September 2, 2022

ATTORNEY GENERAL RAOUL SUES CONSTRUCTION COMPANY OVER COMPLEX SCHEME TO AVOID PAYING FAIR WAGES AND TAXES

Raoul Also Issues 2022 Labor Day Report Highlighting Actions to Protect Illinois Workers

Chicago — Heading into the Labor Day holiday, Attorney General Kwame Raoul yesterday filed a lawsuit against a Bridgeview, Illinois-based construction company over an elaborate scheme to keep its employees off payroll and avoid paying tax withholdings required by law. The Attorney General's office filed the lawsuit against Drive Construction Inc., its principal officers, and a complex web of entities and individuals for a years-long conspiracy to pay millions of dollars of wages in cash, and skirt laws intended to protect Illinois workers and ensure fair wages.

Drive Construction (Drive), which specializes in carpentry, plumbing and masonry, obtains public works projects worth several millions of dollars each year. Raoul's lawsuit alleges Drive misclassified workers to avoid paying employees fair rates of pay for the hours they worked and to skirt its obligations to pay unemployment insurance contributions to the Illinois Department of Employment Security. Raoul alleges Drive violated Illinois' Minimum Wage Law, the Illinois Prevailing Wage Act and the Illinois Employee Classification Act.

"Misclassifying employees as independent contractors deprives workers of their right to be paid fairly and to be covered by workers compensation insurance in the event of workplace injuries," Raoul said. "Employers that gain a competitive advantage by paying workers off the books and in violation of Illinois law create an uneven and unfair playing field for law-abiding businesses. I am committed to holding businesses – large and small – accountable for violating laws that safeguard workers and support law-abiding businesses in Illinois."

Raoul's lawsuit follows an investigation based on information provided by the Mid-America Carpenters Regional Council, which has a collective bargaining agreement with Drive.

"The Mid-America Carpenters Regional Council worked closely with Attorney General Raoul's office to shed light on this prime example of wage theft perpetrated against exploited workers," said Gary Perinar, Executive Secretary-Treasurer of the Mid-America Carpenters Regional Council. "The Carpenters Union aggressively pursues wage theft cases because they hurt working families, they hurt Illinois taxpayers, and they hurt our signatory contractors who play by the rules and are at a major disadvantage against unscrupulous contractors who lowball bids by cheating the system. Earlier this year we were proud to introduce wage theft legislation that was signed into law which now holds cheating contractors accountable. We will continue our fight for working families across Illinois."

Raoul's lawsuit alleges that between 2015 and 2020 alone, Drive Construction obtained contracts for public works projects, such as schools and public housing apartments, worth nearly $40 million. The contracts required Drive Construction to pay its carpenters at Illinois-mandated prevailing wage. Instead, Drive allegedly paid workers in cash, off the books, for thousands of hours of labor at rates well below the prevailing wage mandated by state law. Additionally, Raoul's lawsuit alleges that Drive's employees often worked over 50 hours per week on both public and private projects. The Illinois Minimum Wage Law requires employers to pay employees at time and a half their regular rate for each hour worked in excess of 40 per week. Instead of paying these workers at time and a half their regular rate of pay for overtime hours, Drive

paid many of its employees off the books at the same rate of pay for all time worked, regardless of the number of hours employees worked on any given week.

The Attorney General's lawsuit also names Jesus Cortez, Kelly Byrne, Francisco Guel, Raul Lovera and Juan Carlos Lara, alleging they helped Drive set up various shell companies to funnel millions of dollars of wages to its employees off the books and shield Drive Construction from liability for violating Illinois law. These entities included Accurate Construction, Infinity Construction, R&L Construction of Illinois, and A Lara Construction. According to Raoul, the shell companies relied on currency exchanges to convert Drive Construction's money into cash and money orders that foremen used to compensate workers under the table. Additional information is available here.

According to the Attorney General, Drive's scheme stole wages from dozens of workers. Raoul's lawsuit seeks back pay for workers, penalties against Drive and its agents, and disgorgement of Drive's resulting profits.

Heading into the Labor Day weekend, Attorney General Raoul also highlighted a comprehensive report, available in English and Spanish, detailing actions the Attorney General's office has taken to advocate for and protect Illinois workers. The Attorney General's Workplace Rights Bureau was codified in state statute in 2020 and has since collected more than $1.4 million in owed wages and penalties and entered into 12 settlements and agreements to protect workers from discrimination and stolen wages.

The lawsuit filed yesterday is part of the Attorney General's ongoing work – much of which is summarized in the Attorney General's 2022 Labor Day Report – to protect workers in Illinois workers from unlawful employment practices.

For instance, the Attorney General's office led a joint investigation with the Illinois Department of Labor into subcontractors building assembly lines at Rivian's facility in Normal, Illinois. In December 2021 and August 2022, Attorney General Raoul announced settlements with subcontractors of Rivian Automotive that collectively recovered over $700,000 in owed overtime wages for over 100 workers who helped build Rivian's assembly lines. In May 2021, Attorney General Raoul announced a settlement with Star Roofing for over $100,000 in owed overtime for roofers in the Chicago area. Recently, the Attorney General's office obtained a ruling in the 4th District Appellate Court that will allow voters to decide in November whether workers' rights to organize and collectively bargain should be enshrined in Illinois' constitution.

Nationally, Attorney General Raoul led a coalition of attorneys general in filing a brief earlier this year with the U.S. Supreme Court supporting a ramp agent supervisor at Chicago's Midway Airport. Ultimately, the court unanimously ruled in favor of Latrice Saxon in her lawsuit against Southwest Airlines and preserved crucial rights for cargo workers in Illinois and across the country.

Bureau Chief Alvar Ayala, Senior Assistant Attorney General Christian Arizmendi, and Assistant Attorney General Henry Weaver are handling the case against Drive Construction for Raoul's Workplace Rights Bureau.

Attorney General Raoul encourages Drive Construction employees who have additional information and workers who have concerns about wage and hour violations or potentially unsafe working conditions to call his Workplace Rights Hotline at 1-844-740-5076 or to file a complaint online.

A Spanish version of this press release is available here.

12-Person Jury

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of Illinois,

Plaintiff,

vs.

DRIVE CONSTRUCTION, INC., ACCURATE CONSTRUCTION, LLC, CORTEZ ACCURATE CONSTRUCTION, LLC, INFINITY CONSTRUCTION, LLC, INFINITY CONSTRUCTION FRG67, LLC, R & L CONSTRUCTION OF ILLINOIS, INC., A LARA CONSTRUCTION, INC., GERARDO CORTEZ, EDUARDO CORTEZ, JESUS CORTEZ, KELLY BYRNE, FRANCISCO GUEL, RAUL LOVERA-RODRIGUEZ, and JUAN CARLOS LARA,

Defendants.

Case No. 2022CH08722

Jury Demand

COMPLAINT

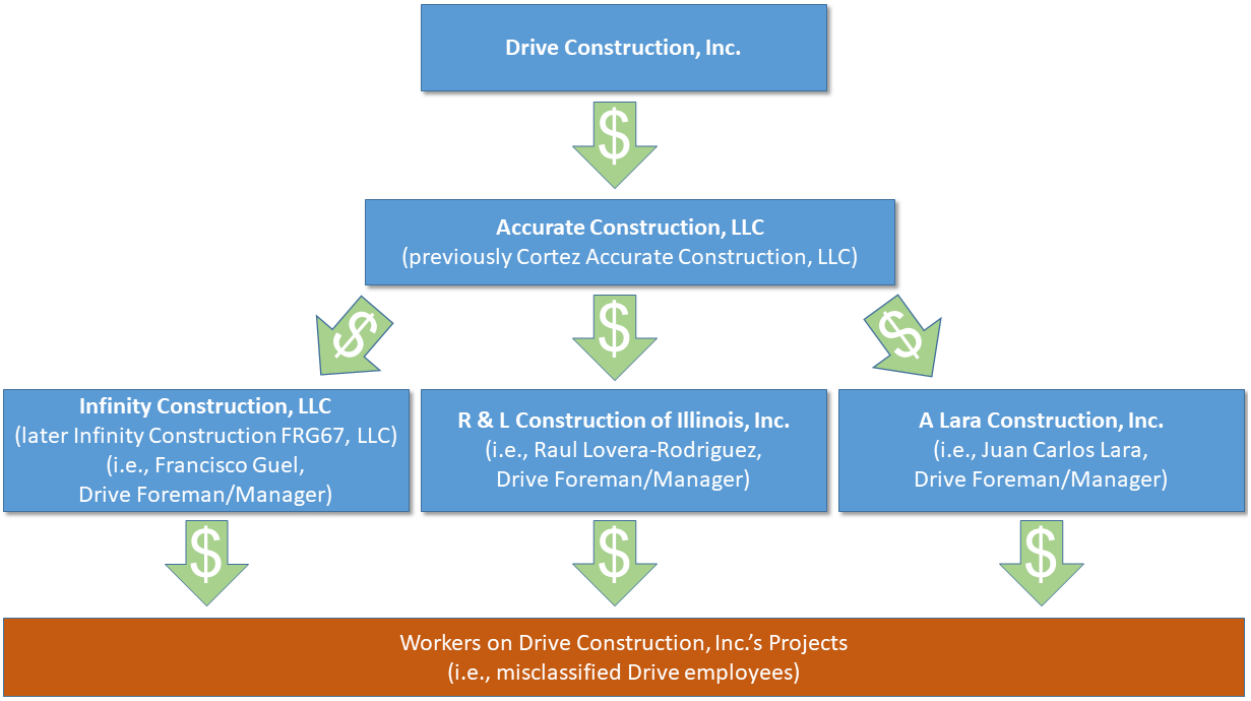
The People of the State of Illinois, by Kwame Raoul, Attorney General of Illinois, bring this Complaint against: Drive Construction, Inc.; Accurate Construction, LLC; Cortez Accurate Construction, LLC; Infinity Construction, LLC; Infinity Construction FRG67, LLC; R & L Construction of Illinois, Inc.; A Lara Construction, Inc.; Gerardo Cortez; Eduardo Cortez; Jesus Cortez; Kelly Byrne; Francisco Guel; Raul Lovera-Rodriguez; and Juan Carlos Lara (collectively, "Defendants"). The People allege violations of three Illinois statutes: the Employee Classification Act, 820 ILCS 185/1 *et seq.*; the Prevailing Wage Act, 820 ILCS 130/1 *et seq.*; and the Minimum Wage Law, 820 ILCS 105/1 *et seq.*

NATURE OF THE CASE

1. Drive Construction, Inc. ("Drive"), has for years run an elaborate scheme to pay workers on its construction projects "off the books." Using sham, pass-through entities, Drive has funneled several million dollars in illegally disguised wage payments through this scheme. The purpose of this scheme is to allow Drive to pay workers less than what Illinois's overtime and prevailing wage laws require, and to dodge the cost of other legally-required benefits and protections owed to employees in Illinois.

2. Drive passed money through two layers of sham sub-contractors before using its construction foremen to distribute those payments to workers on Drive's projects as a flat, per-week payment. This multi-tiered funneling of wage payments enabled Drive to make it look like the workers were not Drive's employees—when, in fact and by law, they were. The payments ultimately given to workers were typically made in cash or by money order—all in an effort to avoid traceability. The flat, per-week payments made to Drive's employees did not reflect the overtime and prevailing wage rates that they should have. In other words, Drive short-changed its workers and unlawfully undercut its law-abiding competitors.

3. The funneling scheme used by Drive is depicted below:



4. Drive Construction, Inc., is the entity at the top of this scheme. Drive is a construction company headquartered in Bridgeview, Illinois that regularly serves as a contractor on public works projects in the Chicago area. Drive was first incorporated in Illinois in 2005.

5. Drive is led by two brothers: Gerardo Cortez ("Gerardo") and Eduardo Cortez ("Eduardo"). Gerardo is Drive's President. Eduardo is Drive's secretary and chief of operations. A third brother, Jesus Cortez ("Jesus"), is a longtime Drive employee.

6. In 2014, Eduardo and Jesus formed a putatively separate construction company, Cortez Accurate Construction, LLC ("Cortez Accurate"), which in fact functioned as an alter ego of Drive. Cortez Accurate was involuntarily dissolved in August 2015. Later, Eduardo and Jesus recruited another individual, Kelly Byrne, to be the public face of a re-organized entity named Accurate Construction, LLC, which likewise functioned as an alter ego of Drive. Formed in February 2016, Accurate Construction, LLC, dissolved on July 8, 2022, after receiving a subpoena from the Attorney General in the investigation that preceded the filing of this complaint.

7. Throughout their existence, Cortez Accurate and Accurate Construction, LLC, were thinly capitalized entities. Upon information and belief, Cortez Accurate and Accurate Construction, LLC, were set up to shield Drive from liability for its violations of various employment and tax statutes. Except where expressly stated otherwise, the remainder of the complaint uses "the Accurate Entities" as an umbrella term to refer to both Cortez Accurate and Accurate Construction, LLC.

8. Drive funneled funds to the Accurate Entities through various means and entities. The Accurate Entities would in turn cut large checks on a weekly basis to a second layer of sham entities putatively run by construction superintendents and managers employed by Drive. These entities were: Infinity Construction, LLC ("Infinity"); Infinity Construction FRG67, LLC ("Infinity FRG"); R & L Construction of Illinois, Inc. ("R & L"); and A Lara Construction, Inc. ("A Lara").

9. The checks received by the second layer of sham entities from the Accurate Entities would then be converted to cash or money orders, typically at currency exchanges, by the Drive superintendents and managers who nominally led them. Francisco Guel, a Drive foreman, project manager, and superintendent, handled the pass-through payments for Infinity and Infinity FRG. Raul Lovera-Rodriguez, a Drive project manager and superintendent, handled the pass-through payments for R & L. Juan Carlos Lara, also a Drive project manager and superintendent, handled the pass-through payments for A Lara.

10. Upon information and belief, Gerardo, Eduardo, Jesus, and Byrne consciously designed this complex scheme to make it difficult for law enforcement to trace the origin of the cash payments being made to workers.

11. Paying employees in cash without proper payroll reporting violates many different laws designed to protect Illinois workers. First, it entails misclassifying the workers as independent contractors in violation of the Employee Classification Act ("ECA"), 820 ILCS 185/1 *et seq.* Misclassification of employees as independent contractors has significant negative effects on the welfare of Illinois residents and workers. Employers who misclassify their employees deprive Illinois of important revenue in the form of income tax withholdings and unemployment insurance contributions. Workers misclassified as independent contractors are deprived of all rights and benefits afforded to employees under Illinois law, including minimum wage requirements and workers' compensation insurance. Further, employers that skirt the law by misclassifying workers create an uneven playing field and undercut law-abiding businesses.

12. The cash payments funneled through Drive's scheme were also well below the mandated prevailing wage rates for work performed on public works projects, in violation of the Illinois Prevailing Wage Act ("IPWA"), 820 ILCS 130/1 *et seq.* Not only that, employees paid in cash did not receive time-and-a-half wages for hours worked over 40 per week in violation of the Illinois Minimum Wage Law ("IMWL"), 820 ILCS 105/1 *et seq.* And, in making and concealing the cash payments, Defendants violated recordkeeping and reporting requirements under each of the above laws. This lawsuit seeks to put an end to Defendants' unlawful scheme.

THE ATTORNEY GENERAL'S ENFORCEMENT AUTHORITY

13. The Attorney General Act, 15 ILCS 205/1 *et seq.*, empowers the Attorney General to initiate legal proceedings on behalf of the People of the State of Illinois on matters related to the payment of wages, including the provisions of the ECA, IPWA, and IMWL. *Id.* § 6.3(b).

14. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain restitution and equitable relief, including any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant

from engaging in a violation. Further, the Attorney General may request and the Court may impose civil penalties against any person or entity that violated the provisions of the ECA, the IPWA, and the IMWL. *Id.* § 6.3(d).

15. Prior to filing this suit, the Attorney General conducted an investigation that included issuing subpoenas to Drive; Accurate Construction, LLC; Infinity; Infinity FRG; R & L; A Lara; Eduardo; Jesus; Byrne; Guel; and Lovera-Rodriguez, as provided by the Attorney General Act. *Id.* § 6.3(c).

16. Throughout the investigation, Defendants have sought to impede and frustrate the Attorney General's investigation into their illegal practices. For example, when the Attorney General asked Drive about its relationship to the Accurate Entities, Drive swore that it had no communications with the Accurate Entities, which was false. Accurate, for its part, has refused to cooperate at all with the Attorney General's investigation. The Attorney General was forced to file a subpoena enforcement action against Accurate in this court. *See People v. Accurate Construction, LLC*, No. 2022CH04029 (filed April 28, 2022). Lovera-Rodriguez even lied when deposed by the Attorney General, denying that he had ever done business with the Accurate Entities. When confronted with over one million dollars in checks Accurate Construction, LLC gave him, he attempted to walk back his earlier denials but otherwise provided minimal to no information.

17. Despite all this, the Attorney General has been able to unravel Drive's multi-year scheme to misclassify employees as independent contractors and pay them less than required under the law. The Attorney General now brings this suit to ensure that employees are paid what they are owed, to recover statutory penalties for Defendants' violations of the law, and to bar Drive, as

well as its affiliates, officers, and agents, from serving as contractors on public works projects in Illinois.

JURISDICTION AND VENUE

18. This action is brought pursuant to section 6.3(b) of the Attorney General Act, 15 ILCS 205/6.3(b), and seeks equitable and monetary relief for violations of, *inter alia*, section 20 of the ECA, 820 ILCS 185/20; section 3 of the IPWA, 820 ILCS 130/3; and section 4a of the IMWL, 820 ILCS 105/4a.

19. This Court has personal jurisdiction over Defendants: Drive is a domestic company incorporated under the laws of Illinois, 735 ILCS 5/2-209(b)(3); R & L and A Lara were domestic companies incorporated under the laws of Illinois, *id.*; the Accurate Entities, Infinity, and Infinity FRG67 were domestic companies organized under the laws of Illinois, *id.*; and Gerardo, Eduardo, Jesus, Byrne, Guel, Lovera-Rodriguez, and Lara are natural persons domiciled within Illinois at all relevant times, *id.* § 2-209(b)(2).

20. Venue is proper in Cook County because Drive is a resident of Cook County. *Id.* § 5/2-101. In particular, it is a corporation organized under the laws of Illinois and has its registered office in Cook County. *Id.* § 5/2-102(a).

PARTIES

21. The People, by Kwame Raoul, Attorney General of Illinois, bring this action as authorized by the Attorney General Act. 15 ILCS 205/4; *id.* § 205/6.3(b).

22. In 2019, the General Assembly found that the welfare and prosperity of all Illinois citizens and businesses required the establishment of a unit within the Attorney General's Office dedicated to pursuing businesses that underpay their employees and gain an unfair economic advantage by avoiding their labor responsibilities. 820 ILCS 205/6.3(a). The Attorney General's Workplace Rights Bureau exercises this statutory authority.

23. Drive Construction, Inc., is a corporation incorporated under Illinois law. Drive's registered office is located at 7235 S. Ferdinand Ave., Bridgeview, Illinois. Drive has also concurrently operated out of a second office located at 7149 S. Ferdinand Ave., Bridgeview, Illinois.

24. At all relevant times, Drive has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

25. Gerardo Cortez is the president of Drive. He is domiciled at 8100 Shady Oak Rd., Joliet, Illinois.

26. At all relevant times, Gerardo has been an "employer" as that term is defined by 820 ILCS 105/3(c).

27. Eduardo Cortez is the secretary and chief of operations of Drive. He is domiciled at 188 Rosedale Ct., Bloomingdale, Illinois.

28. At all relevant times, Eduardo has been an "employer" as that term is defined by 820 ILCS 105/3(c).

29. Cortez Accurate Construction, LLC, was a limited liability company organized under Illinois law until its involuntary dissolution on August 14, 2015. Cortez Accurate Construction, LLC's principal place of business was located at 22 Bosworth Dr., Glendale Heights, Illinois.

30. Cortez Accurate Construction, LLC, shared office space with Drive at 9141 S. Kedzie Ave., Evergreen Park, Illinois and at 7235 S. Ferdinand Ave., Bridgeview, Illinois.

31. At all relevant times, Cortez Accurate Construction, LLC, has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

32. At all relevant times, Cortez Accurate Construction, LLC, was an agent of Drive.

33. At all relevant times, Cortez Accurate Construction, LLC, was Drive's alter ego.

34. Accurate Construction, LLC, was a limited liability company organized under Illinois law until its involuntary dissolution on July 8, 2022. Accurate's registered office was located at 2240 W. Madison St., Unit 6, Chicago, Illinois.

35. Accurate Construction, LLC, shared office space with Drive at 7235 S. Ferdinand Ave., Bridgeview, Illinois and at 7149 S. Ferdinand Ave., Bridgeview, Illinois.

36. At all relevant times, Accurate Construction, LLC, has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

37. At all relevant times, Accurate Construction, LLC, was an agent of Drive.

38. At all relevant times, Accurate Construction, LLC, was Drive's alter ego.

39. Jesus Cortez served as a principal of Cortez Accurate Construction, LLC, and Accurate Construction, LLC. He is domiciled at 237 Norwich Dr., Bartlett, Illinois.

40. At all relevant times, Jesus has been an "employer" as that term is defined by 820 ILCS 105/3(c).

41. At all relevant times, Jesus has been an agent of Drive.

42. Kelly Byrne was the president of Accurate Construction, LLC. She is domiciled at 2240 W. Madison St., Unit 302, Chicago, Illinois.

43. At all relevant times, Byrne has been an "employer" as that term is defined by 820 ILCS 105/3(c).

44. At all relevant times, Byrne has been an agent of Drive.

45. Infinity Construction, LLC, was a limited liability company organized under Illinois law until its involuntary dissolution on July 14, 2017. Infinity Construction, LLC's principal place of business was located at 2642 Grove St., Blue Island, Illinois.

46. At all relevant times, Infinity Construction, LLC, has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

47. At all relevant times, Infinity Construction, LLC, was an agent of Drive.

48. At all relevant times, Guel served as a principal of Infinity Construction, LLC.

49. Infinity Construction FRG67, LLC, was a limited liability company organized under Illinois law until its involuntary dissolution on December 4, 2020. Infinity Construction FRG67, LLC's principal place of business was located at 2642 Grove St., Blue Island, Illinois.

50. At all relevant times, Infinity Construction FRG67, LLC, has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

51. At all relevant times, Infinity Construction FRG67, LLC, was an agent of Drive.

52. At all relevant times, Guel served as a principal of Infinity Construction FRG67, LLC.

53. Francisco Guel is a Drive foreman, project manager, and superintendent. He is domiciled at 2642 Grove St., Blue Island, Illinois.

54. At all relevant times, Guel has been an agent of Drive.

55. At all relevant times, Guel has been an "employer" as that term is defined by 820 ILCS 105/3(c).

56. R & L Construction of Illinois, Inc. was a corporation incorporated under Illinois law until its involuntary dissolution on December 8, 2017. R & L Construction of Illinois, Inc. had its registered office located at 6029 W. 64th Pl., Apt. 8, Chicago, Illinois.

57. At all relevant times, R & L Construction of Illinois, Inc. has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

58. At all relevant times, R & L Construction of Illinois, Inc. was an agent of Drive.

59. At all relevant times, Raul Lovera-Rodriguez served as a principal of R & L Construction of Illinois, Inc.

60. At all relevant times, Raul Lovera-Rodriguez was a Drive project manager and superintendent. He is domiciled at 5556 W. 83rd St., Burbank, Illinois.

61. At all relevant times, Lovera-Rodriguez has been an agent of Drive.

62. At all relevant times, Lovera-Rodriguez has been an "employer" as that term is defined by 820 ILCS 105/3(c).

63. A Lara Construction, Inc. was a corporation incorporated under Illinois law until its involuntary dissolution on November 10, 2017. A Lara Construction, Inc. had its registered office located at 1532 S. 59th Ct., Cicero, Illinois.

64. At all relevant times, A Lara Construction, Inc. has been an "employer" as that term is defined by 820 ILCS 105/3(c) and 820 ILCS 185/5.

65. At all relevant times, A Lara Construction, Inc. was an agent of Drive.

66. At all relevant times, Juan Carlos Lara served as a principal of A Lara Construction, Inc.

67. Juan Carlos Lara is a Drive project manager and superintendent. He is domiciled at 1532 S. 59th Ct., Cicero, Illinois.

