



ATTORNEY GENERAL ANDREA JOY CAMPBELL



2023

LABOR DAY REPORT

PROTECTING MASSACHUSETTS WORKERS

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A NOTE FROM ATTORNEY GENERAL CAMPBELL

It is an honor to present the 8th Annual Labor Day Report, and the first under my tenure as Attorney General. The Fair Labor Division conducts vital work every day, and I look forward to building on the Division's successes over the next four years.

Every year, the Fair Labor Division assists thousands of Massachusetts workers by protecting their rights and ensuring they get every penny of the wages they have earned. In FY2023 alone, we helped over 11,000 Massachusetts employees, and assessed over \$13.4 million in unpaid wages and penalties. Our cases run the gamut: from assisting a single employee who didn't get their final paycheck, to representing the interests of thousands of employees who were denied meal breaks, overtime or earned sick time. Whether one worker or thousands, we know that all unfair and illegal treatment in the workplace has a real and lasting impact on workers, their families, their communities, and the Commonwealth as a whole.

The hard-working employees of Massachusetts who show up every day and give their all to their jobs are what drive us forward — helping us to be the innovative and economically vibrant state that we are. As we continue to emerge from the aftereffects of the COVID-19 pandemic, I and the dedicated lawyers, paralegals, investigators and other staff of the Fair Labor Division recommit ourselves to ensuring that:

- All workers in the Commonwealth get the wages, sick time, meal breaks and overtime pay they have earned;
- Teenage workers are not taken advantage of, and the child labor laws are scrupulously followed and enforced; and
- Responsible employers, who follow the rules and do the right thing, are not placed at a competitive disadvantage by those who cut corners and exploit their employees.

For decades, Massachusetts has been a leader in protecting the paychecks and workplace rights of our residents, and we are committed to bolstering our efforts because we know that strong worker protections and a level playing field for employers are key to growing our economy and ensuring prosperity for all of us.

I look forward to continuing this critical work, alongside our partners in community organizations, business and industry, social service agencies, organized labor and government.

