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Lawsuits of detainee \$1-a-day wages, zoning changes move forward

A federal judge has rejected an effort by the Northwest Detention Center's operator, GEO Group, Inc., to dismiss a lawsuit filed by Attorney General Bob Ferguson that challenged the private company's practice of paying inmates wages that are less than the state's minimum wage. The decision is the latest in Ferguson's lawsuit against the center and not the only legal battles involving the controversial facility. "The court is clear: GEO cannot avoid accountability by hiding behind its contract with ICE," Ferguson said in a release after the decision. "This is an important step toward holding this multi-billion-dollar company accountable for exploiting its detainee workers in Washington by not following our minimum wage laws." This recent decision was the second legal loss for GEO, which had also sought to dismiss the case on the grounds that federal law – including laws prohibiting the employment of undocumented workers – trumped the state's minimum wage and unjust enrichment claims since the facility is operated through a contract with the federal government. The judge didn't buy that argument either. GEO operates the 1,575-bed detention center through a contract with Immigration and Custom Enforcement. Detainees are held at the facility until their residency or immigration status is determined through a civil process. The giant of the for-profit prison industry, with more than 100 facilities around the globe, "hires" detainees to work in the facility, doing everything from laundry and meal preparation and custodial services. Detainees are paid \$1 a day or simply given snacks for smaller jobs. "Detainees perform most of the work necessary to run the facility except guarding detainees. This includes preparing and serving food, running the laundry services, performing facility maintenance, and cleaning common areas and restrooms," the Attorney General's Office stated. "Detainees report that the general practice is that guards ask for detainee 'volunteers' for work. If no one volunteers for certain work, guards will sometimes pick detainees to perform the work. ... Detainees described working through the night buffing floors and painting walls in exchange for chips and candy. Detainees told investigators that if an officer asks a detainee to work on a special project later than the planned end of the shift, detainees are allowed to stop working but may not receive any pay for their work." Issues around detainee pay and food have been the points of protest during hunger strikes at the facility in recent years. One hunger strike last year involved 750 detainees. The practice of token wages for inmates or detainees is nothing new. The legal scuffle comes because the 13-year-old NWDC operates as a private detention center that requires the company to follow all state laws. State law doesn't exempt private detention centers from its minimum wage, currently \$11.50 per hour. Specifically, RCW 49.46.010(k) only exempts city, county and state correctional, detention, treatment or rehabilitative institutions from the minimum wage rules. It makes no mention of federal or private detention centers. GEO's facility is the only private detention center in the state. Jails and prisons also house people involved in the criminal justice system. Northwest Detention Center houses detainees who face civil – not criminal – hearings regarding their immigration and residency status. But GEO contends the pay scale was established by the federal government years ago and is used throughout the nation, regardless of who operates the facility. "The Obama Administration set the Performance-Based National Detention Standards which govern the Voluntary Work Program at all ICE Processing Centers, public and private," GEO Group said in a prepared statement. "The wage rates associated with this federally mandated program are stipulated under long-established guidelines set by the United States Congress. As a service provider to the federal government, GEO is required to abide by these federally mandated standards and congressionally established guidelines. GEO has consistently, strongly refuted the allegations made in this lawsuit, and we intend to vigorously defend our company against these baseless claims." In part of the recent ruling that allows the lawsuit to move forward, U.S. District Court Judge Robert Bryan rejected GEO's request that ICE be added to the legal action since the private company is acting on the federal agency's behalf. GEO is paid on a per-detainee, per-day rate that works out to about \$57 million in revenue a year when it operates at full capacity. The company, which trades shares on the New York Stock Exchange, posts annual revenue of more than \$2 billion. The facility on the Tidelands has raised eyebrows in recent years at the Trump administration steps up deportation of

illegal immigrants living in the United States as well as the Tideflats comes increasingly under the political and civic microscope, which questions the siting of such a large concentration of people in an area of heavy industrial activities and environmentally sensitive areas. The NWDC sued the City of Tacoma in federal court earlier this year after the city approved zoning changes that put restrictions on any future plans to expand or add services. The company argues that its role as a federal detention center, which is "essential public service," largely exempts it from local zoning rules. "The city's actions in opposition to federal immigration policies, which have existed under both Democratic and Republican administrations, are disrupting GEO's ability to operate a legally permissible special purpose facility," according to GEO Group. "Our legal action against the city was necessary to stop the city's clear intention to restrict and hamper the federal government's ability to carry out core federal functions related to immigration. It is important to understand that banning a privately operated immigration center in Tacoma will not stop or change federal immigration policies. In the absence of this legally authorized special purpose facility, individuals going through the immigration review process would likely be transferred to local jails, which do not meet the federal government's performance-based, national detention standards, with which we comply, and are often located out-of-state. We are proud of our longstanding record of being a member of the local community and providing high quality, culturally responsive services in a safe, secure, and humane environment that meets the needs of the residents in the custody and care of federal immigration authorities."