

2024 ATTORNEY GENERAL ANDREA JOY CAMPBELL LABOR DAY REPORT
PROTECTING MASSACHUSETTS WORKERS



ATTORNEY GENERAL ANDREA JOY CAMPBELL



LABOR DAY REPORT

2024



A NOTE FROM ATTORNEY GENERAL CAMPBELL

It is an honor to present the 9th Annual Labor Day Report, the second under my tenure as Attorney General of the Commonwealth of Massachusetts. The Fair Labor Division has continued its critical mission of protecting the rights of workers throughout the Commonwealth, with effects that ripple outward through the entire Massachusetts economy.

Every year, the Fair Labor Division provides assistance to thousands of Massachusetts workers to make sure that every dollar of wages they have earned winds up in their pockets. In FY2024, we helped more than 40,000 employees and assessed more than \$31.5 million in unpaid wages and penalties.

The impact of these efforts span far beyond the reach of the affected employees. Our efforts help our communities, who benefit when workers spend their hard-earned wages at local businesses, generating additional income tax revenue that helps fund essential state programs and services and reduces reliance on public benefits programs. And they ensure fairness for honest employers, who would be put at a competitive disadvantage by those who try to cut corners.

This past year has seen some critical “firsts” for the Fair Labor Division, including the first labor trafficking conviction under *An Act Relative to the Commercial Exploitation of People*, which was enacted in 2012 to criminalize human trafficking for sexual servitude and forced labor under state law.

The Division also reached a historic settlement with rideshare companies Uber and Lyft, requiring the two companies to pay drivers a minimum of \$32.50 per hour increased each year for the cost of living, provide them a suite of benefits and protections, and pay a combined total of \$175 million to resolve allegations that the companies violated Massachusetts wage and hour laws, at least \$140 million of which will be distributed to current and former drivers. The settlement resolves the Division’s multi-year litigation against Uber and Lyft and puts a stop to the threat of the companies attempting to rewrite state employment law via a 2024 ballot initiative which would have resulted in drivers receiving inadequate protections and an earnings standard that would not guarantee minimum wage.

Every wage case we bring – whether it’s on behalf of a single person or a workforce of thousands – puts employers on notice that Massachusetts is serious about protecting our residents at work. We will not allow unscrupulous companies to steal hard-earned wages, deny employees overtime pay or deprive them of their rights to use earned sick time to care for themselves and their families. And we take seriously any company that exploits teens by ignoring child labor laws, or violates other workplace rights. In Massachusetts, we know that when we protect our workers, we protect our economy. This year my office has made massive strides, but our work is not done. The Fair Labor Division will continue to fight for our workforce, guaranteeing that Massachusetts remains a leader in protecting workers’ rights.