68. At all relevant times, Lara has been an agent of Drive.

69. At all relevant times, Lara has been an "employer" as that term is defined by 820 ILCS 105/3(c).

FACTS

A. Drive orchestrated an off-the-books payment scheme to circumvent employment laws.

70. Drive is a large construction company with significant annual revenues. Between 2015 and 2020, it executed at least 146 contracts with a collective value of $39.461 million.

71. Over that time period, Drive has employed hundreds of people to perform construction work.

72. Drive has frequently been a contractor or sub-contractor on public works projects. Between 2015 and 2020, over 100 of its contracts were on public works.

73. Throughout that time period, Drive illegally suppressed its labor costs through its unlawful scheme to pay workers on its projects off the books. Drive's scheme violated the ECA, the IPWA, and the IMWL.

74. Drive typically funneled its off-the-books payments through the Accurate Entities as an initial step. The money that passed from Drive to the Accurate Entities was not payment for work performed by the Accurate Entities as legitimate sub-contractors for Drive. The Accurate Entities did nothing to earn this money. Rather, the reason Drive transferred this money to the Accurate Entities was to conceal the origin and nature of the payments. Each of the Cortez brothers—Gerardo, Eduardo, and Jesus—knew of and helped facilitate this arrangement.

75. For example, Drive gave large sums of money to the Accurate Entities, either by writing checks from its own accounts or endorsing third-party checks over to the Accurate Entities. Drive gave the Accurate Entities over $2.25 million in this manner.

76. The money flowing from Drive to the Accurate Entities typically did not stay with the Accurate Entities. Rather, the same funds would pass from the Accurate Entities on to, at various points in time, one or more of Infinity, Infinity FRG, R & L, or A Lara. Infinity, Infinity

FRG, R & L, and A Lara were not legitimate sub-contractors on Drive's or the Accurate Entities' construction projects. Rather, the reason the Accurate Entities transferred money to Infinity, Infinity FRG, R & L, and A Lara was to conceal the origin and nature of the payments.

77. In some instances, the Accurate Entities sent money directly to the individuals who operated Infinity, Infinity FRG, R & L, and A Lara—Guel for Infinity and Infinity FRG, Lovera-Rodriguez for R & L, and Lara for A Lara. Given that Guel, Lovera-Rodriguez, and Lara all worked for Drive in various capacities, Drive in fact directed and controlled the money that flowed from the Accurate Entities to Infinity, Infinity FRG, and Guel; R & L and Lovera-Rodriguez; and A Lara and Lara.

78. The Accurate Entities paid approximately $4.569 million to Guel, Infinity, and Infinity FRG between November 2015 and January 2020.

79. The Accurate Entities paid approximately $1.416 million to Lovera-Rodriguez and R & L between June 2016 and January 2019.

80. The Accurate Entities paid approximately $535,000 to Lara and A Lara between October 2015 and November 2017.

81. As the final step in Drive's scheme, Guel, Lovera-Rodriguez, and Lara used the funds they and their associated entities received from the Accurate Entities to make cash and money-order payments to individuals performing construction work for Drive, the Accurate Entities, or both.

82. Drive, the Accurate Entities, and Eduardo also used other entities controlled by them to shuttle money back and forth between them to further their scheme. For example, Ave Imports USA, LLC ("Ave Imports"), is purportedly a tequila import company with no connection to the construction industry, yet it shares its principal office with Drive. Eduardo is the president

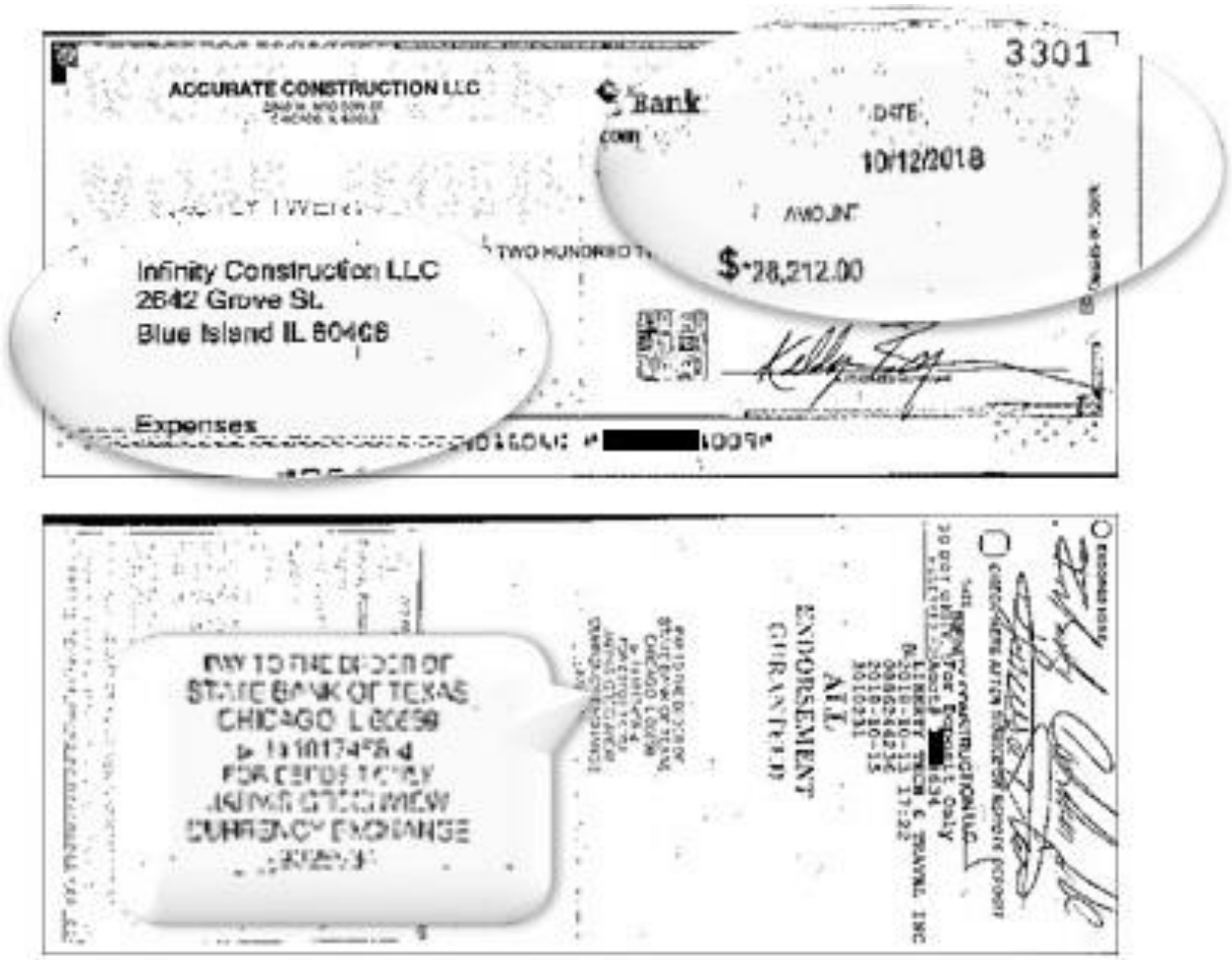
of Ave Imports. Accurate Construction, LLC, and Ave Imports have exchanged hundreds of thousands of dollars over the years.

83. The examples below demonstrate how Drive's scheme worked, including images of documentation obtained through the Attorney General's investigation. These examples are merely illustrative and represent only the tip of the iceberg of Drive's sprawling cash-payment scheme.

i. Example 1: Drive to Accurate to Infinity/Guel

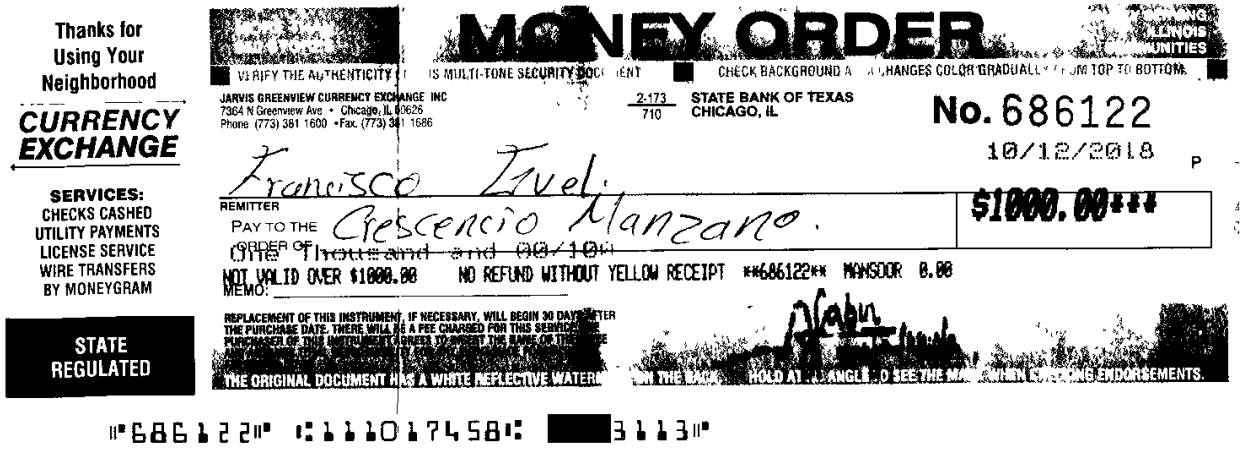
84. On or about October 12, 2018, Drive endorsed a check originally made out to Drive over to Accurate Construction, LLC, to give Accurate Construction, LLC, nearly $200,000. Jesus deposited this check into Accurate Construction, LLC's bank account ending 1009 on October 12, 2018. Images of the deposit slip and check, enlarged to show key details, follow:

85. That same day, Accurate Construction, LLC, wrote a check to Infinity for $28,212. The memo line on the check read "expenses." Guel took the check to Jarvis Greenview Currency Exchange ("Jarvis") to be cashed. Images of the check from Accurate Construction, LLC, to Infinity, enlarged to show key details, follow:



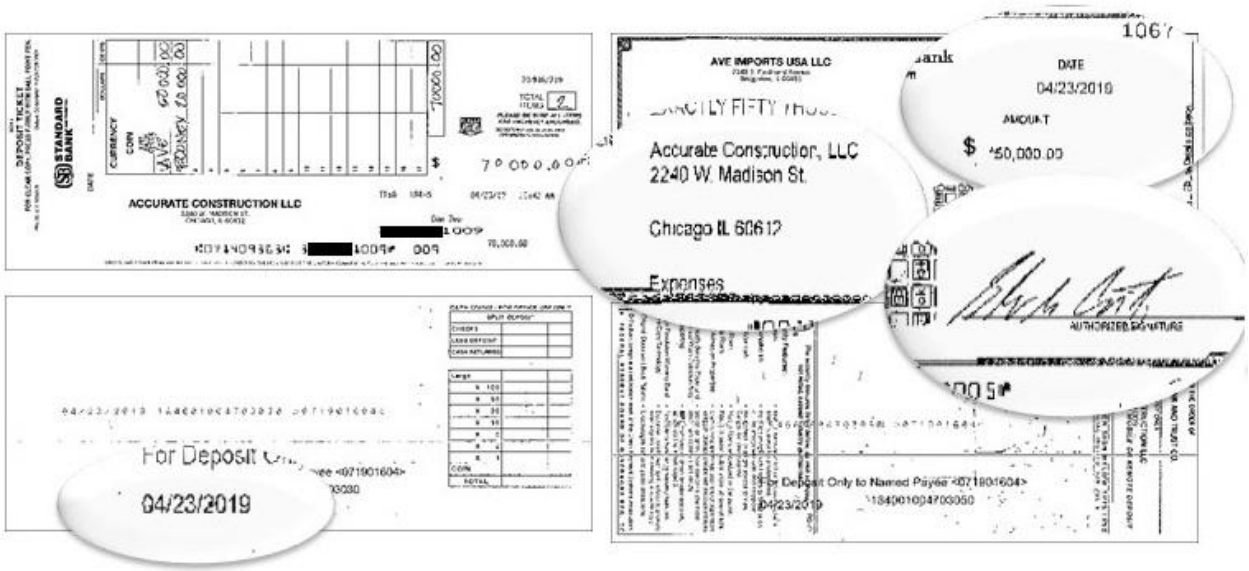
86. Guel used the $28,212 check to obtain 19 money orders of $1000 each and also cash from Jarvis on October 12, 2018. One of the money orders he purchased had the number 686122. Images of the Jarvis purchase receipt, enlarged to show key details, follow:

87. Guel gave money order number 686122 to Crescencio Manzano, a Drive employee. In October 2018, Manzano was working on Drive's project at the University of Chicago's Ingalls Memorial Hospital. An image of the final negotiated money order, showing Guel as the payor and Manzano as the payee, follows:

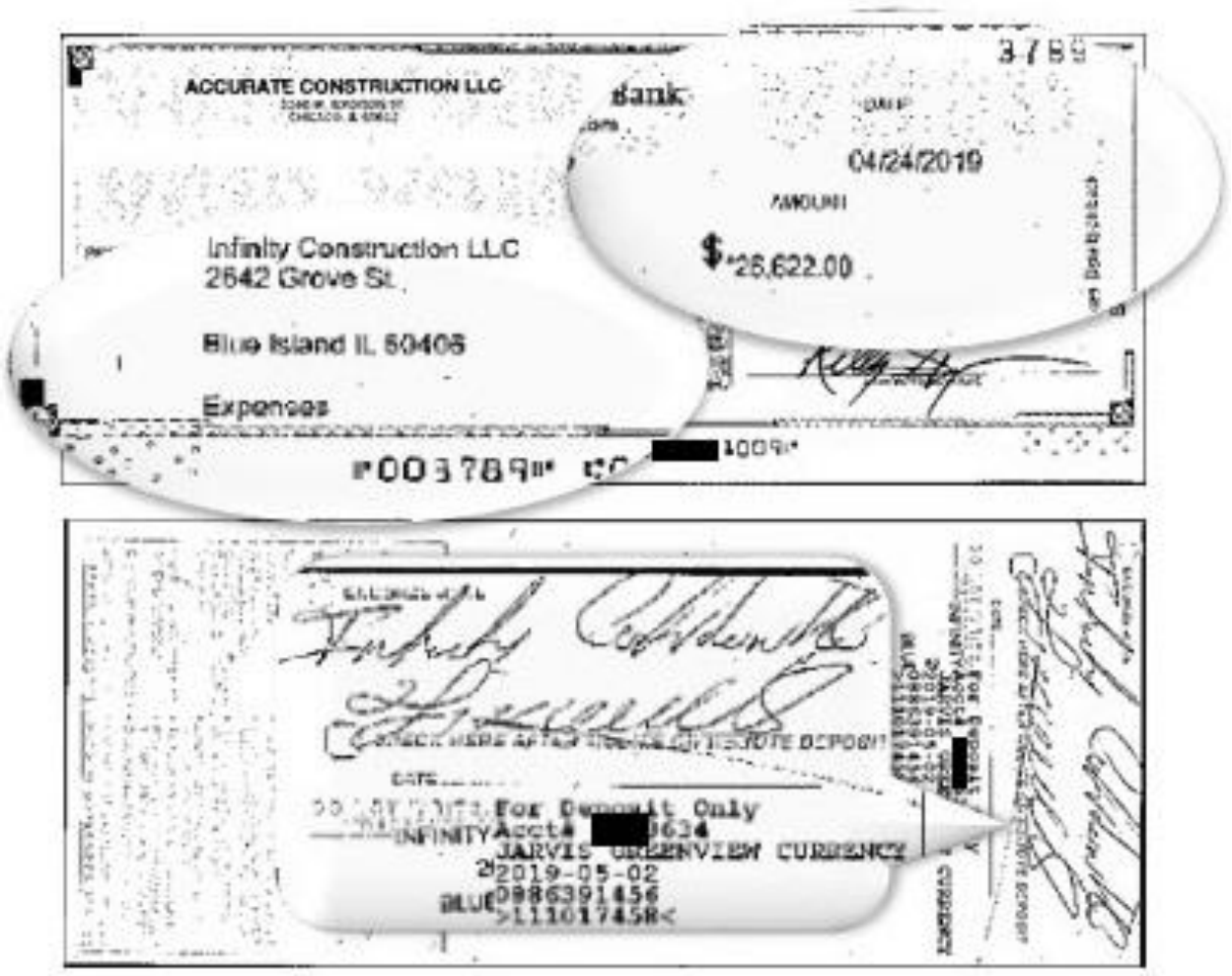


ii. Example 2: Ave Imports to Accurate to Infinity/Guel to Lovera-Rodriguez

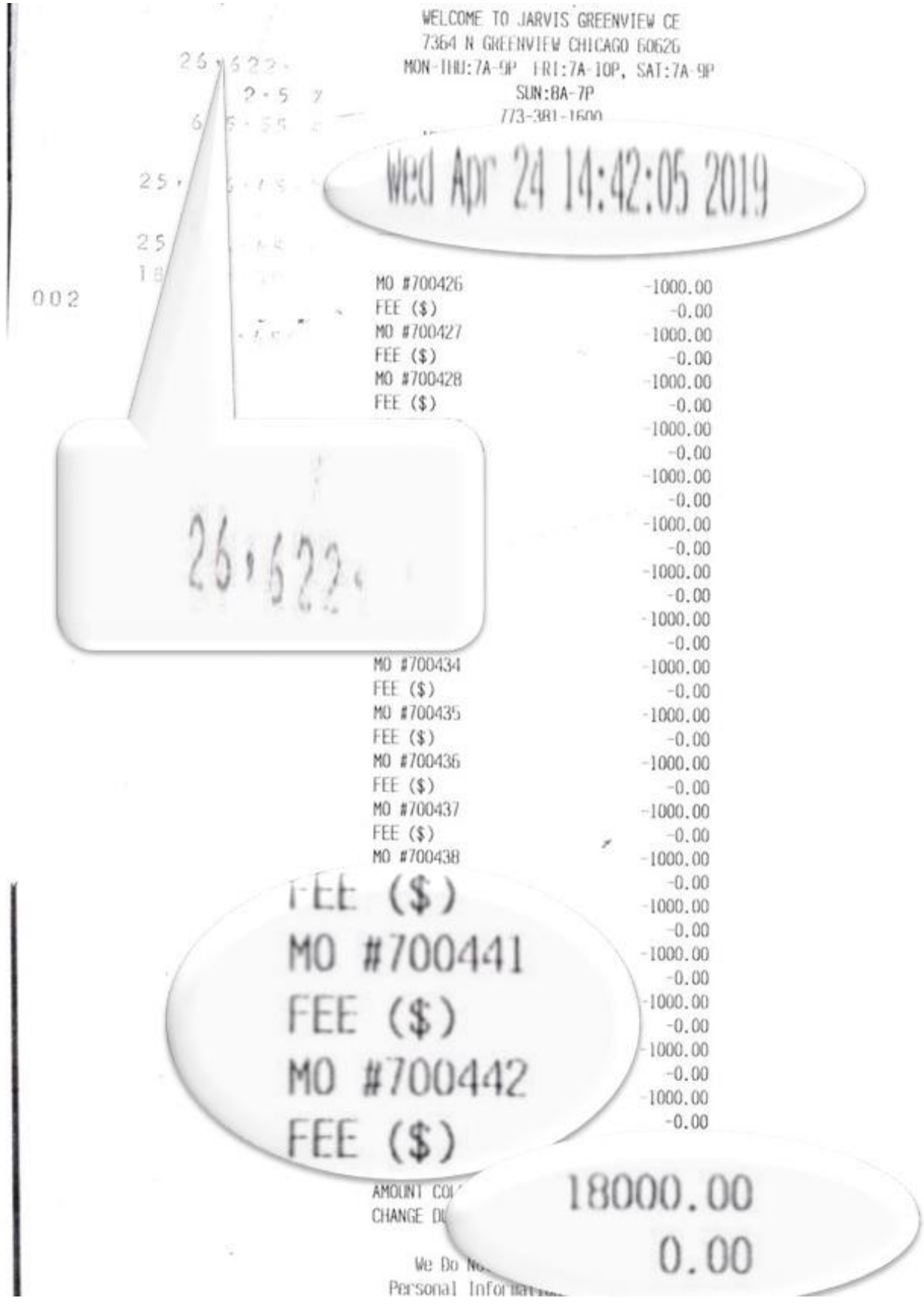
88. On or about April 23, 2019, Ave Imports wrote a check to Accurate Construction, LLC, for $50,000. Eduardo signed the check on behalf of Ave Imports. Jesus deposited this check into Accurate Construction, LLC's bank account ending 1009 on April 23, 2019. Images of the deposit slip and check, enlarged to show key details, follow:



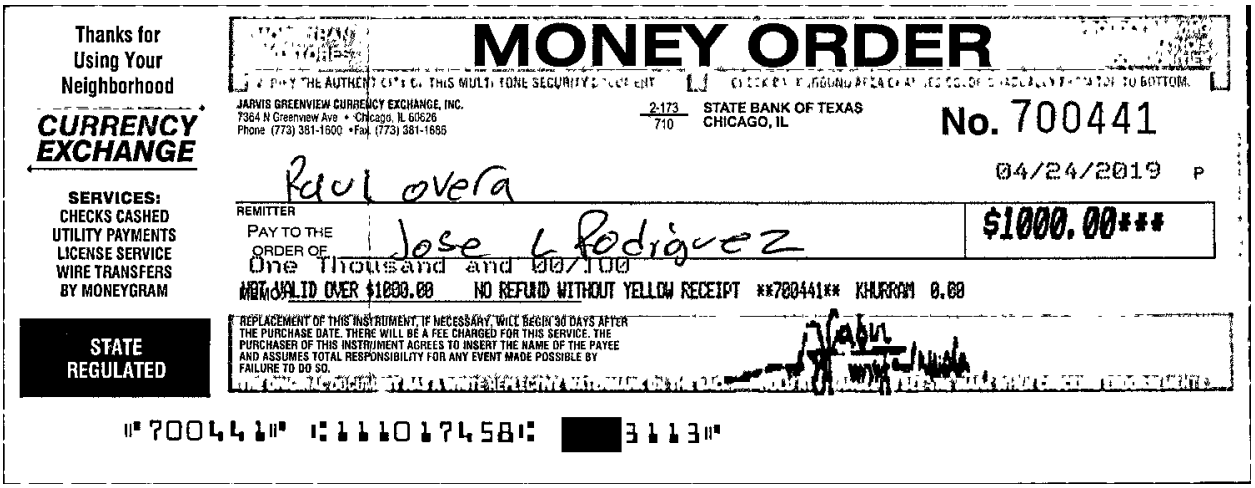
89. The next day, Accurate Construction, LLC, wrote a check to Infinity for $26,622. The memo line on the check read "expenses." Guel took the check to Jarvis to be cashed. Images of the check from Accurate Construction, LLC, to Infinity, enlarged to show key details, follow:

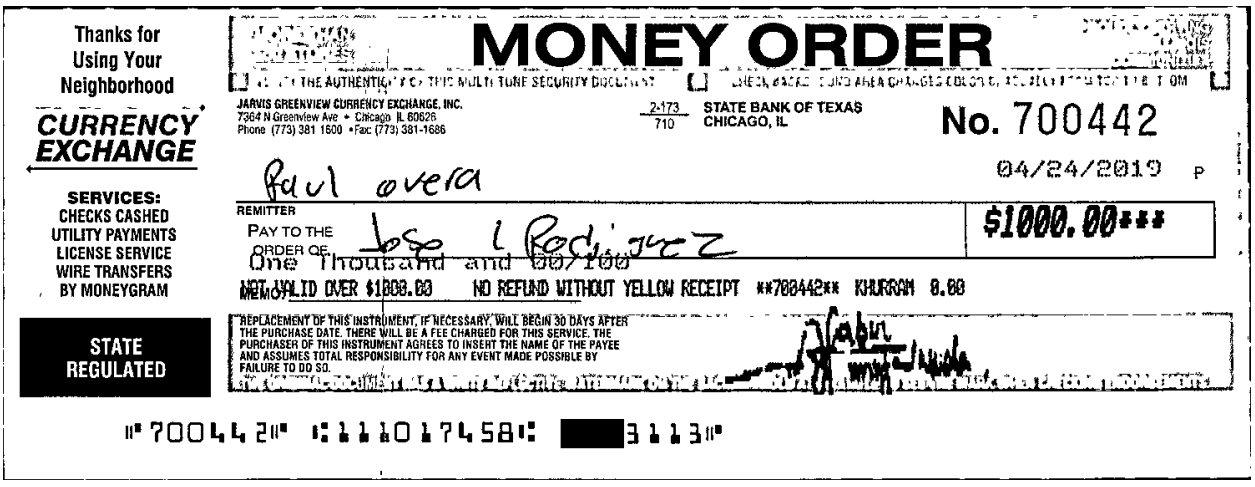


90. Guel used the $26,622 check to obtain 18 money orders of $1000 each and also cash from Jarvis on April 24, 2019. Two of the money orders he purchased had the numbers 700441 and 700442. Images of the Jarvis purchase receipt, enlarged to show key details, follow:



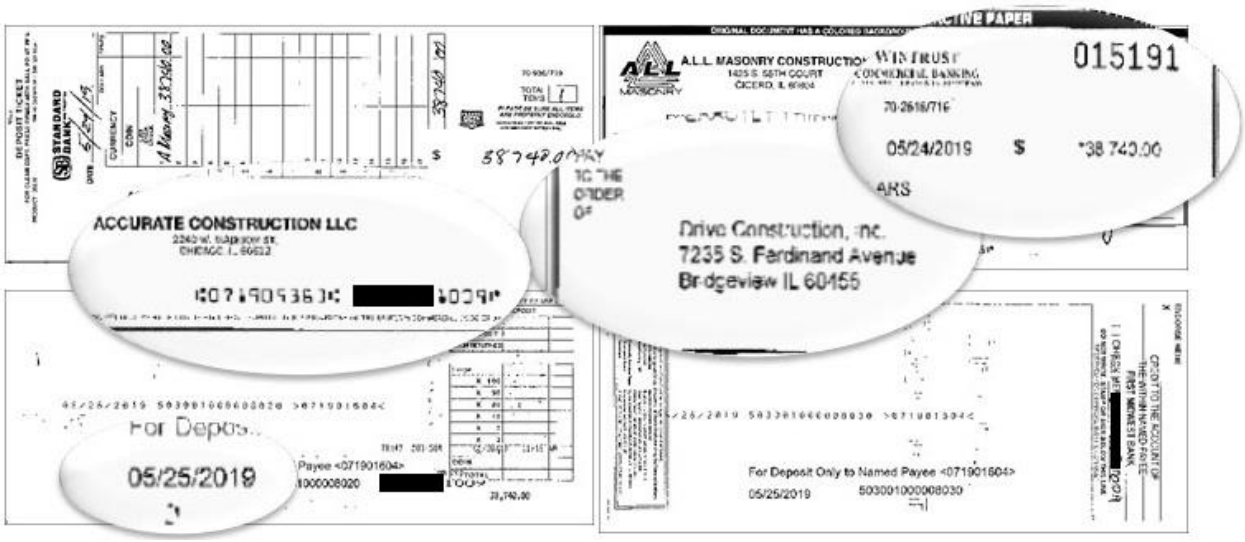
91. Guel gave money order numbers 700441 and 700442 to Lovera-Rodriguez, who in turn gave them to Jose Luis Rodriguez, a Drive employee. In April 2019, Jose Luis Rodriguez was working on Drive's project at the Englewood STEM High School in Chicago, Illinois. Images of the final negotiated money orders, showing Lovera-Rodriguez as the payor and Jose Luis Rodriguez as the payee, follow:



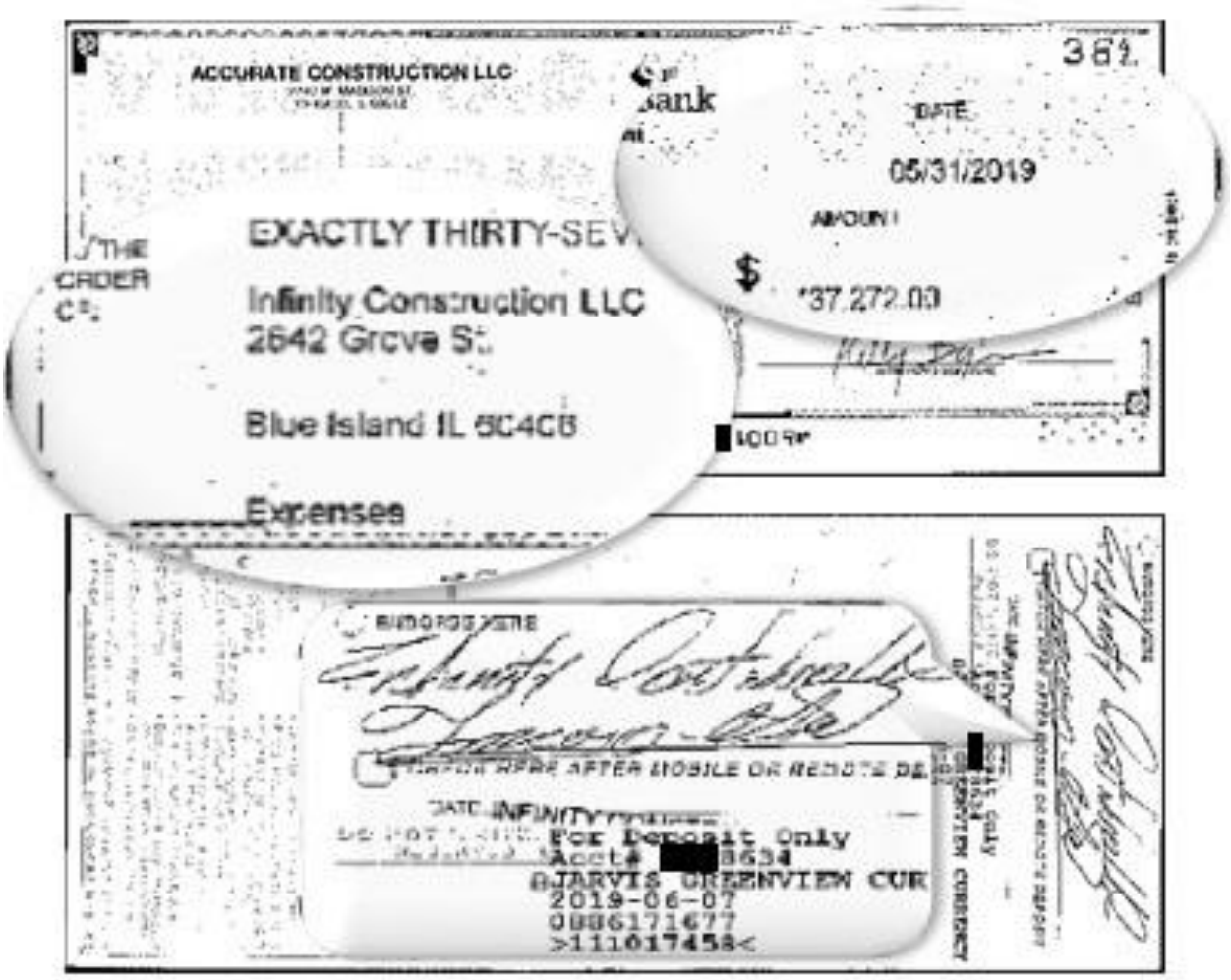


iii. Example 3: Drive to Accurate to Infinity/Guel to Lovera-Rodriguez

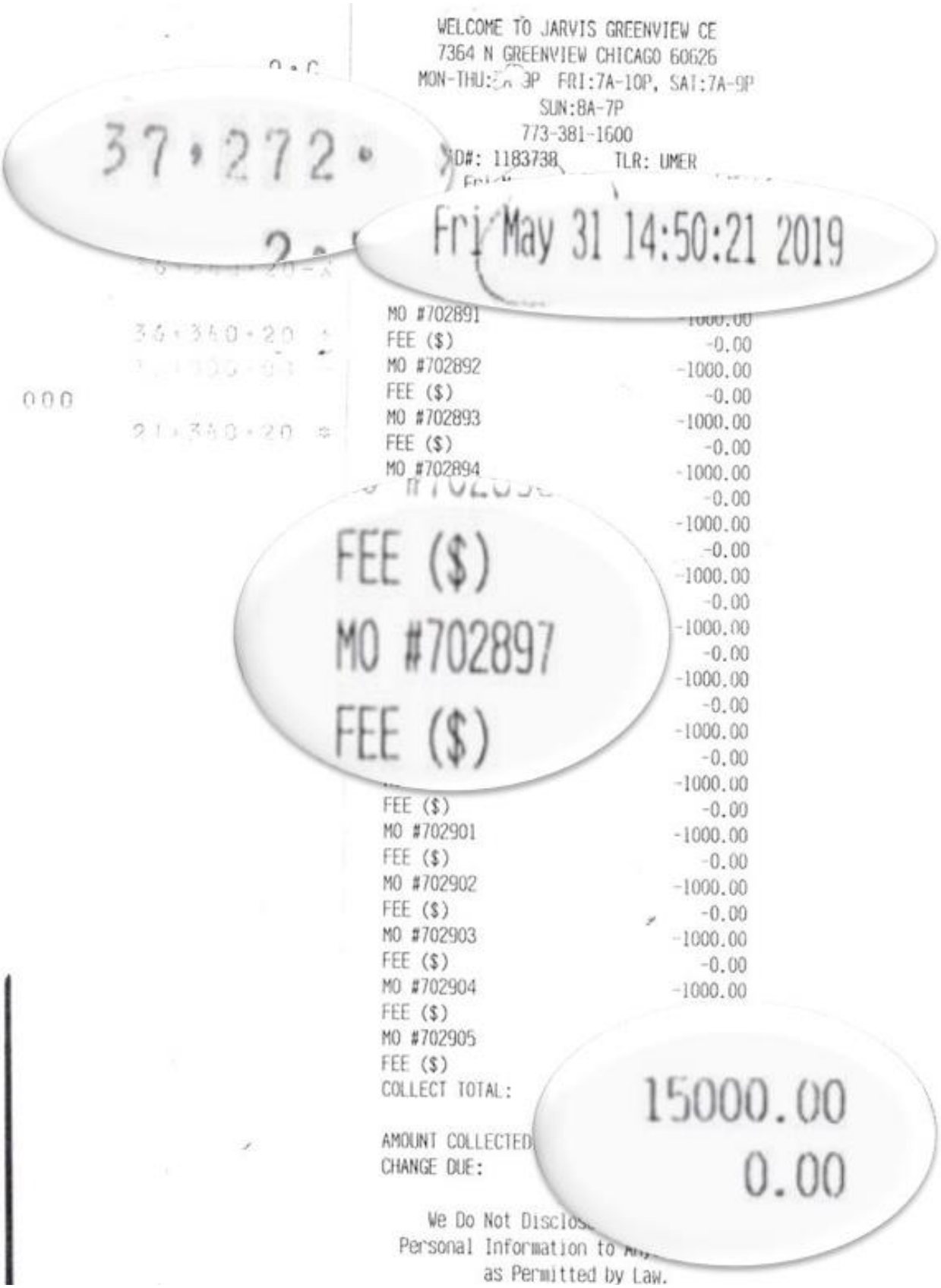
92. On or about May 24, 2019, Drive endorsed a check originally made out to Drive over to Accurate Construction, LLC, to give Accurate Construction, LLC, nearly $40,000. Jesus deposited this check into Accurate Construction, LLC's bank account ending 1009 on May 25, 2019. Images of the deposit slip and check, enlarged to show key details, follow:



93. Six days later, on May 31, 2019, Accurate Construction, LLC, wrote a check to Infinity for $37,272. The memo line on the check read "expenses." Guel took the check to Jarvis to be cashed. Images of the check from Accurate Construction, LLC, to Infinity, enlarged to show key details, follow:



94. Guel used the $37,272 check to obtain 15 money orders of $1000 each and also cash from Jarvis on May 31, 2019. One of the money orders he purchased had the number 702897. Images of the Jarvis purchase receipt, enlarged to show key details, follow:



WELCOME TO JARVIS GREENVIEW CE
7364 N GREENVIEW CHICAGO 60626
MON-THU:8A-3P FRI:7A-10P, SAT:7A-9P
SUN:8A-7P
773-381-1600
ORD#: 1183738 TLR: UMER

37,272.

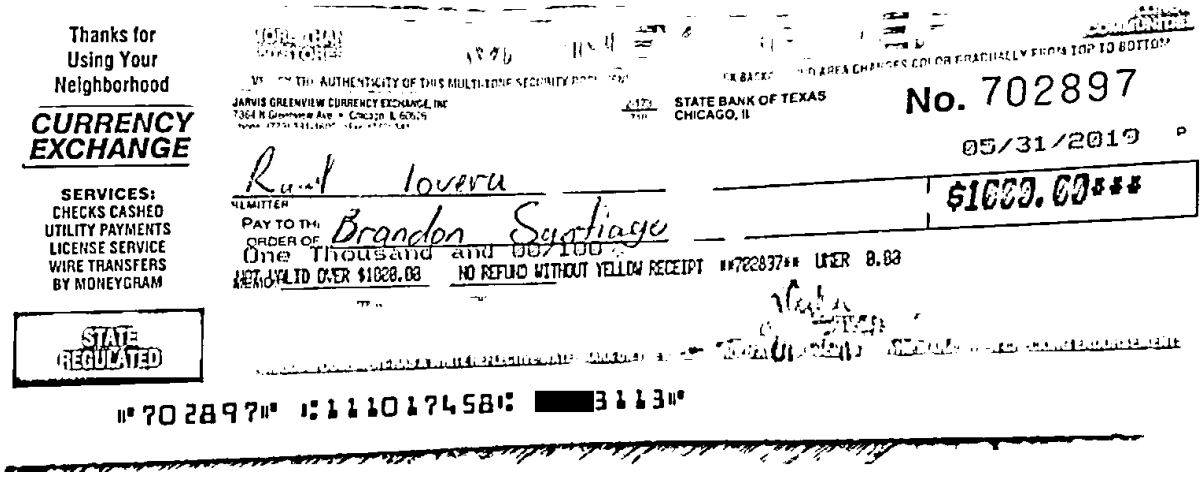
Fri May 31 14:50:21 2019

MO #702891	-1000.00
FEE ($)	-0.00
MO #702892	-1000.00
FEE ($)	-0.00
MO #702893	-1000.00
FEE ($)	-0.00
MO #702894	-1000.00
	-0.00
	-1000.00
	-0.00
	-1000.00
	-0.00
	-1000.00
	-0.00
	-1000.00
	-0.00
	-1000.00
	-0.00
	-1000.00
FEE ($)	-0.00
MO #702901	-1000.00
FEE ($)	-0.00
MO #702902	-1000.00
FEE ($)	-0.00
MO #702903	-1000.00
FEE ($)	-0.00
MO #702904	-1000.00
FEE ($)	
MO #702905	
FEE ($)	
COLLECT TOTAL:	15000.00
AMOUNT COLLECTED	
CHANGE DUE:	0.00

FEE ($)
MO #702897
FEE ($)

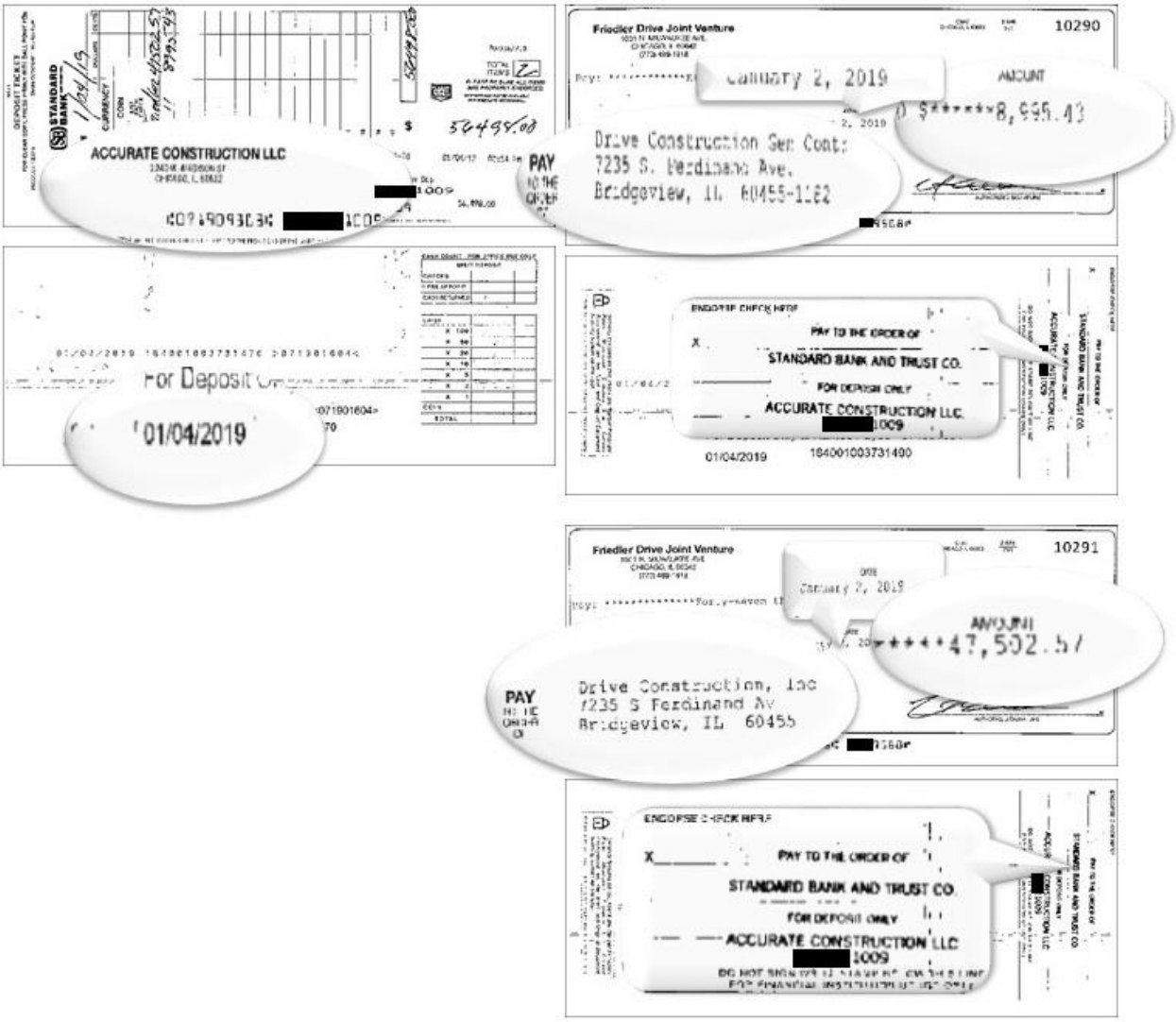
We Do Not Disclos
Personal Information to A
as Permitted by Law.

95. Guel gave money order number 702897 to Lovera-Rodriguez, who in turn gave it to Brandon Santiago, a Drive employee. In May 2019, Santiago was working on Drive's projects at the Englewood STEM High School and at a public library in Geneva, Illinois. An image of the final negotiated money order, showing Lovera-Rodriguez as the payor and Santiago as the payee, follows:



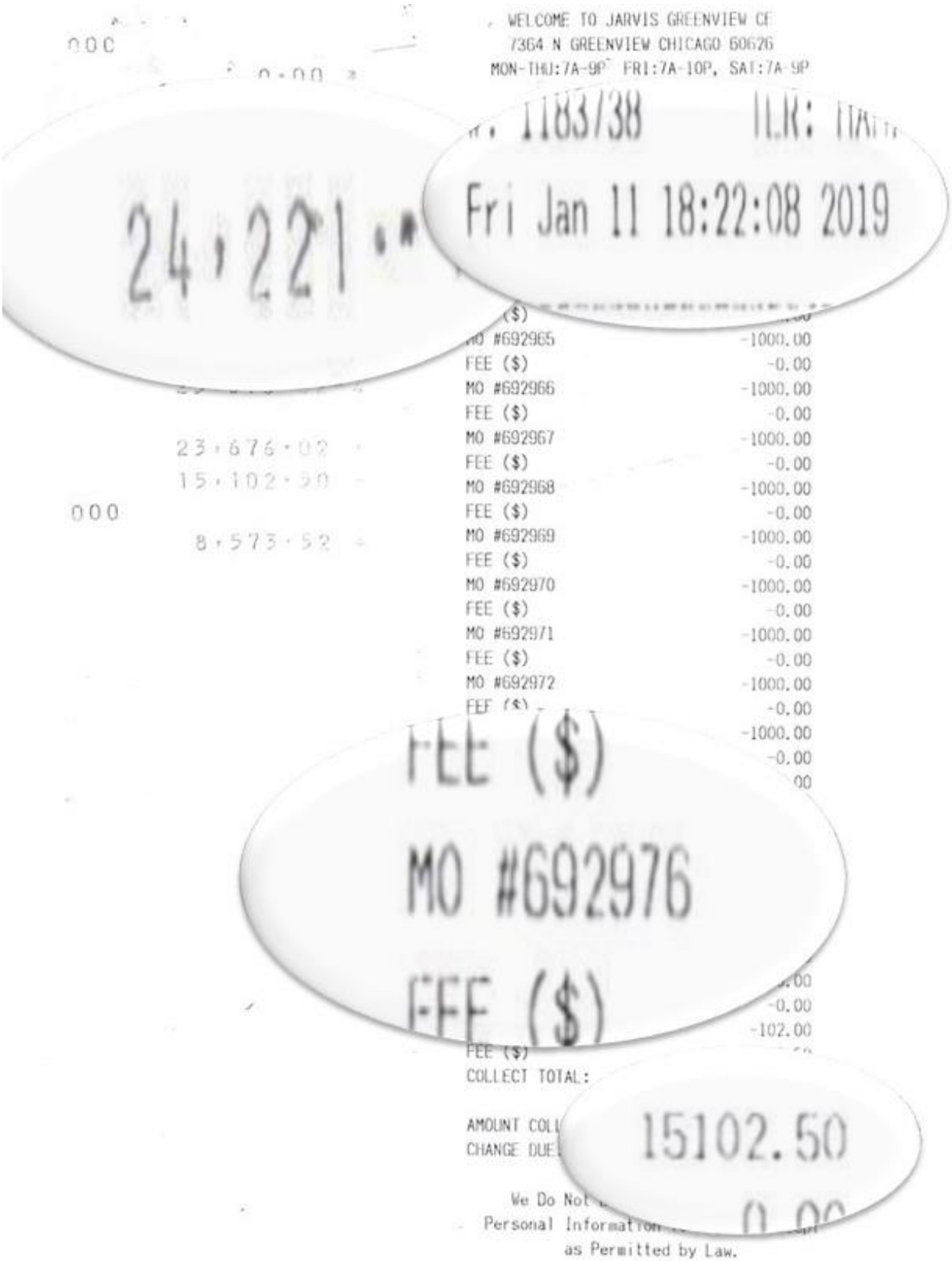
iv. Example 4: Drive to Accurate to Infinity/Guel to Lara

96. On or about January 2, 2019, Drive endorsed two checks originally made out to Drive over to Accurate Construction, LLC, to give Accurate Construction, LLC, over $55,000. Jesus deposited these checks into Accurate Construction, LLC's bank account ending 1009 on January 4, 2019. Images of the deposit slip and checks, enlarged to show key details, follow:

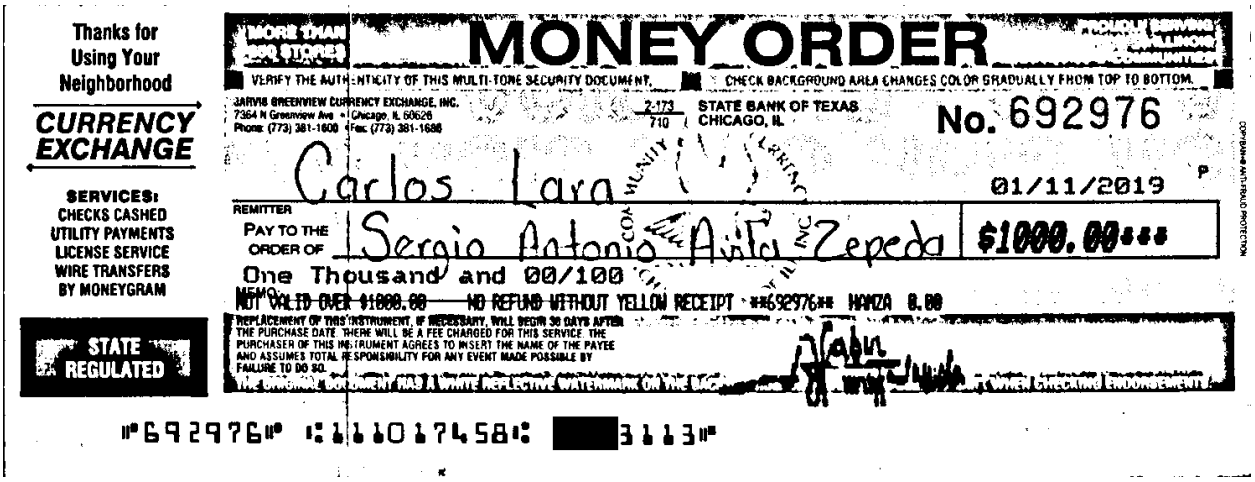


97. A week later, on January 11, 2019, Accurate Construction, LLC, wrote a check to Infinity for $24,221. The memo line on the check read "expenses." Guel took the check to Jarvis to be cashed. Images of the check from Accurate Construction, LLC, to Infinity, enlarged to show key details, follow:

98. Guel used the $24,221 check to obtain 15 money orders of $1000 each, one money order of $102, and also cash from Jarvis on April 24, 2019. One of the $1000 money orders Guel purchased had the number 692976. Images of the Jarvis purchase receipt, enlarged to show key details, follow:



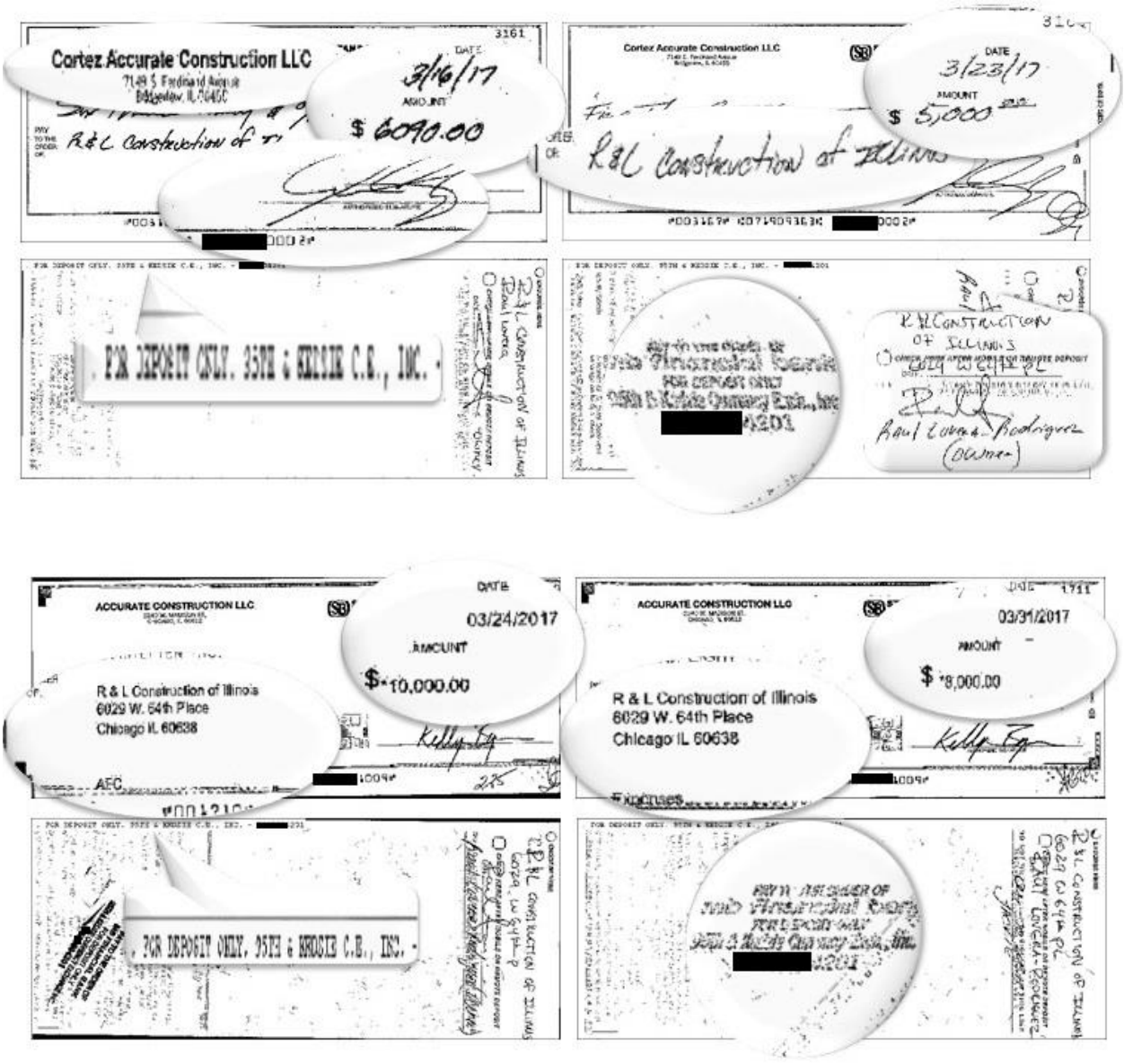
99. Guel gave money order number 692976 to Juan Carlos Lara, who in turn gave it to Sergio Antonio Avila Zepeda, a Drive employee. In January 2019, Avila Zepeda was working on Drive's projects at the Jefferson Park Retail and Residences project in Chicago, Illinois. An image of the final negotiated money order, showing Lara as the payor and Avila Zepeda as the payee, follows:



v. Example 5: Accurate Entities to R & L/Lovera-Rodriguez

100. In March 2017, Cortez Accurate and Accurate Construction, LLC each wrote two checks to R & L. Combined, the Accurate Entities' four checks to R & L that month totaled almost $30,000. The memo lines of the Accurate Construction, LLC, checks read "AFC" and "expenses."

101. Lovera-Rodriguez took the checks to the 95th & Kedzie Currency Exchange to be cashed. Images of the checks from the Accurate Entities to R & L, enlarged to show key details, follow:

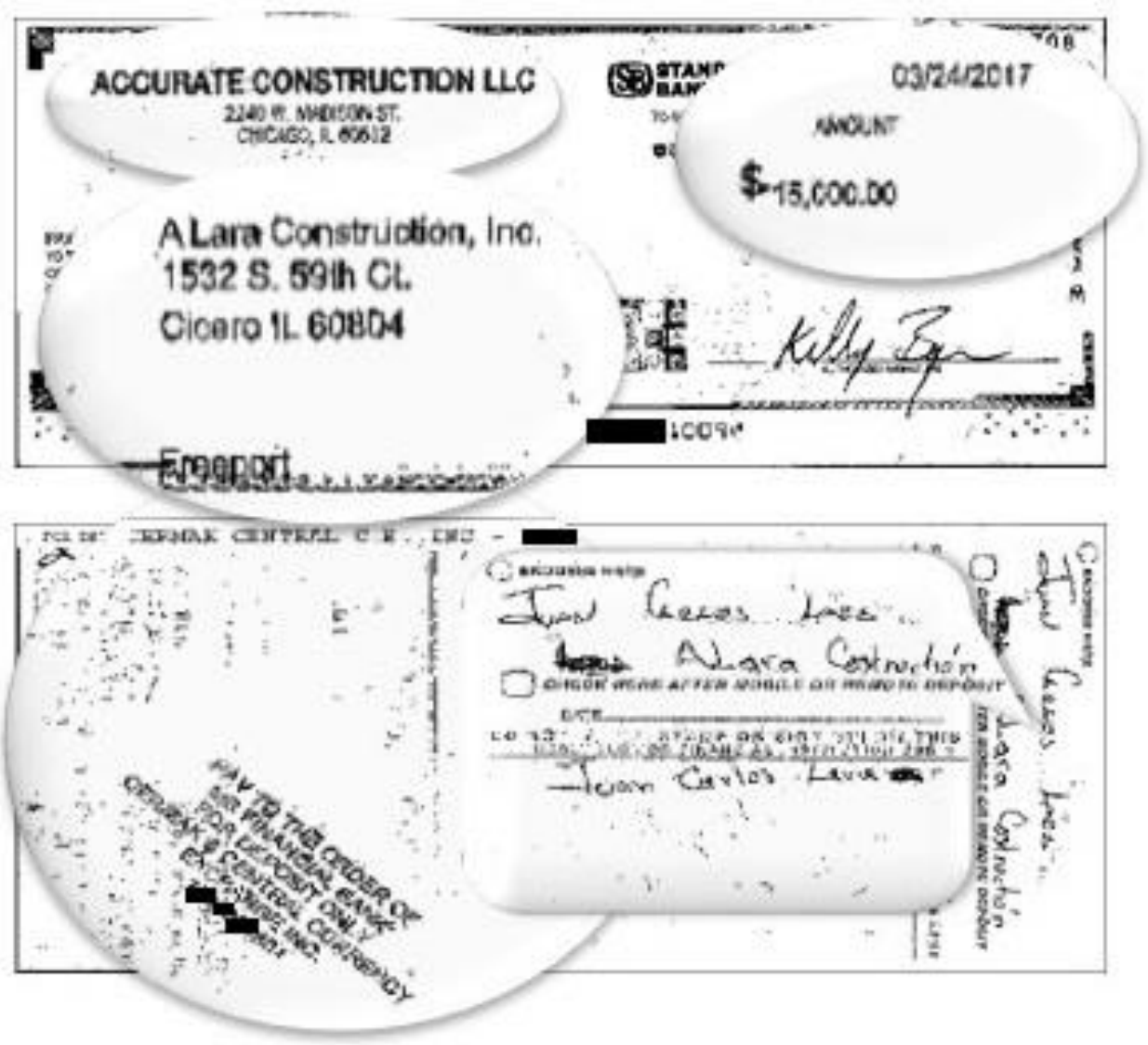


102. In March 2017, around the same time that he was converting these checks into cash, Lovera-Rodriguez was working as a Drive foreman at Drive's project renovating the eighth floor of the Metra headquarters in Chicago, Illinois.

103. Lovera-Rodriguez paid Ramiro Ponce, a Drive employee, in cash for work done on the Metra project in March 2017 using the proceeds of the above checks from the Accurate Entities.

vi. Example 6: Accurate to A Lara/Lara

104. On March 24, 2017, Accurate Construction, LLC wrote a check for $15,000 to A Lara. The memo line for the check read "Freeport." Juan Carlos Lara cashed the check at the Cermak & Central Currency Exchange. Images of the check, enlarged to show key details, follow:



105. In March 2017, the Accurate Entities and Drive were performing work at the Brewster-Hosmer RAD Conversion project in Freeport, Illinois. Lara was serving as a foreman for Drive at the project.

106. Lara used the cash proceeds of the above Accurate Construction, LLC, check to pay Drive employees in cash at the Brewster-Hosmer project.

B. The cash payments resulted in violations of the ECA, the IPWA, and the IMWL.

107. As illustrated by the foregoing examples, employees of Drive who engaged in the construction of public works on behalf of Drive were regularly compensated for this work in cash or money orders.

108. The regular rate of pay for employees who received cash and money order compensation fell below the mandated prevailing wage rates for work performed on public works projects, in violation of the IPWA.

109. The Attorney General has investigated violations of the IPWA at multiple public works projects involving Drive. One project identified so far where Drive committed many violations of the IPWA is Englewood STEM High School.

110. Employees of Drive who received cash and money-order compensation regularly worked in excess of 40 hours per week during individual work weeks.

111. Employees of Drive who received cash and money-order compensation were paid at their regular rate of pay for all time worked including hours over 40 during individual work weeks.

112. Defendants violated the IMWL by failing to compensate Drive employees at time-and-a-half their regular rate of pay for all time worked in excess of 40 hours per week.

113. Finally, every cash payment—whether for work done on public or private projects—constituted a misclassification of the worker as an independent contractor in violation of the ECA.

C. Drive controlled all components of its off-the-books payment scheme.

114. Defendants used multiple layers of nominally separate entities to try to conceal the origin, destination, and nature of the payments flowing from Drive. While disguised as payments to a chain of sub-contractors, these payments were in fact wages paid by Drive to construction workers on Drive's projects—workers who should have been classified, reported, and paid as Drive employees.

115. At each tier of the scheme, the individuals and entities involved were Drive's agents.

116. The first tier of pass-through entities in Drive's scheme was created in February 2014. At that time, a limited liability company called Cortez Accurate Construction, LLC, was formed with Jesus Cortez as the sole member. Jesus registered Cortez Accurate Construction, LLC, to do business under the assumed name Accurate Construction, LLC. Jesus operated Cortez Accurate Construction, LLC, as an agent of Drive, the company run by his brothers, Gerardo and Eduardo. In August 2015, Cortez Accurate Construction, LLC, was involuntarily dissolved for failure to file its annual report with the Secretary of State.

117. In January 2016, another limited liability company named Accurate Construction, LLC, was organized. Instead of Jesus Cortez, the sole member of Accurate Construction, LLC, was Kelly Byrne. Byrne's nominal involvement was a front, however, in order to conceal the continuing relationship between Drive and Accurate Construction, LLC.

118. In reality, Jesus remained in control of Accurate Construction, LLC, even after the dissolution of Cortez Accurate Construction, LLC, and the formation of Accurate Construction, LLC. Jesus continued to direct the operations of Accurate Construction, LLC, as an agent of Drive, just as he had directed the operations of Cortez Accurate Construction, LLC.

119. Jesus typically filled out the deposit slips for deposits into Accurate's bank accounts, both before and after the transition from Cortez Accurate Construction, LLC, to Accurate Construction, LLC.

120. On July 8, 2022, after the Attorney General issued a subpoena to Accurate Construction, LLC, the entity was involuntarily dissolved for failure to file its annual report with the Secretary of State.

121. The distinction between Drive and the Accurate Entities was artificial. Drive had the right to control the manner in which the Accurate Entities carried out work on Drive projects.

122. The Accurate Entities affected the legal relationships between Drive and Drive's employees by making pass-through payments on Drive's behalf.

123. The Accurate Entities, Jesus Cortez, and Byrne issued payments to Guel, Lovera-Rodriguez, Lara, and their sham entities at the direction of Drive, Eduardo, and Gerardo.

124. The Accurate Entities were Drive's alter ego.

125. There was a unity of interest and ownership between Drive and the Accurate Entities.

126. The Accurate Entities were inadequately capitalized. They had no reserves and simply paid out the money they received on an ongoing basis.

127. In fact, the Accurate Entities' corporate bank accounts routinely fell into deficit, and the Accurate Entities were charged overdraft fees on hundreds of occasions.

128. The Accurate Entities did not solicit any outside investment or pay dividends to any members not affiliated with Drive.

129. The Accurate Entities failed to consistently maintain corporate records separate from Drive, as illustrated by the fact that Accurate Construction, LLC has refused to produce any substantial records in response to the Attorney General's subpoena, as described above.

130. Drive and the Accurate Entities commingled funds. Drive routinely endorsed checks written to Drive over to the Accurate Entities. The Accurate Entities, in turn, paid a salary back to Eduardo, even though Eduardo's only official position was with Drive.

131. Drive and the Accurate Entities did not maintain an arms-length relationship; rather, agents of Drive regularly acted on behalf of the Accurate Entities.

132. Drive employees frequently conducted business, putatively on behalf of the Accurate Entities, from their Drive email addresses.

133. Clients of Drive and the Accurate Entities often confused the two and had to seek clarification as to whether they were transacting business with Drive or instead one of the Accurate Entities.

134. Eduardo signed documents on behalf of the Accurate Entities even though his only official position was with Drive.

135. The Accurate Entities paid significant sums of money to Eduardo and to other Drive employees.

136. The Accurate Entities were a mere façade for Drive's operations at many of Drive's projects.

137. Drive, Gerardo, Eduardo, and Jesus Cortez created the Accurate Entities to serve as front organizations that would help conceal Drive's cash payments to its employees.

138. Observing the fiction of a separate existence between Drive and the Accurate Entities would sanction that fraud and promote injustice.

139. Guel and his sham entities, Infinity and Infinity FRG, were agents of Drive under Drive's control.

140. Guel, through his sham entities, Infinity and Infinity FRG, was also an individual performing services for Drive and Accurate.

141. Guel is a longtime employee of Drive who has been on Drive's payroll since November 2013.

142. Infinity and Infinity FRG were not bona fide entities but instead were a barely organized front for Guel.

143. Infinity and Infinity FRG were not bona fide limited liability companies because:

a. Infinity and Infinity FRG did not have assets;

b. Infinity and Infinity FRG did not maintain a bank account but instead used currency exchanges;

c. Guel intermingled his personal funds with Infinity and Infinity FRG transactions;

d. Guel did not hold Infinity or Infinity FRG out to the public as limited liability companies;

e. Infinity and Infinity FRG made no tax filings;

f. Infinity Construction, LLC was involuntarily dissolved by the Illinois Secretary of State on July 14, 2017 but continued to receive funds from Accurate Construction, LLC;

g. Infinity Construction FRG67, LLC was organized on February 22, 2018 but continued to receive and cash checks made out to only Infinity Construction, LLC;

h. Infinity and Infinity FRG did not carry out any daily activities in their own right;

i. Infinity and Infinity FRG did not claim any individuals as employees; and

j. Infinity and Infinity FRG did not carry workers' compensation insurance coverage or register with the Illinois Department of Employment Security for unemployment insurance coverage.

144. Guel and his sham entities, Infinity and Infinity FRG, issued cash and money order payments to employees of Drive and the Accurate Entities at the direction of Drive and its principal officers.

145. Lovera-Rodriguez and his sham entity, R & L, were agents of Drive under Drive's control.

146. Lovera-Rodriguez, through his sham entity, R & L, was an individual performing services for Drive and the Accurate Entities.

147. Lovera-Rodriguez was on Drive's payroll throughout the period of time that he received checks from the Accurate Entities.

148. R & L was not a bona fide entity but instead was a barely organized front for Lovera-Rodriguez.

149. R & L was not a bona fide corporation because:

a. R & L was not capitalized;

b. R & L did not issue corporate stock;

c. R & L did not maintain a bank account but instead used currency exchanges;

d. Lovera-Rodriguez intermingled his personal funds with R & L transactions;

e. Lovera-Rodriguez did not hold R & L out to the public as a corporation;

f. R & L did not create or preserve corporate books, records, or meeting minutes;

g. R & L made no tax filings;

h. R & L was involuntarily dissolved on December 8, 2017 but continued to receive funds from Accurate Construction, LLC;

i. R & L did not carry out any daily activities in its own right;

j. R & L did not claim any individuals as employees; and

k. R & L did not carry workers' compensation insurance coverage or register with the Illinois Department of Employment Security for unemployment insurance coverage.

150. Lovera-Rodriguez and his sham entity issued cash and money order payments to employees of Drive and the Accurate Entities at the direction of Drive and its principal officers.

151. Lara and his sham entity, A Lara, were agents of Drive under Drive's control.

152. Lara, through his sham entity, A Lara, was an individual performing services for Drive and the Accurate Entities.

153. A Lara was not a bona fide entity but instead was a barely organized front for Lara.

154. A Lara was not a bona fide corporation because:

a. A Lara was not capitalized;

b. A Lara did not issue corporate stock;

c. A Lara did not maintain a bank account but instead used currency exchanges;

d. Lara intermingled his personal funds with A Lara transactions;

e. Lara did not hold A Lara out to the public as a corporation;

f. A Lara did not create or preserve corporate books, records, or meeting minutes;

g. A Lara made no tax filings;

h. A Lara did not carry out any daily activities in its own right;

i. A Lara did not claim any individuals as employees; and

j. A Lara did not carry workers' compensation insurance coverage or register with the Illinois Department of Employment Security for unemployment insurance coverage.

155. Lara and his sham entity issued cash and money order payments to employees of Drive and the Accurate Entities at the direction of Drive and its principal officers.

156. In short, Drive had control over the entire intricate web of entities set up to conceal cash payments to Drive's employees. The off-the-books payments violated multiple Illinois employment laws. These violations harmed the employees by depriving them of deserved overtime and prevailing wages and by excluding them from unemployment insurance and other benefits dependent on the payment of wages.

COUNT I
Violations of the Employee Classification Act – Misclassification
Against All Defendants

157. Drive and the Accurate Entities were engaged in constructing, altering, repairing, and rehabilitating buildings and structures.

158. Drive and the Accurate Entities were "contractors" as defined by the ECA because they engaged in "construction." 820 ILCS 185/5.

159. Drive and the Accurate Entities were "employers" as defined by the ECA. 820 ILCS 185/5.

160. Drive directed the Accurate Entities to pay funds to Guel, Lovera-Rodriguez, and Lara so that Guel, Lovera-Rodriguez, and Lara could pay individuals performing services for Drive and the Accurate Entities.

161. For the reasons alleged above, Infinity, Infinity FRG, R & L, and A Lara were not bona fide corporations or limited liability companies under the ECA. *See* 56 Ill. Admin. Code § 240.110. They were merely fronts for Guel, Lovera-Rodriguez, and Lara as individuals performing services for Drive and the Accurate Entities.

162. Drive and the Accurate Entities were required to designate all individuals performing services to Drive and the Accurate Entities as employees under the ECA. 820 ILCS 185/10.

163. Each cash or money-order payment to an individual performing services for Drive or the Accurate Entities was a failure to designate the recipient of the cash or money order payment as an employee of Drive or the Accurate Entities. *Id.* § 20.

164. Drive and the Accurate Entities knew or recklessly disregarded that the recipients of the cash and money-order payments should have been classified as employees.

165. Drive and the Accurate Entities willfully misclassified employees in violation of the ECA on numerous occasions.

166. Drive is liable for all ECA violations committed by the Accurate Entities because the Accurate Entities were an alter ego of Drive. *See Gajda v. Steel Sols. Firm, Inc.*, 2015 IL App (1st) 142219, ¶¶ 23-24.

167. The Accurate Entities were agents of Drive and knowingly permitted Drive to misclassify employees.

168. The Accurate Entities are liable for all violations and penalties assessed under the ECA against Drive. 820 ILCS 185/63.

169. Gerardo Cortez was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

170. Eduardo Cortez was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

171. Jesus Cortez was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

172. Byrne was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

173. Guel, Infinity, and Infinity FRG were officers or agents of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

174. Lovera-Rodriguez and R & L were officers or agents of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

175. Lara and A Lara were officers or agents of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to misclassify employees.

176. Gerardo Cortez, Eduardo Cortez, Jesus Cortez, Byrne, Guel, Infinity, Infinity FRG, Lovera-Rodriguez, R & L, Lara, and A Lara are individually liable for all violations and penalties assessed under the ECA against Drive or the Accurate Entities. 820 ILCS 185/63.

177. Defendants are liable for civil penalties to the State in the amount of $2,000 for each willful ECA violation. 820 ILCS 185/40(a) & 45(a).

178. Defendants are additionally liable for punitive damages to the affected employees in an amount equal to the civil penalties. *Id.* § 45(b).

179. The ECA provides for a 4-year debarment of contractors found to have disregarded their obligations under the ECA. *Id.* § 42.

180. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain as remedies monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the People pray that this Honorable Court:

a. Award judgment in Plaintiff's favor;

b. Assess civil penalties of $2,000 per violation against Defendants for willfully misclassifying individuals performing services for Drive and the Accurate Entities;

c. Award an equal amount in punitive damages to be held in trust by the Attorney General for the affected employees;

d. Award such relief as the court deems necessary to address Defendants' violations of the ECA, including disgorgement of ill-gotten gains;

e. Prohibit Defendants, including any entity owned or controlled by any of Defendants, or any entity for which any Defendant serves as an officer or agent, from participating in any public works project for 4 years; and

f. Grant such other relief that the Court deems appropriate.

COUNT II
Violations of Employee Classification Act – Failure to Report
Against All Defendants

181. As above, Drive and the Accurate Entities made payments to individuals performing construction services for them but did not classify those individuals as employees.

182. Drive and the Accurate Entities did not file annual reports of these cash payments to the Illinois Department of Labor as required by 820 ILCS 185/43(a) ("ECA Annual Reports").

