ADAMS FRUIT CO. v. BARRETT: RESTORATION OF WORKERS' COMPENSATION AS THE EXCLUSIVE REMEDY FOR WORKPLACE INJURIES UNDER THE FEDERAL MIGRANT LAW

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INTRODUCTION

On November 15, 1995, President Clinton signed Public Law 104-49,[1] which amended the Migrant and Seasonal Agricultural Worker Protection Act (MSPA)[2] and reversed a five year old U.S. Supreme Court decision[3] that subjected agricultural employers to actual damage claims for workplace injuries caused by a MSPA violation, regardless of whether they provided workers' compensation benefits to the injured workers. The new law represents a legislative reversal of the *Adams Fruit* decision and prohibits lawsuits from being brought against employers for actual damages under MSPA if the injured workers were covered under a workers' compensation policy. Public Law 104-49 restores workers' compensation as the exclusive remedy for workplace injuries under MSPA and applies retroactively to all lawsuits seeking actual damages where workers' compensation coverage was pro-

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[1] Act of Nov. 15, 1995, Pub. L. No. 104-49, 109 Stat. 432 [hereinafter MSPA Amendments].

[2] Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §§ 1801-1872 (1988).

[3] Adams Fruit Co. v. Barrett, 494 U.S. 638 (1990).

vided and in which a judgment had not become final when the measure was signed into law on November 15, 1995.[4]

Public Law 104-49 also amends MSPA by establishing new requirements regarding the disclosure of workers' compensation coverage information to migrant and seasonal agricultural workers,[5] tolling of the statue of limitations for filing claims,[6] and increasing damages for motor vehicle safety-related violations.[7] It also gives the Secretary of Labor authority under MSPA to establish transportation insurance requirements for employers transporting workers independent of insurance requirements set by the Interstate Commerce Commission (ICC).[8] The Act's legislative history clarifies the scope of MSPA's regulations for voluntary carpooling arrangements covering migrant and seasonal workers.[9]

The following article provides an analysis of the public policy debate that resulted from the Supreme Court's decision in *Adams Fruit Company v. Barrett*[10] and that led to enactment of Public Law 104-49 five years later. It analyzes the Court's decision, including its potential impact on the workers' compensation system, and the legislative history that preceded enactment of the new law. While the primary purpose of Public Law 104-49 was to reverse the *Adams Fruit* decision by restoring workers' compensation as the exclusive remedy under MSPA, the law provides meaningful reforms of MSPA intended to encourage safety in the transportation of migrant and seasonal agricultural workers. This article also discusses these other amendments to MSPA and their underlying legislative objectives.

I. THE SUPREME COURT DECISION IN *ADAMS FRUIT CO. V. BARRETT*

The *Adams Fruit* case involved a group of migrant farmworkers in Florida who suffered injuries in an automobile accident while they traveled to work in a van owned by their employer, the Adams Fruit Company. As a result of their injuries, the farmworkers received benefits pursuant to the State of Florida's workers' com-

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[4] MSPA Amendments, § 1.

[5] *Id.* § 4.

[6] *Id.* § 3.

[7] *Id.* § 2.

[8] *Id.* § 5.

[9] *See* 141 CONG. REC. E1943-44 (daily ed. Oct. 13, 1995) (statement of Rep. Goodling).

[10] *Adams Fruit Co.*, 494 U.S. at 638.

pensation law. They thereafter filed suit against the Adams Fruit Company in federal district court, alleging that their injuries were attributable in part to Adams Fruit's intentional violations of MSPA's motor vehicle safety provisions and accompanying regulations.[11] The farmworkers maintained that the van in which they were transported was operated in violation of MSPA because the total number of persons in the van exceeded its seating capacity; a seat was not provided for each passenger; the van was overloaded; the seats in the van were not equipped with seat belts; and the Adams Fruit Company committed these violations intentionally.

The farmworkers sued seeking actual and statutory damages pursuant to MSPA's private right of action provision.[12] The Adams Fruit Company moved for summary judgment on the ground that Florida state law[13] provides that its workers' compensation remedy "shall be exclusive and in place of all other liability of such employer to . . . the employee" and that farmworkers' receipt of workers' compensation benefits therefore precluded them from recovering damages under MSPA for the same injuries.[14]

In support of its position, the Company argued that Congress did not intend MSPA's private right of action to preempt or interfere with the exclusivity provisions of state workers' compensation laws. The district court granted the Company's motion for summary judgment, relying on the Fourth Circuit's decision in *Roman v. Sunny Slope Farms, Inc.*[15] The Court of Appeals for the Eleventh

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[11] 29 U.S.C. § 1841(b)(1)(A) (1988); 29 C.F.R. § 500.105 (1989).

[12] 29 U.S.C. § 1854(a) (1988) provides:

> Any person aggrieved by a violation of this chapter or any regulation under this chapter by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

[13] FLA. STAT. ANN. § 440.11 (West 1989).

[14] *Adams Fruit Co.*, 494 U.S. at 641.

[15] Roman v. Sunny Slope Farms, Inc., 817 F.2d 1116 (4th Cir. 1987). In the *Roman* case, a migrant farmworker was injured on the job and brought suit under MSPA. The farmworker claimed his injuries arose from being sprayed by pesticides while working in defendant grower's fields and that he was not provided protective clothing pursuant to his written agreement with the employer, which was a violation of MSPA. Relying in part on 29 U.S.C. § 1871, which states that Congress intends MSPA to supplement state law and not to excuse

Circuit reversed, choosing not to follow the *Roman* decision. It held that MSPA preempted the exclusive remedy provisions of Florida's workers' compensation law and receipt of workers' compensation benefits did not bar private suit under the Act for actual and statutory damages.[16] The U.S. Supreme Court granted *certiorari* to resolve this split in authority between the Fourth and Eleventh Circuit Courts of Appeals.[17]

The issue before the Supreme Court was whether MSPA's private right of action was withdrawn where state law establishes workers' compensation as the exclusive remedy for workplace injuries. Both Florida law and U.S. Department of Labor (DOL) regulations[18] established workers' compensation as the exclusive remedy for workplace injuries or death. The farmworker respondents argued that section 504 of MSPA established an unambiguous private right of action for aggrieved migrant workers against agricultural employers and provides for actual and statutory damages in cases of intentional violations that superseded any state workers' compensation law limitation on the federal right to damages.[19]

The Adams Fruit Company argued that DOL's workers' compensation exclusive remedy regulation was supported by MSPA provisions that permit agricultural employers to satisfy MSPA's insurance policy and liability bond requirements if they provide

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performance with state law and regulation, the court concluded that Congress did not intend MSPA to preempt state law. The court also concluded that 29 U.S.C. § 1841(c), which prescribes vehicle safety requirements and allows workers' compensation to be provided in lieu of insurance, further evidenced Congress' intent that MSPA should not preempt state laws. The U.S. Court of Appeals for the 4th Circuit held that farmworkers injured on the job, and whose injuries were covered under state workers' compensation law which established workers' compensation as the exclusive remedy, could not additionally recover under MSPA.