ANDREA JOY CAMPBELL
Massachusetts Attorney General



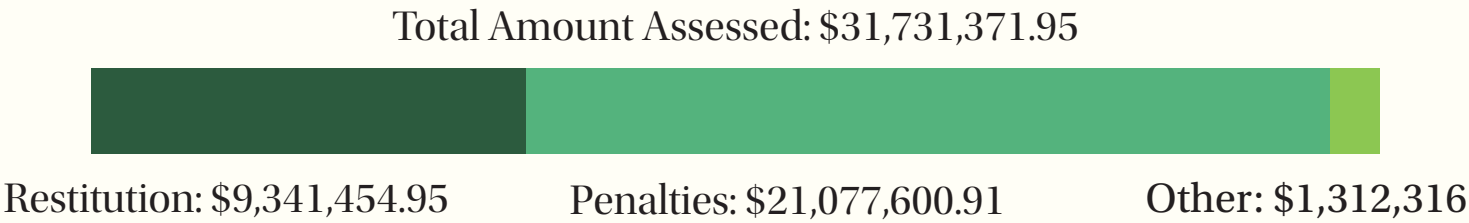
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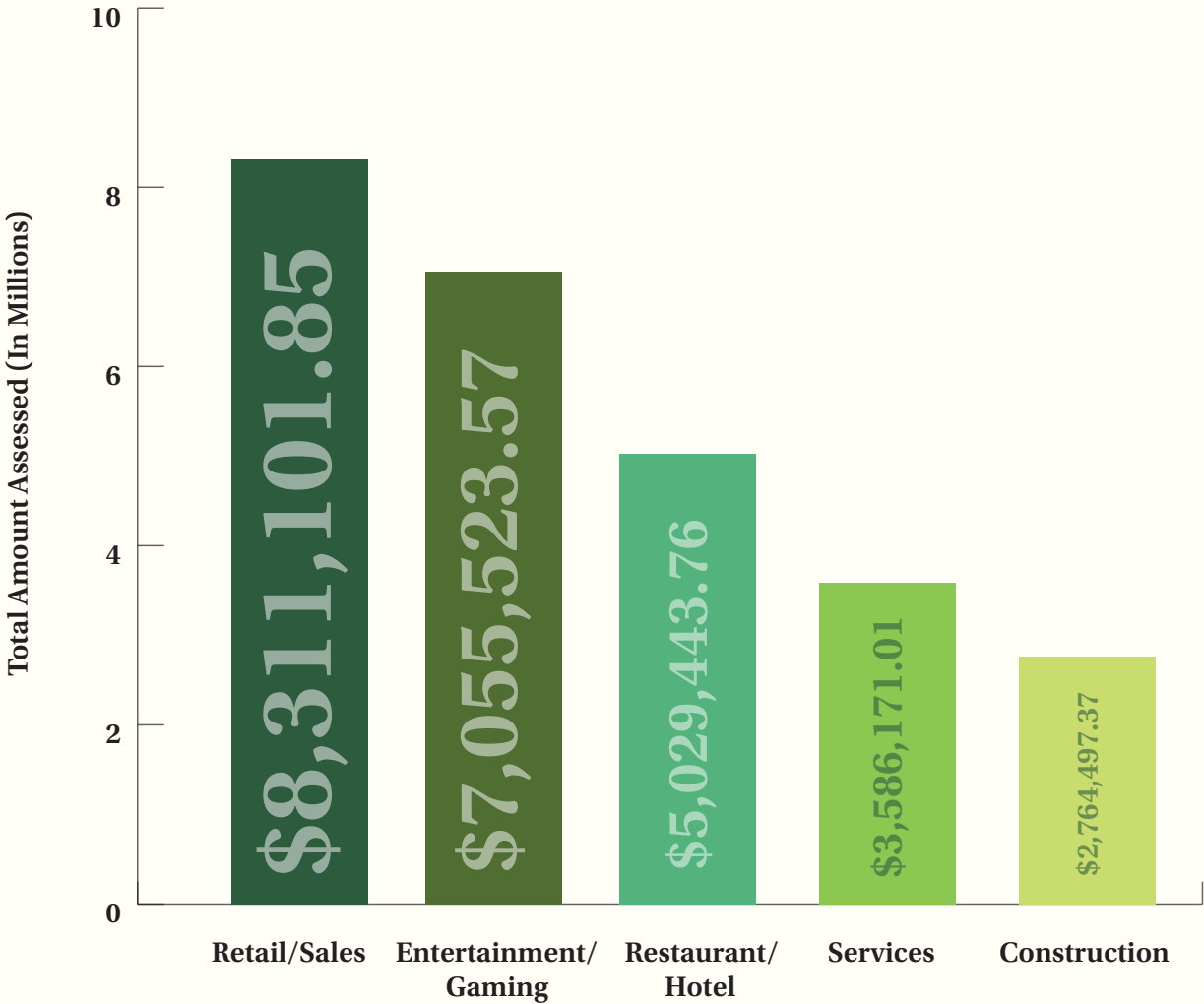
BY THE NUMBERS

