

**Wage Theft in Washington:  
An Examination of Labor & Industries Claims 2009-2013**

By  
Isaac M. Sederbaum

A degree project submitted in partial fulfillment  
of the requirements for the degree of

Master of Public Administration

University of Washington  
Daniel J. Evans School of Public Affairs

2014

Approved by:

---

## Acknowledgements

I would like to acknowledge several people, without whom this project could not have come to fruition.

I would first like to recognize my advisor, Professor Steve Kosack, for helping me overcome the many hurdles I ran across during the span of this project, and for having patience with me during my times of wavering resolve.

Next, I would like to thank Dr. Lori Pfingst at the Washington State Budget & Policy center for her support and guidance on this project, and Professor Cuky Perez for her amazing amount of assistance with my data analysis.

Lastly, I want to thank Andrea Schmitt at Columbia Legal Services, who not only shared the L&I data she had worked tirelessly to acquire, but also provided detailed feedback and direction.

## Table of Contents

<b>List of Abbreviations .....</b>	<b>i</b>
<b>Table of Figures .....</b>	<b>ii</b>
<b>Executive Summary .....</b>	<b>iii</b>
<b>Introduction .....</b>	<b>1</b>
What is wage theft? .....	2
Wage theft at home in Seattle- is it an issue? .....	2
Research Design & Methodology .....	3
Limitations .....	4
<b>Chapter 1: Background .....</b>	<b>5</b>
What is wage theft? .....	5
What industries are most affected? .....	5
Why is it a problem? .....	6
Which laws (are supposed to) protect workers? .....	7
Why don't these laws work? .....	8
How can workers currently fight for owed wages? .....	8
Why don't all workers who experience wage theft fight for their owed wages? .....	10
<b>Chapter 2: "Broken Laws, Unprotected Workers" .....</b>	<b>11</b>
Overview .....	11
Findings .....	11
Methodology .....	11
How these finding apply to Washington State .....	12
<b>Chapter 3: Economic Trends Since 2009 .....</b>	<b>13</b>
Overview .....	13
Employment in Washington state and King County 2009-2013 .....	13
Overall Trends .....	13
Industry Trends .....	14
Washington state Data Echoes National Trends .....	16
<b>Chapter 4: Methodology .....</b>	<b>18</b>
Overview .....	18
Data Sources .....	18
Limitations .....	19

<b>Chapter 5: Findings</b> .....	21
<b>Overview</b> .....	21
<b>An Explanation of Amounts Claimed, Assessed &amp; Collected</b> .....	21
<b>Wage Theft Claims, 2009-2013</b> .....	21
<b>Averages and Totals</b> .....	21
<b>Violation types</b> .....	23
<b>Days Open</b> .....	25
<b>Findings by Industry</b> .....	26
<b>Construction</b> .....	27
<b>Food Service</b> .....	29
<b>Retail/Sales</b> .....	31
<b>Service</b> .....	33
<b>Federal Data</b> .....	35
<b>Attempting to Know What the Data Doesn't Tell US</b> .....	35
<b>Estimating the Past</b> .....	36
<b>Chapter 6: Economic Impacts of Wage Theft</b> .....	38
<b>Overview</b> .....	38
<b>Washington State's Regressive Tax Structure</b> .....	38
<b>Revenue Lost to Wage Theft</b> .....	39
<b>Chapter 7: Recommendations</b> .....	41
<b>Education &amp; Access to Information</b> .....	41
<b>Greater Enforcement of Existing Laws</b> .....	42
<b>Passing Legislation</b> .....	43
<b>Examples around the Country</b> .....	44
<b>End Notes</b> .....	46
<b>Bibliography</b> .....	51

## List of Abbreviations

BLS	Bureau of Labor Statistics
CLS	Columbia Legal Services
FLSA	Fair Labor Standards Act
GAO	Government Accountability Office
ICE	Immigration & Customs Enforcement
L&I	Washington State Department of Labor and Industries
NELP	National Employment Law Project
OES	Occupational Employment Statistics
RCW	Revised Code of Washington
SeaSol	Seattle Solidarity Network
WHD	US Department of Labor Wage and Hour Division
WPA	Wage Payment Act

## Table of Figures

Figure 1: Comparison of money lost to wage theft and robberies (2012).....	6
Figure 2: Number of people employed, King Co. & WA State (2009-2013) .....	14
Figure 3: Industry percentages of total employment Washington State (2009-2013).....	15
Figure 4: Industry percentages of total employment, King County (2009-2013).....	16
Figure 5: Net Change in US Private Sector Employment (in thousands).....	17
Figure 6: Number of Claims Filed, King Co. & WA (2009-2013) .....	22
Figure 7: Claims by Industry (2009-2013).....	23
Figure 8: Frequency of Violations cited in claims across industries (2009-2013) .....	24
Figure 9: Violations cited in claims by Industry (2009-2013) .....	25
Figure 10: Average number of days a claim is open (2009-2013).....	26
Figure 11: Number of construction claims filed, King Co. & WA (2009-2012).....	27
Figure 12: Average amount claimed in construction, King Co. & WA (2009-2012).....	28
Figure 13: Total amount claimed in construction, King Co. & WA (2009-2012) .....	28
Figure 14: Number of food service claims filed, King Co. & WA (2009-2012).....	29
Figure 15: Average amount claimed in food service, King Co. & WA (2009-2012) .....	30
Figure 16: Total amount claimed in food service, King Co. & WA (2009-2012) .....	30
Figure 17: Number of retail/sales claims filed, King Co. & WA (2009-2012) .....	31
Figure 18: Average amount claimed in retail/sales, King Co. & WA (2009-2012).....	32
Figure 19: Total amount claimed in retail/sales, King Co. & WA (2009-2012).....	32
Figure 20: Number of service claims filed, King Co. & WA (2009-2012) .....	33
Figure 21: Average amount claimed in service, King Co. & WA (2009-2012) .....	34
Figure 22: Total amount Claimed in service, King Co & WA (2009-2012) .....	35
Figure 23: Claims filed & estimate of claims not filed at 77% reporting rate (2009-2013) .	36

## Executive Summary

Wage theft is a growing issue in America, with more reports coming to light each month, as thousands of workers across the country suffer in the hands of unscrupulous employers. Washington State, while being known for its progressivity, has not been immune. Between 2009 and 2013, the state Department of Labor and Industries (L&I) closed 14,799 claims, totaling over \$46 million. These claims represent the tip of the iceberg. In addition to L&I claims there were 961 Wage & Hour claims affecting over 9300 workers over the same period of time; these sets of data represent only two of the many ways that workers can fight for owed wages in Washington, and does not address the countless number of claims that are never filed.

According to the L&I data, the industries most affected by wage theft were construction (20 percent of claims), food service (18 percent of claims), retail/sales (9 percent of claims) and service (27 percent of claims). This is especially alarming given that the majority of positions in these industries are low-paying, meaning that wage theft makes it even harder for workers who are already struggling to get by to make a living. While there appears to be a downward trend in the number of claims closed between 2009 and 2013 in the state (which may be caused by outside factors such as an increasing number of workers not filing claims for fear of retaliation), King County has remained essentially unchanged, demonstrating that wage theft is both a persistent and increasingly serious issue in the Seattle metropolitan area.

While there are many avenues the state and King County can take to combat wage theft, a few options stand out as the strongest strategies. These strategies fall into three categories—education, enforcement, and legislation—and both Oregon and Houston, Texas have used two approaches that the state can replicate. The first recommendation is the use existing L&I workers' compensation trainings to teach young workers about their rights, as well as to greatly increase L&I's educational outreach via its website and available educational material. L&I also needs to create a more easily navigable website and publish its wage theft data more frequently.

The second recommendation is to drastically increase enforcement of current wage laws, especially in the wake of the passage of Seattle's \$15/hour minimum wage. Without greater enforcement, wage theft will not only continue to be an issue, but will potentially increase as Washington becomes a tip-credit state during the phase-in period of the new law. Following Oregon's example, L&I can suspend or revoke the licenses of contractors who have been found guilty of wage theft. Additionally, using Houston, Texas as another model, both the City of Seattle and Washington State could deny government contracts to employers (especially construction firms) who have been found guilty of wage theft for up to five years.

The final recommendation is for the state to pass legislation, including a Trust Act, which would give workers more protections against wage theft. Under a Trust Act, it is unlawful

for employers to contact immigration officials as retaliation against employees who assert their rights. With a Trust Act in place, undocumented workers would be able to report wage theft without fear of retaliation. In addition to a Trust Act, the state should pass HB 2333 and 2334, bills that failed this year, which will protect workers from retaliation when seeking wages from an employer, and simplify the definition of independent contractors.

Washington State has the potential to increase its progressivity on workers' rights issues, especially in the wake of the minimum wage increases in Seattle and SeaTac. However, without greater educational outreach, enforcement and legislation, wage theft may undo many of the advances that have been made. As the data in this report demonstrate, wage theft is in fact an issue in Washington, and it must be addressed so that all workers—regardless of position—are able to reap the benefits of the state's robust and growing economy.



## Introduction

*In 2010, Lucas<sup>1</sup> began working for a pizza and pasta restaurant on [King county's] east side. Despite minimum wage at the time being \$8.55/hour, he was told that he would receive \$7.00/hour. At first he did not protest, but after the first of the year in 2011, the restaurant received a poster that displayed the new minimum wage (\$8.67/hour), he approached his boss and asked if he would be paid the correct wage. His boss informed him that he would continue to receive \$7.00/hour, since after taxes were deducted that's what he would receive anyway...*

Wage theft is an issue that has been garnering more attention recently. In the past five years, wage theft has been mentioned both locally and in major news outlets, including the *New York Times*, the *Wall Street Journal*, and the *Seattle Times*.<sup>2</sup> But what exactly is wage theft? And why is it such a problem? If it is illegal, as the name suggests, why are people getting away with it? The answer to the latter question can be found in a myriad of sources, including ineffectual laws, lack of enforcement by state and federal entities, and by workers not knowing their rights. While research is being conducted across the nation on wage theft, there is currently little to no data about both King county and Washington state. This paper looks to investigate the current state of wage theft issues in both of these regions and offer recommendations as to how it can be combated more effectively.

This report uses unpublished data from the Washington Department of Labor and Industries (L&I) to shed light on the state of wage theft, in both King County and Washington State, by investigating the following research questions:

1. How widespread is wage theft in Washington state and in King county?
2. Are there effective and/or enforced penalties for those who steal wages? What are those penalties?
3. Are current laws and regulations deterring employers from committing wage theft?
4. How can Washington state more effectively reduce wage theft?

By answering these questions, this report looks to create a detailed and holistic snapshot of the current issues regarding wage theft in the state and King County, and make recommendations as to what can be done to improve the current condition and protect workers from future wage theft. The next section offers a brief overview of the rest of the report.

## What is wage theft?

In its most basic form, wage theft is when employers fail to pay employees for the work they do. Most commonly, it means failure to pay minimum wage and overtime, as outlined by the Federal Labor Standards Act (FLSA), but it also includes failing to pay tips, withholding parts of paychecks, failing to provide lunch breaks, misclassifying workers as independent contractors, along with other tactics. Although wage theft happens to a large variety of workers, women, immigrants, and low-income workers are especially susceptible, and workers in food service, construction and retail are among the most likely to suffer at least one type of infraction.<sup>3</sup> Reports of wage theft have come from across the country, in both urban and rural areas, totaling millions of dollars and affecting hundreds of thousands of people.

While Lucas, whose story continues in the sidebar, was fortunate that his claim was accepted and his employer was cited, many workers suffering from wage theft are not so lucky. For workers like Lucas, wage theft can be commonplace. Yet many people are still unaware of what wage theft is, and how many people it affects. Lucas's story also brings up another important point in the fight against wage theft— even workers whose employers are cited are not

guaranteed to receive their owed wages. The first step to combating wage theft is understanding who is affected, the second is strengthening the system to make sure that employers who steal from employees do not continue to get away without financial penalty after they are cited.

*...Although he was classified as working part-time, after calculating how many hours he worked each week, Lucas realized it was anywhere from 40 to 60. In addition to his duties as a driver, his boss required him to perform duties outside of his regular duties, including picking him up from the airport, and subjected Lucas to verbal abuse and threats, asking once "Do you want me to send you back to your country?" While Lucas was unsure that his boss had the capacity to do so, he remained fearful of retaliation because he was undocumented.*

*After two and a half years at the restaurant, Lucas requested that his schedule be changed so that he could take ESL classes. His boss refused, and Lucas finally quit. Turning to Casa Latina, a local nonprofit, for help, Lucas calculated that he was owed over \$14,000. His case was referred to an employment attorney, and he won the case against the restaurant mid-April of this year. However, to date his wages have not been recovered, despite continued negotiations.*

## Wage theft at home in Seattle- is it an issue?

As progressive as Seattle and other parts of Washington are known to be, the state has not been immune to its own wage theft issues. In June of 2013, the Federal Department of Labor Wage and Hour Division (WHD) sued Issaquah company Summit Drywall, Inc. for over \$500,000 for failing to pay its workers both minimum wage and overtime.<sup>4</sup> But how indicative was this suit of the overall prevalence of wage theft in King county? While no

comprehensive study of the Seattle Metro Area or Washington State has been done, there are a number of studies whose findings can be extrapolated to Seattle based on the types of jobs that are most prone to wage theft.

The ground-breaking report titled “Broken Laws, Unprotected Workers” examines wage theft issues in three of the largest cities in the US— New York, Los Angeles and Chicago— estimating that \$56 million each week is stolen from workers, primarily in service jobs (including food service), home health care and construction.<sup>5</sup> This report is the most comprehensive investigation of wage theft among lower-wage workers to date. It provides a knowledge base that other cities can compare their current condition to, and will be discussed at greater length in chapter two. Using this report to examine both King county and Washington state’s economies (knowing that these particular jobs are likely to be prone to wage theft regardless of geographic location), a conservative estimate can be made as to how prevalent the wage theft may be here. Given that in King County 114,810 workers—roughly eight percent of the workforce—are in food preparation and serving related jobs alone,<sup>6</sup> it is likely that Seattle suffers similarly to other major cities.<sup>7</sup>

## Research Design & Methodology

While data of claims that have led to citations by both the state Department of Labor and Industries (L&I) and the federal Department of Labor Wage and Hour Division (WHD) are accessible, these data paint an incomplete, biased picture. In order to have a more complete assessment, predictions will be made based on the data that is accessible. Before those prediction can be made, however, a detailed analysis of data from L&I will be conducted to assess the following:

- Which industries have the most wage theft claims?
- How do the average and total amount of claims filed compare across industries?
- How have the number of claims and the value of those claims changed between 2009-2013?
- How do claims differ between King County and Washington State?

The second part of the analysis will use data from “Broken Laws, Unprotected Workers” to estimate how many workers may have previously suffered from wage theft, but did not file a claim. Then, the number of workers who may file claims in the future will be predicted based on Bureau of Labor Statistics (BLS) data and findings from L&I. While both estimates will be speculative, estimates from the 2008 report were pulled from a representative sample that resembles the job market in Washington state (further discussion of this study can be found in chapter 2). The projections based on BLS are also conservative; with this in mind, this report can at least put forth a baseline assessment for both Washington State and King county. The last part of the analysis will weigh options that have been used around the country to see if they can be used in Washington. Assessing the efficacy of current state laws will help evaluate options on feasibility.

## Limitations

This study runs into two major limitations that have the potential to greatly underestimate the extent to which wage theft is affecting workers in Washington and King County:

*1. Wage theft data is not easily accessible and not complete.*

While there are datasets available at both the state and federal level Departments of Labor, the datasets are only comprised of claims that have been officially filed with those administrative agencies (as opposed to litigated in court or settled outside of either the claims or court systems). Both departments have websites that are difficult to navigate, and in the case of L&I, more complete datasets are not available without a public information request.<sup>8</sup> Claims that are processed through the court systems are not publicly available in a centralized dataset, and thus cannot be analyzed the way that L&I and WHD data can be.

*2. Many people choose not to file a claim.*

The claims process can be long, confusing, and in some cases, expensive. Additionally, people are wary of retaliation, which can include job loss, harassment, deportation (in the case of undocumented workers) or other types of threats. According to a 2010 NELP report, 23 percent of workers surveyed who suffered from at least one wage theft violation did not report it.<sup>9</sup> Additionally, many workers are not aware of what wage theft is and/or what their rights in the workplace are. As a result, they do not know that is illegal, or that they could file a claim against their employer for lost wages and damages. As a result, all data gathered are only a fraction of the actual amount of claims, and thus, create an underestimate of the total number of claims.

## Conclusion

Wage theft is an economic issue affecting workers across the country. However, there have not been any comprehensive studies of wage theft in either Washington State or King County to date. Using data of officially filed claims from the Department of Labor and Industries, this paper seeks to make a conservative assessment of the extent of wage theft in both King county and Washington state, keeping the limitations faced by the data in mind. The next chapter offers greater background information about both wage theft and Washington state labor laws.

