

The mission of the NORTHWEST WORKERS' JUSTICE PROJECT is to defend and strengthen the workplace and organizing rights of low-wage contingent and immigrant workers in the Pacific Northwest.

## Clients take action to hold employers accountable for labor rights violations

NWJP's legal team and cooperating counsel continue to provide access to the legal system for low-wage workers who are standing up against exploitation on the job – and they are succeeding, case by case. This year alone, NWJP's clients have recovered over \$150,000 from abusive employers in the Pacific Northwest for unpaid wages, penalty damages, and emotional distress.

Perhaps unsurprisingly, many of the cases we have resolved this year have involved wage theft in construction. We're also seeing similar patterns of abuse in the cleaning industry. Large, well-known companies like gyms and grocery stores often subcontract with janitorial subcontractors to clean their businesses, rather than hiring janitors directly. Unfortunately, as in several of the cases we have recently resolved, this often leaves janitorial workers more vulnerable to undercapitalized, exploitive employers. Other cases we have successfully resolved this year were on behalf of women who experienced sexual harassment, stolen wages, and pregnancy discrimination at work in restaurants and grocery stores.

With NWJP's support, these workers have put their employers on notice that there are consequences for violating the labor rights of workers.



*The Cruz Santana family (pictured above with NWJP staff) spoke at a recent community event about abuses they have experienced as janitorial workers. One of the goals of the event was to encourage more lawyers to take on employment cases. Details on page 3.*

## Oregonians speak out against flawed E-Verify system



*Photo by Douglas Yarrow*

*A diverse group of Oregonians spoke in opposition to mandatory E-Verify at a press conference in Portland in September. Please see page 4 for a complete list of speakers.*

In September, NWJP helped to organize a press conference in which business, immigrant, labor, faith, and civil rights leaders in Oregon stood together to make clear that forcing employers to use the flawed E-Verify system will harm U.S. workers and employers and undercut the country's economic recovery. E-Verify is a federal internet-based system used by some businesses to check the work eligibility of employees. The press conference was part of a national day of action against making this dangerous program mandatory for all employers.

Speakers pointed out that requiring employers to use E-Verify will cause lawful American workers to lose their jobs or be denied employment, increase the risk of government intrusion, drive jobs into the underground economy, deprive the government of tax revenue, and impose additional costs on small businesses—all without meeting the stated purpose of ending the hiring of undocumented workers.

The latest proposal to force all business owners to run employees through E-Verify is currently moving through the U.S.

See **OREGONIANS**, page 4

**Northwest Workers' Justice Project**

917 SW Oak Street, Suite 412  
Portland, Oregon 97205

503-525-8454 • www.nwjp.org

**NWJP Staff:**

Michael Dale, *Executive Director*  
Meg Heaton, *Staff Attorney*  
Patricia Laguna, *Paralegal*  
Lindsay Jonasson, *Outreach & Development Coord.*  
Genice Rabe, *Legislative Counsel*

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\* 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.

## Struggle to strengthen protections for workers in H-2B program intensifies

The fight goes on to win fair wages and working conditions for workers impacted by the H-2B temporary foreign worker program.

Nobody ever said it would be easy. Unfortunately, recent victories have been pushed back by strong business opposition. As you may remember, the US Department of Labor adopted a rule last January that would increase the mandatory minimum wage for H-2B workers (and U.S. workers recruited by employers seeking to use the program) by an average of \$4.38 an hour. However, almost a year later, the rule has still not been implemented.

In August we announced that, under court order in our litigation, DOL had moved the implementation date for the

wage increase up to September 30. Since then, powerful business associations filed lawsuits in Louisiana and Florida to block implementation of the new rule, and lobbied hard in Congress.

As a result, DOL has delayed the implementation yet again. On the ground, this could mean that employers will not be required to increase the wages paid to H-2B workers and offered to U.S. workers until fiscal year 2013, if then.

Meanwhile, the comprehensive changes to the H-2B program proposed by DOL in March are still pending.

NWJP and other advocates are working hard to prevent business opposition from rolling back the significant victories we won this year.

