270.06
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Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-22

ANGELINA CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		38.33
9/22	50.33		42.33
9/23	38.60		30.60
9/24	39.83		31.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	40.64	7.16
10/7	47.28	40.64	6.64
10/8	45.14	40.64	4.50
10/10	55.40	40.64	14.76
10/11	54.48	40.64	13.84
10/12	53.08	40.64	12.44
10/13	50.42	40.64	9.78
<u>10/14</u>	<u>41.01</u>	<u>40.64</u>	<u>0.37</u>
28	\$1,270.06	\$325.12	\$ 944.94
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,303.16</u></u>

APPENDIX B-23

RICARDO GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-24

FAUSTINO CONTRERAS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40	40.00	15.40
10/11	54.48	40.00	14.48
10/12	53.08	40.00	13.08
10/13	50.42	40.00	10.42
<u>10/14</u>	<u>41.01</u>	<u>40.00</u>	<u>1.01</u>
28	\$1,270.06	\$200.00	\$1,070.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,428.28

APPENDIX B-25

IRMA MORALES LOPEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48	31.09	23.39
10/12	53.08	31.09	21.99
10/13	50.42	31.10	10.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$ 93.28	\$1,176.78

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,535.00

APPENDIX B-26

JOSE A. GARACIA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33	34.62	15.71
9/23	38.60	34.62	3.98
9/24	39.83	34.62	5.21
9/26	37.36	34.62	2.74
9/27	47.86	34.62	13.24
9/28	46.94	34.62	12.32
9/29	47.42	34.62	12.80
9/30	47.43	34.62	12.81
10/1	34.79	34.62	0.17
10/3	45.10	34.62	10.48
10/4	46.96	34.62	12.34
10/5	48.50	34.62	13.88
10/6	47.80	34.62	13.18
10/7	47.28	34.62	12.66
10/8	45.14	34.62	10.52
10/10	55.40	34.62	20.78
10/11	54.48	34.62	19.86
10/12	53.08	34.62	18.46
10/13	50.42	34.62	15.80
<u>10/14</u>	<u>41.01</u>	<u>34.62</u>	<u>6.39</u>
28	\$1,270.06	\$692.40	\$ 577.66
		Expenses:	70.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,005.88</u></u>

APPENDIX B-27

MARCIA GARCIA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33	23.56	26.77
9/23	38.60	23.56	15.04
9/24	39.83	23.56	16.27
9/26	37.36	23.56	13.80
9/27	47.86	23.56	24.30
9/28	46.94	23.56	23.38
9/29	47.42	23.56	23.86
9/30	47.43	23.56	23.87
10/1	34.79	23.56	11.23
10/3	45.10	23.56	21.54
10/4	46.96	23.56	23.40
10/5	48.50	23.56	24.94
10/6	47.80	23.56	24.24
10/7	47.28	23.56	23.72
10/8	45.14	23.56	21.58
10/10	55.40	23.56	31.84
10/11	54.48	23.56	30.92
10/12	53.08	23.56	29.52
10/13	50.42	23.56	26.86
<u>10/14</u>	<u>41.01</u>	<u>23.56</u>	<u>17.45</u>
28	\$1,270.06	\$471.20	\$ 798.86

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,157.08

APPENDIX B-28

JOSE N. CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	<u>\$1,270.06</u>	\$ 0.00	\$1,270.06
		Expenses:	50.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,678.28</u></u>

APPENDIX B-29

EVERADO CONTRERAS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	15.11	22.25
9/27	47.86	15.11	32.75
9/28	46.94	15.11	31.83
9/29	47.42	15.11	32.31
9/30	47.43	15.11	32.32
10/1	34.79	15.10	19.69
10/3	45.10	21.23	23.87
10/4	46.96	21.23	25.73
10/5	48.50	21.23	27.27
10/6	47.80	21.23	26.57
10/7	47.28	21.24	26.04
10/8	45.14	21.24	23.90
10/10	55.40	35.77	19.63
10/11	54.48	35.77	18.71
10/12	53.08	35.77	17.31
10/13	50.42	35.77	14.65
<u>10/14</u>	<u>41.01</u>	<u>35.77</u>	<u>5.24</u>
28	\$1,270.06	\$ 396.90	\$ 873.16
		Expenses:	2.50
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,233.98</u></u>

APPENDIX B-31

JOSE LUIS RAMIREZ (ALONZO)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21			0.00
9/22			0.00
9/23			0.00
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,134.80	\$ 0.00	\$1,134.80
		Expenses:	60.63
		Make-Whole Supplement:	<u>320.07</u>
		TOTAL OWING:	<u><u>\$1,515.50</u></u>

$$\$1,134.80 / .78 = \$1,454.87.$$

$$\$1,454.87 - 1,134.80 = \$320.07$$

APPENDIX B-32

GUDALUPE CHAVEZ MORALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	33.75
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,662.03</u></u>

APPENDIX B-34

MERCED P.CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-35

AURELIA CHAVEZ (PANTOJA)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-36

DANIEL TORRES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94	28.00	18.94
9/29	47.42	51.40	0.00
9/30	47.42	51.40	0.00
10/1	34.79	51.40	0.00
10/3	45.10	51.41	0.00
10/4	46.96	51.41	0.00
10/5	48.50	51.41	0.00
10/6	47.80	40.73	7.07
10/7	47.28	40.73	6.55
10/8	45.14	40.73	4.41
10/10	55.40	40.73	14.67
10/11	54.48	40.74	13.74
10/12	53.08	40.74	12.34
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u>30.62</u>	<u>10.39</u>
28	\$1,270.06	\$ 611.45	\$696.84
		Expenses:	35.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,090.06</u></u>

