

ATTORNEY GENERAL
MAURA HEALEY'S

LABOR DAY REPORT 2020



PROTECTING MASSACHUSETTS WORKERS



2020 Labor Day Report
Office of Massachusetts Attorney General Maura Healey
Cover art by Josh Yoder

A MESSAGE FROM MAURA

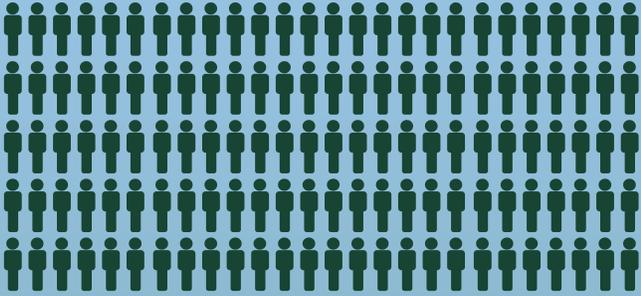
This Labor Day, we give special thanks to the extraordinary working people in Massachusetts who have continued to give their time, talent and expertise in service to others throughout the COVID-19 pandemic. Their contributions to our families, neighbors and communities in this time of uncertainty and upheaval has shown the important role they play in keeping our state strong and our economy running. From health care workers and first responders, to grocery store and pharmacy employees, custodians, delivery drivers, transit workers, and warehouse and food production employees, these essential workers have put their health on the line to get us all through this crisis. In these unprecedented times, we remain committed to fighting worker exploitation in every form – because workers deserve to be paid a living wage, to take paid time off when they are sick or to care for their children, and to be safe on the job.

The Attorney General's Office is the state's primary enforcer of wage and hour laws, which include minimum wage, overtime, child labor, earned sick time and public construction laws. The Office's Fair Labor Division vigorously enforces these laws and engages in community outreach and education so that working people know their rights and employers understand their obligations under the law. In FY2020, the Division has worked to end worker misclassification and has led a number of multistate efforts to advance worker protections including the right to organize, to paid sick time, and to a safe workplace. Through strategic enforcement, the AG's Fair Labor Division has assessed more than \$12.3 million in restitution and penalties in FY2020 against employers who violated the state's wage and hour laws, including nearly \$3.5 million for child labor law violations.

Through meaningful partnerships with fellow government agencies, allies in the labor and advocacy communities, responsible employers, and industry groups, the Fair Labor Division remains dedicated to working towards a fair and just society that benefits all working people equitably, and upholds the dignity of their labor.



