

July 22, 2016

Fighting Hate
Teaching Tolerance
Seeking Justice

Immigrant Justice Project
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Kurt A. Petermeyer, Regional Administrator
U.S. Department of Labor
Occupational Safety and Health Administration
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Room 6T50
Atlanta, Georgia 30303

Via Certified Mail, Tracking Number 7010 0290 0002 4153 0899

**RE: Whistleblower complaint on behalf of [REDACTED]
against Farm Fresh Foods, LLC poultry processing plant in Guntersville, Alabama,
and its payroll entity, Triple F Staffing, LLC**

Dear Regional Administrator Petermeyer:

The Southern Poverty Law Center (SPLC) writes this letter on behalf of workers wishing to report unlawful retaliation for exercising their rights under the Occupational Safety and Health Act. The Complainants, [REDACTED] informed their supervisors on repeated occasions about serious health and safety hazards in their workplace, and ultimately refused to perform a task that put them at risk of serious injury.

[REDACTED] were employed as sanitation workers by Farm Fresh Foods, LLC and a related entity, Triple F Staffing, LLC, the payor on their paychecks. Farm Fresh retaliated against the Complainants by firing them because of their complaints about health and safety hazards involved in their work. This firing was the culmination of a pattern of retaliatory harassment against them whenever they complained about health and safety hazards at the plant. This letter supplements the Complainants' Notice of Whistleblower Complaint Forms.

Dangerously Fast Work Speeds. A Farm Fresh Foods supervisor, Ricky Martinez, subjected the Complainants and other member of the sanitation crew of about 30 workers to dangerously fast work speeds. For example, Supervisor Martinez routinely pressured sanitation workers to remove standing water from the plant's processing floor at a punishing pace. Each night, after hosing down the floor, workers rushed to sweep out water that accumulated due to poor drainage. The team used floor squeegees to clear out several inches of water, as Supervisor Martinez shouted pejorative comments to force them to work faster. When [REDACTED] told Supervisor Martinez that drainage was inadequate, he was told the boss was not taking advice. The forced pace of work put workers at greater risk for slipping and falling.

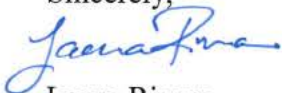
Denial of Bathroom Access. Workers were often banned from using the bathroom outside of their one 30-minute break per 8-hour shift. The Complainants sometimes waited hours to use the bathroom. At times, when they asked for breaks, Supervisor Martinez would say their one break was enough. Even when workers were given permission to use the bathroom, Mr. Martinez often harassed them by following them and standing outside the bathroom, timing them as they relieved themselves. A worker who took a bathroom break of six minutes was sanctioned with points at least once.

Reprimands for Raising Health and Safety Concerns. [REDACTED] repeatedly complained that the use of chlorine to clean the floors, coupled with inadequate ventilation, made him sick. He suggested a fan or a different cleaner would help, but Supervisor Martinez dismissed his concerns. Also, the Complainants expressed concern about the plant's routine practice of requiring sanitation workers to handle raw chicken at the shift's end. The Complainants protested it was unsanitary, because they could not change clothes or gloves, and it posed a serious risk of injury to them. Although only one pallet of crates was delivered to the floor at any given time, workers were expected to fill dozens of tables with product, or face points or suspension. The fear of sanctions caused workers to compete for limited numbers of crates, racing and pushing as they struggled for a heavy crate. With the tread in Complainants' galoshes worn thin, [REDACTED] feared an imminent fall, as he had seen a co-worker fall this way.

Suspension. On or around June 23, 2016, Complainants' co-worker was suspended for coming away empty-handed from a round of the crate-gathering task. Seeing this, the Complainants and other sanitation workers conferred and decided they could no longer perform this dangerous task. They complained to Supervisor Martinez about this unsafe system and the unjust suspension of their co-worker. In response, some 16 workers, including the Complainants, were suspended. After missing the next shift, the Complainants went to the plant to pick up their checks on or around Friday, June 24, 2016. They were told that they had been fired. To date, Farm Fresh Foods and Triple F Staffing have refused to give the Complainants their last paycheck.