APPENDIX B-39

NICOLAS ZAVALA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94	40.00	6.94
9/29	47.42	40.00	7.42
9/30	47.43	40.00	7.43
10/1	34.79	40.00	0.00
10/3	45.10	40.00	5.10
10/4	46.96	40.00	6.96
10/5	48.50	40.00	8.50
10/6	47.80	40.00	7.80
10/7	47.28	40.00	7.28
10/8	45.14	40.00	5.14
10/10			0.00
10/11			0.00
10/12			0.00
10/13			0.00
<u>10/14</u>			<u>0.00</u>
28	<u>\$1,015.67</u>	<u>\$400.00</u>	<u>\$ 620.88</u>

Make-Whole Supplement : 286.47

TOTAL OWING: \$ 907.35

Make-whole Supplement:

$$\$1,015.67 / .78 = \$1,302.14$$

$$\$1,302.14 - 1,015.67 = \$286.47$$

APPENDIX B-40

MARIA DE JESUS CONTRERAS (MACIAS)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
		Make-Whole Supplement :	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,628.28</u></u>

APPENDIX B-41

ENEDINA MACIAS CONTRERAS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	15.51	21.85
9/27	47.86	15.51	32.35
9/28	46.94	15.52	31.42
9/29	47.42	15.52	31.90
9/30	47.43	15.52	31.91
10/1	34.79	15.52	19.22
10/3	45.10	11.84	33.26
10/4	46.96	11.84	35.12
10/5	48.50	11.84	36.66
10/6	47.80	11.84	35.96
10/7	47.28	11.84	35.44
10/8	45.14	11.85	33.29
10/10	55.40	35.77	19.63
10/11	54.48	35.77	18.71
10/12	53.08	35.77	17.31
10/13	50.42	35.77	14.65
<u>10/14</u>	<u>41.01</u>	<u>35.77</u>	<u>5.24</u>
28	\$1,270.06	\$ 343.00	\$ 927.06
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,285.28</u></u>

APPENDIX B-44

ARMANDO LOPEZ PAUL

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17			0.00
9/19			0.00
9/20			0.00
9/21			0.00
9/22			0.00
9/23			0.00
9/24			0.00
9/26			0.00
9/27			0.00
9/28			0.00
9/29			0.00
9/30			0.00
10/1			0.00
10/3			0.00
10/4			0.00
10/5			0.00
10/6			0.00
10/7			0.00
10/8			0.00
10/10			0.00
10/11			0.00
10/12			0.00
10/13			0.00
<u>10/14</u>	<u> </u>	<u> </u>	<u>0.00</u>
28	\$169.68	\$ 0.00	\$169.68
		Expenses:	5.63
		Make-Whole Supplement:	<u>47.86</u>
		TOTAL OWING:	<u><u>\$ 223.17</u></u>

Make-Whole Supplement:

$$\$169.68 / .78 = \$217.54$$

$$\$217.54 - 169.68 = \$47.86$$

APPENDIX B-45

JOSE LUIS ZAVALA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42	26.75	20.67
9/30	47.43	26.76	20.67
10/1	34.79	26.76	8.03
10/3	45.10	26.76	18.34
10/4	46.96	26.76	20.20
10/5	48.50	26.76	21.74
10/6	47.80	51.89	0.00
10/7	47.28	51.89	0.00
10/8	45.14	51.89	0.00
10/10	55.40	51.89	3.51
10/11	54.48	51.89	2.59
10/12	53.08	51.90	1.18
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$471.90	\$ 813.61
		Expenses:	66.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,237.83</u></u>

APPENDIX B-46

VICENTE MARTINEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10			0.00
10/11			0.00
10/12			0.00
10/13			0.00
<u>10/14</u>	<u> </u>	<u> </u>	<u>0.00</u>
28	\$1,015.67	\$ 0.00	\$1,015.67
		Expenses:	86.25
		Make-Whole Supplement:	<u>286.47</u>
		TOTAL OWING:	<u><u>\$1,388.39</u></u>

Make-Whole Supplement:

$$\$1,015.67 / .78 = \$1,302.14$$

$$\$1,302.14 - 1,015.67 = \$286.47$$

APPENDIX B-47

EMMA PIZANO

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50	31.50	17.00
10/6	47.80	26.25	21.55
10/7	47.28	31.50	15.78
10/8	45.14	26.25	18.89
10/10	55.40	31.50	23.90
10/11	54.48	24.50	29.98
10/12	53.08	31.50	21.58
10/13	50.42	31.50	18.92
<u>10/14</u>	<u>41.01</u>	<u>31.50</u>	<u>9.51</u>
28	\$1,270.06	\$266.00	\$1,004.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,362.28