YEAR IN REVIEW



12,939 impacted employees

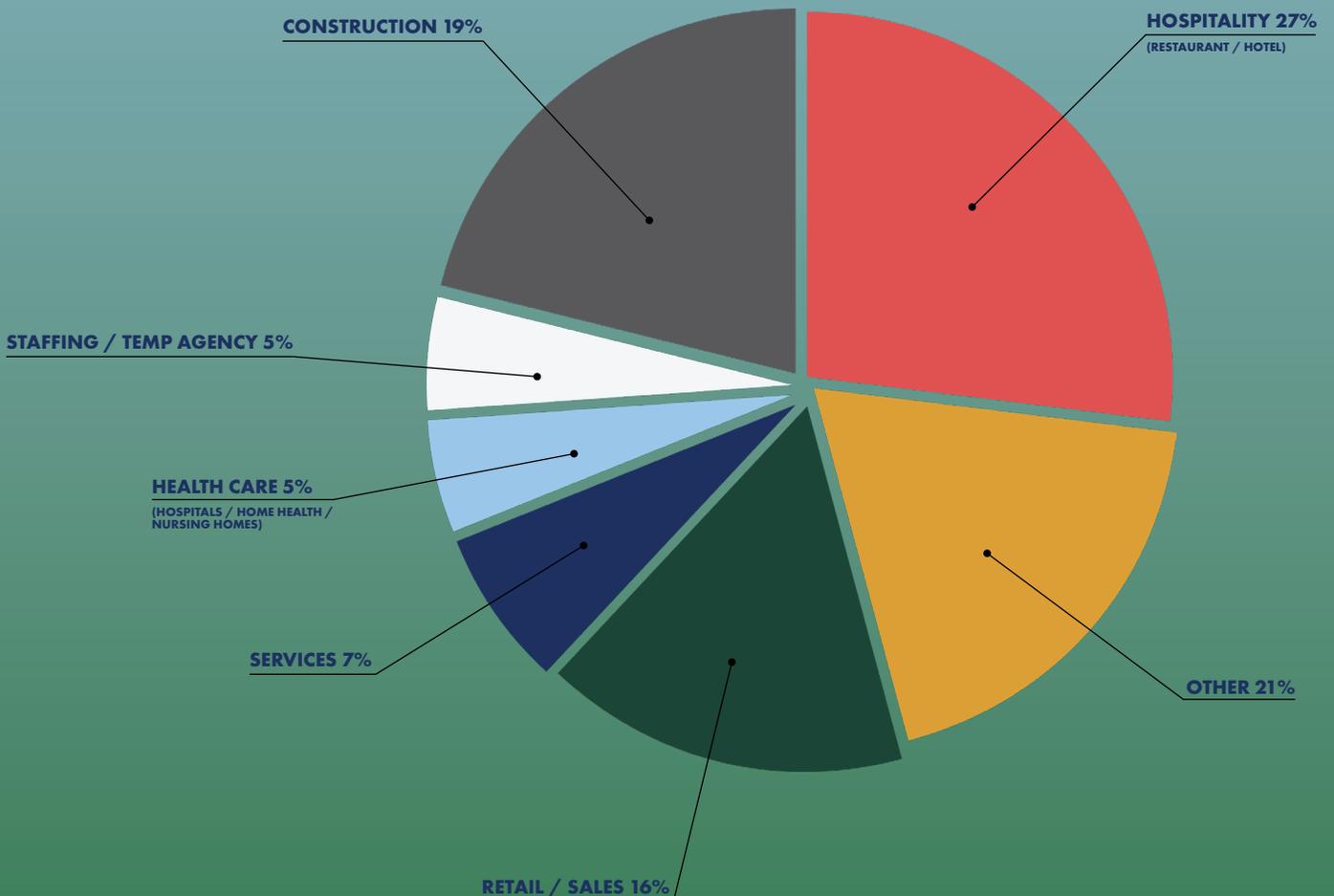
\$6,652,612

ASSESSED RESTITUTION

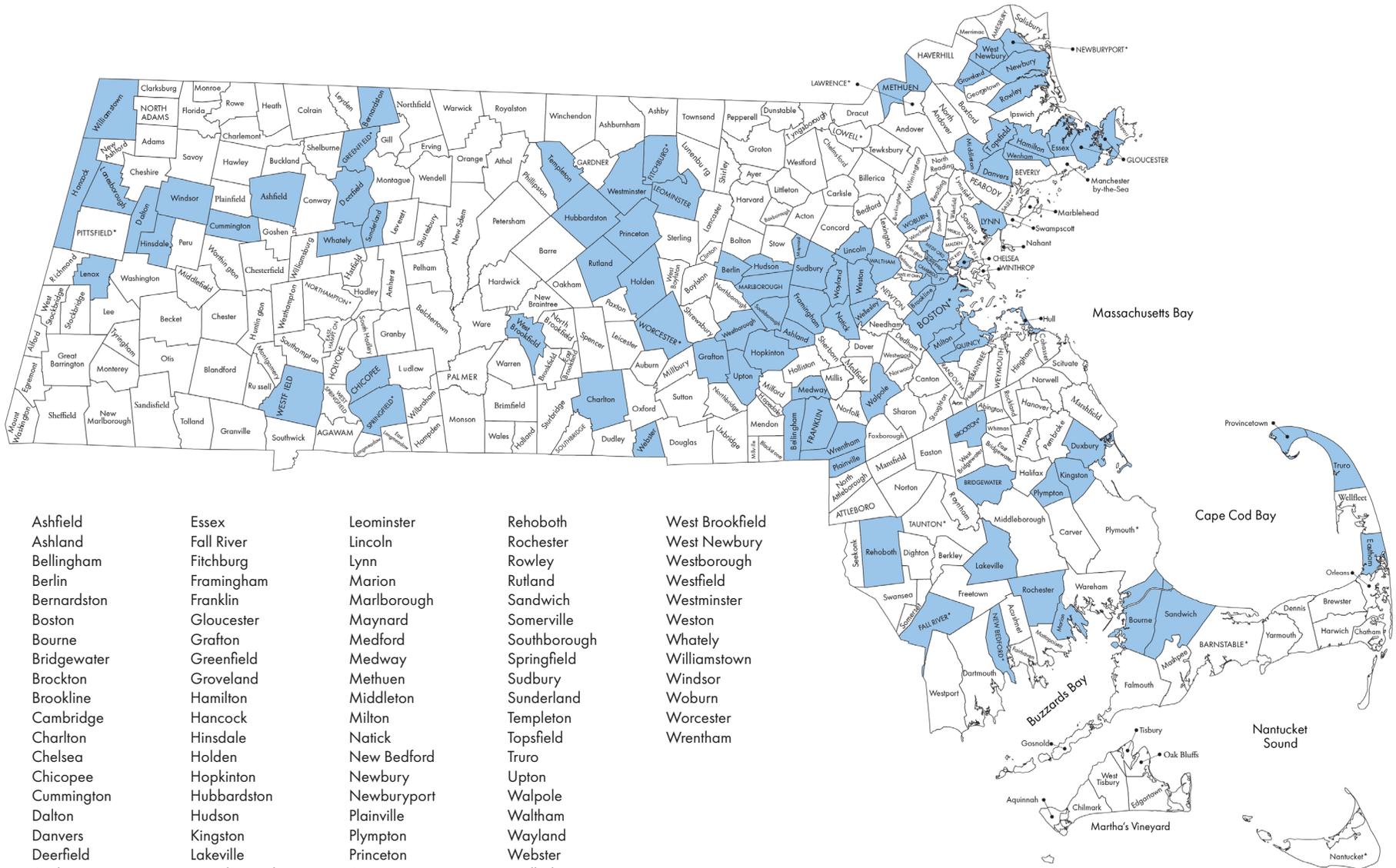
\$5,687,343

ASSESSED PENALTIES

ASSESSMENTS BY INDUSTRY



COMMUNITIES VISITED IN FY2020



- | | | | | |
|-------------|--------------|--------------|--------------|-----------------|
| Ashfield | Essex | Leominster | Rehoboth | West Brookfield |
| Ashland | Fall River | Lincoln | Rochester | West Newbury |
| Bellingham | Fitchburg | Lynn | Rowley | Westborough |
| Berlin | Framingham | Marion | Rutland | Westfield |
| Bernardston | Franklin | Marlborough | Sandwich | Westminster |
| Boston | Gloucester | Maynard | Somerville | Weston |
| Bourne | Grafton | Medford | Southborough | Whately |
| Bridgewater | Greenfield | Medway | Springfield | Williamstown |
| Brockton | Groveland | Methuen | Sudbury | Windsor |
| Brookline | Hamilton | Middleton | Sunderland | Woburn |
| Cambridge | Hancock | Milton | Templeton | Worcester |
| Charlton | Hinsdale | Natick | Topsfield | Wrentham |
| Chelsea | Holden | New Bedford | Truro | |
| Chicopee | Hopkinton | Newbury | Upton | |
| Cummington | Hubbardston | Newburyport | Walpole | |
| Dalton | Hudson | Plainville | Waltham | |
| Danvers | Kingston | Plympton | Wayland | |
| Deerfield | Lakeville | Princeton | Webster | |
| Duxbury | Lanesborough | Provincetown | Wellesley | |
| Eastham | Lenox | Quincy | Wenham | |



PRIORITY INDUSTRIES

CONSTRUCTION

Protecting workers in the construction industry remained a priority for Fair Labor in FY2020. Fair Labor assessed nearly \$2.5 million in penalties and back wages against construction employers in FY2020 on behalf of 520 workers. Additionally, the AG’s False Claims