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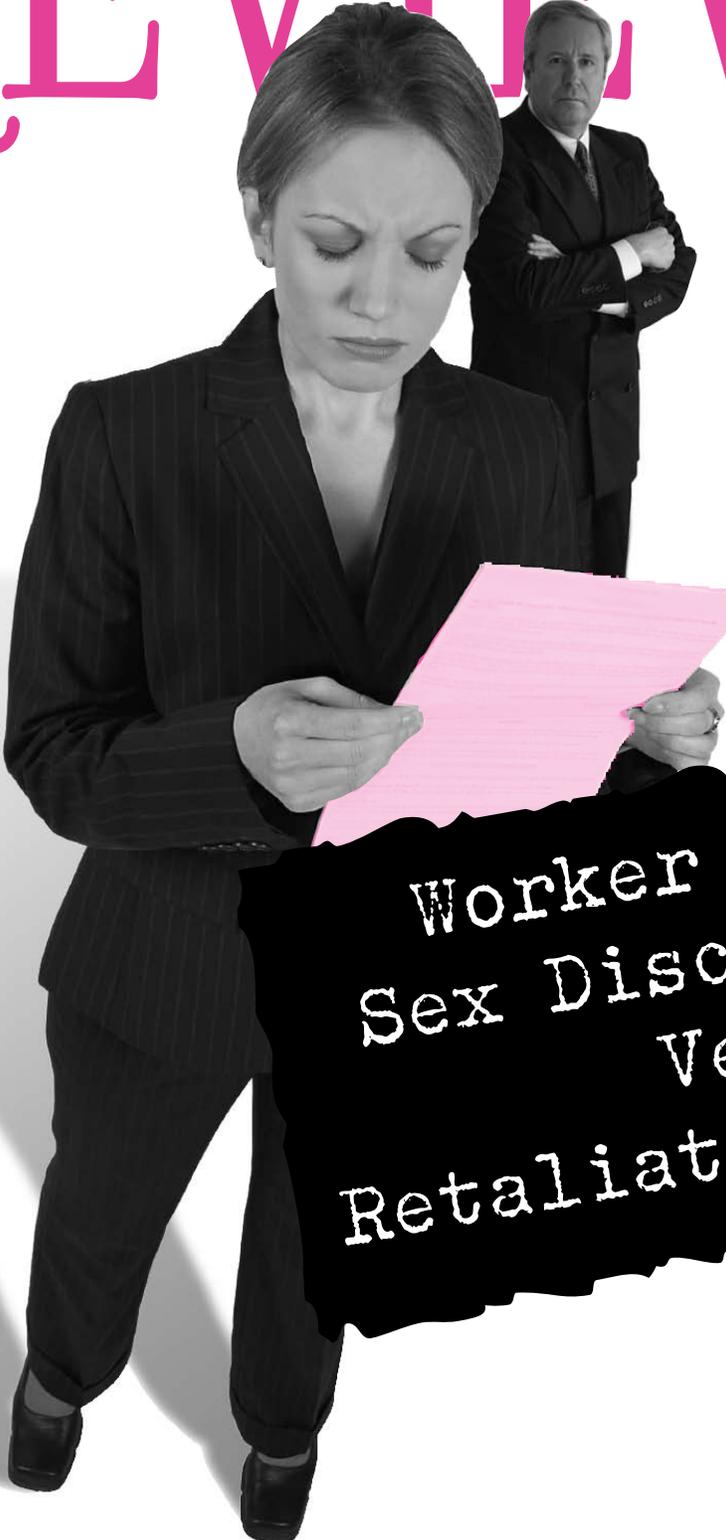
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## EEOC Obtains Consent Decree Under Title VII To Help Victims of Human Trafficking in Los Angeles Area

Human trafficking is one of the largest criminal enterprises in the world. Yet very few cases are brought on behalf of the countless victims of human trafficking. In *EEOC v. Trans Bay Steel Incorporated* the Los Angeles District Office of the U.S. Equal Employment Opportunity Commission (EEOC) recovered over \$1 million in monetary relief and comprehensive injunctive relief on behalf of forty-eight Thai nationals who were held against their will, forced to work without pay, threatened, and kept in squalid conditions.<sup>1</sup>

### Relevant Facts

The Thai Community Development Center, a prominent Southern California nonprofit organization at the forefront of fighting human trafficking, filed a charge of discrimination on or about July 23, 2004. It was involved in the first human trafficking case arising out of El Monte, California, in 1994. The center filed the charge with the EEOC on behalf of forty-eight welders from Thailand. The welders alleged that they were discriminated against, harassed, and retaliated against due to their national origin.

The EEOC conducted an investigation and discovered that a company called Trans Bay Steel received a large contract to provide services to retrofit the San Francisco Bay Bridge. Due to a shortage of skilled welders in the region, Trans Bay contracted with a recruitment firm called Kota Manpower and Hi-Cap Enterprises to select skilled welders from Thailand. Kota and Hi-Cap convinced Trans Bay to sponsor more than sixty welders when it really needed only around twenty to twenty-five welders. Of the forty-eight welders that Kota Manpower and Hi-Cap Enterprises brought over, only nine went to work for Trans Bay.

