



Center for Worker Justice of Eastern Iowa

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Memo

Prepared by: Robin Clark-Bennett, CWJ Board Member

Re: Workers' Rights Abuses and Community Response on BluSky Jobsite, Cedar Rapids

Date: December 1, 2020

In November 2020, staff and board members of the Center for Worker Justice of Eastern Iowa joined a coalition of churches, unions, and elected officials to support eight men in their efforts to recover over \$30,000 in unpaid wages for work they had performed on a Cedar Rapids jobsite for BluSky Restoration. This memo is a compilation of the working conditions we identified, and the community's response in support of the workers.

Overview of Workers' Conditions in Cedar Rapids:

On November 6, representatives Royce Peterson and Antonio Govea of the North Central States Regional Council of Carpenters were contacted by six workers from Texas who had been recruited as part of an original group of nine workers to Cedar Rapids Iowa to perform storm repair work at the Cottage Grove Place retirement community under the on-site direction of Pablo Ramirez (Painting & Demolition Ramirez Company) and Wayne Gibson (BluSky Restoration Contractors). The workers reported that they had not been paid any wages in over 21 days and were running out of food. They described that they had repeatedly asked for their pay from Pablo Ramirez, who refused to pay them and said their lack of food was not his problem.

The Carpenters bought them groceries, compiled evidence in support of their story, and contacted CWJ. Our members are low-wage and immigrant workers, and we regularly provide education and support for workers who experience workers' rights abuses, including unpaid wages for the work they have performed. The Carpenters, CWJ, and a local labor and employment attorney met with the workers several times to review their working conditions, days/hours worked, and employment relationship with the companies on the site. The workers described shocking conditions that suggested a variety of legal violations. Based on their descriptions, these potential violations included:

- **Nonpayment of wages and overtime.** In nearly a month of work for Ramirez and BluSky, the workers had only been received wage payments once, in the second week – a cash payment that averaged just over \$200 per worker, far less than they were owed at that point.
- **Inadequate and unsafe housing.** The workers were all housed together in one 2-bedroom/1 bath apartment in a building that had sustained storm damage. Their apartment was lacked a

ceiling (it had plastic in place of a ceiling) and was cold. They slept on the floor in air mattresses the workers had individually purchased.

- **Lack of medical care for workplace injuries.** One worker was asked to perform electrical wiring work for which he was not trained or certified. His finger was split open in the process, and the supervisor did not provide any medical care when he reported the injury.
- **No paystubs or written statements of hours worked, amount earned, and deductions made.** Iowa law (Iowa Code, Chapter 91A) requires this, regardless of method of payment.
- **Unregistered subcontractor - Painting & Demolition Ramirez Company.** All individual contractors and businesses performing construction work within Iowa must be registered if they earn more than \$2,000 per year, to ensure compliance with unemployment and workers' compensation laws, and must file a bond if they are based out of state. Painting & Demolition Ramirez Company does not appear to be registered with the State of Iowa.
- **Threats and retaliation against workers for exercising wage payment and concerted activity rights.** The workers described that the previous week they had collectively stopped work and met with Pablo Ramirez to insist on being paid. In response, Ramirez told the workers he would "punish" them as a result of their action, and they would not receive any pay for that week.
- **Failure to provide PPE, including masks.** The workers were directed to handle insulation, among other tasks, but they were not provided masks for that purpose or to protect against COVID-19.

Who were their employers? Based on the workers' description, there were two joint employers:

- **BluSky Restoration Contractors** was the General Contractor on this project. The nine workers were required to wear t-shirts with the BluSky logo when they were working on the jobsite. They signed in as BluSky workers when they arrived on the jobsite for their COVID-19 temperature screenings each day. BluSky Project Director Wayne Gibson reviewed their work on the site several times each week and provided directions for their work to Pablo Ramirez, who in turn gave the workers his orders. If "Mr. Wayne" felt the work was not performed correctly, he sent them back to redo it.
- **Pablo Ramirez**, the owner of Painting & Demolition Ramirez Company based in Red Oak, Texas, hired the nine workers in Texas, traveled with them to Iowa, and supervised them each day on the jobsite. Ramirez provided each worker with hardhats, vests, boots, tools, construction materials, and BluSky t-shirts. He arranged and paid for their housing in Cedar Rapids. Ramirez told the workers where and when to show up to work and assigned their tasks. These are clear indications of an employer/employee relationship.