Division, acting upon information provided by Fair Labor, obtained a \$1 million consent decree with a contractor that failed to pay prevailing wage rates and submitted false certified payroll records. Working in partnership with other government enforcement agencies and community partners, we continued to educate public awarding authorities, employees, and employers about workers’ rights and public construction laws.

Outreach & Education

- Formed a multilingual **Construction Site Field Team**, based at our Worcester office. From this central location, the team conducted more than a dozen visits to construction sites before the pandemic forced a pause in site visits in March 2020. The Team engaged workers and contractors and shared information about employers’ duties under state wage laws. In all, Fair Labor contacted 97 company representatives and interviewed 168 workers about wage and hour law compliance. Five proactive investigations were opened due to information gathered at these site visits.
- Notified 59 awarding authorities of prevailing wage and other violations that occurred on their public construction projects. Copies of letters were also sent to the Division of Capital Asset Management and Maintenance’s (DCAMM) Certification Unit, which maintains files of certified contractors in order to help awarding authorities select responsible contractors for publicly funded work. Full transparency in taxpayer-funded projects is critical to keeping a level playing field for honest and fair competition.
- Provided 20 trainings and webinars about prevailing wage and bid laws for awarding authorities, including presentations at the Inspector General’s Certified Public Purchasing Officer certification program.