183. Drive and the Accurate Entities knew or recklessly disregarded that they were required to file annual reports of all payments to individuals they did not classify as employees.

184. Drive is liable for all ECA violations committed by the Accurate Entities because the Accurate Entities were an alter ego of Drive. *See Gajda v. Steel Sols. Firm, Inc.*, 2015 IL App (1st) 142219, ¶¶ 23-24.

185. The Accurate Entities were an agent of Drive and knowingly permitted Drive to fail to file the ECA Annual Reports.

186. The Accurate Entities are liable for all violations and penalties assessed under the ECA against Drive. 820 ILCS 185/63.

187. Gerardo Cortez was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

188. Eduardo Cortez was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

189. Jesus Cortez was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

190. Byrne was an officer or agent of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

191. Guel, Infinity, and Infinity FRG were officers or agents of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

192. Lovera-Rodriguez and R & L were officers or agents of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

193. Lara and A Lara were officers or agents of Drive and the Accurate Entities and knowingly permitted Drive and the Accurate Entities to fail to file the ECA Annual Reports.

194. Gerardo Cortez, Eduardo Cortez, Jesus Cortez, Byrne, Guel, Infinity, Infinity FRG, Lovera-Rodriguez, R & L, Lara, and A Lara are individually liable for all violations and penalties assessed under the ECA against Drive or the Accurate Entities. 820 ILCS 185/63.

195. Failure to file an annual report under section 43(a) is subject to the civil penalties provided in section 40. *Id.* 43(c).

196. Each person for whom no report was filed constitutes a separate and distinct violation. *Id.* § 40(a).

197. Defendants are liable for civil penalties to the State in the amount of $2,000 for each willful ECA violation. 820 ILCS 185/40(a), *id.* § 45(a).

198. Defendants are additionally liable for punitive damages to the affected individuals in an amount equal to the civil penalties. *Id.* § 45(b).

199. The ECA provides for a 4-year debarment of contractors found to have disregarded their obligations under the ECA. *Id.* § 42.

200. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain as remedies monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the People pray that this Honorable Court:

a. Award judgment in Plaintiff's favor;

b. Assess civil penalties of $2,000 per violation against Defendants for willfully failing to file annual reports as to individuals performing services for Drive and the Accurate Entities not classified as employees;

c. Award an equal amount in punitive damages to be held in trust by the Attorney General for the affected employees;

d. Award such relief as the court deems necessary to address Defendants' willful failure to file annual reports as to individuals performing services for Drive and the Accurate Entities, including disgorgement of ill-gotten gains;

e. Enjoin Drive to begin filing the required annual reports of payments to individuals not classified as employees;

f. Prohibit Defendants, including any entity owned or controlled by any of Defendants, or any entity for which any Defendant serves as an officer or agent, from participating in any public works project for 4 years; and

g. Grant such other relief that the Court deems appropriate.

COUNT III
Violations of the Illinois Prevailing Wage Act –
Englewood STEM High School
Against Drive

201. Drive undertook a large contract to perform framing and drywall services at the Englewood STEM High School, also referred to as the South Side High School project, in the years 2018 to 2019.

202. Drive served as a sub-contractor of the prime contractor, a joint venture called Ujamaa Power II. Drive and Ujamaa Power II executed a sub-contract on June 11, 2018, excerpts of which are attached as Exhibit A to this complaint.

203. Ujamaa Power II had entered into a prime contract with the Public Building Commission of Chicago ("PBC"), excerpts of which are attached as Exhibit B to this Complaint.

204. The PBC is a commission of a political subdivision of the State of Illinois, namely the City of Chicago, and as such it is a "public body" under the IPWA. 820 ILCS 130/2.

205. The Englewood STEM High School was a fixed work constructed by the PBC, and as such it was a "public work" under the IPWA. *Id.*

206. All laborers, mechanics, and other workers employed by Drive at Englewood STEM High School were entitled to be paid the general prevailing rate of hourly wages for work of a similar character on public works in Cook County and not less than the general prevailing rate of hourly wages for legal holiday and overtime work in Cook County. 820 ILCS 130/3.

207. The contractual documents at Englewood STEM High School included these prevailing wage requirements.

208. In the sub-contract, Drive "agree[d] to be bound by the provisions of the General Contract" and "to perform in behalf of [Ujamaa Power II] each and all of [Ujamaa Power II's] obligations under the General Contract in reference to the Work hereby subcontracted to [Drive]." Ex. A at ¶ 22.1.

209. The general contract, in turn, provided that "[n]ot less than the prevailing rate of wages as determined by the Illinois Department of Labor must be paid to all laborers, mechanics, and other workers performing Work under this Contract." Ex. B at bk. 2, § 9.08(1).

210. Drive was required to make and keep, for a period of five years, records of all laborers, mechanics, and other workers employed by Drive at Englewood STEM High School, including the worker's name, gross and net wages paid in each pay period, and number of hours worked each day. 820 ILCS 130/5(a)(1).

211. Drive was required to file such records monthly as certified payroll while performing work at Englewood STEM High School. *Id.* § 5(a)(2).

212. Drive employed individuals at the Englewood STEM High School project.

213. Drive employees worked more hours at the Englewood STEM High School project than Drive reported on its certified payroll.

214. Drive paid multiple individuals working at Englewood STEM High School in cash or money orders for the unreported off-the-books hours using the scheme described above.

215. The cash payments and money orders compensated Drive employees at less than the applicable prevailing wage rates for every hour worked at Englewood STEM High School.

216. Drive did not include these cash and money order payments in the wages it reported on its certified payroll.

217. The IPWA entitles Drive employees to recover the underpayments. 820 ILCS 130/4(g); *id.* § 11.

218. The IPWA also assesses a penalty of 20% of the amount of the underpayments payable to the State. *Id.* § 11.

219. The IPWA also entitles Drive employees to recover punitive damages in the amount of 2% of the statutory penalty for each month following the date of payment during which such underpayments remain unpaid. *Id.*

220. It is an additional "violation of the [IPWA]" to "willfully file[] a false certified payroll that is false as to any material fact." *Id.* § 5(a)(2).

221. The IPWA provides for a 4-year debarment of contractors found to have disregarded their obligations to employees under the IPWA. *Id.* § 11a.

222. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain as remedies monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the People pray that this Honorable Court:

a. Award judgment in Plaintiff's favor;

b. Declare that Drive filed false certified payroll at the Englewood STEM High School project;

c. Award back wages owed to Drive employees, including employees unlawfully misclassified by Drive, in the amounts they were underpaid, to be held in trust by the Attorney General for the benefit of such employees;

d. Assess a penalty of 20% of the total underpayments payable to the State;

e. Award Drive employees punitive damages of 2% of the penalty for each month following the date of the underpayments;

f. Award such relief as the court deems necessary to address Defendants' violations of the IPWA, including disgorgement of ill-gotten gains;

g. Prohibit Drive, including any entity owned or controlled by Drive or its owners or officers, or any entity for which any owner or officer of Drive serves as an officer or agent, from participating in any public works project for 4 years; and

h. Grant such other relief that the Court deems appropriate.

COUNT IV
Violations of Illinois Minimum Wage Law – Overtime
Against All Defendants

223. Each Defendant permitted employees to work in the business of construction for Drive.

224. The Accurate Entities, Gerardo Cortez, Eduardo Cortez, Jesus Cortez, Byrne, Guel, Infinity, Infinity FRG, Lovera-Rodriguez, R & L, Lara, and A Lara acted directly and indirectly in the interest of Drive in relation to employees performing services for Drive.

225. Defendants jointly employed individuals performing services for them.

226. Drive's and the Accurate Entities' employees worked in excess of 40 hours in many work-weeks.

227. Drive paid employees in cash or money orders for weeks when they worked in excess of 40 hours using the scheme described above.

228. The cash and money order payments did not include premium overtime pay for hours worked in excess of 40 hours in a workweek.

229. Defendants violated section 4a of the IMWL, 820 ILCS 105/4a(1), by failing to compensate employees for all time worked in excess of 40 hours in any workweek at a rate not less than one and one-half times the regular rate at which they were employed.

230. For violations committed before February 19, 2019, the IMWL provided for civil penalties under which employees may recover (1) the amount of the underpayments and (2) damages of 2% of the amounts of the underpayments for each month following the date of payment during which the underpayments remain unpaid. 820 ILCS 105/12(a) (2018).

231. For violations committed on or after February 19, 2019, the IMWL provides for civil penalties under which employees may recover (1) treble the amount of the underpayments and (2) damages of 5% of the amounts of the underpayments for each month following the date of payment during which the underpayments remain unpaid. 820 ILCS 105/12(a).

232. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain, as remedies, monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the People pray that this Honorable Court:

a. Award judgment in Plaintiff's favor;

b. Enter a judgment in the amount of all overtime wages and statutory damages due to employees to be paid to the Attorney General to be held in trust for the employees' benefit;

c. Award the appropriate amount of monthly prejudgment interest, as provided by the IMWL;

d. Award such relief as the court deems necessary to address Defendants' violations of the IMWL, including disgorgement of ill-gotten gains;

e. Enjoin Defendants from engaging in employment practices that violate the IMWL; and

f. Grant such other relief that the Court deems appropriate.

COUNT V
Violations of Illinois Minimum Wage Law – Records
Against All Defendants

233. Each Defendant permitted employees to work in the business of construction for Drive.

234. The Accurate Entities, Gerardo Cortez, Eduardo Cortez, Jesus Cortez, Byrne, Guel, Infinity, Infinity FRG, Lovera-Rodriguez, R & L, Lara, and A Lara acted directly and indirectly in the interest of Drive and the Accurate Entities in relation to employees of Drive and Accurate.

235. Defendants jointly employed individuals performing services for them.

236. Defendants failed to keep true and accurate records required by law, including the name, address, and occupation of each employee; the rate of pay and the amount paid each pay period to each Employee; the hours worked each day in each workweek by each Employee; the time of day and day of week when each Employee's workweek began; the basis on which wages were paid; additions and deductions from each Employee's wages for each pay period and an explanation of such additions and deductions; the type of payment (hourly rate, salary, commission, etc.); straight time pay and overtime pay and total wages paid each pay period; and

the dates of payment of each pay period covered by the payment. *See* 820 ILCS 105/8; 56 Ill. Admin. Code § 210.700.

237. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain as remedies monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the People pray that this Honorable Court:

a. Award judgment in Plaintiff's favor;

b. Order Defendants to submit to monitoring of their payment and record keeping practices;

c. Award such relief as the court deems necessary to address Defendants' recordkeeping violations of the IMWL, including disgorgement of ill-gotten gains; and

d. Grant such other relief that the Court deems appropriate.

THE PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL,
Attorney General of Illinois

Dated: September 1, 2022

By: /s/Alvar Ayala

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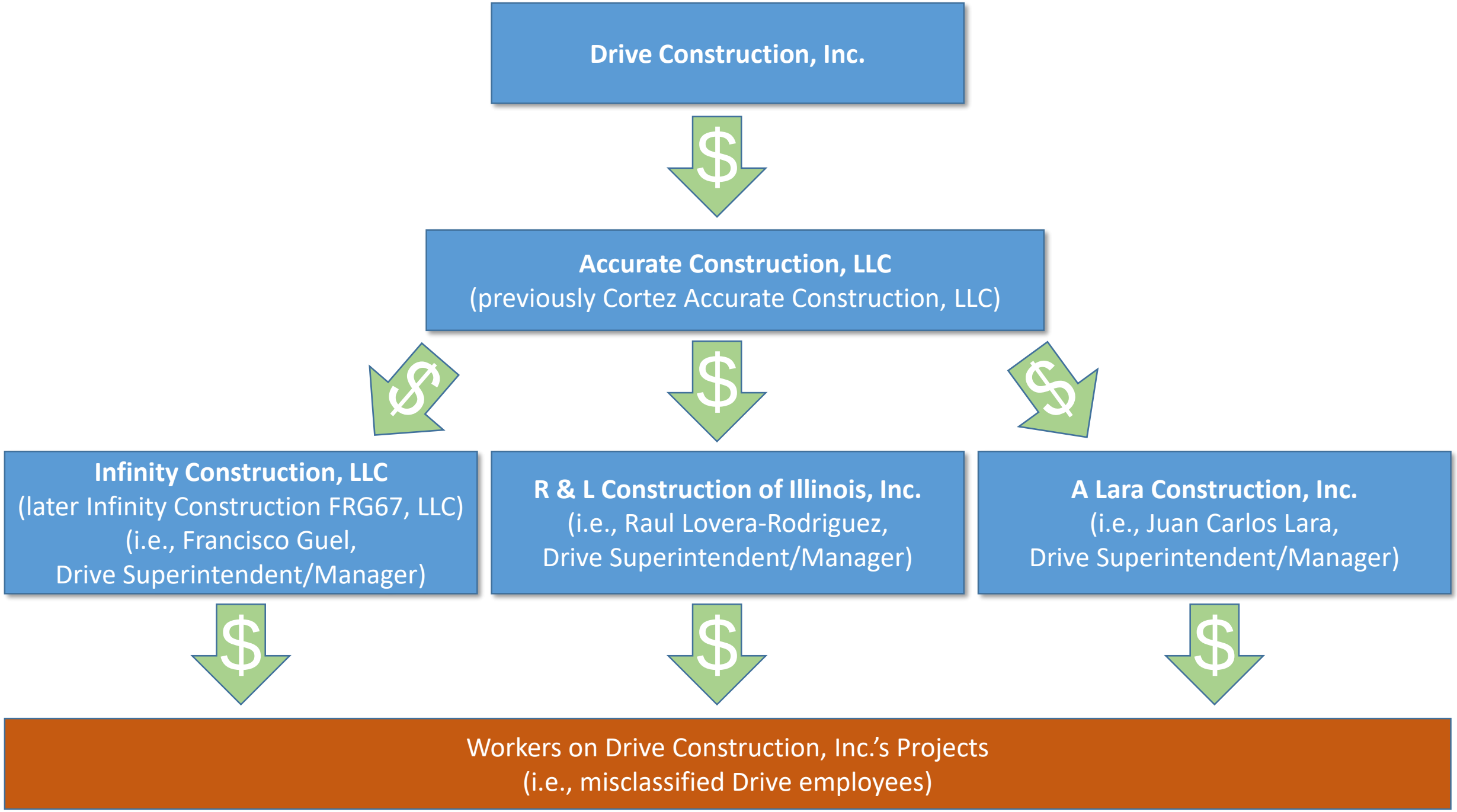

Drive Construction, Inc.
$
Accurate Construction, LLC
(previously Cortez Accurate Construction, LLC)
$
$
$
Infinity Construction, LLC
(later Infinity Construction FRG67, LLC)
(i.e., Francisco Guel,
Drive Superintendent/Manager)
R & L Construction of Illinois, Inc.
(i.e., Raul Lovera-Rodriguez,
Drive Superintendent/Manager)
A Lara Construction, Inc.
(i.e., Juan Carlos Lara,
Drive Superintendent/Manager)
$
$
$
Workers on Drive Construction, Inc.'s Projects
(i.e., misclassified Drive employees)

2022

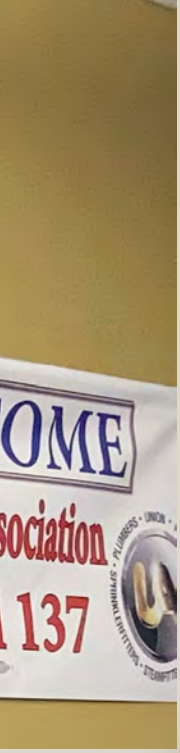
LABOR DAY REPORT

ILLINOIS ATTORNEY GENERAL'S OFFICE

2022 Labor Day Report
Office of the Illinois Attorney General

Attorney General Raoul speaks about the 2021 investigation of subcontractors at the Rivian facility in Normal to union members at the Statewide Building Trades Meeting on Feb. 16, 2022, at the UA Local 137 union hall in Springfield. More information about the investigation and resulting settlement can be found on page 5.

TABLE OF CONTENTS



A MESSAGE
FROM ATTORNEY GENERAL RAOUL

September 2022

Labor Day is when we honor workers in Illinois and across the country for their fundamental role in supporting our society. In the spirit of working people, I am proud to share our first Labor Day Report detailing the work that my office has done over the past two years to enforce labor-related laws and protect the people of Illinois.

One of my top priorities as Illinois Attorney General was to create the framework and secure the resources for a Workplace Rights Bureau to become a permanent fixture in the office. Through enabling legislation that my office initiated, the bureau has been able to use its enhanced authority to protect workers from a variety of different unscrupulous employment practices, as well as entering consent decrees to stop actions that have harmed workers and ensure that employers follow the law in the future. Since being formally added to the Attorney General Act in 2020, the Workplace Rights Bureau has collected over $1.4 million in owed wages and penalties. Attorneys and staff throughout the office also contribute to the bureau's work and the fight to ensure that working people receive their wages, are free from discrimination, and have a safe workplace.

Besides highlighting the investigatory and legal work of the bureau and the office in this report, I am also happy to announce that we are actively interacting with communities across Illinois through a formalized outreach program focused on workplace rights issues. I urge you to reach out to our office about hosting an outreach presentation by the Workplace Rights Bureau or if you have any questions about our efforts to protect workers across Illinois.

Finally, I want to especially thank all the workers, advocates, unions, organizations, and businesses that have reached out to the Workplace Rights Bureau. Your cooperation and partnership are key to our service to the State of Illinois. By working together, we can ensure a better Illinois for everyone.

Happy Labor Day!

Kwame Raoul
Attorney General

INTRODUCTION TO THE BUREAU

The Workplace Rights Bureau protects and advances the employment rights of all Illinois workers. While the bureau has been in place in the office for several years, it was codified into law as the Worker Protection Unit in 2020. That new law, Public Act 101-0527, amended the Illinois Attorney General Act to create the Worker Protection Unit within the Attorney General's office. This legislation also gave the bureau enhanced authority to enforce labor laws in Illinois. Besides being one of the many bureaus in the Attorney General's office, the Workplace Rights Bureau works with other state agencies, like the Illinois Department of Labor, and federal partners to protect Illinois workers. The bureau includes six attorneys and two professionals and is headquartered in Chicago with staff also serving in the office's main location in Springfield.

Besides the Workplace Rights Bureau, attorneys and staff from other divisions and bureaus of the Office of the Illinois Attorney General perform important functions to help working people. Attorneys from the Civil Appeals Division, which represents the state in both federal and state appellate courts, assist with multistate actions coordinated with attorneys general across the country. The Government Representation Division provides legal representation for the state and all state officers, boards, commissions, agencies, and employees in civil litigation involving their official capacity, handling thousands of case referrals each year. Within the Government Representation Division, the assistant attorneys general of the General Law Bureau represent the Illinois Department of Labor in federal district and circuit courts across Illinois. In addition, the office's Civil Rights Bureau also works in tandem with the Workplace Rights Bureau to address instances of alleged employment discrimination.

Attorney General Kwame Raoul leads a lawsuit to certify the Equal Rights Amendment is part of the U.S. Constitution. The ERA would strengthen laws that prohibit wage discrimination by sex and outlaw other types of sex discrimination.

WAGES

Working with the Illinois Department of Labor, Attorney General Raoul's Workplace Rights Bureau investigates and files lawsuits for systemic and widespread violations of wage laws in Illinois, including the Minimum Wage Law, the Prevailing Wage Act, and the Illinois Wage Payment and Collection Act.

By returning unpaid wages to affected workers, the Attorney General's Workplace Rights Bureau ensures that Illinois workers are properly compensated for their labor. This work also affirms the practices of law-abiding business, so that employers who follow Illinois labor laws are not at a competitive disadvantage against

employers who provide services for a lower cost by violating Illinois' wage laws and hurting workers. Furthermore, through this work, the bureau ensures employers make the required federal and state deductions on paid work, contributions that are vital for providing services at all levels of government.

NOTABLE WORK

Holding Construction Subcontractors Accountable for Failure to Pay Overtime Wages: In December 2021, Attorney General Raoul announced settlements with construction subcontractors building a new production line for Rivian Automotive Inc. (Rivian) that resolve a joint investigation by the Attorney General's office and the Illinois Department of Labor (IDOL). The settlements require the chain of subcontractors to pay nearly $390,000 in back wages and penalties to resolve allegations that they failed to pay Mexican laborers for overtime worked. The joint investigation conducted by the Attorney General's office and IDOL revealed that a chain of subcontractors hired to construct Rivian's new production line in Normal, Illinois, failed to pay overtime wages to workers at the site. The settlements require China-based Guangzhou Mino Equipment Co.; Spain-based IT8 Software Engineering S.L.; and Mexico-based LAM Automation – along with the companies' related entities – to pay owed overtime wages and civil penalties to workers who were denied overtime wages they earned, and to meet reporting requirements with the Attorney General's office.

"I applaud Attorney General Raoul, his staff, and the Department of Labor for their efforts and findings of the exploitation of workers by three subcontractors at the Rivian plant."

Mike Raikes, Business Manager
IBEW Local 197

Recovering Overtime Wages for Roofers: In May 2021, the Workplace Rights Bureau filed a consent decree with Star Roofing and Siding Inc. that requires the company to pay $101,000 in owed overtime pay to employees. The Workplace Rights Bureau initiated the investigation after workers were referred to the bureau by Roofers and Waterproofers Local 11. The Attorney General alleged that for years, Star Roofing and Siding failed to pay nine of its roofing employees overtime wages at time and a half their regular rate for all time worked in excess of 40 hours per week in violation of the Minimum Wage Law. Under the consent decree, the company must maintain and provide pay records for workers to ensure that workers know their rate of pay and the amount of hours worked each week. The consent decree also requires the company to keep GPS

"Far too many times employees at Star Roofing have not been paid for all time worked.

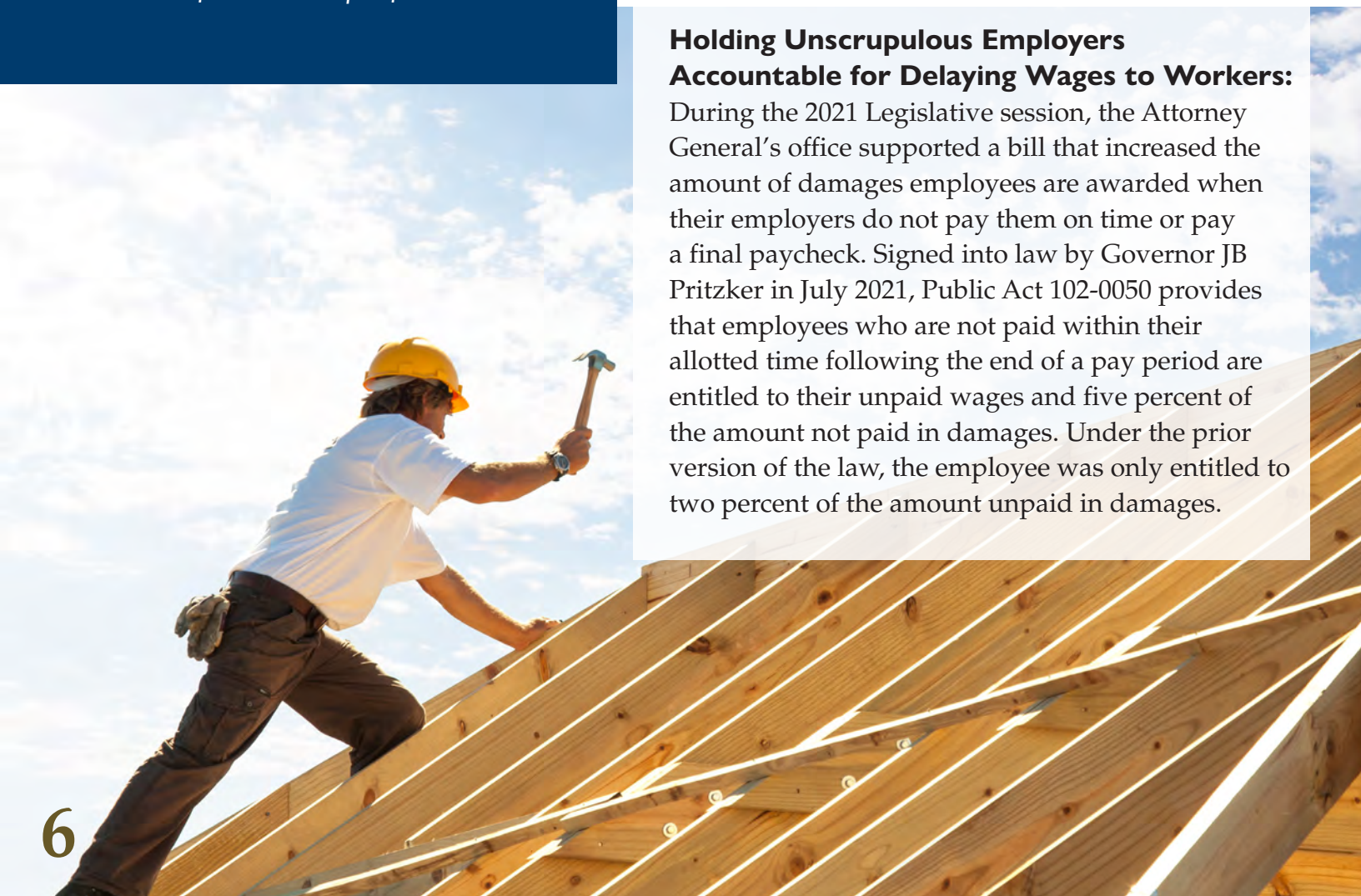
I applaud the workers who stood up for their rights, and I applaud the Attorney General's office for prosecuting bad employers. In these tumultuous times it is good to see that justice can still prevail."