## Chapter 1: Background

The previous introduction briefly defined wage theft and discussed the structure of this report. This chapter expands upon the background information on wage theft (including discussing the most common forms), and also outlines the laws that are in place to protect workers, at both the national and state levels. The chapter then concludes with how workers in Washington can fight for their owed wages, as well as a brief discussion of why some workers may choose not to.

### What is wage theft?

Wage theft occurs when employers fail to pay their workers the wages they are owed, whether in the form of an hourly rate, overtime, or tips. In the struggling economy, employers have found creative ways to short employees; the most common forms include:

- **Nonpayment of wages:** simply not paying people the wages that they are owed.
- **Underpayment of wages:** paying less than agreed upon amount or paying less than state and/or federal minimum wage requirements.
- **Overtime violations:** failing to pay overtime for hours worked over 40/week, or miscalculating overtime hours to pay fewer than are due.
- **Tipped job violations:** withholding tips, using tips to count towards minimum wage requirements (legal in some states, but currently not in Washington<sup>10</sup>), and/or tipping out managers and others who are not eligible to receive tips.<sup>11</sup>
- **Deduction violations:** deducting the cost of tools, uniforms or items damaged on the job.
- **Misclassification of employees:** One of the most common forms of wage theft is classifying workers as independent contractors, rather than employees. When misclassified as an independent contractor, an employee loses benefits, most protections under federal and state labor laws, and must pay for job-related expenses such as fuel and vehicle maintenance.<sup>12</sup>

Other ways include paying per pay period, rather than per work week, as well as changing the start days of pay periods, making employees work through meal breaks, and forcing them to work off the clock.

### What industries are most affected?

While anyone in any type of job can suffer from wage theft, it disproportionately affects lower-wage, often lower-skill jobs. The 2008 groundbreaking study conducted by the National Employment Law Project (NELP), “Broken Laws, Unprotected Workers,” surveyed 4,387 workers in New York, Chicago and Los Angeles, and found that while it depended on the type of violation (e.g. minimum wage, overtime, denial of meal breaks, etc.), there were

a number of occupations, such as construction, food service, and healthcare services, that had the highest rates of wage theft.

### Why is it a problem?

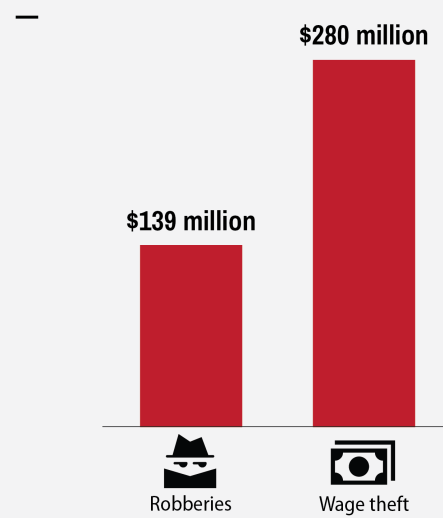
NELP's study found that 68 percent of the workers sampled experienced at least one pay-related violation. The average worker lost \$51, out of their average weekly earnings of \$339. Extrapolating this amount and assuming that workers worked full-time for a year, these findings translated to an average loss of \$2,634 out of total annual earnings of \$17,616, or a loss of 15 percent of total annual earnings.<sup>13</sup> This is especially problematic, given that the impact of a 15 percent loss it felt much more by lower-wage workers than their higher-wage counterparts.

In terms of national magnitude, according to the Economic Policy Institute, the value of wages stolen in 2012 was more than double that of street, bank, gas station, and convenience store robberies combined (Figure 1 at right).<sup>14</sup> Even more frightening is that this figure is the amount of money the federal Department of Labor Wage and Hour (WHD) division recovered in 2012. If individual state data had been included (such as the data discussed in this report), the dollar value of wage theft would dramatically increase.<sup>15</sup>

Wage theft does not just hurt the employees who don't receive their deserved pay; it also hurts local economies and businesses. When workers are not paid, underpaid, or misclassified, the result is that payroll taxes, workers' compensation, and Social Security fees are not adequately paid, hurting anyone who benefits from those systems.

#### Widespread wage theft needs a stronger government response

Value of wage theft\* compared with value of combined street, bank, gas station, and convenience store robberies, 2012



\*Value of back wages illegally withheld by employers recovered by U.S. Department of Labor in 2012

Source: U.S. Department of Labor FY 2014 Budget in Brief, Wage and Hour Division; U.S. Department of Justice, Uniform Crime Reports, Crime in the United States: Table 23, 2012.

ECONOMIC POLICY INSTITUTE

Figure 1: Comparison of money lost to wage theft and robberies (2012)

Wage theft also creates a race to the bottom. Employers who adequately pay their workers often lose out on business if consumers choose to patronize lower-priced companies, unknowingly supporting wage theft as these companies maintain low prices by stealing from their workers. This is especially an issue in the construction industry, where contractors who are committing wage theft are able to underbid their competition.<sup>16</sup>



## Which laws (are supposed to) protect workers?

### *Fair Labor Standards Act of 1938*

Seventy-four years ago, the groundbreaking Fair Labor Standards Act of 1938 (FLSA; also referred to as the Wages and Hours Bill) was enacted to standardize labor practices and protect workers. 700,000 workers were affected by the Act that FDR would refer to as “the most important Act that has been passed in the last two to three years.”<sup>17</sup> The FLSA established the following federal policies, which although they have been amended and updated, remain in place:

- *The 40 hour, seven day work week*: under the original FLSA, a maximum, seven-day work week was 44 hours long, which was reduced to 40 hours per week as part of the Fair Labor Standards Amendments of 1966.<sup>18</sup>
- *The federal minimum wage*: set at 25 cents an hour originally, it increased to 44 cents an hour over the next seven years. It has been raised 28 times since 1938, to its current rate of \$7.25, set in 2009.<sup>19</sup>
- *Overtime pay*: guaranteed time-and-a-half for all hourly jobs except those that were exempt, which included workers in agriculture, transportation, local retail and government positions. Exempt industries have changed greatly since 1938; the most recent change is President Obama’s September 2013 extension of FLSA provisions to home health and personal care workers.<sup>20</sup>
- *Prohibition of child labor*: anyone under the age of 18 cannot work in dangerous occupations such as milling and manufacturing. Anyone between the ages of 14 and 16 cannot work more than 18 hours during a school week, and 40 hours during a non-school week.<sup>21</sup>

These laws apply to “employees who are engaged in interstate commerce or in the production of goods for commerce, or who are employed by an enterprise engaged in commerce or in the production of goods for commerce.”<sup>22</sup> With few exemptions, including independent contractors and certain white-collar jobs, the FLSA applies to most workers in the US.

### *Washington State Labor Laws*

Individual state laws can supplement the federal law. In Washington State, the current state minimum wage is \$9.32 per hour; employees must be paid the equivalent of \$9.32 per hour and tips cannot be included in that amount. Teenagers age 14 and 15 years old can be paid 85 percent (\$7.92 per hour) of the current state minimum wage.<sup>23</sup> In addition to a higher minimum wage, in 2006, Washington passed the Wage Payment Act (WPA) (Revised Code of Washington (RCW) 49.48.080) which gave L&I the ability to enforce and collect wage claims. The WPA and the process for filing a claim will be discussed in greater length in the following chapter.

### *Seattle City Ordinance 123596*

In April of 2011, the Seattle City Council unanimously passed the City of Seattle Wage Theft Ordinance (Ordinance 123596). The Ordinance expands the definitions of what is illegal, making it a gross misdemeanor<sup>24</sup> to intentionally commit wage theft, classifying the theft of wages as the same as theft of property. Additionally, the Director of Finance and Administrative Services is now able to refuse a new business license or revoke an existing license if, in the last 10 years, an employer has been:

- convicted of wage theft;
- has been cited by L&I and received a notice of assessment for wage violations but has not paid within 30 days;
- has been assessed civil liability by a court for wage theft and has not paid within 30 days<sup>25</sup>

While the ordinance appears to greatly expand the ability to penalize employers who steal wages, the reality is that since its passage, there have been zero prosecutions.<sup>26</sup>

### **Why don't these laws work?**

The failure of Ordinance 123596 is a perfect example of the shortcomings of current laws. While wage theft is, by definition, illegal, laws do little to deter employers from stealing wages as they are not enforced. In the case of the Ordinance, the Seattle Police Department currently has not made it a priority to pursue wage theft claims. L&I has only 16 investigators for the state, and the federal Wage and Hour Division has 18 for the Northwest region.<sup>27</sup> Without adequate enforcement, there is little to nothing standing in the way of unscrupulous employers. Many employers know that the current laws are not well enforced, or that the claims process is difficult and time-intensive. Additionally, employers rely on workers either not knowing their rights, or fearing retaliation too much to speak up or file a claim.

### **How can workers currently fight for owed wages?**

There are multiple ways that workers in Washington State choose to fight for the wages they are owed. These methods include filing wage claims with the state or federal government without the aid of an outside organization, enlisting the help of a nonprofit to either help file a claim or pressure an employer, or utilize direct action tactics to compel an employer to pay by raising public awareness of their practices. Each of these methods is discussed below.



### *Filing a Federal Claim*

Any workers who is deemed non-exempt<sup>28</sup> and covered under FLSA<sup>29</sup> can file a claim with Department of Labor's Wage & Hour Division (WHD) if his or her employer violates federal law, such as federal minimum wage (\$7.25 per hour), and overtime (failure to pay time-and-a-half for hours worked in excess of 40 in a given week). The WHD then reviews the claim to determine whether there is reason to believe that a violation of FLSA has occurred. If there is reason, it triggers an investigation of the accused employer. If the WHD is unable to conduct an investigation or is unable to secure back wages that are determined to be owed to the employee, he or she has the right to bring a private lawsuit in federal court to recover those wages.<sup>30</sup> This process is not a simple one, and can take a few years for a worker to get a judgment against an employer.

### *Filing a State Claim*

At the state level, claims are filed with the Department of Labor & Industries (L&I). Any claim that violates state labor laws can be filed with the state, including failing to pay for breaks, working off the clock, and state-level minimum wage violations. L&I is required to investigate all claims received, but much like the process for filing a federal claim, the process at the state level is also unduly complicated.

### *Utilizing Nonprofit Services or Legal Services*

Because the claims process can be daunting, many workers turn to local nonprofits or hire attorneys to aid them in their cases. These nonprofits range in mission, structure, and methods of winning wage claims. Nonprofit workers centers, such as CASA Latina in Seattle, educate workers on their rights, and help them through the claims process. Columbia Legal Services (CLS) represents workers in either state or federal court on a number of legal issues, including wage theft, but has extremely limited capacity to take individual cases.

### *Engaging in Direct Action*

Some workers take a different course, engaging in direct action through groups such as the Seattle Solidarity Network (SeaSol). SeaSol flyers and pickets businesses that are accused of wage theft, frequently with great success. In these instances, the employer is pressured into paying the worker their owed wages through public awareness. In the last five years, SeaSol has recovered close to \$50,000 for 13 workers through direct action "fights."<sup>31</sup>

## **Why don't all workers who experience wage theft fight for their owed wages?**

One of the biggest barriers to combating wage theft is fear. Workers fear retaliation for speaking up, whether in the form of harassment or job loss. For undocumented workers, the failure of the Trust Act—legislation put forth in Washington state making it “unlawful for an employer to report for threaten to report a worker’s immigration status, or that of a family member because the worker exercises a workplace right”<sup>32</sup>—acts as a deterrent to reporting wage theft. Undocumented workers have been known to not file wage theft claims specifically due to the fear of ICE involvement.

Another significant barrier is simply the lack of knowledge. Labor laws can be confusing; many workers know that some laws such as minimum wage exist, but do not realize that their managers are ineligible for tips, that deductions for broken tools are illegal, or that a workweek must consistently start on the same day. Without proper knowledge, workers may be unwittingly suffering from wage theft.

## **Conclusion**

Wage theft is both illegal and pervasive. Despite the existence of multiple laws, the lack of enforcement by both federal and state entities, means that these laws are of little deterrence to unscrupulous employers. While there are various ways that someone who has suffered from wage theft can fight for their owed wages, none of these methods are easy, nor are they guaranteed to result in reclaimed wages. While this chapter touched upon previous literature, chapter 2 reviews NELP’s “Broken Laws, Unprotected Workers” in greater depth, and shows that despite that it surveys New York, Chicago and LA, similar distributions of employment are found in King county and Washington state, making it a useful comparative study.

## Chapter 2: “Broken Laws, Unprotected Workers”

### Overview

The previous chapter provided background information about wage theft and a brief history of laws that are in place to protect workers. Despite these laws being in place, aside from Kim Bobo’s 2007 book, “Wage Theft in America,” (which is cited with having introduced the phrase wage theft into the national dialogue on workers’ rights), no comprehensive study of wage theft had ever been conducted. In 2008, the National Employment Law Project conducted a comprehensive survey of lower-wage workers in New York, Los Angeles, and Chicago, finding that 68 percent had suffered from at least one wage-related violation in the last year. This chapter discusses this study, and how its findings can be used to examine wage theft in Washington State.

### Findings

In early 2009, the National Employment Law Project (NELP) released the report “Broken Laws, Unprotected Workers.” This report surveyed 4,387 lower-wage workers in New York, Los Angeles, and Chicago, attempting to quantify the extent of wage theft in those cities. The study found that 68 percent of workers surveyed had suffered from a wage-related claim in the previous year. Twenty-six percent of workers surveyed were paid less than the minimum wage, 76 percent of those sampled who worked overtime did not receive the required time and a half, and more than 66 percent of those surveyed who were entitled to a meal break received no break at all, had their break shortened, or were required to work during their break.<sup>33</sup>

A later city-specific (2010) report, focused only on New York City, found that 77 percent of those who suffered a wage-related violation in the previous year did not report it either for fear of retaliation, or because they felt it simply was not worth their time.<sup>34</sup> This is especially important when attempting to quantify the “true” extent of wage theft; without data on how many people choose not to file a claim or seek other action, there cannot be accurate estimates on how widespread is beyond those who choose to file a claim. The NELP study offers a representative sample upon which to base a future estimate. The methods employed to achieve that sample are discussed in the next section.

### Methodology

In order to achieve the most accurate and representative sample possible, the study utilized Respondent-Drive Sampling (RDS) to overcome the barrier of reaching hidden populations. RDS utilizes existing social networks; workers who have answered the survey can vouch for its confidentiality, and proceed to recruit friends and acquaintances to take it

as well. RDS also includes adjustments to account for the fact that some workers have larger social networks or are better at recruiting participants.<sup>35</sup> The sample was also adjusted to reflect the distribution of industries and occupations in each city's lower-wage labor market.

## How these finding apply to Washington State

One of the main arguments is that these three cities are the largest in the nation, and therefore cannot be compared to cities like Seattle and states like Washington. However, employment data shows that except for LA's food service industry, both King county and Washington state's labor markets have a higher percentage of workers employed in construction, retail/sales and food service—three of the worst industries for wage theft—suggesting that both the county and state are just as susceptible to the high ranks of wage violations cited in the 2008 study.<sup>36</sup> Table 1 illustrates the industry percentages in each of these cities, as well as King county and Washington state:

	King Co	WA	NYC	LA	Chicago
Construction	3.70%	4.14%	2.89%	2.41%	2.80%
Food Service	7.92%	8.54%	7.13%	8.94%	7.73%
Retail	3.25%	3.52%	3.28%	3.00%	3.21%

*Table 1: percentage of labor market employment in King Co, WA state, NY, LA & Chicago (2013)*

## Conclusion

While there may be other factors aside from labor market make-up that differentiate these cities from King County and Washington State, this survey offers a strong baseline for comparison. With this in mind, this report will cite both the 2008 and 2010 NELP reports to serve as supporting evidence to the findings discussed in chapter 6. The next chapter continues the discussion of economic trends since 2009 in both King County and Washington State, providing further background about the status of these labor markets, and the implications these trends have for the future wage theft claims.

## Chapter 3: Economic Trends Since 2009

### Overview

Each spring, the Bureau of Labor Statistics (BLS) publishes employment data from the previous year as a part of the Occupational Employment Statistics (OES) program. The program is administered through a semiannual mail survey, which measures employment and wage rates at the national, state, metropolitan and nonmetropolitan areas.<sup>37</sup> This chapter uses data from 2009 through 2013 to analyze employment trends in both King county and Washington state. These trends help paint a picture of the economic climate in the state, and will be used in the chapter 6 to make predictions about future rates of wage theft.