The Complainants respectfully request that OSHA conduct an investigation into this retaliatory conduct. They also request that the results of any and all investigations be communicated to them through his attorneys. If Farm Fresh Foods or Triple F Staffing request informal conferences to address this complaint, they request to be informed through their attorneys so that they may participate in them. Please contact us if you have any questions or to set up an interview with [REDACTED]. Please be advised that they will require Spanish interpretation for any interview. You can reach us at (404) 521-6700, laura.rivera@splcenter.org, and isabel.otero@splcenter.org.

Sincerely,



Laura Rivera
Law Fellow



Isabel Otero
Outreach Paralegal



PART 1 – EMPLOYEE INFORMATION

1. Name (last, first, middle initial) (*required*):

[REDACTED]

2. Present Address (Street, City, State, Zip) (*required*):

Address of legal representative: Southern Poverty Law Center
1989 College Avenue, NE
Atlanta, GA 30317

3. Telephone Numbers (include area code) (*at least one required*):

Home: ()

Work: (404) 521-6700 (phone number of legal representative, Laura Rivera)

Cell: ()

4. Email Address:

laura.rivera@splcenter.org (email of legal representative)

5. Preferred Method of Contact:

Phone or email

6. Best time to be contacted (include time zone):

9 a.m. - 5 p.m. EST

7. Work Site Address at Place of Employment where Alleged Retaliation Occurred (Street, City, State, Zip):

Farm Fresh Foods, LLC
5016 Grimes Drive
Guntersville, Alabama 35976

8. Date of Hire at Place of Employment where Alleged Retaliation Occurred:

March 2015



9. Job Title at Place of Employment where Alleged Retaliation Occurred:

Sanitation worker

10. Exclusive bargaining (union) representative (if any):

Yes No I don't know

11. The person filing this complaint is (check one box):

Employee Representative of Employee
 Other (specify)

If you are an authorized representative of the complainant, please complete Part 4 – Identification of Representative.

PART 2 – EMPLOYER CONTACT INFORMATION

12. Employer Name (*required*):

Farm Fresh Foods, LLC, and Triple F Staffing, LLC

13. Name and Title of Management Person (for contact purposes only):

Name:	Price Pass	Edward L. Hill
Title:	Personnel Manager	Registered Agent
Phone:	Farm Fresh Foods (256) 264-9180	Triple F Staffing



14. Name and Title of Supervisor:

Name: Ricky Martinez
Title: Third-shift supervisor

15. Employer Mailing Address (if different from worksite address in #7):

16. Employer Phone:

(256) 264-9180

17. Employer Fax:

()

18. Employer Email:

19. Type of Business:

Poultry processing plant

PART 3 – ALLEGATION OF DISCRIMINATION

Please answer the questions below in the space provided. If you need additional space, use the attached "Continuation Sheet."

20. What management person is responsible for the retaliation that you are reporting? Farm Fresh Foods and Triple F Staffing, by and through their agents:

Name: Managers Mark and Shane Pass

Position/Title: Supervisors Ricky Martinez and Deborah



21. What are the actions or events that you are reporting to OSHA? *You may check one or more of the boxes below, and/or describe the action(s) in the space provided. (required)*

- Termination Discipline Demotion/Reduced Hours
 Denial of Benefits Failure to Promote Negative Performance Evaluation
 Failure to Hire/Re-Hire Harassment Suspension
 Threat to Take any of the Above Actions Other (please describe):

Please see attachment for description of employers' retaliation against [REDACTED] for exercising his rights under the OSH Act.

22. When did the employer take these actions against you? *Please list all relevant date(s) to the best of your recollection. If you cannot remember the exact date(s), please put the approximate date(s).*

[REDACTED] was wrongfully terminated on June 23, 2016 or June 24, 2016.

