



**MAKING
SMALL
CLAIMS
COURT
WORK FOR
NEW YORK CITY
WORKERS**

*A Report on Workers
Experiences Filing Claims for
Unpaid Wages in New York
City's Small Claims Courts*

**Workplace Justice Project
MFY LEGAL SERVICES, INC.**

JULY 2006

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MFY Legal Services, Inc.

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**MFY Legal Services, Inc.
2006**

EXECUTIVE SUMMARY

Low-wage workers in New York City face daunting challenges in their efforts to earn enough money each week to make ends meet. Workers can toil for weeks—or even months—and never receive the wages they were promised.

Small Claims Court is a potentially potent tool for workers to recover unpaid wages. Workers who manage to navigate the claims process and have their cases heard by a judge or arbitrator generally win a judgment; in fact, our survey found that four out of five were successful in getting favorable rulings.

But a large percentage of workers who won their cases never collected the money they were owed. Unfortunately, without enforcement, the judgment is nothing more than a piece of paper.

Thousands of workers and their families suffer great hardship when they do not receive their rightful wages, and all levels of government lose tax revenue as a result. Several simple but powerful changes will ensure that more workers actually recover unpaid wages after a favorable judgment from the Small Claims Court. MFY Legal Services, Inc. recommends that:

- The Small Claims Court should actively help workers get information on the employers' assets and licenses that will enable them to enforce judgments for unpaid wage claims as required in Article 18 of the New York Civil Court Act .
- The New York State Legislature should consider amending the New York Civil Court Act to strengthen and improve mechanisms for collecting judgments.
- The New York State Legislature should mandate free legal assistance to workers with unpaid wage claims and allocate resources for this purpose.
- The Small Claims Court should make the filing process more accessible to low-income workers and immigrant litigants by providing greater access to interpreters during the filing process. Additional resources should also be allocated to the Small Claims Court for interpreters.
- Filing fees should be waived for claims under \$1,000.

SUMMARY OF KEY FINDINGS¹

WORKERS WIN FOUR OUT OF FIVE CASES HEARD

- ◆ Slightly over half of all wage and salary claims filed in New York City's Small Claims Courts between January 1, 2003 and August 19, 2005 resulted in a decision; of these 80% were resolved in favor of the worker, while 20% were resolved in favor of the defendant. Forty-nine percent of all claims were settled, dismissed, or otherwise closed.
- ◆ 70% of surveyed workers would file a claim in Small Claims Court again.
- ◆ 81% of surveyed workers found the Small Claims Court personnel helpful in filing their claims.

MANY WORKERS WHO WIN ARE UNABLE TO COLLECT THEIR WAGES

- ◆ 40% of surveyed workers who won judgments in Small Claims Court were unable to collect their money from their employers.
- ◆ Only 31% of workers who obtained the services of a sheriff or marshal in an attempt to enforce their judgments were able to collect their money from their employers.
- ◆ 42% of surveyed workers said they did not receive information or advice from Small Claims Court personnel on how to enforce their judgments.

WORKERS NEED BETTER INFORMATION AND MORE HELP TO NAVIGATE THE COURT

- ◆ 87% of surveyed workers did not know it was possible to file claims in Small Claims Court through the Internet; 60% would have used the Internet to file their claims instead of filing them at court.
- ◆ 84% of surveyed workers said the government should provide free legal services for individuals who want to file in Small Claims Court for unpaid wages.
- ◆ 83% of surveyed workers did not know that filing fees can be waived for people who cannot afford them.
- ◆ 56% of surveyed workers did not know that the maximum claim amount for New York City's Small Claims Courts had increased from \$3,000 to \$5,000 as of January 1, 2004.
- ◆ Interpreters are widely used at hearings: 35% of cases in Queens; 28% of cases in the Bronx; and 16% of the cases heard in Kings County's Small Claims Court. However, a procedure is needed to ensure that non-English speakers get information and assistance in the filing process.

INTRODUCTION

As MFY Legal Services, Inc. developed its Workplace Justice Project, scores of low-wage earners came to us for help in collecting unpaid wages. Under New York State and federal law, all workers, regardless of their immigration status, have the right to be paid for their work.² When an employer fails or refuses to pay a worker his or her wages, a low-wage earner has few realistic options. Few can afford to hire a private lawyer to sue the employer, and in most cases an attorney's fee would exceed the amount of wages the worker is attempting to recover.³ The worker could file a complaint with the state⁴ or federal⁵ Department of Labor, but this approach has proven to be increasingly ineffective,⁶ with the state taking over a year to investigate claims.