[16] Barrett v. Adams Fruit Co., 867 F.2d 1305, 1311 (11th Cir. 1989).

[17] Adams Fruit Co. v. Barrett, 493 U.S. 49 (1989).

[18] "Where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker by the employer, the workers' compensation benefits are the exclusive remedy for loss under this Act in the case of bodily injury or death." 29 C.F.R. § 500.122 (1988).

[19] 29 U.S.C. § 1854(c)(1) (1988) provides:

> If the court finds that the respondent has intentionally violated any provision of this chapter or any regulation under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to $ 500 per plaintiff per violation, or other equitable relief . . . .

workers' compensation insurance.[20] The Company asserted this reflected an intent to preclude MSPA liability for bodily injury where employers have obtained workers' compensation coverage under state law. The Company argued it would be incongruous for Congress explicitly to waive insurance coverage requirements where workers' compensation is available and at the same time to allow migrant workers to seek cumulative remedies under workers' compensation laws, and MSPA,[21] which provides for actual damages if an intentional MSPA violation results in injury or death to a farmworker. The Company also argued the Court should defer to the DOL regulation that established workers' compensation as the exclusive remedy where it is applicable and coverage is provided.

The Supreme Court rejected the Company's arguments and held that exclusivity provisions in state workers' compensation laws do not bar migrant workers from availing themselves of a private right of action under section 1854. The Court concluded that the language of MSPA's enforcement provisions — which establishes a private right of action for "[a]ny person aggrieved by a violation," — indicates that the right of action is unaffected by the availability of remedies under state workers' compensation law.

Furthermore, the Court held that had Congress intended to limit further the availability of MSPA relief based on the adequacy of state workers' compensation remedies, it would have made that purpose clear in MSPA's enforcement provisions. The Court also held that MSPA's motor vehicle safety provisions, which permit employers to satisfy the statute's insurance and liability bond requirements through their state workers' compensation insurance, were not intended by Congress to limit the private right of action afforded under MSPA's enforcement provisions.

Rejecting the analysis of the Fourth Circuit in the *Roman* decision,[22] the Court concluded that although section 1871 of MSPA permits states to supplement the statute's remedial scheme, it cannot be viewed as authorizing them to replace or supersede MSPA remedies. Thus, the Court found that exclusivity provisions in state workers' compensation laws did not supersede Federal

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[20] 29 U.S.C. § 1841(a), (b), and (c) (1988).

[21] 29 U.S.C. § 1854(c)(1) (1988).

[22] *See supra* note 15.

law. Since Congress did not include language in MSPA establishing state workers' compensation as the exclusive remedy for farmworkers, the Court held that workers' were entitled to seek a private right of action under section 1854 of MSPA.

II. DEMAND FOR EQUITABLE TREATMENT OF AGRICULTURAL EMPLOYERS AND THE STABILITY OF THE WORKERS' COMPENSATION SYSTEM SPURS EFFORTS TO REVERSE THE *ADAMS FRUIT* DECISION

After the *Adams Fruit* decision was issued, agricultural and insurance groups concluded the decision was not only unfair to employers subject to MSPA, but threatened to undermine the entire state workers' compensation system.[23] As a result of the decision, agricultural employers were the only employers in the United States who faced dual liability for their employees' workplace injuries. They were liable for workers' compensation benefits where they were required under state law or were voluntarily provided and liable in a tort action for actual damages under MSPA. Not even federal workers are entitled to this dual right of recovery under the Federal Employers' Compensation Act, the Longshore and Harbor Workers' Compensation Act or the Black Lung Benefits Act.[24]

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[23] *See* AMERICAN INSURANCE ASSOCIATION, A COMPARISON OF WORKERS' COMPENSATION LAWS FOR AGRICULTURAL LABORERS (1991), wherein the following brief description of the history and rationale for the workers' compensation is described:

> Workers' Compensation is one of the oldest and most comprehensive social insurance mechanisms operating in the United States. It provides complete medical insurance coverage for work related injuries and illnesses without deductibles, copayments, dollar or time limits. It also provides income support, rehabilitation and burial benefits to workers injured on the job, or to their dependant survivors.
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> Before the first workers' compensation laws in the United States were adopted over 80 years ago, a worker who was injured on the job typically had to file a lawsuit and establish the employer's negligence in court to obtain compensation for medical expenses and lost wages. This system posed great uncertainties for workers and employers.
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> The system before worker compensation also was highly inequitable and inefficient. Some injured workers received adequate or excessive compensation while many others received nothing at all. The adversarial nature of litigation ensured that the process was time consuming and expensive for all the parties involved.

[24] *Hearing on H.R. 1173 and H.R. 1999 Before the Subcomm. on Labor Standards of*

Insurance experts contended the decision jeopardized the workers' compensation system for all employers by carving out an exemption to the exclusive remedy principle in agriculture that could become a precedent for all other industries. The decision created a significant concern that the advantageous position accorded migrant farmworkers would be granted to other classes of workers. If other classes of employees could obtain actual damages in addition to workers' compensation, then such an expansion would ultimately unravel the workers' compensation "compromise" and return workers and employers to the morass of litigation and fault-based system.[25] Such a result would hurt both employers and workers since the primary benefit of workers' compensation is the assurance of prompt compensation for the employee and limited liability for the employer.

Professor Arthur Larson, an authority on workers' compensation, summarized the impact of the *Adams Fruit* decision when he stated: "This [case] ignores the most fundamental rationale of workers' compensation, which is that the worker gains the benefits of employer liability without fault as a quid pro quo for foregoing tort remedies."[26] It is worth noting that the system protects the employees on fault issues as well by denying the employer the ability to raise a contributory negligence defense.