1,246
ENFORCEMENTS

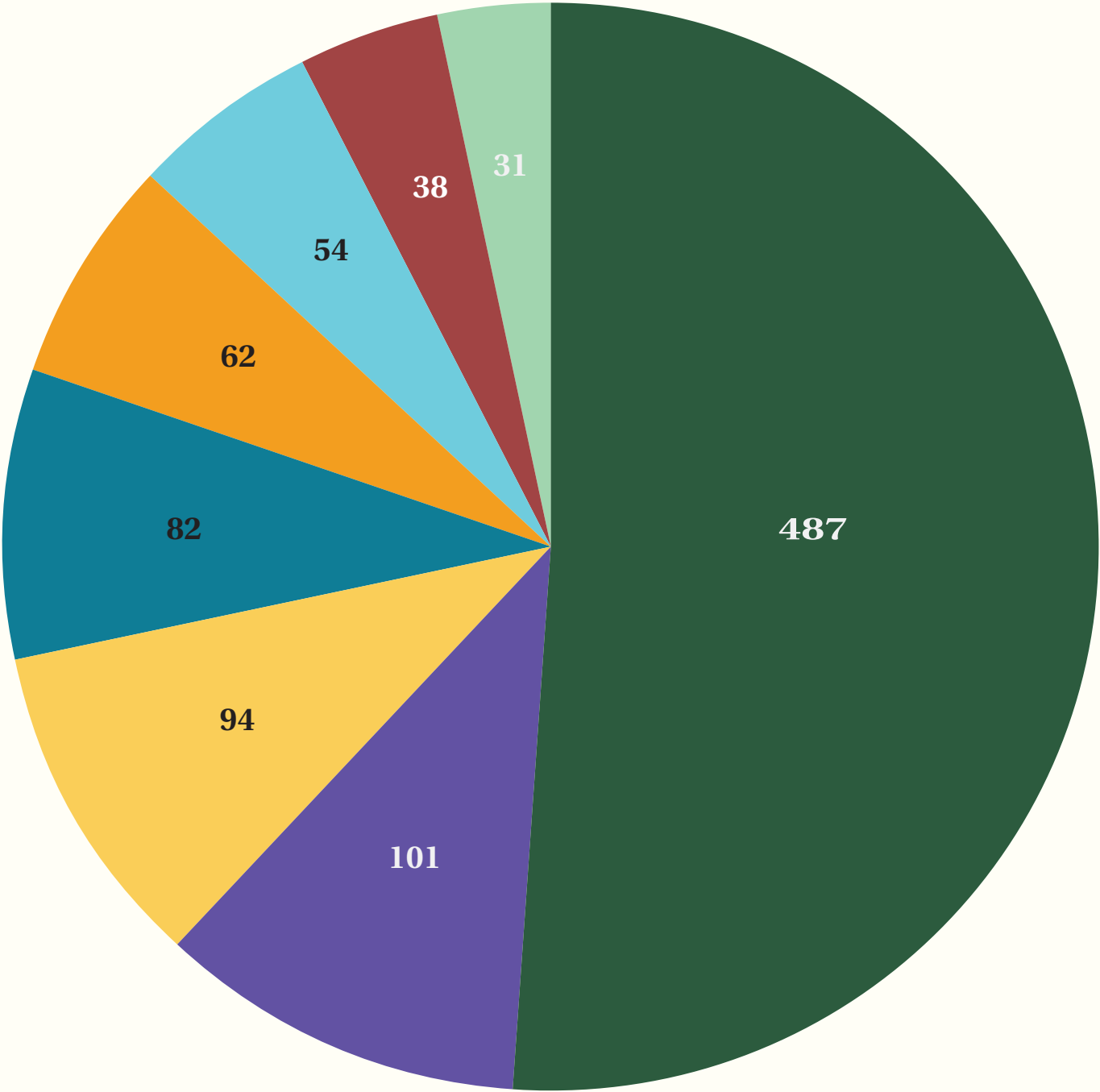
40,370
WORKERS IMPACTED



ENFORCEMENT BY INDUSTRY: TOP 5



MOST COMMON VIOLATIONS



- Failure to make timely payment
- Violation of earned sick time law
- Failure to keep true and accurate payroll records
- Failure to furnish records
- Failure to pay overtime compensation
- Failure to pay minimum wage
- Misclassification as an independent contractor
- Employment of a minor for more than nine hours a day

CONSTRUCTION

Construction is one of Massachusetts’ most important industries, employing thousands of residents in numerous different trades. For many employees, construction is a career with excellent wages and benefits, but unfortunately, labor abuses and wage theft are common in the industry. In these cases, unscrupulous employers have not only hurt their employees, but they have also put honest companies at a competitive disadvantage. The construction industry is one of Fair Labor’s priority enforcement areas. Fair Labor’s investigations uncover far too many violations in which employers steal their employees’ wages, fail to pay them overtime or the mandated “prevailing wage” rate on public construction jobs, misclassify them as independent contractors, refuse to give them required meal breaks, and prevent them from using their earned sick time. In FY2024 alone, Fair Labor assessed more than \$2.7 million in unpaid wages and penalties from construction industry employers, which affected more than 1,100 workers.

A referral from the North Atlantic States Regional Council of Carpenters led to Fair Labor issuing four citations to **Ecostructive LLC** and its two owners for failure to pay prevailing wages on a public construction project, failure to submit true and accurate certified payroll records on a public project, failure to provide payroll records to the Attorney General, and failure to provide pay stubs to employees with each payroll. The citations total \$190,000 in restitution and penalties. Employers who provide construction labor on public projects are required to pay special hourly rates to their employees called “prevailing wages.” Different construction trades (carpenters, painters, electricians, laborers, etc.) are entitled to a specific prevailing wage rate which is set by the Massachusetts Department of Labor Standards. While employers can pay genuine registered apprentices at a lower “apprentice rate,” Ecostructive abused that system by paying approximately 20 employees who were not registered apprentices at this significantly lower rate, depriving them of more than \$95,000 in wages they earned.

Fair Labor issued four citations to **Idea Painting** and its president for failure to pay overtime, failure to keep true and accurate records of hours and wages, failure to track accrual and use of earned sick time, and failure pay employees for earned sick time they used. The citations totaled more than \$491,000 in restitution for unpaid wages and penalties. The company used a practice that is unfortunately common in the construction industry, in which employees are not paid one-and-one-half times their hourly rate for overtime (hours worked over 40 in a week), and employers conceal that fact by omitting overtime hours from payroll records.

Fair Labor collaborated with the AGO’s False Claims Division (FCD) to pursue an innovative strategy to hold **BPI Construction Management, Inc. (BPI)** responsible for its violations of the prevailing wage law and the Massachusetts False Claims Act. A subcontractor of the company, **Superior Carpentry**, paid its workers less than half the required prevailing wage rate for work performed on public projects, and BPI and Superior submitted 32 fraudulent “certified payroll forms” claiming that Superior had complied with the prevailing wage law in order to receive payment for the work from public funds. The Superior Court ordered BPI to pay \$926,898.06 in unpaid wages and damages.





