NOTE

Undocumented Immigrants and Workers’ Compensation: Rejecting Federal Preemption of the California Workers’ Compensation Act

Katrina C. Gonzales*

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* Senior Notes and Comments Editor, UC Davis Law Review; J.D. Candidate, UC Davis School of Law, 2008; B.S. Economics, California State Polytechnic University, Pomona, 2002. Many thanks to Robert Berlet, Susan Yoon, Elizabeth Donald, Christina Lee, and Susan Acquista for their first-rate editorial assistance. Above all, thanks to my family and friends for keeping me grounded. All remaining errors are mine.

2001
INTRODUCTION

Jose Rodriguez was a skilled construction worker. While working at a job site, Jose lost his balance and fell off a ramp. He suffered injuries that permanently disabled him, forcing him to stop working. Although Jose's injuries happened at work, his employers refused to pay his medical bills because he had been working in the country illegally.

Individuals like Jose account for over four percent of the nation's labor force. Numbering in the millions, these undocumented immigrants work in various low-wage, high-risk occupations. Because of dangerous workplace conditions and employers' frequent labor law violations, thousands of undocumented workers are hurt on the job every year.

1 This scenario is based on the facts of Balbuena v. IDR Realty LLC, 845 N.E.2d 1246, 1251 (N.Y. 2006) (granting illegal worker's claim for lost wages after worker sustained injuries at workplace).


4 See Press Release, supra note 3 (noting overall decrease in fatalities among foreign-born workers, despite fatal work injuries involving Hispanic workers being at all-time high in 2006). Since the mid-1990s, the share of fatal occupational injuries for foreign-born workers has increased by 43%. Katherine Loh & Scott Richardson, Foreign-Born Workers: Trends in Fatal Occupational Injuries 1996-2001, MONTHLY LAB.
Many states have adjusted their workers' compensation systems to recognize the presence of undocumented workers in our society.\(^5\) Indeed, state legislatures have explicitly included undocumented workers in defining who constitutes an “employee” for statutory purposes.\(^6\) This recognition, however, has not eliminated the uncertainty of undocumented workers’ entitlements under existing federal and state labor laws.\(^7\) Some state statutes ignore the issue altogether, while others leave open the question of whether coverage extends only to “legal aliens.”\(^8\)

Despite protections afforded by state workers' compensation laws, federal law restricts benefits available to undocumented workers.\(^9\) Congress enacted the Immigration Reform and Control Act of 1986


\(^{6}\) Most state statutes use the term “aliens” to describe foreign-born individuals. See, e.g., ARIZ. REV. STAT. § 23-901(6)(b) (2007) (including legal and illegal aliens in defining “employee” for workers’ compensation coverage); CAL. LAB. CODE § 3351(a) (West 2003) (defining “employee” as every person, including aliens and minors, serving employer under appointment or contract); FLA. STAT. § 440.02(15)(a) (2002) (defining “employee” as including aliens and minors, whether lawfully or unlawfully employed).


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 (“IRCA”) to rein in undocumented immigration. The U.S. Supreme Court held that IRCA limits public benefits available to undocumented workers in Hoffman Plastic Compounds, Inc. v. NLRB. Although the Court discerned a policy barring important remedies to undocumented workers, courts have yet to fully test Hoffman’s application to state workers’ compensation systems.

A California Court of Appeal recently ruled undocumented workers are entitled to workers’ compensation benefits in Farmers Bros. Coffee v. Workers Compensation Appeals Board. The Farmers Bros. court recognized Congress’s intent to maintain existing state labor protections for workers in enacting IRCA. In holding federal immigration controls do not preempt state workers’ compensation laws, the court affirmed a worker’s entitlement to workers’ compensation benefits regardless of his immigration status.

This Note argues the Farmers Bros. court correctly applied preemption principles to preserve the goals of California’s workers’ compensation system. Part I explores statutory and case law governing immigration and entitlements for undocumented workers. It then describes the preemption principles used in resolving purported conflicts between federal and state law. Part II discusses the facts, rationale, and holding of Farmers Bros. Part III argues federal immigration law does not preempt California’s workers’ compensation


13 35 Cal. Rptr. 3d 23, 27-30 (Ct. App. 2005). Parts II and III of this Note discuss the case in detail.

14 Id. at 27-29.

15 Id. at 27.

16 See discussion infra Part III.
laws. First, Farmers Bros. correctly holds IRCA’s construction and regulation scheme are insufficient to support preemption. Second, Farmers Bros. is consistent with the Supreme Court’s decision in Hoffman. Finally, Farmers Bros. protects the state’s interest in maintaining a safe workplace without undermining federal immigration policy goals.

I. BACKGROUND

The considerable presence of undocumented immigrants in the workforce underscores the need to define what labor protections are available to them under existing laws. Workers’ compensation benefits are an important resource for injured immigrant workers who lack health insurance and are otherwise unable to afford health care. Recent developments in the law make these benefits less accessible at a time when unprecedented numbers of immigrant workers are being injured on the job. Analyzing these developments clarifies how Farmers Bros. purports to resolve conflicts between federal and state laws.

17 See generally Daniel Rothenberg, With These Hands: The Hidden World of Migrant Farmworkers Today 144 (2000) (discussing society’s growing fear that immigrants abuse public services); Correales, supra note 3, at 353-57 (recognizing importance of understanding lives and interactions of undocumented immigrants in analyzing whether states should provide workplace protections); Ho & Chang, supra note 12, at 478 (noting great consequences in principled delineation of undocumented workers’ legal rights).

18 See Passel, supra note 2, at 35. More than half of migrant adults do not have health insurance. Id. Fifty-nine percent of unauthorized migrants lack health insurance. Id. In addition, 61% of workers in blue-collar occupations and 25% of those in service occupations do not receive employment-based health care benefits.

19 See AFL-CIO, supra note 4, at 3; see also Nurith Aizenman, Harsh Reward for Hard Labor, WASH. POST, Dec. 29, 2002, at C1 (reporting foreign-born Latino men are more likely to die from workplace injuries than average U.S. worker); Justin Pritchard, Dying to Work, ASSOCIATED PRESS ONLINE, Mar. 14, 2004, http://www.ap.org (search “Archive Search” for “Dying to Work”; then follow “Click here for complete article” hyperlink under “Dying to Work”) (reporting rising death rates among Mexican laborers since mid-1990s).

20 See generally Ho & Chang, supra note 12, at 475 (noting evolving judicial interpretations of federal labor and civil rights statutes).
A. The Immigration Reform and Control Act of 1986

Congress passed IRCA in response to the wave of illegal immigration into the United States.\(^\text{21}\) It sought to reduce the flow of illegal immigration by removing the “employment magnet” drawing undocumented workers into the country.\(^\text{22}\) Congress’s ultimate goal was to reduce incentives for hiring illegal immigrants by imposing penalties on employers who refuse to comply with IRCA.\(^\text{23}\) It concluded that penalizing those who hired illegal aliens was the most humane, credible, and effective way to address the immigration problem.\(^\text{24}\)

IRCA prohibits employers from knowingly hiring individuals not authorized to work in the United States.\(^\text{25}\) It also forbids the continued employment of those who have become unauthorized to work.\(^\text{26}\) In addition, IRCA expressly preempts state laws that impose civil or criminal sanctions on those who employ unauthorized aliens.\(^\text{27}\)

IRCA provides a three-pronged approach to addressing undocumented immigration.\(^\text{28}\) First, IRCA legalized most


\(^{22}\) See Montero v. INS, 124 F.3d 381, 384 (2d Cir. 1997) (citing H.R. REP. No. 99-682, pt. 1, at 45-46) (stating IRCA establishes penalties for employers who knowingly hire undocumented aliens to reduce incentives for hiring such workers).