Critics of the *Adams Fruit* decision argued allowing a MSPA remedy over and above workers' compensation not only places agricultural employers at a competitive disadvantage, it also gives migrant farmworkers greater protection than other employees, including other agricultural employees. Thus, the decision is totally inconsistent with the entire thrust of MSPA. As Professor Larson stated: "It is similarly difficult to believe that Congress meant to create a privileged class, the migrants, with rights superior to all other workers. Surely, it would be enough if migrants were treated just as well as all others. It was the fact that they were not that inspired this legislation."[27]

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the House Comm. on Education and Labor, 103d Cong., 1st Sess. 188 (September 15, 1993) [hereinafter Hearings] (statement of Craig Berrington, Senior Vice-President and General Counsel on behalf of the American Insurance Association).

[25] *Id.* at 363 (statement of Edward C. Woodward, on behalf of the California Workers' Compensation Institute).

[26] ARTHUR LARSON, THE LAW OF WORKMEN'S COMPENSATION 28 (Supp. 1990).

[27] *Id.* at 27.

Proponents of a legislative reversal of the *Adams Fruit* decision argued the effect of the decision also would be contrary to the best interests of migrant and seasonal workers. It was argued that workers' compensation is a superior remedy for migrant farmworkers over litigation because it provides a quicker and more certain outcome for injuries to a transient population not inclined to live in the same location for several years litigating and awaiting the outcome of a tort-based court claim. All states include coverage of migrant workers within their workers' compensation systems, but twenty-four states do not require agricultural employers to cover these employees.[28] In those states, the *Adams Fruit* decision removed the incentive for agricultural employers to provide coverage, since they are not, in turn, gaining the trade-off of limited and predictable liability.

Proponents for reversal of the decision contended the net result would be to discourage employers from providing workers' compensation coverage to migrant farmworkers, contrary to Congress' intent when it passed MSPA in 1982. A strong advocate of this viewpoint was Craig Berrington, a former Deputy Assistant Secretary of Labor for Employment Standards at the U.S. Department of Labor during the enactment of MSPA in 1982.[29]He played a major role in developing the conceptual framework for MSPA and supervised the drafting of the DOL regulations implementing MSPA, including the exclusive remedy regulation held invalid in the *Adams Fruit* decision. In his testimony before Congress regarding reversal of the *Adams Fruit* decision, Berrington stated that one of the more important purposes of MSPA was to encourage both agricultural employers and states to provide workers' compensation insurance as an alternative to liability in-

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[28] *See* American Insurance Association, *supra* note 23. In general, workers' compensation laws are classified as elective or compulsory. Most states are compulsory, requiring nearly all employers to obtain workers' compensation. Some industries have been given exemptions from mandatory coverage; however, the employers may voluntarily provide coverage. The agricultural industry is one of the industries given an exemption. Thus, the majority of states cover agricultural workers on a voluntary basis. Ten states require compulsory coverage for all agricultural workers. Two states, Colorado and Washington, have extremely limited exceptions to compulsory coverage for agricultural workers. Twenty-four states have voluntary coverage. The remaining fourteen states have compulsory coverage for "large farms" and voluntary coverage for "small farms." The "small farm" exemption varies from state to state.

[29] *Hearings, supra* note 24, at 191-195.

surance when transporting workers.[30]

By providing workers' compensation coverage in lieu of liability insurance, employers would be relieved of liability for workers in lawsuits filed because of motor vehicle accidents. While this benefited employers, workers received an even greater benefit. Since workers' compensation could not be purchased just for vehicle accidents, the workers' compensation policy would provide comprehensive benefits to the workers, regardless of whether the injury was transportation-related.

Berrington's testimony contended while the *Adams Fruit* decision subjected agricultural employers to unprecedented dual liability and threatened to unravel the workers' compensation system, farmworkers ultimately faced equally adverse consequences, as employers lost all incentive to provide workers' compensation in the many states where coverage is voluntary. His testimony called for Congress to act to reverse the negative results of the *Adams Fruit* decision and concluded: "It would be a tragic irony of the *Adams Fruit* decision if migrant workers—arguably those most in need of the protection afforded by workers' compensation—lose those protections over time, because Congress failed to restore the exclusive remedy to actions under MSPA.[31]

Farmworker advocates opposed legislative reversal of the *Adams Fruit* decision. They contended that Congress did not intend workers' compensation to preempt a private right of action for actual damages under MSPA and that the Supreme Court correctly decided the case. Mark Schacht, a representative of California Rural Legal Assistance, in his testimony before Congress in opposition to a proposal (H.R. 1999) to legislatively reverse the *Adams Fruit* decision, articulated arguments typical of opponents of the legislation.[32] His testimony stated that only through the threat of actual damages, regardless of workers' compensation coverage, would MSPA deter the "dangerous transportation practices of the industry" where numerous farmworkers have been injured and killed.[33] Further, Schacht argued that workers' compensation does not cover farmworkers under many state laws and that where it is provided, it does not provide farmworkers "a just

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[30] *Hearings, supra,* note 24, at 191-195.

[31] *Hearings, supra,* note 24, at 191.

[32] *Hearings, supra,* note 24, at 255-259 (statement of Mark S. Schacht on behalf of California Rural Legal Assistance).

[33] *Hearings, supra,* note 24, at 255.

result when there is a catastrophic injury" as a result of a MSPA violation.[34]

This position was emphasized by an attorney specializing in farmworker injury cases as follows:

> Not only does the workers' compensation system fail to provide adequate compensation for the survivors of the deceased, but it also engenders no fear in the growers that would cause them to provide appropriate safety protection for the workers . . . Only the threat of a substantial damages award will cause such individuals to employ proper safety protection.[35]

Thus, while agricultural employers felt that the *Adams Fruit* decision was wrongly decided and resulted in unfair treatment for them when compared with other employers who get the benefit of the exclusive remedy provisions inherent in state workers' compensation laws, farmworker groups felt strongly that the decision was correct and necessary to deter vehicle accidents they claimed are typical of agricultural employment. Agricultural and insurance interests concerned about the long-term adverse consequences for both agricultural employers and the workers' compensation system moved the public policy debate surrounding the decision to Congress.

