The Connecticut Wage Theft Crisis: Stories and Solutions

Compiled by
Unidad Latina en Acción
New Haven Workers’ Association

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Every year, Connecticut workers lose millions of dollars in unpaid wages. Wage theft occurs when employers fail to pay the minimum wage, fail to pay the overtime rate, force employees to work off the clock, steal tips, or fail to pay any wages at all. Law-abiding businesses, tax payers and working families pay a high cost when exploitative businesses cheat.

Current Connecticut law fails to hold employers accountable. Penalties are so small and so rare that bad employers do not change their practices.

Frequently workers take an employer to court and win, but they cannot collect any money, because the employer declares bankruptcy and argues that he has no assets. In thousands of cases every year, Connecticut employers close their businesses and reopen with a different name; transfer property to family members; leave the country with their property; and use other tactics to "disappear" their assets so they can avoid paying the worker what they owe. Connecticut should adopt measures that other states have adopted to prevent unscrupulous employers from avoiding court judgments.

This report shares stories of some of the workers who have been left unprotected by Connecticut law and recommends policy reforms that can help Connecticut combat wage theft. The report was prepared by Unidad Latina en Accion (ULA) a grassroots organization established in 2002 to defend the rights of workers and immigrants in greater New Haven, Connecticut.
Off the Hook Restaurant
Westbrook, Stratford and Milford, CT

Marvin Mendoza was paid on average $3 per hour and some weeks was paid nothing at all at Off the Hook, a seafood restaurant. For nearly a year, the restaurant owner Andrew Testo stole Mr. Mendoza’s wages, shouted insults and profanities at him, and threatened him with kitchen knives.

Mr. Testo promised Mr. Mendoza $12 an hour in a well-staffed kitchen, but the conditions quickly deteriorated. Mr. Testo fired four other kitchen employees and forced Mr. Mendoza to perform the work of five people. On various occasions, Mr. Testo burst into the kitchen to smash dishes, hurl profanities, and threaten the staff with knives. Ultimately, Mr. Testo fired Mr. Mendoza for requesting the wages he was owed.

“I was scared for my life. I still have trouble sleeping and feel panicked whenever I see him.”

Mr. Mendoza has filed a lawsuit in federal court seeking unpaid wages and damages, but months have gone by, and he has not yet seen one cent. The employer has faced no consequences.

While this case may sound extreme, it is not unusual.

In 2014, Unidad Latina en Acción received complaints from three workers who were beaten by three different employers. Charles Jung, the owner of A1 Cleaners in West Haven beat his employee Armando Rodriguez on several occasions, finally sending him to the emergency room. The worker sought help from ULA to press charges with the police. The court ordered the boss to pay the hospital bills and closed the criminal case. Armando is still seeking more than $10,000 in unpaid minimum wage and overtime.

The amount stolen from him during 5 years amounts to more than $30,000, but because of the statute of limitations, he can only sue for 2 years of unpaid wages.
The Facts

How much does wage theft cost the state of Connecticut?

In 2013, the Connecticut Department of Labor (CT DOL) recovered $6.5 million in unpaid wages for workers who had been cheated.

This is just the tip of the iceberg. In addition to all of the workers who recovered wages through the DOL, there were many others who recovered wages through a civil suit; and there were many others who did not file any complaint because they feared retaliation or did not know their rights.

National studies find that over sixty percent of workers in low-wage industries suffer wage violations each week.

Wage theft and paying "off the books"
- robs the state of tax revenues
- forces the state to pay workers' compensation
- creates unfair competition for law-abiding businesses
- drives down wages for everyone

Wage Theft Statistics Sources:
- Where Theft is Legal: Mapping Wage Theft Laws in the 50 States (Progressive States Network 2012)
The Crime that Goes Unpunished

Goodfellas Restaurant

New Haven, CT

The CT DOL and US Department of Labor (US DOL) have investigated and found wage violations no less than seven times in the last decade at Goodfellas, an upscale restaurant in New Haven. The workers who filed the wage complaints in 2007, 2008, 2009 and 2010 included kitchen workers, servers and bartenders. They were immigrants and non-immigrants, including Latinos and workers of different races and ethnicities.

As a result of these investigations, the DOL ordered Goodfellas to pay back wages to more than 60 employees. But the fines were either small or non-existent, which explains why Goodfellas continues to violate the labor laws year after year.