### Employment in Washington state and King County 2009-2013

#### Overall Trends

##### *Washington State*

Washington State, like many others in the country, saw its job market shrink in the wake of the Great Recession. According to BLS data, the state had its lowest levels of employment in 2010, with an estimated 2.7 million workers employed.<sup>38</sup> However, since then, employment has risen and surpassed the 2009 level, with an estimated 2.8 million people employed—slightly over one percent higher than the 2009 numbers, and almost five percent higher than in 2010.

##### *King County*

Following the same pattern as the rest of the state, King County has also seen job growth since 2010, when it saw its employment numbers at their lowest—1.3 million people were employed—rising to 1.4 million people employed in 2013.<sup>39</sup> King County's recovery has been more robust than the rest of the state, with over a three percent increase in employment numbers since 2009, and just over seven-and-a-half percent higher than the 2010 levels. Figure 2 below shows the employment trends in both King County and in Washington State.

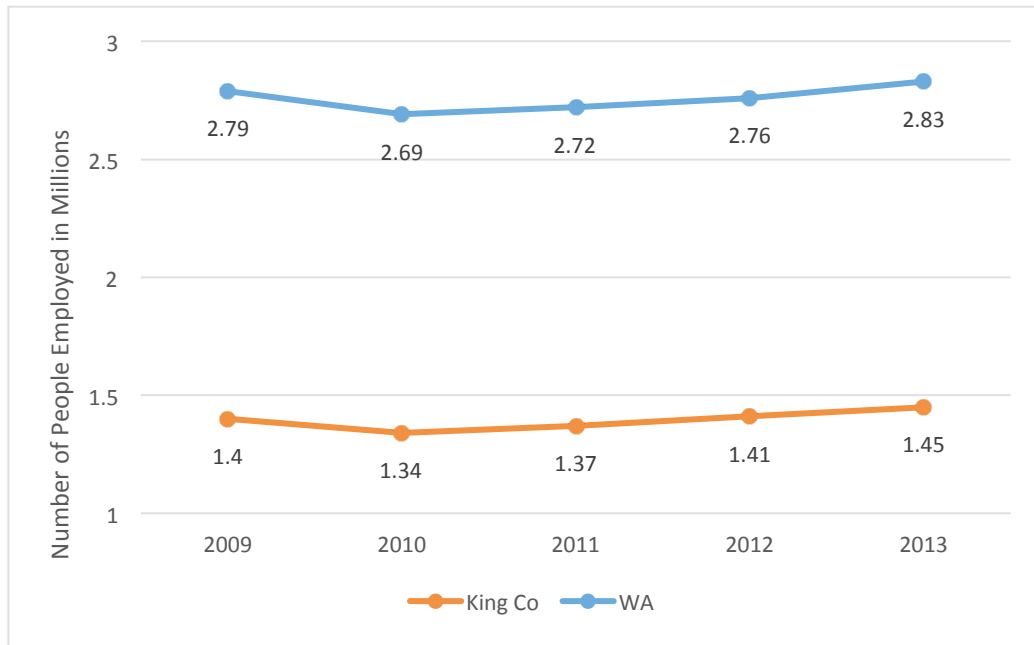


Figure 2: Number of people employed, King Co. & WA State (2009-2013)

King County and Washington State trended similarly in employment between 2009 and 2013; both saw a dip in 2010 at the height of US unemployment. Both the state and King County have added enough jobs to grow past the 2009 high. However, when broken down by industry, the trends in employment are not as consistent as seen above. The next section discusses trends in three industries that are most affected by wage theft in Washington—construction, food service, and retail/sales.

## Industry Trends

### *Washington State*

According to the BLS, the three largest industries in Washington State are office and administrative support, food service, and sales and related occupations (402,750; 241,330; and 302,780 people employed, respectively). What is troubling about this data is that food service and sales related occupations have two of the highest rates of wage theft, according to L&I data (which will be discussed at length in chapter 5). Figure 3 below shows the trends in employment in the top four industries that suffer from wage theft (according to L&I data<sup>40</sup>) as percentages of total employment.

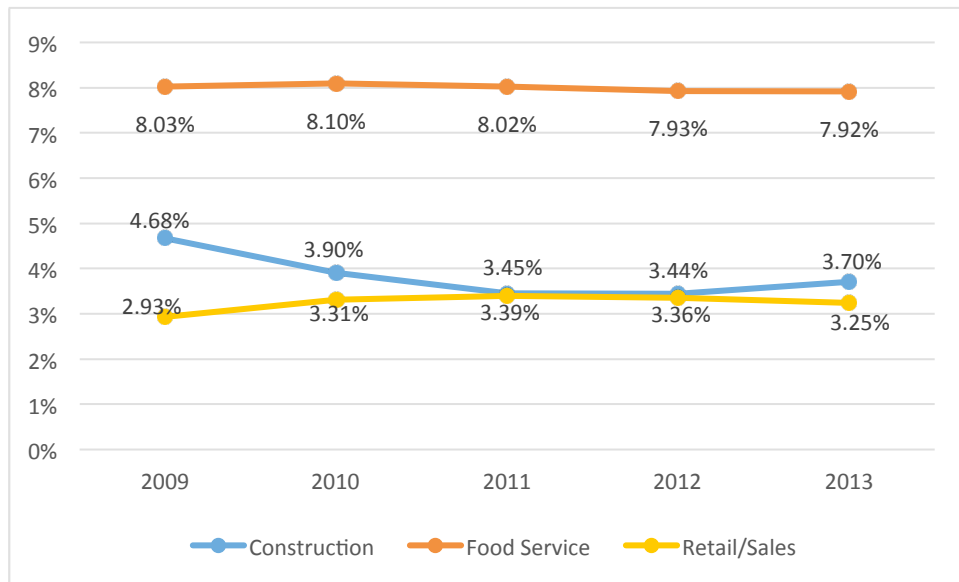


Figure 3: Industry percentages of total employment Washington State (2009-2013)

Both construction and food service make up a smaller percentage of workers employed, with construction decreasing statistically significantly. On the other hand, retail/sales has significantly increased as a percentage of total employment.<sup>41</sup> Table 2 below displays the change in the number of workers in these industries.

	2009	2010	2011	2012	2013
Construction	144,350	119,870	111,730	110,660	116,960
Food Service	243,140	235,380	237,670	238,060	241,330
Retail/Sales	85,540	91,070	95,120	96,810	99,570

Table 2: Number of workers in WA state by industry and year, including King county.

While the number of workers employed in food service is still below the number employed in 2009, it has been steadily increasing since 2010, and is predicted to surpass the 2009 numbers if job growth continues at the current rate.<sup>42</sup> Construction saw its lowest number of workers employed in 2012, two years after the low point for the state. As previously stated, retail/sales never decreased during the recession, and continues to grow as both a percentage of total workers employed and in absolute numbers.

### King County

The trends in these industries as a percentage of total employment in King County are similar to the rest of the state, as seen in Figure 4. Food service and construction make up a smaller percentage of employment than in 2009, while retail/sales has grown significantly. However, when it comes to the actual number of workers (shown in Table 3), only construction remains below its 2009 level. The number of people employed in food service in King County is significantly larger than it was in 2009, unlike any other county in the state.<sup>43,44</sup>

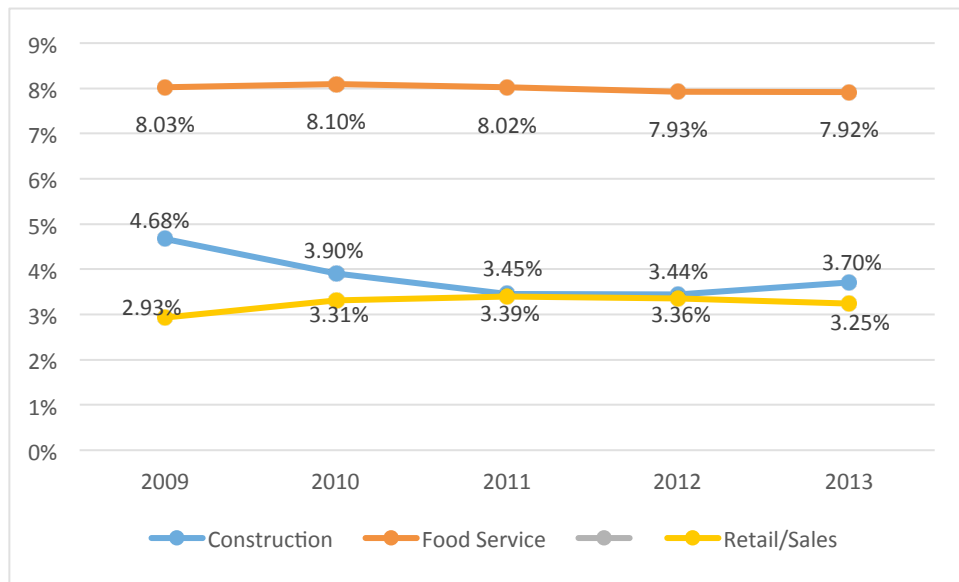


Figure 4: Industry percentages of total employment, King County (2009-2013)

	2009	2010	2011	2012	2013
Construction	65,740	52,550	47,240	48,550	53,680
Food Service	112,810	109,040	109,900	111,780	114,810
Retail/Sales	41,200	44,600	46,490	47,390	47,100

Table 3: Number of workers in King County by industry and year.

These numbers show that while the proportion of overall employment in these three industries has trended similarly in King County and the state, the number of workers in these industries has trended differently, suggesting that there has been a shift in the location of jobs post-recession.

## Washington state Data Echoes National Trends

Nationally, the post-recession recovery is similar to Washington, recently hitting or beginning to hit pre-2009 levels, (the lowest levels of employment occurring in 2010). Since the recovery, however, the majority of the jobs created have been in lower-wage positions.<sup>45</sup> Nationally, food service, support services, and retail trade have accounted for 39 percent of the private sector employment increase over the past four years, while also offering the lowest wages.<sup>46</sup> Although higher-paying industries, such as tech, have also grown since the recession (with Washington State being no exception),<sup>47</sup> the number of jobs is still below recession amounts, given how many jobs were shed during the recession in those industries. Figure 5 shows the national net change in private sector employment.



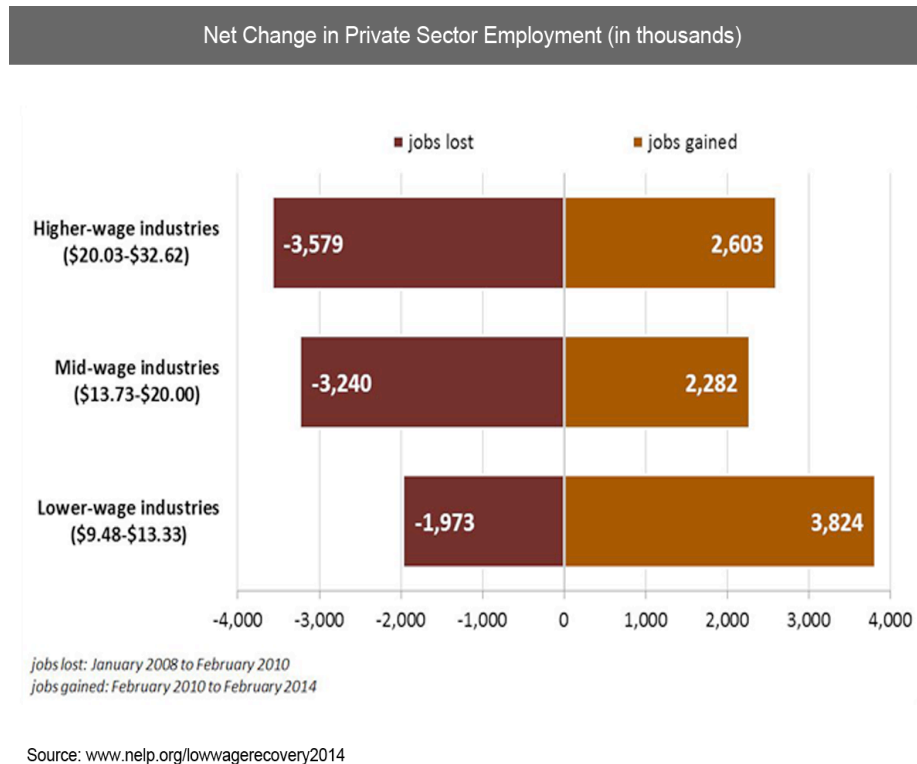


Figure 5: Net Change in US Private Sector Employment (in thousands).

The graph illustrates the national trend that is being felt in Washington state and even more so in King County. Food service jobs and other lower-wage industries have seen a significant increase in numbers, growing past the amount lost to the recession, while higher-wage jobs have grown, although they still remain below the pre-recession amounts.

## Conclusion

While the number of jobs is growing in both Washington State and King County, it is troubling to see that the three largest industries in the state are still lower-wage industries, two of which make up a large percentage of wage claims. As these industries continue to grow in the next five years, workers will not only fail to earn living wages, but are also at high risk of having wages stolen. The next chapter will discuss how these numbers will be used to evaluate wage theft data, while chapter 6 will analyze these BLS trends in the context of wage claims in greater detail.

## Chapter 4: Methodology

### Overview

A major issue facing those attempting to assess the extent of wage theft is that many workers never file a claim. They may be intimidated; worried that their employer will retaliate by making work difficult, firing them, or in the case of undocumented workers, calling Immigration officials. Other workers simply don't know their rights; wage theft is often isolating, with many workers feeling that they are alone in the issue or that there is nothing that they can do. Additionally, some workers pursue their claims through the courts system, and thus their data is not public available. Because of these issues, any data collected will be inherently underreported. With that caveat in mind, this report attempts to use two methods of data collection and analysis.

#### *Method 1: Analysis of previously unavailable state-level data*

Until late 2013, aggregated data on wage claims was not available from L&I. This report will analyze data that was released by L&I to Columbia Legal Services at the end of last year.

#### *Method 2: Estimates based on BLS Data*

The second method utilized will use Bureau of Labor Statistics Economic Data in conjunction with NELP findings to estimate how many wage theft cases were not reported in 2009-2013, as well as use predictive statistics to make estimates on how wage theft claims will continue to grow if the status quo of enforcement and penalization is continued.

The goal of using these two methods in conjunction is to paint the most complete (yet conservative) estimate of the extent of wage theft in Washington State and King County. Using existing, confirmed data as a backbone, and then building on it utilizing previously published literature and extrapolated numbers based on population data will not be able to predict the extent of wage theft, either previously or in the future, but it will provide a rough estimate where there previously has not been any. All data sources, discussed below, are either official government sources, or are from the 2008 NELP study (previously discussed in chapter 2). These numbers are both verifiable and conservative; because it can be said with 100 percent confidence that there are more cases of wage theft than just those reported through L&I, all predictions will be under-reports.

### Data Sources

#### *Official Data*

This report analyzes aggregated L&I data of closed wage theft claims from 2009 through 2013. While additional data from the first quarter of 2014 has been obtained, it will not be analyzed in this paper in case there are seasonal trends in claims. This data, which has

never been publicly available, is the only official aggregated state-level data collected on wage theft, besides claims that are filed through the federal WHD.

### *Bureau of Labor Statistics Economic Data*

For this report, BLS data for the State of Washington and for the Seattle-Bellevue-Everett metropolitan division is used to estimate both the amount of workers in each industry and the total amount of workers in King County and Washington State.

From there, percentages of wage theft claims found in both L&I and NELP data are applied to the BLS data to estimate how many cases of wage theft might have occurred over the last five years, given that it is generally accepted that not all cases of wage theft are reported.

## **Limitations**

While the methods used in this report were chosen for their strengths, they are not without limitations. Specifically, there are two main limitations that impact the data and will lead to underestimates.

### *Wage theft data is not easily accessible.*

While there are data available at both the state and federal level Departments of Labor, the data is only comprised of employers that have been formally cited, leaving out those who have had claims filed against them, but who might still be in litigation/mediation, or who were accused but never found guilty of a wage theft violation.

Another limitation is the different methods that L&I and WHD data is aggregated. WHD data is tracked on the employer level instead of the employee level (as L&I tracks it). As a result, only averages can be calculated for each employee; there is no way to calculate exact amounts per employee unless a case involves only one. Additionally, the industry classification used at the federal level is different than that at the state level,<sup>48</sup> making it difficult to analyze the data by industry. As a result of these difficulties, WHD data will be mentioned, but not fully analyzed in this report.

### *Claims Data are not complete.*

L&I data only represents claims that have been officially filed through the claims system. This data does not include claims that have been litigated through the courts (both state and federal), that have been settled outside of either the claims or courts systems (through organization such as CASA Latina or SeaSol, for example), or cases of wage theft that were never filed because employees were either fearful or did not know their rights. As a result, this report can only make assertions about this subset of the wage theft cases in Washington State.

L&I collections data is also incomplete for a number of reasons. Collections numbers are constantly being updated (at least in theory), and thus any data is a snapshot of the collections numbers at that point in time. Employees who have filed claims may also decide to settle outside of the claims system (and thus will not be reported in the collections data), may drop the claim in L&I to pursue it with an attorney, or, in some cases, may drop the case completely if the process is taking a significant amount of time with no progress.