\(^{23}\) See id. See generally Madeira v. Affordable Hous. Found., Inc., 469 F.3d 219, 231 (2d Cir. 2006) (recognizing Congress’s view that penalizing employers was most humane, credible, and effective way of dealing with large influx of illegal aliens); Dowling v. Slotnik, 712 A.2d 396, 402 (Conn. 1998) (recognizing IRCA’s goal of reducing incentives for employers to hire illegal aliens).

\(^{24}\) See H.R. REP. No. 99-682, pt. 1, at 46. The House Committee on the Judiciary noted IRCA’s intended goal of ultimately deterring aliens from entering the United States illegally. Id.; see also id. at 49 (stating imposing sanctions is most cost-effective and practical way to reduce illegal immigration).


\(^{27}\) § 1324a.

\(^{28}\) See Gomez & Ewing, supra note 10, at 2 (discussing IRCA provisions related to employee verification and employer sanctions); see also SMITH, supra note 26, at 1 (discussing three types of conduct IRCA specifically prohibits).
undocumented immigrants living in the United States at the time of its enactment. 29 Next, it established an employment verification system that imposes monetary penalties for employers who violate verification requirements. 30 Lastly, it enhanced border patrol enforcement and other inspection activities to deter illegal aliens from entering the country. 31

The employment verification system is the keystone of IRCA. 32 IRCA requires job applicants to present proof of identity and work authorization. 33 Employers must examine these documents and attest to their genuine appearance. 34 If a document on its face does not reasonably appear genuine, the employer may not accept it. 35

IRCA provides various employer sanctions to safeguard against hiring undocumented workers. 36 Employers who fail to check their workers’ immigration status or keep eligibility records face civil fines. 37 Likewise, IRCA imposes criminal penalties on those who knowingly employ undocumented workers. 38 Thus, IRCA discourages illegal immigration by making it harder for undocumented workers to find work in the United States. 39

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30 § 1324a (setting forth procedure for issuing cease and desist orders with civil money penalties for hiring, recruiting, and referral violations).
33 § 1324a. An individual may use a U.S. passport, a resident alien card, or an alien registration card to prove both identity and employment eligibility. Id. Likewise, one may use a Social Security card to prove he or she has authorization to work in the United States. Id.
34 Id.; SMITH, supra note 26, at 2.
35 SMITH, supra note 26, at 2. See generally § 1324a (noting compliance when employer attests it has examined eligible document that appears reasonably genuine).
36 § 1324a; see also Madeira v. Affordable Hous. Found., Inc., 469 F.3d 219, 231 (2d Cir. 2006) (noting IRCA mandates verification of legal status).
37 § 1324a.
38 Id.
B. Hoffman Plastic Compounds, Inc. v. NLRB

The Supreme Court has also recognized the importance of discouraging illegal immigration. Its decision in Hoffman supplemented immigration goals by diminishing protections for undocumented workers in the United States. Hoffman involved Jose Castro, a factory worker fired by his employer, Hoffman Plastic Compounds (“HPC”), for his involvement in union-organizing activities. Castro and other fired employees sued HPC, arguing HPC violated the National Labor Relations Act (“NLRA”) by denying their right to self-organization. In response, the National Labor Relations Board (“NLRB”) ordered HPC to cease and desist from further NLRA violations. NLRB also ordered HPC to offer reinstatement and backpay to affected employees.

During an administrative compliance hearing, Castro admitted he had used falsified documents to qualify for employment. He further testified that he had never received authorization to work in the country. The judge ruled Castro could not receive backpay because the award conflicted with IRCA’s goal of preventing illegal employment.

The NLRB reversed the judge’s decision and found Castro was entitled to backpay. HPC filed a petition for review of the NLRB’s order in the U.S. Court of Appeals for the D.C. Circuit.

42 Hoffman, 535 U.S. at 140.
44 Hoffman, 535 U.S. at 140.
45 Id.
46 Id. at 141.
47 Id.
48 Id.
49 Id. at 140-42.
50 Id. at 142.
denied the petition and enforced the NLRB’s order. On appeal, the Supreme Court reversed the order, holding that the NLRB could not award Castro backpay because he was not authorized to work.

On appeal, the Supreme Court reversed the order, holding that the NLRB could not award Castro backpay because he was not authorized to work. Castro obtained his employment using fraudulent documents and maintained his illegal status for years. Accordingly, the Court found awarding him backpay ran counter to policies underlying IRCA.

Since the *Hoffman* decision, courts have struggled to reconcile workplace safety and employment laws with federal immigration policy. Until *Hoffman*, courts consistently found no conflict between IRCA’s ban on hiring undocumented workers and state workers’ compensation requirements. Indeed, an overwhelming majority of courts consistently found that state workers’ compensation systems provided coverage to undocumented workers. After *Hoffman*,

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51 Id.
52 Id.
53 Id. at 151.
54 See id. at 149.
55 Id.
56 See *Madeira v. Affordable Hous. Found.*, 469 F.3d 219, 254-55 (2d Cir. 2006) (Walker, J., concurring) (emphasizing concern regarding Congress’s decision to leave policy decisions to judges). The *Madeira* court held IRCA does not preempt a compensatory damages award to an undocumented worker for personal injury under New York labor laws. Id. at 249; see also *Dowling v. Slotnik*, 712 A.2d 396, 409 (Conn. 1998) (holding IRCA does not preempt state authority to award workers’ compensation benefits to undocumented aliens); *Balbuena v. IDR Realty LLC*, 845 N.E.2d 1246, 1246, 1255 (N.Y. 2006) (holding IRCA does not preempt state laws regarding permissible scope of recovery in personal injury actions).
however, the ability of undocumented workers to bring workers’ compensation claims has become less certain.59

C. The California Workers’ Compensation Act

Hoffman’s decision to deny benefits based on immigration status conflicts with the no-fault rationale underlying California’s workers’ compensation system.60 The California Legislature created the workers’ compensation system to support workers injured or disabled during the course of employment.61 The California Workers’ Compensation Act (“WCA”) makes employers liable for injuries sustained on the job regardless of fault.62 The WCA provides comprehensive coverage for medical, surgical, and other remedial treatment to cure employment-related injuries or relieve their effects.63 It affords workers a quick determination of their claims without regard to the employer’s liability or negligence.64

59 See Ho & Chang, supra note 12, at 473 (noting laws affecting immigrant workers are undergoing rapid change and uncertainty in light of Hoffman); O’Donovan, supra note 11, at 304; see also Hoffman, 535 U.S. at 152 (noting need for congressional action to address perceived deficiencies in NLRA’s existing arsenal). The Court also left open the question of whether awarding backpay to undocumented aliens constitutes a prohibited punitive remedy. See id.

60 The California Legislature created the workers’ compensation system to compensate all workers for injuries suffered on the job, regardless of fault. See CAL. CONST. art. XIV, § 4.

