

Underpaid Worker Lawsuits Increase

By Anique Gonzalez

Although everyone is familiar with the stories of underpaid workers who struggle to make a living throughout the country (many of which involve immigrants), the past several years have seen the story take an interesting turn. More and more underpaid workers, irrespective of legal status, are beginning to file lawsuits against their employers alleging breaches of the Fair Labor Standards Act. Between 2000 and 2006, cases have increased by more than 100%, ballooning from 1,854 to 4,389.

If the lawsuits are found in favor of the plaintiffs, the underpaid workers hope to recoup thousands of dollars in back pay from employers who did not pay either minimum wage or overtime. The increase has been broad and far-reaching; the claims do not cover one specific field but encompass various industries and numerous types of workers. However, the common thread between them, as stated previously, is their immigrant status.

And, in addition to the claims ranging across several fields, they also have no geographical boundaries. New York claims, for example, are being filed by immigrants working at restaurants as delivery men who allege that they were exploited and forced to work almost exclusively for tips. Acting on behalf of Mexican and Guatemalan forestry workers here on visas, the Southern Poverty Law Center (SPLC) has filed several claims regarding employers' refusal to pay minimum wage, as well as overtime in various Southern states. The Gulf Coast has also seen organizations such as the SPLC and the National Immigration Law Center file claims for immigrants who were tremendously underpaid or were not paid in any way.

In response to this recent trend, M. Patricia Smith, the State Labor Commissioner of New York, stated that there would be a new organization to track such accusations, the Bureau of Immigrant Workers' Rights. "The new Bureau will be based in New York City and will address the growing needs of immigrant workers throughout New York State," the New York State Department of Labor proclaimed. "Immigrant workers represent a vital and growing segment of New York State's workforce, and we are committed to protecting their rights," Commissioner Smith said. "Every worker, regardless of immigration status, deserves to have access to the Labor Department's programs, and we will work hard to make that happen."

Moreover, to ensure that even non-English speakers are protected from exploitation, the department will hire 10 additional investigators. Smith explained, "Too often, workers who

continued on back

do not speak English fall prey to unscrupulous employers who pay sub-minimum wages for excessively long workweeks. These additional bilingual investigators will help us protect this vulnerable segment of the workforce.”

Many employers view the recent wave in lawsuits as a direct result of overzealous activist groups and attorneys. And some employers even maintain that it is the foreign-born workers who are misleading employers about the hours they worked and taking advantage of the fact that employers were willing to provide a job without extensive research into the immigrant’s legal status.

While there has been a substantial increase in the number of such claims being filed, it is thus far unclear if this increase is related directly to an increase in violations.

The increase in lawsuits may in fact be twofold. First, in the past decade there has been a drastic increase in the number of wage/overtime attorneys, which leads to an increase in litigation and a decrease in government involvement.

Second, employees are more aware of their rights now than ever before. More importantly though, immigrant workers are beginning to realize that if they were exploited by an employer, they can take that employer to court, regardless of their own personal legality. In fact, in the past, courts have intentionally banned employers from attempting to prove that a case is invalid because a worker was not born in the United States and thus not entitled to benefits of native employees. Courts are sending the message that even if workers are not legal, they still should be compensated properly.

ON THE NET

Southern Poverty Law Center
www.splcenter.org

New York State Department of Labor
www.labor.state.ny.us/pressreleases/2007/May03_2007.htm

U.S. Department of Labor
www.dol.gov