

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

## NWJP tops \$1,000,000 recovered for workers

Since NWJP first opened our doors to clients in 2003, a central part of our mission has been to hold employers accountable for violating the rights of their employees by providing high quality, low cost legal services to low wage workers exploited on the job. Now, six years later, we can measure our success by an important milestone: in 2009, we surpassed \$1,000,000 in wages and damages recovered from unscrupulous employers for the workers we exist to support. In that time, our small staff has assisted 821 clients in 166 separate cases against almost as many different individuals and corporations.

These are the stories of a few of the workers whose cases we have resolved this year:

THOSE OF YOU WHO READ OUR LAST mailing will remember Victor and Antonio, former employees of a restaurant in Portland where they prepared food and washed dishes for 10 hours a day, 6 days a week, for almost three years. They were paid a fixed "salary" of about \$1,500 a month, far below the Oregon minimum wage at only \$5.75 an hour. After years of being paid less and treated worse than non-Mexican workers, Victor and Antonio had been collectively robbed of almost \$50,000 in



*Executive Director Michael Dale, left, and Meg Heaton, NWJP's attorneys, pose for a photo at our office in downtown Portland.*

wages they had a right to receive.

They came to NWJP in early 2009, along with another co-worker, in search of justice. We agreed to represent all three and filed a lawsuit against their former employer. Several months ago, Victor, Antonio, and their co-worker accepted a settlement that compensated them for stolen wages and showed the restaurant owners that they can't continue to operate a successful business by exploiting employees. Co-workers have told Antonio that the restaurant is now paying all workers at an hourly rate at least the minimum wage.

UNLIKE THE CASE OF VICTOR AND ANTONIO, it took several years to resolve this next case. In 2006, a food processing plant in the mid-Willamette Valley laid off a number of long-time Latino employees. Although some other workers were laid off at the same time, it just "worked out" that all the employees who had met with a representative of the company's human resources department about a co-worker's complaint of national origin discrimination and complained about anti-Latino harassment were among those terminated. The workers had complained that Latino workers were being screamed at and publicly demeaned, scapegoated, and often required to do by themselves jobs that were done by two people if non-Latinos were doing them, increasing risk and stress.

PCUN, Oregon's farmworker union, referred the case to us. NWJP brought retaliation and national origin discrimination claims on behalf of 17 workers, nine women and eight men, against their former employer. In early 2009, we were finally able to get our clients compensation for lost wages and emotional suffering.

ANOTHER GROUP OF WORKERS CAME to us with complaints about wage theft in

See **\$1,000,000**, page 3

## New Oregon law strengthens worker protections

Last year, a worker at a construction company near McMinnville was fired because he complained about long, grueling work days without the 10 minute rest breaks required by state law to get a drink or go to the restroom. When he first came to us, Oregon law didn't protect workers like him from retaliation for speaking out against illegal conditions. That's why NWJP joined allies and went to work in Salem.

**Our efforts met with success – the law has been changed.**

Under the new law, which will go into effect in 2010, it is illegal for any employer to retaliate against an employee for reporting a violation of state or federal rules, laws or regulations in the workplace. An employee who is fired or suffers discrimination for such whistle-blowing will be able to sue for lost wages

and to get their job back.

Previous Oregon law only protected private-sector employees from employer retaliation for making certain specific kinds of complaints, such as complaints about wages or safety violations or making a workers' compensation claim. For example, workers who claimed their right to rest breaks or that their employer was defrauding the public were not protected from employer retaliation. The new law extends the protections to employees in the private sector who make complaints that the employer is acting illegally.

Some lawmakers expressed concern that the law would make it too easy for disgruntled employees fired for legitimate reasons

See **PROTECTIONS**, page 4

## Northwest Workers' Justice Project

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Don Saunders, *Director, Civil Legal Services, National Legal Aid & Defender Association*

\* The Northwest Employment Education and Defense Fund (NEED Fund), our partner organization, was founded alongside NWJP to support our 501(c)(3)-eligible program work.

\*\* Affiliations listed for identification purposes only.