61 Id. (vesting legislature with plenary power to create and enforce complete system of workers’ compensation). The workers’ compensation system aims to compensate all workers for injuries and disabilities sustained while working. Id.; see also CAL. LAB. CODE § 3207 (West 2003) (defining “compensation” to include every benefit paid to injured employee regardless of negligence). See generally id. § 3202 (West 2003) (construing workers’ compensation laws liberally to cover all persons injured during course of employment).


63 § 4600 (providing that injured employee can claim medical, surgical, chiropractic, acupuncture, and hospital treatment required to cure injuries incurred during employment); see also Sea-Land Serv., Inc. v. Workers’ Comp. Appeals Bd., 925 P.2d 1309, 1314 (Cal. 1996) (noting WCA’s purpose of furnishing complete workers’ compensation system). The system includes full provisions for medical, surgical, hospital, and other remedial treatment. Id.

The goals of the WCA are remedial and humanitarian.\(^\text{65}\) The California Legislature designed the WCA to protect workers from economic hardships posed by industrial injuries.\(^\text{66}\) From its inception, the WCA’s principal purpose has been to eliminate employers’ defenses preventing recovery for injuries sustained on the job.\(^\text{67}\)

In 2003, the California Legislature amended the WCA in response to \textit{Hoffman}.\(^\text{68}\) It enacted section 1171.5 of the California Labor Code to limit \textit{Hoffman}’s potential effect on state labor and civil rights laws.\(^\text{69}\) Under this section, immigration status is irrelevant to an employer’s obligation to compensate an injured employee.\(^\text{70}\) Section 1171.5 also prohibits using a person’s immigration status as a basis for denying remedies.\(^\text{71}\) Finally, it provides an exception to this prohibition when inquiry into the worker’s status is necessary to comply with federal immigration law.\(^\text{72}\)

Section 1171.5 strengthens the position of undocumented workers against employers who rely on \textit{Hoffman} to avoid workplace violation claims and workers’ compensation awards.\(^\text{73}\) Following the Court’s decision in \textit{Hoffman}, employers argued undocumented workers were

\(^{65}\) See Bartlett Hayward Co. v. Indus. Accident Comm’n, 265 P. 195, 198 (Cal. 1928). \textit{See generally} Livitsanos v. Superior Court, 828 P.2d 1195, 1201 (Cal. 1992) (noting WCA’s basic purpose of compensating for disabled worker’s diminished ability to compete in open labor market); Laeng v. Workers’ Comp. Appeals Bd., 494 P.2d 1, 8 (Cal. 1972) (noting WCA’s fundamental purpose to provide protection against special risks of employment).


\(^{67}\) See Hisel v. County of L.A., 238 Cal. Rptr. 678, 682 (Ct. App. 1987) (recognizing principal purpose of workers’ compensation is to eliminate common law defenses preventing recovery for work-related injuries).


\(^{69}\) \textit{See Undocumented Workers Hearing}, supra note 68, at 1.

\(^{70}\) CAL. LAB. CODE § 1171.5(b) (West 2003).

\(^{71}\) \textit{Id.}; \textit{see also Undocumented Workers Hearing}, supra note 68, at 2.

\(^{72}\) § 1171.5(b).

\(^{73}\) \textit{See generally Undocumented Workers Hearing}, supra note 68, at 2 (noting \textit{Hoffman}’s potential effect of undercutting state remedies for illegal labor practices).
no longer entitled to labor rights in the workplace.\textsuperscript{74} By expressly forbidding an inquiry into a person’s immigration status, section 1171.5 preserves not only entitlements but also civil remedies for all workers.\textsuperscript{75}

\textbf{D. The Supremacy Clause and Preemption Principles}

The broad authority of states to enact general welfare laws is subject to federal intrusion in certain instances.\textsuperscript{76} The Constitution’s Supremacy Clause requires courts to disregard state law if it contradicts a rule established by federal law.\textsuperscript{77} It provides valid federal laws take precedence over all other laws.\textsuperscript{78} Under preemption principles, a state law must yield to the federal statute when the state law conflicts with the federal statute.\textsuperscript{79} Preemption ultimately depends on Congress’s intent in enacting a federal statute.\textsuperscript{80} Unless preemption is the clear and manifest purpose of Congress, courts presume a federal statute does not supersede a state’s broad power to legislate.\textsuperscript{81}

\textsuperscript{74} MALDEF, supra note 41, at 2-7 (detailing post-	extit{Hoffman} employer challenges to labor law protections for undocumented workers); see, e.g., Renteria v. Italia Foods, No. 02-C-495, 2003 WL 21995190, at *6 (N.D. Ill. Aug. 21, 2003) (noting undocumented workers cannot recover under Fair Labor Standards Act); In re Tuv Taam Corp., 340 N.L.R.B. 756, 761 (2003) (rejecting employer’s claim that social security no-match letter proved immigration fraud and limited worker’s remedies under NLRA); see also Nancy Cleeland, Employers Test Ruling on Immigrants, L.A. Times, Apr. 22, 2002, at C1 (noting employers are testing 	extit{Hoffman}’s limits and using it to avoid workers’ compensation awards).

\textsuperscript{75} Undocumented Workers Hearing, supra note 68, at 2.

\textsuperscript{76} See, e.g., Miller v. Bd. of Pub. Works of L.A., 234 P. 381, 383 (Cal. 1923) (recognizing state’s police power as indispensable, although not illimitable, prerogative of sovereignty); Frost v. City of L.A., 183 P. 342, 345 (Cal. 1919) (holding constitutional provisions limit state legislature’s police power); see also State Bd. of Dry Cleaners v. Thrift-D-Lux Cleaners, Inc., 254 P.2d 29, 31 (Cal. 1953) (suggesting state can impose police powers only when legislative purpose for public good exists).

\textsuperscript{77} See U.S. CONST. art. VI, cl. 2; see also Caleb Nelson, Preemption, 86 Va. L. Rev. 225, 260 (2000) (providing extensive discussion and analysis of Supremacy Clause and preemption doctrines).

\textsuperscript{78} U.S. CONST. art. VI, cl. 2.

\textsuperscript{79} Id.; Correales, supra note 3, at 371-72; see Madeira v. Affordable Hous. Found., Inc., 469 F.3d 219, 237-38 (2d Cir. 2006).

\textsuperscript{80} Correales, supra note 3, at 372; see also Jones v. Rath Packing Co., 430 U.S. 519, 525 (1977); Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947).

Congress can preempt state law either by express statutory language or by establishing a federal scheme that implicitly preempts state law.\textsuperscript{82} Express preemption occurs when Congress includes a preemption clause in the federal statute.\textsuperscript{83} By using explicit preemptive language, Congress directly manifests its intent to supersede state law.\textsuperscript{84} In doing so, it indicates its intent to limit preemptive reach while still allowing courts to look beyond statutory language to determine legislative intent when such language is ambiguous.\textsuperscript{85}

Implied preemption, on the other hand, involves analyzing in its totality the federal statute’s language and legislative history.\textsuperscript{86} The Supreme Court has set forth three tests to determine if a federal statute implicitly preempts state law.\textsuperscript{87} First, courts ask whether the federal regulation scheme is so pervasive that one can reasonably infer Congress left no room for supplemental state action.\textsuperscript{88} Second, courts determine whether the federal interest is so dominant that it precludes state laws on the same


\textsuperscript{85} See O’Donovan, supra note 11, at 311 (observing express preemption clause supports inference that Congress did not intend to preempt other matters, although possibility of implied preemption was not entirely foreclosed (citing Freightliner Corp. v. Myrick, 514 U.S. 280, 288-89 (1995))); see also Cal. Fed. Savs. & Loan Ass’n v. Guerra, 479 U.S. 272, 282 (1987); Malone, 435 U.S. at 305.


