

3-11-2004

## Nicaragua Women Win Pesticide Lawsuit

LADB Staff

Follow this and additional works at: <https://digitalrepository.unm.edu/noticen>

---

### Recommended Citation

LADB Staff. "Nicaragua Women Win Pesticide Lawsuit." (2004). <https://digitalrepository.unm.edu/noticen/9178>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in NotiCen by an authorized administrator of UNM Digital Repository. For more information, please contact [amywinter@unm.edu](mailto:amywinter@unm.edu).

## Nicaragua Women Win Pesticide Lawsuit

by LADB Staff

Category/Department: Nicaragua

Published: 2004-03-11

A Nicaraguan court ordered Shell Chemical, Dole Food, and Standard Fruit companies to pay a group of women US\$82.9 million in fines in a lawsuit brought by campesinas made chronically sick by the use of the pesticide Nemagon on banana plantations in the 1970s. Use of the chemical was banned in the US in 1967 after it was determined that it caused blindness, sterility, cancer, birth defects, and other diseases, but export of the product was not banned, and it was shipped to Central America where it was used until at least 1980 (see NotiCen, 1998-05-28).

The court decision follows a judgment for US\$489 million handed down on Dec. 11, 2001, against Shell, Dole, and Dow Agro Sciences (Del Monte), which the offending companies have refused to pay. Managua Civil Court Justice Vida Benavente's ruling would mean about US\$1 million would go to each of 81 plaintiffs. During the trial, the plaintiffs testified to their ailments, an unequivocal litany of horrors, and entered into evidence proof that they worked on plantations where the chemical was used in the 1970s.

Expert testimony was presented on the effects of Nemagon. The testimony revealed that about 600 people have died in Nicaragua from pesticide contamination in the past decade. This case was just one of many filed against US multinationals in the past six years. The remaining cases involve more than 17,000 Nicaraguan banana workers and eight transnational companies.

### *Women urged to negotiate settlement*

Despite the judgment, there is scant likelihood of prompt payment to plaintiffs. Procurador General de Justicia Victor Talavera has pressed for a negotiated settlement with the companies, while at the same time committing the government to follow up on cases now in US courts. He said negotiations could proceed on a case-by-case basis for the 81 plaintiffs. Insisting on a million for each plaintiff could result in a very long wait, he cautioned. "The North American procedure is a pain, and long years could pass even if the judgments are favorable for the claimants in Nicaragua. The obstacle is outside the country," said Talavera.

There have been negotiated settlements elsewhere in Central America under similar circumstances in the past, but with unsatisfactory results from the point of view of the plaintiffs (see NotiCen, 1997-04-10). Minister of Agriculture and Forestry Augusto Navarro encouraged a settlement, not only for these 81 women, but for all complainants, actual and potential, noting that in the past there have been similar judgments where legal costs ate up 90% of the awards with basically nothing going to the claimants. With negotiated settlements, compensation would reach the victims, he said, adding that he would see to it.

He also made the argument that some 700 claimants in the various suits have died uncompensated. Others, about 3,000, continue to suffer the elements in a park in the capital, where they have been

protesting for weeks after having walked 130 km to get there. They have a lot invested, and they may be hard to convince of the wisdom of negotiations. They have been living under scraps of cardboard and black plastic in driving rains.

Said a leader of the group, "We are united and we will not recognize any agreement that does not bear our signatures, and we are prepared to die here unless they do us justice." Navarro appealed to them and other injured parties to recognize that the anticipated judgments were so high that it made it worthwhile for the companies to pay lawyers forever to avoid paying them. One tactic has been for the companies to countersue the campesinas, alleging racketeering and fraud. These lawsuits, filed individually, would, he said, "be very long." "Our position," he explained, "is that we want them to have the highest possible compensation within reasonable terms of justice and that all who were really affected by the product be compensated, in the shortest possible time." Navarro wanted all the cases handled together, not just the ones recently favored with a judgment.

The 81 winners, all women, were part of a larger group, but the decision went against 25 of the larger group because they had failed to present the results of medical examinations to prove damages, and some others were excluded from the judgment for technical reasons. It was unclear if any of those who had already lost their cases would participate in a negotiated settlement.

For many of the 3,000 people in the park opposite the Asamblea Nacional, this is the third time they have made what the media have called this "death march" to appeal for support. They have sought an audience with President Enrique Bolanos, whom they suspect has bargained away their chance at compensation in the recent Central America Free Trade Agreement (CAFTA) negotiations, and whom they have accused of having been one of the people who distributed the chemicals 30 years ago.

"Not to be received by the only person authorized to resolve our demands has let the air out of our tires, but we will stay here until we are received by President Bolanos," said Victorino Espinales, their lawyer. They wanted to deliver a letter to Bolanos that read in part, "We find ourselves persecuted, accused, and harassed by the transnationals that today affect the health of thousands of Nicaraguans and that are guilty of the deaths of thousands of others and that have described both us and our leaders as swindlers, cheats, organized criminals, mafiosos, deserving of [prosecution under] the [US anti-racketeering] RICO law to combat organized crime."

The letter contains four demands. First, they want 100 million cordobas, about US\$6.5 million, for the victims, and they specify that it is to come from the national budget. Second, they want legislation for a monthly pension in an amount equal to the value of the basic household commodity basket of 56 products. Third, they want the government to "denounce, protest, and condemn the outrage of which we have been the object the attempt to apply the...RICO law against us, which invades, violates, wounds, and tramples national sovereignty." Fourth, they want Bolanos to require the transnationals to "pay for the consequences and damages caused by the pesticides Nemagon-Fumazone to us and our families." Somewhere between these demands and the multimillion-dollar judgments that will likely never be paid lies Navarro's negotiated settlement.

-- End --