# Our team for worker justice is growing

**PATRICIA LAGUNA** joined our staff as a paralegal in July, having spent much of her life working to help the most vulnerable people in her community. Born and raised in Mexico, Pati graduated with a degree in Communications from the *Instituto Tecnológico de Estudios Superiores de Occidente* in Guadalajara, Jalisco, Mexico, putting her skills to work at an indigenous radio station in Oaxaca and as a producer of educational programming in Mexico City. She immigrated to Oregon with her son in 1994 and spent 14 years working with rural immigrant families at the Oregon Child Development Center's Migrant Seasonal Headstart program, first as a parent volunteer, later as a family service worker, and finally as the Parental Involvement Coordinator. She was a key part of the successful union organizing drive in 2008 at the Washington County OCDC. We are extremely pleased to add Pati to our team.

See **WELCOME** on page 4 for an introduction to the newest board members.



*"As part of the NWJP team, I hope to continue to support the most needy families, giving them the tools necessary to help themselves move forward and motivating them to take advantage of the resources that are available to support them in building a more stable life."*

- Patricia Laguna

*NWJP extends a special thanks to the  
**Public Welfare Foundation**  
and the*

***McKenzie River Gathering Foundation**  
for their generous renewed financial support  
of our efforts to defend the rights of low wage  
immigrant and temporary workers.*



Many thanks to our summer law clerks **Vanessa Holguin** and **Sarah Carlin** for their intelligent contributions, energy, and enthusiasm. Vanessa is now in her second year at Berkeley Law School, and Sarah is completing her last year at the Washington College of Law at American University. We wish them success in their legal careers!



### **Congratulations to workers at the Oregon Child Development Coalition!**

Employees at the OCDC in Multnomah, Washington, and Marion counties ratified first-ever union contracts in August. The three-year contract provides for wage increases for all employees, a written grievance process, seniority language, and a new labor-management committee. Some 400 employees of the nonprofit preschool childhood care and education network have become members of Laborers Local 320 since 2008. NWJP is proud of whatever small contribution we may have made to the workers' ultimate success.

## H-2B UPDATE

Frequent readers of the NWJP newsletter will remember that we are currently litigating a case in Pennsylvania against the U.S. Department of Labor to challenge destructive regulations to the H-2B temporary worker program adopted by the Bush administration in its final days.

One of the worst problems with the new regulations was a statement in the preamble 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 most situations, for refunding to those workers the expenses they incur in getting to the U.S. to work. The statement was devastating because it is often precisely that debt that leaves H-2B workers so vulnerable to abuse.

Under pressure from NWJP and other worker advocates, Secretary Solis withdrew the statement in March of this year.

And, on August 21, 2009, the Wage and Hour Administration issued an opinion letter that essentially endorsed the decision of the 11<sup>th</sup> Circuit and rejected the contrary arguments made by the Bush Administration preamble.

# Volunteer attorneys help close gap in access to legal system for vulnerable workers in Pacific NW

*Working with volunteer attorneys to co-counsel and refer cases is an important part of NWJP's strategy to better meet the high demand for employment-related legal assistance among low wage workers in the Pacific Northwest. We provide volunteers with specialized legal training and resources for representing low wage immigrant and temporary workers, if needed. Lawyers like the 2009 volunteers featured here greatly increase our capacity to provide legal services to the workers who turn to NWJP for support, and we are extremely grateful for their dedication to worker justice.*

As a Spanish-speaking attorney in Portland who wants to specialize in employment discrimination on the basis of immigration status, national origin or race, volunteer **Kristen West** is a natural fit with NWJP. When an immigrant worker came to us after having been illegally fired, we asked Kristen to help by co-counseling the case. Our client, who has been legally authorized to work in the United States since she arrived from Cuba in early 2007, got a job at an expensive restaurant in downtown Portland. After she had worked several months, her employer attempted to re-verify her work authorization status. Despite presenting legally sufficient documents and getting her immigration counsel to write several letters to the restaurant confirming the legality of her employment, our client was fired from the restaurant.

With NWJP's support, Kristen has filed a complaint for citizenship status discrimination (prohibited by the Immigration Reform and Control Act of 1986) with the U.S. Department of Justice, Office of Special Counsel, providing our client with a way to seek recourse.

**Walter Meier**, an employment lawyer who practices in Washington County, Oregon, started volunteering with NWJP in 2008. His initial contribution was in the form of co-counseling cases and performing legal research on a variety of subjects, while gaining experience in wage and hour issues.

*We are always looking for lawyers who are willing to take on employment cases on behalf of low wage workers! To lend your legal expertise to the fight for worker justice, call Michael Dale or Meg Heaton at the NWJP office (503-525-8454).*

## NWJP recovers over \$1,000,000: *cont. from pg 1*

construction, an industry where such violations are becoming increasingly common. The five workers we represented worked for a large, solvent construction contractor in Oregon, doing a variety of jobs including roofing and siding on several large residential complexes in the Salem and Portland areas. Although employees routinely worked more than 40 hours a week, the company never paid hourly employees extra for their overtime hours. In fact, some workers did not know they were legally entitled to overtime compensation. Several of our clients, hired by contract to do piece-rate work, received less than minimum wage for their work. Workers who suffered injuries on the job were encouraged not to file workers' compensation claims, and fines assessed by OSHA on the

Now, Walter is helping us expand access to justice for low wage workers by accepting a steady stream of referrals. As an NWJP volunteer, he is currently representing seven immigrant workers in three different cases for unpaid wages for siding and landscaping work.

When a group of about 30 painters came to NWJP with wage claims, Vancouver lawyer **Peter Fels** volunteered to take the referral. Peter learned from the workers that they had not been paid at all for an entire six weeks of work on a large new deluxe apartment complex under construction in Vancouver. On top of that, the painters had never received required overtime compensation during their three and a half months of work. The painting subcontractor that employed them apparently got the job by bidding low – which he was able to do by paying workers less than \$10 an hour on average, while the usual rate in the painting industry is over \$15 an hour.

Peter went to bat for these clients, helping them obtain a fair settlement. In the end, Peter got the satisfaction of helping a large group of 29 workers receive fair compensation, while earning a reasonable attorney fee which did not come out of the clients' pockets, and three more contractors learned that they cannot steal wages from their employees without consequences.

company were illegally deducted from workers' pay.

One common complication in construction cases is the complex ladder of relationships among contractors. Often, there are one or more levels of subcontractors shielding the contractor at the top of the employment chain from accountability for the rights of employees at the bottom. However, the subcontractor who "employs" the worker often lacks the resources to pay wages that are due. State and federal wage laws say that it is the economic realities of the situation, not mere contractual labels, that control whether someone who benefits from work is a responsible employer. In this case, we not only sued the company that hired our clients, but also the contractors who hired that company and ultimately benefitted from their low wage work. This led to a relatively quick resolution of the case and satisfactory compensation for our clients.



Walter Meier



Kristen West



Peter Fels

# A warm welcome to five new board members!



**SARAH LOOSE** grew up in a small town-turning-suburban community in southern Minnesota. Her understanding of global justice and democracy was radically expanded while living in El Salvador for several years. In 2003, anxious to find her niche in social movements in the US, Sarah moved to the Pacific Northwest to work with the Jefferson Center. There she further developed her skills as a popular educator and community-based organizer,

working primarily with Latino immigrants. Sarah went on to make many valuable contributions as an employee at NWJP before joining the staff of the Rural Organizing Project (ROP), where she now works in the struggle for justice in Oregon's rural and small towns. She is also the co-founder and board member of the Oregon New Sanctuary Movement, which engages people of faith to work for immigrant justice. Sarah joined the board of NEED Fund, NWJP's nonprofit partner organization, in November.

**LYNN-MARIE CRIDER** has spent most of the last 32 years working for the labor movement as a lawyer, researcher, organizer, and negotiator. With a bachelor's degree from University of Oregon and a law degree from Yale University Law School, Crider started her career representing industrial unions and bringing class action civil rights cases as a lawyer based in Little Rock, Arkansas. She later became in-house attorney for the Western Region of the International Woodworkers of America, worked for a legislative labor committee, served on the Workers Compensation Board, and held positions at several SEIU locals. She joined the



Oregon AFL-CIO as Research and Education Director in 2000, educating affiliates about the harm done by NAFTA-style trade treaties and the World Trade Organization, before moving to SEIU Local 49 as Policy Director in 2004. This fall, she left organized labor to work as a policy analyst for the state agency that is developing a plan for comprehensive health coverage in Oregon. Lynn-Marie joined the NEED Fund board in November.

**ELIANA MACHUCA** grew up in California, where her father, a Chilean socialist, relocated after the overthrow of Salvador Allende forced him to flee the country. Eliana graduated from Humboldt State University in 2005 with a bachelor's degree in environmental science. She has been at Jobs with Justice for over three years, and much of her work since coming to Portland has focused on convening conversations within the labor

movement on immigrant rights and opposing immigration raids. Her relationship with NWJP started when we collaborated with JwJ to organize several events to broaden understanding within the labor movement of immigration issues. Eliana joined the NWJP board in November.

**LISA LESAGE**, a Lewis and Clark Law School alumna who graduated from the University of Portland, has been involved locally and nationally in many educational and legal initiatives involving labor and employment issues for low wage and immigrant workers. She currently holds the position of Associate Dean and Director of Business Law Programs at Lewis & Clark Law School, and has been awarded a prestigious Fulbright Scholar grant to lecture at one of



Latin America's top law schools in Santiago, Chile, during the 2009-2010 academic year. Lisa worked previously as a staff attorney with Oregon Legal Services Farm Worker Program. Her past public service also includes an appointment to the State of Oregon Wage and Hour Commission and the Oregon Labor Commissioner's Advisory Committee on Agricultural Labor, where she co-authored a white paper on migrant health. Currently, she is the immediate past president of the Oregon Law Foundation, serves on the Oregon State Bar's Leadership Advisory Council Board, the Campaign for Equal Justice Advisory Committee and the statewide Legal Services Governing Council. Lisa joined the NEED Fund Board in November.

**MARILYN MCMANUS** was born and raised in California. She attended Mills College in Oakland, California, the oldest women's college west of the Mississippi, before graduating from the University of California at Berkeley with a bachelor's degree in political science and earning a law degree from Southwestern University School of Law in Los Angeles, California. As an Oregon deputy state public defender, Marilyn spent five years representing convicted felons on the direct appeal of their felony convictions to the Oregon Court of Appeals and the Oregon Supreme Court. She later returned to school, earning a master of social work degree from Portland State University. Since then, Marilyn has spent thirteen years working at a children's mental health project housed within PSU's Graduate School of Social Work, and nine years as a social worker in the child welfare arm of the Oregon Department of Human Services. She currently works as an organizer at SEIU Local 503, where she has been since March 2007. Marilyn joined the NWJP Board in November.

On behalf of NWJP's staff and clients, we'd also like to extend a big thanks to departing board members **DAVID AYALA** and **ANGEL LOPEZ** for their years of service.

## New Oregon worker protections: *cont. from pg 1*

to retaliate against employers. However, as NWJP Executive Director Michael Dale explained in his testimony to the House and Senate, employees would have to prove they believed "in good faith" that a violation occurred, that they reported it to an agency or a superior, and that they faced retaliation as a result.

The bill was sponsored by Representative Judy Stiegler (D-Bend) and carried in the Senate by Senator Diane Rosenbaum (D-Portland). NWJP joined the Oregon Trial Lawyers' Associa-

tion and the Oregon AFL-CIO in our advocacy efforts. Several of our clients gave personal testimonies to committees in both chambers, including the worker fired for complaining about rest breaks and a woman who lost her job for reporting the failure of her employer to comply with certain federal regulations.

This new protection can only be fully effective if workers who are retaliated against for reporting illegal conditions in their workplace have access to high quality legal services to hold the employer accountable. NWJP will continue to address that need for the most vulnerable workers.

# Report shows U.S. labor laws fail low wage workers

A recent survey of low wage workers in the largest cities in the United States provides new evidence of what we hear daily from workers in the Pacific Northwest: that labor laws in this country are not protecting workers from frequent and extreme violations of their core workplace rights.

In the first half of 2008, researchers surveyed a representative sample of 4,387 front-line workers from a variety of low-wage industries in Chicago, Los Angeles, and New York City. Key findings from the study, "Broken Laws, Unprotected Workers," include:

➤ More than two thirds (68%) of all workers interviewed had experienced at least one pay-related violation in the previous work week.

➤ The average worker had lost \$51 to wage theft in the previous week – a 15 percent loss in pay. Assuming a full-time, full-year work schedule, the study estimates that workers lose an average of \$2,634 annually due to workplace violations, out of total earnings of \$17,616.

➤ More than a quarter (26%) of surveyed workers were paid less than the minimum wage in the previous work week. 60% of those workers were underpaid by *more than \$1 an hour*.

➤ 76% of the respondents who worked more than 40 hours a week during the previous week were not paid the legally required overtime rate by their employers. The average worker with an overtime violation had worked 11 hours of overtime – hours that were either underpaid or not paid at all.

➤ Violation rates varied significantly by occupation and industry.

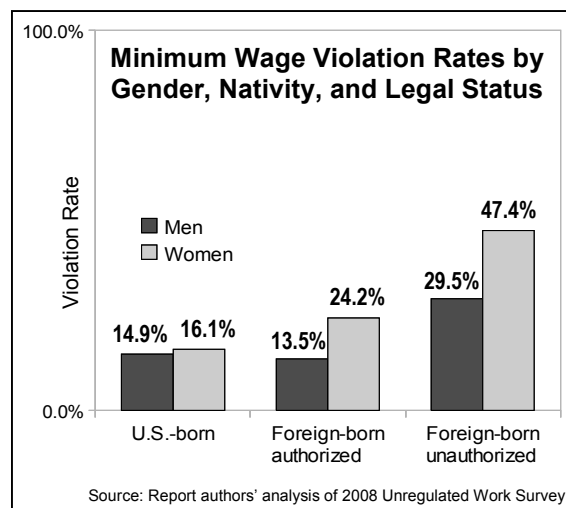
➤ All workers are at risk of workplace violations, regardless of race, gender, or citizenship status. However, some workers are more at risk than others.

➤ Foreign-born workers were nearly twice as likely as their U.S.-born counterparts to have a minimum wage violation, and the higher minimum wage violation rate for foreign-born respondents was concentrated among women – especially women who are unauthorized immigrants.

➤ Foreign-born Latino workers had the highest minimum wage violation rates of any ethnic/racial group. Among U.S.-born workers, African American workers had a violation rate triple that of their white counterparts (who had by far the lowest violation rates).

As the report points out, those employers who violate workplace rights and drive down labor standards are not only stealing from low wage workers and their families. They are also robbing local economies of spending power, state and local governments of critical tax revenues, and workers nationwide of the promise of decent working conditions.

"Broken Laws, Unprotected Workers" is co-authored by Anette Bernhardt, Policy Co-Director of the National Employment Law Project. The full report provides much more detail on workplace violations and offers suggestions for a new policy agenda to protect the rights of workers. You can find it online at <http://www.nelp.org>.



## Defend Oregon

Right now, as Oregonians struggle just to make ends meet and depend more on crucial services, two-thirds of the corporations doing business in Oregon get away with paying just **\$10 a year in Oregon's corporate minimum income tax** based on a law that has not been updated since the 1930s.

During this past legislative session, to protect education, healthcare, and public safety from devastating budget cuts, lawmakers approved targeted tax increases on corporations and the rich (households that make more than **\$250,000**) in order to protect vital services. Under this law, minimum corporate taxes would go up to \$150 a year, and those earning more than \$250,000 would pay a bit more. But now, some large corporations are working to overturn these reforms.

If these measures are put on the ballot, a YES vote will protect nearly \$1 billion for education, health care and public safety, which account for more than 90 percent of the state budget. Voting YES on these measures will preserve class sizes, save Oregon jobs, protect in-home care for seniors, and maintain health care for thousands of Oregonians.

To get the facts on these measures, visit [www.defendoregon.org](http://www.defendoregon.org).

If you sign the Defend Oregon Pledge online, you will let the coalition know that you believe corporations should pay more than \$10 a year in income taxes and that you want to protect Oregon's essential services.



Columbia County, Oregon

**To stay informed about the fight to achieve COMPREHENSIVE IMMIGRATION REFORM:**

Join the Campaign to Reform Immigration For America's Mobile Network by texting REFORM to 69866!

For more information, visit the Campaign website at <http://reformimmigrationforamerica.org/>.

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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**.

*Thanks to the support of people like you...*

**NWJP has now recovered over**

**\$1,000,000**

**in wages & damages for low wage workers!**



*Read the stories of our clients and our work to support them inside.*

**I STAND FOR WORKER JUSTICE.**

*Count me in!* I will help stop employers' abuse of workers with the enclosed contribution of:

\$25    \$50    \$100    \$250    \$500    other

Name of giver(s): \_\_\_\_\_

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

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

I would like my donation to remain anonymous.

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

**Thank you for your support.**

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