APPENDIX B-48

NICOLAS PIZANO

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50	31.50	17.00
10/6	47.80	26.25	21.55
10/7	47.28	31.50	15.78
10/8	45.14	26.25	18.89
10/10	55.40	31.50	23.90
10/11	54.48	24.50	29.98
10/12	53.08	31.50	21.58
10/13	50.42	31.50	18.92
<u>10/14</u>	<u>41.01</u>	<u>31.50</u>	<u>9.51</u>
28	\$1,270.06	\$266.00	\$1,004.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,362.28

APPENDIX B-49

JOSE GARCIA (ZAVALA)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17			0.00
9/19			0.00
9/20			0.00
9/21			0.00
9/22			0.00
9/23			0.00
9/24			0.00
9/26			0.00
9/27			0.00
9/28			0.00
9/29			0.00
9/30			0.00
10/1			0.00
10/3			0.00
10/4			0.00
10/5			0.00
10/6			0.00
10/7			0.00
10/8			0.00
10/10			0.00
10/11			0.00
10/12			0.00
10/13			0.00
<u>10/14</u>	<u> </u>	<u> </u>	<u>0.00</u>
28	\$ 169.68	\$ 0.00	\$ 169.68

Make-Whole Supplement: 47.86

TOTAL OWING: \$ 217.54

$\$169.68 / .78 = \217.54

$\$217.54 - 169.68 = \47.86

APPENDIX B-50

MARGARITA HERNANDEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43	51.35	0.00
10/1	34.79	48.83	0.00
10/3	45.10	48.83	0.00
10/4	46.96	48.83	0.00
10/5	48.50	48.83	0.00
10/6	47.80	48.83	0.00
10/7	47.28	48.83	0.00
10/8	45.14	48.83	0.00
10/10	55.40	48.83	6.57
10/11	54.48	48.83	5.65
10/12	53.08	48.83	4.25
10/13	50.42	48.84	1.58
<u>10/14</u>	<u>41.01</u>	<u>48.84</u>	<u>0.00</u>
28	\$1,270.06	\$637.33	\$670.72
		Expenses:	60.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,086.94</u></u>

APPENDIX B-51

VIRGINA GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 33.07	\$	\$ 33.07
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,266.19	\$ 0.00	\$1,266.19

Make-Whole Supplement: 357.13

TOTAL OWING: \$1,623.32

Make-Whole Supplement:

$$\$1,266.18 / .78 = \$1,623.32$$

$$\$1,623.32 - 1,266.18 = \$357.13$$

APPENDIX B-52

MAURILIO VASQUEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	57.44	0.00
9/27	47.86	57.44	0.00
9/28	46.94	57.44	0.00
9/29	47.42	44.42	3.00
9/30	47.43	44.42	3.01
10/1	34.79	44.43	0.00
10/3	45.10	44.43	0.67
10/4	46.96	44.43	2.53
10/5	48.50	44.43	4.07
10/6	47.80	48.26	0.00
10/7	47.28	48.26	0.00
10/8	45.14	48.27	0.00
10/10	55.40	48.27	7.13
10/11	54.48	48.27	6.21
10/12	53.08	48.27	4.81
10/13	50.42	60.80	0.00
<u>10/14</u>	<u>41.01</u>	<u>60.80</u>	<u>0.00</u>
28	\$1,270.06	\$850.08	\$ 504.52
		Expenses:	27.50
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u>\$ 890.24</u>

APPENDIX B-53

CARMEN VASQUEZ (RAMIREZ)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$ 0.00	\$ 36.94
9/14	35.95	0.00	35.95
9/15	51.05	16.32	34.73
9/16	45.74	0.00	45.74
9/17	37.78	0.00	37.78
9/19	37.44	16.32	21.12
9/20	53.10	0.00	53.10
9/21	46.33	16.32	30.01
9/22	50.33	42.72	7.61
9/23	38.60	42.72	0.00
9/24	39.83	42.72	0.00
9/26	37.36	42.72	0.00
9/27	47.86	42.72	5.14
9/28	46.94	42.72	4.22
9/29	47.42	33.92	13.50
9/30	47.43	33.92	13.51
10/1	34.79	33.92	0.87
10/3	45.10	33.92	11.18
10/4	46.96	33.92	13.04
10/5	48.50	33.92	14.58
10/6	47.80	41.34	6.46
10/7	47.28	0.00	47.28
10/8	45.14	41.34	3.80
10/10	55.40	41.34	14.06
10/11	54.48	41.35	13.13
10/12	53.08	41.35	11.73
10/13	50.42	35.31	15.11
<u>10/14</u>	<u>41.01</u>	<u>0.00</u>	<u>41.01</u>
28	\$1,270.06	\$750.83	\$ 527.38

Make-Whole Supplement: 358.22

TOTAL OWING: \$ 885.60

APPENDIX B-54

LIDIA Z. DE VASQUEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-55

DELFINA P. OREJEL

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16			0.00
9/17			0.00
9/19			0.00
9/20			0.00
9/21			0.00
9/22			0.00
9/23			0.00
9/24			0.00
9/26			0.00
9/27			0.00
9/28			0.00
9/29			0.00
9/30			0.00
10/1			0.00
10/3			0.00
10/4			0.00
10/5			0.00
10/6			0.00
10/7			0.00
10/8			0.00
10/10			0.00
10/11			0.00
10/12			0.00
10/13			0.00
<u>10/14</u>	<u> </u>	<u> </u>	<u>0.00</u>
28	\$ 123.94	\$ 0.00	\$ 123.42