Hundreds of workers have found their way to MFY's Workplace Justice Project, but our resources are limited and we are unable to represent all who seek our help. In order to help as many workers as possible recover unpaid wages, MFY encouraged workers to file claims in Small Claims Court, and with the help of law students and pro bono attorneys, we held several Small Claims Court Clinics to assist workers in documenting and preparing their claims. Many of those MFY helped were successful in winning their claims in Small Claims Court, although others found the procedure confusing.

Popularly dubbed "the people's court," Small Claims Court is intended to be a simple, inexpensive and informal court where people may represent themselves, without the assistance of a lawyer. For instance, rules of procedure are relaxed in Small Claims Court. Cases are automatically scheduled for the evening so that most people do not have to miss work to bring their lawsuits, and daytime hours are also available. Interpreters are also available upon request for hearings, and online filing is available.

Because the Small Claims Court has the potential to help many workers recover their unpaid wages at lower cost and in less time than other avenues, and because the problem affects so many low-wage earners, MFY believed it was time to take a close look at how well workers fare in the court and to propose changes the court and lawmakers could implement to make the process easier and the outcomes more successful for workers.

This report offers a preliminary look at the success that New York City workers have had in recovering their unpaid wages by filing a claim in Small Claims Court. By evaluating court data, survey results, and personal observations of field study participants, the report summarizes the experiences some of these workers have had using the procedures currently in place. The data reveals that while some workers have been successful in recovering their unpaid wages, the courts should take pro-active steps to enable workers to get information on employers' assets and licenses in order to enforce judgments. Additionally, the New York State Legislature should consider amending the law to strengthen procedures for collecting judgments.

We see unpaid wage cases in construction, restaurants, retail, and garment factories. Small Claims Court is a relatively accessible and affordable option for many workers. However, it's nearly impossible to collect many judgments awarded.

–Deborah Axt
Coordinator of
Legal & Support Services
Make the Road by Walking

NEW YORK CITY'S SMALL CLAIMS COURT: THE "PEOPLE'S COURT"⁷

We advise or represent hundreds of workers each year, many of whom report that they worked but were denied payment by unscrupulous employers who use myriad schemes to rob workers of their rightful pay. For low-wage workers who commonly face such working conditions and where small, but not insubstantial, sums of pay are at stake, Small Claims Court is an attractive alternative to a protracted and costly legal struggle.

–Tosh Anderson
New York
Unemployment Project

Small Claims Court is an important model for how the self-represented can achieve their goals in the civil justice system. Established in 1934, New York City's Small Claims Court began hearing claims for up to \$50 and disposed of 11,190 cases in its first year. Today, these courts hear claims of up to \$5,000 (increased since 2004 from \$3,000) and average 42,000 filed claims each year.⁸ There are now two Small Claims Courts in Manhattan and one in each of the other boroughs, and claimants can file in any location.

Because Small Claims Court hears claims involving relatively small amounts of money compared to other courts, it is designed to be more simple, informal, and inexpensive than other courts. New York City's Civil Court Act (CCA) expressly provides for an "[i]nformal and simplified procedure" in Small Claims Court, while also mandating that the court does "substantial justice" between the parties in a case.⁹ Other provisions of both the CCA and New York State's Civil Practice Law and Rules (NY CPLR) aim to ensure that New York City's Small Claims Courts are more accessible, user-friendly, and inexpensive than the city's other courts. For instance, the CCA requires each Small Claims Court to hold an evening court session at least once a month;¹⁰ in practice, Small Claims Courts in the Bronx, Queens, Brooklyn and lower Manhattan are open four nights a week, and the courts in Harlem and Staten Island are open one night a week.

The CCA also allows non-attorneys to appear in court on behalf of a claimant, as long as the non-attorney representative is associated with the claimant and the court finds that "due to the age, mental or physical capacity or other disability of such party that it is in the interests of justice to permit such representation."¹¹ In addition, the NY CPLR provides that a person may, with the court's permission, proceed "in forma pauperis"—as a poor person—and thereby be excused from paying the costs, fees and expenses necessary to file a claim.¹²

The procedure for filing a claim is relatively simple: the claimant fills out a one-page form and pays the fee. The Court serves notice on the defendant by regular and Certified Mail/Return Receipt Requested, and sets a hearing date for evening hours unless the claimant requests a daytime hearing. A handbook on Small Claims Court (known as the "Blue Book") is available in English, Spanish and Chinese and given to all claimants. Information is also available on the Court's web site.

FINDINGS

■ 80% OF WORKERS WHOSE CASES ARE HEARD WIN FAVORABLE JUDGMENTS

Between January 1, 2003 and August 19, 2005, 2,878 wage and salary claims were filed in New York City's Small Claims Courts. Of these claims, 1,198, or 42%, were decided by a judge or arbitrator in favor of the worker-claimant, while 9% were resolved in favor of the employer-defendant; the remaining claims were settled, dismissed, or otherwise closed. Therefore, four out of five workers whose cases were decided by a judge or arbitrator received a favorable ruling. There is insufficient information to draw any conclusions on the success of workers from the claims that were settled, dismissed or closed. Exhibit A on page 14 shows the breakdown of cases among the city's six Small Claims Courts.

■ COLLECTING THE JUDGMENT IS THE GREATEST CHALLENGE

◆ 40% of workers were unable to collect unpaid wages despite favorable rulings.

The Small Claims Court's statistics on the percentage of judgments favorable to workers do not reveal how many of these worker-claimants were ultimately successful in enforcing their judgments—that is, collecting the money that the court determined is owed to them by the defendants. However, of the workers surveyed for this report, 40% reported that despite the fact they had won judgments in Small Claims Court, they were unable to collect their money from their employers. One surveyed worker said he "spent a lot of money on fees and received no money back." Another surveyed worker commented that "it's not the procedure but the fact that you get to a 'dead end' and can't collect on your claim." Others felt the Court should help to enforce judgments.

◆ Sheriffs and Marshals collected unpaid wages in only 30% of the collections they handled.

One way for a worker to try to enforce his or her judgment is to enlist the assistance of sheriffs or marshals. Sheriffs and marshals have the authority to go after the assets of an employer against whom a worker has obtained a judgment. Sheriffs are employed by the county, but marshals work independently. Thirty-six of 110 workers, or 33%, who obtained the services of sheriffs or marshals in an attempt to enforce their judgments were able to have the judgments enforced in 2003. In 2004, 33 of 121 claimants, or 27%, were able to get their judgments enforced through the services of sheriffs or marshals.

Marshals were generally more successful than sheriffs in getting judgments enforced, with a satisfaction rate of 39% in 2003, as compared to 30% for sheriffs, and a satisfaction rate of 30% in 2004, as compared to 26% for sheriffs. The reason for the success of the marshals may be that they work independently and have a greater incentive to enforce judgments because they receive a per-

We represent domestic workers Our members have gone to Small Claims Court with mixed success. One caregiver was able to collect her wages, while another has a judgment but cannot collect on his hard-earned wages.

—Damayan Migrant Workers Association

59% of restaurant workers surveyed reported overtime violations and 13% reported minimum wage violations.

–Behind the Kitchen Door: Pervasive Inequality in New York City’s Thriving Restaurant Industry (2005)

Statistics on interpreters show a strong need for interpreters in Small Claims Courts, particularly in Queens and Bronx counties.

centage of the judgment. These statistics suggest that while sheriffs and marshals are sometimes effective in getting judgments enforced on behalf of claimants, at least two-thirds of the claimants who obtained the services of sheriffs or marshals in 2003 and 2004 were unable to collect the money they were owed under their judgments through this means.

■ **INFORMATION IS OFTEN DIFFICULT TO GET**

◆ **42% of workers surveyed said they received no information on how to enforce their judgments.**

Information on collecting judgments is in the Blue Book given to all claimants, and contact information for sheriffs and marshals is included with the written decision sent to claimants. Despite these mechanisms, 42% of workers surveyed said that they did not receive any information about enforcement mechanisms from Small Claims Court personnel. For instance, before sheriffs and marshals can pursue an employer’s assets, a worker must obtain information about those assets. Sixty percent of surveyed workers reported, however, that their judge or arbitrator did not ask their employer about his or her assets during the hearing.

◆ **Non-English speakers have particular problems getting information to file claims.**

Workers whose primary language is other than English have also been able to access Small Claims Court. Between January 1, 2003 and August 19, 2005, interpreters were used in 35% of the cases heard in Queens County, 28% of the cases heard in Bronx County, and 16% of the cases heard in Kings County. While interpreters are generally available for hearings, they are not widely available to assist people who are seeking to file claims or who have general questions regarding Small Claims Court. While the Small Claims Court employs bilingual personnel, there appears to be no clear procedure for a claimant to request interpretation at the filing stage of the process. The field study participants who visited the city’s Small Claims Courts for this report observed that on numerous occasions prospective claimants who asked court personnel multiple questions about the process had difficulty fully comprehending the responses because of a language barrier.

◆ **Over half of workers filing claims did not know that the maximum claim amount had increased to \$5000.**

Information on the maximum claim amount of \$5000 is set forth in the Blue Book, printed on claim forms, and posted at the court house. Nevertheless, 56% of surveyed workers said they did not know about this increase. In 2003, most wage and salary claims filed were made for amounts in the then-highest range of \$1,001-\$3,000. (The ranges used by the courts in evaluating their data are \$0-\$300, \$301-\$1,000, \$1,001-\$3,000, and \$3,000-\$5,000.) Despite increasing the maximum claim amount to \$5,000 in 2004, most claims that year were still made for amounts in the \$1,001-\$3,000 range in all but one of the city’s Small Claims Courts.¹³ In 2005, data through August 19, 2005 indicates that, overall, the greatest number of claims is for amounts in the now second-highest

\$1,001-\$3,000 range, despite the increased maximum claim amount of \$5,000. It is difficult to determine whether this discrepancy is the result of a lack of awareness among claimants that the maximum claim amount had increased on January 1, 2004 from \$3,000 to \$5,000, or simply that most wage claims fall below \$3,000. While the Small Claims Court web site contains accurate information, several advocacy organizations' web sites with information on the Small Claims Court process still list the maximum claim amount as \$3,000.

♦ **Most workers did not know that filing fees can be waived for those who cannot afford them.**

The filing fee is \$15 for a claim under \$1,000 and \$20 for a claim over \$1,000. Although the possibility to have fees waived is mentioned in the Blue Book, 83% of surveyed workers said they did not know that fees could be waived for those who cannot afford them.

♦ **Workers want better information and more help.**

Although generally positive about their experience with the Small Claims Court, 84% of surveyed workers felt that the government should provide free legal services for individuals who want to file in the Small Claims Court for unpaid wages. Fifty-nine percent felt that Small Claims Courts should implement changes to help workers file claims; of these,¹⁴

- ♦ 28% said that the courts should make a Customer Services Officer available.
- ♦ 24% said that the courts should provide Internet access.
- ♦ 23% said that an information booth should be installed at the courts.
- ♦ 21% said that the courts should provide more printed materials.
- ♦ 11% said that the courts should provide more language assistance.¹⁵

One surveyed worker commented that *"there should be someone to take you through the process and advise ... my loss was too low to warrant hiring a lawyer."*

♦ **Workers said they would use the court again.**

Observers believe that many workers were pleased to get a favorable judgment even if they were subsequently unable to collect the wages they were owed. 70% of surveyed workers said that they would file a claim in Small Claims Court again. One surveyed worker stated that Small Claims Court *"gives the average person a place to get justice."* Another surveyed worker found Small Claims Court *"helpful when one cannot afford an attorney."* Still another surveyed worker said, *"There's no other choice."* Thus, it is very important to make the process work for workers.

Although some of the Court's written materials may be difficult for claimants to understand, especially for those whose primary language is not English, 81% of surveyed workers indicated that they found Small Claims Court personnel helpful in filing their claim. 67% felt that their judge or arbitrator had been fair.

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It's not the procedure but the fact that you get to a 'dead end' and can't collect your claim.

—Survey Respondent

RECOMMENDATIONS

Based on the findings of this study, MFY Legal Services, Inc. recommends that the Small Claims Court take a more active role in assisting workers to enforce judgments for unpaid wages and improve access to information and assistance in filing claims. Six months after implementing these recommendations, the court should conduct an additional study of the data to determine the impact of changes on workers' ability to recover unpaid wages and use the court more easily.

■ THE COURT SHOULD ACTIVELY ASSIST WORKERS IN ENFORCING JUDGMENTS AS REQUIRED IN ARTICLE 18 OF THE NEW YORK CITY CIVIL COURT ACT.

- ◆ Judges and arbitrators should ask the defendant to provide information regarding his or her assets, such as bank accounts or real property, in order to make it easier for the claimant to collect the judgment.¹⁶ In practice, however, it appears that judges and arbitrators only ask for this information if the claimant requests them to do so. Since judges and arbitrators generally do not rule from the bench, they may refrain from asking this information in order to avoid the appearance of favoring one side over the other. However, the statute clearly empowers the judge “to order examination of, or disclosure by, the defendant and restrain him prior to entering judgment.” To conclude the hearing without getting this information severely undercuts a claimant’s ability to enforce the judgment.
- ◆ Section 1804 of the Small Claims Act requires judges and arbitrators to determine the appropriate state and local licensing agency of which defendant is a member and permits the court to notify the agency if defendant is in default of a judgment. There should be greater collaboration between Small Claims Court and agencies with a potential role in helping to get judgments enforced, including the Department of Consumer Affairs, Department of Motor Vehicles, New York State Department of State, and the state or local licensing or certifying authority.¹⁷
- ◆ Defendants engaged in repeated and illegal acts should be reported to the Labor Bureau of the Attorney General, so that their office can conduct appropriate investigations of defendants that repeatedly violate Labor Laws.¹⁸
- ◆ Information on how to enforce judgments (including the need to get information on assets during the hearing) should be made available to claimants in a more understandable and user-friendly format.¹⁹

■ THE COURT MUST MAKE THE FILING PROCESS MORE ACCESSIBLE TO LOW-INCOME WORKERS AND IMMIGRANT LITIGANTS.

- ◆ Although the Court distributes a comprehensive handbook (the “Blue Book”) in three languages, the breadth of the material may be overwhelming and the information may be too technical for many claimants to use effectively. A series of simpler, one-page fact sheets geared solely to information needed by wage claimants given out at appropriate points in the process (e.g. at filing; at the hearing; when decision is rendered) may be more useful than the larger handbook and easier to produce in multiple languages.
- ◆ Statistics show that the Small Claims Court does a good job in making interpreters available for hearings. A procedure is needed to provide access to interpreters during the filing process as well.
- ◆ A Customer Services Officer or Information Officer should be available at the court to assist claimants by answering basic questions about Small Claims Court and the claim process and to help access interpreters.
- ◆ Computers with Internet access should be made available to the public at the Court to allow claimants to look up correct business names and addresses or to file their claims on-line. E-filing should be available for the same fee as in-person filing.

■ THE NYS LEGISLATURE SHOULD STRENGTHEN THE LAW AND PROVIDE GREATER RESOURCES TO HELP WORKERS COLLECT UNPAID WAGES

- ◆ The New York State Legislature should mandate that free legal services be provided to assist claimants in filing their wage claims and in enforcing their judgments and should allocate resources for this purpose.
- ◆ The New York State Legislature should amend the law to require the Small Claims Court to track unsatisfied judgments and to require defendants to demonstrate to the court that a judgment has been paid, or that efforts have been made to pay the judgment, within 30 days of receipt of the judgment.
- ◆ The New York State Legislature should eliminate filing fees for claims under \$1,000.

There should be someone to take you through the process and advise . . . my loss was too low to warrant hiring a lawyer.

–Survey Respondent

Implementing some simple but powerful changes could help more workers recover their rightful earnings from their employers.

CONCLUSION

Filing a claim in Small Claims Court is potentially a powerful means of wage recovery for all workers, particularly low-wage or minimum-wage workers. A worker in New York City who works 40 hours a week, 52 weeks a year, at the current state minimum wage of \$6.75 an hour has an annual income of \$14,040, less applicable taxes and deductions. For such a worker, the current maximum claim amount of \$5,000 covers 35% of his or her annual pre-tax income. Through Small Claims Court, a minimum-wage worker can therefore potentially recover a substantial portion of his or her annual wages without the assistance of a lawyer.

Small Claims Court has already shown itself to be effective in helping some workers obtain judgments in their favor. Implementing some simple but powerful changes, however, could help more of these workers actually recover their rightful earnings from their employers. The Court could take pro-active steps to help workers get the information they need about employers' assets and licenses to enforce judgments. Workers could be given clearer information about their right to request this information during a hearing. Likewise, judges and arbitrators should ask defendants for this information at the hearing even if they are reserving judgment and informing the parties of the decision by mail. To not ask for this information when the law clearly allows it is to reduce the worker's chances of collecting a judgment, thereby undermining the worker's ability to get justice.

Small Claims Court personnel are very helpful to claimants but they are not allowed to give legal advice that would help workers prepare their cases and ask the right questions at a hearing. Many workers, especially those who are unfamiliar with the justice system or intimidated by it, need such advice and counsel to succeed in winning their claims. A small number may need representation. The New York State Legislature should mandate such services and allocate resources to provide them.

METHODOLOGY

This study comprises data collected from court records and court personnel, surveys of wage and salary claimants, and personal observations made by field study participants in August 2005.

Data from court records and court personnel. In August 2005 a team of five field study participants visited seven of New York City's eight Small Claims courts²⁰ and collected data samples from the courts' public records regarding wage or salary claims that had been filed with the courts between January 1, 2003 and August 19, 2005. This data consisted largely of case cards corresponding to particular claims, as well as copies of motions filed with those claims, if any. All claims for \$300 or less (known as "wage claims") filed with the courts were included in these data samples. Claims for over \$300 are known as "salary claims". Because of the large number of salary claims filed with the courts, the team obtained a representative sampling equaling one-fourth of all salary claims filed. The team's purpose was to obtain a general sense of the type and amount of information contained on the case cards and to determine whether the types of issues addressed in any accompanying motions demonstrated any patterns.

The team also conducted informal interviews of personnel and clerks in each Small Claims Court. The purpose of these interviews was to collect procedural and anecdotal information about each Small Claims Court, including the following: (1) the availability of court interpreters; (2) the number of claims filed in a given year; (3) the number of Small Claims judges and arbitrators; and (4) general thoughts on the process of filing claims in Small Claims Court.

The team also obtained statistics from Marcello Ritondo, Principal Network Administrator of the Civil Court of the City of New York, regarding all wage and salary claims filed between January 1, 2003 and August 19, 2005 in all of New York City's Small Claims Courts. This data contained the following information: (1) the amounts for which wage or salary claims were filed; (2) the amounts that were awarded to wage or salary claimants, if any; (3) the number of cases in which judgments were issued in favor of the claimant; (4) the number of cases in which interpreters assisted claimants; and (5) the number of claims satisfied (the number of judgments for which claimants were able to collect money) with the assistance of sheriffs or marshals.

The first draft of this report was shared with Joseph Gebbia, Chief Clerk of the Small Claims Court, in early April for comment and discussion. Many of his ideas were subsequently incorporated into this report.

Surveys of wage and salary claimants. Surveys were mailed to 3,000 claimants, using addresses obtained from the data samples of the courts' public records. Of these surveys, 388 were translated into Spanish, 46 into Russian, and 43 into Chinese and were sent to applicants who had indicated one of these as their primary language when filing their claims. Of the 3,000 surveys mailed, 311 were "returned to sender." Each four-page survey asked 22 questions regarding the claimant's experience filing a claim in Small Claims Court to try to recover unpaid wages or salary. A total of 171 completed surveys were collected, with 161 surveys returned by mail and additional surveys conducted over the telephone. Of these completed surveys, 155, or 91%, were in English; 12, or 7%, were in Spanish; and 4, or 2% were in Chinese.

Personal observations made by field study participants. In the course of visiting the city's Small Claims Courts, the field study participants made their own observations. Some of these observations, where supported by survey responses, have been included in this report.

Tabulation of results. The data samples of the court records were analyzed and the results of the data analysis then entered into tables, some of which are contained on page 14 of this report. Survey responses were tabulated and then entered into survey result grids.