III. Legislative History of Pub. L. 104-49

A. Legislative History of 102d Congress

In 1991, a national coalition of agricultural organizations and insurance associations and companies sought Congressional reversal of the *Adams Fruit* decision. The above described policy arguments in support of legislation were actively made to Congress and the Bush Administration. Rather than introduce a bill that would amend MSPA to state that where workers' compensation coverage is provided an injured worker that it is the exclusive remedy for workplace injuries, agricultural and insurance groups sought to work out a mutually agreeable amendment with farmworker advocates. This approach was encouraged on a bipartisan basis by Representatives Leon Panetta (D-CA) and Bill Goodling (R-PA). Extensive negotiations between agricultural representatives and farmworker advocates ensued in 1991 and 1992,

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[34] *Hearings, supra,* note 24, at 257-258.

[35] *Hearings, supra,* note 24, at 284 (statement of Federico C. Sayre, Esq.).

regarding a possible legislative compromise that would conditionally restore workers' compensation as the exclusive remedy for workplace injuries. Representatives Panetta and Goodling, as well as the staffs of the House Education and Labor Committee and other interested members of Congress participated in and facilitated the process of obtaining a legislative compromise agreeable to interested parties.

While agricultural and insurance industry representatives simply sought to amend MSPA's private right of action by adding to the statute the regulatory language rejected by the Supreme Court in the *Adams Fruit* decision,[36] worker advocates sought a number of related and unrelated amendments to MSPA in exchange. Foremost among the worker advocate legislative demands were an increase in MSPA's statutory damage levels,[37] tolling of any applicable statute of limitations while the issue of workers' compensation coverage is being litigated, provision of attorney's fees to successful plaintiffs under MSPA, and a provision that would essentially hold agricultural employers strictly liable for any MSPA violation if they were determined to be the employers of an injured worker for purposes of workers' compensation coverage.[38] Many of the worker advocate proposals during the negotiations in 1991 and 1992 were later included in a legislative proposal offered by Rep. Miller (H.R. 1173) in 1993 that would have broadly reformed MSPA.[39] As the end of the 103d Congress approached, efforts to negotiate a MSPA reform package broke down in September 1992.

Concerned about the threat to the workers' compensation system posed by the decision in the *Adams Fruit* case and the inequity of singling out employers subject to MSPA who provide work-

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[36] *See supra* note 18.

[37] MSPA provides for an award of statutory damages of up to $500 per plaintiff per violation under certain circumstances. 29 U.S.C. § 1854 (1988).

[38] Agricultural employers strongly rejected any statutory right to attorney's fees and strict liability for any MSPA violation by a grower determined to be the employer for workers' compensation purposes. Agricultural employers argued the worker advocate proposal would have, in effect, repealed MSPA's joint employer rules that allow for a determination of whether there is joint liability between growers and farm labor contractors on a case by case basis. *See* 29 C.F.R. § 500.20(h)(4). The joint employment principle is discussed in detail in Aimable v. Long & Scott Farms, 20 F.3d 434 (11th Cir.), *cert. denied*, 115 S.Ct. 351 (1994).

[39] The text of H.R. 1173 and statements in support of and opposition to its provisions are included in *Hearings*, *supra* note 24, at 3-34.

ers' compensation to exposure to actual damages, Congress declared its disapproval of the decision by passing bipartisan legislation in 1992 that temporarily reversed the Court's ruling.[40] Congress made the reversal temporary with the intent of encouraging agricultural and worker interests to resume their negotiations for a compromise legislative package the following year.

On October 6, 1992, Congress temporarily overturned the decision in *Adams Fruit* by codifying the Department of Labor regulation that preserved the exclusivity of workers' compensation under MSPA and which was struck down by the Supreme Court.[41] This new law prohibited civil lawsuits under MSPA for actual damages (i.e. loss of income, medical expenses, and "pain and suffering") based on bodily injury or death if the injury was covered by workers' compensation.[42] This bar applied as long as the injury arose out of or in the course of employment.[43] The legislation also limited the retroactivity of the law. Cases that had been filed when the law was enacted on October 6, 1992, were not affected by the temporary ban. However, if a case had not been filed as of October 6, 1992, then the bar applied and employers could not be sued for actual damages.[44]

The moratorium was established for nine months. The legislation also tolled the statute of limitations during the nine month period for any case where the statute would have otherwise expired during that period. For those cases, there was a nine-month extension of the statute of limitations which was tacked onto the date the statute expired. If Congress took no action to make it permanent, then the ban would be lifted on July 6, 1993.

Efforts to reach a legislative compromise were considerably less successful in the 103d Congress (1993-1994). Part of the explanation for the breakdown in the negotiation process between agricultural, insurance and farmworker groups during the 103d Congress was the assumption of power by the Clinton Administration

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[40] Legislative Branch Appropriations Act of 1993, Pub. L. No. 102-392, § 325, 106 Stat. 1728 (1992). The amendment temporarily reversing the *Adams Fruit* decision was not voted on separately. It was included as part of the overall appropriations bill for the Legislative Branch and was passed as part of that legislation.

[41] Legislative Branch Appropriation Act of 1993, Pub. L. No. 102-392, § 325(a), 106 Stat. 1728 (1992).

[42] *Id.*

[43] *Id.*

[44] *Id.*

in 1993. Worker advocates felt less need to compromise under an Administration expected to be more supportive of farmworker interests. This attitude is in part evidenced by the introduction of a wideranging reform proposal by Representative George Miller promoted by farmworker advocates that included provisions that had been discussed during the negotiations in 1991 and 1992 but which also went beyond those discussions to include many other farmworker reforms that were wholly unacceptable to agricultural groups.[45] The compromise process failed during the 103d Congress and the temporary reversal of the *Adams Fruit* decision expired.

B. Legislative History of 104th Congress

The 104th Congress opened with renewed efforts to enact legislation that would permanently restore workers' compensation as the exclusive remedy for injury and death where coverage was provided by employers subject to MSPA. The election of Republican majorities in both houses of Congress during the November 1994 elections added needed momentum to the initiative to restore workers' compensation as the exclusive remedy for workplace injuries under MSPA. A bipartisan group of congressional leaders, headed by House Economic and Educational Opportunities Chairman Bill Goodling (R-PA) and Representative Vic Fazio (D-CA) sponsored H.R. 1715 to achieve that end.[46]

On May 25, 1995, hearings were held before the House Committee on Economic and Educational Opportunities Subcommittee on Worker Protection.[47] On June 22, 1995, the House Committee on Economic and Educational Opportunities voted to report H.R. 1715 out of Committee.[48] As introduced, H.R. 1715 was a single-section bill that simply reversed the *Adams Fruit* decision and provided that where state workers' compensation is applicable and coverage is provided, workers' compensation shall be the farmworker's exclusive remedy and the employer's sole liability under MSPA for bodily injury or death.[49] The bill would apply

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[45] See *supra* note 38.