\textsuperscript{87} See generally Gade v. Nat’l Solid Wastes Mgmt. Ass’n, 505 U.S. 88, 98 (1992) (recognizing congressional command compels federal preemption whether such command is explicitly stated in statute or implicitly contained in structure); Wis. Pub. Intervenor, 501 U.S. at 605 (suggesting one can implicitly draw congressional preemptive intent from various factors); Cal. Coastal Comm’n v. Granite Rock Co., 480 U.S. 572, 581 (1987) (holding federal law preempts state law if Congress signifies intent to occupy entire field or if state law conflicts with federal law).

subject. Lastly, courts inquire whether enforcing the state statute presents a serious conflict with administering the federal program.90

In interpreting statutory language, courts generally presume that no preemption exists in areas traditionally occupied by states.91 States possess broad authority to regulate employment relationships and protect workers within their jurisdiction.92 This authority includes the power to enact laws in areas of local concern such as occupational health and safety.93 The Court has stated that in the absence of persuasive reasons, courts should not deem federal laws preemptive of such state regulatory power.94

In employing canons of statutory construction, courts also give statutes their plain and ordinary meaning unless it is clear Congress intended a different meaning.95 Courts must construe a plainly

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94 See Fla. Lime & Avocado Growers, 373 U.S. at 142. See generally N.Y. Tel. Co., 440 U.S. at 540 (noting courts will not infer deprivation of states' power to legislate without compelling congressional direction); Jones, 430 U.S. at 525 (assuming no federal preemption exists absent clear congressional intent in cases involving states' historic police powers).

95 See ERC Contractor Yard & Sales v. Robertson, 977 S.W.2d 212, 215 (Ark. 1998); see also Dodd v. United States, 545 U.S. 333, 357, 359 (2005); BedRoc Ltd., LLC v. United States, 541 U.S. 176, 183-84 (2004); Collazos v. United States, 368 F.3d 190, 196 (2d Cir. 2004); Alpha Beta Acme Mkts., Inc. v. City of Whittier, 68 Cal. Rptr. 327, 331 (Ct. App. 1968). See generally White v. Ultramar, Inc., 981 P.2d 944, 950-51 (Cal. 1999) (stating court must use settled canons of construction to ascertain legislative intent and give statutory words their usual and ordinary meaning); Glaser v. Rothschild, 120 S.W. 1, 12 (Mo. 1909) (noting all canons of construction rest on common principle that court must ascertain legislative intent); State v. Gen. Daniel
worded statute without using forced or subtle interpretations to extend or limit its scope.96 They look to legislative intent only when rational disposition requires further interpretation of statutory language.97 Thus, courts use these settled canons of statutory construction to ascertain the true intent of Congress in enacting IRCA.98

State courts that have analyzed the potential conflict between IRCA and state workers’ compensation laws have consistently concluded that IRCA does not preempt state law.99 In deciding Farmers Bros., the Second District of the California Court of Appeal joined other states in recognizing undocumented workers’ entitlement to workers’ compensation benefits.100 It upheld a construction of the state workers’ compensation scheme that provided coverage for all employees injured on the job.101


96 See Tucker v. Fireman’s Fund Ins. Co., 517 A.2d 730, 732 (Md. 1986) (recognizing no need for canons of construction or clarification where statutory provisions are clear and unambiguous); Lombardi v. Montgomery County, 673 A.2d 762, 766 (Md. Ct. Spec. App. 1996) (requiring courts to construe plainly worded statutes without forced or subtle interpretations extending or limiting scope). See generally cases cited supra note 95 (noting courts give unambiguous statutes their plain and ordinary meaning).


100 See cases cited supra note 5 (noting similar decisions upholding coverage of undocumented workers in other states); discussion infra Part II (discussing facts, procedural posture, holding, and rationale in Farmers Bros.); see also Dowling, 712 A.2d at 403; DDP Contracting, 808 A.2d at 595-96.

101 See Smith v. Workers’ Comp. Appeals Bd., 116 Cal. Rptr. 2d 728, 740 (Ct. App. 2002) (recognizing that courts should construe workers’ compensation scheme in
II. FARMERS BROS. COFFEE V. WORKERS’ COMPENSATION APPEALS BOARD

The Farmers Bros. decision confronted the tension between federal immigration policy and state labor laws. The Second District of the California Court of Appeal determined IRCA did not preempt sections 1171.5 and 3351 of the California Labor Code. It also clarified the statutory definition of “employee” for state workers’ compensation purposes.

The factual background of Farmers Bros. highlights the disputes that have become common since the Supreme Court’s decision in Hoffman. Rafael Ruiz, a worker who had entered the United States illegally, claimed to suffer multiple injuries from repeatedly lifting heavy coffee bean sacks. Ruiz’s employer, Farmers Brothers Coffee (“FBC”), denied him workers’ compensation benefits and refused to pay his medical bills. FBC argued Ruiz was not entitled to benefits because he was working illegally and thus was not an employee for statutory purposes. The Workers’ Compensation Appeals Board (“Board”) disagreed, ruling Ruiz was an employee under sections 3351(a) and 3357 of the California Labor Code.

FBC then filed a petition for reconsideration with the Board. It argued that IRCA superseded the California Labor Code provision making immigration status irrelevant to the issue of liability under state labor laws. FBC further contended Ruiz had violated section 1871.4 of the California Insurance Code by fraudulently obtaining favor of coverage whenever possible).

102 See generally Farmers Bros., 35 Cal. Rptr. 3d at 23; discussion infra Part II (discussing decision of Farmers Bros.).
104 Farmers Bros., 35 Cal. Rptr. 3d at 30-31.
105 See sources cited supra note 74 (noting various arguments used to extend Hoffman’s application beyond NLRA backpay awards).
106 Farmers Bros., 35 Cal. Rptr. 3d at 25.
107 Id.
108 Id.
109 Id.; see also CAL. LAB. CODE §§ 3351(a), 3357 (West 2003). Section 3351(a) states “employee” includes every person serving an employer under any appointment or contract. It specifically includes aliens and minors. § 3351(a). Section 3357 presumes any person rendering services for another to be an employee unless such person is an independent contractor. § 3357.
110 Farmers Bros., 35 Cal. Rptr. 3d at 25.
111 Id.; see also CAL. LAB. CODE § 1171.5 (West 2003).
The Board rejected FBC’s contentions and denied the petition. FBC appealed the Board’s order and the court of appeal granted review.

The court held that IRCA does not preempt an undocumented worker’s eligibility for benefits under state labor law. Congress plainly stated that IRCA preempts state laws imposing civil and criminal sanctions. The court concluded the relevant state law does not conflict with IRCA’s express preemption provision because none of the relevant California Labor Code provisions impose civil or criminal sanctions.

The court noted Congress did not intend IRCA’s employer sanction provisions to undermine state labor protections. Recognizing congressional purpose as the ultimate touchstone of preemption analysis, the court looked to committee reports to ascertain congressional intent. Pointing to Congress’s statement that IRCA is not aimed at limiting states’ ability to remedy unfair practices, the court found no clear preemptive intent.