Make-Whole Supplement: 34.96

TOTAL OWING: \$ 158.90

Make-Whole Supplement:

$$\$123.94 / .78 = \$158.90$$

$$\$158.90 - 123.94 = \$34.96$$

APPENDIX B-56

DAVID SANCHEZ (GAYTAN)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10	61.53	0.00
10/4	46.96	61.53	0.00
10/5	48.50	61.54	0.00
10/6	47.80	60.01	0.00
10/7	47.28	60.01	0.00
10/8	45.14	60.02	0.00
10/10	55.40	60.02	0.00
10/11	54.48	60.02	0.00
10/12	53.08	60.02	0.00
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$544.70	\$ 826.32
		Expenses:	180.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,364.54</u></u>

APPENDIX B-57

CERVANDO GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>	<u> </u>	<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	49.50
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,677.78</u></u>

APPENDIX B-58

ROQUE T. LOPEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86	65.65	0.00
9/28	46.94	65.65	0.00
9/29	47.42	68.57	0.00
9/30	47.43	68.57	0.00
10/1	34.79	68.57	0.00
10/3	45.10	68.58	0.00
10/4	46.96	68.58	0.00
10/5	48.50	68.58	0.00
10/6	47.80	81.47	0.00
10/7	47.28	81.47	0.00
10/8	45.14	81.47	0.00
10/10	55.40	81.47	0.00
10/11	54.48	81.47	0.00
10/12	53.08	81.48	0.00
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$1,031.58	\$ 601.88
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u>\$ 960.10</u>

APPENDIX B-59

MARIA MARTINEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86	35.42	12.44
9/28	46.94	35.43	11.51
9/29	47.42	39.10	8.32
9/30	47.43	39.11	8.32
10/1	34.79	39.11	0.00
10/3	45.10	39.11	5.99
10/4	46.96	39.11	7.85
10/5	48.50	39.11	9.39
10/6	47.80	44.41	3.39
10/7	47.28	44.41	3.87
10/8	45.14	44.42	0.72
10/10	55.40	44.42	10.98
10/11	54.48	44.42	10.06
10/12	53.08	44.42	8.66
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$ 572.00	\$ 703.38

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,061.60

APPENDIX B-60

DAVID AGUILERA HERNANDEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	45.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u>\$1,673.28</u>

APPENDIX B-61

ADELA L. PEREZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	35.00	2.36
9/27	47.86	35.00	12.86
9/28	46.94	35.00	11.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79	20.28	14.51
10/3	45.10	20.28	24.82
10/4	46.96	20.28	26.68
10/5	48.50	20.28	28.22
10/6	47.80	20.28	27.52
10/7	47.28	20.28	27.00
10/8	45.14	20.28	24.86
10/10	55.40	20.28	35.12
10/11	54.48	20.28	34.20
10/12	53.08	20.28	32.80
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$307.80	\$ 962.26

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,320.48

APPENDIX B-62

MARIA GUADALUPE PEREZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	35.00	2.36
9/27	47.86	35.00	12.86
9/28	46.94	35.00	11.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79	20.28	14.51
10/3	45.10	20.28	24.82
10/4	46.96	20.28	26.68
10/5	48.50	20.28	28.22
10/6	47.80	20.28	27.52
10/7	47.28	20.28	27.00
10/8	45.14	20.28	24.86
10/10	55.40	20.28	35.12
10/11	54.48	20.28	34.20
10/12	53.08	20.28	32.80
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$307.80	\$ 962.26

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,320.48

APPENDIX B-63

SALVADOR ZAVALA (LARA)

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33	18.63	31.70
9/23	38.60	18.63	19.97
9/24	39.83	18.63	21.20
9/26	37.36	18.63	18.73
9/27	47.86	18.64	29.22
9/28	46.94	18.64	28.30
9/29	47.42	43.71	3.71
9/30	47.43	43.71	3.72
10/1	34.79	43.71	0.00
10/3	45.10	43.71	1.39
10/4	46.96	43.72	3.24
10/5	48.50	43.72	4.78
10/6	47.80	40.13	7.67
10/7	47.28	40.14	7.14
10/8	45.14	40.14	5.00
10/10	55.40	40.14	15.26
10/11	54.48	40.14	14.34
10/12	53.08	40.14	12.94
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$614.91	\$ 664.07

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,022.29

APPENDIX B-64

LUIZ RAMIREZ LOPEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	34.18	13.62
10/7	47.28	34.18	13.10
10/8	45.14	34.18	10.96
10/10	55.40	34.18	21.22
10/11	54.48	34.18	20.30
10/12	53.08	34.18	18.90
10/13	50.42	36.08	14.34
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 241.16	\$1,028.90
		Expenses:	60.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,447.12</u></u>

APPENDIX B-65

ANITA M. LOPEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	37.43	10.37
10/7	47.28	37.43	9.85
10/8	45.14	37.43	7.71
10/10	55.40	37.43	17.97
10/11	54.48	37.43	17.05
10/12	53.08	37.43	15.65
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 224.58	\$1,045.48

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,403.70

APPENDIX B-66

MIGUEL ALONZO ESPINOSA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42	9.02	38.40
9/30	47.43	47.27	0.16
10/1	34.79	47.28	0.00
10/3	45.10	47.28	0.00
10/4	46.96	47.28	0.00
10/5	48.50	47.28	1.22
10/6	47.80	47.28	0.52
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 292.69	\$ 992.36
		Expenses:	63.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,413.58</u></u>

