



**INSTITUTE FOR
AGRICULTURE AND TRADE POLICY**

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About IATP

Institute for Agriculture and Trade Policy works locally and globally at the intersection of policy and practice to ensure fair and sustainable food, farm and trade systems. IATP is headquartered in Minneapolis, Minnesota and with an office in Washington D.C.

Hungry for justice

Grocery giants, silent contractors and the defamation lawsuit seeking to silence a movement

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On a brisk June day on a sidewalk in southeast Minneapolis, Mario Colloly Torres ate a chunk of bread, his first bite of food in 12 days. His body felt tired. Walking was a chore. He'd slept in a tent in the makeshift encampment along the street and drank only water and a mixture containing lemon juice and maple syrup. Despite his exhaustion, he stood before a crowd of 75 supporters, including Minneapolis City Council Member Gary Schiff, Minnesota State Representative Jim Davnie, and State Senator Patricia Torres Ray, and thanked them. "Your presence has renewed our spirits, and has given us the strength to keep fighting this fight," he told them.

Mario and more than a dozen others were ending a hunger strike and consumer boycott outside of the Cub Foods grocery store at 26th Avenue South and East Lake Street, the latest in a series of actions organized by Centro de Trabajadores Unidos en Lucha (Center for Workers United in Struggle, CTUL) as part of a targeted campaign for justice in retail cleaning. According to CTUL, workers in retail cleaning have experienced as much as a \$2 drop in average wages over the past decade, while their required workloads have often doubled. The group organized the campaign in response to retail cleaning workers visiting their workers' center to file claims or discuss workplace problems. While CTUL's goal is to change the entire industry, they've focused this campaign on Supervalu brand Cub Foods because workers reported some of the most drastic wage decreases and workload increases in those stores. They are seeking a dialogue with the retailer to establish a code of conduct expected of their contractors, including fair wages and equitable workloads. "Cub is one of the major players of retail chains here in the metro area," said Brian Payne, one of the lead organizers of CTUL. "So by them playing a leadership role in changing, it sends a message and has reverberating impacts throughout the industry."

Cleaning contracts and shifting responsibility on the backs of the employees

According to Cub Foods, because they hire contractors to clean their stores, they have no control over the cleaning workers' plight; CTUL should be knocking down the contractor's door. On May 26, 2011, Cub Foods' parent company Supervalu, a Fortune 500 company, filed a civil defamation suit against CTUL and its lead organizers, seeking damages and a temporary injunction on the organization's activities affecting Cub Foods' property. In their complaint, Supervalu accused CTUL of conducting "a misguided and increasingly aggressive campaign against Cub Foods stores in an attempt to cause Supervalu to influence the labor practices of one of its vendors" and of making "false and malicious statements in writing, on picket signs and on their website, and orally during demonstrations, for the purpose of injuring [Supervalu's] business and reputation in the community." Despite learning of the Goliath v. David legal battle before them, the group of workers and their allies in the community pushed on with the hunger strike for five more days.

Now a paid staff member of CTUL, contracted cleaning employee on the store, and later at two Cub Foods de Matamoros, Mexico, in 2007, his two oldest daughters' univerbakery and deli areas first. Then he floors, and finally mopped the entire torial services contractor Carlson from his paycheck even though he through his break time. He was paid eight or ten hours to clean. Since he began retail cleaning in 2008, his wages dropped by \$1.25 per hour while his crew was reduced from three coworkers to one.

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Mario Colloly Torres was previously a night shift, first at a Festival Foods grocery stores. He'd come to Minnesota from Izucar intent on earning enough money to support sity educations. Each night, he cleaned the swept, then used a machine to wash the store. He'd noticed that his employer, jani-Building Maintenance, deducted breaks had almost always been expected to work a flat rate each night, whether it took him

As Colloly would soon learn, the changes to his wages and workload were dependent upon the contract Carlson negotiated with grocery retailers. The lower the bid the contractor made to the grocery chain, it seemed, the lower the workers' wages. Although hiring cleaning contractors is nothing new in the retail industry—cleaning personnel haven't been on retail payrolls for around 30 years, according to Mendez—a slow decline in wages and working conditions for contracted workers accelerated when retailers began negotiating contracts in pools, forcing bids lower and lower. Cleaning companies like Carlson cut costs where they can: wages. "They can't go to where they buy the buffer machine and say ten years ago, I paid you \$1,000 for that machine, and now I can only pay you \$700. They can't do that, they'd be laughed out the door," Payne said. "But they can do it on the backs of the workers."