In order to be selected, each welder was forced to pay a "recruitment fee" that could go as high as \$15,000. Men representing themselves to be labor officials in Thailand loaned some of the welders money in exchange for promises of work. Others took out loans, mortgaging their homes or incurring debt with interest rates as high as 50 percent.

As soon as the welders arrived in the United States, Kota Manpower and Hi-Cap Enterprises confiscated their passports and visas. Forty-eight workers, all men, were scattered to work throughout the Los Angeles region and all housed in two squalid apartments. Aside from nine who ultimately worked for Trans Bay Steel, the rest were forced to work in Thai restaurants and farmed out to perform menial jobs.

The men were forced to work thirteen hours a day, six days a week, and most without any pay. Those lucky enough to earn some money earned only a maximum of \$200 for several

months of work. The two apartments where the welders had to live were without water, electricity, or gas. They had no beds and no furniture. The workers had no means to cook or store food. They had no light and no heat. Because their passports and visas were confiscated, they were trapped in a foreign land and could not leave.

The men were threatened and told that the police and immigration officials would arrest them if they tried to escape. They were told that neighbors were watching their every move. They were also told that any attempts to escape would result in harm to their families back in Thailand.

Despite these threats, some welders began to escape. In late December 2002 one man, Theerapol Promsao, escaped, contacted the Thai Community Development Center from a pay phone, and asked for help. When a trafficker's guard saw him at the pay phone and chased him, the welder fled to a local Thai Temple. Two Thai men and one Korean man, presumed to be the owner of Kota Manpower and Hi-Cap Enterprises, went to the temple where Promsao was hiding and demanded his return. When the temple refused, the temple employee was threatened. Soon other welders began to escape until the remaining thirty-eight escaped the intolerable living and working conditions.

### Legal Claims

The complaint in *EEOC v. Trans Bay Steel Incorporated*, filed in federal district court, alleged that, in violation of Title VII of the Civil Rights Act of 1964, Trans Bay discriminated against Thai workers in the terms and conditions of employment, subjected them to harassment, and retaliated against them due to their national origin.<sup>2</sup> No state-law claims were made. The complaint specifically alleged that Kota Manpower and Hi-Cap Enterprises' acts were imputed to Trans Bay Steel because the recruitment firm was Trans Bay Steel's agent and therefore Trans Bay Steel was liable as joint employer. The case against the recruitment firm remains active.

### Terms of Consent Decree

Negotiated before the complaint was filed, a consent decree was filed on December 8, 2006, in federal district court. It was a resolution filing. The three-year consent decree provided for a comprehensive package of relief for the workers.<sup>3</sup>

Trans Bay Steel agreed to pay compensatory damages to each employee, to provide guaranteed work on the Bay Bridge project with an agreed-upon starting salary ranging from \$12 to \$18.80 per hour depending on experience, a housing stipend, a security deposit for housing, relocation and moving expenses, tuition and books for welding courses at a local community college, certification as Cal Trans welders, social services and other related services for the reunification of the workers and their families, and a right of first refusal for any new projects that Trans Bay Steel may begin.

<sup>1</sup>Consent Decree, *EEOC v. Trans Bay Steel Incorporated*, No. CV06-07766 (C.D. Ca. filed Dec. 8, 2006).

<sup>2</sup>Complaint, *EEOC v. Trans Bay Steel Incorporated*, No. CV06-07766 (C.D. Ca. filed Dec. 12, 2006).

<sup>3</sup>Consent Decree, *supra* note 1.

Trans Bay Steel agreed to revise its policies and procedures, conduct training about national-origin discrimination and retaliation, keep records, and report to the EEOC on its compliance under the consent decree.

### Commentary and Reflections

This case truly exemplifies the cooperative efforts between a federal governmental agency such as the EEOC and nonprofit organizations such as the Thai Community Development Center, the Coalition to Abolish Slavery and Trafficking, and the Legal Aid Foundation of Los Angeles. The Thai Community Development Center filed the charge and provided critical language and other support for the victims. The Coalition to Abolish Slavery and Trafficking supported the victims with social services, while the Legal Aid Foundation of Los Angeles secured valuable T-visas for some of the workers.

*EEOC v. Trans Bay Steel* is the second recent human trafficking case publicly pursued by the EEOC. In the first one, *Chellen v. John Pickle Company*, East Indian workers were victims of human trafficking, and the Dallas district office of the EEOC secured a verdict of over \$1 million on their behalf.<sup>4</sup>

In both cases all of the victims legally obtained visas granting them right to work in the United States. Rather than living the American dream, these victims experienced a nightmare that they should never have lived through. Title VII has proved to be a viable remedy for victims of human trafficking. We hope that these cases bring to light the blight of human trafficking victims and encourage others to come to the EEOC as soon as they learn of human trafficking to obtain relief for the victims.

**[Editor's Note:** Case documents in *EEOC v. Trans Bay Steel Incorporated* (Clearinghouse No. 56,116) are available in our Poverty Law Library at [www.povertylaw.org](http://www.povertylaw.org).]

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<sup>4</sup>*Chellen v. John Pickle Company*, 446 F. Supp. 2d 1247 (N.D. Okla. 2006).

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