## Conclusion

Assessing the extent of wage theft, even when official data is available, is not foolproof. Datasets can be incomplete, and claims can start in an official system, but ultimately be settled outside of that system. Despite these limitations, the data utilized in this report is the most complete data available about wage theft at the state level in Washington. Additionally, since this data has never been released before, simply making it available allows for more in-depth analysis than was previously doable. Using this data, in conjunction with NELP findings and official BLS employment data will paint the most complete picture currently available of wage theft in Washington. These two methods have been chosen for their reliability, transparency and conservative estimations. While this report cannot estimate previous rates of wage theft or predict future ones with 100 percent accuracy, it can offer insight where there has previously been little, if any.

## Chapter 5: Findings

### Overview

The following chapter examines data from the Washington State Department of Labor and Industries (L&I), from 2009 through 2013. It begins with an overview of the L&I data collected, and then moves to an analysis of claims, examining the data by the seven types of violations and the four industries with the largest prevalence of wage theft, comparing King County to the rest of Washington State. The chapter then goes on to use findings from the NELP study discussed in chapter two to estimate the number of workers who did not file a claim from 2009-2013. The chapter ends with a very brief discussion of claims that were filed at the federal level during the same time period.

### An Explanation of Amounts Claimed, Assessed & Collected

When a claim is filed, a worker will submit how much they are owed. This is the amount claimed. In some cases, the amount claimed will be zero because the worker may feel that they lack the evidence (such as timesheets) or simply do not know how much they are owed to put an accurate claim down. After L&I conducts an investigation, it determine how much a worker is owed, which is the amount assessed. Many times, this amount is not the same as the amount claimed by a worker. This can be due a number of reasons, including an employer not providing regular paystubs or timesheets, paying workers off the books, or having no record of tips. For the purpose of this report, only amounts claimed will be examined at this time.

The amount collected is the amount that L&I has been able to collect from employers who have been found to owe their employers wages. This number is, at least in theory, constantly changing in the database as employers pay their citations. However, as L&I states to on their website, it cannot guarantee collection.<sup>49</sup> Issues of collection are incredibly complicated, and will be mentioned in chapter 7, but will not be discussed in depth in this report.

### Wage Theft Claims, 2009-2013

#### Averages and Totals

Between 2009 and 2013, L&I closed 14,799 wage theft claims across Washington state, with 3,664 claims (just under 25 percent) occurring in King County.<sup>50</sup> These 14,799 claims added up to over \$46 million in claims.<sup>51</sup> The state average amount claimed across all industries was \$3,073.62 (not including King County), with the average in King County was slightly higher at \$3,281.25<sup>52</sup> Table 4 below shows the average and total amounts claimed Washington state and King County between 2009 and 2013.

	2009		2010		2011		2012		2013	
	Average	Total	Average	Total	Average	Total	Average	Total	Average	Total
King Co	\$2,702	\$1,988,928	\$3,412	\$2,684,875	\$3,437	\$2,495,538	\$4,443	\$3,065,828	\$2,465	\$1,567,433
WA	\$4,511	\$14,114,647	\$2,897	\$9,223,342	\$2,756	\$8,086,626	\$2,289	\$8,031,4034	\$2,513	\$6,783,429

Table 4: Average & Total Amounts Claimed, King Co & WA (2009-2013)

While the average number of claims has declined since 2009, King County now makes up a greater percentage of total claims. As seen in Figure 6 below, the number of claims filed in the state has declined since 2009, yet the amount of claims filed in King County has remained roughly the same. King County now makes up a statistically significantly higher proportion of total claims than it did in 2009.<sup>53</sup>

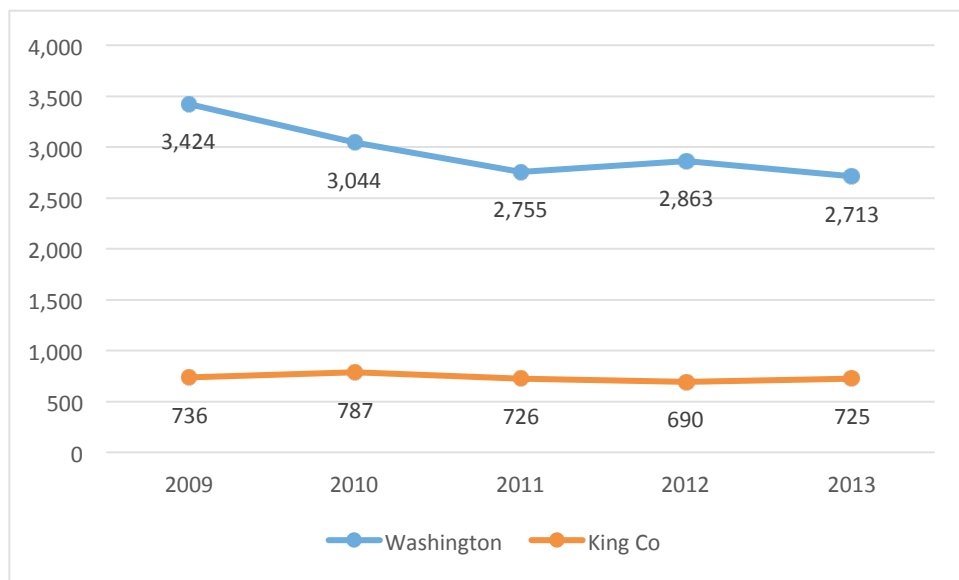


Figure 6: Number of Claims Filed, King Co. & WA (2009-2013)

Consistent with previous studies, the top industries suffering from wage theft in both Washington state and King County are construction, food service, retail/sales and “service” accounting for the largest percentage of claims, shown in Figure 7 below.<sup>54,55</sup> Service, retail/sales and food service are all low-wage industries, with median wages ranging between \$10 and \$12 per hour in Washington state.<sup>56</sup> Washington State in 2013 is \$24.66, oftentimes day laborers (who historically have made up a large number of wage theft claims) are hired at much lower wages.<sup>57</sup>

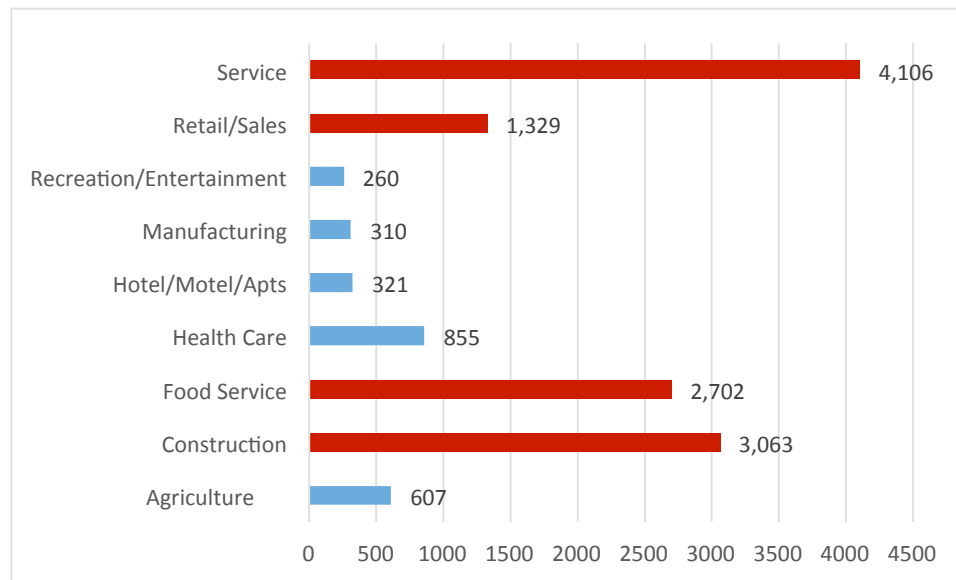


Figure 7: Claims by Industry (2009-2013)

These figures are increasingly worrisome as recent job growth in both King County and Washington State has been in these lower-wage jobs. The economic implications of these findings will be discussed late in this chapter.

### Violation types

*[Casa Latina] did calculations for one worker who had been hired as a handyman for a woman who was a realtor. For almost four years he would work eight, sometimes ten hour days. Then the employer would also have him work another eight hours after his first shift at her second business. For all of the work he did, even though he worked two separate jobs, he was only paid as if he had only one. In the first year alone he was owed \$15,000 in unpaid overtime.<sup>55</sup>*

There are seven “main” types of violations that L&I tracks across all workers, in addition to several others violations, including child labor and not having a regular payday, that L&I only reports in aggregate. The seven main violations are:

- **Unpaid overtime:** employer failed to pay overtime for hours worked over 40 per week, or miscalculated overtime hours to pay fewer than are due.
- **Unpaid minimum wage:** employer failed to pay the state minimum wage.
- **Unpaid agreed wage:** employer failed to pay the wage that was contractually agreed upon with worker, whether verbal or written, or required by statute.
- **Unauthorized deductions:** employer deducted cost of uniforms, tools, items broken while on the job, etc., which is unlawful.

- **Insufficient funds/bad check:** paycheck was not able to be cashed by employee because employer bank account had insufficient funds (check “bounced”).
- **Unpaid hours worked:** employer failed to pay for all hours worked.
- **Final wages not paid:** final paycheck was not received.

These violations are not different from the violations seen in chapter 3; rather L&I only tracks seven types in its data by individual. The other four types—child labor, meal periods, unpaid prevailing wage, and no regular payday are counted, but only in aggregate, and not in every year. As a result, this paper does not report on those violations because the data are incomplete.

Figure 8 below shows the frequency of violations claimed across all industries. The top three violations are unpaid overtime, unpaid hours worked and unpaid agreed wages, with unpaid hours worked occurring more than twice as much as any other violation.

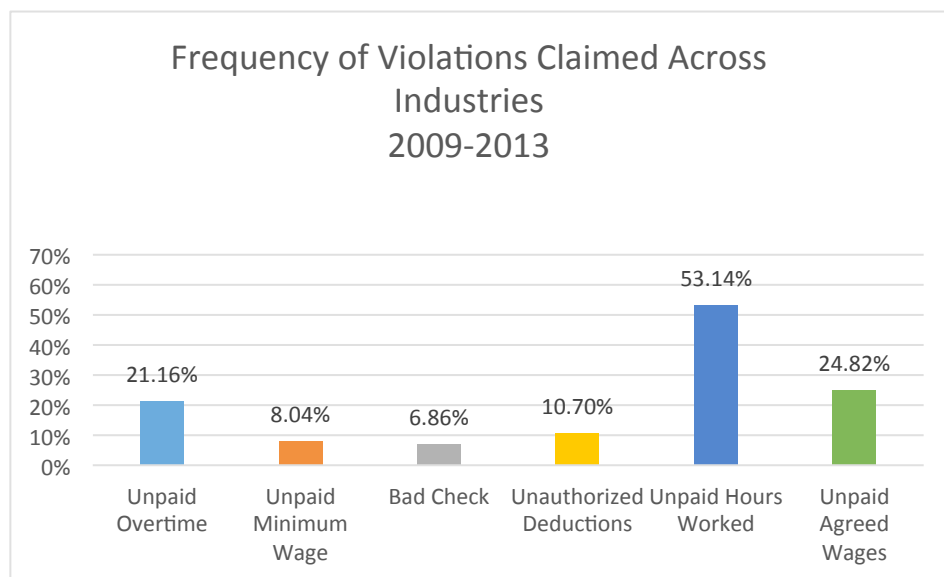


Figure 8: Frequency of Violations cited in claims across industries (2009-2013)

On average, each claim involved at least two violations, with as many as all seven occurring. Construction, food service, retail/sales and service all had high occurrences of each of these violations, with unpaid hours worked having the highest rates. Figure 9 below shows the percentage of violations in each of these industries.



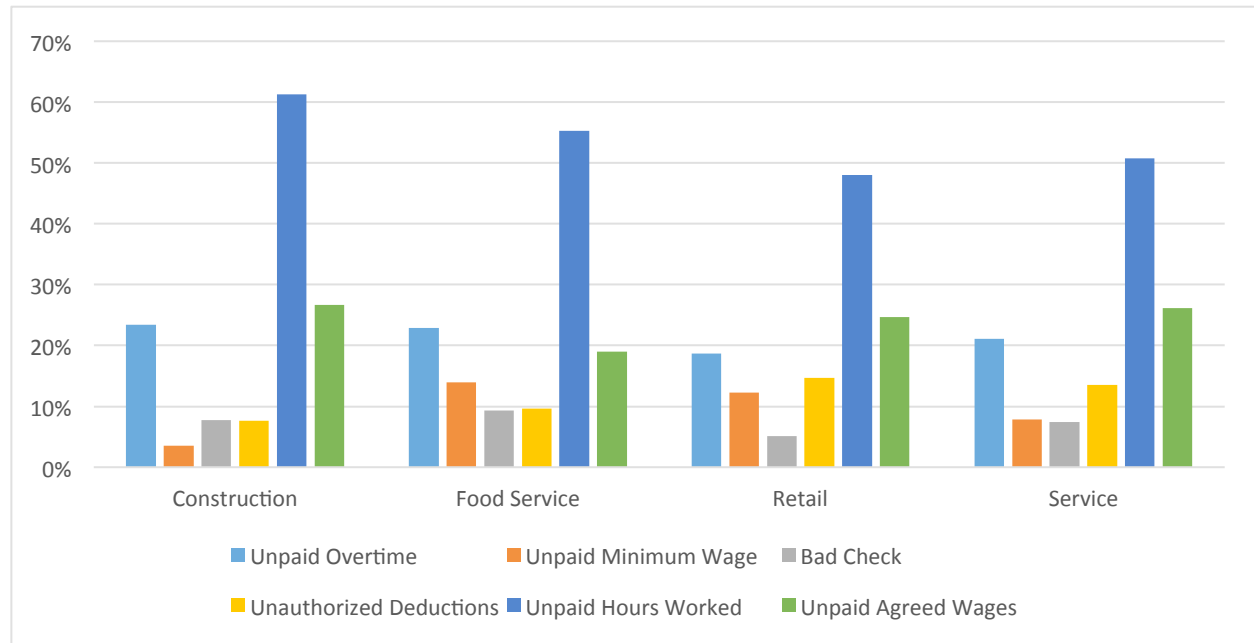


Figure 9: Violations cited in claims by Industry (2009-2013)

The high prevalence of unpaid hours worked is especially distressing, since it translates into workers missing large portions of their paychecks, as hours are left off as if they had never been worked. Unpaid hours worked can also mean being forced to work off the clock, another violation that has been reported as affecting workers in a large number of industries across the country.

Another disturbing implication of this data is that with an average of 2.24 violations per worker, most employers are relying on multiple methods to steal wages from their employees. In order to combat wage theft, strategies will have to consider how to enforce each type of violation, so that employers don't simply switch methods should one become more difficult for them to execute without getting caught.

### Days Open

According to the L&I website, most cases are closed within 60 days.<sup>58</sup> However, looking at the data, the average number of days cases were open across the five year span from 2009-2013 was 80, with the maximum being 2,790. Figure 10 below shows the trend in the average number of days open; while the average has been decreasing since 2009, it still remains above the average that L&I states on its website.

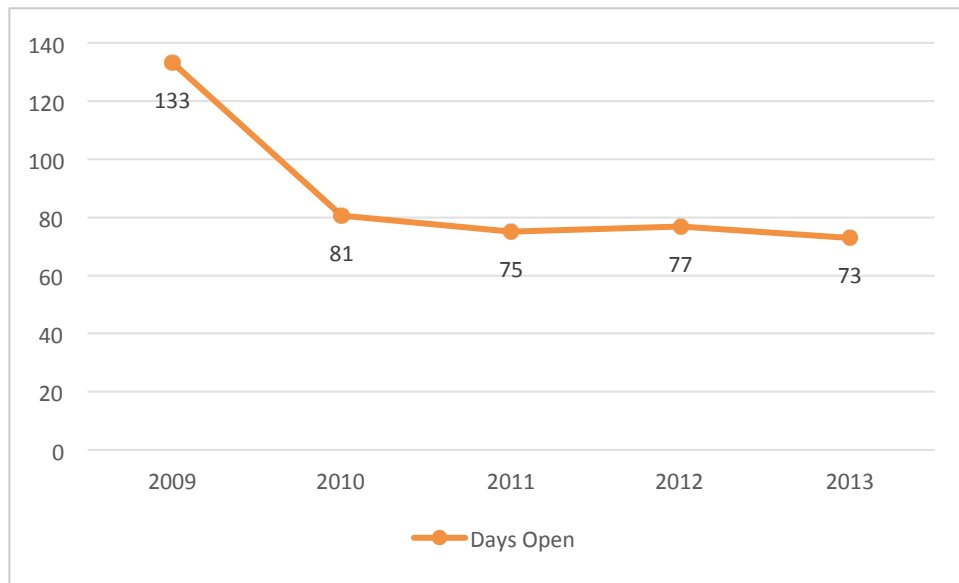


Figure 10: Average number of days a claim is open (2009-2013)

While it may seem trivial that a claim is open 82 days rather than 60, for many workers the uncertainty they face as they wait for their claim to process can lead them to drop their claim, either in favor of a settlement for a smaller amount than previously claimed, or in some cases, altogether. When workers don't see their cases through, or settle for smaller amounts than they are owed, it can signal to employers that delaying the investigation process and prolonging the number of days it takes L&I to come to a decision may cause a worker to drop out of the claims process. This, in turn, can motivate employers to continue stealing wages, knowing that they can manipulate the claims system by dragging out an investigation.