[46] H.R. 1715, 104th Cong., 1st Sess. (1995).

[47] *Supreme Court Decision in Adams Fruit Co. v. Barrett: Hearing Before the Subcomm. on Worker Protection of the House Comm. on Economic and Educational Opportunities,* 104th Cong., 1st Sess. (May 25, 1995).

[48] *See* 141 CONG. REC. H10090 (daily ed. Oct. 17, 1995).

[49] H.R. 1715, 104th Cong., 1st Sess. (1995).

retroactively to all lawsuits not final on the date of enactment.

Subsequent to the Committee's vote to report H.R. 1715, several months of intense negotiations took place among the staffs of Republican and Democratic Committee members, along with representatives of national agricultural employer groups, insurance interests and farmworker organizations.[50] The negotiations centered on farmworkers' interest in replacing the loss of actual damages awards, if the exclusivity of workers' compensation was restored to MSPA, with another deterrent to unsafe transportation practices in agricultural employment. This resulted in consideration of a solution that would significantly increase the amount of statutory damages awardable under MSPA under limited circumstances where transportation safety of farmworkers was jeopardized by egregious practices. A tradeoff between restoration of workers' compensation as the exclusive remedy for workplace injuries and increased statutory damages, with both new provisions having retroactive application, began to take shape.

A final piece of the negotiations relating to transportation safety involved agriculture's concern that the vehicle transportation liability insurance limits required under MSPA's regulations[51] were too high and thereby discouraged persons from obtaining such coverage to the detriment of the transporter and worker. Agreement between the interested parties was reached that the Department of Labor should have the discretion to set the insurance levels, rather than being mandated to follow levels established by the Interstate Commerce Commission, as required by MSPA.[52]

In addition, farmworker representatives also wanted to ensure that workers injured on the job would obtain clear and timely notice of their right to workers' compensation benefits and how to obtain them. The need to mandate disclosure of such information under MSPA was justified by farmworker representatives based on the importance of ensuring that a generally unsophisticated group of workers did not miss the filing deadlines for workers' compensation claims.

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[50] Representative Howard Berman (D-CA) played an active role supporting farmworker interest during these negotiations, as well as those in preceding Congresses.

[51] 29 C.F.R. § 500.121 (1994).

[52] 29 U.S.C. § 1841(b)(2)(C) (1988).

As a result of these negotiations, a compromise legislative package was agreed to by both sides and the Chairman of the House Committee on Economic and Educational Opportunities offered a substitute to H.R. 1715 that provided additional provisions intended to encourage motor vehicle transportation safety by those subject to MSPA involved in the transportation of farmworkers and increased notice requirements regarding workers' compensation coverage.[53] The exclusive remedy provisions of H.R. 1715, as originally introduced, remained essentially the same.[54] In exchange for these additions to the substitute bill, the Committee Chairman and ranking Economic and Educational Opportunity Committee members agreed to seek expedited passage of the bill in both the House of Representatives and Senate.

The substitute bill contained five sections. Section one is similar to language in the original H.R. 1715, and reverses the *Adams Fruit* decision. Section two provides for increased statutory damages under MSPA in certain limited situations involving motor vehicle safety. Section three provides for tolling of the statute of limitations on actions brought under MSPA during the time period in which a claim for state workers' compensation is pending. Section four requires expanded disclosure of information regarding workers's compensation coverage to migrant or seasonal agricultural workers. Section five requires the Department of Labor to determine the level of liability insurance required of employers engaged in transportation of migrant or seasonal agricultural workers and eliminates its obligation to set rates based on current ICC regulations.

IV. SECTION-BY-SECTION ANALYSIS OF PUB. L. 104-49

A. Introduction

Pub. L. 104-49 is a legislative compromise resultant from the passage of H.R. 1715 by voice vote on the suspension calendar of the House of Representatives. H.R. 1715 was sent to the Senate, where it was held at the Senate Clerk's desk without referral to the Senate Committee on Labor and Human Resources. It was passed by unanimous consent in the Senate without being subject to hearings or a committee vote.[55] The expedited passage of the

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[53] 141 CONG. REC. H10089-93 (daily ed. Oct. 17, 1995).

[54] *Id.* at H10089.

[55] *See* 141 CONG. REC. S16440 (daily ed. Oct 31, 1995).

bill by both Houses of Congress reflects the bipartisan support for the bill that stemmed from the legislative compromise that expanded the bill from a simple reversal of the *Adams Fruit* decision to one that seeks to expand farmworker protection in the area of motor vehicle transportation safety.

To ensure that the legislative intent of the legislation was clear, an agreed upon Joint Statement of Legislative Intent on the Substitute to H.R. 1715 (hereafter referred to as the Joint Statement) accompanied the introduction of the substitute bill.[56] The Joint Statement sets forth a concise statement of legislative intent applicable to each section of the bill.[57] There was limited floor debate in the House of Representatives and none in the Senate. Following is an analysis of each section of Pub. L. 104-49 in light of the legislative history and the amended sections of MSPA.

B. Section One: Workers' Compensation

Section one of Pub. L. 104-49 reverses the effect of the decision of the United States Supreme Court in *Adams Fruit Co. v. Barrett*.[58] As discussed above, the Supreme Court held that an action for damages under MSPA was preserved and could be maintained by injured farmworkers, even though the farmworkers were covered under state workers' compensation for the same injuries suffered in the course of employment for the Adams Fruit Company. Section one amends section 504(d) of MSPA to provide that where workers' compensation coverage is secured under a state workers' compensation law for a migrant or seasonal agricultural worker, workers' compensation shall be the farmworker's exclusive remedy, and the employer's sole liability under MSPA for bodily injury or death.[59] To eliminate any ambiguity created

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[56] 141 CONG. REC. E1943 (daily ed. Oct. 13, 1995).

[57] *Id.*

[58] MSPA Amendments, § 1.