23. When did you first learn that the action(s) would be taken against you? *Please list all relevant dates(s) to the best of your recollection. If you cannot remember the exact date(s), please put the approximate date(s).*

[REDACTED] did not learn that he had been fired for protesting sanitation workers' exposure to serious health and safety hazards until June 24, 2016. On June 23, 2016, [REDACTED] and at least 10 co-workers expressed concern about a particularly dangerous task and an unfair sanction, and they were suspended.

24. What reason(s) did the employer give you for each of these actions?

Farm Fresh Foods and Triple F Staffing, by and through their agent, Supervisor Ricky Martinez, responded to [REDACTED] complaints about health and safety hazards with reprimands and harassment. Supervisor Martinez branded him a troublemaker for protesting dangerously fast work speeds and lack of bathroom breaks. When he and co-workers raised concerns about an especially hazardous and unsanitary task, Supervisor Martinez suspended them.



25. Why do you believe the employer took these actions against you? *You may check one or more of the boxes below, and/or describe the reason in the space provided.*

- Called/Filed with OSHA
- Called/Filed with Another Agency
- Complained to Management
- Reported an Accident or Injury
- Participated in Safety and Health Activities
- Refused to Perform Task (please specify reason for refusal)
- Testified or provided statement in investigation or other proceedings (please specify)
- Other (please describe)

██████████ repeatedly raised concerns about serious health and safety hazards posed by dangerously fast work speeds and lack of bathroom breaks. He also protested an assignment requiring hauling heavy crates and handling raw chicken. Please see attachment for description of this and other events which caused the employers' retaliatory actions.

26. For any of the actions you listed in #25, please provide the relevant date(s) you engaged in that activity.

On several dates between March 2015 and June 23, 2016, ██████████ raised concerns about health and safety hazards at the plant. On or about June 23, 2016, ██████████ and co-workers expressed concern about a task involving the hauling of heavy crates and handling of raw chicken due to health and safety hazards.

27. Do you believe the employer knew you engaged in the activity described in #25? If so, how do you think they learned of it?

Yes. ██████████ raised these concerns directly with Supervisor Martinez.



28. Have you filed any previous complaints against this employer with OSHA regarding these or similar retaliatory actions?

Yes No

If yes, please provide the complaint number and date filed.

Complaint Number:

Date filed:

29. Have you taken any other action(s) to appeal, grieve, or report this matter under any other procedure?

Yes No

If yes, please list the agency/organization(s) with whom you have appealed/grieved/reported this matter, the date filed, the current status of the procedure, and any outcome:

30. How did you first become aware that you could file a complaint with OSHA?

OSHA Website OSHA Poster News story OSHA Representative
 Union Other (please describe):

██████████ learned about his right to file an OSHA complaint through his legal representatives at the Southern Poverty Law Center.



PART 4 – IDENTIFICATION OF REPRESENTATIVE

Complete this part if you are an authorized representative of the complainant. If an investigation is opened, you will be asked to submit a signed Designation of Representative Form that will be sent to you.

If you are filing this complaint on your own behalf, do NOT complete this part.

Name: Laura Rivera

Title: Law fellow

Organization Name (if any): Immigrant Justice Project, Southern Poverty Law Center

Union Affiliation (if any):

Address (Street, City, State, Zip Code): 1989 College Ave., NE, Atlanta GA 30317

Phone (day): (404) 521-6700

Phone (cell): (334) 306-0647

Email: laura.rivera@splcenter.org

By checking this box, I certify that the named employee has authorized me to act as their representative for purposes of this complaint.

PART 5 – CERTIFICATION

NOTE: It is unlawful to make any materially false, fictitious, or fraudulent statement to an agency of the United States. Violations can be punished by a fine or by imprisonment of not more than five years, or by both. See 18 U.S.C. 1001(a); 29 U.S.C. 666(g).

By checking this box, I certify that the information in this complaint is true and correct to the best of my knowledge and belief.

Date: July 22, 2016



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laura.rivera@splcenter.org (email of legal representative)

5. Preferred Method of Contact:

Phone or email

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March 2015



9. Job Title at Place of Employment where Alleged Retaliation Occurred:

Sanitation worker

10. Exclusive bargaining (union) representative (if any):

Yes No I don't know

11. The person filing this complaint is (check one box):

Employee Representative of Employee
 Other (specify)

If you are an authorized representative of the complainant, please complete Part 4 – Identification of Representative.

