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14 UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA  
16 FRESNO DIVISION

17 JOSE HERNANDEZ, individually and on  
18 behalf of all others similarly situated,

19 Plaintiffs,

20 v.

21 LEO BALAKIAN, ANTHONY  
22 BALAKIAN AND VINCE BALAKIAN,

23 Defendants.

24 JURY TRIAL DEMANDED  
25 CLASS ACTION COMPLAINT

1 **I. NATURE OF ACTION**

2 1. This is a class action brought on behalf of all legal hourly-paid workers,  
3 who have been employed by any entity owned or operated by the defendants,  
4 including Fruit Patch, Inc. of Reedley, California.  
5

6 Mr. Hernandez contends that the defendants (hereafter “the Balakians”) have  
7 depressed his wages as an agricultural worker at Fruit Patch Inc. by knowingly  
8 employing vast numbers of illegal immigrants there for the express purpose of  
9 depressing the market price for unskilled labor. (This is referred to as “the Illegal  
10 Immigrant Hiring Scheme” or “the Scheme”.)  
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13 2. The Illegal Immigrant Hiring Scheme violates the Racketeer Influenced  
14 and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 *et seq.* It is perpetrated  
15 every day, as an integral part of the Balakian’s regular manner of staffing their  
16 orchards, and will continue unabated, victimizing every legal worker, until halted by  
17 judicial intervention.  
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20 **II. PARTIES, JURISDICTION & VENUE**

21 3. Plaintiff Jose Hernandez is a citizen of California. He was legally  
22 authorized to be employed in the U.S. when he was employed by Fruit Patch, Inc., as  
23 an hourly paid farmworker. Fruit Patch Inc. is owned and operated by the Balakians.  
24 Mr. Hernandez’s wages as an agricultural worker for Fruit Patch Inc. were set by the  
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1 Balakians at a level which was depressed as a direct result of the Illegal Immigrant  
2 Hiring Scheme they perpetrated.  
3

4 4. Leo Balakian and his sons, Anthony and Vince Balakian, are citizens of  
5 California. They have conspired to operate Fruit Patch Inc. and other agricultural  
6 growing businesses they own or operate (hereafter “the other entities”) through a  
7 pattern of racketeering activity, the Illegal Immigrant Hiring Scheme.  
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9 5. This Court has subject matter jurisdiction of this case as a federal  
10 question, pursuant to 28 U.S.C. § 1331 and 18 U.S.C. § 1964(c).  
11

12 6. Venue is proper in this District because the illegal acts giving rise to this  
13 case occurred in this district and all parties reside here.  
14

### 15 **III. CLASS ALLEGATIONS**

16 7. This action is brought and may be maintained as a class action pursuant  
17 to FED. R. CIV. P. 23(b)(3). Mr. Hernandez brings this action on behalf of himself and  
18 all other persons legally authorized to be employed in the U.S. who have been  
19 employed by Fruit Patch Inc. and the other entities owned and/or operated by any of  
20 the three Defendants in the last four years (hereafter the “Class” or “Class members”)  
21 as hourly or piece rate unskilled laborers.  
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1           8.     The Class is so numerous that joinder of all Class members is  
2 impracticable. The actual number can be ascertained through discovery of the various  
3 entities' records.  
4

5           9.     Among the questions of fact and law that are common to the Class are:

6                 a.     Whether the Defendants have been and are currently engaged in  
7 the Illegal Immigrant Hiring Scheme in order to depress wages;  
8

9                 b.     To what extent the Illegal Immigrant Hiring Scheme has caused  
10 Class members' wages to be depressed; and  
11

12                 c.     Whether the Illegal Immigrant Hiring Scheme violates the  
13 Immigration and Nationality Act and RICO.  
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15           10.    Plaintiffs' claims are typical of those of the members of the Class  
16 inasmuch as their alleged damages were directly and proximately caused by the Illegal  
17 Immigrant Hiring Scheme. Plaintiffs seek no relief that is antagonistic or adverse to  
18 other Class members.  
19