From WIN to CTUL: The growing movement to empower retail cleaning workers

CTUL has its roots in the Workers Interfaith Network (WIN), a Minneapolis organization composed of congregations who have pledged solidarity with labor struggles. In 2005 WIN opened the Interfaith Center for Worker Justice (ICWJ), where volunteers helped primarily low-wage workers learn about their rights and fight unjust firings or wage theft by filing claims with the Department of Labor and the Equal Employment Opportunity Commission. Two years into the project, WIN sought to shift the focus of the center from service to community organizing. In July 2007, WIN hired Veronica Mendez and in August hired Brian Payne, both experienced community organizers, to develop the new program.

Soon, the pair invited workers to attend biweekly meetings. "We could talk more broadly about what was happening, that it wasn't just a problem of somebody's boss being a really bad guy," Mendez said. "Workers could be among each other having these conversations to think about... how we can build a movement that fights for worker justice more broadly, and not just an individual situation."

Workers who came to the meetings arrived from a range of industries, including construction and food service, but what they had in common were wages that had them living at the poverty line. When a worker came in with a complaint, CTUL responded by building a campaign to pressure that employer. Through these campaigns, the center has recovered nearly \$500,000 in back wages, reinstated hundreds of unjustly fired workers, and has forced changes in the policies of at least 15 companies, including convenience store supplier Hot Stuff Foods and several local restaurants.

What made their organizing efforts unique was that workers who won their campaigns—and even those who lost—continued to come to meetings to support the next campaign. Some of the most active workers formed a leadership committee and a membership program, allowing only low-wage workers to become members. In August 2009, the leadership committee voted to separate from WIN entirely and form their own organization, now known as CTUL. “Workers were making their own decisions, but at the end of the day, those decisions had to be brought to a board of an organization that was all-white, middle class,” Payne said. “So workers felt the need to be able to run their own organization.”

Once workers took control, the focus shifted from building a campaign for every worker that walked in the door to targeting an industry. After months of gathering information from workers in various industries and noting which industries the most workers who came to the center came from, the group zeroed in on the retail cleaning industry.

Suspicious firing, troubled protests, and the opportunity for change

In February, months after becoming involved with CTUL, Mario Colloly Torres decided to file a wage theft charge against Carlson with the Department of Labor. He was not alone in noticing that breaks had been deducted from his paycheck, even though he had been expected to work through them; other Carlson employees reported the same practice. Although Carlson told workers they were paid a nightly rate, federal labor laws require that rate to equal no less than \$7.25 per hour. Federal laws dating back to 1937 also require employers to pay overtime pay to employees who’ve worked more than 40 hours in a week. The deducted break times sometimes prevented Mario from receiving the overtime pay he’d earned.

His managers had recently given him weeks, and Colloly suspected their discourage his workplace activism. Colloly and a delegation of cleaning Foods headquarters to deliver a petition consider the code of conduct. Two usual and began cleaning the deli. Not and human resources representative picture a coworker had taken of Colloly to explain himself—he told me he’d the mop bucket refilled—and was warnings or complaints against him, the firing was retaliation for his work with CTUL. “I was the one who was out giving presentations, organizing with workers, speaking very publicly about this campaign, and then this happened,” he said. “So they tried to first buy me off, and then find another way to get rid of me.”