With tremendous gratitude,



ANDREA JOY CAMPBELL
Massachusetts Attorney General





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OUR YEAR BY THE NUMBERS

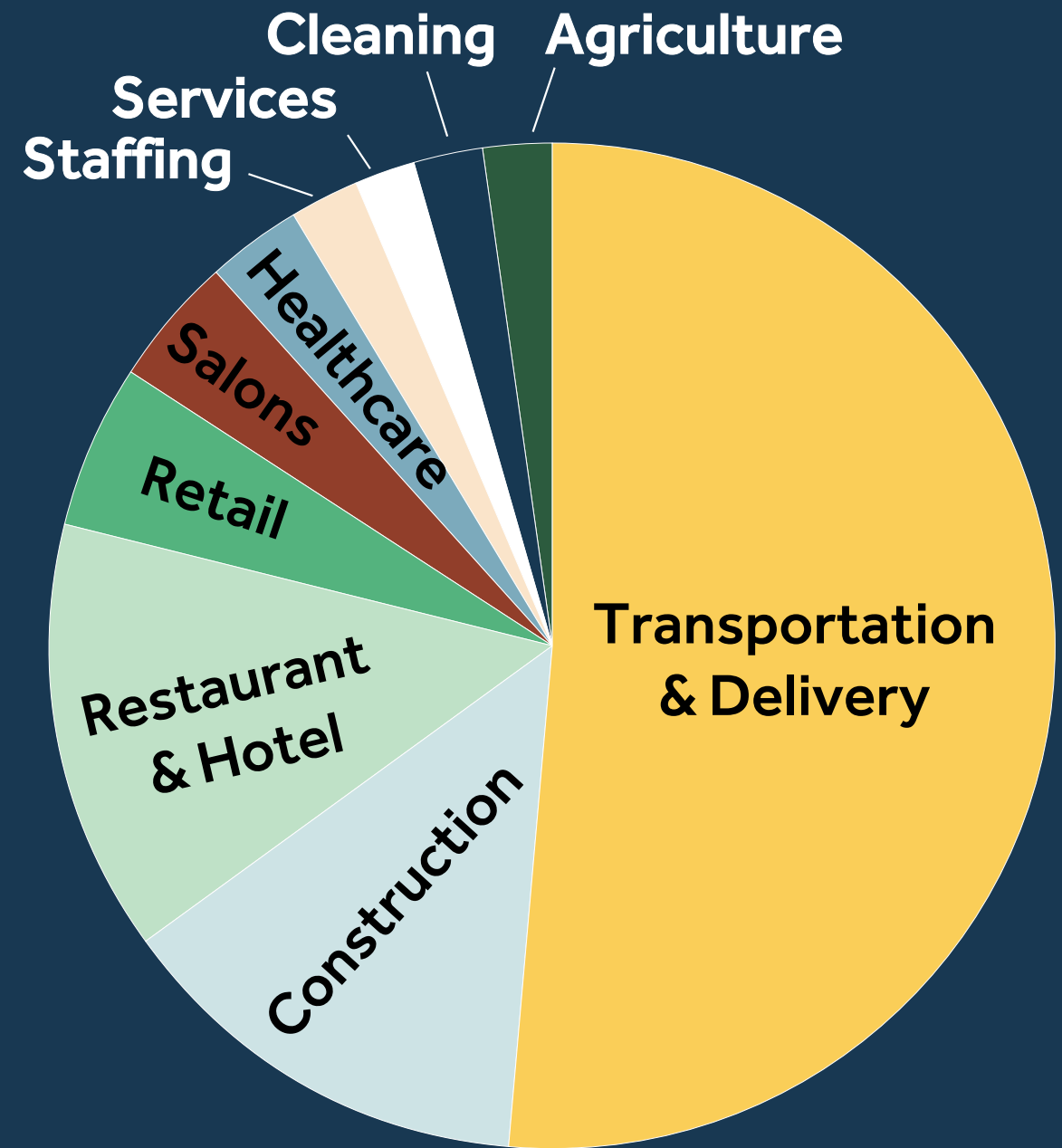


1,219
ENFORCEMENTS

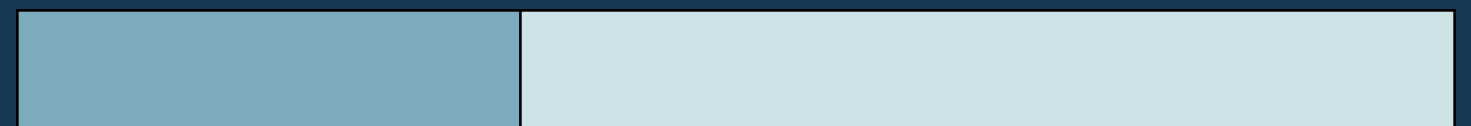


11,132
IMPACTED
WORKERS

TOP 10 INDUSTRIES



TOTAL AMOUNT ASSESSED: \$13,490,916.87



RESTITUTION: \$4,277,151.49

PENALTIES: \$9,213,765.38

Child Labor



Outreach and Education

The Fair Labor Division (Fair Labor) has continued to devote significant resources to ensuring that the state's child labor laws are followed and enforced. In addition to assessing **over \$825,000 in penalties against 57 employers** for child labor violations in FY23, Fair Labor has prioritized outreach and education for employers and others who interface with working teens.

In June, the Office of the Attorney General (AGO) hosted representatives from the **immigrant, education, and business communities**, to raise public awareness surrounding workplace protections for migrant and other vulnerable children in Massachusetts and share information about the Office's ongoing efforts to thwart poor working conditions and exploitation of youth and vulnerable communities.

In addition to highlighting recent enforcement, AG Campbell underscored the AGO's commitment to ensuring that youth are working in safe and healthy conditions by highlighting some of the ongoing work of the Office, including:

- **Convening an internal Child Labor Working Group** to identify investigation targets and novel approaches to overcoming enforcement challenges;
- **Meeting regularly with immigrant worker centers and advocates** to share information about workplace trends and protection;
- **Holding clinics in and providing 'know your rights' education** to vulnerable communities;
- **Partnering with educators and administrators** across the Commonwealth to identify and intervene in cases of harmful working conditions;
- **Disseminating information to families and caretakers;**
- **Working with the Massachusetts Restaurant Association, Retailers of Massachusetts Association and the Massachusetts Municipal Association to include information on child labor laws** in their newsletters and spread awareness to their membership;
- **Providing translated materials regarding wage and hour laws and child labor laws** in 10 languages on the AGO website for public use, and
- **Continuing to build on the success for the Healthy Summer Youth Jobs Grant Program** by providing vital grants that offer training and skills development – and employment – that is focused on health and wellness.