“The 63 member locals of the MA Building Trades Unions (MBTU) and our 10 regional local building trades councils are proud to have partnered with the Attorney General’s Fair Labor Division on a series of trainings throughout the state about how state wage and hour laws are enforced.

These trainings directly support the regional building trades councils’ work to bring together all of our various trade unions to fight worker exploitation on jobsites and to improve the standard of living for construction workers and their families throughout the state. By learning more about the Fair Labor Division and from their efforts to train our leaders in the field, our unions are better prepared to continue this fight. And when we do, everyone benefits - including our members, employers, customers, and most importantly, the communities where we live and work. Thank you to Attorney General Andrea Campbell and her team for demonstrating an unwavering commitment to holding construction contractors accountable to Massachusetts’ strong wage and hour laws.”

- Frank Callahan, MA Building Trades Unions

CHILD LABOR

Protecting and Empowering Young Workers

Young workers continue to be an integral part of the Massachusetts workforce, and Fair Labor has continued its robust enforcement of the child labor laws that assure proper protections and benefits. In FY2024, Fair Labor assessed more than \$3.6 million against employers who violated the Commonwealth’s child labor laws - the majority of which were quick service or fast-food companies. Fair Labor has also prioritized outreach and education efforts to young workers and encouraged employers to adopt practices that protect them.

Enforcement

In FY2024, Fair Labor resolved matters totaling more than \$2.7 million related to thousands of child labor violations at various **Dunkin’ franchises**. These cases were part of AG Campbell’s ongoing effort to protect the rights of workers, particularly young ones.

One matter involving franchisees who owned and operated 25 Dunkin’ locations across central and southeastern Massachusetts revealed violations that included requiring minors to work more than six hours a day without a meal break, employing a minor after 8:00 pm without an adult supervisor, employing a minor past the latest permissible hour, employing a minor for more than the maximum number of hours allowed in a day, and allowing minors to work without a work permit. The owners reached a settlement with Fair Labor totaling \$1 million. As part of the agreement, a \$500,000 fund was established to support the enforcement and education on the wage and hour laws, including the education and training of young workers.

In a separate investigation, Fair Labor entered into a settlement with a group of 13 affiliated Dunkin’ franchises to resolve allegations of pervasive child labor violations at their 60 locations. Under the terms of the settlement, the employer agreed to pay \$1.6 million for employing minors past 8 p.m. without required supervision and employing minors for more than 6 hours without a 30-minute meal break.

In another matter, Fair Labor issued citations against retailer **Genesco, Inc. d/b/a Journeys and Journeys Kidz** for child labor, earned sick time, and wage violations totaling more than \$300,000. The violations included failure to maintain valid youth employment work permits, allowing minor employees to work beyond the maximum hours per day, failure to permit employees to use earned sick time, and failure to make timely payment of wages. maximum hours per day, failure to permit employees to use earned sick time, and failure to make timely payment of wages.

Fair Labor also issued more than \$45,000 in citations against multiple locations of **Friendly’s Restaurant** for various child labor violations including employment of a minor prior to the earliest permissible hour or later than the latest permissible hour, employment of a minor for more than the permissible hours in a day, failure to obtain a valid work permit prior to employment of a minor and requiring minor employees to work for more than six hours in a calendar day without a break.

Healthy Summer Youth Jobs Program

The AGO’s Healthy Summer Youth Jobs Grant Program uses health care and child labor settlement funds to provide grants for health-focused employment for young people. These grants fund jobs across Massachusetts - in cities and towns, government offices, and non-profit organizations. Applicants may apply for grants to underwrite jobs that benefit public health and provide professional development opportunities for youth employees. In June, the AGO awarded nearly \$375,000 of this grant funding to more than 30 organizations across the state.



INDEPENDENT CONTRACTOR MISCLASSIFICATION

The misclassification of employees as independent contractors remained one of Fair Labor’s highest priorities for investigation and enforcement. When employees are misclassified, they are wrongly denied protections under the wage and hour laws and other employment-related regulations, and employers can illegally underpay their workers. This unfairly disadvantages employers who properly classify their workers and abide by the labor, licensing and tax laws that exist to protect workers’ rights and properly fund social safety net programs. Fair Labor works to thwart these schemes that unduly burden all Massachusetts taxpayers, who unwittingly end up subsidizing what are legally an employer’s responsibility. In FY2024, Fair Labor issued citations totaling nearly \$600,000 related to misclassification violations, affecting more than 760 workers.

