

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 10-cv-00602-RPM

MANUEL GALARZA TAPIA,
RAMON CARRILLO GOMEZ,
TRINIDAD MAGANA,
JOSE LUIS FLORES HERNANDEZ, and
RAMON M. ORNELAS,

Plaintiff,

v.

ZACK MASON, d/b/a ZACH MASON FARMS,

Defendant

ORDER DENYING DEFENDANT'S MOTION TO DISMISS

On July 22, 2010, the defendant filed a motion to dismiss the First Amended Complaint [17] in its entirety, with a supporting memorandum of law. The plaintiffs filed their response on August 13, 2010. The allegations of the First Amended Complaint are sufficient to state claims for relief for violations of the Migrant and Seasonal Agricultural Worker Protection Act, remedial under 29 U.S.C. § 1854. Whether the other claims for relief on the theory of third-party beneficiary contracts and Colorado law are legally appropriate are not issues to be resolved on a motion to dismiss under Fed.R.Civ.P 12(b)(6), given that this case should go forward under the AWPA. Accordingly, it is

ORDERED that the defendant's motion to dismiss is denied.

DATED: August 16th, 2010

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge