

Many Workers Fail to Collect in Small Claims Court, Survey Finds

By ANTHONY RAMIREZ

For one health care worker, the job began at 7 a.m. most days and ended, unhappily, months later.

He would ease his bulky patient, crippled by diabetes and a stroke, out of bed into a wheelchair, would help him in the lavatory, would bathe him. At one point, the man was working 24-hour shifts. Suddenly, he stopped getting paid.

The patient's daughter said, he would be paid soon. Weeks passed and still, the man did not get paid.

The worker felt he had no choice but to quit. Later, he took the man's family to Small Claims Court and won a \$5,000 judgment, the maximum. And he still did not get paid, until a year later, in 2005, when the family sold some real estate and the court directed that some of the proceeds go to the worker.

"Small Claims Court has no teeth," the man said. "In my case, if they had not decided to sell, I would not have gotten the money." The middle-aged man, who was a businessman in the Philippines before becoming a health aide in the United States, was granted anonymity because he is an illegal immigrant.

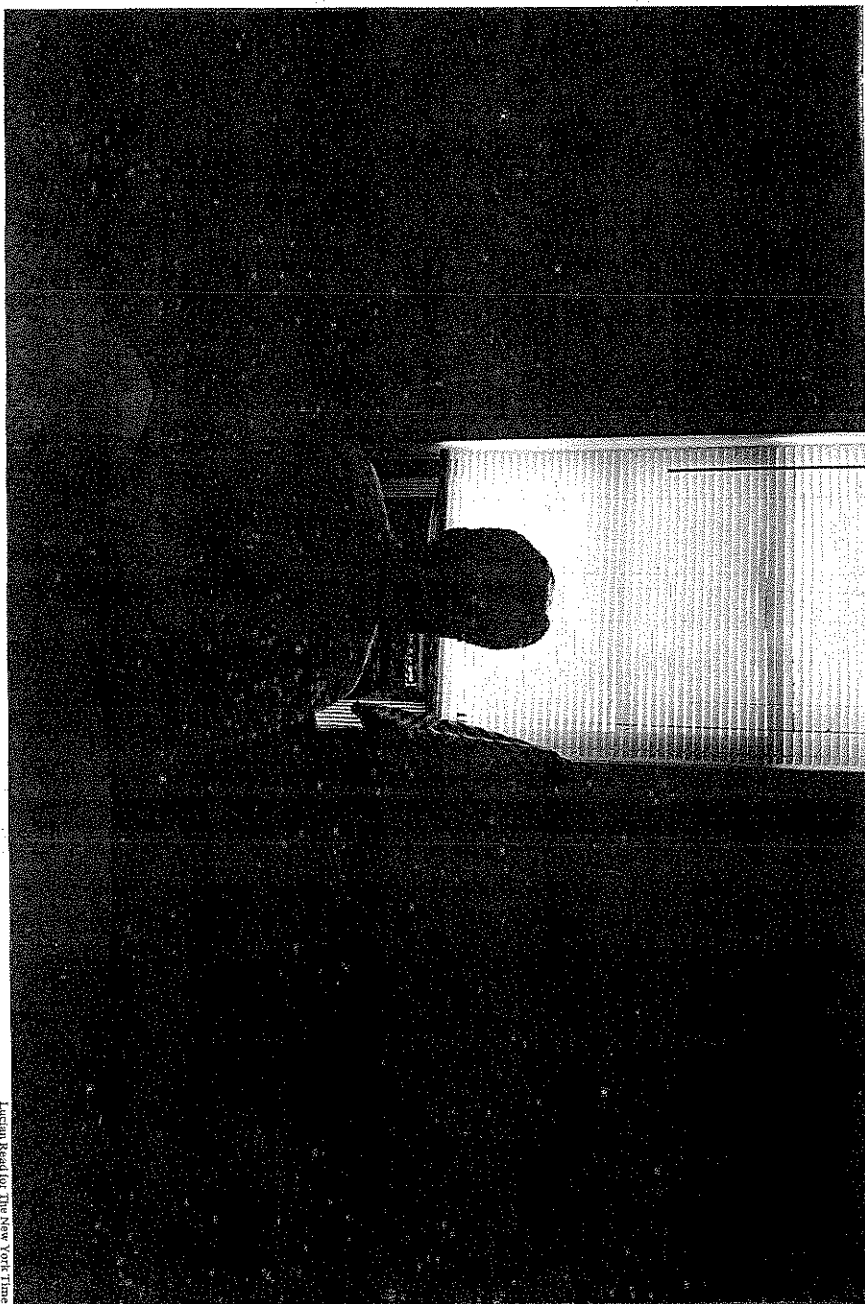
The worker is not alone, according to a study to be released soon by MFY Legal Services in Manhattan, a group that works with community organizations to provide free legal assistance to those in greatest need.

The study suggests an inability of the court to enforce its judgments, with perhaps one of three plaintiffs who win their cases unable to collect.

The survey, intended to lobby for reform of the Small Claims Court, is not statistically representative because of a low percentage of responses, MFY mailed the surveys, in English, to 3,000 claimants seeking back pay, and 161 completed forms were returned. More than 90 percent of the completed surveys were in English. MFY also conducted 19 telephone interviews.

Low-wage workers like busboys, bike messengers, construction workers and nannies — some of whom are illegal immigrants — often win cases in Small Claims Court, the study suggests, yet cannot recover back wages, even with the help of a sheriff or marshal.

Of those surveyed, close to half of those who won a court decision were



Lucian Reed for The New York Times

A health aide who won his case in court had a hard time collecting money. A survey by a legal aid group found that his difficulties are common.

unable to recover money, the report suggests. "This is very common with low-wage workers," said Chaumtoli Hing, a former MFY lawyer and the lead author of the report.

"It's not usually a lot of money — \$100 or \$200 or \$300 — but it's money they need for food and shelter," Ms. Hing said. "And workers, especially those who are illegal, tend to wait and hope and trust the promises of their employers. And when they do win in court, they wait and wait, often without satisfaction, unless they get a break."

MFY, founded in 1963 as the legal arm of Mobilization for Youth, recommended some remedies in its report, like having the court require employers to identify bank accounts and other assets; pressuring government regulators not to renew liquor licenses, construction permits and other documents for recalcitrant employers; and asking the New York State Legislature to require courts to track unsatisfied judgments.

With more than 50,000 cases filed, the Small Claims Courts of New York City describe themselves as some of the busiest courts in the world. Sessions are held mostly at night, for the convenience of working families, often before volunteer arbitrators.

Complex rules of evidence are relaxed or simplified, and court fees are \$20 or less for a one-page form. Litigants typically represent themselves rather than use a lawyer.

MFY conducts small claims court clinics so workers can better present their cases.

The MFY survey looked at claims exceeding \$300 at seven of the city's eight Small Claims Courts. The first draft of the report was shared with Joseph J. Gebbia, chief clerk of the Small Claims Court.

From January 2003 to August 2005, nearly 2,400 wage and salary claims were filed with the courts. Of these claims, nearly 1,200 — or more than 40 percent — were decided in favor of workers. Nine percent were won by employers; the rest, or 49 percent, were settled, dismissed or otherwise closed.

Nearly a third of those answering the MFY survey said they needed a sheriff or marshal to recover money. Marshals, who are paid a fraction of the recovered assets, were slightly more successful than sheriffs at getting judgments.

And chance prevails from the beginning. The worker who was not paid by his client's family is an educated professional who speaks English. A friend referred him to Danyan Migrant Workers Association, an advocacy group for Filipino domestic workers, who referred him to MFY.

"How can you win a case and still not get the money?" asked the man, who then quoted William E. Gladstone, a 19th-century British prime minister: "Justice delayed is justice denied."