The repeat violations at Goodfellas did not come to the attention of the public until 2010, when Unidad Latina en Accion filed a Freedom of Information request to the CT DOL and began a boycott campaign, picketing the restaurant for several months. At that time, four workers had a pending complaint with the US DOL that they were owed nearly $24,000 in unpaid minimum wage and overtime. The former kitchen workers had been paid less than $7 per hour, when the minimum wage was $8.25. For some weeks, they had received no pay at all. In 2011, the US DOL investigated and substantiated their claim, but the US DOL wanted to settle the case for only $17,000. The workers refused to settle. Finally the owner agreed to pay $23,636 in unpaid minimum and overtime wages to the four former workers and $1,870 in fines to the DOL.

Goodfellas:
A Repeat Violator of Minimum Wage and Overtime Laws
During a meeting between ULA and Gennaro Iannaccone, the owner of Goodfellas, the workers asked if he would issue an apology and promise to pay correctly in the future. Mr. Iannaccone said that he would continue to pay less than the minimum because “he could get away with it” and “that’s the way business works in America.” He said that the penalties from the seven DOL investigations — a few thousand dollars for multiple wage violations against at least 60 workers — were like a slap on the wrist.

**Intimidation**

On December 31, 2010, during a picket outside Goodfellas restaurant, New Haven police officers who were friends with Mr. Iannaccone told protesters that they would be arrested if they did not give their names and addresses, even though community members were engaging in a legal demonstration on a public sidewalk. Sgt. Anastasio told the community members that the Goodfellas owner could use the police report to put protesters’ names on a “blacklist” and distribute the “blacklist” to other restaurant owners, so that no business would hire them.

In this economy, who can risk being put on a “blacklist” simply for demanding that the minimum wage that is required by Connecticut law? Most workers subject to wage theft do not even complain to the DOL or file a lawsuit, because without a community group to support them, they risk being fired and even worse consequences, and the likelihood of recovering the full wages owed to them is not guaranteed.
Double Damages are Common Sense

Senate Bill 914
Wage Theft and Damage Awards

In many states, employers must pay double the amount of unpaid wages or "double damages."

This is common sense. If the employer only pays the unpaid wages and pays no penalty, then there is no incentive to change the business model.

Ten states actually allow treble damages (AZ, ID, ME, MD, MA, MI, NB, ND, VT, WV).

Currently Connecticut law makes it difficult for workers to secure double damages.

The worker essentially must prove that the employer conducted some other unlawful activity alongside the wage theft. The burden of proof should be shifted to the employer. Currently, judges ask "has the employee proven employer recklessness?" Connecticut law should be updated to match other states and the Federal Labor Standards Act, so that judges ask "has the employer proven that she tried to comply with the law but made an honest mistake?"
Renaissance Nail Salon
Darlen and New Canaan, CT

At Renaissance Nail salons, six women worked as manicurists and gave massages. They weren’t paid minimum wage or overtime. The boss kept some of their tips.

The boss treated the Latina workers differently from the non-Latina workers. He forced some of the Latina women to massage him and male clients in the back room. He touched them inappropriately every day. When the Latinas tried to eat or use the bathroom, their employers singled them out for harassment, knocking on the bathroom door and calling them back to work. When two of the Latina women requested a day off to care for their sick children, they were fired.

Forced to work long hours, bent over, with no protection from the toxic chemicals, and without bathroom breaks, the workers now suffer from respiratory and skin problems. Others have had back pains and kidney infections as a result of their work at the salons. In 2008, six women filed a lawsuit for $370,000 in unpaid overtime and minimum wages, stolen tips, and compensation for the economic, physical and mental suffering they experienced. Community organizations held demonstrations outside the nail salons.

While the case proceeded in court, the employer’s three houses in Darlen mysteriously went into foreclosure, and he “sold” his two salons to his niece, who claimed to know nothing about the labor dispute. The two main employers also declared bankruptcy.

Four years later, in 2012, two of the smaller employers settled for about $20,000. The major employers failed to show up to court, so the court issued a default judgment against them for $209,000, but these two employers are nowhere to be found and have no known assets. So even though the women from Renaissance nail salons are owed at least $209,000, and the court entered a judgment, the women have no way to collect the wages and damages owed to them.

Of the employers who commit wage theft, a large percentage use these tactics to avoid payment. Many of these employers even refuse to show up to court to participate in the legal process, leading the court to make default judgments. At the Connecticut Legal Services Day Laborer Clinic in Stamford, only 30% of workers who obtain judgments are able to collect. Many workers end up settling their claim for less than what they are owed, because the employer threatens to “disappear” his assets. Many lawyers refuse to take wage theft cases, because the chance of recovering wages is unlikely.
Wage Liens Work

Senate Bill 1037

*Liens for Unpaid Wages*

In other states, wage lien statutes have proven very effective for securing wage payments against these tactics.

Ten states have some kind of wage lien (AK, ID, IN, WI, MD, NH OH, TN, TX and WA).

