

New Mexico Court of Appeals: Farm Laborer Exception to Workers' Compensation Is Unconstitutional

A recent decision by the New Mexico Court of Appeals is receiving much attention from the agricultural industry. In *Rodriguez v. Brand West Dairy*, the New Mexico Court of Appeals held that a provision excluding farm and ranch laborers from coverage is unconstitutional as it violates the Equal Protection Clause of the New Mexico Constitution.

Factual Background

Two agricultural laborers were injured during their employment in the New Mexico agriculture industry. Aguirre was injured while picking chile for M.A. & Sons Chili Products. Rodriguez was injured while working as a dairy laborer and herdsman for Brand West Dairy. Both sought workers' compensation benefits. Both were denied benefits based upon the New Mexico Workers' Compensation Act provision that excludes agricultural laborers from coverage. The workers appealed this denial, arguing that the exclusion violates their right to equal protection under the NM Constitution. Their cases were consolidated for appellate purposes.

Legal Background – Workers' Compensation

The purpose of the New Mexico Workers' Compensation Act ("the Act") is to provide "quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to the employers subject to its provisions." Generally, workers who are unable to perform work duties due to an accident arising out of and in the course of their employment are able to receive workers' compensation. Employers pay to have workers' compensation insurance coverage and in return are given affirmative defenses to tort lawsuits filed by injured workers. Workers receive the ability to obtain medical and indemnity benefits quickly, without having to resort to costly and time-consuming litigation.

Under the Act, Section 52-1-6(A) provides that "The provisions of the Workers' Compensation Act shall not apply to...employers of farm and ranch laborers." This means that farm and ranch laborers are not covered by the provisions of the Act and cannot collect payment if injured. They do, however, have

the option to file a tort claim in the court. This exclusion has been part of the Act since 1937.

Legal Background – Equal Protection Clause

The New Mexico Constitution provides that no person shall be denied equal protection under the law. This essentially guarantees that similarly situated persons will be treated in an equal manner absent a sufficient reason to justify different treatment. In analyzing a claim involving the Equal Protection Clause, courts look first to determine the following: (1) Is there a class of similarly situated individuals being treated differently? (2) If so, what level of scrutiny applies to the challenged legislation.

There are three levels of scrutiny applied under the New Mexico Constitution when evaluating equal protection claims: rational basis, intermediate, and strict. (These same levels apply to evaluate claims under the United States Constitution.) Which level applies depends upon the nature and importance of the interests and how the classifications are drawn.

Rational basis is the lowest level of scrutiny and the most deferential to the constitutionality of the law. It applies to general social and economic legislation that does not affect a fundamental or important constitutional right or suspect class. The party challenging a law must prove that the law is not rationally related to a legitimate governmental purpose.

Intermediate scrutiny is applied where important, but not fundamental rights or sensitive, but not suspect classifications are at issue. Perhaps most common, we see intermediate scrutiny applied where classifications are drawn based on gender. Here, the State must demonstrate the statute is substantially related to an important government purpose.

Strict scrutiny applies only where laws differentiate based on suspect classifications (such as race) or fundamental rights. The State must prove that the provision at issue is narrowly tailored to a compelling government purpose.

Court of Appeals' Opinion

Are similarly situated individuals being treated differently?

The Court of Appeals found that agricultural laborers were similarly situated to other injured workers in the state seeking compensation, as both consist of workers suffering from on-the-job injuries or disabilities who are in need of indemnity and medical benefits. By selecting one class—farm and ranch laborers—and excluding them from workers' compensation coverage, they are being treated differently than other similarly situated individuals.

Further, even those employees working on a farm or ranch are further separated into classes and treated differently. New Mexico courts have held that workers who perform tasks essential to the cultivation of crops, such as harvesting, are excluded from coverage as “farm or ranch laborers,” while those who perform tasks incidental to farming, such as processing crops, are not excluded. With regard to animal care, the court noted that those who care and train for animals as an intrinsic part of the farm and ranch operation are excluded from coverage, while employees and laborers of a facility not intrinsic to a farm or ranch, like a veterinary clinic, are covered. These distinctions result in disparate treatment of similarly situated individuals.