[59] MSPA Amendments, § 1, amended § 504(d) of MSPA to read as follows:

> (d)(1) Notwithstanding any other provision of this Act, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death in accordance with such State's workers' compensation law.
>
> (2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (C) of actual damages for loss from an injury or death but does not preclude recovery under subsection

by the temporary fix of the exclusive remedy problem by Congress from October 6, 1992 through July 3, 1993, section one repeals section 325 of Pub. L. 102-392, and sets forth essentially the same exclusive remedy language.[60]As noted in the Joint Statement, section one reinstates and makes permanent a change in law that was temporarily in effect from October 6, 1992, to July 6, 1993.[61]

Section one bars actions under MSPA for actual damages for injuries suffered by a farmworker where state workers' compensation is applicable and coverage is provided. Thus, it achieves the objective of proponents of the new law by prohibiting workers covered by workers' compensation from achieving duplicative damage awards, as well as compensation for pain and suffering. If a farmworker is covered by workers' compensation he/she may not receive actual damages under MSPA for the workplace injury. If a worker is covered by workers' compensation and it is applicable to an injury, the worker may not refuse workers' compensation benefits simply to seek the alternative of actual damages. If, however, the farmworker is not covered by workers' compensation, then the worker may seek actual damages under MSPA. A worker may receive one remedy or the other, but not both.

By reinstating workers' compensation as the exclusive remedy for workplace injuries for entities subject to MSPA, section one of the new law intends to allow the rights covered under state law workers' compensation law to define the recovery and actions available to the injured worker.[62] Section one does not bar actions under MSPA for statutory damages or for equitable relief so long as such equitable relief does not include back or front pay, or expand, alter or affect rights or recoveries under state workers' compensation laws.[63]

> (C) for statutory damages or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect (A) a recovery under a State workers' compensation law or (B) rights conferred under a State workers' compensation law.

MSPA Amendments, § 1(d)(1)-(2).

[60] MSPA Amendments, § 1.

[61] *See* 141 CONG. REC. E1943 (daily ed. Oct. 13, 1995).

[62] MSPA Amendments, § 1(a).

[63] Because Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000(e)(5)(g) (1988), includes back pay as an equitable remedy, § 504(d)(1) makes clear that back or front pay are not considered equitable remedies under

Section one is applicable to all cases and claims under MSPA in which a final judgment had not yet been entered on the November 15, 1995 date of enactment.[64] Thus, any lawsuit seeking actual damages under MSPA where worker's compensation is applicable and coverage was provided which was pending before a federal district court or on appeal to a circuit court of appeals is subject to dismissal as of the date of enactment of Pub. L. 104-49.

Section one achieves the objectives of its proponents by retroactively restoring workers' compensation as the exclusive remedy for workplace injuries under MSPA. In doing so, the section achieves an equitable result by treating employers subject to MSPA the same as all other employers by removing them from the threat of dual liability. Moreover, the Act represents a strong congressional statement affirming the importance of the exclusive remedy principle as part of the workers' compensation system in this country.

C. Section Two: Expansion of Statutory Damages

The key element in working out the legislative compromise that resulted in enactment of Pub. L. 104-49 was to provide an alternative to actual damages to deter unsafe motor vehicle safety practices by those transporting migrant and seasonal farmworkers. In exchange for reinstatement of workers' compensation as the exclusive remedy for workplace injuries under MSPA where it is applicable and coverage is provided, agricultural interests agreed to an increase in the amount of statutory damages awardable under MSPA under certain limited circumstances where workers' compensation is provided. If a worker's injury is not covered under workers' compensation, then actual damages are available and increased statutory damages are unavailable.[65]

Section two provides for increased statutory damages under MSPA in certain cases where the defendant's actions violate any one of four types of prohibitions described in new subsection 504(e).[66] If the violation meets any of the four sets of circumstances, the maximum award of statutory damages is increased

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MSPA.

[64] MSPA Amendments, § 1(b).

[65] MSPA Amendments, § 2(e). Section two amends § 504 of MSPA by adding a new subsection (e).

[66] MSPA Amendments, § 2(a).

from up to $500 to up to $10,000 per plaintiff per violation.[67] The Act provides that multiple infractions of a single provision of MSPA shall constitute only one violation per plaintiff for purposes of the statutory damages provided in section two.[68] The language is identical to and should be construed the same as the present language in section 504(c)(1) of MSPA.[69]

The four sets of circumstances for which increased statutory damages are available under section two should be characterized as egregious situations which farmworker advocates claim are characteristic of most vehicle accidents involving serious injuries to migrant and seasonal farmworkers.[70] Elevated statutory damages are intended to deter such violations. Before describing each of the four bases for elevated damages, the common elements of each should be understood. First, only an injured or deceased migrant or seasonal worker whose claim was covered by workers' compensation, or her representative, may bring an action under section 504(e).[71] In each of the four circumstances, the MSPA violation must have resulted in injury or death to the worker.[72]

A violation occurs if it can be shown that the defendant knowingly required or permitted a driver to transport migrant or seasonal workers under the influence of alcohol or controlled substances.[73] Implied knowledge, through agency or similar principles, is insufficient to establish the liability of a defendant. It must be proven that the injury or death arose out of and in the course of employment as determined under the State workers' compensation law.

A second aggravated violation can be established by showing that the defendant has been determined in a prior judicial or administrative proceeding to have violated one of MSPA's motor vehicle safety requirements.[74] If the defendant is convicted of a cur-

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[67] *Id.*

[68] For example, if a defendant willfully removed seats from a vehicle used to transport migrant workers in violation of § 401(b) of MSPA, and this act resulted in an injury to a worker, the act of removing the seats would constitute a single violation under § 504(e)(3) and would not be a new violation each day the vehicle was operated without the required seats.

[69] *See* 141 CONG. REC. E1943 (daily ed. Oct 13, 1995).

[70] MSPA Amendments, § 2(a).

[71] *Id.*

[72] MSPA Amendments, § 2(a)(1)(A).

[73] *Id.*

[74] MSPA Amendments, § 2(a)(2)(B).

rent violation of section 401(b), proof of the prior conviction will subject him/her to the elevated statutory damages.

The third area involves circumstances where the defendant willfully disables or removes a safety device required under MSPA's motor vehicle safety regulations or, in conscious disregard of the regulations, fails to provide required safety devices.[75] In the latter case, it must be shown that the defendant was aware that the MSPA safety regulations existed and required that a safety device be provided and that the defendant made a deliberate decision not to provide the safety device.