APPENDIX B-67

ROBERTO LEMUS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	60.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,688.28</u></u>

APPENDIX B-68

ROMALDO G. MIRAMONTES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-69

ARTURO TORRES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	53.33
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,681.61</u></u>

APPENDIX B-70

ISMAEL ZUNIGA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94	30.00	16.94
9/29	47.42	30.00	17.42
9/30	47.43	30.00	17.43
10/1	34.79	30.00	4.79
10/3	45.10	30.00	15.10
10/4	46.96	30.00	16.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$180.00	\$1,090.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,448.28

APPENDIX B-71

MARIA GUADALUPE ZUNIGA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94	30.00	16.94
9/29	47.42	30.00	17.42
9/30	47.43	30.00	17.43
10/1	34.79	30.00	4.79
10/3	45.10	30.00	15.10
10/4	46.96	30.00	16.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40	20.13	35.27
10/11	54.48	20.13	34.35
10/12	53.08	20.13	32.95
10/13	50.42	20.12	30.29
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$260.52	\$1,009.54

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,367.76

APPENDIX B-72

MICAELA VILLALOBOS ZUNIGA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		16.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	35.00	12.80
10/7	47.28	35.00	12.28
10/8	45.14	35.00	10.14
10/10	55.40	35.00	20.40
10/11	54.48	35.00	19.48
10/12	53.08	35.00	18.08
10/13	50.42	40.88	9.54
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$250.88	\$1,019.18

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,377.40

APPENDIX B-73

EZEQUEL Z. VILLALOBOS

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79	42.79	0.00
10/3	45.10	42.79	2.31
10/4	46.96	42.79	4.17
10/5	48.50	42.79	5.71
10/6	47.80	42.79	5.01
10/7	47.28	42.79	4.49
10/8	45.14	42.79	2.35
10/10	55.40	42.79	12.61
10/11	54.48	42.80	11.68
10/12	53.08	44.15	8.93
10/13	50.42	44.16	6.26
<u>10/14</u>	41.01	41.86	0.00
28	\$1,270.06	\$515.29	\$ 763.62

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,121.84

APPENDIX B-74

ALFREDO GALLARDO

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	30.00	17.80
10/7	47.28	30.00	17.28
10/8	45.14	30.00	15.14
10/10	55.40	30.00	25.40
10/11	54.48	30.00	24.48
10/12	53.08	30.00	23.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 180.00	\$1,090.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,448.28

APPENDIX B-75

ANGELINA PEREZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83	26.00	13.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42	30.00	17.42
9/30	47.43	30.00	17.43
10/1	34.79		34.79
10/3	45.10	30.00	15.10
10/4	46.96	30.00	16.96
10/5	48.50	30.00	18.50
10/6	47.80	30.00	17.80
10/7	47.28	30.00	17.28
10/8	45.14		45.14
10/10	55.40	30.00	25.40
10/11	54.48	30.00	24.48
10/12	53.08	30.00	23.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$326.00	\$ 944.06
		Expenses:	20.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,322.28</u></u>

APPENDIX B-76

CLEMENTINA PEREZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36	32.98	4.38
9/27	47.86	32.99	17.87
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	30.82	16.98
10/7	47.28	30.82	16.46
10/8	45.14	30.82	14.32
10/10	55.40	30.82	24.58
10/11	54.48	30.82	23.66
10/12	53.08	30.83	22.25
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$250.00	\$1,019.16

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,377.38

APPENDIX B-77

RAMON C. PEREZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86	34.77	13.09
9/28	46.94	34.77	12.17
9/29	47.42	34.78	12.64
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28	45.88	1.40
10/8	45.14	45.88	0.00
10/10	55.40	45.88	9.52
10/11	54.48	45.88	8.60
10/12	53.08	45.88	7.20
10/13	50.42	45.88	4.54
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$379.60	\$ 891.20
		Expenses:	87.50
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,336.92</u></u>

APPENDIX B-78

MARGARITO CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-79

ANTONIO ANDALON

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	105.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,733.28</u></u>

APPENDIX B-80

ISIDRO C. PUENTE

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79	27.50	7.29
10/3	45.10	27.50	17.60
10/4	46.96	27.50	19.46
10/5	48.50	27.50	21.00
10/6	47.80	27.50	20.30
10/7	47.28	27.50	19.78
10/8	45.14	27.50	17.64
10/10	55.40	13.75	41.65
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$206.25	\$1,063.81
		Expenses:	7.50
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,429.53</u></u>

APPENDIX B-81

PEDRO GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42	21.05	26.37
9/30	47.43	21.05	26.38
10/1	34.79	21.05	13.74
10/3	45.10	21.05	24.05
10/4	46.96	21.05	25.91
10/5	48.50	21.05	27.45
10/6	47.80	21.05	26.75
10/7	47.28	21.05	26.23
10/8	45.14	21.05	24.09
10/10	55.40	21.05	34.35
10/11	54.48		54.48
10/12	53.08	39.45	13.63
10/13	50.42	39.46	10.96
<u>10/14</u>	41.01	51.33	0.00
28	\$1,270.06	\$340.74	\$ 939.64
		Expenses:	8.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,305.86</u></u>