What level of scrutiny applies?

All parties and the court agreed that strict scrutiny does not apply in this case. The court then expressly held that intermediate scrutiny was not applicable either, leaving rational basis review to apply. Under rational basis review, legislation is presumed to be constitutional unless the challenger proves otherwise.

Is the exclusion rationally related to a legitimate state interest?

The Court of Appeals noted that in order to make this determination, it must “look beyond the classification to the purpose of the law.” In doing so, the Court noted that its “review of the history of the workers' compensation statutes back to 1929 has not revealed an articulable purpose for the exclusion.” The court noted that excluding farm and ranch laborers does not serve the purpose of the Act, which are to maximize limited recovery available to injured workers, minimize costs to employers, and ensure a quick and efficient system. On the contrary, said the court,

the exclusion circumvents the idea that the Act exists to balance the rights of workers and employers. The exclusion, reasoned the Court, makes it less likely that workers will be able to recover for their injuries because they are unlikely to file a tort claim against the employer. Meanwhile, the employer does not have to pay the cost of having workers' compensation coverage for these laborers.

Additionally, the seemingly arbitrary distinctions between agricultural workers "leads to absurd results." For example, there could be that some employees working for the same employer on the same farm are covered, while others are not. Employees who sort, pack and ship the crops are covered, while employees involved in irrigating, fertilizing and harvesting the same crops would be excluded.

The agricultural employers in this case argued that the legitimate purpose served by the exclusion was to protect the New Mexico agricultural industry from additional overhead costs. The court found that preserving resources and lowering costs was not a sufficient government purpose under rational basis review. Further, the fact that the exclusion applies to only "laborers" and not all agricultural workers, undercuts this argument and indicates protecting the agriculture industry from additional costs was not a reason for the exclusion.

"We fail to see any real differences between workers who fall under the statutory definition of a farm and ranch laborer and workers who do not. We also fail to see any real differences between farm and ranch laborers and all other workers in New Mexico that would justify the exclusion....There is nothing rational about a law that excludes from workers' compensation benefits employees who harvest crops from the field while providing benefits for the employees who sort and bag the very same crop....Moreover, excluding farm and ranch laborers from workers' compensation coverage directly controverts the purpose and evenhanded philosophy of the Act by placing farm and ranch employers at an advantage and denying workers the benefits the Act was intended to provide."

How will this holding apply?

Because the court found the statute to be unconstitutional, it then considered whether the ruling should be applied prospectively (only going forward), retroactively (also for past cases), or a combination thereof. The court determined

that the decision would apply to all workers' compensation claims that were pending as of March 30, 2012 and those filed after that date.

It is not clear whether the defendants plan to appeal.

Why Should We Care?

First, for New Mexico farmers, ranchers, this case marks a significant change in the law that may well impact their operation. Workers' compensation coverage may greatly increase costs for employers. State Senator Pat Woods states that he is aware of ranch owners in Eastern New Mexico who have seen rates rise by 40% when adding workers' compensation coverage for employees. Woods is concerned this is just another reason for people to get out of agriculture, or not to get in to begin with.

Second, the application of this ruling going back to 2012 will likely allow numerous claims to be brought before the Workers' Compensation Commission, meaning farm and ranch employers could be facing rulings against them, for which time they likely did not carry workers' compensation insurance to cover such claims.

Third, for farm and ranch laborers, this decision will give them the right to seek workers' compensation benefits if injured on the job. As the court pointed out, the purpose of allowing workers' compensation claims is to allow quick access to indemnity and medical benefits to injured workers.

Finally, although workers' compensation statutes vary greatly by state, this case could be used by plaintiffs' attorneys in other states as persuasive authority to make similar arguments. It is important for employers to be aware of the workers' compensation laws in their own states.