Enforcement

Within the construction industry, misclassification is an all-too common method of operation. In October, Fair Labor cited Fall River-based construction company **Berthier Contracting** \$190,000 for improperly classifying 76 workers as independent contractors. Citations for an additional \$101,000 were also issued to the employer for its failure to provide earned sick time and to furnish records required under the law. A separate matter involved **Quad Coatings**, a Marion-based company providing finish carpentry and painting services on large commercial projects. Fair Labor cited Quad Coatings \$17,000 for misclassifying 69 workers and an additional \$122,000 in restitution and penalties for failure to pay overtime and provide earned sick time.

Fair Labor uncovers misclassification in almost every industry. As examples, during FY2024, Fair Labor cited Franklin-based restaurant **Mak’s Roast Beef & Breakfast** more than \$10,000 for classifying its staff as independent contractors. As part of a settlement agreement, the owner agreed to pay \$10,000 to 13 affected employees, representing the additional taxes the employees were required to pay as a result of being misclassified. In November, Fair Labor cited **TempMee**, a Florida-based temporary staffing agency that places dental hygienists in offices across the Commonwealth, \$14,000 for misclassifying their workers as independent contractors, plus another \$8,600 for failure to allow these employees to accrue earned sick leave in accordance with Massachusetts law.



In FY2024, Fair Labor announced a settlement with **Uber** and **Lyft** to resolve the AGO’s multi-year misclassification litigation against these companies. This settlement put a stop to the companies’ efforts to rewrite state employment law via a 2024 ballot initiative, which would have resulted in drivers receiving inadequate protections and an earnings standard that would not guarantee minimum wage.

As part of the agreement, Uber and Lyft will pay a combined total of \$175 million to the state to resolve the allegations that the companies violated Massachusetts wage and hour laws by misclassifying their drivers. At least \$140 million will be distributed to current and former drivers. In addition, the companies will be required to pay drivers a minimum of \$32.50 per hour, an amount that will increase each year.

Drivers will also be entitled to a wide range of benefits including paid sick leave, pooled health insurance benefits, occupational accident insurance, information about the rides they are offered and complete, and protections against discrimination and retaliation. The companies are also required to offer drivers in-app chat support with a live person in English, Spanish, Portuguese, and French and create an appeal process for drivers who are deactivated.

LABOR TRAFFICKING

Enforcement

In December, Fernando Roland of New Bedford was sentenced to state prison on 11 counts of Trafficking of Persons for Forced Services, and one concurrent year in the house of correction on one count of Assault and Battery. A Bristol County jury found the defendant guilty of these charges following a five-day trial in Bristol Superior Court. This was the AGO’s first conviction for labor trafficking since *An Act Relative to the Commercial Exploitation of People* was enacted in 2012, establishing human trafficking for sexual servitude and forced labor as criminal acts under state law.

The AGO’s investigation found that from 2016 to 2018, Roland worked with a Rhode Island-based cleaning company and forced two women to work for him, cleaning businesses throughout Southeastern Massachusetts. These women did not speak English or have anywhere to live other than the rooms Roland provided for them. While they worked for him, Roland repeatedly threatened the women regarding their immigration status and confiscated one woman’s passport until her visa expired. Roland also brought the women to a man he falsely claimed was an immigration attorney and deceived them by stating it would cost \$5,000 each to complete their immigration paperwork. The second woman only escaped her trafficker as a result of the Attorney General’s investigation, following the first woman’s disclosure.



Outreach and Education

During National Human Trafficking Prevention Month in January and as part of her ongoing effort to combat human trafficking, Attorney General Campbell shared materials and resources dedicated to raising awareness and educating the public on how to report and identify signs of sex and labor trafficking.

Attorney General Campbell has made protecting vulnerable people and communities a priority of her office and reminded the public about Fair Labor resources that raise awareness about the crime of labor trafficking. These resources include:

- A multilingual labor trafficking video created by the AGO designed to help the public understand and uncover signs of labor trafficking and where to refer suspicious activity.
- Labor trafficking training opportunities held throughout the year for local and state inspectors such as the Cities of Boston and Salem, the Municipal Police Training Committee, and the Division of Occupational Licensure.
- A first-of-its-kind Recognize & Evaluate Signs to Uncover Labor Trafficking (RESULT) App developed by the AGO in partnership with Boston University School of Law and the BU Spark! Initiative at BU’s Hariri Institute for Computing to help identify potential labor trafficking cases in Massachusetts and connect victims to resources.



OTHER CIVIL ENFORCEMENT

Following a multi-year investigation, Fair Labor reached a settlement with **MGM Springfield** totaling \$6.8 million in restitution and penalties for various wage and hour violations, including failure to pay minimum wage to tipped employees, failure to pay overtime wages, unlawful tip retention by management, failure to make timely payments of wages, and failure to provide paid earned sick time. The 2,036 impacted workers spanned much of the MGM Springfield operation, and most were service employees earning hourly wages. This includes table game dealers, banquet servers, bartenders, ushers, kitchen staff, casino floor and hotel staff, warehouse personnel, cleaners, and security guards.