Moreover, the Farmers Bros. court affirmed the view that the Constitution clearly recognizes the supremacy of federal powers in regulating immigration. The court noted that regulating immigration is unquestionably an exclusive federal power. It cautioned, however, that the mere fact a state statute covers immigrants does not render it a regulation of immigration. Specifically, the court found Congress had not occupied the legislative

112 Farmers Bros., 35 Cal. Rptr. 3d at 25; see also CAL. INS. CODE § 1871.4 (West 2005) (criminalizing act of knowingly false or fraudulent material representation to obtain workers’ compensation benefits).
113 Farmers Bros., 35 Cal. Rptr. 3d at 25-26.
114 Id. at 26.
115 Id. at 27.
116 Id.
117 Id.
118 Id.
119 Id.
120 Id.
121 Madeira v. Affordable Hous. Found., Inc., 469 F.3d 219, 230 (2d Cir. 2006); see, e.g., United Shoe Mach. Corp. v. United States, 347 U.S. 521, 521 (1954) (recognizing Congress’s plenary power to regulate immigration and set standards for aliens, even if standards would be constitutionally suspect in domestic policy setting); Rodriguez v. INS, 9 F.3d 408, 413 (5th Cir. 1993) (recognizing Congress’s unbounded power in regulating immigration).
122 Farmers Bros., 35 Cal. Rptr. 3d at 28 (citing De Canas v. Bica, 424 U.S. 351, 354-55 (1976)).
123 Id.
field of workers’ compensation because IRCA neither prohibits nor provides compensation for injured workers.\textsuperscript{124}

The court also noted the state legislature sought to avoid any conflict by making an employee’s immigration status irrelevant to his workers’ compensation claim.\textsuperscript{125} If compensation benefits depended on employees’ work authorization, courts could deny benefits based solely on immigration status.\textsuperscript{126} The court stated such a system would frustrate the remedial purposes of workers’ compensation laws.\textsuperscript{127}

In concluding federal immigration law does not preempt the WCA, the \textit{Farmers Bros.} court focused on the effects of section 1171.5.\textsuperscript{128} Section 1171.5 allows an inquiry into immigration status only when necessary to comply with federal law.\textsuperscript{129} Providing this exception shows the WCA’s compliance with IRCA.\textsuperscript{130} The court held that the WCA comports with IRCA’s goal of reducing incentives for hiring undocumented workers by permitting inquiries to uphold federal law.\textsuperscript{131}

\section*{III. ANALYSIS}

The California Court of Appeal correctly decided \textit{Farmers Bros.} for several reasons.\textsuperscript{132} First, a reasonable construction of IRCA does not support preemption of state workers’ compensation laws because its language fails to reveal clear preemptive intent. Second, the court’s decision is consistent with \textit{Hoffman’s} central holding and intended effects. A plain reading of \textit{Hoffman} does not put IRCA in conflict with the WCA. Finally, the court’s decision protects California’s interest in maintaining a safe workplace without undermining federal immigration policy goals. Therefore, the application of preemption principles in \textit{Farmers Bros.} reveals IRCA does not preempt the WCA.

\begin{itemize}
\item \textsuperscript{124} \textit{Id.}
\item \textsuperscript{125} \textit{Id.} at 27-29; see Undocumented Workers Hearing, note 68, at 1.
\item \textsuperscript{126} \textit{Farmers Bros.}, 35 Cal. Rptr. 3d at 28.
\item \textsuperscript{127} \textit{Id.}
\item \textsuperscript{128} \textit{Id.} at 28-30.
\item \textsuperscript{129} \textsc{Cal. Lab. Code} § 1171.5 (West 2003).
\item \textsuperscript{130} \textit{Farmers Bros.}, 35 Cal. Rptr. 3d at 28-29.
\item \textsuperscript{131} \textit{Id.}
\item \textsuperscript{132} See discussion \textit{infra} Part III (arguing IRCA does not preempt WCA).
\end{itemize}
A. Farmer Bros. Correctly Holds IRCA’s Construction Does Not Preempt the WCA

IRCA’s structure gives no indication Congress intended to preempt state laws that benefit undocumented workers.\textsuperscript{133} Congress has repeatedly acknowledged states’ authority to regulate labor practices.\textsuperscript{134} It considered the consequences of creating an unprotected secondary workforce in enacting IRCA.\textsuperscript{135} In doing so, Congress refused to limit a state’s power to remedy violations of state labor laws.\textsuperscript{136} It maintained labor protections for undocumented workers by limiting the scope of IRCA’s express preemption provision to state-imposed civil and criminal sanctions.\textsuperscript{137}

IRCA does not expressly preempt workers’ compensation claims because its preemption provision applies only to penalties imposed for hiring undocumented workers.\textsuperscript{138} IRCA’s express provision preempts state laws that impose civil or criminal sanctions upon employers who hire unauthorized workers.\textsuperscript{139} Plainly, this provision only preempts states from punishing employers who hire undocumented workers.\textsuperscript{140} It does not prevent states from imposing penalties for other

\textsuperscript{133} See NLRB v. Fuel Oil Buyers Group, Inc., 134 F.3d 50, 55 (2d Cir. 1997), abrogated by Hoffman Plastic Compounds, Inc. v. NLRB, 535 U.S. 137 (2002); see also United States v. Todd Corp., 900 F.2d 164, 165 (9th Cir. 1990) (recognizing Congress’s desire to protect persons already residing in United States for many years regardless of unlawful status).


\textsuperscript{135} H.R. Rep. No. 99-682, pt. 1 at 58; see Fuel Oil Buyers, 134 F.3d at 55 (recognizing IRCA’s legislative history shows intent to preserve state labor protections); see also Todd Corp., 900 F.2d at 165.


\textsuperscript{137} See id. (stating IRCA preempts only state or local laws providing fines and criminal sanctions for hiring, recruiting, and referring undocumented aliens).

\textsuperscript{138} See Dowling, 712 A.2d at 403 (noting IRCA’s express preemption provision only prohibits states from imposing civil sanctions upon those who employ undocumented workers).


purposes. Indeed, IRCA is silent as to its preemptive effect with respect to other state laws.

IRCA preempts state sanctions imposed “upon” those who employ undocumented aliens. “Upon” is synonymous with “on,” a preposition indicating “connection, association, or cooperation with” a specific event. “Upon” also signifies an event occurring “on the occasion of” some other situation. In using “upon,” Congress signaled its intent to limit IRCA’s preemption provision to state sanctions addressing the employment of undocumented workers. Read in this context, IRCA’s preemption provision does not supersede state sanctions imposed for other reasons.

