



At the Northwest Workers' Justice Project, we believe that all workers share the fundamental **human right** to live and labor with **dignity, safety, and hope**. Whether constructing and landscaping the buildings in our communities, harvesting and preparing the food on our tables, or cleaning our offices and hotel rooms, **every worker** deserves **fair and lawful wages and working conditions**.

NWJJP exists to defend those rights.

**We need your help to make our work possible.**

Count me in! I will help protect the rights of workers with the enclosed contribution of:

\$50  \$100  \$250  \$500  \$1,000  other

**For a tax deductible contribution, please make your check payable to "NEED Fund."**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Mail to: 917 SW Oak St., Suite 412, Portland, OR 97205



## Anti-immigrant measure in Columbia County overturned

NWJJP congratulates the courageous folks in Columbia County who stood up for decency and justice despite the hostility of some in a deeply polarized community. We want to acknowledge and thank partner organizations including ROP, the ACLU, and individual attorneys who contributed to this success.

We would like to extend a special thanks to all of you who contributed to our Columbia County emergency fund. Your support makes our work possible!

*Look inside to learn more about the struggle for justice in Columbia County.*

THE MISSION of the NORTHWEST WORKERS' JUSTICE PROJECT is to improve enforcement of workplace and organizing rights of low-wage, contingent, and immigrant workers in the Northwest.

## Columbia Co. anti-immigrant measure invalidated

Advocates of immigrant and workers' rights won a substantial victory in April when Judge Ted Grove in Oregon's Columbia County declared invalid an anti-immigrant ballot initiative approved by voters in the county last November.

The ruling came in response to a lawsuit filed by NWJJP and a team of other lawyers to block the implementation of measure 5-190, shortly after its passage. Had the initiative not been overturned in the court, it would have penalized employers in Columbia County for hiring undocumented work-

ers with the loss of business licenses and fines of up to \$10,000. Workers who were losing their jobs as a result would have been without any means of challenging their termination.

The judge found the initiative to be preempted by federal law, which explicitly prohibits local governments from imposing civil or criminal sanctions on employers of undocumented workers. The judge also found that enforcement procedures established by the initiative would have required County authorities to take actions outside of their statutory and constitutional powers.

The lawsuit that finally defeated measure 5-190 was part of an ongoing campaign led by community members and regional activists organized in opposition to two ballot measures first proposed by a local construction contractor in 2007.

NWJJP first supported the efforts by representing local progressives in a successful challenge to the ballot titles that would explain the measures to voters. We assisted our

community partners in postponing the vote from a special election—in which there was nearly no chance of the measures being voted down—to the fall 2008 general election—in which the worst of the two measures was defeated.

After voters approved measure 5-190, NWJJP played a key role in rapidly mounting the legal challenge that blocked the measure

before it could go into effect. In the meantime, NWJJP supported the work of community activists by training workers and employers about the impacts of the initiative, and by educating the public through the media about the issues involved in the lawsuit.

Marcy Westerling of the Rural Organizing Project thanked NWJJP for its role in the struggle up to this point.

"NWJJP stood by the justice minded people in Columbia County from the start of this mess," she explained. "They have guided us in how to stay calm and focused and use the legal process before, during and after. NWJJP is a priceless resource." *Continued on page 2*

**"[NWJJP] guided us in how to stay calm and focused and use the legal process before, during, and after. NWJJP is a priceless resource."**

- Marcy Westerling,  
Rural Organizing Project



On February 18, 400 members of the Columbia County Latino community and their allies joined together in a march for respect and dignity.

## NWJJP continues fight to clean up mess left by Bush administration in H-2B temporary worker program

*In our fall 2008 newsletter, NWJJP reported on our work to forestall adoption of new regulations for the H-2B temporary worker program proposed last summer by the Bush administration. The H-2B program is the system used to import workers from outside the United States to perform temporary, low skill, non-agricultural jobs. The structure of the program allows systematic abuse of H-2B workers.*

After Hurricane Katrina, Decatur Hotels, a major hotel company in New Orleans, arranged for H-2B workers to fill low wage, temporary jobs such as maintenance and housekeeping, claiming that no one applied when they offered work to hurricane evacuees.

Aggressive labor recruiters earning big bucks as agents of the hotel promised nine months of full-time work with plenty of overtime to recruits in Peru, Bolivia, and the Dominican Republic. Each worker recruited paid between \$3,500 and \$5,000 to cover recruiting fees, travel, and visas – more than a year's salary in their home country for most of the workers. According to the terms of the written contract, each would have to work full-time for three to

four months just to repay the recruiting fees, not counting any interest on loans they may have taken out. To raise the money, recruits sold land and belongings, plunging their families into debt in hope of greater economic opportunities.