### Findings by Industry

While wage theft can occur in any industry, both national statistics and the data in this report find that particular industries—namely construction, food service, and retail—heavily suffer from wage theft. The next section of this report analyzes the four industries in Washington State that had the highest number of wage theft claims between 2009 and 2013. Those industries are construction, food service, retail/sales, and service. Service is a general category used by L&I that can refer to a number of business types, including landscaping, janitorial, private security firms, and insurance companies. Additionally, the category “other” technically had the fourth highest rates of wage theft, but given how varied the business types were, retail/sales is reported instead. Due to an issue with industry classifications in the data for 2013, trends will only be discussed from 2009 to 2012.

## Construction

Like many industries in both King County and Washington State, construction has seen a decline in the number of jobs post-recession, as housing prices dropped and the demand for new construction projects shrunk.<sup>59</sup> Along with this shrinking market, the number of wage theft claims in construction, in both Washington State and in King County (although not to the same extent) dropped as well. Despite the decrease, construction made up just over 20 percent of wage theft claims between 2009 and 2012. Figure 11 below shows the trends in number of claims from 2009 to 2012.

### Construction at a Glance:

- 2,484 claims (20% of total) between 2009-12
- Average claim = \$3,140.68
- Total amount claimed 2009-2013= \$7,801,469.40

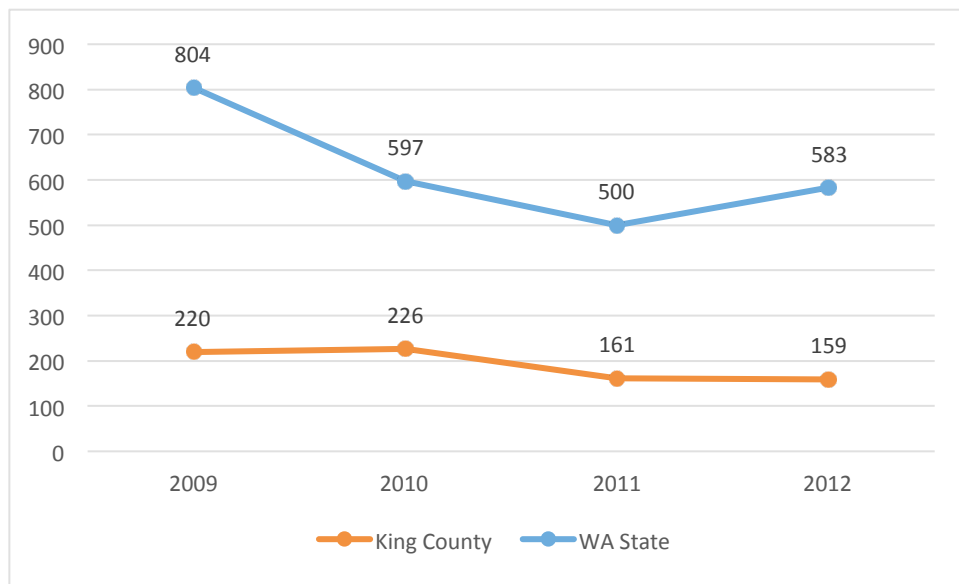


Figure 11: Number of construction claims filed, King Co. & WA (2009-2012)

While the amount of claims remains below the 2009 amount for both King County and the state, the number of claims in the state is on the rise. This is not surprising, given the increase in construction jobs as the housing market recovers.

The average amount claimed by workers in construction was roughly the same for those in King County and the rest of the state until 2012, when there was a large spike in the amount claimed in King County (seen in Figure 12 below). This is especially interesting, given that in 2012, the number of claims in construction in King County hit their lowest point, with only 159 filed, as opposed to 220 filed in 2009.



Figure 12: Average amount claimed in construction, King Co. & WA (2009-2012)

Despite the number of claims remaining below their 2009 levels, the difference in total amount claimed in 2009 versus 2012 is less than \$100,000.<sup>60</sup> While this is obviously due to the increase in the average amount claimed in King County, it is disheartening to see the dollar value of claims increase to 2009 levels. Figure 13 below illustrates the total amount claimed in construction in both King County and Washington State.

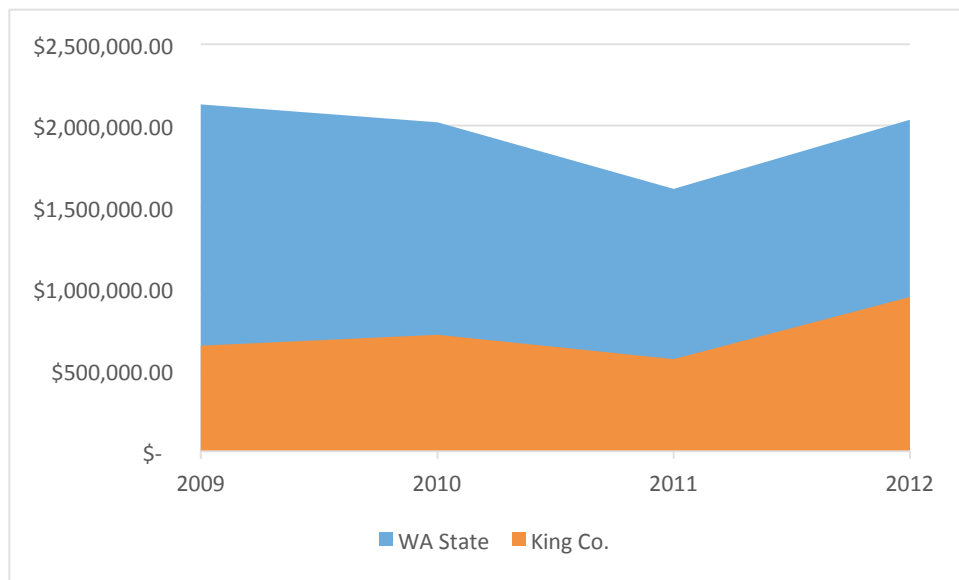


Figure 13: Total amount claimed in construction, King Co. & WA (2009-2012)

While there are fewer numbers of claims in construction, the figure shows that those numbers are increasing, especially outside of King County. The average value of claims in King County are also on the rise. As a result, the total amount claimed in construction is rising despite the drop in claims, signaling that the industry is still of great concern.

## Food Service

In the last year, wage theft has become national news due to strikes in the food service industry. While many industries shrunk due to the recession, in many states, food service did not.<sup>61</sup> In Washington, food service did not see a significant decrease in the number of claims, and the number of claims in King county only decreased by ten between 2009 and 2012, making up just under 18 percent of claims filed between 2009 and 2012 (shown in Figure 14 below).

### **Food Service at a Glance:**

- 2,161 claims (18% of total) between 2009-12
- Average claim = \$1,626.22
- Total amount claimed 2009-2012 = \$3,514,252.00

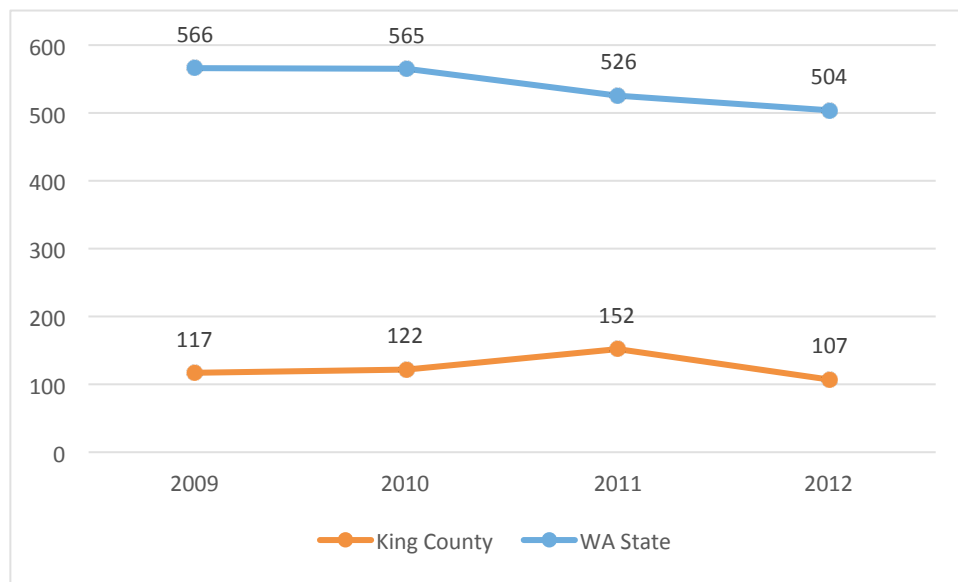


Figure 14: Number of food service claims filed, King Co. & WA (2009-2012)

In addition to the statistically insignificant decrease in number of claims, the average amount claimed in food service has risen in both King county and Washington state since 2009, topping \$2,000 per worker in King county in 2011, and holding that level in 2012. Although the average is not as high per worker in the rest of the state, the amount has risen 25 percent since 2009 to \$1,679 (shown in Figure 15 on the next page).



Figure 15: Average amount claimed in food service, King Co. & WA (2009-2012)

This increase in the average amount claimed translates into a \$227,000 increase in the total amount claimed between 2009 and 2012, with the largest amount claimed occurring in 2010, totaling over \$1 million, seen in Figure 16 below. With the food service industry growing (as discussed in chapter 3), these averages and totals are worrisome. In King county especially, food service is an increasing part of the labor market. With the average amount claimed on the rise, the total amounts lost to wage theft will likely increase as the number of workers in the industry increases.

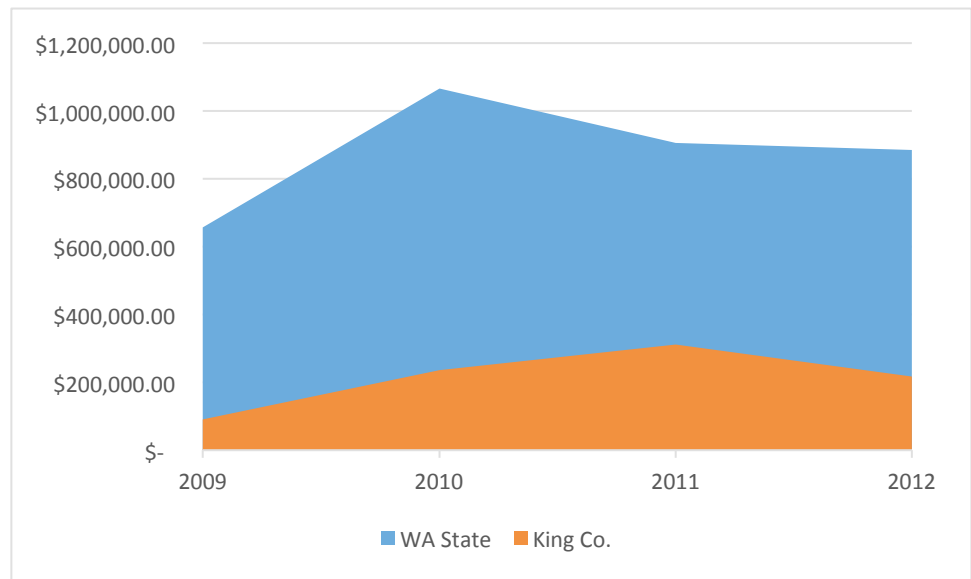


Figure 16: Total amount claimed in food service, King Co. & WA (2009-2012)

Food service workers are especially prone to wage theft because tips are often easy for employers to steal, especially when left on credit cards. In the wake of Seattle's decision to raise its minimum wage to \$15 per hour, food service workers may be even more susceptible to wage theft during the phase-in period when tips are counted as part of the

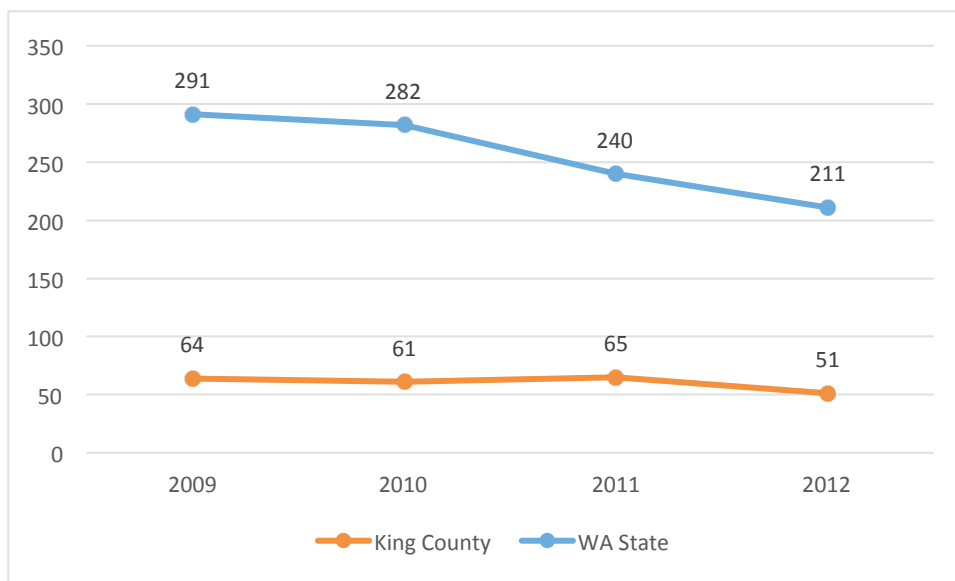
minimum wage (known as a tip credit<sup>62</sup>). Chapter 7 will discuss Seattle’s minimum wage increase in greater detail.

## Retail/Sales

Like food service, retail also did not see a large decrease in employment numbers, despite the recession.<sup>63</sup> Washington State has seen a drop in claims in retail/sales; however, that drop is not as pronounced in King County. As seen in chapter 3, the trends in retail/sales differ greatly between Washington state and King county; it’s no surprise that the number of claims filed reflects this

### **Retail/Sales at a Glance:**

- 1,061 claims (9% of total) between 2009-12
- Average claim = \$2,302.58
- Total amount claimed 2009-2012 = \$2,443,036.92



difference. Figure 17 below shows the trends in the number of claims files in both Washington and King County from 2009 to 2012.

*Figure 17: Number of retail/sales claims filed, King Co. & WA (2009-2012)*

Despite this drop in the number of claims filed, the average amount claimed has not dropped at the state level since 2009. From 2009 to 2012, the average amount claimed in retail/sales in Washington State rose \$1100, to \$2775 from \$1675. In King county, the average amount claimed has fallen since 2009; however, after the initial drop from 2009 to 2010, the average amount claimed has remained more steady, dropping only \$222 between 2010 and 2012 (shown in Figure 18).



Figure 18: Average amount claimed in retail/sales, King Co. & WA (2009-2012)

Despite the decrease in the number of claims in Washington State, these averages translate to an increase in the total amount claimed from 2009 to 2012, with a spike in 2010. Figure 19 below displays the total amount claimed from 2009 to 2012; in 2009, the total amount claimed was just over \$555,000. By 2012, it rose to over \$637,000. The situation in King County is the opposite. While the number of claims filed have remained essentially the same, because of the drop in the average amount claimed, King County now makes up a smaller fraction of the total amount claimed, dropping from over \$175,000 in 2009 to just over \$90,000 in 2012.