Construing IRCA’s express preemption provision otherwise would lead to absurd results. If courts read IRCA to prohibit state sanctions on those who employ undocumented workers for other purposes, IRCA would effectively bar states from imposing many other fines on employers. For instance, if IRCA preempted state sanctions imposed for other reasons besides unlawful hiring, it would forbid penalties on a

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141 See supra note 140.
142 See Madeira, 469 F.3d at 231-32.
143 § 1324a.
145 Id.
146 Although courts have not used this argument widely, the Connecticut Supreme Court used a similar argument in reversing denial of workers’ compensation to illegal aliens. See Dowling v. Slotnik, 712 A.2d 396, 403 (Conn. 1998). See generally Owasso Indep. Sch. Dist. v. Falvo, 534 U.S. 426 (2002) (recognizing courts must read words of statute in light of their place in overall statutory scheme); United States v. Awadallah, 349 F.3d 42 (2d Cir. 2003) (noting plain meaning of statute controls construction when statutory language is clear).
147 § 1324a. This statement follows logically from the statutory language when one plainly and narrowly interprets IRCA. See generally id. (stating preemption provision applies to state or local laws imposing sanctions on employers for hiring unauthorized aliens).
148 See Dowling, 712 A.2d at 403 (noting alternate construction would prevent state official from imposing traffic fine on person who employs undocumented workers). See generally NLRB v. Wheeling Elec. Co., 444 F.2d 783, 787 (4th Cir. 1971) (suggesting courts should avoid statutory construction that produces absurd results); O’Donovan, supra note 11, at 308-15 (alluding to implausible results if courts construe IRCA in favor of preempting state workers’ compensation laws).
149 This hypothetical follows from the example provided by the court in Dowling, 712 A.2d at 403.
negligent employer. A result would clearly contradict congressional statements about IRCA’s limited preemptive reach. IRCA’s preemption provision is inapplicable to workers’ compensation benefits because one cannot reasonably describe such benefits as a “sanction.” A sanction is a penalty or coercive measure resulting from one’s failure to comply with a rule or law. The California Legislature created the WCA to compensate workers for injuries arising from employment without regard to fault. It awards workers’ compensation benefits to encourage workplace safety by providing injured employees a prompt guarantee of subsistence. These compensatory remedies differ from sanctions in purpose and function; therefore, no clear and direct preemption of the WCA exists.

IRCA’s regulation scheme does not support preemption of state labor laws because it deals with only one narrow aspect of immigrant employment. IRCA simply prohibits the hiring of undocumented

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150 This scenario has not occurred to my knowledge. Broadly construing IRCA’s preemption provision would bar states from imposing sanctions on those employing undocumented workers even if sanctions were unrelated to unlawful hiring. See id. at 403. This result is untenable. See generally id. (noting proscription of benefits to undocumented workers is unpersuasive in workers’ compensation context).

151 See discussions supra Parts I.A, III.A (discussing legislative history of IRCA); see also H.R. REP. NO. 99-682, pt. 1, at 58 (1986), as reprinted in 1986 U.S.C.C.A.N. 5649, 5662. The committee report further manifested Congress’s intent that IRCA penalties preempt only a narrow class of state laws.

152 See generally infra notes 153-56 and accompanying text (arguing workers’ compensation benefits are distinguishable from sanctions).


154 See CAL. CONST. art. XIV, § 4.


156 See generally Dowling v. Slotnik, 712 A.2d 396, 403 (Conn. 1998) (concluding IRCA’s express provision does not preempt workers’ compensation awards).

157 See O’Donovan, supra note 11, at 309. See generally Farmers Bros. Coffee v. Workers’ Comp. Appeals Bd., 35 Cal. Rptr. 2d 23, 28 (Ct. App. 2005) (finding IRCA does not preempt WCA because IRCA neither provides nor prohibits compensation for injured workers); Dowling, 712 A.2d at 403 (concluding IRCA does not impliedly preempt state labor laws).
workers. Furthermore, it provides no penalties for undocumented workers who accept employment in the United States. Thus, IRCA does not directly preempt state workers’ compensation laws; it regulates only immigration and not labor.

Some argue that IRCA’s regulation scheme reasonably supports a finding of implied preemption. They maintain that IRCA does not foreclose preemption simply because it contains no express provision preempting state workers’ compensation laws. Congress left no doubt it sought to curtail the employment of undocumented workers in enacting IRCA. Under IRCA’s regime, it is therefore impossible for an undocumented worker to obtain employment without directly contravening congressional policies.

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158 See supra note 157.
159 See supra note 157.
161 See Freightliner Corp. v. Myrick, 514 U.S. 280, 287 (1995) (finding implied preemption where complying with both federal and state requirements is impossible). See generally Dowling, 712 A.2d at 415 (McDonald, J., dissenting) (arguing compensation benefit award to undocumented worker runs counter to IRCA policies); Balbuena v. IDC Realty LLC, 845 N.E.2d 1246, 1263-65 (N.Y. 2006) (Smith, J., dissenting) (arguing court should not provide workers’ compensation benefits to illegal workers because IRCA preempts state workers’ compensation law).
162 See Dowling, 712 A.2d at 415 (McDonald, J., dissenting) (noting possibility of implied preemption). See generally Freightliner, 514 U.S. at 287 (finding implied preemption of state labor law); Balbuena, 845 N.E.2d at 1263-65 (Smith, J., dissenting) (suggesting IRCA preempts state workers’ compensation law).
Courts find implied preemption when state law stands as an obstacle to accomplishing the objectives of Congress.¹⁶⁵ Those who support a finding of implied preemption point to subversion of IRCA’s enforcement mechanism when a worker provides fraudulent authorization documents.¹⁶⁶ An employer likewise ignores his IRCA obligations when he hires an undocumented worker.¹⁶⁷ In these situations both parties contradict the policies underlying IRCA and undermine its ultimate goal of reducing illegal immigration.¹⁶⁸ Thus, supporters of implied preemption argue that IRCA preempts workers’ compensation laws because these laws hinder Congress from effectively reducing illegal immigration.¹⁶⁹

Supporters of implied preemption further argue that allowing recovery for workers’ compensation under such circumstances rewards a person for violating immigration law.¹⁷⁰ The *Hoffman* Court emphasized federal immigration policy forecloses certain awards to undocumented workers because federal laws prevent them from legally obtaining work.¹⁷¹ Awarding workers’ compensation benefits to undocumented workers contradicts federal immigration policy because it provides recovery for unlawfully acquired work.¹⁷²


¹⁶⁷ See generally supra note 166 (noting workers’ compensation awards to unauthorized aliens conflicts with federal immigration policy).


¹⁶⁹ See *Hoffman*, 535 U.S. at 148-49. See generally supra note 166 (awarding workers’ compensation benefits to undocumented workers conflicts with federal immigration policy).

¹⁷⁰ See generally *Balbuena*, 845 N.E.2d at 1261, 1263-65 (Smith, J., dissenting) (describing how awarding benefits to undocumented workers undermines federal immigration policy).

¹⁷¹ See *id.* at 1264-65; see also *Hoffman*, 535 U.S. at 148-49.