Exhibit A

CLAIMS FILED BY COUNTY

January 1, 2003 to August 19, 2005

Small Claims Court	Total number of claims filed	Claims decided in favor of claimant (woker)	Claims decided in favor of defendant (employer)
Brooklyn	853	369 (43%)	97 (11%)
Queens	794	315 (40%)	50 (6%)
Bronx	357	152 (43%)	34 (10%)
Manhattan	673	291 (43%)	60 (9%)
Staten Island	114	39 (34%)	16 (14%)
Harlem	87	32 (37%)	5 (6%)

Exhibit B

NUMBER OF CASES REQUIRING INTERPRETERS

January 1, 2003 to August 19, 2005

Small Claims Court	Total number of claims filed	Total number of cases where an interpreter was used
Queens	794	280 (35%)
Bronx	357	100 (28%)
Brooklyn	853	140 (16%)
Harlem	87	9 (10%)
New York	673	58 (9%)
Staten Island	114	8 (7%)

NOTES

- ¹ These findings apply to New York City's Small Claims Courts only, and only to those claims filed between January 1, 2003 and August 19, 2005.
- ² 2003 N.Y. Op. Atty. Gen. 13, 2003 N.Y. Op. Atty. Gen. No. F3, 2003 WL 22522840 (N.Y.A.G.).
- ³ There is no right to free counsel for workers with minimum-wage disputes, and only a smattering of pro-bono attorneys to take their cases. Dan Bell, *Worried about the Wage, City Limits*, March/April 2005.
- ⁴ N.Y. S. Dept. of Labor, http://www.labor.state.ny.us/workerprotection/wp_combo_index.shtml (last visited June 1, 2006). According to its website, the New York State Department of Labor's Division of Labor Standards enforces various New York State statutes protecting the wages and working conditions of workers in private sector employment.
- ⁵ U.S. Dept. of Labor, <http://dol.gov/dol/topic/wages/index.htm> (last visited June 1, 2006). According to its website, the U.S. Department of Labor enforces the Fair Labor Standards Act (FLSA), which sets basic minimum wage and overtime pay standards; these standards are enforced by the Department's Wage and Hour Division, a program of the Employment Standards Administration.
- ⁶ A recent study shows that while the number of workers covered by wage and hour laws grew by 55% between 1974 and 2005, the number of workers who received back wages through U.S. Department of Labor efforts declined by 24% during the same period. Annette Bernhardt & Siobhán McGrath, *Trends in Wage and Hour Enforcement by the U.S. Department of Labor, 1975-2004*, (Brennan Center for Justice, Economic Policy Brief, No. 3 September 2005). Although the state Department of Labor's enforcement rates have improved in 2005, complaints filed with that department still frequently take over a year to close. Tracie McMillan, *Wage-ing War: Workers Get More Help From State, City Limits*, Oct. 17, 2005.
- ⁷ Civil Court of the City of New York, [A Guide to Small Claims Court 2](#) (2004).
- ⁸ *Id.*
- ⁹ NY City Civ Ct Act § 1804.
- ¹⁰ *Id.*, § 1802.
- ¹¹ *Id.* § 1815.
- ¹² CPLR § 1101.
- ¹³ The exception is Harlem's Small Claims Court, where the greatest number of claims filed in 2004 was for amounts in the highest range of \$3,001-\$5,000.
- ¹⁴ The survey permitted respondents to indicate that one or more changes would be helpful.
- ¹⁵ Of the 11% who said that the courts should provide more language assistance, ten surveyed workers indicated specific languages: Chinese (5); Spanish (1); Russian (1); Urdu (1); Arabic (1); and French (1).
- ¹⁶ NY City Civ Ct Act § 1803(b) (referring to "the ability of the court prior to entering judgment to order examination of or disclosure by, the defendant and restrain him") and § 1805(a) (same).
- ¹⁷ *Id.*, § 1811(a)(6-7) (providing that the notice of judgment sent to the judgment debtor shall specify that a failure to satisfy a judgment may subject the debtor to a number of actions, including suspension of his motor vehicle license and registration, if the claim is based on the debtor's ownership or operation of a motor vehicle, and revocation, suspension, or denial of renewal of any applicable business license or permit).
- ¹⁸ *Id.* § 1804.
- ¹⁹ *Id.* § 1803(b) (providing that the court clerk shall provide every claimant with information regarding, among other things, collection methods and fees).
- ²⁰ The field study participants did not visit the Midtown Community Court in Manhattan. That Court closed in October 2005.

SUCCESS STORIES FROM MFY'S DOCKET

An overwhelming majority of respondents to the Small Claims survey (84%) believed that the Court should provide free legal services for workers filing unpaid wage claims. These recent cases from MFY's docket illustrate how important legal help can be to workers who have been exploited by employers.