Fair Labor also **created and translated a new fact sheet** with information relating to the child labor laws, labor trafficking and the rights of immigrant workers in Massachusetts.

In May of this year, Fair Labor **sent letters and informational materials to all public school superintendents** responsible for issuing work permits to minors (which are required under state law for most workers under the age of 18.) This included information about the child labor laws, a fact sheet in multiple languages to be distributed to all parents and guardians of high school students, and materials that specifically address the rights of immigrant workers and labor trafficking.

Enforcement

In FY23, Fair Labor took enforcement action against multiple **Dunkin'** franchise owners related to child labor violations. In the fall of 2022, Fair Labor entered into a settlement agreement with the **Westford Group, Inc.** to resolve numerous child labor violations at 14 of the company's 17 Dunkin' stores. Fair Labor issued citations to the company with a total of \$145,305 in penalties for hundreds of violations over the course of about a year and a half.

Fair Labor also issued four citations in March 2023 to **Somerset Donut Express, Inc.** d/b/a Dunkin', totaling \$150,000 in penalties, for failure to obtain valid work permits, employing minors after 8:00 PM without adult supervision, employing 16- or 17-year-olds for more than nine hours in a day, and employing minors later than the latest permissible hour of 10 p.m. Somerset Donut Express operates seven Dunkin' stores in Somerset, Fall River, and Dartmouth. The investigation uncovered over a thousand violations of the state's child labor laws, affecting hundreds of employees.

In April 2023, we issued four citations totaling **over \$222,000** in penalties to **Courtney Donuts, LLC** d/b/a Dunkin' for failure to obtain valid work permits, employing minors after 8:00 PM without adult supervision, employing 16- or 17-year-olds for more than nine hours in a day, and employing minors earlier than the earliest permissible hour of 6:00AM The owners of Courtney Donuts operate multiple Dunkin' stores in towns throughout Massachusetts, including Devens, Harvard, Groton, Shirley and Townsend.

Construction



NEARLY \$1.8 MILLION
ASSESSED IN RESTITUTION
AND PENALTIES



190
ENFORCEMENTS



125
EMPLOYERS AFFECTED



598
IMPACTED WORKERS



Fair Labor issued five citations to **Majestic Painting** and its president for non-payment of wages (including overtime), misclassification of employees as independent contractors, failure to provide earned sick time, and failure to provide paystubs to employees. The citations totaled **more than \$280,000** in restitution and penalties. Several employees were subjected to improper deductions which the employer claimed were "loans," but no contracts or other documents supporting this assertion were produced.

A referral by the Harvard Legal Aid Bureau and Justice at Work, two legal service organizations that partner with Fair Labor and defend the rights of low-wage workers, led to citations with **more than \$100,000** in restitution and penalties issued to **Kyle Matthew Construction, LLC** and its owner. The employer, which provides construction services on residential and commercial projects throughout New England, failed to pay overtime to its employees working on Massachusetts projects for two-and-a-half years and to have an earned sick time policy that complies with the Massachusetts Earned Sick Time Law.

Omega Building Company, which provided installation services for items bought at Lowe's home improvement stores, was **cited for \$83,000** for failure to pay employees, misclassifying employees as independent contractors, and failing to furnish Fair Labor with true and accurate payroll records. This followed on another enforcement action in 2021, in which the company and its owner had been cited for misclassification of workers as independent contractors, failure to pay overtime wages, failure to maintain true and accurate records and failure to maintain an earned sick time policy.



The MA AFL-CIO is proud to have such a staunch ally in Attorney General Campbell and the Fair Labor Division.

Massachusetts has some of the strongest pro-worker employment laws in the nation, but they only protect workers when they are enforced. Every day, Attorney General Campbell's team is fighting to end wage theft, cracking down on unscrupulous employers who misclassify their workers, and making sure that workers are getting what they are owed. The AGO's Fair Labor Division continues to be an invaluable resource to the Labor Movement's mission to create lasting economic, social, and racial justice in the Commonwealth."