Notable Cases

- Cited Chicopee-based **Pilgrim Interiors** nearly \$1 million for failing to pay the prevailing wage and other violations. Our investigation revealed that the company misclassified workers as laborers on dozens of public works projects and consequently underpaid them by as much as \$15.19 per hour. The employer also took credit from the prevailing wage for fringe benefit contributions that were never made.
- Ordered **East Coast Sealcoating**, of Abington, to pay nearly \$70,000 for intentional violations of wage and hour laws, including a \$15,000 penalty for hindering Fair Labor's investigation and a \$15,000 penalty for failing to provide records to the AGO. Fair Labor also ordered the company to pay more than \$9,000 in known wages owed for work on public construction projects that was paid at far below the minimum wage.
- The **Town of Dracut** agreed to resolve a determination by Fair Labor's Bid Unit that the town failed to obtain prevailing wage rate sheets from the Department of Labor Standards and incorporate them in to bid documents and contracts. As part of a consent decree entered in Suffolk Superior Court, Dracut will hire a Chief Procurement Officer to oversee compliance with public bidding and prevailing wage laws and will train all personnel involved in procurement on compliance matters. The consent decree also provides for ongoing monitoring by the AGO.
- Obtained a consent decree requiring **DiMauro Carpet and Tile, Inc.**, to pay nearly \$1 million to resolve allegations that the company supplied false information to DCAMM and UMass in connection with a public construction contract. Based on a referral from Fair Labor, the AG's False Claims Division concluded that the company violated the False Claims Act by falsely representing to DCAMM that work would be done by the company's employees and submitting false certified payroll records to hide the fact that the work was performed by subcontractors for less than the prevailing wage. Part of the settlement amount will pay for the cost of independent monitoring of DiMauro's practices for the next three years and annual reports by the monitor to the AGO.

The AGO took enforcement action against these employers after receiving a series of referrals from partner organization, Sheet Metal Workers, Local 63:

- **East Coast Fire & Ventilation, Inc.** of West Wareham was cited a total of \$7,277.52 in restitution and penalties for failure to pay employees the proper prevailing wage rate.
- **Howard Levine of Connecticut, d/b/a R.A. Levine Co.**, paid citations totaling \$98,500 for failure to pay the prevailing wage and failure to submit true and accurate certified payroll records on a public works project. The company also paid an apprentice rate to non-registered apprentices.
- **A.L. Installations, Inc.**, was cited a total of over \$22,600 in restitution and penalties for failure to pay prevailing wages, failure to submit true and accurate certified payroll records, and failure to keep true and accurate payroll records.
- **Maybury Associates, Inc. d/b/a Maybury Material Handling** of East Longmeadow was cited a total of \$1,766.74 for failure to pay prevailing wage, failure to pay proper overtime, and records violations.

Attorney General Healey and her Fair Labor Division truly stand with the working people of Massachusetts. Sheet Metal, Air, Rail and Transportation Workers Local 63 value our partnership with the AG's Office to ensure that all workers get the critical resources that they need in the effort to fight wage theft in the Commonwealth. Collaboration is very important to ending the exploitation of working people within Massachusetts as well as maintaining a level playing field for employers.

DAN MULCAHY
LABOR MANAGEMENT REPRESENTATIVE
SHEET, METAL WORKERS LOCAL 63

STAFFING AGENCIES

In FY2020, Fair Labor protected the rights of more than 3,000 workers employed by staffing (or temp) agencies. Fair Labor assessed nearly \$680,000 in restitution and penalties to 25 agencies for violations of the Temporary Workers Right to Know Law (TWRKL), independent contractor misclassification law, and other wage and hour laws.

TWRKL was enacted in 2012 to protect temp workers against exploitation. This law requires staffing agencies to provide workers with notice of the name and address of the company at which the worker will be placed, the promised rate of pay, and particular safety equipment which may be needed. TWRKL also prohibits employers from charging workers excessive transportation fees.

In one matter, Fair Labor determined that **Labor Connections, Inc.**, had deducted more than \$114,000 in transportation fees from its minimum wage workers, in violation of TWRKL. Fair Labor ordered the employer to repay these wage deductions and pay \$32,500 in penalties. Fair Labor also referred an employee's report of unsafe working conditions to OSHA, resulting in further enforcement against the worksite employer.

Fair Labor works to ensure that businesses do not shield themselves from liability for wage violations simply by engaging staffing agencies or subcontractors. In order to ensure that all workers are treated fairly, Fair Labor routinely reviews the wage and hour practices of client companies that hire workers through staffing agencies. This approach led to enforcement against **Eclipse Products**, a Fitchburg manufacturer. Records from staffing agencies with which Eclipse contracted for labor showed that Eclipse did not pay these agencies enough to cover the minimum wage. As a result of Fair Labor's investigation, Eclipse was cited as a joint employer of these workers and agreed to pay more than \$73,000 in restitution and penalties.





HOSPITALITY

The hospitality industry led in Fair Labor enforcement during FY2020, with 252 enforcement actions and more than \$4.1 million in assessments. Most enforcement actions in this industry involved restaurants.

Notable Cases

- **HG Donuts, Inc. dba Dunkin'** was cited \$110,000.00 for multiple violations of the child labor statutes, including failing to provide supervision for minors when they worked after 8:00 at night. The case was originally opened based upon an allegation that a female minor employee was routinely scheduled to work alone or with other minors. During one shift, the minor alleged that she was sexually harassed while working after 8 PM without a supervisor. In addition to the penalty payment, the company came into compliance with the child labor laws and is requiring that all management employees attend sexual harassment training.
- In a settlement with three related businesses operating **Fugakyu** restaurants in Brookline, Sudbury, and Lynnfield, the employer agreed to pay nearly \$75,000 in restitution and penalties for various violations, including failure in certain instances to pay minimum wage to servers, misclassification of delivery drivers as independent contractors, and imposing unlawful conditions on employees' use of earned sick time. Fair Labor began investigating these entities after discovering violations at other businesses associated with the owner.