Gary Menzel, President
Roofers and Waterproofers Local 11

records for all its vehicles and detailed records about the crew members' travel in each vehicle to deter workers from being paid off-the-books.

Protecting Tipped Workers: The Attorney General's office teamed up with the Pennsylvania Attorney General's office to lead a lawsuit against the U.S. Department of Labor (USDOL) over a proposed rule which would have permitted employers to pay tipped employees less than minimum wage for non-tipped work. For several decades, tipped wage workers could only spend up to 20 percent of their time performing non-tipped work such as cleaning while being paid the tipped rate. USDOL proposed eliminating this rule. The Illinois and Pennsylvania attorneys general offices led a coalition of nine attorneys general to file suit against USDOL to block the rule from being implemented. Ultimately, USDOL withdrew its proposal that would have harmed workers receiving tips.

Holding Unscrupulous Employers Accountable for Delaying Wages to Workers: During the 2021 Legislative session, the Attorney General's office supported a bill that increased the amount of damages employees are awarded when their employers do not pay them on time or pay a final paycheck. Signed into law by Governor JB Pritzker in July 2021, Public Act 102-0050 provides that employees who are not paid within their allotted time following the end of a pay period are entitled to their unpaid wages and five percent of the amount not paid in damages. Under the prior version of the law, the employee was only entitled to two percent of the amount unpaid in damages.



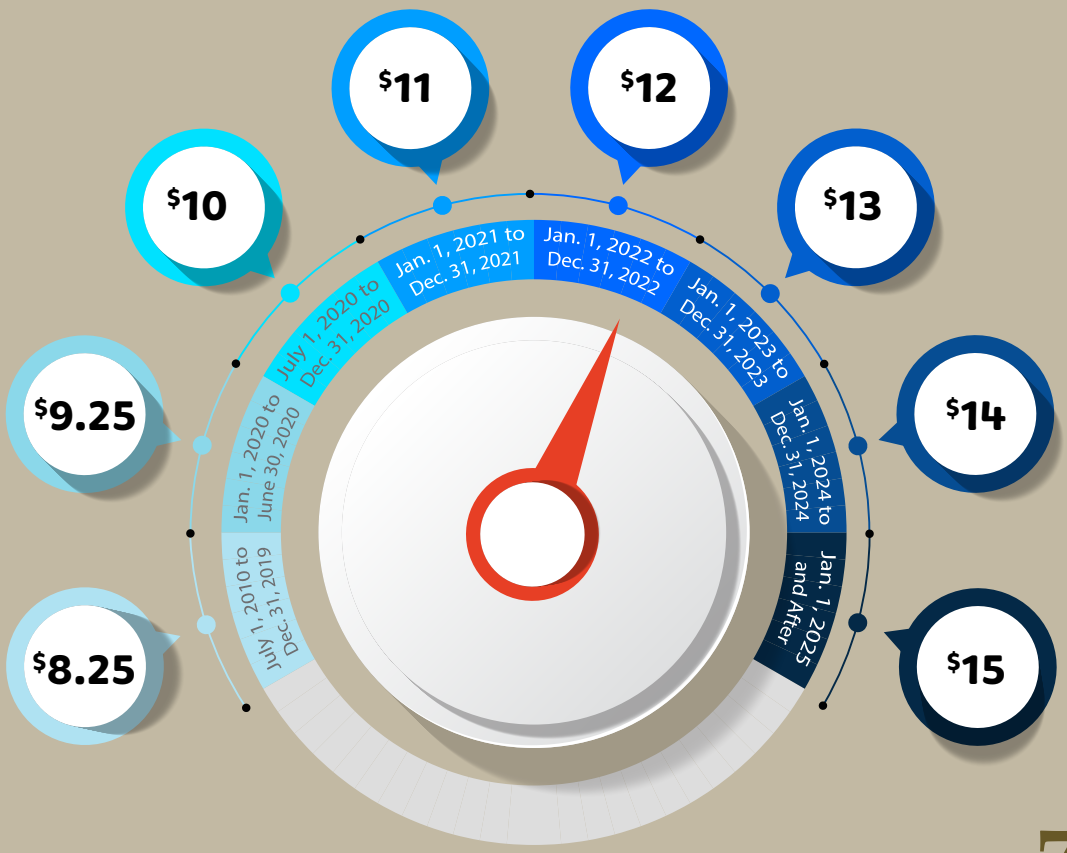
Supporting Hourly Workers in Litigation: The Workplace Rights Bureau and the Illinois Department of Labor (IDOL) worked together to file an amicus brief for a case called Mercado v. S&C Electric Company. In this case, hourly factory assembly workers argue that their employer should include bonus payments when calculating their baseline pay rate, which subsequently impacts the value of their overtime hourly wage. The Attorney General's office and IDOL argue in their brief filed in the Illinois Appellate Court that employers generally must include all employee compensation – not just hourly compensation – when calculating the baseline pay rate and that an employer cannot pay workers in non-hourly wages and then claim the payment is a gift. Litigation on this matter is still pending.

Collecting from Alleged Labor Law Violators: On behalf of the Illinois Department of Labor (IDOL), the office is pursuing more than $850,000 in unpaid wages and penalties on behalf of 93 former employees. These matters were referred to the Attorney General's office pursuant to Executive Order 2019-02, which requires IDOL to refer the Attorney General's office all pending wage claim cases involving egregious and repeated violations of the law. Litigation is pending.

Between November 2020 to June 2022, the General Law Bureau has recovered $911,596.80 in unpaid wages and penalties based on its referrals from IDOL.

Illinois Minimum Wage Law to Increase Annually Until 2025

In February 2019, Gov. JB Pritzker signed SB 1, which amended the Minimum Wage Law to increase the minimum wage from $8.25 to $15 by January 1, 2025. The Workplace Rights Bureau, along with the Illinois Department of Labor, investigates violations of the Minimum Wage Law and when appropriate, brings actions against employers who violate the law by paying their employees less than the state's minimum wage.



NON-COMPETES, NO POACH, AND FREEDOM TO WORK

The Workplace Rights Bureau protects the ability of workers to find work and earn higher wages through its work on highly restrictive non-compete agreements and preventing companies from entering in to "no-poach" agreements that prevent workers from getting jobs with other employers. Non-compete agreements restrict workers freedom to work for a competing employer. While non-compete agreements were designed to stop high-level employees with trade secrets or knowledge about the inner workings of a company from going to work for a competitor, many employers use them to stop low-wage workers from seeking other employment. As a result, workers are unable to seek alternative employment that may offer higher wages, better working hours, and improved working conditions.

Similarly, "no-poach" agreements are entered into by companies to prevent two or more companies from hiring each other's workers. These agreements are sometimes used in the temporary staffing industry, where the goal is to suppress wages for workers and prevent competition between agencies. For low-wage workers, no-poach agreements can have a devastating effect on a worker's ability to improve their employment circumstances by getting another job.

Pictured is the Illinois State Capitol dome in Springfield as seen from the center of the first floor of the rotunda. The Illinois State Capitol hosts the Illinois General Assembly, which passed Senate Bill 672 to amend the Illinois Freedom to Work Act.

NOTABLE WORK

Fighting No-Poach Agreements and Fixing Wages in the Temporary Staffing Industry:
In July 2020, the Workplace Rights Bureau and the Attorney General's Antitrust Bureau filed a lawsuit against three temporary staffing companies — Elite Staffing Inc., Metro Staff Inc., and Midway Staffing Inc. — and their client company, Colony Inc. The lawsuit alleges that the three staffing agencies formed an unlawful agreement to refuse to solicit or hire the other's employees and fix the wages paid to their employees. Colony allegedly facilitated the agreement by acting as a go-between to communicate about the agreement and assist in enforcing the no-poach agreement. What this meant for workers is that they earned a lower wage than they would have in a competitive market, and they were limited in seeking better employment opportunities to support themselves and their families.

In June 2022, the bureaus and the Attorney General's Civil Appeals Division were able to secure an initial victory in this case, as the Illinois Appellate Court ruled that staffing agencies are not exempt from the Illinois Antitrust Act's coverage. Litigation on the matter is still pending. The bureaus are seeking civil penalties and damages in this case, as well as an order from the court to stop the illegal agreements.

More Workers Affected by No-Poach Agreements: In June 2022, the Workplace Rights Bureau and the Antitrust Bureau filed a similar lawsuit against another group of temporary staffing agencies and their client company. The complaint was filed in Cook County Circuit Court against Alternative Staffing Inc., American Quest Staffing Solutions Inc., Creative Staffing Solutions Inc., Midway Staffing Inc., Staffing Network LLC, and SureStaff Inc., as well as their client, Vee Pak LLC, doing business as Voyant Beauty. These six staffing agencies allegedly formed an unlawful "no poach" agreement through which they refused to hire each other's employees. The lawsuit also alleges that the client company Vee Pak LLC facilitated the no-poach agreement by acting as a go-between for the staffing agencies and assisting in enforcing the agreement. Litigation in this matter is pending.

Ending International Staffing Company's Anticompetitive Practices: In May 2022, the office announced a settlement agreement with Sodexo Inc. (Sodexo) under which the company agreed to end its use of "no-hire" clauses in contracts with clients. The clauses ultimately restricted the rights of Sodexo's employees, without their knowledge, to seek employment beyond Sodexo.

"We believe that these kinds of agreements are regularly happening between staffing agencies and employers, but it can be hard for workers to prove it. We are glad Attorney General Raoul was able to put the pieces together and take action, and we hope this sends a message to staffing agencies to stop with these agreements that lower workers' pay and benefits."

Jose Frausto, Director
Leadership and Advocacy
Chicago Workers Collaborative

Limiting the Use of Non-Compete Agreements to only Higher Earning Employees: During the 2021 Legislative session, Illinois legislators passed a bill to better protect Illinois workers from highly restrictive non-compete and non-solicitation agreements. Senate Bill 672 amended the Illinois Freedom to Work Act by prohibiting non-compete agreements from being enforceable for workers who earn less than $75,000 annually and non-solicitation agreements from being enforceable for workers who earn less than $45,000 annually. The office was able to secure statutory authority to investigate and initiate action against alleged offenders. Senate Bill 672 was signed into law as Public Act 102-0358 and became effective January 1, 2022.

EMPLOYMENT DISCRIMINATION

Illinois workers have the right to work in a place free of discrimination, and the Attorney General's Workplace Rights Bureau works with the Illinois departments of Labor and Human Rights and the office's Civil Rights Bureau to investigate and litigate cases where workers are discriminated against because of their race, ethnicity, sex or any other class protected by the Illinois Human Rights Act. Since November 2020, the Workplace Rights Bureau has filed consent decrees with six companies over alleged discrimination with companies that violated Illinois' employment discrimination laws.

Employees who experience employment discrimination are less likely to be hired and promoted, tend to be paid less and face more severe sanctions than their counterparts. The Workplace Rights Bureau is dedicated to stopping workplace discrimination and ensuring that all people have equal opportunity in their place of employment.

"Using temporary staffing agencies to engage in race-based discrimination unfairly keeps entire communities out of the labor market and denies them the opportunity earn a fair wage. I am committed to taking action to stop pervasive discrimination wherever we find it."

Attorney General Kwame Raoul
Announcing the consent decree with Mistica Foods and Specialized Staffing

Attorney General Raoul speaks to Gov. JB Pritzker at a legislative breakfast in the Helen Radigan Hall at the Attorney General's office in Springfield.

NOTABLE WORK

Preventing Discrimination Based on Sex: In April 2021, the Workplace Rights Bureau filed consent decrees with Alternative Staffing Inc., a temporary staffing company, and three companies which utilized temporary staffing agencies to source their workforce — Fibre Drum Sales Inc., DSI Holdings Corp., and Amylu Foods LLC. The consent decrees were the result of a lawsuit the Workplace Rights Bureau filed against the companies. The Workplace Rights Bureau alleged that the companies assigned workers to positions based on gender stereotypes, assigning codes to mask the discrimination. The consent decrees require the companies to assign tasks based on a worker's ability to complete the task, not their sex, to educate workers on sex-based discrimination and prevent future discrimination, and to pay $280,000 in civil fines.

Stopping Race Discrimination in Hiring for Temporary Staffing: The Workplace Rights Bureau filed a consent decree with Mistica Foods and Specialized Staffing, a temporary staffing company, to resolve a complaint alleging that the companies discriminated against Black workers. The Attorney General's office alleged that Mistica instructed Specialized Staffing not to assign Black workers to work in various roles at its factories and that Specialized complied with these requests. The consent decree requires the companies to take steps to increase their Black employment, including advertising open positions to predominantly Black communities, tracking workers' races, and requiring all employees to undergo bias trainings. Collectively, Specialized Staffing and Mistica also paid $450,000 in civil penalties.

Attorney General Raoul crosses a stage at the 2022 Equality Illinois Gala on Feb. 5, 2022, at the Hilton Chicago.The office helps enforce prohibitions against discrimination based on sexuality and gender identity under the Illinois Human Rights Act..

Attorney General Raoul speaks to a crowd at the Construction Industry Service Corporation's (CISCO) Annual Meeting on March 11, 2022, in Schaumburg. Attorney General Raoul was the event's keynote speaker and discussed the investigation and enforcement efforts of the Workplace Rights Bureau.

Protecting Immigrants Working in the United States: The Attorney General's office has worked with attorneys general from across the nation to protect the rights of immigrants working in the United States. In December 2020, Attorney General Raoul joined a coalition of 16 attorneys general to submit a comment letter to the U.S. Department of Homeland Security (DHS) to oppose a proposed rule that would eliminate work authorization for nearly all immigrants who are released from DHS custody under orders of supervision. In November 2021, Raoul joined a coalition of attorneys general and state and local labor enforcement agencies in advocating DHS to change its worksite enforcement practices to support enforcement of wage protections, workplace safety, labor rights, and other employment laws and standards.

Affirming Transgender Rights in the Workplace: In August 2021, the Illinois Appellate Court ruled in favor of the Attorney General's client, the Illinois Human Rights Commission, in Hobby Lobby v. Sommerville, reaffirming the workplace rights of transgender individuals under the Illinois Human Rights Act. In 2013, Meggan Sommerville, a transgender woman, filed complaints with the Commission, alleging that her employer, Hobby Lobby, discriminated against her on the basis of gender identity when she was prohibited from using the women's restroom. The Commission ruled in favor of Sommerville, awarding her $220,000 in damages and required Hobby Lobby to grant her access to the women's restroom. Hobby Lobby appealed to the Appellate Court, where the office's Civil Appeals Division represented the Commission.

Pregnant Women in the Workplace: The Attorney General's office also joined a coalition of attorneys general to call on the U.S. Senate to pass the Pregnant Workers Fairness Act. This act would expand on the Pregnancy Discrimination Act and the Americans with Disabilities Act to permit pregnant individuals to request reasonable accommodations at work without worry of retaliation. The bill has passed the House and awaits a vote in the U.S. Senate.

Protecting Workers from Sexual Harassment: The Workplace Rights Bureau initiated an investigation and reached a consent decree with Voyant, a beauty product packaging facility, after management failed to act on sexual harassment complaints from female workers and retaliated against those who had made complaints. The consent decree, which was entered in conjunction with a lawsuit filed in August 2020, requires Voyant to end its practice of retaliating against workers who file sexual harassment complaints and modify its practices to prevent any future sexual harassment, including training for employees. The consent decree also requires the appointment of a monitor for a two-year period to ensure compliance with the consent decree. The monitor is funded by the $85,000 in penalties paid by Voyant.

Calling on Workplaces to Improve Working Conditions: In April 2022, Attorney General Raoul joined a coalition of attorneys general to send a letter to the National Football League about reports of a hostile workplace culture that included sexual harassment, targeted retaliation, and harmful stereotyping. Raoul and the coalition urged the NFL to explain this continued inaction to address these issues, which may violate local, state and federal anti-discrimination laws and warned that they will use the authority of their offices to investigate and prosecute all allegations of harassment, discrimination or retaliation by employers.

MISCLASSIFICATION

Worker misclassification occurs when workplaces treat workers — intentionally or otherwise — as independent contractors when the nature of their work and relationship with their employer indicates that the worker is actually an employee. When employers misclassify their workers, workers lose access to important worker protections, including wage and anti-discrimination protections, and are denied access to worker benefits, including workers' compensation and unemployment insurance. They also are required to pay the employer's contribution to Social Security and Medicare.

The Attorney General's Workplace Rights Bureau uses the Employee Classification Act to protect workers against companies which engage in worker misclassification in the construction industry. Since November 2020, the Attorney General's office has worked with the Illinois Department of Labor and other attorneys general to advocate for stronger worker classification rules both on the state and federal levels.

NOTABLE WORK

Advocacy for Federal Rules Preventing Misclassification: The Attorney General's office joined a coalition of states to file a brief encouraging the National Labor Relations Board to adopt a more worker-protective standard for determining whether a worker is an employee or an independent contractor. This standard would overturn a 2019 standard which permitted employers to classify workers as independent contractors if they could show that workers had the ability to run a similar, independent business.

Ensuring Illinois Law Protects Workers in Illinois: Attorneys from the Solicitor General's office and the Workplace Rights Bureau worked together to file an amicus brief with the U.S. Court of Appeals for the 7th Circuit in a case called Johnson v. Diakon Logistics. In this case, delivery drivers working out of warehouses located in Romeoville and Granite City had filed suit against their employer, claiming that the employer had violated the Illinois Wage Payment and Collection Act. The employer challenged the claims of the drivers, arguing in part that the Act should not apply because the employment agreements selected Virginia law to govern the contract. The District Court sided with the employers. In its brief supporting the drivers' appeal, the Attorney General's office argued against the use of contractual provisions that would allow employers doing business in Illinois to circumvent the important protections codified in the Illinois Wage Payment and Collection Act. The case is still awaiting an opinion from the 7th Circuit.

FISSURED WORKPLACE

In recent years, many companies have organized into "fissured workplaces." In fissured workplaces, companies hire subcontractors, temporary agencies, or use other avenues to avoid being the main employer of their workers. Because there are extra layers between the main employer and the workers, low-level employees tend to get paid less and have fewer benefits. Beyond that, it is more difficult to ensure that companies in fissured workplaces are following workplace standards because it can be difficult to apply liability to the correct organization.

The Workplace Rights Bureau has worked with the Illinois Department of Labor and other attorneys general to advocate for stronger protections for workers and also to address the need for all workers to be protected by laws that prevent discrimination and allow workers to access benefits.

NOTABLE WORK

Supporting State Joint Employment Rule: The Workplace Rights Bureau submitted a letter in support of the Illinois Department of Labor's (IDOL) proposed joint employer rule and testified at IDOL's public hearing on the proposal. "Joint employment" is a critical area of the law that focuses on the determination of who is considered an employer for purposes of protecting the rights of workers. This state rule codified a standard for determining when an employer is responsible to cover workplace protections for the workers under its direction and control. The rule improves both guidance to employers and facilitates enforcement of the Minimum Wage Law. The rule took effect on January 21, 2022.

Defending the Workers' Rights Amendment: The office is defending the inclusion of a ballot measure for the November 2022 election approved by the Illinois General Assembly to ask voters whether the Illinois Constitution should be amended to include a "Workers' Rights Amendment." The proposed amendment would add a new section to the Illinois Constitution granting employees the fundamental right to organize and bargain collectively through representatives of their own choosing for the purpose of negotiating wages and hours, working conditions, and to protect their economic welfare and safety at work. The proposed amendment also provides that no law shall be passed that interferes with, negates, or diminishes the right of employees to organize and collectively bargain, including any law or ordinance that prohibits application of agreements between employers and labor organizations that represent employees requiring membership in an organization as a condition of employment.

In June 2022, a Sangamon County Circuit Court judge dismissed a lawsuit attempting to remove the proposed amendment from the November 2022 ballot. The case is pending on appeal, and a decision is anticipated before the November 2022 election.

LEADING MULTISTATE COALITIONS/NATIONAL ADVOCACY

Attorney General Raoul shakes hands with former California Attorney General Xavier Becerra before meeting with advocacy organizations about federal immigration policy. Becerra, now U.S. Secretary of Health and Human Services, frequently collaborated with Attorney General Raoul on national workers' rights multistate actions.

The Attorney General's office works with other attorneys general throughout the United States to advocate for workers' rights at the national level. The office frequently sends letters to Congressional leadership promoting passage of new laws that would benefit workers and files comments with executive agencies in support of rules which would strengthen workers' rights. When laws and rules that damage workers' rights are proposed or implemented, the office works with other attorneys general to file lawsuits against the federal government or amicus or "friend of the court" briefs in support of workers.

NOTABLE WORK

Advocating for Workplace Transparency: The Attorney General's office led a coalition of 18 attorneys general to file an amicus brief before the U.S. Supreme Court, asking it to affirm a lower court's ruling that transportation workers who load and unload interstate cargo are exempt from the Federal Arbitration Act (FAA). The case, Southwest Airlines Co. v. Saxon, was brought by Latrice Saxon, a ramp agent supervisor at Midway Airport, and involved the question of whether cargo workers fall within the FAA's exemption for transportation workers. The attorneys general argued that states have an interest in ensuring that disputes involving transportation workers are resolved publicly, not in confidential arbitration proceedings. In June 2022, the U.S. Supreme Court unanimously ruled in favor of Latrice Saxon. The decision preserved important rights for cargo workers in Illinois and across the county.

Calling for a Higher Minimum Wage for Federal Contractors: In May 2022, the Attorney General's office led coalitions of attorneys general to file amicus briefs in two district courts and the U.S. Court of Appeals for the 10th Circuit supporting the federal government's decision to increase the minimum wage to $15 per hour for certain federal contractors. Attorney General Raoul and the coalitions argued that an increased minimum wage leads to improved morale and productivity for workers, as well as improved service and enhanced consumer experiences. Attorney General Raoul also joined a coalition of 16 attorneys general in defense of state minimum wage protections for employees of federal contractors, arguing that selling goods or services to the federal government does not exempt a private employer from a state's minimum wage or other wage and hour laws. Litigation on these matters is pending.

Support for Modernizing Labor Laws: The Attorney General's office also joined a coalition of 17 attorneys general to send a letter to U.S. Senate leadership urging the chamber to pass the Protecting the Right to Organize (PRO) Act. The PRO Act would strengthen and modernize the National Labor Relations Act by prohibiting actions that dissuade unionization and permit employers and unions to charge "fair share" fees to non-members covered by a union agreement. The bill has passed the House and awaits a vote in the U.S. Senate.

"People have a right be paid fair wages for the work they do, even if they are working for a federal contractor and even if they are working during confinement."

-Attorney General Kwame Raoul
Announcing the 10th Circuit amicus brief in May 2022.

WORKPLACE SAFETY

Employees deserve safe working environments. The Attorney General's office also advocates for workplace safety. Under state and federal law, employees have a right to work in a safe workplace. While the federal Occupational Health and Safety Administration is responsible for investigating safety issues in private workplaces in Illinois, the Attorney General's office works with other attorneys general to promote stronger workplace safety standards at the federal level.