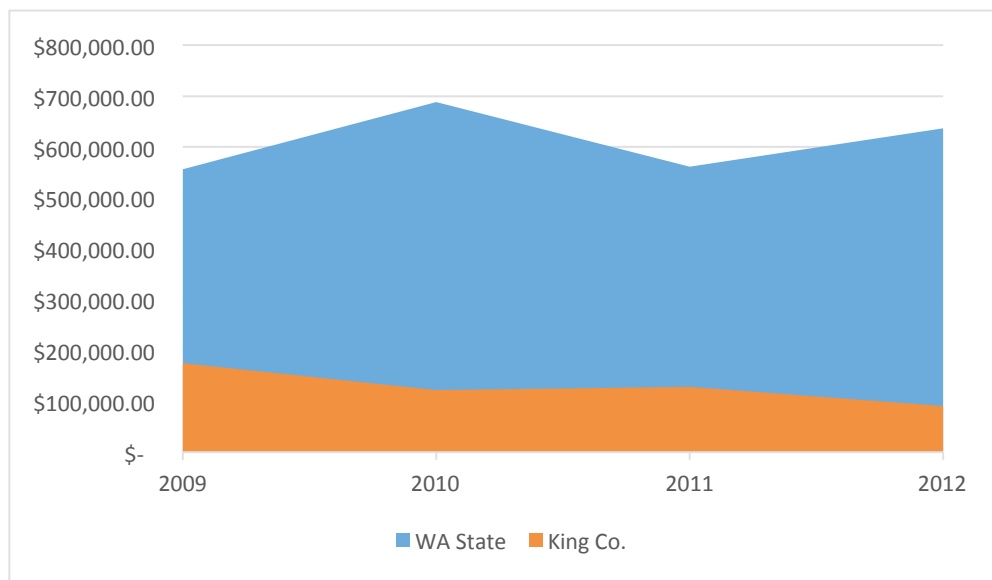


Figure 19: Total amount claimed in retail/sales, King Co. & WA (2009-2012)



Like food service, retail/sales remained a large part of the labor market through the recession. It is also growing as an industry, especially in King county. While the number of claims have decreased in the state, the average claimed per worker has risen significantly and the number of claims in King County have remained basically unchanged since 2009. Like food service, as retail/sales becomes a larger part of the economy, the total amounts lost to wage theft will likely increase as well.

## Service

Service, as L&I categorizes it, is an ambiguous category. While all of the other categories that L&I uses (besides “other”) translate into BLS categories, service does not. Because it is a catchall category, it is not surprising that it has the largest number of claims. The category includes staffing and temp companies, which as an industry have had multiple class-action lawsuits filed against them in recent years.<sup>64</sup>

### Service at a Glance:

- 3,273 claims (27% of total) between 2009-12
- Average claim = \$4,909.47
- Total amount claimed 2009-2012 = \$16,068,696.44

While the number of claims have decreased between 2009 and 2012, because this category is not as precise as others, it is hard to make concrete conclusions about the state of the industry. However, it is worth noting that while the numbers have decreased significantly in both Washington state and King county, the decrease has been much less in King county. Figure 20 illustrates these trends.

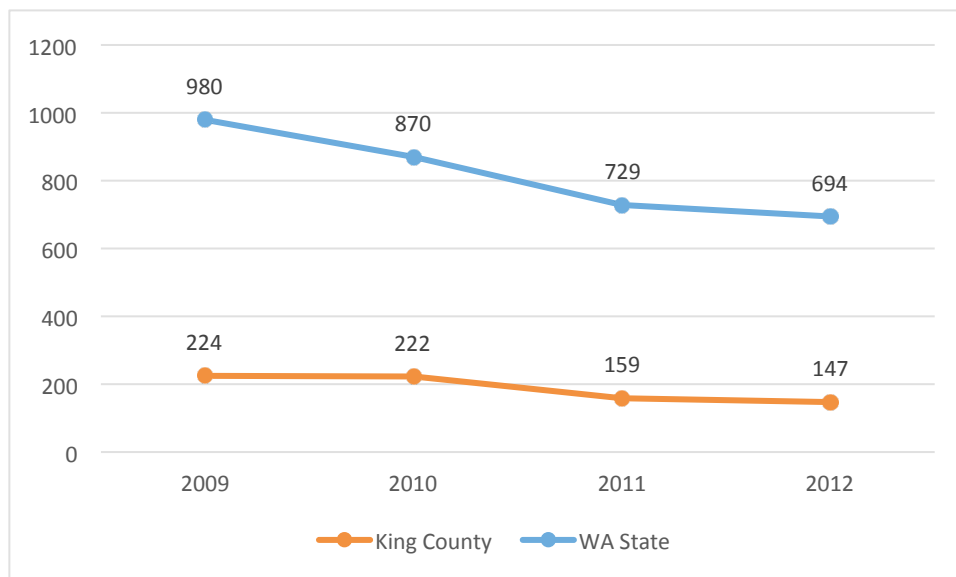


Figure 20: Number of service claims filed, King Co. & WA (2009-2012)

The average amount claimed in service for Washington State is skewed higher for 2009, most likely due to a few claims that are incredibly large (seen in Figure 21). While it is worth keeping these claims in the data for completeness's sake, it does impact how these numbers can be analyzed. Setting the 2009 amounts from the state aside, the average amount claimed has remained roughly the same in Washington State, between 2010 and 2012, decreasing to \$2,552 in 2012 from \$3,194 in 2010. Service has the highest average amount claimed per worker, even when disregarding the 2009 spike. This may be due to the open-ended nature of this particular category.

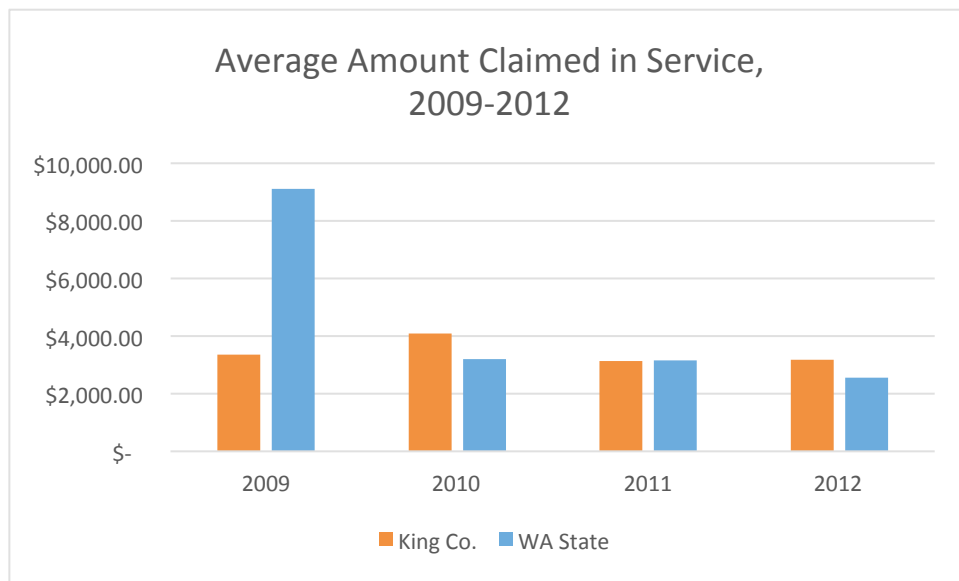


Figure 21: Average amount claimed in service, King Co. & WA (2009-2012)

Figure 22 shows how these high averages total up from 2009 to 2012. Even disregarding the large spike in the amount claimed in 2009, service has both the largest number of claims and the highest average amount claimed. While it is difficult to predict how service will grow given that it's such a nebulously defined category, the sheer size of the number of claims and total amount claimed suggest that this industry should not be ignored, despite being poorly defined.

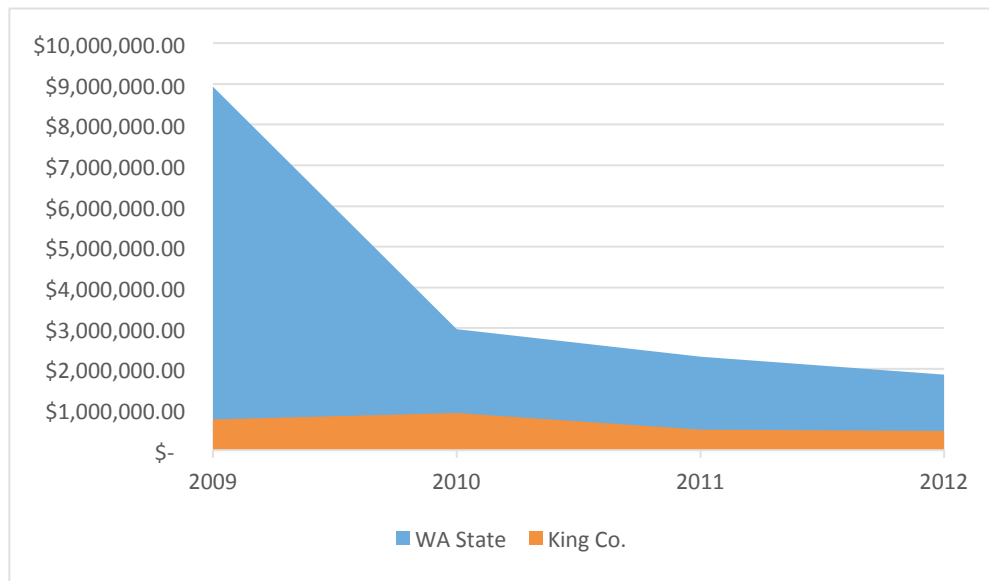


Figure 22: Total amount Claimed in service, King Co & WA (2009-2012)

Further research to disaggregate the category into smaller industries would be beneficial and provide better insight into which sub-industries within it are disproportionately suffering from wage theft.

### Federal Data

In addition to the 14,799 claims filed through L&I between 2009 and 2013, 961 claims affecting over 9,300 workers were filed in Washington state through the federal Wage and Hour Division (which will be analyzed in a forthcoming report), totaling over \$7.4 million. This brings the total number of claims filed in Washington State to over 24,000 between 2009 and 2013, totaling over \$53.7 million. Even without a more detailed analysis into the breakdown of these numbers, the addition of this federal data illustrates that wage theft is an issue of great magnitude in Washington State.

### Attempting to Know What the Data Doesn't Tell US

The next section of this chapter attempts to estimate the extent of wage theft in King county and Washington state, both retroactively, and for the future. Retroactive estimates are based on findings from the 2010 NELP study, while future predictions are made using BLS data in conjunction with the L&I findings just discussed. Finally, the two methods are combined to make a final prediction of rates of wage theft in both King County and Washington State should the current status quo of laws and enforcement rates be upheld.

## Estimating the Past

According to the 2008 NELP study, 23 percent of those surveyed who had suffered from wage theft did not report their claim. Most cited fear of retaliation from their employer, either in the form of harassment on the job, losing their job, or in the case of undocumented workers, having immigration officials being called. Applying this figure, (referred to as the “77 percent reporting rate”) as an upper bound, and 10 percent (referred to as the “90 percent reporting rate”) as a more conservative lower bound, this section estimates the additional number of workers who may have suffered a wage theft violation from 2009 to 2013, along with how many additional dollars may have been stolen. Figure 23 displays the estimate of claims not filed in Washington State at the 77 percent reporting rate. As the graph shows, at the 77 percent reporting rate, an additional 4,420 claims would have been filed with L&I between 2009 and 2013.

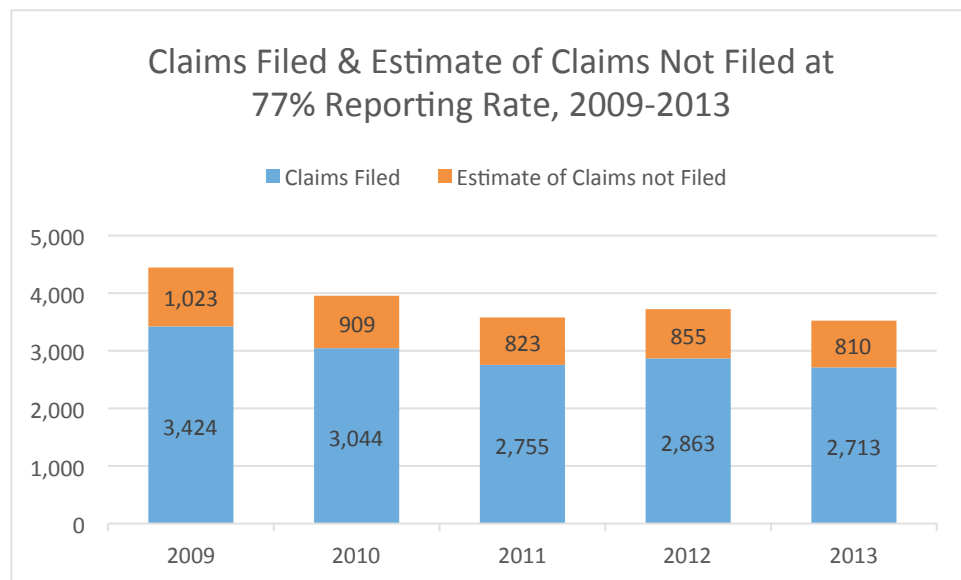


Figure 23: Claims filed & estimate of claims not filed at 77% reporting rate (2009-2013)

These additional claims add up to a significant amount of additional wages stolen; Table 5 below displays the additional number of claims by industry, at both the 77 and 90 percent reporting rates. The table also shows the dollar values of those additional claims, using the average claim value in each industry.

Industry	Number of Claims	Average Amount Claimed	Additional Claims at 90% Rate	Additional Claims at 77% Rate	Dollar Value of Add'l Claims at 90% Rate	Dollar Value of Add'l Claims at 90% Rate
Agriculture	586	\$1,016.10	65	175	\$66,159.40	\$177,857.09
Building Services	6	\$112.97	1	2	\$75.31	\$202.47
Construction	2,940	\$2,993.25	327	878	\$977,795.00	\$2,628,617.73
Farm Labor	7	\$2,021.47	1	2	\$1,572.25	\$4,226.71
Food Service	2,607	\$1,677.34	290	779	\$458,869.49	\$1,306,168.62
Government	49	\$489.66	5	15	\$2,665.93	\$7,166.84
Health Care	818	\$2,403.62	91	244	\$218,462.35	\$587,294.89
Hotel/Motel	312	\$2,084.85	35	93	\$72,274.80	\$194,297.19
Manufacturing	307	\$4,852.66	34	92	\$165,529.62	\$444,995.22
Other	1,521	\$4,111.67	169	454	\$694,872.23	\$1,868,033.14
Recreation	249	\$2,686.30	28	74	\$74,320.97	\$199,797.92
Retail/Sales	1,272	\$2,507.25	141	380	\$354,358.00	\$952,624.75
Service	3,964	\$4,533.26	440	1184	\$1,996,649.18	\$5,367,615.33
Unassigned	160	\$1,574.12	18	48	\$27,984.36	\$75,230.67
<b>Total</b>	<b>14,799</b>		<b>1644</b>	<b>4420</b>	<b>\$5,138,588.89</b>	<b>\$13,814,128.58</b>

Table 5: Estimate of additional number of claims and total amount claimed at 77 and 90 percent reporting rate

If the numbers provided by L&I account for 90 percent of all wage theft in Washington state that would be filed at the state level, from 2009 to 2013 there would still be over 1600 additional claims totaling more than \$5.1 million. This number increases to over 4400 additional claims totaling over \$13.8 million if the L&I claims account for 77 percent. Both of these situations point towards the need for increased reporting and, in turn, more stringent enforcement. When large numbers of workers do not file claims, not only do they lose their rightfully owed wages, but the state loses out of tax revenue (discussed in the next chapter), and the local economy loses out on money that would have been spent by consumers.

## Conclusion

The findings in this chapter shed light on an issue that has previously been unexplored; even with data that is not complete, wage theft is a large-scale issue in Washington State, affecting workers across industries and across the state. The next chapter breaks down how these wages lost also impact the state and the local economy, showing that wage theft does not only impact the workers who take home less than they have earned.

## Chapter 6: Economic Impacts of Wage Theft

### Overview

The findings discussed in the previous chapter provide a never-before-seen look into the extent of wage claims filed through L&I. While this data answers how much individual workers are losing to wage theft, it does not provide information on how much money the state loses to wage theft as a result of these claims. This next chapter uses findings from the Institute on Taxation and Economic Policy (ITEP) to calculate how much money wage theft has kept from state revenues between 2009 and 2013.

### Washington State's Regressive Tax Structure

Washington is one of nine states without a personal income tax.<sup>65</sup> However, because of its high sales and excise taxes, Washington ranks first for having the most regressive tax structure in the nation. Table 6 below displays the percentage of taxes paid by each income bracket.