MARILYN H., an immigrant from the Caribbean, worked for a summer camp for three weeks before her employer found out that her work authorization had expired. The employer fired her but when she asked to be paid for the work she had already performed—as is required under federal and state law—the employer refused and threatened to report her to immigration authorities.

Marilyn H. filed a small claims action and her case was heard by an arbitrator. Again the employer, this time accompanied by his general counsel, warned Marilyn that if she pursued her claim, they would have to report her to immigration. Frightened and unsure of her rights, Marilyn withdrew her claim.

When Marilyn received the Small Claims survey in the mail, she contacted MFY about her case. We counseled her to re-file the claim, with additional damages for the illegal threats of retaliation she suffered. Through negotiation with her former employer, MFY managed to settle her case for the maximum amount owed.

JOHN L. is a low-income New Yorker who moves in and out of employment. When he came to MFY, he had been recently evicted from his apartment and was teetering on the edge of homelessness. John had worked as a foot messenger for a company for a few months. The per-trip rate the employer paid fell below the minimum wage. With the help of MFY, John filed a Small Claims action to recover the unpaid wages. MFY attorneys gave John legal advice and arguments to convince the judge that he was an employee of the messenger service—and thus entitled to the minimum wage—rather than an independent contractor, as they claimed. John was able to successfully represent himself at the hearing. He is now in the process of enforcing his judgment.

CLAUDE M., an immigrant worker from West Africa, was trying to get back to his country. He contacted MFY for help in settling an unpaid wage claim. MFY began negotiating with his former employer, but the talks stalled when the employer refused to return phone calls. After MFY helped Claude file a Small Claims action, the employer agreed to settle the claim. Claude received the settlement check just a few weeks before he moved home to rejoin his family.

ABOUT MFY

MFY Legal Services, Inc. was founded in 1963 as the legal arm of Mobilization for Youth, a lower Manhattan community organization, and was incorporated as an independent legal services organization in 1968. Our mission is to ensure that no low-income New Yorker is denied equal access to justice because he or she cannot afford an attorney. For the past 42 years we have worked in concert with community social service providers and advocates to provide legal advice, counsel and full representation to low income New Yorkers on housing, public benefits, health care, civil and disability rights, employment and family matters. Our highly trained legal staff handles 4,000 cases a year and gives information and referral to another 2,500 callers.

MFY initiates class action lawsuits and other litigation to challenge underlying inequities, advocates for policies and programs that promote equal access to justice, and works with community organizations on vital issues that affect large numbers of New Yorkers.

In 2003 MFY initiated the **Workplace Justice Project** to respond to the growing legal needs of New York City's low-wage workers. The Workplace Justice Project provides advice, counsel and representation in court to workers on a wide range of issues, including wage and hour violations, unemployment insurance benefits, discrimination, unsafe conditions, denial of licenses, and other employment-related matters. The Project handles over 400 cases each year and works closely with community-based organizations and workers' centers.

In addition to the Workplace Justice Project, MFY's other projects provide a wide array of civil legal services to low income New Yorkers:

The **Neighborhood Preservation Project** helps Manhattan residents preserve affordable housing by advising and representing clients facing eviction and other landlord-tenant problems. Our **East Side SRO Law Project** assists residents of single room occupancy buildings to fight illegal conversions, evictions, and harassment by landlords.

The **Mental Health Law Project** helps mental consumers throughout the city remain in the community by ensuring that income streams and health benefits are maintained and by preserving affordable housing in private apartments, supportive housing, residential programs and adult homes.

The **Adult Home Advocacy Project** defends the rights of adult home residents citywide and pursues individual and affirmative litigation on issues that impact these residents.

The **Pro Bono Family Law Project** provides free representation to kinship caregivers who are seeking legal guardianship or custody of children in their care, and foster parents who are finalizing adoptions of children in their care.

Begun in 2005, the **Manhattan Legal Aid for Seniors Project** helps seniors remain in their homes, providing advice, counsel and representation on housing, public benefits, health care, elder abuse and other vital issues.

Also launched in 2005, the **Consumer Law Project** helps low-income people who are the victims of an improper judgment, financial scam, identity theft, or other form of financial exploitation.

For more information on MFY, visit our web site at www.mfy.org



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