DoJ Contractor Wreaks Havoc on Immigration Courts; Spurs Guild Organizing Drive

O

fficials at the Department of Justice probably didn’t realize they were about to wreak havoc on federal immigration courts when they signed an exclusive contract for interpreting services with a new company in 2015.

And they certainly didn’t realize that signing the new agency — SOS International — would provide the impetus for a spirited union organizing campaign among the 700-1,000 foreign-language interpreters that serve the nation’s overburdened immigration courts.

“The system has been failing, but now it is reaching a tipping point,” Benjamin Johnson, the executive director of the American Immigration Lawyers, told the New York Times in December 2016.

Of those who appear in immigration court, 43 percent have no lawyer, and 89 percent of cases involve non-English speakers.

“Imagine trying to explain to a judge — without an interpreter — why, if you were sent back to your homeland, you would face torture, persecution and even death,” said Hilda Estrada, a DoJ certified Spanish language interpreter.

By the end of last year, the backlog of pending cases had ballooned to more than 540,000.

As a result, immigrants are denied justice, cases drag on — often for years — even as deportations increase and the government threatens to deport as many as 3 million people.

Putting on the Squeeze

Soon after it won the exclusive contract with the Department of Justice, SOSi put the squeeze on the interpreters, who they designated “independent contractors.”

The rates SOSi paid plummeted from $60 per hour to just $35. And despite the fact that SOSi called the interpreters “independent contractors,” they issued plenty of rules for them to follow, including a strict dress code.

By labelling them “independent contractors,” SOSi made it illegal for the interpreters to bargain over wages.

Getting Organized

Torn between their desire to serve the public and SOSi’s poor treatment, the interpreters began to organize.

Over lunch breaks and before court, they made plans to try to talk to every interpreter in the system. Team captains waited outside courts and detention centers to talk to their fellow interpreters.

The interpreters objected to the reduction in their rates to levels below those paid by other federal courts. They also documented SOSi’s increased use of inexperienced and uncertified interpreters and the negative impact it was having on cases.

Eventually, the company buckled. SOSi agreed to pay the federal rate — and sometimes paid even more.

The news of the victory spread around the country. Interpreters from Texas, Florida and New York also wanted the “California deal,” and they reached out to the organizers for advice.

Retaliation

None too happy with the interpreters’ actions, SOSi managers began to retaliate: They refused to renew contracts with the interpreters they considered leaders. Undeterred, the interpreters continued to organize.

By April 2016, interpreters began filing Unfair Labor Practice charges with the National Labor Relations Board (NLRB) against SOSi. In August, SOSI failed to renew contracts with several leaders in California, Illinois, and Georgia.

The interpreters continued their efforts, with support from The NewsGuild-CWA, the Pacific Media Workers Guild and members of the Chicago Newspaper Guild.

NLRB Agrees

On May 31, 2017, the Los Angeles Region of NLRB issued a complaint against SOSi, charging the company with illegally misclassifying its employees as independent contractors and firing those who spoke out.

The NLRB complaint also charges SOSi with illegally interrogating employees about their organizing activities, surveilling union supporters, threatening legal action, and prohibiting employees from engaging in activities associated with union organizing.

“As an immigration court interpreter who takes great pride in the profession, it is good to know that the NLRB agrees that labor law safeguards are essential to the vital work done every day in court by me and fellow colleagues,” said Kathleen Morris, a Chicago area interpreter.

The complaint seeks an order from the full board instructing SOSi to immediately reclassify the interpreters as employees. The NLRB also demanded reinstatement with back pay for several interpreters SOSi fired in retaliation for their union organizing activities.

The complaint has broad implications for the labor movement because employers in many industries misclassify workers as freelancers and independent contractors to avoid costs associated with hiring regular employees. The misclassification constitutes an unfair labor practice intended to deprive them of their labor rights, Regional Director William B. Cowen wrote.

It’s been a real morale booster for the interpreters, who are determined to unionize and provide top-notch interpreting services to the courts and communities that need them.

Cutline:

SOSi employees and NewsGuild members brought word of their struggle to the National Association of Judiciary Interpreters & Translators in May.