## Washington State & Local Taxes

### Details, Tax Code Features, & Recent Developments

Income Group	Lowest 20%	Second 20%	Middle 20%	Fourth 20%	Top 20%		
					Next 15%	Next 4%	TOP 1%
Income Range	Less than \$20,000	\$20,000 – \$38,000	\$38,000 – \$60,000	\$60,000 – \$95,000	\$95,000 – \$176,000	\$176,000 – \$430,000	\$430,000 or more
Average Income in Group	\$11,500	\$28,600	\$49,600	\$76,800	\$123,900	\$249,600	\$1,131,500
<b>Sales &amp; Excise Taxes</b>	<b>13.0%</b>	<b>9.7%</b>	<b>8.0%</b>	<b>6.4%</b>	<b>4.8%</b>	<b>3.1%</b>	<b>1.9%</b>
General Sales—Individuals	4.1%	3.3%	2.9%	2.4%	1.8%	1.2%	0.6%
Other Sales & Excise—Ind.	4.1%	2.7%	2.1%	1.6%	1.1%	0.7%	0.3%
Sales & Excise on Business	4.8%	3.7%	3.0%	2.4%	1.8%	1.2%	0.9%
<b>Property Taxes</b>	<b>3.9%</b>	<b>2.6%</b>	<b>2.7%</b>	<b>2.8%</b>	<b>2.7%</b>	<b>2.3%</b>	<b>1.4%</b>
Property Taxes on Families	3.9%	2.6%	2.6%	2.7%	2.6%	1.9%	0.7%
Other Property Taxes	0.1%	0.1%	0.1%	0.1%	0.1%	0.3%	0.7%
<b>Income Taxes</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>
Personal Income Tax	—	—	—	—	—	—	—
Corporate Income Tax	—	—	—	—	—	—	—
<b>Total Taxes</b>	<b>16.9%</b>	<b>12.4%</b>	<b>10.7%</b>	<b>9.2%</b>	<b>7.5%</b>	<b>5.4%</b>	<b>3.3%</b>
<b>Federal Deduction Offset</b>	<b>0.0%</b>	<b>0.0%</b>	<b>-0.3%</b>	<b>-0.5%</b>	<b>-0.7%</b>	<b>-0.7%</b>	<b>-0.5%</b>
<b>OVERALL TOTAL</b>	<b>16.9%</b>	<b>12.3%</b>	<b>10.4%</b>	<b>8.7%</b>	<b>6.8%</b>	<b>4.7%</b>	<b>2.8%</b>

Table 6: Washington state & local taxes (2012)( Source: itep.org)

The table illustrates how the tax burden in Washington State falls disproportionately on those with the lowest income, with those in the lowest 20 percent of income paying almost 17 percent in taxes if they own a home, and 13 percent if they do not.<sup>66</sup>

## Revenue Lost to Wage Theft

### State Tax Revenue Lost

The percentages discussed above touch on three major issues afflicting those suffering from wage theft. The first issue is that most workers affected by wage theft are lower-wage workers, falling mostly in the bottom 20 percent of incomes (less than \$20,000/year). When the tax rate of those that do not own homes (13 percent) is multiplied against the dollar value of claims from 2009-2013, it translates to a loss of over \$6 million in tax revenue to the state. Even using the rate incurred by those in the second 20 percent for a more conservative estimate (9.7 percent), the numbers show almost \$4.5 million in lost revenue.

### Individual Earnings Lost

The second issue is that workers will still pay these tax rates despite suffering from wage theft. Table 7 below shows how in 2012, the average food service worker in King county, making the median wage of \$11.06<sup>67</sup> and working full time, full year (40 hours/week, 52 weeks/year) will end up losing 33.5 percent of their original paycheck between suffering from wage theft and the state's regressive tax structure.<sup>68</sup>

Amount Earned Working Full-Time	Amount Lost to Wage Theft (Food Service Average)	Amount Received Before Federal Taxes	Amount Paid in Federal Taxes	Amount Received After Federal Taxes	Amount Paid in WA taxes (at 13% rate)	Amount Received After WA taxes
\$23,004.80	\$2,036.45	\$20,968.35	\$3,388.32	\$17,580.03	\$2,285.40	\$15,294.63

Table 7: impact of wage theft & taxes on average food service worker (2012)

### Local Economic Activity Lost

The largest ripple effect caused by wage theft is that on the local economy. On average, a dollar earned by a lower-wage worker causes a \$1.20 increase in economic activity, as lower-wage workers spend their full paychecks.<sup>69</sup> Table 8 below shows the impact on the local economy when the multiplier is applied to the amounts claimed through both L&I and WHD.

	Amount Claimed 2009-13	Amount w/ Multiplier
L&I	\$46,239,446.84	\$55,487,336.21
WHD	\$7,461,455.19	\$8,953,746.23
<b>Total</b>	<b>\$53,700,902.03</b>	<b>\$64,441,082.44</b>

Table 8: Impact of wage theft on Washington State's economy

The impact of wage theft is not just the dollar amount lost to workers, but also the lost economic activity those wages would have produced had they been spent in the market. In

Washington's case, that equals over \$64.4 million. Again, it is important to note that this data is only for workers who filed a claim. These figures would very likely grow significantly if data on all workers suffering from wage theft could be collected.

### Conclusion

Wage theft hurts workers and the state alike. Chapter five showed that wage theft is an extensive issue in Washington State, costing workers who filed claims through L&I over \$46 million. Looking at the state's tax structure shows that over that same period of time, the state may have lost between \$5.7 and \$7.8 million in tax revenue that would have been collected via sales and excise taxes, while lower-wage workers still had to foot steep tax burdens. The next chapter discusses recommendations that focus on strategies targeting both individuals and the government that can help mitigate wage theft in the state.



## Chapter 7: Recommendations

### Overview

While the findings discussed in the previous chapter are both eye-opening and disheartening, wage theft is not an unfixable problem. This final chapter examines three different approaches—education campaigns and access to information, greater/stricter enforcement of existing laws, and increased laws/legislation— that can be taken to combat wage theft and recommends actions that the state of Washington can take. It then goes on to examine two existing tactics—one in Oregon, and one in Houston, Texas—that could be used to combat wage theft in Washington state.

### Education & Access to Information

#### *Increase Workers' Rights Education*

One of the first steps to combating wage theft is making sure that workers know their rights. While workers' rights centers such as the one at CASA Latina offer classes about workplace education, greater public-awareness campaigns, such as Can My Boss Do That? sponsored by Interfaith Workers Justice (IWJ), seeks to educate as many workers as possible by keeping an up-to-date website listing rules around wage theft, workers' compensation, benefits and paid time off, and other federal workplace rights.<sup>70</sup>

Here in Washington, workers would greatly benefit from an official education campaign sponsored by L&I. While L&I does currently have FAQs posted on its website, as well as the employer-required "Your Rights as a Worker" poster, many workers are not even aware of L&I as an entity. An education campaign by L&I would both educate workers about their rights, as well as increase awareness of what L&I is and what it can do under the Wage Payment Act (WPA).

Another option Washington can look to implement is to provide information to high school students about their rights as they enter the workforce. While L&I's Injured Young Workers Speakers Program brings speakers to high schools, technical college, Job Corps schools, and skills centers to talk about workplace safety, this program does not directly address wage theft and workers' rights issues. L&I claims that 70 percent of teens who attend the presentation say that their awareness of workplace safety issues increased "significantly."<sup>71</sup> L&I could increase teen knowledge of wage theft and other workplace rights significantly by using its existing infrastructure.

#### *Provide Greater Access to Wage Theft Data*

Currently, L&I's website provides a searchable list of employers that have had final and binding citations issued against them for WPA violations.<sup>72</sup> However, this list only provides

a small snapshot of employers who have committed wage violations, since the list only contains employers that have been issued citations (as opposed to settled with the employee). Additionally, it is only updated “periodically” (as stated on the website), with the last update occurring on June 30, 2013. This searchable list only provides the name of the employer, and the city and the zip code of the business. The list does not provide any dollar value of the violations, or what type of violations occurred.

While anyone can make a public information request for more claims, L&I is not obligated to provide any sort of aggregated report. This report would not have been conducted if Columbia Legal Services (CLS) had not worked with L&I for almost four years to provide comprehensive, aggregated reports of all claims files between 2009 to 2013. That data was then compiled into one dataset to be analyzed.

In order for the general public to be aware of employers who violate the WPA, this unavailability of information cannot continue. L&I should to provide an updated, searchable database that lists all employers who have had a wage theft claim filed against them, along with how much that claim or claims equal, and the violates that were reported in the claim. The list should be easily locatable—the current URL is not intuitive, and it is difficult to locate within the website. This database should also be prominently advertised on the L&I website so that consumers can be aware of its existence, and use it as a tool to vet businesses before frequenting them.

Another major issue is that L&I’s internal database is archaic, which further prevents wage claims data from being fully public. Not only is L&I not required to aggregate reports for interested parties, its database was never meant to track wage theft claims. L&I is in need of an updated, user-friendly database that can aggregate reports easily and quickly.

## **Greater Enforcement of Existing Laws**

### *Seattle’s Minimum Wage & Wage Theft*

In the wake of Seattle’s decision to raise its minimum wage to \$15/hour for all employees by 2021, lower-wage workers face a much-needed increase in earning, while they are simultaneously more prone to wage theft. There are a number of ways the minimum wage increase may cause a bump in wage theft. The first and most innocuous (yet still illegal), is that businesses may fail to pay the new minimum wage due to ignorance of where their business falls in the phase-in schedule, delaying paying workers their new wage. While it is mandatory to hang posters that state the new minimum wage and schedule, the employers are not required to post where their business is in the phase-in schedule. Workers may not realize when they should be receiving a higher wage

Another possible avenue for wage theft is in tips. During the first part of the phase-in period, tips will count towards the new minimum wage (a tip credit). Tip credits create an impetus for employers to over-report a worker’s tips so that they can be paid less. Because Washington currently does not allow for tip credits, the phase-in period adds a new

method for already unscrupulous employers to steal wages. The increase also may simply cause employers who do not commit wage theft (or do not commit it frequently) to do so in order to keep profits high.

All three of these examples illustrate why greater enforcement of current laws is necessary to successfully combat wage theft in Washington. Seattle's City Ordinance 123596 (passed in 2011), expanded the laws that could be applied to prosecute wage theft, but remains ineffective without proper enforcement.<sup>73</sup> In the face of the current extent of wage theft (discussed in the previous chapter), as well as the new minimum wage, proper enforcement of wage laws is of the utmost importance.

### *Seattle Ordinance 123596*

The city Ordinance passed by Seattle in 2011 has the capacity to combat wage theft. However, in its current form, it relies on victims of wage theft to contact the Seattle Police Department (SPD)—an often intimidating process—and requires SPD to send an officer to respond to a claim. While the ordinance is a step forward, it should be amended to resemble Houston's (discussed below) in order to more effectively combat wage theft.

### *Proper Enforcement by L&I*

One of the biggest obstacles to enforcing labor laws in Washington State is the dearth of enforcement officials employed by L&I. Currently, there are 16 enforcement officials employed by L&I for the entire state, in addition to three other employees. The 14,799 claims closed from 2009 to 2013 translate to just over 924 claims investigated per enforcement official. In order to both shorten the time it takes to close a claim as well as more adequately investigate claims, L&I needs greater funding. L&I also needs to completely enforce all aspects of the WPA; currently, denial of meal breaks are not claimable as wage theft, despite being covered by the WPA, and remain a major complaint of those who suffer from wage theft.<sup>74</sup>

## **Passing Legislation**

In addition to greater enforcement, there are multiple pieces of legislation that would help combat wage theft; three of which are discussed in this section. The first is the successful passage of a Trust Act, such as the one passed in California, which limits the state's cooperation with ICE and make it illegal to for an employer to report workers to immigration officials as means of retaliation.<sup>75</sup> With the passage of a Trust Act, undocumented workers in Washington State could report instances of wage theft or confront their employers without fear of deportation.

The second and third pieces of legislation that would arguably have wide-reaching effects on combating wage theft died in the 2014 legislative session. The first, HB 2333, would have protected workers from retaliation when seeking wages from an employer, and the

second, HB 2334 would have simplified the definition of independent contractors. These are both strategies that are worth bringing back for the 2015 legislative session.

## Examples around the Country

While there are many strategies that have been adopted around the country to combat wage theft, many have not worked as well as intended. While there are more than two that have been effective, Oregon and Houston, Texas are examples that have enacted policies making it harder for employers found guilty of wage theft to continue to conduct business.

In 2011, the Oregon Bureau of Labor and Industries (BOLI) partnered with the Construction Contractors Board (CCB) and began suspending contractor's licenses for companies that have outstanding judgments against them or have not entered into a pay schedule. Of the six initial companies that were referred to the CCB by BOLI in October of 2011, four entered into payment schedule settlements, totaling over \$211,000. The other two had their licenses suspended.<sup>76</sup> This partnership was created without the passage of legislation, and is an example of how existing infrastructure (in this case a partnership between two government agencies) can be used to successfully combat wage theft. L&I is at an advantage here, in that it oversees both contractor licensing and wage theft claims; in order to carry out this method of enforcement, it would only have to set up communication between two departments, rather than between two separate agencies, as Oregon did.

In 2013, the city of Houston, Texas passed an anti-wage theft ordinance that bars companies who are found to have committed wage theft from city contracts and creates a publicly accessible database of all employers, both prime and sub-contractors, that have been found guilty of wage theft. While the ordinance addresses businesses without city contracts that have stolen wages, the section of the ordinance that appears the most effective is the section regarding city contracts. The city of Seattle and Washington state could use this model to deny government contracts, especially those in construction, to contractors and subcontractors who have had judgments found against them (King County passed such an ordinance in 2012).

The success of both Oregon and Houston highlight how strategies that involve enforcement have the capacity to successfully penalize employers who steal wages. These strategies, in addition to the others discussed in this chapter, are only a sampling of what can be done at the city, county and state level to help Washington fulfill its promises of protecting workers.

## Conclusion

The strategies discussed in this chapter focus on combating wage theft through multiple avenues: education, enforcement, and legislation. Whether it comes down to government enforcement of existing laws, policy that strengthens the rights of undocumented workers, or education campaigns that expand the knowledge of teenagers entering the workforce,

actions need to be taken to help protect the workforce in Washington. This report shows that wage theft is an issue in the state, impacting thousands of workers, and costing the state millions of dollars. Regardless of which strategies are chosen, Washington state needs to take action against wage theft more stringently than it has in the past so that all workers—regardless of their chosen job industry— can reap the benefits of their hard work as the state’s economy expands in the coming years.

## End Notes

<sup>1</sup> Names have been changed; testimony from CASA Latina, personal correspondence.

<sup>2</sup> Editorial Board, "Wage Theft Across the Board," *The New York Times*, April 21, 2014, [http://cityroom.blogs.nytimes.com/2012/03/01/restaurant-to-pay-workers-in-wage-theft-case/?\\_php=true&\\_type=blogs&\\_r=0](http://cityroom.blogs.nytimes.com/2012/03/01/restaurant-to-pay-workers-in-wage-theft-case/?_php=true&_type=blogs&_r=0).

Julie Jargon, "Employees Sue McDonald's, Alleging Wage Theft," *The Wall Street Journal*, March 13, 2014, <http://online.wsj.com/article/PR-CO-20130507-913308.html>.

Jim Bruner, "Seattle Fast-Food Workers File Wage-Theft Complaints," *The Seattle Times*, July 25<sup>th</sup>, 2013, [http://seattletimes.com/html/localnews/2021474715\\_wagetheftxml.html](http://seattletimes.com/html/localnews/2021474715_wagetheftxml.html).

<sup>3</sup> Annette Bernhardt, Ruth Milkman, & Nik Theodore, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*, (New York, New York: National Employment Law Project, 2009).

<sup>4</sup> Paula Wissel, "US Labor Dept. Backs Drywall Workers Claims for Back Wages," *KPLU 88.5*, June 17, 2013, <http://www.kplu.org/post/us-labor-dept-backs-drywall-workers-claims-back-wages>.

<sup>5</sup> Bernhardt, *Broken Laws, Unprotected Workers*.

<sup>6</sup> "Seattle-Bellevue-Everett, WA Metropolitan Division- May 2013 OES Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates," last modified April 1, 2014, [http://www.bls.gov/oes/current/oes\\_42644.htm](http://www.bls.gov/oes/current/oes_42644.htm).

<sup>7</sup> Author's calculation from BLS data- "Seattle-Bellevue-Everett, WA Metropolitan Division- May 2013"

<sup>8</sup> Additionally, L&I is not required to aggregate any data it has. Until late 2013, aggregated data was not available through public information request. Because of Columbia Legal Services, that information is now available, but is not complete and suffers from discrepancies.

<sup>9</sup> Annette Bernhardt, Diana Polson and James DeFilippis, *Working Without Laws: A Survey of Employment and Labor Law Violations in New York City*, (New York: National Employment Law Project, 2010). [http://nelp.3cdn.net/990687e422dcf919d3\\_h6m6bf6ki.pdf](http://nelp.3cdn.net/990687e422dcf919d3_h6m6bf6ki.pdf)

<sup>10</sup> Washington will briefly have a period of time during the phase-in of the \$15/hr. minimum wage where tip credits are legal.

<sup>11</sup> Under FLSA, managerial and professional positions are not eligible to take a cut of tips from tipped employees.

<sup>12</sup> Bernhardt, *Broken Laws, Unprotected Workers*, 12.

<sup>13</sup> Bernhardt, *Broken Laws, Unprotected Workers*, 5.