## Government audit in Oregon finds H-2B program did not adequately protect U.S. workers



A recent Dept. of Labor Inspector General's audit found that weaknesses in program design in the H-2B temporary foreign worker visa program crippled the government's ability to assure adequate protections for U.S. workers in applications for temporary workers filed by four forestry employers in Oregon.

The audit was requested because of concerns that these four forestry companies received certification to use the H-2B program to employ foreign temporary workers when, in fact, there were unemployed U.S. forestry workers who were willing and able to take those jobs. Furthermore, these four H-2B employers won over \$7 million in government contracts for forestry work in Oregon in fiscal year 2010, including work funded under the stimulus program to bolster employment of U.S. workers.

After advocacy by NWJP and allied programs, the US Dept. of Labor proposed new H-2B program regulations in March 2011 designed to address the kinds of problems identified in the audit.

To read the full report, see Report No. 17-12-001-03-321 (October 17, 2011) at <http://www.oig.dol.gov>.

# Campaign to stop wage theft continues

NWJP and our allies in the Oregon Coalition to Stop Wage Theft are preparing to turn up the volume in 2012 on Oregon's wage theft crisis.

Our legislation during the 2011 legislative session advanced much farther than we had expected, given the politically divided state legislature. Although our bills did not become law, it is clear that our efforts have brought us closer to winning the changes Oregonians need to ensure that all of us get paid for our labor. Many workers spoke out about the financial and emotional impact on them and their families from being denied the pay they had earned. Our advocacy got legislators, voters, state agencies, and the opposition talking about the problem of stolen wages more than ever before. As you'll read below, important changes are already happening within state agencies to improve their ability to recover unpaid wages.

In the upcoming months, the campaign will focus on public education and worker outreach to continue to build the power we need to put an end to wage theft in Oregon. By 2013, not a single Oregon state legislator should be able to say that she or he has never heard from constituents that wage theft is a problem in our state.



## Low-wage workers and attorneys highlight need for work-related legal support during Week of Labor Rights

*Several of NWJP's clients spoke alongside EEOC regional attorney Bill Tamayo and other Oregon attorneys at an August event to raise awareness about the severity of wage theft and sexual harassment in the workplace. The event was held at SEIU Local 49 as part of the Week of Labor Rights organized by the Mexican Consulate of Portland. It was co-sponsored by several members of the Oregon Coalition to Stop Wage Theft. In attendance, from left to right: Patricia Laguna, Cathy Highet, Michael Dale, Genice Rabe, Ivonne Rivero, and Sergio Hayakawa.*

## Proposed legislation to prevent wage theft prompts greater cooperation among state agencies in Oregon

Our legislative advocacy has contributed to important new worker protections in Oregon, even without any of our bills passing into law in 2011. Senate Bill 727, one of the bills backed by the Oregon Coalition to Stop Wage Theft during the last legislative session, would have required the Oregon Construction Contractors Board (CCB) to suspend the licenses of construction contractors who refuse to pay after being found guilty of underpaying their workers' hard-earned wages. (The CCB is the state agency state agency responsible for regulating construction contractors.)

Advocacy of SB 727 gave us the opportunity to engage in fruitful dialogue with both the CCB and another state agency that enforces workplace laws, the Oregon Bureau of Labor and Industries (BOLI), about how to make the CCB's wage complaint process more effective. SB 727 didn't make it through the divided legislature but, after the legislative session ended, BOLI and the CCB teamed up to implement some of the changes we recommended in the legislation.

According to an October announcement, BOLI is now referring construction contractors who are found guilty of failing to pay their workers to the CCB. The CCB has been moving to suspend the construction contractor's CCB license, which provides strong incentive to the contractor to settle the debt. The purpose

of the collaboration is to ensure that outstanding judgments for unpaid wages and penalties are being collected. BOLI's October announcement noted that, of six licensed construction contractors with unpaid wage and penalty judgments already referred to the CCB, four had reached payment schedule settlements, totaling \$211,888.50. The remaining two contractors saw their CCB licenses suspended because they refused to pay.

