

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

NORTH CAROLINA GROWERS')
ASSOCIATION, INC., *et al.*)
)
Plaintiffs,)
)
v.)
)
HILDA L. SOLIS, *et al.*,)
)
Defendants.)
_____)

Case No. 09 CV 411

AFFIDAVIT OF ROBIN E. SHEA

The affiant, having been duly sworn, affirms and states as follows:

1. My name is Robin E. Shea. I am an attorney with the firm of Constangy, Brooks & Smith, LLP, and am co-counsel for the Plaintiffs in this action. I have personal knowledge of the facts stated herein.
2. Attached as **Exhibit A** is an item that I found on the *CNN Money* website regarding the reaction of then-Congresswoman Hilda L. Solis to the Chao Final Rule.
3. Attached as **Exhibit B** is a press release issued by U.S. Department of Labor on the day of Ms. Solis's appointment as Secretary of Labor in which she states her intent to immediately suspend the Chao Final Rule for nine months.

This the 8th day of June, 2009.

Robin E. Shea
Robin E. Shea

SWORN TO AND SUBSCRIBED BY ME

This the 8th day of June, 2009

Anne R. Bell

Notary Public

My Commission Expires: July 8, 2012

Anne R. Bell Notary Public Forsyth County, North Carolina My Commission Expires <u>7/8/2012</u>
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Obama will tap CA Dem to helm Labor

The President-elect plans to nominate Democratic Congresswoman Hilda Solis of California to become the secretary of labor.

Last Updated: December 18, 2008: 7:00 PM ET

NEW YORK (CNNMoney.com) -- President-elect Barack Obama has selected California Rep. Hilda Solis to serve as secretary of labor, a Washington-based labor official for a major union told CNN's John King on Thursday.

Solis, a four-term Democrat from Los Angeles, is considered to be one of the most liberal members of the House. She served eight years in the California legislature, and had worked in President Jimmy Carter's administration.

A Los Angeles native, Solis unseated former Rep. Matthew Martinez in a bitter Democratic primary in 2000 to represent a district that includes portions of East Los Angeles and that, according to Solis' Web site, is 63% Latino.

According to the Web site, Solis is the first Latina to serve on the powerful House Committee on Energy and Commerce, and she was the first Latina elected to the California state Senate.

The child of immigrants from Central America, Solis worked in the Carter White House Office of Hispanic Affairs in the 1970s.

Her priorities in Congress have been "expanding access to affordable health care, protecting the environment, and improving the lives of working families," according to her Web site.

Solis recently criticized actions in the Bush administration Labor Department that would affect foreign farm workers.

The changes in the guest worker program that allows farmers to hire foreign workers on a temporary basis when there are no American workers to fill jobs were touted by the Bush administration as reducing red tape for employers. But advocates for workers contend the changes would lead to reduced wages and worse conditions for workers.

Solis released a statement last Friday on the changes, saying, "This recent action by the Bush administration is just the latest example of how out of touch the president is with working families, especially with Latino families that make up a large portion of the farm workers in this country."

In apparently an unintentional foreshadowing of her nomination as Labor secretary, Solis added, "There is no question that the guest worker program needs significant overhaul but slashing wages and reducing basic rights for the most vulnerable workers in our country, especially hardworking Latino farm workers, is not the answer.

"I look forward to working with the Obama administration and the Democratic majority to find the best solutions to strengthen this workforce and protections afforded to them."

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February 28, 2009 12:46 PM ET

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In 2005, Solis was one of several Democratic congressmen who drew media attention by holding a rally in front of the White House to deliver over 500,000 signatures on petitions calling for an end to the war in Iraq. ■

First Published: December 18, 2008; 6:18 PM ET

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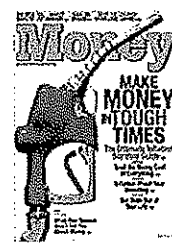
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**North Carolina
Growers Association**

Press Release

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NCGA Denounces Secretary of Labor Solis' Arbitrary Proposed Suspension of H2-A Rules

H-2A Employers Seeking to Hire Legally Documented Farm Workers Are Thrown into Disarray as Growing Season Begins

Vass, NC March 17, 2009: The North Carolina Growers Association members have long depended on the H-2A Temporary Foreign Agricultural Worker program to provide a legal workforce to plant and harvest the state's crops. Today, the Secretary of Labor published a proposed rule to suspend the regulations implementing the program that just went into effect on January 17th. NCGA President Stan Eury condemned this action stating, "The H-2A user community was operating under the new regulations that met the needs of agriculture while improving working conditions for farmworkers. Now, through an arbitrary decision by the new Secretary of Labor, our growing season is in jeopardy. This proposed suspension is politically based. It is disingenuous of the new Administration to proclaim that they are revisiting the new regulations on behalf of growers."

Now with over 80 percent of the 1.6 million agricultural workers presenting fraudulent documents, it is critical to have a functioning H-2A program. The old regulations prevented many in farming from utilizing the program because of its high costs and bureaucratic hurdles. Only around 50,000 farmworkers per year came into the U.S. under the old H-2A program. Growers labored under the old rules for over 20 years. On December 18, 2008, the Department of Labor promulgated the new regulations after over a year of extensive notice and comment rulemaking involving all interested parties. These were *not* "Midnight" regulations. With the new changes, more employers across the country would be able to secure a legal workforce, as we have had in North Carolina for decades.

The formidable farmworker advocate and United Farmworkers (UFW) lobby opposes these changes. As noted in the proposed Department of Labor rule, they failed to have the courts issue a temporary restraining order against the new regulations. These special interests now have the ear of Secretary Solis and she is doing what she can to block implementation. They are distorting the provisions of the new rules, claiming that they do not ensure the recruitment of U.S. workers and lower the standards for wages and other working conditions. These allegations are simply not the case. The recruitment provisions of the final regulations go far beyond what these same advocates supported in the ill-fated AgJOBS legislation of the past decade. And, with potentially more farming operations in the program, wages and benefits – housing, transportation, workers compensation

For Release 9 a.m. EDT, March 17, 2009

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insurance, etc. – will actually increase for those U.S. farmworkers with legal documents referred against H-2A job orders.

Farmers for the last four months have made all of their purchasing decisions, hiring decisions, and contract decisions based on rules of the game provided by the Federal government. “At this midnight hour after being sworn in on Friday, Secretary Solis wants to change the rules of the game and needlessly and punitively punish farmers - people putting food on the table for Americans,” stated Eury. “Secretary Solis wants to flip-flop on the American farmer by changing the current Final rule back to the old burdensome and costly rule while she rewrites her own version of the H-2A program with only a ten-day comment period.” The American farmer, American consumer, and American workers with legal documentation deserve better.

NCGA is the largest H-2A employer association in the country. All of their workers are unionized by the Farm Labor Organizing Committee.