

# Group files fifth suit to keep Cal-OSHA

By SIGRID BATHEN  
*Recorder Staff Writer*

SACRAMENTO — California Rural Legal Assistance Wednesday filed the fifth lawsuit to attempt to undo the Deukmejian administration's controversial dismantling of the state's Occupational Health and Safety Administration.

Joining in the suit filed by the legal services group that represents low-income rural residents, many of them farm laborers, are the Legal Aid Foundation of Los Angeles and the Asian Law Caucus of Oakland.

The suit asked the Third District Court of Appeal in Sacramento to reinstate Cal-OSHA protection for farm laborers and other workers.

The rural legal assistance group filed the petition for a writ of mandate on behalf of four farmworkers, a garment industry worker and a power sewing machine operator.

The group's attorneys demanded Cal-OSHA protection for California workers, including farmworkers damaged by the lack of state enforcement of laws banning the infamous short-handled hoe and requiring toilets and drinking water in the fields.

"This suit is designed to stop the governor's reckless effort to dismantle this vital program," said the group's attorney, Claudia Smith.

The suit joins similar suits by the California State Employees Association and the California Labor Federation, which filed earlier actions in various appellate courts challenging the governor's decision to turn over Cal-OSHA enforcement to the federal government.

In addition, two other suits are pending in superior courts — one filed by a coalition of labor groups in Sacramento and the other by public employee labor organizations in San Francisco.

Although Sacramento Superior Court Judge Roger Warren ruled in May that the governor lacked the authority to dismantle Cal-OSHA without legislative concurrence, Warren said he did not have the authority to overrule the governor.

Subsequently, in two separate hearings this month, Warren declined to reverse the governor's action.

Daly City attorney James W. Flower, who took over the Sacramento case from the San Francisco firm of Remcho, Purcell and Johansen earlier this month, said the suit has been amended to reflect the current status of Cal-OSHA.

The state agency, decimated by employee departures and layoffs, retains jurisdiction over public sector worker safety complaints and is assisting in the transition to federal OSHA enforcement.

Flower and attorney Lawrence Newberry of Blanning & Baker in Tujunga, who represents public employee groups in the thus-far unsuccessful San Francisco Superior Court suit, are awaiting action in the appellate court and the California Supreme Court before proceeding.

Newberry's requests for a halt to the governor's dismantling of Cal-OSHA have been denied repeatedly by San Francisco Superior Court Judge Roy Wonder.

The U.S. Labor Department, which administers the federal OSHA program, assumed "concurrent" jurisdiction with state officials over Cal-OSHA July 1.

Cal-OSHA was established after the 1971 Sylmar Tunnel explosion that killed 17 workers in Southern California. Its standards are widely regarded as stronger than federal OSHA standards.

Sen. David Roberti, D-Hollywood, President Pro Tempore of the State Senate, last week called for a ballot initiative to reinstate Cal-OSHA.

"I believe California voters know that the cost in lives and dollars will be far greater than the \$8 million that the governor hopes to save by eliminating the Cal-OSHA program," Roberti said.