RESTAURANT NO POACH AGREEMENTS

For decades, franchisors have included "no-poach/no-hire" provisions in their franchise agreements—which limit the ability of workers to be recruited or hired by another franchisee of the same chain. Most workers would never know of these restrictions that prevent them from getting a better job with more pay. In February 2020, **Restaurant Brands International, Inc.**, which owns the **Burger King**, **Popeye's**, and **Tim Hortons** brands, agreed to stop using these provisions to restrict worker mobility and opportunity. They also agreed to notify employees of their right to get a (better) job at another restaurant. Massachusetts led the coalition of 13 states and the District of Columbia this year, and obtained similar agreements with **Arby's**, **Dunkin' Brands**, **Five Guys**, **Little Caesar's**, and **Panera** in Spring 2019.

HOME HEALTH CARE

The critical and demanding work performed by health care workers has never been more salient than during the COVID-19 pandemic. Every day, Fair Labor works to ensure that these essential employees are able to perform their work under safe and lawful conditions, whether in health care facilities, nursing homes, or private homes.

A common issue among home health care agencies is that workers may be paid a fixed amount per shift, per service, or per consumer that does not satisfy the minimum wage when all working time is taken into account. This was the cause of wage violations that Fair Labor identified in its investigation of **Traditions Home Health Services**. The employer paid a flat rate for overnight shifts that did not compensate employees for all of their working time at minimum wage. As a result of Fair Labor's investigation, the employer paid nearly \$52,000 in restitution and penalties, entitling 64 employees to back wages.

In another matter, Fair Labor cited home health care agency **Prestige Health Care Services, Inc.**, for failure to pay an overtime premium for all hours worked beyond 40 in a week and failure to keep true and accurate records. The citations against the company, which had been cited by Fair Labor previously, require it to pay more than \$415,000, which includes penalties and restitution to 128 employees.



HEALTH & SAFETY

RESPONDING TO THE PANDEMIC

The crisis facing working families across Massachusetts dominated the latter half of Fair Labor's FY2020. Our immediate response to the pandemic focused on securing workers' outstanding wages, access to paid sick leave, and safety and health at work.

Unsurprisingly, the abrupt closure of workplaces across the state left many workers without their final wages. Through quick, informal resolutions with employers, Fair Labor recovered more than \$400,000 in wages for more than 600 employees in the immediate aftermath of the pandemic-caused economic collapse.

Fair Labor also mobilized quickly to respond to an overwhelming number of calls from workers concerned about their safety at work by establishing a **Health and Safety Task Force** to support Massachusetts businesses and workers. The task force forged critical connections with local boards of health, the Department of Labor Standards, OSHA, and the Department of Public Health, assisted well over 1,200 complainants in accessing information and resources, and followed up with employers. Fair Labor staff also assisted callers with concerns about paid leave and unemployment benefits. In total, Fair Labor responded to more than 15,000 constituents who reached out to the Attorney General's Office seeking assistance from March 11 through June 30, 2020.

Through collaborations with partners and stakeholders, Fair Labor prioritized assistance to low-wage and immigrant workers. With community partners **Justice at Work** and **Centro Comunitario de Trabajadores** (CCT), Fair Labor addressed concerns about the health and safety of workers at seafood processing plants in New Bedford and Fall River with employers and local boards of health. And we worked with the **Pioneer Valley Worker's Center** to address farm workers' need for PPE and right to earned sick time pay after many contracted COVID-19.

Fair Labor published a list of resources and guideline documents for Workplace Health and Safety during the pandemic, Rights of Quarantined Essential Workers, and multilingual FAQs outlining employer obligations and employee rights. In addition, the AGO prioritized providing information and resources to low wage workers and immigrant communities through community partners, virtual town halls, and advocacy to provide access to masks to all.



In total, Fair Labor responded to more than 15,000 constituents who reached out to Fair Labor seeking assistance from March 11 through June 30, 2020.

EARNED SICK TIME

The COVID-19 pandemic has underscored the tremendous need for paid sick leave, for the benefit of workers, their families, and public health. During the pandemic, Fair Labor took action to promote meaningful access to this benefit. Fair Labor filed an amicus brief highlighting the public health implications of the Earned Sick Time Law in support of Uber and Lyft drivers seeking emergency protections under law during the pandemic. Massachusetts also led a coalition of 19 states in drafting and filing an amicus brief in support paid sick leave for airline workers against an airline industry challenge before the Ninth Circuit Court of Appeals.