20           11.    Plaintiffs are committed to the vigorous prosecution of this action and  
21 have retained counsel who are competent in the prosecution of RICO cases generally,  
22 and this legal theory in particular. Accordingly, Plaintiffs and their counsel will fairly  
23 and adequately protect and represent the interests of the Class.  
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1           12. Questions of law or fact that are common to the members of the Class are  
2 substantially similar and predominate over any questions affecting only individual  
3 Class members, and a class action is the only appropriate method for the fair and  
4 efficient adjudication of this controversy for the following reasons, among others:  
5

6           a. The individual amounts of damages involved, while not  
7 insubstantial, are generally not large enough to justify individual actions;  
8

9           b. The costs of individual actions would unreasonably consume the  
10 amounts that would be recovered;  
11

12           c. Individual actions would unduly burden the judicial system; and

13           d. Individual actions brought by Class members would create a risk  
14 of inconsistent results and would be unnecessarily duplicative of this litigation.  
15

16           13. Plaintiffs anticipate no difficulty in the management of this action  
17 because the evidence proving the Illegal Immigrant Hiring Scheme is ascertainable  
18 through discovery, the identities of the members of the Class are known to Defendants  
19 and the other entities over which they have control. Damages can be calculated  
20 through expert testimony.  
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1 **IV. THE ILLEGAL IMMIGRANT HIRING SCHEME ENSURES THAT**  
2 **MOST HOURLY WORKERS ARE UNAUTHORIZED FOR**  
3 **EMPLOYMENT AND THAT WAGES ARE DEPRESSED**

4 14. The Illegal Immigrant Hiring Scheme saves Fruit Patch Inc. and the other  
5 entities millions of dollars per year in labor costs. This is so because illegal  
6 immigrants will work for starvation wages and in deplorable working conditions, a  
7 form of modern-day indentured servitude. Such hiring practices are in direct violation  
8 of the Immigration and Nationality Act and RICO, which makes the employment of  
9 illegal immigrants a predicate offense. Thus, if the Balakians were not hiring large  
10 numbers of illegal immigrants, their businesses would have to pay the Plaintiff Class  
11 significantly higher wages, and their profits would be sharply reduced.  
12  
13

14 15. All three of the Balakians have approved the following hiring criteria for  
15 Fruit Patch Inc. and the other entities. These criteria subvert the law against hiring  
16 illegal immigrants and effectively turn a blind eye to factors which any reasonable  
17 employer would know indicate job applicants are unauthorized for employment in the  
18 U.S.: 1) hiring workers who cannot speak English while claiming to be U.S. Citizens  
19 or Lawful Permanent Residents; 2) hiring workers who do not have housing and are  
20 recent arrivals to the U.S. and claim to be U.S. Citizens or Lawful Permanent  
21 Residents; 3) hiring workers who present authorization documents which are invalid  
22 on their face because the pictures are of a different person, are upside down, are on  
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1 poor quality paper, etc.; 4) hiring workers who are personally known to them and their  
2 co-conspirators to be in the U.S. illegally and are using false documents; and 5) hiring  
3 workers who have previously been employed under different identities. A majority of  
4 the hourly workforce of Fruit Patch Inc. and the other entities fall into one or more of  
5 these categories.  
6  
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8 16. Additionally, Fruit Patch Inc. and the other entities are often informed  
9 that large numbers of their workers are using false social security numbers by the  
10 Social Security Administration. Most of these workers then simply assume new  
11 identities and continue to be employed, pursuant to policies set by the Balakians.  
12

13 **A. The Balakians Have Personally Approved The Scheme; Their Co-**  
14 **Conspirators Implement It**

15 17. The Balakians have personally approved the hiring procedures detailed  
16 above. They have also directed their hiring personnel, including Roberto Olivarez,  
17 who has hired hundreds of illegal immigrants for Fruit Patch, Inc., to follow these  
18 procedures, *i.e.*, in ways that ensure the employment of a largely illegal workforce.  
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21 18. In addition, the Balakians facilitate the hiring of many of these illegal  
22 immigrants by directing their hiring-personnel to obtain housing for them, which  
23 Roberto Olivarez, among others, has done for illegal workers at Fruit Patch Inc.  
24

25 19. Therefore, Mr. Hernandez alleges that the Balakians and their co-  
26 conspirators have facilitated the Illegal Immigrant Hiring Scheme, thereby causing

1 Fruit Patch Inc. and the other entities they operate to hire more than 100 illegal  
2 workers per year during the last four years.