CTUL maintains that protesters remained peaceful; Supervalu’s lawsuit states that they were disruptive and occasionally threatening.

two separate raises in the past few motivations were to appease him and Within a week after filing the charge, workers and supporters went to Cub tion to executives asking them to days later, Colloly arrived at work as long into his shift, a Carlson manager took him aside. They showed him a sleeping in a chair. He had no chance been sitting with his eyes shut while fired on the spot, despite no previous and two recent raises. Colloly believes

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Throughout March, the group and allies launched a series of protests inside several metro area Cub Foods stores in opposition to Mario Colloly’s firing. CTUL maintains that protesters remained peaceful; Supervalu’s lawsuit states that they were disruptive and occasionally threatening. One of the protests led to legal headaches for Supervalu. At the Cub Foods store on Lake Street in Minneapolis, a contracted security guard used pepper spray on some of the protesters at close range, and one was hospitalized. In an affidavit to Hennepin County court, Twin Cities Lawmen employee Alex Westlund said that the group of protesters physically restrained him between the two sets of exit doors, “making me not only fear my safety but also my life...I again utilized my chemical agent to push the aggressively hostile combatants back.” In the process of spraying protesters, the security guard also sprayed two small children. That family is currently suing Supervalu over the incident.

Who are the villains: Store owners, corporate policies, or contracted companies?

The CTUL protests culminated in the May hunger strike coupled with a consumer boycott of Cub Foods over Memorial Day weekend, traditionally a big sales weekend for the grocery store. Lake Street store manager Curt Nesse later testified that as a result of CTUL’s actions, sales for the weekend were down more than 20 percent and hourly employees’ hours were cut by about 1,000 as a result. In court, Supervalu’s lawyers used these figures to accuse CTUL of negatively affecting the unionized low-wage workers at Cub Foods by encouraging the boycott. Payne and Mendez dismissed these accusations as tactics meant to distract from the main issue at hand. “Not once did they talk about how much the executives in the company make,” Payne said, referring

to Supervalu CEO Craig Heckert, whose reported income in 2011 was \$2.9 million. “If because of the decisions of these executives, members of the community choose not to buy from their stores, I think it’s the executive’s salaries that should be hurt. They’re the ones who made the decision to put that on the backs of their workers in the stores.”

Major Twin Cities Cub Foods franchisee Jerry’s Enterprises, which operates the store where the hunger strike and the pepper spray incident took place, says CTUL’s complaint is with Carlson, and that’s who they should be petitioning. In a November 2010 interview, Jerry’s Vice President of Human Resources David Gerdes told local radio station KFAI that the company would be willing to facilitate a meeting with Carlson, but that Jerry’s was holding up its end of the deal. “Conditions are: the lights are on, the freezers are freezing, the coolers are cooling. In the summer the air conditioning is air conditioning, and in the winter the heat is heating. And, you know, we consider those to be, the environment is one that is a responsible environment,” Gerdes said. “We’re a supermarket, we’re in the grocery business, we’re not in the cleaning business.”

Carlson Building Maintenance remains largely silent in this battle and has not replied when contacted for comment.

Precedents for industry-wide change: The labor victories of tomato pickers and the CIW

Lead organizers Veronica Mendez’s and Brian Payne’s backgrounds have influenced the uncommon structure and strategies of CTUL. Minneapolis native Mendez worked in Chicago organizing hotel workers with the union UNITE HERE and later in low-income neighborhoods advocating for more affordable housing. Payne, a transplant from Florida, spent years living in the town of Immokalee, a main hub for the nation’s student allies in support of the Coali-

The agreement included an almost 75 percent raise for workers picking tomatoes and an enforceable code of conduct for suppliers in the fast food industry.

year-round tomato supply, organizing tion of Immokalee Workers (CIW).

