

The Movement to End Wage Theft

*A Report to the
Discount Foundation*

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Dear Colleague,

On behalf of the Discount Foundation, we are pleased to share this report on The Movement to End Wage Theft and want to express our gratitude and admiration to all those who made this report possible. To the author, Nik Theodore, whose skills as researcher and writer made the stories of those waging the battle against wage theft come alive. To all the individuals who shared their stories with Nik, whose courage and tenacity is truly building a movement to end wage theft. To our peer review panelists, Annette Bernhardt and Chris Owens of the National Employment Law Project, and Professors Janice Fine of Rutgers University and Dorian Warren of Columbia University whose knowledge of the issue provided invaluable guidance. And, finally many thanks to Sarena Neyman, who did the final editing and design of the report.

There is nothing more fundamental to the notion of economic justice than the premise that an employer must pay his or her employee for time worked. Yet today, millions of people in the United States — most of whom are paid at the bottom of the pay scale — are being cheated out of billions of dollars they have earned. Fearing retaliation, these workers are all too often too economically and politically vulnerable to challenge their employers. And until recently there has been too little meaningful enforcement of wage and hour laws at all levels of government. The Discount Foundation is committed to supporting worker justice organizing to end this insidious crime.

The groups you will read about in this report are on the front lines of this movement. They are first and foremost organizing and mobilizing workers to take action to challenge wage theft. They are raising awareness of the problem among the general public and elected officials; publishing research and attracting media attention. They're drafting new laws and demanding the enforcement of existing laws and regulations; and they are using litigation, consumer boycotts and other direct action aimed at employers who steal workers' wages. In the process they are building powerful coalitions of labor unions and other advocacy groups to amass the political will and power needed to implement reforms. Most remarkable about these organizations is that workers themselves are the leaders of these campaigns.

And while their successes are heartening, this is a movement still in its infancy and in need of much more support. Towards this end, we are asking for your help.

You can start by passing copies of this report onto colleagues, community organizations, unions, civic leaders and others. Link to this document on your website, Facebook page, twitter account and blog if you have one (www.discountfoundation.org/pdf/movement_to_end_wage_theft.pdf). Write about it and talk about it through every available channel. We also encourage you to consider supporting organizations engaged in wage theft campaigns, if you are not already doing so. Visit our new website for information about the Foundation and our grantees.

Sincerely,

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Jeffrey Zinsmeyer
Board Chair

The Movement to End Wage Theft

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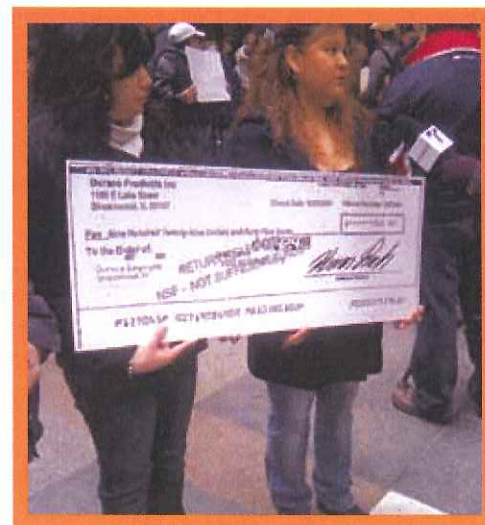
Introduction: A Fair Day's Pay

For six years Modesta has worked as a cashier in a retail store in Brooklyn, New York. When she started at the job she was paid \$5 an hour. She worked 60 hours, 6 days a week, but received no overtime pay. Last year she was given a “raise” and now earns \$6.60 an hour — still well below the State minimum wage. Most of her co-workers are paid even less, but she says her employer has been able to continue this practice because the workers are too scared to complain.

Jose was employed as a residential construction worker in Los Angeles who completed a range of tasks on the job including drywall installation, framing, tiling, cement pouring, and stucco finishing. He was employed as part of a small crew of five to eight workers. They began work each day at 7 a.m., stopped for a 15-minute lunch break at noon, after which they resumed work and stayed on the job until 8 or 9 p.m. These were long workdays, lasting between 13 and 14 hours, and Jose was paid just \$60 a day, well below the California minimum wage. His employer also violated the State's laws pertaining to overtime pay, as well as meal and rest breaks.

Victor is a warehouse worker who is employed through a temporary staffing agency in Chicago. In order to evade legally mandated overtime pay laws, the staffing agency required workers to clock in using two different names. However, Victor is a member of a workers' rights organization. He and the organization launched a pressure campaign against the agency demanding back wages, and Victor, along with 24 of his co-workers, received more than \$4,400 in unpaid wages.

The experiences of Modesta, Jose, Victor, and their co-workers are not anomalies in today's job market. Such cases of wage theft — the nonpayment or underpayment of wages by employers — occur with alarming frequency across the low-wage labor market.



Chicago Workers Collaborative members, Brenda Rodriguez (left) and Silvia Perez (right), holding up a copy of a paycheck that bounced from their employer.

Common Wage Theft Scenarios

- Employers fail to pay all or part of a worker's wages.
- Employers do not pay legally required overtime wages.
- Employees are not compensated for work they are required to do before their shifts officially begins or after they end.
- Employers pay less than the minimum wage.