Note: A few of the workers on the Cedar Rapids project had been employed by BluSky and Ramirez in the past, including a project in September 2020 in the Kansas City area, which included cash work repairing the private home of BluSky Lenexa Office VP Eric Helgemoe. Helgemoe confirmed this in a meeting with workers and community allies on November 20. Workers had been paid in the past.

What was the original work agreement between the workers and their employers?

Pablo Ramirez recruited nine workers in Houston to come with him to Iowa. He promised to pay a total of \$54,000 overall for their work, which he confirmed in discussions with workers and community allies on November 16. The workers agreed to be paid a flat daily wage that varied depending on their

individual experience, from \$100/day to \$250/day. Ramirez promised to pay the workers their wages each week, and to additionally pay for their travel expenses and their lodging in Cedar Rapids.

Workers said Ramirez had considered renting vans to bring the workers and tools to Iowa, but the workers offered to drive two of their own vehicles instead to save money. Ramirez agreed to pay for some repairs on the two vehicles before the trip, as well as gas, motor oil, and travel expenses – paid in small increments that added up to approximately \$3,000 total on the way to Iowa, including a 2-day stop to work on a BluSky project near Kansas City.

Workers did not receive anything in writing describing their hours, rate of pay, travel, etc.

Dates of Travel and Work

The nine workers say they and Ramirez traveled from Houston to Kansas on Tuesday, October 13th. They worked October 14th and 15th doing repairs on a BluSky project near Kansas City. They traveled from Kansas to Cedar Rapids on October 16 and began work at the Cottage Grove Place jobsite in Cedar Rapids.

In Cedar Rapids, the workers averaged approximately 50 hours per week – their schedule varied from 8-12 hours per day, sometimes up to seven days per week. On October 31, two of the workers decided to return to Houston because they had not been paid. The other workers left with them and drove them home. When they arrived in Texas, they say Pablo Ramirez called and persuaded seven of them to return to Cedar Rapids with promises that he would pay them when they returned. They continued to work from November 3 – November 16, when they collectively walked off the job to protest the nonpayment of their wages.

Housing

The workers were housed in a 2-bedroom apartment in Cedar Rapids in a building that was damaged by the Derecho and did not have a ceiling (the ceiling was plastic, pending repairs). BluSky had also been hired to complete repairs on this building. The apartment had one bath and a kitchen, but no furniture – workers slept on the floor on air mattresses they bought. The workers say they saw Pablo Ramirez sign a lease and make a payment for the apartment.

Working Conditions

The men were assigned to work on dozens of senior living apartments installing insulation and sheetrock, taping, covering carpets, ceilings, and walls with plastic, and unloading trucks. They say they did not receive any safety training. They did not receive masks although they were working with insulation (workers brought their own cloth masks, not PPE quality.) Cottage Grove required temperature checks each day and the workers have copies of these logs which say “BluSky” at the top.

On the job, one worker says he was injured after being asked to perform electrical work. He is not a licensed electrician and was not supervised by an electrician. He said his finger was split open, and he has difficulty bending it. Workers say he reported the injury to Ramirez but received no medical care.

Workers did not receive pay after their first week of work. The second week, Pablo gave them \$2,000 in cash to divide among nine workers, which averaged just over \$200 each. Workers did not receive any paystubs or wage statements. Workers did not receive any additional pay for the next three work

weeks, although they each worked an average of 50 hours/week. Two workers decided to return to Houston on October 31, and Ramirez promised the other seven he would pay them if they returned.

The first week in November, workers say they stopped work in the middle of the day and demanded their unpaid wages from Ramirez, emphasizing that they had no money to buy food. Ramirez told him they would be paid later when the job was completed, and that their lack of food was not his problem. Workers report that Ramirez said the workers would be punished for stopping work and would not be paid for that week. Ramirez met with one of the workers, offering to give him cash (less than the workers were owed) to bring everyone back to Texas so he could replace them. The worker refused, saying Ramirez needed to pay everyone the full wages they were owed.