The CIW is made up of low-wage agri-purchased by multinational corporate Estabrook’s 2011 book, “Tomatoland,” conditions akin to slavery in some for very little pay and locked in tiny workers in unbearable heat. After a the CIW successfully pressured Taco conditions and wages for the tomato almost 75 percent raise for workers code of conduct for suppliers in the fast suppliers follow all applicable laws, the Bell’s parent company Yum! Brands “strongly encourages Florida growers in the tomato industry to provide working terms and conditions similar to those provided by suppliers outside of the agricultural industry, and will conduct business with those tomato growers that demonstrate consistent adherence to these higher standards.”

cultural workers who pick the tomatoes restaurant chains. According to Barry these workers have faced deplorable instances, forced to work long hours trailers at night with a dozen other four-year boycott campaign, in 2005 Bell to agree to improve working pickers. The agreement included an picking tomatoes and an enforceable food industry. In addition to requiring code of conduct also states that Taco

McDonald’s, Burger King, Subway, and grocery chain Whole Foods soon followed suit in meeting the CIW’s demands—all this, despite the fact that the tomato pickers are not directly employed by any of these companies. CTUL is taking a page from the CIW handbook in targeting Cub Foods rather than the cleaning companies, encouraging Cub Foods to take the lead in local retail cleaning industry reform. Even if CTUL pressured Carlson to improve its employee’s wages, Mendez said, the company would likely be priced out of the market, unable to make a bid low enough to win a contract. “I believe the reason these stores are contracting out the work is to wash their hands of responsibility of what happens. They can pit the cleaning companies against one another and close their eyes to what happens on the ground,” said Mendez. “We believe they need to take responsibility for what’s happening in their stores.”

Ethical Business—Except for cleaning workers

Supervalu prides itself on its good corporate citizenship. The company donates more than \$75 million annually to hunger relief, nutrition programs, and environmental stewardship. The Human Rights Campaign Foundation has awarded Supervalu the top possible rating on LGBT equality for four years and counting. They have solar panel initiatives, green roofs, and the first zero-waste grocery stores in the U.S., and all new stores’ coolers are built with non-ozone-depleting refrigerants. They even keep a watchful eye on the humane processing of animals sold in their stores, according to their 2011 Corporate Social Responsibility

report. In addition to expecting vendors within the supply chain to abide by all USDA regulations, “Supervalu relies on a variety of comprehensive vendor-supplied internal audits, accredited third-party audits and our own inspections to ensure animal welfare and food safety standards are being met,” the report states.

In Supervalu’s contract with Carlson, the supplier is required to test carbon monoxide emissions levels on the buffer machine every six months and to send the retailer a complete service record of each buffer machine every 90 days, unless required by law to check more often. Creating their own emissions regulations for retail contractors—apart from Minnesota and federal laws—signals some form of active responsibility for cleaning contractors’ actions. With the people who clean inside their stores, however, the contract requires only that suppliers follow all applicable laws. There are no internal or third-party audits and no inspections by Supervalu or any of its brands. This requirement to follow the law, Supervalu says, is the extent of its responsibility to the cleaning workforce in their stores. In a Sept. 16 email, head of Supervalu media relations Mike Siemienas replied with Supervalu’s prepared response to questions about the retail cleaning workers campaign: “At Supervalu [Cub Foods], we care about our associates and the contractors who work in our stores, and we work hard to make sure they have a safe and positive environment to work in every day,” he wrote. “Cub’s contract with the floor cleaning company requires all laws be followed, and the employer has assured us that they are complying with our contract and all laws.”

A disturbing trend: Investigations of the retail cleaning industry

The injustices in the retail cleaning industry are not limited to Supervalu-owned stores. Between 2001 and 2006, Prestige Maintenance USA, the company contracted to clean Target stores, was investigated by the Department of Labor three times, resulting in more than 300 violations for failing to pay proper overtime, totaling \$180,000 in wages. In 2009 Prestige Maintenance USA settled with its workers in Maryland for up to \$3.8 million in alleged denied overtime pay in a collective action lawsuit, although Prestige never formally admitted fault. National Floor Maintenance, another janitorial contractor that cleans local grocery chain Lunds & Byerly’s, was investigated three times in 2004 and 2005. The Department of Labor found more than 800 violations regarding overtime pay totaling more than \$250,000.