¹⁷² See *Hoffman*, 535 U.S. at 148-49. See generally note 166 (discussing arguments for implied preemption of state workers’ compensation laws).
Therefore, IRCA impliedly preempts state workers’ compensation laws because such laws defeat congressional objectives.\textsuperscript{173} An implied preemption argument ultimately fails for two reasons. First, no implied preemption exists because the WCA does not produce results that conflict with IRCA’s objectives.\textsuperscript{174} California provides workers’ compensation benefits to relieve the effects of industrial injuries regardless of fault.\textsuperscript{175} These benefits do not conflict with IRCA because they do not depend on how an injured worker acquired his job.\textsuperscript{176} Furthermore, the WCA explicitly allows an inquiry into the worker’s immigration status when necessary to comply with federal immigration law.\textsuperscript{177} Thus, there is no difficulty in reconciling the WCA’s remedial and humanitarian purpose with IRCA’s immigration objectives.\textsuperscript{178}

Second, finding implied preemption is unreasonable because enforcing workers’ compensation laws does not conflict with administering the federal immigration scheme.\textsuperscript{179} Congress enacted IRCA to remove incentives in hiring undocumented workers.\textsuperscript{180} Eligibility for workers’ compensation benefits is not a realistic incentive for aliens to enter the country illegally.\textsuperscript{181} Indeed, courts

\textsuperscript{173} See supra notes 166-72 and accompanying text.
\textsuperscript{177} See generally discussion supra Parts I.A, I.D (explaining goals and purposes of IRCA and WCA).
\textsuperscript{178} See Farmers Bros., 35 Cal. Rptr. 3d at 26-29; see also Madeira, 469 F.3d at 241-42 (finding no implied preemption because compliance with both IRCA and state labor law is not physically impossible); Balbuena, 845 N.E.2d at 1256-58 (finding no conflict between state labor law and federal immigration law).
\textsuperscript{180} See discussion supra Part I.A.
\textsuperscript{181} See Dowling v. Slotnik, 712 A.2d 396, 403 (Conn. 1998); see also Patel v. Quality Inn S., 846 F.2d 700, 704 (11th Cir. 1988) (noting procurement of employment at any wage, not prospect of job-related protections, attracts illegal immigrants). See generally Montero v. INS, 124 F.3d 381, 384 (2d Cir. 1997) (providing workers’ compensation
have found that providing compensation benefits to undocumented workers does not attract illegal immigrants. Thus, IRCA does not preempt the WCA.

B. Farmer Bros. Is Consistent with Hoffman’s Central Holding and Intended Effects

The Farmer Bros. decision comports with Hoffman and supports a finding that IRCA does not preempt state workers’ compensation laws. Workers’ compensation benefits differ from backpay awards foreclosed by the Supreme Court’s decision in Hoffman. The Hoffman Court noted backpay awards subvert IRCA’s policies because they provide wages the undocumented worker could not have lawfully earned. This reasoning is unpersuasive in the workers’ compensation context because benefit awards are fundamentally distinct from backpay under the NLRA.

Workers’ compensation benefits reflect a deeply rooted public policy to deter workplace safety violations and spread the costs of accidents. They arise from employers’ affirmative duty to maintain a
safe workplace for their employees.\textsuperscript{189} State legislatures provide these benefits based on a broad social interest in the safety and lives of employees engaged in hazardous occupations.\textsuperscript{190} Thus, a workers' compensation award is not an earned right; it vests as the work is performed.\textsuperscript{191}

As the Court noted in \textit{Hoffman}, backpay under the NLRA depends on the employee's lawful employment status.\textsuperscript{192} The backpay proscribed in \textit{Hoffman} presumed that the undocumented worker would have continued his employment but for the employer's violation of labor laws.\textsuperscript{193} This contradicted the employer's IRCA obligations because it provided an undocumented worker continued employment in direct violation of IRCA.\textsuperscript{194} Awarding backpay to such a worker effectively constitutes an award to the employer despite his NLRA violations, thus subverting federal immigration laws.\textsuperscript{195} Workers' compensation benefits, however, are distinguishable from backpay awards because they are not an earned right dependent on lawful employment status.\textsuperscript{196} Therefore, awarding workers' compensation benefits to undocumented workers effectively constitutes an award to the employer, despite his IRCA obligations.
compensation benefits to undocumented workers does not conflict with IRCA’s foreclosure of backpay in *Hoffman*.\(^{197}\)

A strict reading of *Hoffman* limits its holding to foreclosing NLRA backpay awards to undocumented workers.\(^{198}\) Such a construction, however, does not affect remedies provided by state workers’ compensation laws.\(^{199}\) The *Hoffman* Court held IRCA precludes backpay awards under the NLRA because such awards unduly encroach upon statutory prohibitions of immigration law.\(^{200}\) Accordingly, because workers’ compensation is distinguishable from backpay, *Hoffman* does not foreclose workers’ compensation benefits to undocumented workers.\(^{201}\)

Moreover, the *Hoffman* Court acknowledged undocumented workers are still employees within the meaning of the NLRA.\(^{202}\) The majority of courts interpreting *Hoffman* have confined its application to claims of lost earnings.\(^{203}\) Courts conclude, therefore, that *Hoffman* merely limits the type of benefits available to undocumented workers.

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\(^{198}\) See *Rivera v. NIBCO*, 364 F.3d 1057, 1067 (9th Cir. 2004) (doubting *Hoffman* is as broadly applicable as defendant contends in discussing claim); see also *Escobar v. Spartan Sec. Servs.*, 281 F. Supp. 2d 895, 897 (S.D. Tex. 2003).

\(^{199}\) See cases cited supra note 197.

\(^{200}\) See *Hoffman*, 535 U.S. at 151.

\(^{201}\) See id. at 147-52 (holding IRCA prevents NLRB from awarding backpay to undocumented workers). See generally *Madeira*, 469 F.3d at 233-37 (distinguishing *Hoffman* and holding IRCA does not foreclose workers’ compensation awards to undocumented workers); *Farmers Bros.*, 35 Cal. Rptr. 3d at 26-29 (concluding IRCA does not preempt workers’ compensation awards to undocumented workers despite *Hoffman* decision).


\(^{203}\) See *Rivera*, 364 F.3d at 1066-70 (recognizing plaintiffs’ eligibility or ineligibility for benefits is irrelevant to resolving whether NIBCO violated Title VII); *Escobar*, 281 F. Supp. 2d at 897 (stating *Hoffman* decision only compels conclusion that worker is ineligible for backpay claims under Title VII); *De La Rosa v. N. Harvest Furniture*, 210 F.R.D. 237, 238 (C.D. Ill. 2002) (noting *Hoffman* is not dispositive despite similarities between remedial language of NLRA and Title VII claims).
without foreclosing labor protections currently available to them under state law.\textsuperscript{204}

Some argue, however, for a broader and more liberal reading of \textit{Hoffman}.\textsuperscript{205} They claim awarding any benefits to undocumented workers contravenes federal immigration policy under IRCA.\textsuperscript{206} In precluding the NLRA backpay award, \textit{Hoffman} suggests courts should prohibit any benefits that run counter to the policies underlying IRCA.\textsuperscript{207} Workers’ compensation awards are similar to backpay awards because both stem from work that the worker unlawfully obtained.\textsuperscript{208} If IRCA forecloses undocumented workers from receiving backpay under the NLRA, it should also foreclose other awards resulting from their unlawful employment.\textsuperscript{209} Thus, some argue a broader reading of \textit{Hoffman} is necessary to preserve IRCA’s goals of eliminating incentives for undocumented workers to obtain work unlawfully.\textsuperscript{210}

These arguments for a broad construction fail, however, because Congress plainly stated its intention not to preempt states from

\textsuperscript{204} See generally O’Donovan, supra note 11, at 314 (noting \textit{Hoffman} does not preclude awarding benefits to undocumented workers); cases cited supra note 197 (finding IRCA does not preempt state workers’ compensation laws).


\textsuperscript{207} See \textit{Hoffman}, 533 U.S. at 132; see also Freightliner, 514 U.S. at 287 (finding implied preemption because state requirements conflict with federal law); Dowling, 712 A.2d at 415 (McDonald, J., dissenting) (awarding workers’ compensation to undocumented worker runs counter to federal immigration policy).