APPENDIX B-82

JOSE LUIS ZAMUDIO

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11			0.00
10/12			0.00
10/13			0.00
<u>10/14</u>			0.00
28	\$1,071.08	\$ 0.00	\$1,071.08
		Expenses:	55.00
		Make-Whole Supplement:	<u>302.10</u>
		TOTAL OWING:	<u><u>\$1,428.18</u></u>

Make-whole Supplement:

$$\$1,071.08 / .78 = \$1,373.18$$

$$\$1,373.18 - 1,071.08 = \$302.10$$

APPENDIX B-83

ERNESTO GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43	47.43	0.00
10/1	34.79	34.79	0.00
10/3	45.10	45.10	0.00
10/4	46.96	46.96	0.00
10/5	48.50	48.50	0.00
10/6	47.80	47.80	0.00
10/7	47.28	47.28	0.00
10/8	45.14	45.14	0.00
10/10	55.40	55.40	0.00
10/11	54.48	54.48	0.00
10/12	53.08	53.08	0.00
10/13	50.42	50.42	0.00
<u>10/14</u>	41.01	41.01	0.00
28	\$1,270.06	\$ 617.39	\$ 652.67
		Expenses:	15.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,025.89</u></u>

APPENDIX B-84

GUADALUPE ALCANTAR

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-85

MANUEL MORAL LUNA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50	31.50	17.00
10/6	47.80	26.25	21.55
10/7	47.28	31.50	15.78
10/8	45.14	26.25	18.89
10/10	55.40	50.70	4.70
10/11	54.48	33.15	21.33
10/12	53.08	53.62	0.00
10/13	50.42	44.85	5.57
<u>10/14</u>	<u>41.01</u>	<u>39.00</u>	<u>2.01</u>
28	\$1,270.06	\$336.82	\$ 933.78

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,292.00

APPENDIX B-86

RAFAEL P. CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	70.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u>\$1,698.28</u>

APPENDIX B-87

JULIAN GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-88

DELFINA M. HERNANDEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-89

GREGORIO GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	<u>41.01</u>		<u>41.01</u>
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-90

RAFAEL ZAVALA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86	54.27	0.00
9/28	46.94	54.28	0.00
9/29	47.42	58.60	0.00
9/30	47.43	58.61	0.00
10/1	34.79	58.61	0.00
10/3	45.10	58.61	0.00
10/4	46.96	58.61	0.00
10/5	48.50	58.61	0.00
10/6	47.80	41.30	6.50
10/7	47.28	41.30	5.98
10/8	45.14	41.30	3.84
10/10	55.40	41.31	14.09
10/11	54.48	41.31	13.17
10/12	53.08	41.31	11.77
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$708.03	\$ 657.23

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,015.45

APPENDIX B-91

ADELA C. ZAVALA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	41.30	6.50
10/7	47.28	41.30	5.98
10/8	45.14	41.30	3.84
10/10	55.40	41.30	14.10
10/11	54.48	41.30	13.18
10/12	53.08	41.30	11.78
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$247.80	\$1,022.26

Make-Whole Supplement: 358.22

TOTAL OWING: \$1,380.48

APPENDIX B-92

ALBERTO ZAVALA CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80	26.25	21.55
10/7	47.28	39.00	8.28
10/8	45.14	35.10	10.04
10/10	55.40	50.70	4.70
10/11	54.48	33.15	21.33
10/12	53.08	13.65	39.43
10/13	50.42	44.85	5.57
<u>10/14</u>	41.01	39.00	2.01
28	\$1,270.06	\$281.70	\$ 988.36
		Expenses:	70.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,418.58</u></u>

APPENDIX B-93

ARTURO JUAREZ MENDOZA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-94

AGUSTIN GARIBAY

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94	31.00	15.94
9/29	47.42	54.02	0.00
9/30	47.43	54.02	0.00
10/1	34.79	54.02	0.00
10/3	45.10	54.03	0.00
10/4	46.96	54.03	0.00
10/5	48.50	54.03	0.00
10/6	47.80	35.92	11.88
10/7	47.28	35.92	11.36
10/8	45.14	35.92	9.22
10/10	55.40	35.92	19.48
10/11	54.48	35.92	18.56
10/12	53.08	35.93	17.15
10/13	50.42	43.55	6.87
<u>10/14</u>	<u>41.01</u>	<u>43.55</u>	<u>0.00</u>
28	\$1,270.06	\$657.78	\$ 668.77
		Expenses:	15.55
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,042.54</u></u>

APPENDIX B-95

MANUEL SANCHEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42	4.51	42.91
9/30	47.43	43.43	4.00
10/1	34.79	43.43	0.00
10/3	45.10	43.43	1.67
10/4	46.96	43.43	3.53
10/5	48.50	43.44	5.06
10/6	47.80	43.44	4.36
10/7	47.28	57.93	0.00
10/8	45.14	57.93	0.00
10/10	55.40	57.93	0.00
10/11	54.48	57.93	0.00
10/12	53.08	57.93	0.00
10/13	50.42	57.93	0.00
<u>10/14</u>	41.01	53.83	0.00
28	\$1,270.06	\$666.52	\$ 666.78
		Expenses:	22.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,047.00</u></u>