PART 2 – EMPLOYER CONTACT INFORMATION

12. Employer Name (*required*):

Farm Fresh Foods, LLC, and Triple F Staffing, LLC

13. Name and Title of Management Person (for contact purposes only):

Name:	Price Pass	Edward L. Hill
Title:	Personnel Manager	Registered Agent
Phone:	Farm Fresh Foods (256) 264-9180	Triple F Staffing



14. Name and Title of Supervisor:

Name: Ricky Martinez

Title: Third-shift supervisor

15. Employer Mailing Address (if different from worksite address in #7):

16. Employer Phone: (256) 264-9180	17. Employer Fax: ()
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18. Employer Email:

19. Type of Business:

Poultry processing plant

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Name: Managers Mark and Shane Pass

Position/Title: Supervisors Ricky Martinez and Deborah



21. What are the actions or events that you are reporting to OSHA? *You may check one or more of the boxes below, and/or describe the action(s) in the space provided. (required)*

- Termination Discipline Demotion/Reduced Hours
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 Threat to Take any of the Above Actions Other (please describe):

Please see attachment for description of employers' retaliation against [REDACTED] for exercising his rights under the OSH Act.

22. When did the employer take these actions against you? *Please list all relevant date(s) to the best of your recollection. If you cannot remember the exact date(s), please put the approximate date(s).*

[REDACTED] was wrongfully terminated on June 23, 2016 or June 24, 2016.

23. When did you first learn that the action(s) would be taken against you? *Please list all relevant dates(s) to the best of your recollection. If you cannot remember the exact date(s), please put the approximate date(s).*

[REDACTED] did not learn that he had been fired for raising concerns about sanitation workers' exposure to serious health and safety hazards until June 24, 2016. On June 23, 2016, [REDACTED] and at least 10 co-workers expressed concern about a particularly dangerous task and an unfair sanction, and they were suspended.

24. What reason(s) did the employer give you for each of these actions?

Farm Fresh Foods and Triple F Staffing, by and through their agent, Supervisor Ricky Martinez, responded to [REDACTED] repeated complaints about health and safety hazards with reprimands and harassment. When [REDACTED] complained of inadequate draining and chemical fumes, he was told management did not care for his advice. When he and co-workers raised concerns about an especially hazardous and unsanitary task, Supervisor Martinez suspended them.



25. Why do you believe the employer took these actions against you? *You may check one or more of the boxes below, and/or describe the reason in the space provided.*

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- Testified or provided statement in investigation or other proceedings (please specify)
- Other (please describe)

██████████ repeatedly raised concerns about serious health and safety hazards posed by inadequate drainage, slip and falls, and chemical fumes. He also complained about an assignment requiring them to carry heavy crates and handle raw chicken, posing a danger of contaminating chicken with waste, bacteria, and chemicals. Please see attachment for description of this and other events which caused the employers' retaliatory actions.

26. For any of the actions you listed in #25, please provide the relevant date(s) you engaged in that activity.

On at least 10 dates between March 2015 and June 23, 2016, ██████████ ██████████ raised concerns about health and safety hazards at the plant. On or about June 23, 2016, ██████████ expressed concern about a task involving the hauling of heavy crates and handling of raw chicken due to health and safety hazards.

27. Do you believe the employer knew you engaged in the activity described in #25? If so, how do you think they learned of it?

Yes. ██████████ raised these concerns directly with his supervisor, Mr. Martinez, the first-shift supervisor, Deborah, and with higher-ranking plant managers.



28. Have you filed any previous complaints against this employer with OSHA regarding these or similar retaliatory actions?

Yes No

If yes, please provide the complaint number and date filed.

Complaint Number:

Date filed:

29. Have you taken any other action(s) to appeal, grieve, or report this matter under any other procedure?

Yes No

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