We challenged the nation's largest employers to do right by their essential employees—who never stopped working during the pandemic despite their low pay and fear of contracting COVID-19. Fair Labor led a coalition of 15 states to call on **Amazon** and **Whole Foods** to enhance safety measures and to provide COVID-related leave benefits that smaller companies must provide under the federal the Families First Coronavirus Response Act (FFCRA). And after receiving complaints from concerned workers, we also joined a multistate letter to **Walmart**, urging it to provide masks to all workers, inform employees when a co-worker is diagnosed with COVID-19, and ensure that all stores follow the company's health and safety protocols.

Even before the pandemic, enforcing access to paid sick leave was a priority for the office, particularly in restaurants, where access to paid sick leave is often inadequate and the risk of contagion is high. Restaurants accounted for nearly one-third of earned sick time enforcement actions during FY2020.



Maura Healey ✓
@MassAGO

Amazon and Whole Foods stand to profit enormously from COVID-19. The absolute least they can do is strengthen their paid sick and family leave policies to keep their workers and customers safe.

cc: [@amazon](#) [@WholeFoods](#)

VietAID is grateful for our relationship with Attorney General Maura Healey and her Fair Labor Division. In these challenging times amidst a global pandemic, we commend her steadfast commitment to serving and advocating on behalf of all Massachusetts residents, especially those most vulnerable. Now more than ever, we look forward to a partnership so that immigrant workers are not lost in the cracks and can build stability for their families to thrive.

LISETTE TƯỚC LE, EXECUTIVE
DIRECTOR, VIETAID

PROTECTING & EMPOWERING YOUNG WORKERS

The safety of minors in the workforce remains a top priority for the AG's Office. The Fair Labor Division has continued to investigate child labor complaints and take appropriate enforcement actions to protect young workers.

In FY2020, Fair Labor issued citations to 37 separate employers for their failure to comply with child labor statutes. Penalties and other assessments for these violations totaled \$3,411,725 and include assessments against **Chipotle Mexican Grill** (\$1,801,075), **Qdoba Restaurant Corporation** (\$409,400), and **Wendy's International** (\$400,000). As in past years, the restaurant industry has been responsible for the highest percentage of child labor violations.

When resolving matters with employers, Fair Labor asks employers to take concrete actions to avoid future violations. These include training managers, informing minors of their right to workplace protections, adopting scheduling systems that prevent minors from being scheduled beyond legally permissible hours, regular internal auditing, and providing visual cues (e.g., different-colored visors for minors) to remind managers not to assign dangerous tasks to a minor. After adopting these safeguards in Massachusetts, several employers have indicated that they have implemented these best practices in their stores across the country.

Because violations of child labor laws impact some of the Commonwealth's most vulnerable workers, Fair Labor has spent significant time and resources providing education and compliance information to employers and the minors they employ. In addition to Fair Labor's assisting companies who have violated the law with implementing compliance programs, the AG's Office has been proactive in reaching minors to inform them of their rights under the wage and hour statutes, including middle school students looking ahead to applying for their first jobs. The Attorney General distributed \$300,000 in grant money to 100 community organizations and localities through the Healthy Summer Jobs program and trained more than 950 youth on workers' rights throughout the year.

\$1,801,075



\$409,400



\$400,000



INDEPENDENT CONTRACTOR MISCLASSIFICATION

Fair Labor continues to combat misclassification in all industries. When workers are misclassified as independent contractors, they are denied the protection of wage and hour laws and essential benefits available to employees. Misclassified workers do not have earned sick leave or other job protections that have become even more vital with the onset of the COVID-19 pandemic.

Fair Labor enforcement focuses on recovering wages and other benefits that misclassified employees should have accrued. For example, when Fair Labor cited the **Credence Group** for violating the independent contractor statute, we also directed the company to pay \$56,435 in restitution relating to underpayment of wages and failure to provide paid sick leave, on top of an additional \$50,000 in penalties.

Fair Labor has also addressed increases in misclassification resulting from the expansion of the gig economy. As a result of Fair Labor investigations, companies such as **Stynt, Inc.**, **Instawork** and **Delta T Group**, which use online platforms to hire and place workers in temporary placements, have changed their business model to ensure that their workers are properly classified as employees with all the attendant rights and benefits.

Fair Labor also filed amicus briefs in two class action lawsuits in support of **Uber** and **Lyft** drivers' right to earned sick time, and subsequently filed a lawsuit seeking a declaration that Uber and Lyft are misclassifying their drivers.





