

WORKING IMMIGRANTS

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Three suits over subcontracted janitor labor violations

The [Boston Globe](#) reports a suit dealing janitors and kitchen staff working for a leading Boston-area healthcare organization, Cambridge Health Alliance, while technically employed by an outsourcing company, Clean Link. Last year two major settlements over janitorial services were made, one involving Walmart.

The blog [Contingent Law](#) summarizes this \$22 million settlement and a Walmart settlement as follows:

Wal-Mart Agrees to \$11 Million Settlement in Illegal Foreign Janitors' Class Action Lawsuit Holding Wal-Mart Liable for its Contract Janitorial Firms' Violations of Federal Immigration and Labor Laws. (Zavala et.al. v. Walmart Stores, Inc. , U.S. D.Ct. D. N.J.) settled March 18, 2005). The illegal immigrant janitors were employed by Wal-Mart's contract janitorial services companies. Wal-Mart was liable as a joint employer with 12 contract janitorial services firms. The janitorial firms were charged with criminal violations and were fined \$4 million.

\$22 Million Settlement for 2,000 Illegal Immigrant Contract Janitors in Federal Class Action Lawsuit Charging National Supermarkets and their Subcontractor Cleaning Companies with FLSA Violations. (Flores v. Albertson's. et. al. , U.S. D.Ct., C.D., Cal. Jan 26, 2005)

The Globe article goes on:

Cambridge Health Alliance , a public health network praised for its business and workplace practices, is named in a lawsuit alleging that Brazilian workers placed at its worksites by a Brockton firm were paid less than minimum wage, denied overtime, and were subjected to illegal deductions.

Filed in Middlesex Superior Court against the contractor last year, the suit was amended last week to include the Cambridge Health Alliance as a co-defendant. It alleges that workers placed by Clean Link Inc. earned \$7 per hour as janitors or kitchen staff, but the firm routinely deducted money from paychecks with no explanation or reimbursement. The suit also alleges that the firm did not pay overtime when employees worked weekends or stayed late week days as required by the Fair Labor Standards Act.

Cambridge Health Alliance did not hire the Brazilian immigrants, but the lawsuit claims the workers took day-to-day direction from alliance employees, noting that if workers time off they cleared the request with Cambridge Health Alliance, not Clean Link.

``We are going to move to dismiss this complaint because these employees are not employees of the Cambridge Health Alliance ,'' said attorney Thomas Royall Smith of Jackson Lewis LLP in Boston. ``They were employees of Clean Link.'' The workers' lawyers are seeking class action status for janitors and kitchen staff who were placed at Cambridge Health Alliance by Clean Link between 1996 and 2005.

Defined in a 1964 US Supreme Court decision involving a bus company that contracted with a cleaning service, joint employer means that ``one employer, while contracting in good faith with an otherwise independent company, retains sufficient control of the

terms and conditions of employment of the workers hired by the other employer," according to the high court decision.

Boston lawyer Shannon Liss-Riordan , whose firm represents the Clean Link workers, argues that some employers shirk responsibility for wage violations and mistreatment of employees on their sites by claiming that they are not the employer.

Posted by Peter Rousmaniere on June 25, 2006 6:32 AM | [Permalink](#)

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