In the most egregious of these offenses, late last year, a slavery ring in the retail cleaning industry was uncovered in Philadelphia. Five Ukrainian brothers lured migrants from their country, mostly young men fresh from military service, seeking a better life in the United States. Once here, the migrants were forced to work 16-hour days for \$100 a month. After some of the workers escaped, the brothers went so far as to return to Ukraine to threaten family members, including one workers’ 8-year-old daughter, with forced prostitution. These workers cleaned dozens of retail stores throughout the East Coast between 2000 and 2007, including Target, Walmart, Kmart, and Safeway. Walmart and Target told the Philadelphia Inquirer that they required vendors to follow all applicable laws. Yet, for seven years, this contract provision failed to detect or prevent the slavery occurring in these stores. And although this is an extreme case, the Department of Labor investigations reveal that the abuse of retail cleaning workers is not a fluke.

CTUL’s current campaign focuses on Cub Foods stores, but they hope their actions will eventually force changes in these other retail and grocery outlets that lead to an industry-wide trend. By beginning a trend of reform, retail cleaning industry workers and CTUL hope that Cub Foods could spark changes throughout the entire retail cleaning industry. “I’m tired of changing from job to job, and it’s all the same,” said Lucila Domingues, a former retail cleaning worker whose worked for several janitorial companies, including those with documented labor violations. “I want to make change at my job.”

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A complicated legal battle, but CTUL remains hopeful

The road to success in CTUL's campaign continues to become rockier as the legal battle ensues. On July 18, Hennepin County Judge Janet Poston granted Supervalu's request for temporary injunction on CTUL's activities, determining that the conflict does not constitute a labor dispute under Minnesota law and therefore, CTUL does not have the legal protections granted to contract-negotiating labor organizations that would normally prevent injunctions. Poston also asserted that the contractor relationship between Carlson and Cub Foods absolved the grocery chain of any responsibility of unfair labor practices. "There is no evidence in the record that demonstrates an interrelation of operations, common management, centralized control of labor relations, or common ownership or financial control between [Cub Foods] and Carlson to render them joint employers," Poston wrote. "Given that no employer-employee relationship exists between the parties, this is not a case arising out of a 'labor dispute.'"

CTUL's structure as a low-income worker-led organization and strategy of targeting the grocery stores rather than the cleaning companies is making their legal standing complex. Without the structure of a traditional labor organization and with no direct link between the working conditions and Cub Foods policy, CTUL's case has the potential to be precedent-setting. "I think Supervalu is trying to test the ground to see if they can prevent future movements like ours," Payne said. "What they don't understand is there's a large base of people behind us. You can sue an organization and you can sue individuals, but you can't sue a movement."

Despite lofty promises from local politicians to assist in talks between Cub Foods and CTUL, no such meeting has been arranged to date. Workers in stores across the Twin Cities continue to clean longer and harder for less pay. They spend 40 hours or more surrounded by food, but many don't earn enough to shop from these shelves and instead line up at food banks. The struggle for contracted retail cleaning workers to gain dignity in the workplace is a fight more and more workers are facing each day in our country. Temporary and contracted employment is on the rise in an unsteady economy, and as their numbers grow, representation for these workers is becoming more necessary. These problems are ongoing, and don't come and go with media-friendly—and hard-on-the-body—events like a hunger strike.

Both workers and consumers

Nearly two months after the hunger strike, Mario Colloly sat in a parking lot along a busy stretch of Lake Street, surveying the trickle of people rummaging through Christmas decorations and children's clothing that littered the tables at the CTUL-sponsored yard sale. The yard sale was first of a number of initiatives planned by the group to raise funds to cover their enormous legal fees.

"I've been through a lot with all of this," Colloly said. He paused, watching as a strong gust of wind sent glass bulbs bouncing across the pavement, shattering several along the way. "One of our most powerful tools as workers is putting out the truth. What the world needs to know, and what these companies need to know, is that we're workers, but we're consumers also. We're the ones who maintain those companies, we're the ones who make those companies rich. If it weren't for us, they would have nothing. All together, we can make a difference."