APPENDIX B-96

MARIA LUZ SANCHEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		42.91
9/30	47.43	40.97	6.46
10/1	34.79	40.97	0.00
10/3	45.10	40.97	4.13
10/4	46.96	40.97	5.99
10/5	48.50	40.98	7.52
10/6	47.80	40.98	6.82
10/7	47.28	50.88	0.00
10/8	45.14	50.88	0.00
10/10	55.40	50.88	0.00
10/11	54.48	50.88	0.00
10/12	53.08	50.88	0.00
10/13	50.42	50.88	0.00
<u>10/14</u>	41.01	51.78	0.00
28	\$1,270.06	\$632.90	\$ 683.59

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,041.81

APPENDIX B-97

CELIA H. MORALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43	31.85	15.58
10/1	34.79	22.75	12.04
10/3	45.10	33.15	11.95
10/4	46.96	42.25	4.71
10/5	48.50	44.85	3.65
10/6	47.80	31.85	15.95
10/7	47.28	32.50	14.78
10/8	45.14	33.05	12.09
10/10	55.40	35.75	19.65
10/11	54.48	40.63	13.85
10/12	53.08	41.93	11.15
10/13	50.42	38.03	12.39
<u>10/14</u>	41.01	21.70	19.31
28	\$1,270.06	\$450.29	\$ 819.77

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,177.99

APPENDIX B-98

RICARDO M. HERNANDEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06
		Expenses:	54.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,682.28</u></u>

APPENDIX B-99

JOSE T. C. CHAVEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79	30.87	3.92
10/3	45.10	30.87	14.23
10/4	46.96	30.87	16.09
10/5	48.50	30.87	17.63
10/6	47.80	30.87	16.93
10/7	47.28	30.88	16.40
10/8	45.14	30.88	14.26
10/10	55.40	30.88	24.52
10/11	54.48	30.88	23.60
10/12	53.08	30.88	22.20
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$308.75	\$ 961.31

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,319.53

APPENDIX B-100

MIGUEL GONZALES

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10		45.10
10/4	46.96		46.96
10/5	48.50		48.50
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10	55.40		55.40
10/11	54.48		54.48
10/12	53.08		53.08
10/13	50.42		50.42
<u>10/14</u>	41.01		41.01
28	\$1,270.06	\$ 0.00	\$1,270.06

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,628.28

APPENDIX B-101

VENTURA LUNA

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$ 83.52	\$ 0.00
9/14	35.95	83.53	0.00
9/15	51.05	43.66	7.39
9/16	45.74	43.66	2.08
9/17	37.78	43.67	0.00
9/19	37.44	43.67	0.00
9/20	53.10	43.67	9.43
9/21	46.33	43.67	2.66
9/22	50.33	29.35	20.98
9/23	38.60	29.36	9.24
9/24	39.83	29.36	9.47
9/26	37.36	29.36	8.00
9/27	47.86	29.36	18.50
9/28	46.94	29.36	17.58
9/29	47.42	62.78	0.00
9/30	47.43	62.78	0.00
10/1	34.79	62.78	0.00
10/3	45.10	62.78	0.00
10/4	46.96	62.78	0.00
10/5	48.50	62.78	0.00
10/6	47.80	50.42	0.00
10/7	47.28	50.42	0.00
10/8	45.14	50.42	0.00
10/10	55.40	50.42	4.98
10/11	54.48	50.42	4.06
10/12	53.08	50.42	2.66
10/13	50.42	50.43	0.00
<u>10/14</u>	<u>41.01</u>	<u>57.20</u>	<u>0.00</u>
28	\$1,270.06	\$1,390.03	\$ 112.97

Make-Whole Supplement : 238.25

TOTAL OWING: \$ 351.22

Make-whole Supplement :

$$\$358.22 - (1,390.03 - 1,270.06) = \$238.25$$

APPENDIX B-102

ANGEL RAMIREZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19			0.00
9/20			0.00
9/21			0.00
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1			0.00
10/3			0.00
10/4			0.00
10/5			0.00
10/6	47.80		47.80
10/7	47.28		47.28
10/8	45.14		45.14
10/10			0.00
10/11			0.00
10/12			0.00
10/13			0.00
10/14			0.00
28	\$ 703.45	\$ 0.00	\$ 703.45

Make-Whole Supplement: 198.41

TOTAL OWING: \$ 901.86

Make-whole Supplement:

$$\$703.45 / .78 = \$901.86$$

$$\$901.86 - 703.45 = \$198.41$$

APPENDIX B-103

ANGEL VILLAGOMEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43		47.43
10/1	34.79		34.79
10/3	45.10	31.20	13.90
10/4	46.96	31.20	15.76
10/5	48.50	31.20	17.30
10/6	47.80	31.20	16.60
10/7	47.28	31.20	16.08
10/8	45.14	15.60	29.54
10/10	55.40	31.20	24.20
10/11	54.48	31.20	23.28
10/12	53.08	31.20	21.88
10/13	50.42	31.20	19.22
<u>10/14</u>	<u>41.01</u>	<u>31.20</u>	<u>9.81</u>
28	\$1,270.06	\$327.60	\$ 942.46