Kim Bobo, the Executive Director of Interfaith Worker Justice, has documented hundreds of settlements reached by employers and the United States Department of Labor, with many individual settlements covering hundreds, and sometimes thousands, of workers and with sums totaling millions of dollars.¹ Large, high-profile settlements are a potent reminder both of the extent of employment-law violations perpetrated by employers and of the fact that wage theft is not a problem that is simply confined to marginal businesses.

And while the magnitude of recovered unpaid wages is striking, for every violation that is adjudicated, tens of thousands more workers are quietly losing significant portions of their pay each week, falling through the cracks of an under-resourced government enforcement system. These workers, many of whom earn low wages in the best of times, are faced with unmet needs and rising levels of household debt as a result of illegal employer practices. When combined with low earnings and tenuous job security, wage theft poses serious, every-day challenges to millions of workers and their families.

Powerful inducements exist for workers to accept this mistreatment and to endure workplace hardships individually and silently. Insecure employment arrangements, threats of employer retaliation, insufficient knowledge of employment laws, immigration status, little confidence that government enforcement agencies will safeguard workers' rights, and plain economic necessity: together these conspire to raise the potential costs of worker activism in defense of employment rights. As a result, employers have the upper hand in low-wage industries — and the problem of wage theft deepens.

In this precarious environment, workers' rights activists have taken aggressive steps to redress wage theft. Over the past decade, workers' rights organizations and their allies have launched increasingly sophisticated campaigns that build upon grassroots worker organizing and bottom-up policy advocacy, and are rooted in worker-led attempts to strengthen enforcement of workplace standards. Some of these organizations are industry-specific, including those

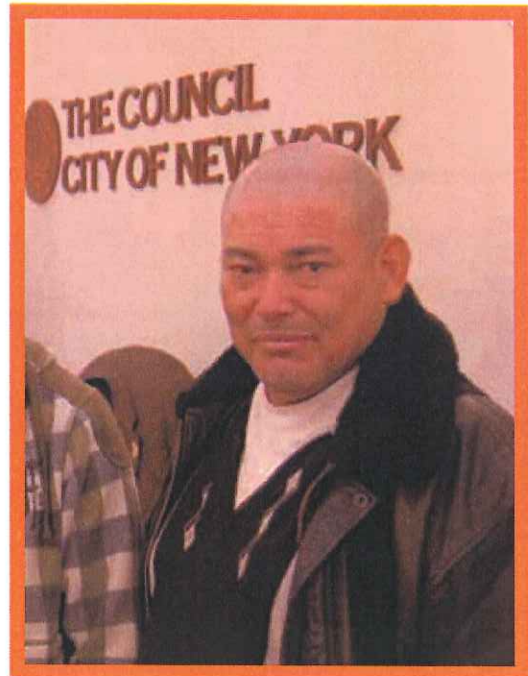
“Wage theft by unscrupulous employers places ethical employers at a competitive disadvantage against those who don't pay workers and cheat on taxes.”

- Kim Bobo, Founder and Executive Director
Interfaith Worker Justice

arising from the activism of restaurant workers, household workers, day laborers, direct-care workers, and farm workers, while others pursue general low-wage worker organizing and service delivery. Many have entered into national alliances with other like-minded organizations, such as Interfaith Worker Justice, the National Day Laborer Organizing Network, the National Domestic Worker Alliance, National People's Action, the Restaurant Opportunities Centers United, and Jobs with Justice. They have forged strong working relationships with labor unions, immigrant rights coalitions, faith-based groups, community organizations, policy think tanks, and, to a lesser extent, government enforcement agencies. Through these efforts, workers' rights organizations have extended their reach; scaled up their efforts; and won significant organizing, legal, and legislative victories.

This report examines this emergent wage theft movement. It highlights the strategies that have developed to address violations of employment laws. Organizations have led direct-action campaigns against unscrupulous employers; drafted legislation and educated policymakers about the issue; pressed for stronger federal, state and local enforcement of wage and hour laws; and devised innovative strategies for improving working conditions in the low-wage labor market. These activities have propelled the problem of wage theft into public policy debates, and new efforts are underway to strengthen workplace protections. Through their collective efforts, workers' rights organizations are restoring the promise of workplace justice in low-wage industries.

The report is organized as follows. Section 1 examines the prevalence of wage theft in low-wage industries. Section 2 provides a description and assessment of anti-wage theft campaigns and the burgeoning movement to improve conditions through worker organizing, public education, and policy advocacy. Section 3 considers the role of government enforcement. Section 4 reviews the impact of anti-wage theft campaigns, focusing on unpaid wages collected and the scope of policy change. The final section lays out concrete recommendations for the movement's future.



“I worked at Fine Fare supermarket from 7:30a.m. until 9 p.m. with half an hour break, six days a week. They never paid me anything; I only worked for tips. There were five baggers and Fine Fare never paid any of us.”

- Luis Olivo, testifying before the City Council of New York City as part of the successful 2010 campaign to pass the Wage Theft Prevention Act.