SHINING A SPOTLIGHT ON LABOR TRAFFICKING

Labor trafficking is a crime frequently hidden in plain sight. Several cases of suspected labor trafficking that have come to Fair Labor’s attention involve work performed by domestic workers who travel to the United States with employers who are pursuing medical treatment or coursework at a Massachusetts university. Indications of labor trafficking in these matters include the employer’s confiscation of a worker’s passport, misrepresentation of working conditions or compensation to induce the worker to travel to Massachusetts, or threats in response to a worker’s complaints. Workers in these cases typically receive far less than the wages and other benefits to which they are entitled under state law, including the Domestic Workers Bill of Rights.

In an effort to raise greater awareness about labor trafficking, Fair Labor has:

- Developed an app to help law enforcement and service providers to identify the signs of trafficking and to respond effectively. In October, we announced the launch of the **RESULT App**, to Recognize and Evaluate Signs to Uncover Labor Trafficking, available at www.traffickingresult.com. The web-based app provides users with tips about interviewing victims, an assessment tool tailored to the state’s anti-trafficking law, and detailed information about victim resources and protections available in Massachusetts. The app was produced with the goal of increasing the number of referrals made about suspected labor trafficking, which is drastically underreported. Fair Labor collaborated with students and faculty from Boston University School of Law and representatives from the BU Spark! Initiative at BU’s Hariri Institute for Computing to develop RESULT.

Labor trafficking is frequently hidden in plain sight. It is up to all of us to recognize and report suspect situations.

- Developed a one-page document about Massachusetts labor laws for foreign nationals bringing their domestic workers from abroad or planning to hire domestic help upon arrival. The document summarizes their key obligations as employers of domestic workers while in Massachusetts. The [document](#) is available on Fair Labor’s website along with all of Fair Labor’s publications, and was created after a meeting with the United Arab Emirates consulate in Boston.
- Created a public awareness video about forced services which will be launched in FY2021 and made available to local police departments for incorporation into roll call or other briefing opportunities. The animated video—available in English and Spanish—is designed to aid in formal training but is also suitable for raising general public awareness about labor trafficking.
- Hosted its first Human Trafficking Summit in January (pictured). The summit brought together more than 200 law enforcement personnel, prosecutors, victim advocates, and others to forge connections and strengthen participants’ ability to combat trafficking.
- Contributed to a revised edition of [Representing Victims of Human Trafficking in Massachusetts](#), a free legal guide designed to help attorneys identify trafficking victims and assist in meeting their legal and non-legal needs.
- Created a [dedicated labor trafficking webpage](#) for the AGO which provides The provides information for municipal employees, including a webinar designed for health and building inspectors, first responders, social services providers, and others. Fair Labor also shares this information directly with targeted audiences through presentations at conferences and other venues.
- Released a Portuguese translation of Fair Labor’s poster, ‘Learn to Recognize the Signs of Labor Trafficking’ with assistance from the Consulate General of Brazil in Boston as a follow-up to a training for consular staff.





ADVOCATING FOR DOMESTIC WORKERS

CULTURAL CARE SETTLEMENT

For three years, the AGO has fought to guarantee protections under the Domestic Workers Bill of Rights, minimum wage, and overtime laws for au pairs with J-1 visas. This year, we secured a total victory when the Supreme Court declined to review two lower court decisions rejecting Cambridge-based Cultural Care Au Pair's argument that these child care providers were not protected by state labor standards.

After the First Circuit Court of Appeals affirmed the trial court's decision in our favor, we moved promptly to protect the interests of both au pairs and host families, many of whom were unaware of the pending litigation and the implications it could have for their child care arrangements. Under an agreement with the AGO, Cultural Care offered \$4.4 million in refunds to families and au pairs, helped au pairs complete their current programs, and agreed to inform future host families about the law and their obligations as employers. Under the agreement, \$2.5 million has been refunded as of June 30th to help families pay their au pairs minimum wage and overtime.

I worked as a live-in caregiver for an elderly woman. I did everything for her. I slept in her living room and got up at night to take care of her. I prepared her meals and left the apartment only to do small errands or go to doctors' appointments.

I never received more than \$70 a day for my work. I didn't really know what the law said I had to be paid, but I knew that \$70 a day was too low for my around-the-clock work.

My employer was the woman's son. When I was let go after taking a vacation to visit family, I tried to talk to him about getting the money I was owed. He told me, "This isn't how things happen here in America." I knew that wasn't true, so I went to Greater Boston Legal Services looking for help. The lawyer there filed my complaint with the Attorney General's Office. It took a lot of effort to get my employer to take my claims seriously, but now, finally, my employer has paid me \$16,000. I am really and truly happy to know that Legal Services and the Attorney General's Office pushed for this and helped me get the money that I should have been paid. I am very appreciative.