Make-Whole Supplement : 358.22

TOTAL OWING: \$1,300.68

APPENDIX B-104

IDOLINA MARTINEZ

<u>DATE</u>	<u>GROSS BACKPAY</u>	<u>INTERIM</u>	<u>NET BACKPAY</u>
9/13	\$ 36.94	\$	\$ 36.94
9/14	35.95		35.95
9/15	51.05		51.05
9/16	45.74		45.74
9/17	37.78		37.78
9/19	37.44		37.44
9/20	53.10		53.10
9/21	46.33		46.33
9/22	50.33		50.33
9/23	38.60		38.60
9/24	39.83		39.83
9/26	37.36		37.36
9/27	47.86		47.86
9/28	46.94		46.94
9/29	47.42		47.42
9/30	47.43	35.10	12.33
10/1	34.79	35.11	0.00
10/3	45.10	35.11	9.99
10/4	46.96	35.11	11.85
10/5	48.50	35.11	13.39
10/6	47.80	35.11	12.69
10/7	47.28	47.24	0.04
10/8	45.14	47.24	0.00
10/10	55.40	47.24	8.16
10/11	54.48	47.25	7.23
10/12	53.08	47.25	5.83
10/13	50.42	47.25	3.17
<u>10/14</u>	<u>41.01</u>	<u>30.72</u>	<u>10.29</u>
28	\$1,270.06	\$524.84	\$ 747.64
		Expenses:	42.00
		Make-Whole Supplement:	<u>358.22</u>
		TOTAL OWING:	<u><u>\$1,147.86</u></u>

APPENDIX C

APPENDIX C

Testifying Alleged

Discriminatees

1. Nativided Morales Lopez
2. Rene Gonzales
3. Jose Gonzales
4. Augustin Nava
5. Faustino Orejel
6. Maria Orejel
7. Rafael Monroy
8. Ricardo Rojas
9. Lucia Campos
10. Josefina Guzman
11. Rafael Guzman
12. Beatrice Zavala
13. David Campos
14. Socorro Campos
15. Antonio Vaca
16. Gloria B. Chavez
17. Nicolas Chavez Morales
18. Amelia L. Chavez
19. Joaquin Chavez Chavez
20. Maria Aldaco Melchor aka Maria de La Luz Vaca Melchor
21. Trinidad Vaca Aldaco
22. Jose Carmen Vaca Aldaco
23. Amelia C. Chavez

24. Angelina Chavez
25. Ricardo Gonzales
26. Faustino Contreras
27. Irma Morales Lopez (Contreras)
28. Jose A. Garcia
29. Maria Garcia
30. Jose N. Chavez
31. Everado Contreras
32. Augustin Garcia
33. Jose Luis Ramirez (Alonzo)
34. Guadalupe Chavez Morales
35. Nicolas Gasca Zavala
36. Merced P. Chavez
37. Aurelia Chavez (Pantoja)
38. Daniel Torres
39. Yolanda Lopez Guzman
40. Miguel Andalon (Sanchez)
41. Nicolas Zavala
42. Maria de Jesus Contreras (Macias)
43. Endenia Macias Contreras
44. Maria De Jesus Chavez (Chavez)
45. Antonio Ruiz (Estrada)
46. Gabino G. Chavez
47. Armando Lopez Paul
48. Jose Luis Zavala

49. Vicente Martinez
50. Emma Pizano
51. Nicolas Pizano
52. Jose Garcia (Zavala)
53. Margarita Hernandez
54. Jose Luis Gomez (Cabrera)
55. Virginia Gonzales
56. Concepcion Gomez
57. Maurilio Vasquez
58. Carmen Vasquez (Ramirez)
59. Lidia Z. De Vasquez
60. Delfina Orejel (Perez)
61. David Sanchez Gaytan
62. Cervando Gonzales
63. Roque T. Lopez
64. Maria Martinez
65. David Aguilera Hernandez
66. Adela L. Perez
67. Maria Guadalupe Perez
68. Salvador Zavala Lopez
69. Luis Ramirez Lopez
70. Anita M. Lopez
71. Miguel Alonzo Espinoza
72. Roberto Lemus
73. Romaldo G. Miramontes

74. Maria Ana Lemus
75. Arturo Torres
76. Ismael Zuniga(Jimenez)
77. Maria Guadalupe Zuniga
78. Micaela Villalobos Zuniga
79. Ezequiel Z. Villalobos
80. Alfredo Gallardo (Moreno)
81. Angelina Perez
82. Clementina Perez
83. Ramon C. Perez
84. Margarito Chavez
85. Antonio Andalon
86. Isidro C. Puente
87. Pedro Gonzales
88. Jose Luis Zamudio
89. Ernesto Gonzales
90. Guadalupe Alcantar
91. Manuel Mora Luna
92. Aurelia Garcia de Chavez
93. Rafael P. Chavez
94. Julian Gonzales
95. Delfina M. Hernandez
96. Guillermo Gonzales
97. Gregorio Gonzales
98. Rafael Zavala

99. Adela C. Zavala
100. Alberto Zavala Chavez
101. Arturo Juarez Mendoza
102. Agustin Garibay
103. Manuel Sanchez
104. Maria Luz Sanchez
105. Celia H. Morales
106. Ricardo M. Hernandez
107. Jose T. C. Chavez (Trinidad Chavez)
108. Miguel Gonzales
109. Ventura Luna
110. Angel Ramirez
111. Francisco Mendez Hinojosa
112. Angel Villagomez
113. Idolina Martinez
114. Emma Martinez Sanchez