<sup>14</sup> Ross Eisenberry, "Wage Theft is a Bigger Problem Than Other Theft- But Not Enough is Done to Protect Workers," Economic Policy Institute, last modified April 2, 2014, <http://www.epi.org/publication/wage-theft-bigger-problem-theft-protect/>.

<sup>15</sup> In Washington State in 2012 alone, workers filed \$8,039,258.94 worth of wage claims (Author's calculations).

- <sup>16</sup> “The Problem,” last modified 2010, <http://www.builttexas.org/theproblem.html>.
- <sup>17</sup> “Fair Labor Standards Act- FLSA- 29 U.S. Code Chapter 8,” <http://finduslaw.com/fair-labor-standards-act-flsa-29-us-code-chapter-8#2>.
- <sup>18</sup> “Fair Labor Standards Act.”
- <sup>19</sup> “History of Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1938-2009,” <http://www.dol.gov/whd/minwage/chart.htm>.
- <sup>20</sup> “Minimum wage, overtime protections extended to direct care workers by US Labor Department,” Last modified September 17, 2013, <http://www.dol.gov/opa/media/press/whd/WHD20131922.htm>.
- <sup>21</sup> US Department of Labor, “Youth & Labor,” <http://www.dol.gov/dol/topic/youthlabor/workhours.htm>
- <sup>22</sup> “Fair Labor Standards Act.”
- <sup>23</sup> “Minimum Wage,” <http://www.lni.wa.gov/WorkplaceRights/Wages/Minimum/default.asp>
- <sup>24</sup> According to Washington state law, “Criminal offenses less than felonies; generally those punishable by fine or imprisonment of less than 90 days in a local facility. A gross misdemeanor is a criminal offense for which an adult could be sent to jail for up to one year, pay a fine up to \$5,000 or both.” “Glossary of Terms,” [http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo\\_jury.termguide#165](http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo_jury.termguide#165)
- <sup>25</sup> Scott Gutierrez, “City Council Toughens Penalties for Wage Theft,” *Seattle PI*, April 25, 2011, <http://www.seattlepi.com/local/article/City-Council-1351986.php>.
- <sup>26</sup> Anna Minard, “The City Needs to Start Enforcing Wage-Theft Crimes Against Fast Food Employees,” *The Stranger*, July 11, 2013, <http://slog.thestranger.com/slog/archives/2013/07/11/the-city-needs-to-start-enforcing-wage-theft-crimes-against-fast-food-employees>.
- <sup>27</sup> Cariño Barragan, *Wage Theft Panel*, Panel presented at the Evans School of Public Affairs at the University of Washington, Seattle, WA, February 20, 2014.
- <sup>28</sup> “Fact Sheet 17a: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA),” US Department of Labor, [http://www.dol.gov/whd/regs/compliance/fairpay/fs17a\\_overview.pdf](http://www.dol.gov/whd/regs/compliance/fairpay/fs17a_overview.pdf).
- <sup>29</sup> “Fact Sheet 14: Coverage Under the Fair Labor Standards Act (FLSA),” US Department of Labor, <http://www.dol.gov/whd/regs/compliance/whdfs14.pdf>.
- <sup>30</sup> “FairPlay—Filing a Complaint for Back Wages Under the Fair Labor Standards Act (FLSA),” US Department of Labor, <http://www.dol.gov/whd/regs/compliance/fairpay/complaint.htm>.
- <sup>31</sup> Author’s calculation from SeaSol blog- Seattle Solidarity Network, (blog), [www.seasol.net](http://www.seasol.net).
- <sup>32</sup> *Inclusive Policies Advance Dramatically in the States*, (Washington, DC: National Immigration Law Center, 2013).
- <sup>33</sup> Bernhardt, *Broken Laws, Unprotected Workers*.
- <sup>34</sup> Bernhardt, *Working without Laws*.



<sup>35</sup>Bernhardt, *Broken Laws, Unprotected Workers*, 17. For more information about RDS and its statistical validity, go to <http://www.respondentdrivensampling.org/>

<sup>36</sup> “Seattle-Bellevue-Everett, WA Metropolitan Division.” Significant at the .05 level.

<sup>37</sup> “Occupational Employment and Wages News Release,” US Department of Labor, last modified April 1, 2014, <http://www.bls.gov/news.release/ocwage.htm>.

<sup>38</sup> “May 2009 State Occupational Employment and Wage Estimates Washington,” US Department of Labor, last modified April 6, 2010, [www.bls.gov/oes/2009/may/oes\\_wa.htm](http://www.bls.gov/oes/2009/may/oes_wa.htm).

<sup>39</sup> “Seattle-Bellevue-Everett, WA Metropolitan Division.”

<sup>40</sup> The industry with the highest number of wage theft claims according to L&I, “service” is too general to translate to BLS codes, and is therefore not discussed in relation to BLS data.

<sup>41</sup>  $P < 0.05$ .

<sup>42</sup> Author’s calculation using BLS data.

<sup>43</sup> Between 2009 and 2013, King County saw a 2000-person increase in the number of food service workers, while overall the state (not counting King County) lost 3810 food service jobs, according to BLS data.

<sup>44</sup>  $P < 0.05$

<sup>45</sup> *The Low-Wage Recovery: Industry Employment and Wages Four Years into the Recovery*, (New York, NY: National Employment Law Project, April 2014), <http://www.nelp.org/page/-/Reports/Low-Wage-Recovery-Industry-Employment-Wages-2014-Report.pdf?nocdn=1>.

<sup>46</sup> *The Low-Wage Recovery*

<sup>47</sup> According to the BLS, in 2013, 140,120 people were employed in “Computer and Mathematical Occupations,” up from 111,960 in 2009.

<sup>48</sup> WHD data uses the North American Industry Classification System (NAICS), while BLS data uses the Office of Management and Budget’s Standard Occupational Classification (SOC) system.

<sup>49</sup> “Filing a Workplace Rights Complaint,” Washington State Department of Labor & Industries, <http://www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint/default.asp>.

<sup>50</sup> An additional 819 cases were closed in the first quarter of 2014, but because the data is only from the first quarter, all analysis is of 2009-2013.

<sup>51</sup> Total calculated at the time of this report equaled \$46,239,446.84 in total claims.

<sup>52</sup> Not statistically significant.

<sup>53</sup>  $P = 0.00$ ,  $z = -4.78$

<sup>54</sup> L&I does not define what “service” is specifically is, and thus it cannot be translated into BLS data figures with 100 percent accuracy. However, looking at the names of employers in the service category show that janitorial, security, and landscaping are three common categories.



<sup>55</sup> Technically “other” had the 3<sup>rd</sup> highest rate of claims. However, unlike “service,” “other” has no apparent classification, so retail/sales is analyzed instead.

<sup>56</sup> “Seattle-Bellevue-Everett, WA Metropolitan Division.”

<sup>57</sup> Carino Barragan, *Wage Theft Panel*.

<sup>57</sup> *All Work and No Pay: Day Laborers, Wage Theft, and Workplace Justice in New Jersey*, (Newark, NJ: Seton Hall School of Law, January 2011). <http://law.shu.edu/ProgramsCenters/PublicIntGovServ/CSJ/loader.cfm?csModule=security/getfile&PageID=177699>.

<sup>58</sup> “Filing a Workplace Rights Complaint.”

<sup>59</sup> See chapter 3 for a more in-depth discussion of the economic trends seen in King county and Washington state since 2009.

<sup>60</sup> The exact difference in total amount claimed in 2013 versus 2009 is \$94,828.96.

<sup>61</sup> See chapter 3.

<sup>62</sup> Lisa Guerin, JD, “Tips, Tip Pooling, and Tip Credits: What Service Employees Need to Know,” Nolo Law for All, <http://www.nolo.com/legal-encyclopedia/tip-pooling-credits-service-employees-29804.html>.

<sup>63</sup> See chapter 3.

<sup>64</sup> In California, there are currently at least four open class action lawsuits against the staffing agency Labor Ready for wage theft violations dating back to 2006. In 2013, Home care workers filed a class action suit against the staffing agency Future Care Health Services for wage theft violations dating back six years.

<sup>65</sup> In addition to Washington, Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee and Wyoming do not have a personal income tax.

<sup>66</sup> *Washington State & Local Taxes*, (Washington DC: Institute on Taxation and Economic Policy, January 2013). <http://www.itep.org/pdf/wa.pdf>.

<sup>67</sup> “Seattle-Bellevue-Everett, WA Metropolitan Division.”

<sup>68</sup> Calculations assume full-time full-year employment (2,080 hours worked) at \$11.06/hour, with a federal filing status as single, no children, having 1 federal allowance and a bi-weekly paycheck. Calculations performed using paycheckcity.com.

<sup>69</sup> David Cooper and Doug Hall, “Raising the Federal Minimum Wage to \$10.10 Would Give Working Families, and the Overall Economy, a Much-Needed Boost,” Economic Policy Institute, last modified March 13, 2013, <http://www.epi.org/publication/bp357-federal-minimum-wage-increase/>.

<sup>70</sup> “Can My Boss Do That?” last modified 2008, <http://www.canmybossthat.com/>.

<sup>71</sup> “Teen Workers,” Washington State Department of Labor & Industries, <http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/SpeakersProgram/default.asp>.

<sup>72</sup> “Employers that Have Violated Wage Law,” Washington State Department of Labor & Industries, last modified June 30, 2013, <https://fortress.wa.gov/lni/eces/Default.aspx>.

<sup>73</sup> Minard, “The City Needs to Start Enforcing Wage-Theft Crimes Against Fast Food Employees.”

---

<sup>74</sup> Andrea Schmitt, personal correspondence, May 2014.

<sup>75</sup> *Inclusive Policies Advance Dramatically in the States*. Washington, DC: National Immigration Law Center, 2013.

<sup>76</sup> *Seven Contractor Judgments for Wage and Hour Violations Referred to CCB*, (Salem, OR: Bureau of Labor and Industries, October 13, 2011). [http://www.oregon.gov/boli/docs/10.13.11\\_boli\\_release\\_-\\_ccb\\_referrals.pdf](http://www.oregon.gov/boli/docs/10.13.11_boli_release_-_ccb_referrals.pdf)

## Bibliography

- All Work and No Pay: Day Laborers, Wage Theft, and Workplace Justice in New Jersey*. Newark, NJ: Seton Hall School of Law, January 2011. <http://law.shu.edu/ProgramsCenters/PublicIntGovServ/CSJ/loader.cfm?csModule=security/getfile&PageID=177699>.
- Barragan, Cariño. *Wage Theft Panel*. Panel presented at the Evans School of Public Affairs at the University of Washington, Seattle, WA. February 21, 2014.
- Bernhardt, A., Diana Polson and James DeFilippis. *Working Without Laws: A Survey of Employment and Labor Law Violations in New York City*. New York: National Employment Law Project, 2010. [http://nelp.3cdn.net/990687e422dcf919d3\\_h6m6bf6ki.pdf](http://nelp.3cdn.net/990687e422dcf919d3_h6m6bf6ki.pdf)
- Bernhardt, A., Ruth Milkman, and Nik Theodore. *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*. New York, New York: National Employment Law Project, 2009.
- Bruner, Jim. "Seattle Fast-Food Workers File Wage-Theft Complaints." *The Seattle Times*, July 25<sup>th</sup>, 2013. [http://seattletimes.com/html/localnews/2021474715\\_wagetheftxml.html](http://seattletimes.com/html/localnews/2021474715_wagetheftxml.html).
- Building a Better Texas. "The Problem." Last modified 2010. <http://www.buildtexas.org/theproblem.html>.
- "Can My Boss Do That?" Last modified 2008. <http://www.canmybosssdothat.com/>.
- Cooper, David and Doug Hall. "Raising the Federal Minimum Wage to \$10.10 Would Give Working Families, and the Overall Economy, a Much-Needed Boost." Economic Policy Institute. Last modified March 13, 2013, <http://www.epi.org/publication/bp357-federal-minimum-wage-increase/>.
- Editorial Board. "Wage Theft Across the Board." *The New York Times*, April 21, 2014. [http://cityroom.blogs.nytimes.com/2012/03/01/restaurant-to-pay-workers-in-wage-theft-case/?\\_php=true&\\_type=blogs&\\_r=0](http://cityroom.blogs.nytimes.com/2012/03/01/restaurant-to-pay-workers-in-wage-theft-case/?_php=true&_type=blogs&_r=0).
- "Employers that Have Violated Wage Law." Washington State Department of Labor & Industries. Last modified June 30, 2013. <https://fortress.wa.gov/lni/eces/Default.aspx>.
- Eisenberry, Ross. "Wage Theft is a Bigger Problem Than Other Theft- But Not Enough is Done to Protect Workers." Economic Policy Institute. Last modified April 2, 2014. <http://www.epi.org/publication/wage-theft-bigger-problem-theft-protect/>.
- "Fact Sheet 14: Coverage Under the Fair Labor Standards Act (FLSA)." US Department of Labor. <http://www.dol.gov/whd/regs/compliance/whdfs14.pdf>.
- "Fact Sheet 17a: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA)." US Department of Labor. [http://www.dol.gov/whd/regs/compliance/fairpay/fs17a\\_overview.pdf](http://www.dol.gov/whd/regs/compliance/fairpay/fs17a_overview.pdf)
- "Filing a Workplace Rights Complaint." Washington State Department of Labor & Industries. <http://www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint/default.asp>.
- Find US Law. "Fair Labor Standards Act- FLSA- 29 U.S. Code Chapter 8." <http://finduslaw.com/fair-labor-standards-act-flsa-29-us-code-chapter-8#2>.
- Guerin, Lisa. "Tips, Tip Pooling, and Tip Credits: What Service Employees Need to Know." Nolo Law for All. <http://www.nolo.com/legal-encyclopedia/tip-pooling-credits-service-employees-29804.html>.

Gutierrez, Scott. "City Council Toughens Penalties for Wage Theft." *Seattle PI*, April 25, 2011. <http://www.seattlepi.com/local/article/City-Council-1351986.php>.

*Inclusive Policies Advance Dramatically in the States*. Washington, DC: National Immigration Law Center, 2013.

*The Low-Wage Recovery: Industry Employment and Wages Four Years into the Recovery*. New York, NY: National Employment Law Project, April 2014. <http://www.nelp.org/page/-/Reports/Low-Wage-Recovery-Industry-Employment-Wages-2014-Report.pdf?nocdn=1>.

Jargon, Julie. "Employees Sue McDonald's, Alleging Wage Theft." *The Wall Street Journal*, March 13, 2014. <http://online.wsj.com/article/PR-CO-20130507-913308.html>.

"May 2009 State Occupational Employment and Wage Estimates Washington." US Department of Labor. Last modified April 6, 2010. [www.bls.gov/oes/2009/may/oes\\_wa.htm](http://www.bls.gov/oes/2009/may/oes_wa.htm).

Minard, Anna. "The City Needs to Start Enforcing Wage-Theft Crimes Against Fast Food Employees." *The Stranger*, July 11, 2013. <http://slog.thestranger.com/slog/archives/2013/07/11/the-city-needs-to-start-enforcing-wage-theft-crimes-against-fast-food-employees>.

"Occupational Employment and Wages News Release." US Department of Labor. Last modified April 1, 2014. <http://www.bls.gov/news.release/ocwage.htm>.

*Seven Contractor Judgments for Wage and Hour Violations Referred to CCB*, (Salem, OR: Bureau of Labor and Industries, October 13, 2011). [http://www.oregon.gov/boli/docs/10.13.11\\_boli\\_release\\_-\\_ccb\\_referrals.pdf](http://www.oregon.gov/boli/docs/10.13.11_boli_release_-_ccb_referrals.pdf)

"Teen Workers." Washington State Department of Labor & Industries. <http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/SpeakersProgram/default.asp>.

U.S. Bureau of Labor Statistics. "Seattle-Bellevue-Everett, WA Metropolitan Division- May 2013 OES Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates." Last modified April 1, 2014. [http://www.bls.gov/oes/current/oes\\_42644.htm](http://www.bls.gov/oes/current/oes_42644.htm).

US Department of Labor. "History of Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1938-2009." <http://www.dol.gov/whd/minwage/chart.htm>.

US Department of Labor. "Youth & Labor." <http://www.dol.gov/dol/topic/youthlabor/workhours.htm>

Washington Courts. "Glossary of Terms." [http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo\\_jury.termguide#165](http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo_jury.termguide#165)

Washington State Department of Labor & Industries. "Minimum Wage." <http://www.lni.wa.gov/WorkplaceRights/Wages/Minimum/default.asp>

*Washington State & Local Taxes*. Washington DC: Institute on Taxation and Economic Policy, January 2013. <http://www.itep.org/pdf/wa.pdf>.

Wissel, Paula. "US Labor Dept. Backs Drywall Workers Claims for Back Wages." *KPLU 88.5*, June 17, 2013. <http://www.kplu.org/post/us-labor-dept-backs-drywall-workers-claims-back-wages>.