\textsuperscript{208} See generally \textit{Hoffman}, 533 U.S. at 152 (noting federal immigration policy prohibits NLRA awards to undocumented workers because such awards amount to compensation for work not lawfully obtained); Dowling, 712 A.2d at 415 (McDonald, J., dissenting) (arguing compensation benefit award to undocumented worker runs counter to IRCA policies); Balbuena, 845 N.E.2d at 1261 (Smith, J., dissenting) (arguing workers’ compensation awards to illegal workers undermine federal immigration goals).

\textsuperscript{209} See generally cases cited supra note 208 (stating IRCA should preempt state laws allowing benefits that undermine federal immigration laws).

\textsuperscript{210} See generally cases cited supra note 208 (noting courts should not permit awards that undermine federal immigration goals).
exercising their broad regulatory powers. Congress was reluctant to characterize IRCA as a reduction of state labor protections for undocumented workers. It narrowed the application of IRCA’s preemption provision and reaffirmed IRCA’s limited preemptive reach. A narrow reading of Hoffman, therefore, is appropriate because it respects Congress’s intent to limit the preemptive effect of IRCA.

C. Farmer Bros. Protects the State’s Interest in Maintaining a Safe Workplace for All Employees

The WCA is a valid exercise of California’s historic police powers to promote the health and safety of its citizens. It aims to secure workplace safety and protect individuals from the risks associated with employment. By outlining employers’ general duties in the

\[\text{References}\]


213 See generally Montero v. INS, 124 F.3d 381, 385 (2d Cir. 1997) (rejecting argument that permitting deportation under Immigration and Naturalization Act will significantly undermine labor protections).

214 See W. Indem. Co. v. Pillsbury, 151 P. 398, 401 (Cal. 1915) (stating WCA is legitimate exercise of state police powers promoting health, peace, morals, and good order); see also Madera Sugar Pine Co. v. Ind. Accidental Comm’n of Cal., 262 U.S. 499, 502 (1923) (noting state may provide for loss of employee’s earning power by exercising police power to enact workers’ compensation laws); Pac. Emp. Ins. Co. v. Indus. Comm’n, 33 Cal. Rptr. 442, 445 (Ct. App. 1963) (noting WCA is valid exercise of state’s police power).

215 See Arriaga v. County of Alameda, 892 P.2d 150, 152 (Cal. 1995) (recognizing right to recover workers’ compensation benefits as employee’s sole and exclusive remedy for work-related injury); Farmers Bros., 35 Cal. Rptr. 3d at 26-27.
workplace, the California Labor Code establishes a comprehensive scheme for regulating conditions in places of employment.\(^{217}\) Furthermore, it authorizes the enforcement of effective occupational health and safety standards to protect workers.\(^{218}\) Farmers Bros. effectively recognizes the adverse consequences of withholding workers’ compensation from undocumented workers.\(^{219}\) Barring undocumented workers from claiming benefits actually increases illegal employment levels because it lessens employers’ potential liability.\(^{220}\) Once employers realize they may violate labor laws affecting undocumented workers without consequence, their incentive to hire such workers will increase.\(^{221}\) Denying workers’ compensation benefits to undocumented workers eviscerates state law coverage of legitimate workplace injuries.\(^{222}\) Furthermore, it distorts the deterrent functions of workers’ compensation laws by providing a windfall to insurers and employers who pay insurance premiums.\(^{223}\)


\(^{218}\) CAL. LAB. CODE § 6300 (West 2003).

\(^{219}\) See Dowling v. Slotnik, 712 A.2d 396, 404 (Conn. 1998) (recognizing denial of benefits to undocumented workers increases incentives to hire them). See generally Madeira v. Affordable Hous. Found., Inc., 469 F.3d 219, 245-47 (2d Cir. 2006) (denying benefits to unauthorized workers may provide windfalls to employers); Farmers Bros., 35 Cal. Rptr. 3d at 26-28 (finding no preemption because WCA does not stand as obstacle to congressional objectives).


\(^{221}\) See Sure-Tan, 467 U.S. at 912 (noting incentives to hiring undocumented workers will increase once employers realize they can violate NLRA with respect to such workers); see also Dowling, 712 A.2d at 404-05 (recognizing incentives to hire undocumented workers will increase if court denies workers’ compensation benefits). See generally Balbuena, 845 N.E.2d at 1260 (holding IRCA does not preclude lost wage claims of undocumented workers).

\(^{222}\) See O’Donovan, supra note 11, at 314 (denying workers’ compensation to undocumented workers forecloses existing state labor protections). See generally cases cited supra note 221 (denying benefits to unauthorized aliens provides incentives for employers to hire such workers).

\(^{223}\) See O’Donovan, supra note 11, at 315-16. See generally Town Planning & Eng’g Assocs., Inc. v. Amesbury Specialty Co., 342 N.E.2d 706, 711 (Mass. 1976) (noting
The *Farmer Bros.* decision acknowledges that the WCA discourages employers from engaging in unscrupulous practices by holding them accountable for work-related injuries. It also recognizes that denying benefits to undocumented workers makes it cheaper for employers to hire them. The availability of cheaper labor makes violating IRCA less consequential for employers because their potential cost savings may outweigh the risk of penalty. *Farmer Bros.* echoes previous findings that denying benefits to undocumented workers actually undermines federal immigration goals. In doing so, *Farmer Bros.* promotes the important federal immigration policy of discouraging employers from hiring undocumented workers.

**CONCLUSION**

A reasonable construction of IRCA does not support a finding of preemption because its statutory language fails to reveal clear preemptive intent. IRCA’s regulation scheme does not support a reasonable inference that Congress left no room for supplementary state labor law. Specifically, awarding workers’ compensation plaintiff’s recovery depends partly on the extent to which justice allows windfalls to defendants); *Medellin Case*, No. 03324300, 2003 WL 23100186, at *5 (Mass. Dep’t Industrial Accidents Dec. 23, 2003) (recognizing that denying benefits to worker provides windfall to insurer in employer-collected premiums).

224 *See Farmers Bros.*, 35 Cal. Rptr. 3d at 26-27.


226 Although no one has made this argument to my knowledge, we should not ignore the economic consequences of such a result. *See generally Hoffman, 535 U.S.* at 155 (recognizing possible incentives to hiring undocumented workers); *Correales*, *supra* note 3, at 392 (arguing public policy supports providing benefits to undocumented workers); O’Donovan, *supra* note 11, at 314-16 (stating reasons for continuing workers’ compensation coverage of undocumented workers).

227 *See Correa v. Waymouth Farms, Inc.*, 664 N.W.2d 324, 331 (Minn. 2003) (denying unauthorized aliens benefits predicated on diligent job search does not serve purposes underlying IRCA); *see also O’Donovan, supra* note 11, at 314 (denying benefits to undocumented workers provides incentives to employers). *See generally Sure-Tan, Inc.* v. NLRB, 467 U.S. 883, 912 (1984) (withholding backpay increases illegal immigration).

228 *See supra* notes 21-23 and accompanying text.

229 *See supra* Part III.A (stating why current immigration law does not reveal clear preemptive intent).

230 *See supra* Part III.B (discussing limitations of IRCA).
benefits to undocumented workers does not undermine the federal goal of deterring illegal immigration.231 By recognizing the real human consequences of federal immigration laws on undocumented workers, Farmer Bros. ensures society gives their contributions due notice and consideration.

231 See supra Part III.C (explaining complementary federal and state policy goals).