Chrissy Lynch
Secretary-Treasurer, Massachusetts AFL-CIO

Bid Unit

The Fair Labor Bid Unit helps enforce the competitive bidding laws that govern contracts for public works construction. The purposes of the bid laws are to obtain the lowest cost that fair competition can achieve to protect and preserve taxpayers' dollars, to protect the integrity of the bidding process and prevent favoritism, and to maintain a level playing field for all bidders. In FY23, the Bid Unit fielded thousands of calls and emails from the public, awarding authorities and contractors, helping them navigate the Commonwealth's bid laws. The Bid Unit also conducted 20 hearings and participated in multiple community outreach events in partnership with both the Inspector General's Office and the Massachusetts Association of Procurement Officials.

Safeguarding Taxpayer Dollars and Fair Competition

Fair Labor issued citations to **Tufts Construction, Inc.** and its president for failure to pay prevailing wages, failure to submit true and accurate certified payroll records to the awarding authority on a weekly basis, and failure to keep true and accurate payroll records, with the citations totaling **more than \$146,000**. Over the course of several public projects involving underground utility and site excavation work, employees of Tufts Construction were not always paid the proper prevailing wage for the work they performed over a three-year period.



In FY22, Fair Labor issued twenty-five **citations totaling \$1.2 million**, to **Rochester Bituminous Products, Inc.** and its president, treasurer, and manager, for record-keeping and various prevailing wage law violations on paving projects in multiple Massachusetts cities and towns. The company appealed these citations, and the appeals are currently being litigated.

Then, in early FY23, Fair Labor issued four citations **totaling more than \$58,000** to **Batista Contracting LLC** and its owner, for failure to submit true and accurate certified payroll records to both Fair Labor and an awarding authority, failure to furnish true and accurate payroll records to Fair Labor and failure to track earned sick leave. Batista Contracting is a paving company that performs public work and that is largely controlled by Rochester Bituminous Products.

Later in FY23, Fair Labor issued citations to **Rochester Paving, Inc.** for failing to submit certified payroll records and failing to provide requested payroll records to Fair Labor. Rochester Paving, Inc. is owned by the same owners as Rochester Bituminous Products, Inc. Based upon the payroll records that were furnished, Fair Labor determined that Rochester Paving had not submitted certified payroll records for employees who worked on public works projects to the appropriate awarding authorities. Instead, Rochester Bituminous improperly included the Rochester Paving employees on their own certified payroll records and claimed that those employees worked for Rochester Bituminous.

After receiving a complaint from an employee that they did not receive prevailing wage on public jobs they worked, Fair Labor opened an investigation into **TCA Solutions, LLC**. Initially, the company argued that the prevailing wage law did not apply to the work because TCA was a vendor, not a contractor or subcontractor. However, the Department of Labor Standards issued a determination confirming that the prevailing wage law applied to the work at issue. The investigation revealed that employees worked on thirty-six public works projects over a three-year period, and that the company owed **more than \$80,000** in restitution to thirteen employees. Two citations were issued to TCA Solutions for failure to pay prevailing wage and failure to submit true and accurate certified payroll records to the awarding authority on a weekly basis.

Immigrant Workers

In FY23, Fair Labor continued to focus on helping workers who are exploited in Massachusetts, including immigrant workers. In May, Fair Labor issued an updated advisory reminding the public that all workers, no matter their immigration status, are protected by the state's labor and employment laws. The advisory additionally states that retaliation against workers who assert their legal rights will not be tolerated.

Fair Labor also supports eligible workers whose rights have been violated in seeking protection from immigration enforcement by supporting workers' requests for U or T visa certification, Continued Presence or deferred action.

Fair Labor continues to meet regularly with immigrant worker centers and advocates to share information about workplace trends and protections. The AGO provides 'know your rights' education, holds regular multi-lingual clinics, and distributes materials in 12 languages on the AGO website.



Over the past 19 years, I worked at Chinese Progressive Association. I witnessed the work of the Attorney General Office being more responsive to the needs of our communities, especially through providing bilingual services for immigrant communities and promoting labor rights in our neighborhoods. The AGO educates both workers and employers on workplace safety, establishing standards for work, and the right to have dignity at work. Only when corporations adhere to labor standards can the economy in our communities develop healthily. I am proud of AGO's work."