Fair Labor issued a series of citations against **KinderCare Learning Centers, LLC**, totaling more than \$543,000 in restitution and civil penalties for failure to provide access to paid sick leave and meal breaks, as well as failure to pay employees for all time worked.

Following an investigation, multiple citations were issued against **Neptune Garment Company**, a Boston-based manufacturing business, totaling more than \$669,000. The investigation revealed that Neptune violated the Massachusetts Earned Sick Time law by not allowing workers to use their sick time, failing to pay employees for all working time, and failing to pay employees one and one-half times their regular rate of pay for hours worked over 40 in a week, in violation of the state’s overtime law. Further, Neptune deducted an automatic 30-minute “meal break” from employees’ daily working hours, yet workers maintained they were not allowed to leave the work area or even use their cellphones during these meal breaks.

Fair Labor issued a series of citations totaling more than \$2.5 million in restitution and penalties against **Concierge Services, Inc.**, a Plymouth-based corporation that provides “concierges” to high-end residential and commercial properties in Greater Boston. Fair Labor’s investigation determined that Concierge Services failed to pay minimum wage, overtime, and timely wages, including earned sick time pay, and it also failed to keep true and accurate payroll records, over the course of four years.

TEMPORARY WORKERS

Temporary or “temp” workers are particularly vulnerable to wage theft and exploitation by unscrupulous employers due to the often-short duration of their jobs and the fact that temp jobs are often taken by immigrants and non-English speakers whose only access to a job is through a staffing agency and who are afraid to complain when their rights are violated. For these reasons, Massachusetts has a “Temporary Workers Right to Know Law” that requires employers and temp agencies to disclose important information to temp workers, including identifying the company the workers will actually be performing work for, the nature and duration of the work, and the amount they will be paid.

Fair Labor issued citations to **Quick Temp, Inc.** totaling \$1,392,665 in restitution and penalties for failure to pay a prevailing wage, failure to pay minimum wage, failure to pay overtime, non-payment of wages, failure to accrue earned sick leave, failure to keep true and accurate records, and failure to furnish employment notices to temporary agency employees. The company placed employees as day laborers with numerous waste management client companies in the Greater Boston area. Teamsters Local 25 referred this case to Fair Labor, reporting that Quick Temp was paying workers significantly less than the prevailing wage rate for work performed as “pickers” on trash trucks. The company also failed to provide notices and information required by the “Temporary Workers Right to Know Law”.



NATIONAL ADVOCACY

Fair Labor often joins with counterparts from attorneys general offices and departments of labor in other states in multi-state and national advocacy efforts. These include submitting public comments on proposed federal wage and labor regulations, writing “friend of the Court” briefs in wage-related lawsuits, and drafting letters to federal agencies in order to advocate for greater worker protections and rights.

Fair Labor advocates for greater prevailing wage accountability and safety standards to protect workers from dangerous heat exposure.

In August 2022, the Inflation Reduction Act (IRA) was signed into law. Pursuant to this Act, developers of clean energy projects like solar energy and offshore wind facilities are eligible for additional tax credits if they satisfy certain prevailing wage and apprentice requirements. On December 1, 2022, this office, along with 12 states, the California Air Resource Board, and one district attorney’s office, filed a letter with the Internal Revenue Service (IRS) and Department of the Treasury in response to its request for comments which included several suggestions to bolster accountability and enforcement of the prevailing wage provisions. Unfortunately, the proposed rule pertaining to the prevailing wage provisions did not incorporate our suggestions and largely rejected contemporaneous reporting. In response, this office, along with 13 other states, filed another comment letter stressing the need for a more robust enforcement regime and the importance of employers providing notice to workers that they are eligible for prevailing wages under the IRA.

In February, Attorney General Campbell joined other state attorneys general offices in petitioning the Occupational Safety and Health Administration (OSHA) to issue an emergency temporary standard for occupational heat exposure to protect workers from serious risk of injury and death. Occupational heat exposure is an issue of environmental and racial justice, as people of color and low-wage workers are disproportionately burdened by heat stress in the workplace. Extreme heat is the weather hazard that causes the most deaths each year in the U.S. OSHA concurred about the need to protect workers from hazardous heat exposure and advised that they were developing a permanent standard as expediently as possible, in the meantime increasing enforcement activity. On July 2nd, OSHA released a Notice of Proposed Rulemaking for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings. The proposed rule, if finalized, will protect millions of workers from the significant health risks of extreme heat. Attorney General Campbell was pleased to have both her Fair Labor and Environmental Protection Divisions work together on this national advocacy.