NWJP's clients have also benefited from the CCB's recent efforts to put pressure on construction contractors who owe private court judgments for unpaid wages. An employer recently approached us more than a year after the court had awarded a judgment against him, finding that he owed almost \$18,000 to two construction workers. He wanted to settle his debt with our clients because the CCB wouldn't renew his license as long as he had an outstanding judgment for unpaid wages and penalties. If the CCB had not used its leverage over the employer, our clients may never have seen any of the money they were still owed.

CCB has also significantly simplified its process for making claims against a contractor's bond, eliminating duplicative hearing systems in favor of one hearing either in court or at BOLI.

We congratulate BOLI and the CCB for cooperating to ensure that employers are held responsible for unpaid wages.

## Oregonians unite against E-Verify

*Continued from page 1*

House of Representatives. The bill, Chairman Lamar Smith's (R-TX) H.R. 2885, the "Legal Workforce Act", passed out of the House Judiciary Committee in September.

A mandatory E-Verify system would require employers to perform a computer check for every job applicant against an error-prone government database, before any American worker could start a new

job. If a worker's information is incorrect in the system, that individual would have to go to a Social Security (SSA) or Department of Homeland Security (DHS) office to address the problem. The worker would not be able to start work until the error was resolved.

"If E-Verify becomes mandatory, millions of lawful workers will be incorrectly flagged by the system and will have to fight through a government bureaucracy to fix their records. Simple spelling errors or one wrong number can result in a non-confirmation through E-Verify, and it can be a nightmare to get such errors fixed

within overburdened federal agencies. It's likely that a huge number of lawful workers will have their start date delayed or be denied employment," said Kevin Díaz, Legal Director of the ACLU of Oregon.

Due to errors in the system, E-Verify has been found to erroneously identify a significant portion of U.S. citizens and lawful residents as potentially unauthorized to work. Others get fired immediately, without being given the chance by their employers to correct their records. Based on estimates of the E-Verify error rate drawn directly from DHS' own reports, at least 1.2 million lawful workers would have to get their records fixed or lose their jobs if E-Verify becomes mandatory. Of those, 700,000 would likely lose their jobs. To make matters worse, there is no centralized place to contact to fix records and, according to the GAO, in 2009 the average response time for such requests was a staggering 104 days.

"Mandatory E-Verify will harm all workers and employers, and it won't stop the hiring of undocumented workers," said Ramon Ramirez, President of PCUN (Oregon's farm worker union). "Instead, requiring the use of E-Verify will drive more workers and employers into the shadows, where they are less likely to pay taxes and workers are more likely to be abused."

Research indicates that E-Verify fails to meet its goal of preventing unauthorized work over half of the time. One study found that E-Verify does not catch 54 percent of the undocumented immigrants who are checked through the system. Furthermore, the Congressional Budget Office estimated that a 2008 mandatory E-Verify bill would decrease tax revenue by more than \$17 billion over ten years, as more employers and workers move into the underground cash economy.

Speakers at the press conference included Kevin Díaz, Legal Director of the ACLU of Oregon; Jeff Stone, Executive Director for the Oregon Association of Nurseries and Co-Chair of the Coalition for a Working Oregon; Javier Lara, Organizer for PCUN (Oregon's farm worker union); Promise King, Executive Director of Oregon League of Minority Voters; Ignacio Páramo, MLK Worker Center Director for VOZ Workers' Rights Education Project; and Valerie Chapman, Pastoral Administrator of St. Francis of Assisi Catholic Church. Natalie Patrick-Knox, Organizer with Causa Oregon, served as moderator.