NOTABLE WORK

Promoting Transparency on Workplace Safety: In June 2022, Attorney General Raoul joined a coalition of 16 attorneys general to support a rule proposed by the federal Occupational Safety and Health Administration (OSHA). The proposed OSHA rule would require many employers to report significantly more detailed information about workplace injuries and illnesses to OSHA and would make that information publicly available. The attorneys general write that the new rule will empower workers, encourage the improvement of working conditions, and provide for added transparency. As the letter observes, transparency will help state regulators more effectively enforce state labor and safety laws and address workplace hazards, while at the same time increasing understanding of occupational dangers among job seekers, researchers, the general public, and others. The proposed rule making is pending.

Protecting Workers from Retaliation When They Raise Safety Concerns: In June 2022, Attorney General Raoul led a collation of 15 attorneys general in supporting New York Attorney General Letitia James and her lawsuit alleging that Amazon failed to take adequate health and safety precautions for workers at its New York facilities during the COVID-19 pandemic and that the company unlawfully disciplined employees for protesting unsafe working conditions. In 2021, New York filed a lawsuit alleging retaliation claims against Amazon for firing one worker and disciplining another after they complained about the lack of health measures at an Amazon facility to prevent the spread of COVID-19. In May 2022, a New York state appellate court dismissed James' lawsuit. The court ruled that, because the disciplined employees had participated in protests that the court viewed as linked to a unionization drive, New York's retaliation claims were preempted by the National Labor Relations Act (NLRA).

The amicus brief filed by the Illinois Attorney General's office argues that ruling significantly expands the scope of claims that are preempted by the NLRA, which would diminish the reach of state protections for workers. The ruling by the New York appellate court could deprive state attorneys general of the authority to address retaliation when an employer fires or disciplines a worker for joining with others to report workplace misconduct. Litigation on this matter is pending.

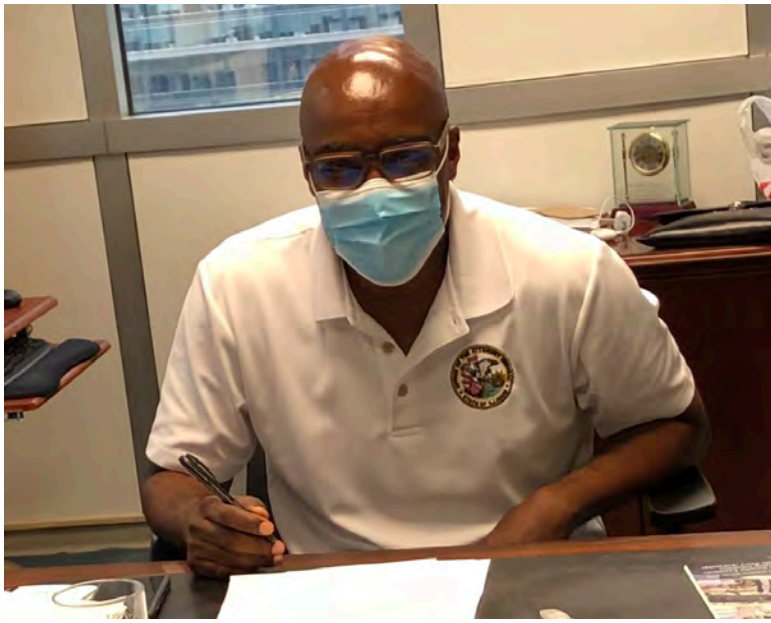
Protecting First Responders from Toxic Chemicals: Attorney General Raoul worked with a coalition to defeat attempts to undo protections for first responders in dealing with chemical plants and other large facilities that use or store toxic chemicals. In January 2020, the office joined with 15 attorneys general and the city of Philadelphia in filing a lawsuit against the U.S. Environmental Protection Agency (EPA) for rolling back safeguards to prevent and limit damage from dangerous chemical accidents The lawsuit challenges the EPA's rollback of Obama-era amendments to its "Risk Management Program" (RMP) regulations, referred to as the Chemical Disaster Rule. This rule made critical improvements to the RMP to better safeguard against explosions, fires, poisonous gas releases, and other accidents at facilities that store and use toxic chemicals. Safety review and coordination with local first responders before chemical releases, fires, or explosions at such plants is critical both for the safety of the first responders, facility employees, and the community at large. The EPA is expected to publish a new rule in September 2022.

Fighting Against Rollback of Protections from Pesticide Poisoning: In December 2020, Attorney General Raoul joined four other attorneys general to file a lawsuit against the U.S. Environmental Protection Agency (EPA) for rolling back a previously implemented rule to protect farmworkers, their families, and others from toxic pesticides. Before the lawsuit, the office had filed comments on the rule change as part of a coalition of attorneys general to raise concerns about how the rule change would weaken protections against human exposure to pesticides when those harmful pesticides are applied on farm fields.

In the lawsuit filed in the Southern District of New York, Attorney General Raoul and the coalition argued that the EPA violated federal law when it adopted a regulation that allows pesticide spraying to continue even if farmworkers or other persons are within the area immediately surrounding the spraying equipment, if that area is outside the farm's boundaries. As a result of this lawsuit, the EPA rule has been stayed. Due to the office's litigation efforts, in May 2022, the EPA formally acknowledged that the rule's effectiveness has been stayed by a federal court.

Taking Action to Prevent Future Exposures to Aerial Pesticides: In May 2022, the Springfield Environmental Bureau filed a complaint with the Illinois Pollution Control Board against two related aerial pesticide application companies that provide cropdusting services. In August 2019, these companies operated a plane that flew over a field in DeWitt County and allegedly sprayed multiple agricultural workers. The cropduster purportedly was targeting a nearby soybean field. Ultimately, at least 17 workers sought medical attention after reporting various exposure symptoms. Through its action before the Illinois Pollution Control Board, the Attorney General's office is seeking an order requiring the companies to cease and desist from future violations and to pay civil penalties. Litigation on this matter is pending.

COVID-19 Workplace Safety: During the COVID-19 pandemic, the Workplace Rights Bureau launched a phone hotline and email inbox for constituents with COVID-19 related workplace safety concerns. Since these resources became available, attorneys and staff contacted hundreds of employers in an effort to achieve their compliance with the Governor's executive orders and state safety guidance related to the pandemic.



Attorney General Raoul returns to work after recovering from COVID-19 in 2020. The Workplace Rights Bureau offered guidance and help to workers and employers who sought out assistance in complying with state and federal safety guidance.

OUTREACH

While the Workplace Rights Bureau is dedicated to investigating alleged violations of Illinois' worker protection laws, the bureau has several important partners who help identify instances where workers may be harmed by workplace rights violations. Worker Centers, unions, businesses, advocacy organizations, and workers across Illinois help identify bad actors, assisting the Workplace Rights Bureau in its important mission. To ensure that workers know their rights, the Workplace Rights Bureau has made efforts to reach out to these stakeholders and educate them on what is a violation of Illinois' worker protection laws and how they can report it. Since November 2020, the Attorney General's office has made targeted outreach to unions, worker organizations, and other organizations. The bureau also works to form and sustain partnerships with other state and federal governmental entities to further each other's enforcement efforts to protect workers and law-abiding businesses.

Attorney General Raoul shakes hands with Illinois Labor History Society Southern Region Vice President Mike Matejka at the LaSalle County Workers' Memorial Day event on April 28, 2022, in Marseilles.

NOTABLE WORK

Reaching out to Unions to Promote Enforcement of Labor Laws: In February 2022, Attorney General Raoul spoke to labor leaders at the Statewide Building and Construction Trades Meeting about the Workplace Rights Bureau and its investigation of alleged violations of the Minimum Wage Law at the Rivian plant in Normal. Attorney General Raoul highlighted how the bureau opened the investigation after receiving information from IBEW Local 197 and how organizations like labor unions can identify and notify the Attorney General's office of violations of Illinois' worker protection laws. Representatives of the Workplace Rights Bureau continued to attend the Statewide Building and Construction Trades Meeting and other regular meetings of other labor organizations to provide updates on the bureau's work and to answer questions.

Supporting Worker Organizations Fighting Against Discrimination: Attorney General Raoul spoke at a February 2021 event held by Chicago-area workers' rights organizations to highlight discriminatory practices within the temporary employment industry that negatively impact Black and Latino workers. The Attorney General highlighted the Workplace Rights Bureau and said that the findings of a report compiled by the Chicago Workers Collaborative and Warehouse Workers for Justice show the importance of taking legal action against employers who violate state laws about fair hiring.

Understanding Criminal Enforcement For Labor Violations: In November 2021, Attorney General Raoul and the Worker Protection Unit Task Force held a meeting with Pennsylvania Attorney General Josh Shapiro and Philadelphia Assistant District Attorney Danielle Newsome. Shapiro and Newsome discussed their experiences in prosecuting wage theft and other workers' right violations under Pennsylvania's criminal wage theft statutes and how their offices work with other prosecutors, law enforcement officials, unions, businesses and worker groups throughout the state to investigate criminal violations of worker statutes.

Creating a Workplace Rights Bureau Outreach Program: Workplace Rights Bureau attorneys and staff developed an outreach program to educate Illinois residents and organizations about the role of the bureau in protecting Illinois workers from violations of Illinois labor laws, such as misclassification and wage theft, and for the public to learn more about how the bureau operates. Representatives of the Workplace Rights Bureau participated in a Workers' Rights Virtual Seminar hosted by Rep. Jay Hoffman for constituents of the 113th House District. The Chief of the Workplace Rights Bureau was also a featured speaker at the Prevailing Wage Seminar hosted by the Illinois, Indiana, Iowa Foundation for Fair Contracting in April 2022.

Attorney General Raoul speaks during the release of the Chicago Workers Collaborative and Warehouse Workers for Justice's report "Opening the Door: Ending Racial Discrimination Through Innovative Enforcement." The Attorney General discussed how employers are increasingly hiring workers through temp agencies and how research like this is helpful to his office's investigations.

Honoring Labor History and Workers' Memorial Day: In April 2022, the Attorney General joined LIUNA Local 393 in Marseilles to unveil a new memorial commemorating a union member who was killed in a protest 90 years ago. The Attorney General spoke to a crowd of about 100 union members and area residents about the worker of the Workplace Rights Bureau and its continued investigation and enforcement efforts.

RESOURCES

OFFICE OF THE ILLINOIS ATTORNEY GENERAL

Chicago Main Office
100 W. Randolph St.
Chicago, IL 60601
TTY: 800-964-3013

Springfield Main Office
500 S. Second St.
Springfield, IL 62701
TTY: 877-844-5461

Carbondale Main Office
601 S. University Ave.
Carbondale, IL 62901
TTY: 877-675-9339

Chicago

Springfield

Carbondale

Workplace Rights Bureau
Hotline: 844-740-5076
Email: workplacerights@ilag.gov
www.illinoisattorneygeneral.gov/rights/labor_employ.html

Civil Rights Bureau
Hotline: 877-581-3692
Email: civilrights@ilag.gov
www.illinoisattorneygeneral.gov/rights/civilrights.html

Disability Rights Bureau

Chicago Hotline: 312-814-5684
Chicago TTY: 800-964-3013

Springfield Hotline: 217-524-2660
Springfield TTY: 877-844-5461

Email: disability.rights@ilag.gov
www.illinoisattorneygeneral.gov/rights/disabilityrights.html

ILLINOIS DEPARTMENT OF LABOR

Springfield Office
524 S. 2nd St., Suite 400
Springfield, IL 62701
Phone: 217-782-6206

Chicago Office
Michael A. Bilandic Building
160 N. LaSalle St. - 13th Floor
Chicago, IL 60601
Phone: 312-793-2800

Marion Office
Regional Office Building
2309 W. Main St.
Marion, IL 62959
Phone: 217-782-6206

Email: DOL.Questions@Illinois.gov
www2.illinois.gov/idol/Pages/default.aspx
Illinois Relay Center: 800-526-0844 (TTY users)

CONCILIATION & MEDIATION

Employee Classification
Phone: 217-782-1710
Email: DOL.ECA@Illinois.gov

Equal Pay
Phone: 866-372-4365
Email: DOL.Questions@Illinois.gov

Job Opportunities For Qualified Applicants
Phone: 312-793-5366
Email: DOL.BTB@Illinois.gov

Prevailing Wage
Phone: 217-782-1710
Email: DOL.PWD@Illinois.gov

Right to Privacy in the Workplace
Phone: 312-793-5366
Email: DOL.RTPW@Illinois.gov

Victims' Economic Security & Safety Act (VESSA)
Phone: 866-372-4365
Email: DOL.Questions@Illinois.gov

FAIR LABOR STANDARDS DIVISION

Child Labor Law
Phone: 312-793-5570
Child Labor Law Hotline: 800-645-5784
Email:DOL.ChildLaborLaw@Illinois.gov

Day Labor Services
Phone: 312-793-1804
Day Labor Services Hotline: 877-314-7052
Email: DOL.DayLabor@Illinois.gov

Minimum Wage/Overtime
Phone: 312-793-2804
Minimum Wage/Overtime: 800-478-3998
Email: DOL.MWOT@Illinois.gov

One Day Rest in Seven (meal period)
Phone: 312-793-2804
Email: DOL.ODRISA@Illinois.gov

Private Employment Agencies
Phone: 312-793-1804
Email: DOL.PrivateEmployment@Illinois.gov

Sub-Minimum Wage & Sheltered Workshops
Phone: 312-793-2806
Email: DOL.MWOT@Illinois.gov

Wage Payment & Collection
Phone: 312-793-2808
Email: DOL.Wages@Illinois.gov

ILLINOIS OSHA (PUBLIC SECTOR ENFORCEMENT)

Phone: 217-782-9386
Email: DOL.Safety@Illinois.gov

OTHER WORKER AGENCIES

Illinois Labor Relations Board
Springfield Office: 217-785-3155
Chicago Office: 312-793-6400
Chicago TDD: 312-793-6394

Illinois Department of Human Rights
Chicago Office: 312-814-6200
Chicago TTY: 866-740-3953
Springfield Office: 217-785-5100
Springfield TTY: 866-740-3953
Email: IDHR.webmail@illinois.gov

U.S. DEPARTMENT OF LABOR

Wage and Hour Division
Hotline: 866-487-9243
Chicago Office: 312-789-2950
Springfield Office: 217-793-5028
www.dol.gov/agencies/whd

Occupation Safety and Health Administration
Hotline: 800-321-6742
www.osha.gov

OSHA ILLINOIS STATE PLAN OFFICES

These three Illinois State Plan offices cover public sector (state and local government) employers and workers with the exception of federal government employees, maritime employers (e.g., shipyards, marine terminals, longshoring), military facilities, Indian sovereignty workplaces, and the United States Postal Service.

Chicago State Plan Office
160 N. LaSalle St., Suite C-1300
Chicago, IL 60601
Phone: 312-793-7308
Fax: 312-793-2081

Marion State Plan Office
2309 W. Main St.
Marion, IL 62959
Phone: 618-993-7092
Fax: 618-993-7258

Springfield State Plan Office
Lincoln Tower Plaza
524 South 2nd St., Suite 400
Springfield, IL 62701
Phone: 217-782-9386

OSHA AREA OFFICES

The federal OSHA offices cover all private sector workplaces, federal agencies, maritime employers (e.g., shipyards, marine terminals, longshoring), military facilities, Indian sovereignty workplaces, and the United States Postal Service.

Chicago North Area Office
2020 S. Arlington Heights Rd., Suite 102
Arlington Heights, IL 60005
Phone: 847-227-1700
Fax: 847-227-1732

Chicago South Area Office
8505 W. 183rd St., Suite C
Tinley Park, IL 60487
Phone: 708-342-2840
Fax: 708-444-0042

Naperville Area Office
1771 West Diehl Rd.
Suite 210
Naperville, IL 60563
Phone: 630-300-7100
Fax: 630-300-7098

Peoria Area Office
5003 W. American Prairie Dr.
Peoria, IL 61615
Phone: 309-589-7033
Fax: 309-589-7326

Fairview Heights District Office
11 Executive Dr., Suite 11
Fairview Heights, IL 62208
Phone: 618-632-8612
Fax: 618-632-5712

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Equal Employment Opportunity Commission
Phone: 1-800-669-4000
TTY: 1-800-669-6820
ASL Video: 844-234-5122
Email: info@eeoc.gov
www.eeoc.gov

Chicago District Office
John C. Kluczynski Federal Building
230 S. Dearborn St., Suite 1866
Chicago, IL 60604
Phone: 312-872-9744
Fax: 312-588-1260
TTY: 866-740-3953
ASL Video: 844-234-5122

St. Louis District Office
Robert A. Young Federal Building
1222 Spruce St., Room 8.100
St. Louis, MO 63103
Phone: 314-798-1960
Fax: 314-539-7894
TTY: 800-669-6820
ASL Video: 844-234-5122

NATIONAL LABOR RELATIONS BOARD

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Fax: 312-886-1341

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101 SW Adams St.
Suite 400
Peoria, IL 61602
Phone: 309-671-7080
Fax: 309-671-7095

Regional Office 14
St. Louis, MO
1222 Spruce St.
Room 8.302
St. Louis, MO 63103
Phone: 314-539-7770
Fax: 314-539-7794

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U.S. DEPARTMENT OF JUSTICE

Civil Rights Division
Phone: 202-514-3847
TTY: 202-514-0716
CivilRightsDivision@usdoj.gov
www.justice.gov/crt

Disability Rights Section
Phone: 202-307-0663

Employment Litigation Section
Phone: 202-514-3831

NOTES:

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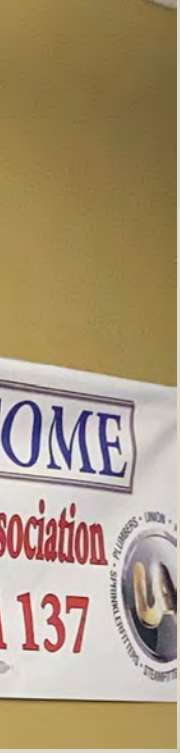
INFORME DEL DÍA DEL TRABAJO

LA PROCURADURÍA GENERAL DE ILLINOIS

Informe del Día del Trabajo de 2022
La Oficina del Procurador General de Illinois

El procurador general Raoul da informe a miembros sindicales en la Reunión Estatal de Oficios de la Construcción sobre la investigación del año 2021 de subcontratistas en la planta de Rivian, localizada en Normal, Illinois. El informe fue dado en el Salón del Local 137 del sindicato UA en Springfield. Más información sobre la investigación y su resolución puede ser encontrada en la página 5.

TABLA DE CONTENIDO



UN MENSAJE
DEL PROCURADOR GENERAL RAOUL

Septiembre de 2022

El Día del Trabajo es cuando honramos a los trabajadores en Illinois y en todo el país por el papel fundamental que desempeñan en apoyo a nuestra sociedad. Con el espíritu del pueblo trabajador, me enorgullece compartir nuestro primer Informe del Día del Trabajo que detalla el trabajo que mi oficina ha realizado durante los últimos dos años para hacer cumplir las leyes laborales y proteger a la gente de Illinois.

Una de mis principales prioridades como procurador general de Illinois ha sido crear el marco y asegurar los recursos para que un Buró de Derechos Laborales se convirtiera en un departamento permanente de la Procuraduría General. Gracias a la legislación que mi oficina inició, el Buró ha podido usar su autoridad robustecida para proteger a los trabajadores ante una variedad de diferentes prácticas laborales inescrupulosas, así como para ingresar decretos jurídicos para poner fin a aquellas acciones que han perjudicado a los trabajadores y garantizan que los empleadores cumplan con la ley en el futuro. Desde su incorporación formal en la Acta del Procurador General en 2020, el Buró de Derechos Laborales ha recaudado más de 1,4 millones de dólares en salarios debidos a trabajadores y en multas. Los abogados y el personal de toda la Procuraduría también contribuyen al trabajo del Buró y a la lucha para garantizar que los trabajadores reciban sus salarios, sean libres de discriminación y tengan un lugar de trabajo seguro.

Además de resaltar el trabajo investigativo y legal del Buró y de la Procuraduría en este informe, también me complace anunciar que estamos interactuando activamente con las comunidades de Illinois a través de un programa de promoción de derechos laborales formalizado. Los invito a comunicarse con la Procuraduría para organizar una presentación informativa del Buró de Derechos Laborales o si tiene alguna pregunta sobre nuestros esfuerzos para proteger a los trabajadores en todo Illinois.

Por último, quiero agradecer especialmente a todos los trabajadores, defensores, sindicatos, organizaciones y empresas que se han puesto en contacto con el Buró de Derechos Laborales. Su cooperación y asociación es clave para nuestro servicio al estado de Illinois. Al trabajar juntos, podemos asegurar un Illinois mejor para todos.

¡Feliz Día del Trabajo!

Kwame Raoul
Procurador general

INTRODUCCIÓN AL BURÓ

El Buró de Derechos Laborales protege y promueve los derechos laborales de todos los trabajadores de Illinois. Aunque el Buró ha existido en la Procuraduría desde hace varios años, su existencia fue codificada en la ley como la Unidad de Protección del Trabajador en 2020. Esa nueva ley, Ley Pública 101-0527, enmendó la Acta del Procurador General de Illinois para crear la Unidad de Protección del Trabajador dentro de la Procuraduría General. Esta legislación también otorgó al Buró autoridad mejorada para hacer cumplir las leyes laborales en Illinois. Además de ser uno de los muchos burós de la Procuraduría General, el Buró de Derechos Laborales trabaja con otras agencias estatales, como el Departamento de Trabajo de Illinois, y con colaboradores federales para proteger a los trabajadores de Illinois. El Buró incluye seis abogados y dos profesionales y tiene su sede en Chicago además de contar con personal que también presta servicios en la sede principal de la Procuraduría en Springfield.

Además del Buró de Derechos Laborales, los abogados y el personal de otras divisiones y burós de la Procuraduría General de Illinois desempeñan funciones importantes para ayudar a los trabajadores. Los abogados de la División de Apelaciones Civiles, que representa al estado en los tribunales de apelación de nivel federal y estatal, colaboran en las acciones multiestatales coordinadas con los procuradores generales de todo el país. La División de Representación Gubernamental proporciona representación legal al estado y a todos los funcionarios, consejos, comisiones, agencias y empleados del estado en litigios civiles que involucran su capacidad oficial, manejando miles de casos remitidos cada año. Dentro de la División de Representación Gubernamental, los abogados del Buró de Derecho General representan al Departamento de Trabajo de Illinois en los tribunales federales de distrito y de circuito de Illinois. Además, el Buró de Derechos Civiles de la Procuraduría también trabaja en conjunto con el Buró de Derechos Laborales para abordar los casos que implican discriminación laboral.

El procurador general Kwame Raoul encabeza una demanda para certificar que la enmienda de igualdad de derechos es parte de la constitución de los Estados Unidos. Esta enmienda fortalecería leyes que prohíben la discriminación salarial basada en el sexo del trabajador así como otros tipos de discriminación.

SALARIOS

En colaboración con el Departamento de Trabajo de Illinois, el Buró de Derechos Laborales del procurador general Raoul investiga y entabla demandas por violaciones sistemáticas y generalizadas de las leyes salariales de Illinois, incluyendo la Ley de Salario Mínimo de Illinois, la Ley de Salario Prevalente y la Ley de Pago y Cobro de Salarios de Illinois.

Al devolver los salarios no pagados a los trabajadores afectados, el Buró de Derechos Laborales de la Procuraduría garantiza que los trabajadores de Illinois sean remunerados de manera apropiada por su trabajo. Este trabajo también afirma las prácticas de las empresas respetuosas de la ley, para que los empleadores que obedecen las leyes

laborales de Illinois no queden en desventaja competitiva frente a aquellos empleadores que prestan servicios a un menor costo debido a su incumplimiento de las leyes salariales de Illinois y en perjuicio de los trabajadores. Además, mediante este trabajo, el Buró garantiza que los empleadores realicen las deducciones federales y estatales requeridas sobre el trabajo pagado, contribuciones que son vitales para brindar servicios en todos los niveles del gobierno.