Public Comments on U.S. Department of Labor’s regulation to make more workers eligible for Overtime Pay

Under federal law (the Fair Labor Standards Act), employers are required to pay overtime (one-and-a-half times the normal hourly wage rate) to most employees for hours worked over 40 in a week. They do not have to pay overtime to employees who (a) receive a fixed salary, (b) make more than a certain amount per week, and (c) have certain job duties (specific “executive, administrative, or professional” roles). In 2019, the U.S. Department of Labor (DOL) decreased the “salary threshold” for the overtime exemption from \$913 per week to \$684 per week. That meant that salaried employees who earned as little as \$35,568 a year were ineligible for overtime.

In September 2023, the DOL published proposed changes to the federal overtime regulations. Most importantly, DOL proposed to increase the salary at which the overtime exemption starts, from \$684 per week to \$1,059 per week, which is equivalent to \$55,068 per year. It also proposed to automatically increase this amount every three years to help keep pace with inflation. This change would make millions of previously exempt workers eligible for overtime pay. This is important to Massachusetts because while our state has its own overtime law, that law also uses the federal exemption threshold to determine who is not eligible for overtime.

Fair Labor co-led an effort with other state attorneys general offices to submit public comments to the DOL in support of the change. In the end, 14 states, including the District of Columbia, signed on to our comments. In April, the DOL finalized these new regulations, the first stage of which went into effect on July 1, 2024.



OUTREACH & COMPLIANCE

In addition to its robust enforcement efforts, The AGO, through its Fair Labor and Community Engagement Divisions, has hosted or participated in nearly 200 worker- and employer-focused community engagement events in FY2024.

With Massachusetts welcoming newly arrived residents from countries around the world, Fair Labor provided multilingual brochures and other 'Know Your Rights' information to the Department of Career Services in response to their outreach to migrant communities. These efforts facilitate work authorization, assess skills, and form connections with available jobs. Fair Labor also partnered with the City of Boston for their series of workers' rights resource fairs held in neighborhoods throughout the city from February through June. During FY2024, Fair Labor provided training to immigrant workers employed in Southeastern MA seafood processing plants. They also hosted a human trafficking training for Portuguese-speaking communities and marched in solidarity with immigrant workers and allies at an annual International Workers Day March on May Day.



Compliance Visits

Fair Labor investigators visited 206 business during FY2024 to engage employers and workers about basic wage and hour law obligations and protections. Fair Labor approached the businesses in a non-enforcement capacity and showcased the Division as a resource for compliance assistance while underscoring the importance of adherence to the state's wage and hour laws. Owners or managers were provided a packet of materials and invited to have a brief discussion about the laws covering minimum wage, overtime, tips, earned sick time, and meal breaks. Investigators also engaged with workers and provided them with workers' rights brochures.

“This year, our Office of Labor Compliance and Worker Protections held a series of Know Your Rights Fairs in five neighborhoods across the city to educate workers about their rights on the job and how to exercise them. The Fair Labor Division was a key partner in this work and their dedicated staff was incredibly supportive in providing critical information, answering countless questions, and filing workplace complaints on behalf of residents, including those who spoke languages other than English.

To advance the health, safety, and well-being of Boston’s workforce, we must educate and empower workers to come forward and report workplace issues, especially those from our most vulnerable communities. We are so grateful for the Fair Labor Division’s partnership and the critical services they provide to Boston workers.”

- Jodi Sugerman-Brozan, Deputy Chief of Worker Empowerment, City of Boston

Wage Theft Clinic

In FY2024, Fair Labor expanded the geographical reach of our free Wage Theft Clinics. In these clinics, workers who have filed complaints with Fair Labor and have received a “private right of action” allowing them to pursue their claims on their own behalf are invited to meet with private bar attorneys and legal service providers who will review their claims and advise them of potential legal remedies. For the first time, Fair Labor hosted clinics in community spaces in Worcester, thanks to a contingent of area attorneys who specialize in wage and hour law cases. Regular clinics in Boston, New Bedford, and Springfield continued throughout the year, crystalizing Fair Labor’s commitment to encourage and facilitate enforcement of wage theft throughout the state. To date, more than \$2.3 million in stolen wages have been recovered through the efforts of the private attorneys who partner with us in this effort.



“The Fair Employment Project has assisted more than 11,000 Massachusetts workers since 2007. One of the most common complaints our clients present is wage theft. So we are immensely grateful for the Attorney General’s efforts to combat this problem. We have been a proud participant at the wage clinics since they began in 2016, and we look forward to many more years of partnership. Not only do the clinics provide critical services to Massachusetts workers, they offer a space for firms and organizations to share best practices and fresh ideas to closing the access-to-justice gap. We are all better advocates for the experience.”

- Lisa Bernt, Director, Fair Employment Project



RESTAURANTS

Fair Labor continued to prioritize compliance in the restaurant and hospitality industries in FY2024, recognizing the particular vulnerability of tipped workers. Fair Labor assessed more than \$5 million in cases with employers in these industries. These enforcement actions impacted more than 23,000 workers.