Other BluSky Projects in Iowa

BluSky has secured several contracts in Iowa, in addition to Cottage Grove. Workers say the company is working on the Wiley Apartments in Cedar Rapids and on a government office in Des Moines.

Community Involvement in Support of the Workers

November 11 and November 13: Representatives of the Carpenters, the Center for Worker Justice, a local attorney, and the Johnson County Interfaith Coalition met with the 6 workers to gather information and evidence and review their options. We prepared a letter to the employer and planned a community delegation to the jobsite on Monday, November 16 to request payment of the wages.

November 16: Six workers walked off the job at 10am as a delegation of approximately 35 community leaders arrived. We supported the workers as they delivered a letter requesting full payment of wages to Cottage Grove Place administrators, Pablo Ramirez, and BluSky Project Manager Wayne Gibson. The community delegation included: Rev. John Greve from Grace Episcopal Church; Rev. Anthony Smith from New Creations International Church and President of Johnson County Interfaith Coalition; State Representative Art Staed; Cedar Rapids City Council member Patrick Loeffler; Coralville City Council member Hai Huynh; members and allies of the Center for Worker Justice; and members of the Carpenters, Laborers, and Cedar Rapids Iowa City Building Trades Council. The workers and community delegation met briefly with Pablo Ramirez, who insisted that the workers didn't deserve to be paid because of the quality of their work, although he acknowledged that they had no prior discipline for poor work performance. Ramirez emphasized that he had only *verbally* agreed to pay the group \$54,000 in total wages. He also argued that one of the workers was a subcontractor, although he acknowledged that the worker didn't actually have a company. The workers and community delegation announced plans to return to Cottage Grove on Friday at Noon if the workers weren't paid. Ramirez told the workers to get their tools, leave the jobsite, and move out of their housing immediately. Rev. Greve of Grace Episcopal Church agreed to house the workers and the Coralville Food Pantry provided them food.

November 17: The Cedar Rapids Gazette ran an article about the workers' struggle <https://www.thegazette.com/subject/news/government/texas-workers-say-they-havent-been-paid-for-cedar-rapids-construction-work-after-derecho-20201116> . Community coalition members spread the word about the Friday event, asked our members to contact BluSky, and reached out to Cottage Grove administrators. A Des Moines Register reporter met with workers and contacted the employers.

November 18: BluSky Chief Operating Officer Mike Erikson contacted the Center for Worker Justice, indicating he was taking a flight from California to Iowa the next day to meet with the workers and community allies to resolve the situation.

November 20: BluSky Chief Operating Officer Mike Erikson and BluSky Lenexa Office VP Eric Helgemoe met with the six workers, who were joined by two members of the clergy, a state legislator, three labor representatives, and two representatives of the Center for Worker Justice. After the workers and allies spoke, Erikson agreed to have checks for the full wages and travel expenses sent overnight from the BluSky corporate office to distribute to the workers the next morning. He did not acknowledge any specific wrongdoing on the part of BluSky or Ramirez. Community allies emphasized that Cedar Rapids is a community that values the dignity of labor, and asked Erikson what steps he intended to take to ensure this kind of abuse would not be repeated on his jobsites; he said he did not know and would have to talk to his team and get back to us (we have not received a response). Erikson distributed copies of a waiver for each worker to sign as a condition for receiving their checks the next day, which included a nondisclosure clause that prohibited workers from discussing the settlement. The Des Moines Register published its story on the same day, which includes a statement from BluSky indicating that the company's "working relationship with Ramirez remains active". It is our understanding that Ramirez is still operating on the Cedar Rapids jobsite. The article is here:

<https://www.desmoinesregister.com/story/news/2020/11/20/iowa-derecho-construction-workers-allege-they-owed-more-than-30-000-unpaid-wages/6286631002/>

November 21: The workers and several community allies met with Mike Erikson in a hotel lobby. Royce Peterson from the Carpenters asked again whether BluSky was requiring the workers to sign the waiver, including the nondisclosure agreement, as a condition of receiving their wages and Erikson said yes. Erikson further emphasized to the workers they they cannot speak with any reporters about anything regarding their work with BluSky. (The nondisclosure agreement is actually limited to the existence and terms of the settlement.) The workers gave Erikson their waivers, and Erikson gave each worker a check for the full wages they were owed, plus travel expenses divided among the workers.