Fiona Yu
Workers Center Coordinator, Chinese Progressive Association

Other Enforcement

Sometimes employers will try to avoid responsibility for not paying their employees by not responding to Fair Labor's communications, not providing requested records, or not keeping records in the first place. That was the case in an investigation against **MP Star Professionals LLC** d/b/a Cleaning Pros. After receiving complaints from workers referred by Fair Labor community partners La Colaborativa and Metrowest Worker Center/Casa del Trabajador/Casa do Trabalhador, Fair Labor issued demands for payroll records to the company. The company ignored repeated requests to produce payroll records required by Massachusetts law. Even without these records, Fair Labor conducted an audit using the employees' own records.

Numerous violations by the company were uncovered, including failing to pay wages to employees, misclassifying employees as independent contractors, failing to reimburse workers for the cost of cleaning supplies, failing to pay overtime, denying workers access to earned sick time and, in some instances, retaliating against workers for calling in sick. Fair Labor determined that MP Star frequently targeted Spanish-speaking women due to language and cultural barriers that can make it more difficult for these employees to assert their rights. Fair Labor issued citations to the company **totaling over \$130,000**.

Fair Labor also cited Florida-based **CorpHousing Group, Inc.** **\$15,000** for its failure to furnish records. CorpHousing Group frequently contracted with MP Star to have workers clear Boston-area properties it managed.

Fair Labor often sees wage and hour law violations in the nail salon industry. After receiving a referral from the state's Council on the Underground Economy, of which Fair Labor is a member, an investigation was opened into **Salem Nail Bar**.

Fair Labor's investigation found that nail salon employees were working overtime but not being paid at the proper overtime rate and were at times not even receiving the minimum wage. The company paid its nail technicians entirely on commissions but did not ensure that they received at least the minimum wage for all hours they worked. In addition, the company failed to keep required payroll records, failed to provide all records requested to Fair Labor, and failed to comply with the Earned Sick Time law. Fair Labor issued five citations to the company, **totaling over \$447,000** in restitution and penalties.

Independent Contractor Misclassification

Some employers try to cut corners and save money by treating their workers as **"independent contractors"** rather than as employees. This so-called "misclassification" is a tactic utilized nationwide by both large and small employers in a wide variety of industries. It is particularly common in construction, **"gig economy"** jobs, temp work, and cleaning. Misclassifying employees is illegal and deprives those workers of their rights as employees, including the right to receive all the wages they are owed and be paid on time, the right to minimum wages and overtime, protection against employer retaliation, and access to important employee benefits.

Investigating and citing employers for illegal misclassification of employees remains one of Fair Labor's strategic enforcement priorities. In the past year, Fair Labor has taken action against a **29 employers** who exploited, underpaid, and violated the rights of their employees by misclassifying them. Enforcement for misclassification totaled over **\$5.1 million in restitution and penalties and impacted over 1,350 workers.**



Enforcement

GoPuff/GoBrands offers rapid delivery of food, snacks, drinks, household items, and toiletries in over 650 cities from its microfulfillment centers. The company is valued at over \$15 billion. It delivers to 35 cities and towns in Massachusetts.

Customers order items through an app, which are picked up from the microfulfillment centers and delivered by so-called “Driver Partners,” delivery drivers whom the company classifies as independent contractors rather than as employees. This is despite the fact that drivers sign up for specific shifts, have no control over what deliveries they are assigned or how much they are paid, must comply with very specific company policies, and can be unilaterally terminated by the company. All of these factors point to them being employees rather than independent contractors.

In March, the Attorney General’s Office issued three citations against **GoBrands, Inc., GB Logistics, LLC** (which together do business as GoPuff), and the president and treasurer of the company, for **\$6,292,000 in penalties**. GoPuff was cited for misclassifying 968 “Driver Partners” as independent contractors instead of as employees, for failing to permit those drivers to earn and use Earned Sick Time, and for failing to provide them with a suitable pay stub. The company appealed the citations, and the appeal is currently pending.

Fair Labor took action to address violations that occurred at **Dutch Maid Bakery**, a Boston wholesale company providing baked goods to a variety of retail stores and supermarket chains.