Fair Labor issued citations totaling more than \$475,000 in restitution and civil penalties against **Tavern on the Wharf and Plymouth Public House** for failure to pay minimum wage and failure to make timely payments of wages to employees. We also cited them for multiple violations of the state's child labor laws, violations of the state's tips laws, and failure to keep accurate payroll records.

As a result of another investigation, Fair Labor assessed nearly \$115,000 in citations against **Boston Market Corporation** for failure to make timely payment of wages and failure to furnish true and accurate payroll records to the Attorney General's Office. Under Massachusetts' wage and hour laws, most employers are required to pay employees within six days of the end of a pay period.

PUBLIC CONSTRUCTION BID UNIT

Awarding Authority's Failure to Include Statutorily-Required Workforce Participation Goals Violates Massachusetts' Public Construction Bid Laws

The Office of the Attorney General enforces the competitive bidding laws that govern contracts for public construction. In November, the Foundation for Fair Contracting of Massachusetts filed a protest with the Fair Labor Division concerning the bidding procedures used by a public university for a roof replacement project. The protestor asserted that the university violated the public bidding laws by failing to include Workforce Participation goals (currently 6.9% for women and 15.3% for people of color) in the bid documents for the project as required by G.L. c. 149, § 44A(2)(G). The university, unaware of this statutory requirement, did not dispute the protestor's assertion. The decision issued in May clarified awarding authorities' obligation to include Workforce Participation Goals, including reporting and enforcement procedures, in their Invitations to Bid and contracts. Such requirements apply to "every contract by a state agency or state assisted contract for design, construction, reconstruction, installation, demolition, maintenance or repair." As a result of the novel decision, awarding authorities are on notice that failure to comply with this statutory requirement of the public construction bid laws may result in a mandatory rebid of a project.

"Building Pathways is proud to partner with Attorney General Campbell and the Fair Labor Division in implementing state laws on workforce participation goals for state-funded and state-assisted projects. Their dedication to ensuring these goals are met is critical in providing opportunities for underrepresented communities in the building trades. Together, we are making significant strides towards a more inclusive and equitable workforce."

- Nancy Luc, Deputy Director, Building Pathways



IMMIGRANT WORKERS

Immigrant workers help keep the Massachusetts economy thriving across all industries. Too often, unscrupulous employers attempt to exploit these workers due to real or perceived vulnerabilities such as language, culture, fear of immigration enforcement, or lack of awareness about their rights. The law in Massachusetts is clear: regardless of immigration status, all workers are entitled to be paid for their labor and to avail themselves of protections like earned sick time, meal breaks, and special provisions for minor workers, temporary workers and domestic workers.

In January 2023, the U.S. Department of Homeland Security (DHS) announced the expansion of a program that allows state labor enforcement agencies like Fair Labor to issue “statements of interest” supporting requests by eligible immigrants for “deferred action” protecting them from deportation proceedings for two years when they are witnesses or victims in wage and hour investigations. Fair Labor has been a leader in this space. In the past fiscal year, Fair Labor has provided over 30 “statements of interest” in support of such requests. The active participation in our investigations of immigrant workers who have been victims of wage theft and other violations is vital to the success of such cases and the enforcement of our state’s wage and hour laws, but without temporary protection against deportation during such an investigation, workers are understandably fearful of exposing themselves, of being reported to immigration authorities by employers seeking to retaliate against them, and of being deported.

In August 2023, Fair Labor posted a Supporting Worker Requests for Deferred Action to Provide Protection from Immigration Related Retaliation Frequently Asked Questions (FAQs) document. As the primary enforcer of state labor laws that promote economic justice and ensure workplace rights, Fair Labor knows that effective investigation of complaints and enforcement of workers' rights depends on the cooperation of all workers regardless of immigration status. Undocumented or immigrant workers may fear providing information to governmental officials because they are afraid that it will lead to deportation or arrest. To address this fear and ensure the enforcement of our laws, Fair Labor developed a process to support workers seeking immigration-related protection through requests for deferred action and work authorization from the U.S. Department of Homeland Security (DHS). Fair Labor posted its FAQs in multiple languages in an effort to spread the word that Fair Labor needs the cooperation of all workers—regardless of immigration status—to effectively enforce state wage and hour laws and protect the rights of all the Commonwealth's workers.

At the beginning of July 2024, Fair Labor, along with the Illinois Attorney General's Office and the Seattle Office of Labor Standards, spearheaded a coalition of 27 labor enforcement agencies, including state attorneys general and other state and local entities, in calling on DHS to extend the protection period of the Deferred Action Program for noncitizen victims and witnesses of labor violations from the current two years to a minimum of four years. Many of Fair Labor's investigation and enforcement proceedings take longer than two years to reach a resolution, and worker witnesses and victims losing their protection against deportation during that time can seriously jeopardize investigations and result in employers who break the law and steal from their employees going unpunished. Later that month, in response to this advocacy, DHS updated their policies to reflect that deferred action supported by a labor agency statement of interest would be granted for a period of up to four years for initial requests.

NOTES

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