

Coalition for a Real Minimum-Wage Increase

Asian American Legal Defense & Education Fund, Chinese Staff & Workers Association, Community Development Project – Urban Justice Center, Flushing Workers Center, Hunger Action Network of New York State, MFY Legal Services, National Mobilization Against SweatShops, National Center for Law and Economic Justice

NYS Department of Labor's Widespread Failure to Serve Wage Theft Victims

The Coalition for a Real Minimum Wage Increase, recently obtained documents from the New York State Department of Labor that show:

- **Backlog:** As of July 2013, the Department of Labor has more than **14,000 open cases** for unpaid wages. The Department of Labor routinely does not even start its investigations until a year or more after the worker files a complaint.
- **Delays:** The most recent records provided by DOL, from May, 2012, show more than **2,300 cases that had been open for one to two years**, and almost 1,400 cases that had been open for more than two years. Since May, 2012, it appears that the DOL has stopped keeping track altogether.
- **Failure to Enforce:** This year, the Department of Labor **cut its enforcement by half** so that, instead of investigating violations going back the full six years, as is allowed by law, it will go back only three years, except in “egregious cases.”
- **Failure to Collect:**
 - As of May, 2012, there were more than 7,000 cases designated as “pending payment” – more than 3,500 (approximately half) open for more than two years.
 - According to a 2009 study conducted by the National Employment Law Project, workers lose approximately **\$18.4 million each week** to wage theft just in New York City along, almost **\$1 billion per year**.
 - Yet, over the last five years, in the entire state the Department of Labor only collected an average of approximately \$22.5 million per year. Assuming New York City's 40% of the state residents receive 40% of these collections, the Department of Labor collects **less than 1%** of city residents' stolen wages.
- **Increasing Problem, Decreasing Resources:**
 - The running total of open cases has increased each year, to more than double from about 6,000 in 2004 to almost 13,000 in 2012 (and already more than 14,000 in 2013). During the same period, the number of cases closed each year dropped from about 7,000 to under 5,000.
 - Yet the Department of Labor's yearly budget is \$500,000 less than the 2009-2010 budget. There are only 142 employees, including only **85-90 investigators state-wide**, handling the 14,000 open cases.
- **Lack of Criminal Referrals:** In 2004 the Department of Labor sent 40 cases to the Attorney General to investigate, recover wages, and potentially criminally prosecute; since 2009, however, the Department of Labor has sent only two cases to the Attorney General.

- **No Proactive Enforcement**: The Department of Labor did not provide any documents showing recent proactive work, to go out and enforce the laws, separately from responding to worker complaints.

The Coalition for a Real Minimum-Wage Increase calls on Governor Cuomo to:

- (1) increase resources for the Department of Labor and State Attorney General's Office so that:
 - investigations are completed within six months
 - investigations of violations go back the full six years of statute of limitations
 - pro-active investigations take place in industries where violations are known to be rampant
 - more criminal investigations are initiated
 - the backlog of cases at the Industrial Board of Appeals is reduced
 - employer compliance is increased
- (2) strengthen laws and policies for more effective wage theft enforcement.

Coalition endorsers: Brandworkers, Damayan Migrant Workers Association, Domestic Workers United, Flushing Greens, Focus Churches of Albany (Albany), Harlem Community Nutrition Services Agency, Greater NY Labor-Religion Coalition, Jews for Racial & Economic Justice, Joy of Resistance, Labor-Religion Coalition of NYS (Albany), Mount Vernon United Tenants (Mount Vernon), Multi-Cultural Feminist Radio (WBAI), Judeotutor Services (Rabbi Neal Kaunfer), New Economy Project, Occupy Albany, Pelton + Associates PC, Presbyterian Church U.S.A., Ray Korona Band, St. Luke Lutheran Church, St. Raphael Parish Social Ministry (East Meadow), Sweatshop Free Upper West Side, Systemic Disorder, Trinity Lutheran Church of Manhattan, Walker Memorial Baptist Church, West-Park Presbyterian Church, West Side Campaign Against Hunger, Xavier Mission, 318 Restaurant Workers Union