Finally, a new section subjects farm labor contractors to elevated statutory damages if they violate section 401(b) of MSPA at a time when they are not properly registered as a contractor under section 101(a) of the Act.[76] Persons who violate section 401(b) of MSPA and utilize the services of a farm labor contractor without taking reasonable steps to determine whether the contractor possessed a valid certificate of registration for the activities for which his/her services were requested also face increased statutory damages. To find a person using a farm labor contractor without proper registration liable under this provision, it must be shown that a defendant using the contractor had permitted or requested the contractor to perform the activities for which no registration was possessed. It must be shown that the person using the unregistered contractor had knowledge of the activities and either requested them or permitted them.

Consistent with the retroactive reinstatement of workers' compensation as the exclusive remedy under section one of Pub. L. 104-49, section two is applicable to claims for statutory damages under MSPA in which a final judgment has not been entered, as well as to future claims for such damages. Thus, any claims pending in the federal courts on November 15, 1995, in which workers compensation was provided and for which actual damages claims are now prohibited, may allege any of the four above-described aggravated violations of section 504(e) and seek statutory damages in an amount up to $10,000 per violation.

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[75] MSPA Amendments, § 2(a)(3)(A)(i).

[76] MSPA Amendments, § 2(a)(4)(C)(i).

D. Section Three: Tolling of the Statute of Limitations

It is anticipated that there will be cases where it is unclear whether workers' compensation is applicable and coverage provided to injured migrant and seasonal workers. Determination of coverage may take some time to be resolved through state administrative or judicial proceedings. In order to avoid jeopardizing the rights of workers involved in such proceedings through the running of the applicable statute of limitations on a MSPA claim for actual damages, it was agreed by the parties to the legislative compromise resulting in enactment of Pub. L. 104-49 that the statute of limitations governing MSPA would be tolled.[77]Section three provides for tolling of the statute of limitations on actions brought under MSPA during the time period in which a claim under a state workers' compensation law is pending.[78] It tolls the applicable statute of limitations governing a suit for damages for bodily injury or death under MSPA while determination is being made whether the state workers' compensation law was applicable to the injury or death. It also tolls the statute of limitations governing claims which arise out of the same transaction or occurrence but which do not implicate workers' compensation.[79] It intends to avoid forcing parties to split their claims into two suits, litigating their non-bodily injury claims in one lawsuit in order to preserve these claims under the applicable statute of limitations and then later litigating the injury claims in another lawsuit, if it were subsequently determined under state workers' compensation law that the injury was not covered.[80]

E. Section Four: Disclosure of Workers' Compensation Coverage

If workers' compensation were to become the exclusive remedy for workplace injuries under MSPA, farmworker advocates wanted to ensure that workers had sufficient information upon which to rely in making a timely claim for benefits. While there was some disagreement as to whether providers of workers' compensation should be required to disclose more information than already is

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[77] MSPA does not contain an independent statute of limitations. Rather, it relies on the appropriate statute of limitations of the state in which the action is brought.

[78] MSPA Amendments, § 3.

[79] *Id.*

[80] *See* 141 CONG. REC. E1943 (daily ed. Oct. 13, 1995).

required under MSPA, agricultural interests agreed to an expanded disclosure requirement.[81]

Section 201(a) currently requires disclosure to migrant and seasonal workers of specified information relating to the terms and conditions of employment.[82] Section four of Pub. L. 104-49 adds an eighth disclosure requirement related to workers' compensation.[83]This disclosure likely will be made on DOL's MSPA Form WH 516, once it is amended to accommodate the new requirement.

As set forth in the Joint Statement, section four requires disclosure of information regarding workers' compensation coverage to migrant agricultural workers and, upon request, to seasonal agricultural workers.[84] The purpose of this amendment is to help ensure that farmworkers have sufficient information to know whether workers' compensation insurance is provided, who is providing it and how to file timely claims for workers' compensation where it is provided. Compliance with this disclosure requirement also may be met by giving the migrant or seasonal agricultural workers a photocopy of any notice regarding workers' compensation which state law requires that the workers receive.[85]

Because persons recruiting migrant workers may not know who will be providing workers' compensation and other related information at the time that migrant workers are recruited at some point distant from the job site, the disclosure requirement does not mandate disclosure at the time of recruitment. Rather, if the information to be disclosed is unavailable at the time of recruitment, it may be given at the earliest practicable time but in no event later than the commencement of work.[86]

In sum, the expanded disclosure requirements regarding workers' compensation were intended to make sure that farmworkers are afforded in a timely manner sufficient information to take advantage of any workers' compensation benefits to which they are entitled. Disclosure of such information is not intended to change existing legal principles involving workers' compensation

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[81] Prior to enactment of Pub. L. 104-49, MSPA's regulations only required disclosure of whether workers' compensation is provided. 29 C.F.R. §500.75(b)(6) (1994).

[82] 29 U.S.C. §182(a) (1988).

[83] MSPA Amendments, § 3.

[84] 141 CONG. REC. E1943 (daily ed. Oct. 13, 1995).

[85] *Id.*

[86] MSPA Amendments, § 3.

liability as it relates to MSPA, other than that failure to make the disclosure may result in statutory damages being assessed against the offending party. Moreover, the Joint Statement makes clear that the amendment is not intended to modify the joint employment doctrine which determines employment relations under MSPA.[87]

F. Section 5: Motor Vehicle Insurance Liability Coverage

As discussed in Section III above, provision of workers' compensation to workers covered by MSPA relieved those involved in transporting workers of the obligation to obtain motor vehicle liability insurance otherwise mandated under MSPA.[88] This was intended to encourage employers to provide workers' compensation which was considered beneficial to migrant workers since it covered all activities within the scope of their employment, not just those involved in transportation. When the Supreme Court handed down the *Adams Fruit* decision, however, workers' compensation became a much less attractive alternative to vehicle insurance, inasmuch as the workers' compensation policy did not bring insulation from liability for actual damages under MSPA.

This problem was further aggravated by regulations issued by DOL which became effective on February 1, 1992, and which significantly increased MSPA's motor vehicle insurance liability coverage limits. The new regulations increased the insurance limits to $1,500,000 in coverage for vehicles transporting 14 or fewer workers and $5,000,000 for vehicles transporting 15 or more workers.[89] DOL had no choice to increase its level since MSPA mandates that it uses the same insurance limits imposed by the ICC on common carriers.[90]

As a result of the significantly increased insurance levels, agricultural employers found that the premiums for such coverage were prohibitively expensive. Moreover, it was found that few insurers were even offering the insurance coverage.[91] The Joint

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[87] *Id.*

[88] 29 C.F.R. §500.122 (1994).

[89] 29 C.F.R. § 500.121 (1994).