When the workers arrived in the United States, they were only given up to 25 hours of work per week. Although desperate for higher wages to pay off their debt and support their families, as H-2B they were prohibited by law from seeking work from anyone other than the employer that "imported" them.<sup>1</sup>

As evidenced by this story and many others, temporary foreign worker programs in the United States must be *(Continued on pg. 2)*

## May Day demands for reform



NWJP's Executive Director Michael Dale joined several of our clients, along with hundreds of other supporters of immigrant and labor rights, at a rally and march in downtown Portland to call for the passage of fair and just immigration reform, in commemoration of International Workers' Day.

### TO STAY INFORMED ABOUT EFFORTS TO ACHIEVE COMPREHENSIVE IMMIGRATION REFORM:

Join CAUSA's Cell Phone Action Network by texting CAUSA to 68398!

CAUSA is Oregon's statewide, grassroots immigrant rights coalition, working to defend and advance immigrant rights through coordination with local, state, and national allies.

### Fight to clean up H-2B program: continued from page 1

overhauled to protect the rights of U.S.-born and immigrant workers. Unfortunately, the Bush administration had a different kind of reform in mind.

Despite the efforts of NWJP and other worker advocates, the Bush administration adopted new regulations during its final days that further undermine the working conditions of both U.S. and imported workers under the H-2B temporary worker program.

The new rules, among other problems, lower the wage rates that must be paid to U.S. and foreign workers, weaken recruitment of U.S. workers, cut the states out of any role in monitoring the program and allow visa workers to be imported based upon the promise of the employer to comply with program requirements rather than proving compliance first. "Temporary" is redefined in a way that could make any construction job subject to H-2B applications.

Worse, the outgoing Secretary of Labor also issued a statement in the preamble to the H-2B regulations disapproving of decisions in the 11<sup>th</sup> Circuit and a handful of district courts around the country which hold employers of temporary foreign workers responsible, in certain situations, for refunding to those workers the expenses incurred in getting to the U.S. to work. Within days, employers were citing the statement in a dozen wage cases around the country to argue that no repayment is due.

The Secretary's statement was devastating because it is often precisely that debt—sometimes amounting to thousands of dollars—that leaves H-2B workers so vulnerable to abuse. No matter how bad the job turns out to be, workers feel trapped in employ-

ment since they have no other means of repaying the debt they accrued in getting to the job.

On January 18, the day the regulations would take effect, member programs in the Low Wage Workers Legal Network (which NWJP helped to organize) filed suit against the regulations in *C.A.T.A., et al, v. Chao* in the U.S. District Court in Philadelphia. NWJP represents PCUN (Oregon's farm worker union) in that litigation.

We are currently engaged in initial settlement discussions with the Obama Department of Labor, and we have already made important progress toward undoing the damage.

On March 26, in response to C.A.T.A. and another case involving H-2A workers, new Secretary of Labor Hilda Solis withdrew the preamble statement, declaring that the Department of Labor is re-examining its position on previous court decisions in light of legal challenges and that employers may not rely on the Bush interpretation.

Meanwhile, NWJP is also involved in federal efforts to legislate H-2B reform. We have presented a letter to Congressional leadership endorsed by key national labor and advocacy organizations challenging the new H-2B program rules. At the invitation of key Congressional staff, we have joined other network members in reviewing and commenting on drafts of an H-2B reform bill that will be introduced shortly by Rep. George Miller (D-CA) and others.

We are hopeful that continued advocacy will soon result in full rollback of the Bush administration's H-2B regulations and, eventually, policy change that will strengthen the protections provided to H-2B workers.

<sup>1</sup> Story taken from a 2007 report by the Southern Poverty Law Center, titled "Close to Slavery: Guest Worker Programs in the United States."

### Measure invalidated: cont. from pg 1

Pushing back against anti-worker, anti-immigrant measures in Columbia County has been a priority for NWJP's work over the last year, not only to defend the rights of immigrant workers in the county, but particularly to prevent a success for anti-immigrant groups here from becoming a model for mobilizing anti-immigrant sentiment elsewhere.

#### Struggle continues

Although the April ruling overturning measure 5-190 is a significant success, the struggle to prevent the passage of local initiatives that damage immigrant workers and their communities in Columbia County and beyond is far from over. Anti-immigrant forces in the county have vowed to return to the ballot with a similar measure.

NWJP hopes to help our community partners move dialogue within the county away from immigration to a common goal of preventing the exploitation of workers. Although the community is deeply polarized, it may be possible to bring people together around local mechanisms to enforce workplace rights that protect all workers, native and immigrant alike.