Five different temporary staffing agencies provided workers to Dutch Maid. Fair Labor discovered that each of them, along with Dutch Maid itself, violated the Temporary Worker Right to Know Law. Fair Labor issued a total of **30 citations totaling more than \$440,000** in restitution and penalties for failing to comply with a variety of state wage and hour laws, including the **Temporary Worker Right to Know Law**.

The companies that were cited in the scheme are:

- Dutch Maid Bakery, Inc.
- Dutch Maid Bakery Massachusetts Business Trust
- Hub Personnel Services, Inc.
- Dorchester Temp Service Corp.
- General Employment Service, Inc.
- Amado Enterprises, Inc. and Amado Staffing d/b/a Amado Enterprises
- AR Services, Inc.

“Justice at Work is grateful for our relationship with Attorney General Andrea Campbell and her Fair Labor Division. The Fair Labor Division provides critical support for working people through aggressive enforcement, outreach, and partnership with worker organizations. We look forward to our continued partnership as we fight for workplace justice for all Massachusetts workers.”

Pablo Carrasco
Senior Staff Attorney, Justice at Work



Restaurants

Fair Labor continued to investigate wage and hour violations in the restaurant and hospitality industries. Enforcement in the restaurant industry totaled **over \$1.8 million against 170 employers**. These actions affected **over 3,700 workers**. In addition to targeted enforcement actions, Fair Labor conducted a restaurant industry compliance initiative, with investigators visiting **over 100 restaurants across the Commonwealth** to talk with workers and distribute information about the Commonwealth's wage and hour laws.

Fair Labor's investigation into four separate entities with the same owner, **Bricco Ristorante, Bricco Panetteria, Mare Oyster Bar, and Bricco Salumeria and Pasta Shop**, in conjunction with a separate investigation conducted by the U.S. Department of Labor, resulted in **citations totaling \$145,000** for violations of the Earned Sick Time law, failure to pay minimum wage and overtime, and failure to keep true and accurate records.

In February 2023, Fair Labor issued seven citations to **Burapa, Inc. d/b/a Pho #1** totaling **over \$50,800** for failure to keep true and accurate records, failure to pay minimum wage, failure to furnish a suitable pay slip, misclassification of workers as independent contractors, retaliation, and violations of the meal break law. The investigation began when two employees filed complaints with the Division indicating that they were denied wages they were owed and access to sick leave.

After a complaint filed by a parent alleging that their child was forced to work past midnight at a **Dave & Buster's** location, Fair Labor opened an investigation into the business. The investigation revealed that employees regularly worked more than six hours without legally-required meal breaks and that minors worked outside of the hours permitted by the child labor laws. Dave & Buster's agreed to pay **over \$275,000**, including penalties and restitution for more than **800 employees**.

Temporary Workers

Workers accessing jobs through temporary staffing agencies can be particularly vulnerable to wage theft and exploitation. Unscrupulous staffing agencies have been found to take advantage of workers to gain a competitive edge in securing clients.

In late 2022 and early 2023, Fair Labor took enforcement action in response to violations of the **Temporary Worker Right to Know Law**.

This law was passed in 2012 to prevent the exploitation of temp workers. Among other things, it requires that temp agencies give workers a “job order” when they start a new assignment, identifying key details such as the staffing agency and the company they’ll be doing work for, the job they will be doing, how long it is expected to last, and how much it will pay.

“On Labor Day 2022, Mayor Michelle Wu created the Worker Empowerment Cabinet to advance the well-being of all Boston Workers. The Attorney General’s Office Fair Labor Division has been an incredible partner as we have worked to create and implement policies to drive Fair Labor standards and protect workers from exploitation.”

Trinh Nguyen

Chief of Worker Empowerment, City of Boston

“

One of the biggest barriers to justice in this country is the fear people have of the legal system. 'I think I have a claim, but I don't know where to start. I can't afford to talk to a lawyer. How do I know which lawyer to call?' The Attorney General's Wage Theft Clinic has done an incredible job in bridging this gap by putting real people with questions in front of lawyers who can help.

Over the years I have been lucky to participate in this clinic that has done so much to help people make informed decisions about their legal claims. **If you are looking for an example of how the government and the private bar can work together successfully, this is it."**

**Attorney Lou Saban
Saban Legal Services**