H.D., COMPLAINANT

OTHER ADVOCACY

We were so reassured by the positive and proactive role played by the Attorney General Maura Healey and the Fair Labor Division to protect the health and safety of our most vulnerable essential immigrant workers during the COVID-19 crisis. These strong measures to protect workers at both the state and local levels clearly made a difference to many of these workers to contain the spread of the virus in these workplaces.

CORINN WILLIAMS,
EXECUTIVE DIRECTOR,
COMMUNITY ECONOMIC
DEVELOPMENT CENTER IN
NEW BEDFORD

“BAN THE BOX” & THE MASSACHUSETTS EQUAL PAY ACT

In FY2020, Fair Labor, in partnership with the AG’s Civil Rights Division, continued joint efforts to enforce two additional civil rights laws that are designed to protect Massachusetts workers—the state’s “Ban the Box” law and the Massachusetts Equal Pay Act (“MEPA”). The Ban the Box law prohibits most employers from asking job applicants about their criminal history on an initial job application. MEPA prohibits employers from seeking salary or wage history from prospective employees. Enforcement of both laws has remained a key priority for the AGO.

In FY2020, Fair Labor and Civil Rights expanded enforcement efforts to areas outside the MetroBoston area, and had particular impact in the southeastern and western parts of Massachusetts, as well as in the North Shore area. In particular, through the combined efforts of Fair Labor and Civil Rights, the AGO sent warning letters to 24 employers to ensure they stopped engaging in these illegal practices going forward. Of these 24 warning letters, 15 concerned violations of both the Ban the Box law and MEPA, 3 concerned violations of only the Ban the Box law, and 6 concerned violations of only MEPA.

LOCAL LEADERSHIP

Fair Labor weighed in on several other local matters affecting workers in the Commonwealth.

Recognizing the essential role that private litigation plays in vindicating the rights of workers and deterring unlawful conduct, Fair Labor submitted an amicus brief to the Supreme Judicial Court in support of a plaintiff employee sued her former employer for violations of the Massachusetts Wage Act. In an important ruling for working people, the Court agreed with Fair Labor that back pay arising from wrongful termination in violation of the Anti-Retaliation Statute (G.L. c. 149, § 148A) is subject to mandatory trebling, like regular wages, rather than limited to single damages. *Parker v. EnerNOC, Inc.*, 484 Mass. 128 (2020).

Fair Labor supported the Amherst Town Council as it considered a proposed wage theft ordinance by detailing the scope of the wage theft problem in Massachusetts. With the support of the Attorney General’s Office, a number of localities, including Boston, Chelsea, Cambridge, Lynn and Northampton, have passed similar measures in recent years. Wage theft ordinances may restrict the ability of businesses with a history of wage theft to obtain licenses from or do business with a municipality.

DEFENSE AGAINST NATIONAL ATTACKS

Again, this year, Fair Labor joined with other states to challenge the Trump Administration's roll back of worker protections. In FY2020, Fair Labor:

- Joined a lawsuit challenging the U.S. Department of Labor's (USDOL) decision to drastically narrow joint employer liability. The new rule erodes protections for workers and allows businesses to more easily shield themselves from liability for wage theft.
- Co-authored a comment opposing USDOL's proposed elimination of longstanding limits on the amount of non-tipped side work an employer can extend a tip credit to under the Fair Labor Standards Act (FLSA)—a change that would cost workers an estimated \$700 million annually.
- Opposed USDOL's decision to expand the circumstances under which employers may calculate overtime using the fluctuating workweek method, which results in a lower overtime premium and effective wage rate the more hours an employee works.
- Supported the rights of graduate and undergraduate teaching and research assistants at private universities to organize under the National Labor Relations Act. ■

Day in and day out we hear from our worker members about injustice in the workplace. This has only grown as COVID hit. Restaurant workers come to us about lack of masks, wage theft, and harassment. Farmworkers experience lack of access to water, bathrooms and cleaning supplies. It has been invaluable to be in partnership with the AG's Fair Labor Division and know that we have partnerships in our state that can address these issues alongside our organizing and advocacy work. Workers experience so much fear. Knowing that, regardless of immigration status, the AG's Fair Labor Division will fight for their rights in the workplace helps these workers better advocate for themselves.

ROSE BOOKBINDER,
CO-DIRECTOR & LEAD ORGANIZER,
PIONEER VALLEY WORKERS CENTER



CONTACT US

WAGE & HOUR ISSUES

(617) 727-3465 | MONDAY - FRIDAY | 10 AM TO 4 PM

www.mass.gov/ago/wagecomplaint

CONSUMER ISSUES, HOUSING & MORE

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CIVIL RIGHTS

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www.mass.gov/civilrightscomplaint

STUDENT LOANS

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www.mass.gov/ago/studentloans

HEALTH CARE

(888) 830-6277

www.mass.gov/healthcarecomplaint

RESOURCES DURING COVID-19

www.mass.gov/ago/covid19