## Bills move to support workers

NWJP is working hard at the state Capitol to advocate for legislation securing protections for Oregon's low wage workers. These are three bills we are actively pursuing:

**House Bill 2624** would allow workers who have been trapped in long-term temporary or low wage employment to attend job skills training without losing unemployment benefits. Currently, a worker may not receive unemployment insurance benefits unless the worker is available to work any shift without limitation. Unemployed workers seeking skills that would lead to a better job are thus forced to choose between unemployment insurance and training, even if the job available is only temporary. This bill was approved in the House Business and Labor Committee and is pending in Ways and Means.

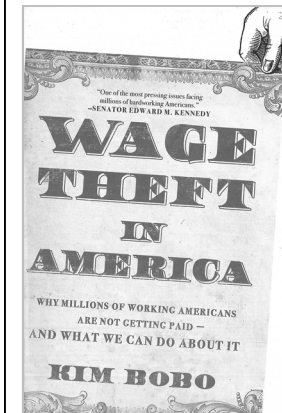
**House Bill 2815** would establish a network of state agencies to enforce compliance with laws relating to the misclassification of workers as independent contractors in order to avoid paying taxes and benefits. Produced by an interim agency task force, the original draft of the bill might have actually weakened the responsibility of employers with respect to wages and workers compensation. At our suggestion, the bill was amended to ensure that the definition of "employer" under Oregon wage and workers compensation law was not weakened by this legislation. The bill cleared the House Committee on Consumer Protection and Revenue, and is pending in Ways and Means.



NWJP client Patricia Laguna testified in support of HB 3162 at a public hearing in Salem, after her job at a migrant head start program was terminated when she repeatedly pointed out that the program was not complying with federal regulations requiring parental involvement.

**House Bill 3162** would make it illegal for employers to discriminate against an employee for reporting illegal practices in the workplace. Under current law, unless there is a specific statute saying that retaliation is unlawful, there may be no legal recourse for private employees who are fired for reporting illegal practices. For example, workers who are retaliated against for asking for work breaks required by BOLI regulation are not protected. The bill was passed 41-19 by the full House of Representatives on May 7 and referred to the Senate Committee on Commerce and Workforce Development.

### WAGE THEFT IN AMERICA: Why Millions of Working Americans are Not Getting Paid — And What We Can Do About It



Kim Bobo

The New Press, 2009  
314 pgs

Review by Sera Lawrentz, NWJP volunteer

In her latest book, labor activist Kim Bobo exposes the hidden injustices plaguing North America's low wage workers. The bottom line is that millions of workers are going unpaid. It happens all the time, in various ways: paying employees less than minimum wage, not paying for all hours worked, giving employees bad checks, and neglecting to pay extra for overtime hours, to name a few. After exploring the complexities of the problem, Bobo offers an extensive, concrete plan to help support and protect workers.

Kim Bobo is the founder and Executive Director of Interfaith Worker Justice. We are grateful for her contribution to NWJP as a member of our Advisory Board.

## Close to home: Wage theft and discrimination in your backyard

Even as we advocate for policy change, direct legal representation of workers in the Pacific Northwest whose employment rights have been violated continues to be a crucial component of NWJP's work. Here is a sampling of the abuses that our current clients are confronting:

⇒ Employees at a Portland restaurant work in the kitchen up to sixty hours a week on "salary," a monthly lump sum that falls far short of the hourly minimum wage and does not compensate workers for overtime hours. After three years of employment, one worker is owed about \$30,000 in back wages.

⇒ At another Portland restaurant, a female employee faces similar wage violations in addition to unwanted sexual advances from her employer. When she tells her boss to stop touching her, he says it is only a joke. He later threatens to retaliate against a member of her family if she takes legal action against him. He also threatens a witness in her case.

⇒ A large, solvent construction contractor in Oregon routinely denies overtime pay to hourly employees, many of whom do not know they are legally entitled to overtime compensation. Workers who suffer injuries on the job are encouraged not to file workers' compensation claims, and fines assessed by OSHA on the company are illegally deducted from workers' pay.

⇒ Instead of hiring them as janitors, a building maintenance company sells an immigrant couple a "franchise" to clean office buildings, claiming that they are buying into an independent business. However, under the Fair Labor Standards Act, they are employees. We are now looking for the franchisor, who has disappeared, to collect the judgment we won for the workers.

⇒ State regulations require that workers get ten minute rest breaks during each four hour work period. But when our client insists on being given his break, he is fired.

⇒ A group of carpet layers labor around the clock for several weeks to complete a remodel at an Oregon hotel, frequently working double shifts. The subcontractor who hired the workers leaves the state and disappears before paying them in full, in debt several thousand dollars to each employee.