## Advocates come together at state summit to "Confront the PoliMigra"



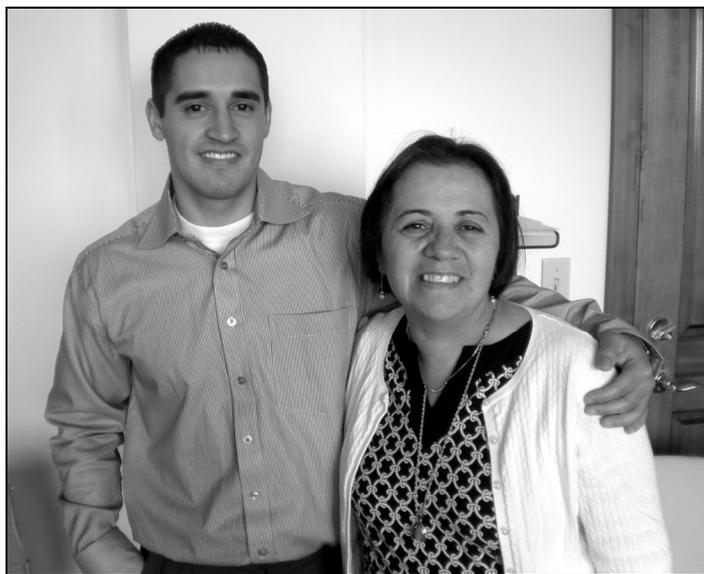
*Participants discuss ICE holds and strategies to break the links between arrest and deportation at a workshop led by volunteers Jennifer Hatton and David Henretty.*

In early November, seventy-five people from around Oregon attended the summit **Confronting the PoliMigra: Drawing the Line Between Police/ICE Collaboration** at Willamette University in Salem. The day-long conference brought together community advocates working across the state to limit the dangerous and growing merger between Immigration and Customs Enforcement (ICE) and local law enforcement.

Deportations have reached an unprecedented level under the Obama administration, in part due to policies that are building a direct pipeline from jails into immigration detention – even for workers who have minor traffic offenses or who have not been convicted of any crime. Since an Oregon driver's license is no longer available to persons who do not have legal immigration status, this problem is becoming particularly severe. These programs erode trust in police and tear apart families – making it even more difficult for immigrant workers who are abused by their employers to feel safe enough to seek help and effectively fight their cases.

Community groups in a number of Oregon counties are fighting back to break the links between contact with the police and deportation and to end the criminalization of immigrant communities. The conference was organized by Causa and other members of the ACT for Justice and Dignity network, including NWJP.

# Law clerk helps workers recover unpaid wages



This summer, NWJP had the privilege of hosting law clerk **Joe Lavelle**, who is currently in his third year of law school at Willamette University in Salem, Oregon. We asked Joe to discuss some of the highlights of his time at NWJP:

*“My clerkship with NWJP was a great experience because I really found satisfaction in helping out clients’ causes; they really appreciate your services and there is a lot of gratification in helping those who need help the most. I was able to learn a lot from Meg and Michael about successful lawyering, as they are bountiful resources of legal knowledge and great examples of how an advocate should conduct his/herself. Their passion for advocating on behalf of indigent and immigrant clients is inspiring. I definitely benefited from the experience I gained at NWJP.”*

We are grateful to have had Joe’s assistance this summer and wish him the best in his legal career.

*To left: Joe Lavelle (left), NWJP summer law clerk, alongside Patricia Laguna (right), NWJP legal assistant.*

**NWJP’s doors are open year-round to law students, lawyers, and other individuals who are interested in legal advocacy to promote the rights of low-wage workers. Contact us at 503-525-8454 or [lindsay@nwjp.org](mailto:lindsay@nwjp.org) for more details.**

## A special thank you to our recent contributors!

*In order to maintain our independence and more faithfully serve our clients and community partners, NWJP does not receive federal or state funding. We rely on the support of individual donors, community organizations, unions, and private foundations to fund our efforts.*

*Thank you for your commitment to NWJP and worker justice.*

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917 SW Oak Street, Suite 412  
Portland, Oregon 97205

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**.

**I STAND FOR WORKER JUSTICE.**

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*Inside this issue...*

- **Clients take action to hold abusive employers accountable for violations**, page one
- **Struggle to strengthen protections for workers in H-2B program intensifies**, page two
- **Proposed wage theft legislation prompts greater cooperation among state agencies**, page three
- **Oregonians speak out against flawed E-Verify system**, page one
- **A special thanks to our recent contributors**, page five
- **And more!**