3  
4 **B. The Scheme Violates the Immigration and Nationality Act.**

5 20. The Immigration and Nationality Act provides, in relevant part:

6 Any person who, during any 12-month period, knowingly  
7 hires for employment at least 10 individuals with actual  
8 knowledge that the individuals are aliens... shall be fined  
9 under Title 18, or imprisoned for not more than 5 years, or  
both.

10 8 U.S.C. § 1324(a)(1)(B)(3)(A).

11 21. The Balakians have violated this provision of the Act by conspiring to  
12 employ more than 10 undocumented, illegal aliens in each of the last four years,  
13 knowing each was smuggled into the country and/or harbored once they arrived here.

14 22. Additionally, by knowingly employing illegal immigrants and, further,  
15 conspiring to provide them with housing, the Balakians have conspired to violate 8  
16 U.S.C. § 1324(a)(1)(A)(iii), which makes it a federal crime for anyone who “knowing  
17 or in reckless disregard of the fact that an alien has come to, entered, or remains in the  
18 United States in violation of law, conceals, harbors, or shields from detection, or  
19 attempts to conceal, harbor, or shield from detection, such alien in any place,  
20 including any building or any means of transportation.”  
21

22 23. These are provisions of § 274 of the Immigration and Nationality Act,  
23 which is a RICO predicate offense. 18 U.S.C. § 1961(1)(F).  
24  
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1           **C. Fruit Patch Inc. And The Balakians' Other Agricultural Businesses**  
2           **Are RICO Enterprises Controlled And Operated By The Balakians**

3           24. Fruit Patch Inc. is a California corporation affecting interstate commerce.  
4 It is therefore a RICO enterprise, pursuant to 18 U.S.C. § 1961(4). Additionally, the  
5 other entities are each RICO enterprises affecting interstate commerce. All three of  
6 the Balakians operate and manage each of these enterprises and, as stated, have  
7 implemented the Scheme at each by virtue of their roles as managers, officers and  
8 owners of each entity.  
9  
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11           **D. The Balakians Have Violated 18 USC § 1962(d) And Will Continue**  
12           **To Do So Indefinitely**

13           25. The conspiracy to perpetrate the Scheme is a violation of 18 U.S.C. §  
14 1962(d), an agreement among the Balakians and co-conspirators to violate § 1962(c),  
15 by participating in the affairs of Fruit Patch Inc. and the other entities through a  
16 pattern of racketeering activity. The Scheme is ongoing, open-ended, and has been  
17 perpetrated continuously for the last four years. It will not stop without judicial  
18 intervention.  
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21           **V. PLAINTIFFS ARE DIRECT VICTIMS OF THE ILLEGAL**  
22           **IMMIGRANT HIRING SCHEME**

23           26. The Balakians' Illegal Immigrant Hiring Scheme, by itself, was a  
24 substantial factor in causing the depressed wages about which Hernandez and the  
25 Class complain. No other party has been damaged by the Scheme.  
26

1           27. Each defendant is subject to joint and several liability for all of the  
2 damage caused by all the racketeering acts committed by any of the conspirators.  
3

4 **VI. PRAYER FOR RELIEF**

- 5           28. Plaintiffs demand judgment and other relief, as follows:  
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7           a. Certification of the Class pursuant to FED. R. CIV. P. 23(b)(3);  
8           b. Judgment in an amount equal to three times the damage caused to  
9 the Class by the Defendants' racketeering activity/the Illegal Immigrant Hiring  
10 Scheme, pursuant to 18 U.S.C. § 1964(c);  
11  
12           c. For appropriate attorney's fees, pursuant to 18 U.S.C. § 1964;  
13           d. For the costs of this action; and  
14           e. For any other relief the Court deems just and proper.  
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