[90] 29 U.S.C. § 1841(b)(2)(C) (1988).

[91] *Supreme Court Decision in Adams Fruit Co. v. Barrett: Hearing Before the Subcomm. on Worker Protection of the House Comm. on Economic and Educational Opportunities,* 104th Cong., 1st Sess. (May 25, 1995) (statement of Steve Kenfield on behalf of California Grape and Tree Fruit League).

Statement also acknowledges the difficulty that many of those governed by the ICC-required insurance levels had in obtaining insurance.[92]

Section five of Pub. L. 104-49 eliminates the requirement that DOL follow ICC insurance levels established for common carriers.[93]Instead, it gives the Secretary of Labor the authority to independently establish the required insurance levels, considering MSPA's statutory criteria. Among the criteria are those which balance the hardship imposed on agricultural employers, associations and farm labor contractors by the insurance levels and the health and safety of farmworkers.[94]DOL is required by law to issue its regulations establishing appropriate insurance levels within 180 days from the date of enactment.[95]

G. Legislative History Regarding Voluntary Carpool Arrangements

MSPA's legislative history and regulations exempt from coverage of the Act voluntary carpooling arrangements involving workers for their own economy and convenience.[96] Employers and contractors must be disassociated from the carpooling arrangements. During the past several years there have been situations wherein DOL has cited workers involved in carpooling arrangements as unregistered farm labor contractors engaged in transportation of farmworkers in violation of MSPA.[97] The citations involve some cases where the workers receive "gas money" from their fellow passengers. Because these gas money payments may exceed slightly the actual cost of transportation, DOL has considered them as consideration paid to a contractor for transportation. Growers employing the carpool driver cited as an unregistered contractors, also have been cited for using an unlicensed contractor.

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[92] *See* 141 CONG. REC. E1943 (daily ed. Oct. 13, 1995) (statement of Rep. Goodling).

[93] MSPA Amendments, § 5. Section five amends 29 U.S.C. 1841(b)(3) to read as follows: "The level of insurance required under paragraph (1)(C) shall be determined by the Secretary considering at least the factors set forth in paragraph (2)(B) and similar farmworker transportation requirements under State law."

[94] *See* 29 U.S.C. §1841 (1988).

[95] MSPA Amendments, § 5(c).

[96] H.R. Rep. No. 885, 97th Cong., 2d Sess. 20 (1982), *reprinted in* 1982 U.S.C.C.A.N. 4547, 4565.

[97] *See, e.g., In re* McNight Farm Labor, Appeal of Citation and Civil Monetary Penalties, DOL File No. 9591060073 (Dep't Labor 1995).

While DOL's enforcement practices in the area of carpooling may be considered unreasonable on occasion, their regulations are straight-forward and reasonable. To bring enforcement practices back into line with DOL's regulations, the Joint Statement emphasizes that workers participating in voluntary carpool arrangements should not be deemed farm labor contractors under MSPA merely because they received remuneration from fellow workers to defray the cost of transportation.[98] Employers, agricultural associations and farm labor contractors for whom voluntary carpoolers[99] work shall not be subject to transportation-related liability or liability for employment of an unregistered farm labor contractor under MSPA for employing such carpoolers.[100]

CONCLUSION

Pub. L. 104-49 evolved from the strong reaction of the agricultural and insurance communities to the Supreme Court's decision in the *Adams Fruit* case. Because the Supreme Court concluded that MSPA's private right of action for actual damages arising out of intentional violations of the Act was not preempted by the exclusive remedy provisions of Florida's workers' compensation law, agricultural employers felt that the decision singled them out for inequitable treatment, since employers in other industries cannot be sued for actual damages if workers' compensation has been provided. Worker advocates, on the other hand, felt that farmworkers needed the additional protection of actual damages awards, regardless of whether workers' compensation was provided, in order to deter unsafe transportation practices by those transporting farmworkers protected by MSPA. As a result of strongly held, but conflicting views of the *Adams Fruit* decision, a compromise had to be reached between the interested parties if a legislative solution were to be achieved.

During the period from 1990 through 1995, farmworker, agricultural and insurance interests sought to reach such a compro-

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[98] 141 Cong. Rec E1943 (daily ed. Oct. 13, 1995).

[99] Vehicle safety standards or insurance requirements of the Act and these regulations do not apply to carpooling arrangements made by the workers themselves, using one of the worker's own vehicles and not specifically directed or requested by an agricultural employer or agricultural association. Carpooling, however, does not include any transportation arrangement in which a farm labor contractor participates. 29 C.F.R. § 500.103(c) (1994).

[100] 141 CONG. REC. E1943 (daily ed. Oct. 13, 1995).

mise that would further their public policy objectives. The process of seeking a compromise bore temporary fruit in 1992 with a limited restoration of the exclusive remedy principle. Efforts to reach a compromise slowed down after the election of President Clinton, while the election of Republican majorities to Congress in 1994 ultimately accelerated a legislative compromise.

Pub. L. 104-49 represents a balanced law that serves the interests of agricultural employers and migrant and seasonal farmworkers. The new law places agricultural employers subject to MSPA on the same playing field as all other employers in the United States by restoring workers' compensation as the exclusive remedy for workplace injuries. It also serves as a deterrent to efforts to unravel the workers' compensation system by precluding tort-based liability where workers' compensation is provided.

It also furthers the interests of farmworkers by creating an incentive for employers to provide workers' compensation, which many feel is uniquely suited to the interests of a transient workforce for whom quick and certain medical, disability and death benefits are of great importance, especially when compared to the uncertainty of fault-based litigation. The enhanced statutory damages for aggravated transportation safety-related violations address the concerns of farmworker advocates that a strong deterrent exist to offset the loss of actual damages awards.

In sum, Pub. L. 104-49 is a narrowly focused reform package incorporating workers' compensation as the exclusive remedy for workplace injuries and death under MSPA and addressing issues related to transportation safety under the Act. It is the culmination of a lengthy process of negotiations between competing policy objectives that at many times reached issues beyond those raised by the *Adams Fruit* decision. Throughout the lengthy process of legislative negotiations, agricultural interests were unable to obtain a narrow reversal of the *Adams Fruit* decision without any pro-worker reforms. Worker advocates did not succeed in broadly amending MSPA beyond areas related to vehicle transportation safety for farmworkers. The result is a product that achieves a sound public policy clearly within the scope of the issues raised by the *Adams Fruit* decision itself.