A wage lien allows a worker to place a temporary hold on the property of an employer until the employer resolves the wage dispute in court. Contractors in Connecticut already have this tool available (see the mechanic’s lien statute Section 49-33 of CT general statutes); there's no reason other employees shouldn't have this tool.

A “lien” allows someone who is owed a debt to record the debt in the property records of the person that owes the debt. The lien does not automatically transfer title of the property to the person owed money or prohibit its sale. A lien puts any potential buyer on notice that if the amount is not paid, the lienholder could eventually obtain payment through a court action called foreclosure.

Wage liens don’t subject law-abiding employers to any cost or worry. Employers still have the opportunity to dispute any lien and ask the court to decide.

In Wisconsin, where the wage lien statute has existed since 1993, the collection rate on wage theft claims backed by a wage lien is 80%.
Gourmet Heaven Deli

*New Haven, CT*

In 2014, Yale campus was rocked by protests against wage theft at Gourmet Heaven, a popular 24-hour deli on Yale property. Many of the workers earned less than $6 per hour, working 72 hours per week. The owner Chung Cho stole more than half of their pay checks every week.

The workers endured these violations for years. They lived with six to ten people in a cramped basement, paying rent to Mr. Cho. One of the workers, Cristian Lopez, was only 14 years old. Like many immigrant kids who have no parents, he worked full time instead of attending school. He endured three years earning $4.75 per hour, 72 hours per week.

Another teenage worker, Adin Morales, asked the manager for the minimum wage, and the manager replied, "If you want to work, you can work. If you want to leave, you can leave. No one here is irreplaceable."
Adin decided to quit, but the manager told him he had to vacate the house immediately. To avoid being kicked out on the street, Adin stayed. Finally, after 11 months of employment, he quit and filed a complaint with the CT DOL. The DOL began an investigation, but many workers refused to speak with the DOL because the manager promised that "snitches" would be fired.

The DOL found that Gourmet Heaven had stolen more than $218,000 in wages from 2 dozen workers during a 2-year period. However, the DOL agreed to a settlement so that Mr. Cho would pay only $140,000 in three installments, plus $10,000 in fines.

Mr. Cho made the first payment and also began paying his employees the minimum wage, but he continued to pay the overtime hours off the books. In December 2014, during a week of unpaid Christmas vacation, Mr. Cho fired four of the workers who had cooperated with the DOL investigation. He failed to pay the second installment of the settlement to the DOL.

These actions, combined with a community boycott and community meetings with city officials, prompted the DOL seek an arrest warrant. New Haven Police arrested Mr. Cho and charged him with 42 misdemeanors for wage violations and one felony for larceny.

Mr. Cho did not serve any jail time. He often refused to show his face in court, sending his lawyer instead. The workers and the community, however, showed up to all of his court dates. After months of going to court, the judge finally ordered Mr. Cho to pay the $218,000, but she let Mr. Cho off with a clean criminal record and no further penalty. The workers are seeking the rest of their wages through a civil suit in federal court.

"I was on my feet for 12 hours, so they often hurt. The owners would watch us through the surveillance cameras, and if we were resting, even when no customers were in, they would come down and yell at us and force us to clean."
-- Adin Morales, pictured to the left

"I didn't make a living. I just barely survived."
-- Alejandro Rodriguez, who worked at Gourmet Heaven for ten years
“As Julio Olivar, a former employee who was fired in retaliation for speaking with the DOL, said, “Legally, I can claim only the last two years of unpaid wages. But I worked here for seven years. Can you imagine how much money [the owner] has stolen from me? I did the math: it’s about $70,000.”

The total amount of wages stolen from workers during the last decade likely tops $1,000,000. With this money, Mr. Cho opened a second store in New Haven and two stores in Rhode Island.

The workers will only recover a fraction of what they are owed, but they hope that their public campaign will pave the way for better working conditions in the future. The community boycott secured an agreement from Yale University Properties to not to renew the lease of Gourmet Heaven. In addition, the New Haven Police have pledged to work with the community and the DOL to prosecute wage theft when other options have been exhausted.

As Adin says, “We are not destroying businesses. Just the opposite, we are improving working conditions for everyone.”

"We're not doing this for our own benefit. We are making a sacrifice so things will be different for all the workers who will come in the future. I don't want other people to suffer what I've suffered, to have their dreams crushed like mine were. We all have the right to live with dignity." --Adin
Written by Megan Fountain

Design by Ava Tomasula y Garcia

Photography by Eino Sierpe

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Unidad Latina en Accion
37 Howe Street, New Haven, CT 06511
(203) 479-2959 (203) 606-3484
www.ulanewhaven.org