TRABAJO DESTACADO

Haciendo subcontratistas en la industria de construcción responsables por no pagar salarios por horas extra: En diciembre de 2021, el procurador general Raoul anunció acuerdos con subcontratistas que construían una nueva línea de producción para Rivian Automotive, Inc. (Rivian). Este acuerdo concluyó una investigación conjunta de la Procuraduría General y el Departamento de Trabajo de Illinois (IDOL). Los acuerdos requieren que los subcontratistas paguen casi $390,000 en salarios atrasados y multas para resolver las acusaciones de que no pagaron a trabajadores mexicanos los salarios debidos por sus horas extra trabajadas. La investigación conjunta de la Procuraduría General e IDOL reveló que una cadena de subcontratistas contratados para construir la nueva línea de producción de Rivian en Normal, Illinois, no pagó los salarios de horas extra a los trabajadores en el sitio. Los acuerdos requieren que Guangzhou Mino Equipment Co., con sede en China; IT8 Software Engineering S.L., con sede en España; y LAM Automation, con sede en México, junto con las entidades relacionadas de las empresas, paguen los salarios por horas extra y las sanciones civiles a los trabajadores a quienes se les negaron los salarios correspondientes. Los subcontratistas también deben cumplir con reportes a la Procuraduría requeridos por los acuerdos.

"Aplaudo al procurador general Raoul, a su personal y al Departamento de Trabajo por sus esfuerzos y hallazgos sobre la explotación de los trabajadores por parte de tres subcontratistas en la planta de Rivian".

Mike Raikes, Gerente de Negocios
IBEW Local 197

Recuperación de salarios por horas extra para instaladores de techos: En mayo de 2021, el Buró de Derechos Laborales presentó un decreto de consentimiento con Star Roofing and Siding Inc. que requiere que la empresa pague $101,000 por horas extra adeudadas a sus trabajadores. El Buró de Derechos Laborales inició la investigación después de que el Local 11 de Techadores e Impermeabilizantes refirió a los trabajadores al buró. El procurador general alegó que, durante años, Star Roofing and Siding no pagó a nueve de sus empleados instaladores de techos ("Ruferos") los salarios por horas extra a tiempo y medio de su salario regular por todo el tiempo trabajado en exceso de 40 horas por semana en violación de la Ley de Salario Mínimo de Illinois. Conforme al decreto de consentimiento, la empresa debe mantener y proporcionar registros de los pagos a los trabajadores para

"Demasiadas veces a los empleados de Star Roofing no se les ha pagado por todo el tiempo trabajado. … Aplaudo a los trabajadores que defendieron sus derechos y aplaudo a la Procuraduría General por enjuiciar a los malos empleadores. En estos tiempos tumultuosos, es bueno ver que la justicia aún puede prevalecer".

Gary Menzel, Presidente
Techadores e Impermeabilizantes Local 11

garantizar que los trabajadores conozcan su tasa de pago y la cantidad de horas trabajadas cada semana. El decreto de consentimiento también requiere que la empresa mantenga registros de GPS para todos sus vehículos y registros detallados sobre los viajes de los miembros de la tripulación en cada vehículo para disuadir a la empresa de pagar a los trabajadores por debajo de la mesa.

Protección de los trabajadores que reciben propinas: La Procuraduría General se asoció con la Procuraduría General de Pensilvania para liderar una demanda contra el Departamento de Trabajo de los Estados Unidos (USDOL) para combatir una regla propuesta por USDOL que habría permitido a los empleadores pagar a los trabajadores que reciben propinas menos del salario mínimo por su trabajo sin propinas. Durante varias décadas, los trabajadores que reciben propinas solo podían dedicar hasta 20 por ciento de su tiempo realizando trabajos que no generan propinas, como la limpieza, mientras se les pagaba la tasa de propina. El USDOL propuso eliminar esta regla. Las procuradurías generales de Illinois y Pensilvania lideraron una coalición de nueve procuradurías generales para presentar una demanda contra el USDOL para bloquear la implementación de la regla. Finalmente, el USDOL retiró la propuesta que habría perjudicado a los trabajadores que reciben propinas.

Haciendo responsables a los empleadores sin escrúpulos que retrasan los salarios de los trabajadores: Durante la sesión legislativo de 2021, la Procuraduría General apoyó un proyecto de ley que aumentó la cantidad de daños que se otorgan a los empleados cuando sus empleadores no les pagan a tiempo o no pagan el último cheque de pago. Promulgada como ley por el gobernador JB Pritzker en julio de 2021, la Ley Pública 102-0050 establece que

los empleados a los que no se les paga dentro del tiempo asignado después del final de un periodo de pago tienen derecho a sus salarios no pagados y al cinco por ciento de la cantidad no pagada en concepto de daños y perjuicios. Según la versión anterior de la ley, el empleado solo tenía derecho a dos por ciento de la cantidad no pagada por concepto de daños y perjuicios.

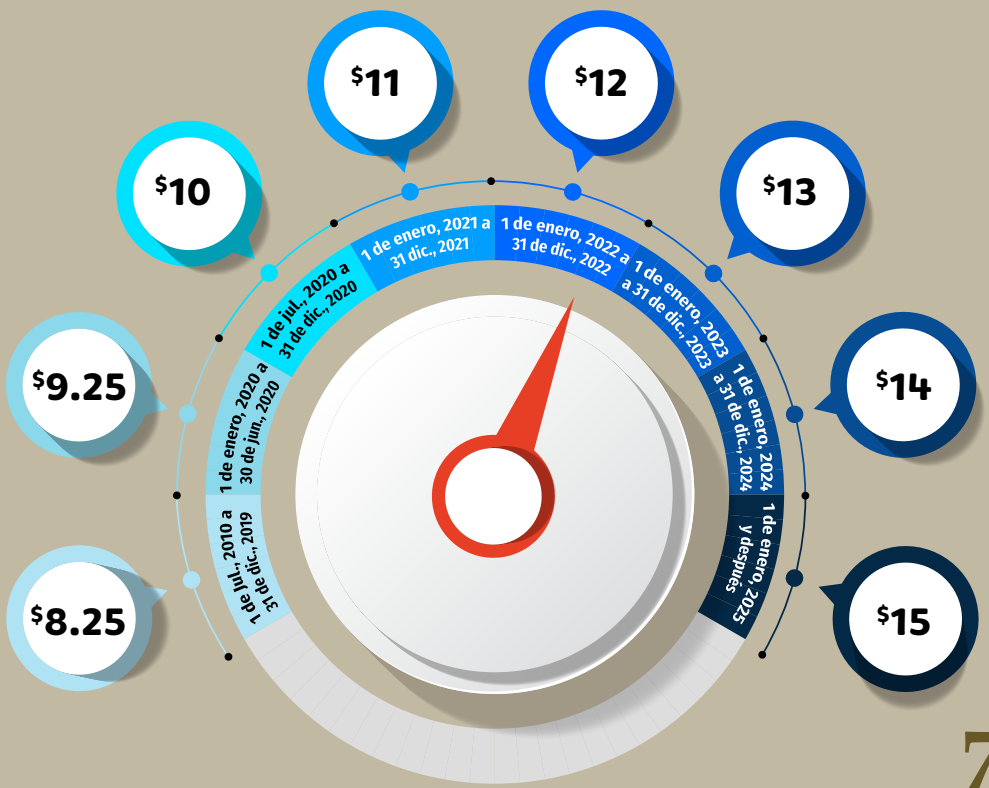
Apoyo a los trabajadores litigando por salarios debidos: La Procuraduría General y el Departamento de Trabajo de Illinois (IDOL) trabajaron juntos para presentar un escrito de amicus curiae para un caso llamado Mercado v. S&C Electric Company. En este caso, los trabajadores de ensamblaje de una fábrica con pago por horas argumentan que su empleador debe incluir los pagos de bonificación al calcular su tasa de pago de referencia, lo que posteriormente afecta el valor de su salario por horas extra. La Procuraduría General e IDOL argumentan en su escrito presentado ante el Tribunal de Apelaciones de Illinois que los empleadores generalmente deben incluir toda la compensación de los empleados, no solo la compensación por hora, al calcular la tasa de pago de referencia y que un empleador no puede pagar a los trabajadores en salarios no por hora y luego afirmar que el pago es un regalo. El litigio sobre este asunto aún está pendiente.

Recaudación sobre presuntos infractores de la ley laboral: En nombre del Departamento de Trabajo de Illinois (IDOL), la Procuraduría busca recuperar más de $850,000 en salarios no pagados y multas en nombre de 93 ex empleados. Estos asuntos fueron remitidos a la Procuraduría General en conformidad con la Orden Ejecutiva 2019-02, que requiere que IDOL remita a la Procuraduría todos los casos de reclamos salariales pendientes que involucren violaciones flagrantes y repetidas de la ley. El litigio está pendiente.

Entre agosto de 2020 y junio de 2022, el Buró de Derecho General recuperó $911,596.80 en salarios no pagados y multas conforme a las referencias de IDOL.

Salario Mínimo en Illinois aumentara anualmente hasta 2025

En febrero de 2019, el gobernador JB Pritzker firmó el proyecto de ley 1 del Senado, el cual enmendó la Ley de Salario Mínimo de Illinois para aumentar el salario mínimo de $8.25 a $15 antes del 1 de enero de 2025. El Buró de Derechos Laborales, junto con el Departamento de Trabajo de Illinois, investiga las violaciones de la Ley de Salario Mínimo y, cuando corresponde, presentan acciones contra los empleadores que violan la ley pagando a sus empleados menos del salario mínimo estatal.



ACUERDOS DE NO COMPETENCIA, ACUERDOS PARA NO CONTRATAR EMPLEADOS DE LA COMPETENCIA Y LIBERTAD PARA TRABAJAR

El Buró de Derechos Laborales protege la capacidad de los trabajadores de buscar trabajo y ganar más salarios mediante su trabajo en el área de acuerdos de no competencia altamente restrictivos y evita que las empresas entren acuerdos de "no contratación de los trabajadores de la competencia" que impiden que los trabajadores consigan trabajos con la competencia de sus empleadores. Los acuerdos de no competencia restringen la libertad de los trabajadores para trabajar para un empleador competidor. Si bien los acuerdos de no competencia se diseñaron para impedir que los empleados de alto nivel poseedores de secretos comerciales o conocimientos sobre el funcionamiento interno de una empresa se fuesen a trabajar a la competencia, muchos empleadores los utilizan para impedir que los trabajadores con salarios bajos busquen otro empleo. Como consecuencia, los trabajadores no pueden buscar un empleo alternativo que ofrezca salarios más altos, mejores horarios de trabajo y mejores condiciones de trabajo.

Del mismo modo, las empresas entran en acuerdos de "no contratación de trabajadores de la competencia" para evitar que su competencia contraten a sus trabajadores. Estos acuerdos a veces se utilizan en la industria de empleo temporal, donde el objetivo es reprimir los salarios de los trabajadores e impedir la competencia entre agencias. Para los trabajadores con salarios bajos, los acuerdos de no contratación de los trabajadores de la competencia pueden tener un efecto devastador en su capacidad de mejorar sus circunstancias de empleo al conseguir otro trabajo.

En la foto, la cúpula del Capitolio del estado de Illinois, vista desde el centro del primer piso de la rotonda. El Capitolio del estado de Illinois hospeda a la asamblea general de Illinois, la cual aprobó el Proyecto de Ley 672 del Senado para enmendar el Acta de Libertad para Trabajar de Illinois.

TRABAJO DESTACADO

Lucha contra los acuerdos de no contratación de trabajadores de la competencia y fijación de salarios en la industria de empleo temporal: En julio de 2020, el Buró de Derechos Laborales y el Buró de Antimonopolios del Procurador General demandaron a tres empresas de empleo temporal: Elite Staffing Inc., Metro Staff Inc. y Midway Staffing, Inc., y su empresa cliente, Colony, Inc. La demanda alega que las tres agencias de empleo formaron un acuerdo ilegal para negarse a solicitar o contratar a los empleados de las demás y fijar los salarios pagados a sus empleados. Colony supuestamente facilitó el acuerdo al actuar como intermediario para comunicar el acuerdo y ayudar a hacer cumplir el acuerdo de no contratación de los trabajadores de la competencia. Para los trabajadores, esto resulta en un salario inferior al que tendrían en un mercado competitivo y limitantes en la búsqueda de mejores oportunidades laborales para mantenerse y proveer para sus familias.

En junio de 2022, los burós y la División de Apelaciones Civiles del Procurador General pudieron obtener una victoria inicial en este caso, ya que el Tribunal de Apelaciones de Illinois dictamino que las agencias de empleo temporal no están exentas de la cobertura aplicación de la Ley Antimonopolios de Illinois. El litigio sobre el asunto aún está pendiente. Los burós buscan sanciones civiles y daños y perjuicios en este caso, así como una orden judicial para detener los acuerdos ilegales.

Más trabajadores afectados por los acuerdos de no contratación de trabajadores de la competencia: En junio de 2022, el Buró de Derechos Laborales y el Buró de Antimonopolios presentaron una demanda similar contra otro grupo de agencias de empleo temporal y de su empresa cliente. La demanda se presentó en el Tribunal de Circuito del Condado de Cook contra Alternative Staffing Inc., American Quest Staffing Solutions Inc., Creative Staffing Solutions Inc., Midway Staffing Inc., Staffing Network LLC y SureStaff LLC, asi como contra su cliente, Vee Pak LLC, que opera comercialmente como Voyant Beauty. Estas seis agencias de empleo temporal supuestamente formaron un acuerdo ilegal de "no contratación de los empleados de la competencia" a través del cual se negaron a contratar a los empleados de los demás. La demanda también alega que la empresa cliente Vee Pak LLC facilitó el acuerdo de no contratación de la competencia al actuar como intermediario entre las agencias de empleo temporal y ayudar a hacer cumplir el acuerdo. El litigio en este asunto está pendiente.

Poniendo fin a las prácticas anticompetitivas de la empresa de empleo internacional: En mayo de 2022, la Procuraduría anunció un acuerdo de conciliación con Sodexo Inc. (Sodexo) por el cual la empresa acordó poner fin al uso de cláusulas de "no contratación" en los contratos con sus clientes. Las cláusulas de Sodexo tenían el efecto de restringir los derechos de los empleados de Sodexo, sin su conocimiento, de buscar empleo fuera de Sodexo.

"Creemos que estos tipos de acuerdos ocurren regularmente entre las agencias de empleo temporal y los empleadores, pero puede ser difícil para los trabajadores probarlo. Nos complace que el procurador general Raoul haya podido juntar las piezas y tomar acción, y esperamos que esto envíe un mensaje a las agencias de empleo temporal para que se detengan con estos acuerdos que reducen los salarios y beneficios de los trabajadores".

Jose Frausto,
Director de Liderazgo y Promoción
Chicago Workers Collaborative

Limitando el uso de acuerdos de no competencia solo a empleados con mayores ingresos: Durante la sesión legislativa de 2021, los legisladores de Illinois aprobaron un proyecto de ley para proteger mejor a los trabajadores de Illinois de los acuerdos de no competencia y no solicitación altamente restrictivos. El Proyecto de Ley 672 del Senado enmendó la Acta de Libertad para Trabajar de Illinois al prohibir el uso de acuerdos de no competencia con trabajadores que ganan menos de $75,000 al año y al prohibir el uso de acuerdos de no solicitación con trabajadores que ganan menos de $45,000 al año. La Procuraduría pudo asegurar la autoridad legal para investigar e iniciar acciones contra los presuntos infractores. El Proyecto de Ley 672 del Senado se promulgó como Ley Pública 102-0358 y entró en vigencia el 1 de enero de 2022.

DISCRIMINACIÓN LABORAL

Los trabajadores de Illinois tienen derecho a trabajar en un lugar libre de discriminación y el Buró de Derechos Laborales del Procurador General trabaja con los departamentos de Trabajo y de Derechos Humanos de Illinois y con el Buró de Derechos Civiles de la Procuraduría para investigar y litigar casos en que los trabajadores son discriminados debido a su raza, etnia, sexo o cualquier otra clase protegida por la Ley de Derechos Humanos de Illinois. Desde noviembre de 2020, el Buró de Derechos Laborales ha presentado decretos de consentimiento con seis empresas por presunta discriminación y que violaron las leyes de discriminación laboral de Illinois.

Los empleados que experimentan discriminación laboral tienen menos probabilidades de ser contratados y ascendidos, tienden a recibir menos paga y enfrentan sanciones más severas que sus contrapartes. El Buró de Derechos Laborales se dedica a detener la discriminación laboral y garantizar que todas las personas tengan las mismas oportunidades en su lugar de trabajo.

"El uso de agencias de empleo temporal para participar en la discriminación basada en la raza mantiene injustamente a comunidades enteras fuera del mercado laboral y les niega la oportunidad de ganar un salario justo. Me comprometo a tomar medidas para detener la discriminación generalizada dondequiera que la encontremos".

El procurador general Kwame Raoul
Anunciando un decreto de consentimiento con Mistica Foods y Specialized Staffing

El procurador general Raoul habla con el gobernador Pritzker en un desayuno legislativo en el Helen Radigan Hall en la oficina del Procurador General en Springfield.

TRABAJO DESTACADO

Prevención de la discriminación basada en el sexo: En abril de 2021, el Buró de Derechos Laborales presentó decretos de consentimiento con Alternative Staffing Inc., una empresa de empleo temporal, y tres empresas que utilizaron agencias de empleo temporal para obtener su fuerza laboral: Fibre Drum Sales Inc., DSI Holdings Corp. y Amylu Foods LLC. Los decretos de consentimiento fueron el resultado de una demanda que el Buró de Derechos Laborales presentó contra las empresas. El Buró de Derechos Laborales alegó que las empresas asignaron trabajadores a puestos basados en estereotipos de género, asignando códigos para enmascarar la discriminación. Los decretos de consentimiento requieren que las empresas asignen tareas en función de la capacidad de un trabajador para completar la tarea, y no según su sexo, que eduquen a los trabajadores sobre la discriminación basada en el sexo y prevenir la discriminación en el futuro, además de pagar $280,000 en multas civiles.

Detener la discriminación racial en la contratación de personal temporal: El Buró de Derechos Laborales presentó un decreto de consentimiento con Mistica Foods y Specialized Staffing, una empresa de empleo temporal, para resolver una demanda que alega que las empresas discriminaban a los trabajadores afroamericanos. La Procuraduría General alegó que Mistica instruyó a Specialized Staffing que no asignara a trabajadores afroamericanos para trabajar en varias posiciones en sus fábricas y que Specialized cumplió con estas solicitudes. El decreto de consentimiento requiere que las empresas tomen medidas para aumentar la contratación de trabajadores afroamericanos, incluida la publicidad de puestos vacantes en comunidades predominantemente afroamericanas, el seguimiento de las razas de los trabajadores y la exigencia de que todos los empleados reciban educación sobre prejuicios. En conjunto, Specialized Staffing y Mistica Foods también pagaron $450,000 en multas civiles.

El procurador general Raoul cruza un escenario en la Gala de Igualdad de Illinois 2022 el 5 de febrero, 2022, en el Hilton Chicago. La oficina ayuda a hacer cumplir las prohibiciones contra la discriminación basada en la sexualidad y la identidad de género en virtud de la Ley de Derechos Humanos de Illinois.

El procurador general Raoul habla ante una multitud en la reunión anual de la Corporación de Servicios de la Industria de la Construcción (CISCO) el 11 de marzo, 2022, en Schaumburg. El procurador general Raoul fue el orador principal del evento y habló sobre los esfuerzos de investigación y aplicación del Buró de Derechos Laborales.

Protección de los inmigrantes que trabajan en los Estados Unidos: La Procuraduría General ha trabajado con los procuradores generales de todo el país para proteger los derechos de los inmigrantes que trabajan en los Estados Unidos. En diciembre de 2020, el procurador general Raoul se unió a una coalición de 16 procuradores generales para presentar una carta de comentarios al Departamento de Seguridad Nacional de los Estados Unidos (DHS), para oponerse a una regla propuesta que eliminaría la autorización de trabajo de casi todos los inmigrantes que son liberados de la custodia del DHS bajo órdenes de vigilancia. En noviembre de 2021, Raoul se unió a una coalición de procuradores generales y de agencias estatales y locales de cumplimiento laboral para abogar por que el DHS cambie sus prácticas de investigación en el lugar de trabajo para apoyar el cumplimiento de las protecciones salariales, la seguridad en el lugar de trabajo, los derechos laborales y otras leyes y normas laborales.

Afirmación de los derechos de las personas transgénero en el lugar de trabajo: En agosto de 2021, el Tribunal de Apelaciones de Illinois falló a favor del cliente del Procurador General, la Comisión de Derechos Humanos de Illinois (la Comisión), en el caso de Hobby Lobby v. Sommerville, reafirmando los derechos laborales de las personas transgénero en virtud de la Ley de Derechos Humanos de Illinois. En 2013, Meggan Sommerville, una mujer transgénero, presentó denuncias ante la Comisión, alegando que su empleador, Hobby Lobby, la discriminó por motivos de identidad de género cuando le prohibió usar el baño de mujeres. La Comisión falló a favor de Sommerville, otorgándole $220,000 en daños y perjuicios y exigió a Hobby Lobby que le otorgara acceso al baño de mujeres. Hobby Lobby apeló ante el Tribunal de Apelaciones, donde la División de Apelaciones Civiles de la Procuraduría representó a la Comisión.

Mujeres embarazadas en el lugar de trabajo: La Procuraduría General también se unió a una coalición de procuradores generales para pedir al Senado de los Estados Unidos que apruebe la Ley de Equidad para las Trabajadoras Embarazadas. Esta ley ampliaría la Ley de Discriminación por Embarazo y la Ley de Estadounidenses con Discapacidades para permitir que las personas embarazadas soliciten adaptaciones razonables en el trabajo sin preocuparse por las represalias. El proyecto de ley ha sido aprobado por la Cámara de Representantes y espera una votación en el Senado de los Estados Unidos.

Protección de los trabajadores ante el acoso sexual: El Buró de Derechos Laborales inició una investigación y llegó a un decreto de consentimiento con Voyant, una planta de envasado de productos de belleza, después de que la gerencia ignoró denuncias de acoso sexual de parte de las trabajadoras y tomó represalias contra quienes habían presentado las denuncias. El decreto de consentimiento, ingresado junto con una demanda presentada en agosto de 2020, requiere que Voyant ponga fin a su práctica de tomar represalias contra los trabajadores que presentan denuncias de acoso sexual y modifique sus prácticas para prevenir cualquier acoso sexual en el futuro. El decreto también requiere la capacitación de los empleados. El decreto de consentimiento también requiere el nombramiento de un monitor por un período de dos años para garantizar el cumplimiento del decreto de consentimiento. El monitor es financiado por $85,000 en multas pagadas por Voyant.

Invitación a que los lugares de trabajo mejoren las condiciones laborales: En abril de 2022, el procurador general Raoul se unió a una coalición de procuradores generales para enviar una carta a la Liga Nacional de Fútbol Americano (NFL) sobre informes de una cultura hostil en el lugar de trabajo, lo cual incluía acoso sexual, represalias dirigidas y estereotipos dañinos. Raoul y la coalición instaron a la NFL a explicar esta inacción continua para abordar estos problemas, que pueden violar las leyes antidiscriminatorias locales, estatales y federales, y advirtieron que utilizarán la autoridad de sus oficinas para investigar y procesar todas las denuncias de acoso, discriminación o represalias por parte de los empleadores.

CLASIFICACIÓN INCORRECTA DE TRABAJADORES

La clasificación incorrecta de trabajadores ocurre cuando los lugares de trabajo tratan a los trabajadores, intencionalmente o no, como contratistas independientes cuando la naturaleza de su trabajo y la relación con el empleador indican que el trabajador es, en realidad, un empleado. Cuando los empleadores clasifican a sus trabajadores de manera incorrecta, los trabajadores pierden acceso a protecciones laborales importantes, como las protecciones salariales y en contra de la discriminación, y se les niega acceso a los beneficios laborales, incluyendo la compensación de trabajadores por accidentes del trabajo y el seguro de desempleo. El clasificar a los trabajadores de manera incorrecta también obliga a estos a pagar la contribución del empleador al Seguro Social y a Medicare.

El Buró de Derechos Laborales del Procurador General utiliza la Ley de Clasificación de Empleados de Illinois para proteger a los trabajadores contra las empresas que incurren en la clasificación incorrecta de trabajadores en la industria de la construcción. Desde noviembre de 2020, la Procuraduría General ha trabajado con el Departamento de Trabajo de Illinois y con otros procuradores generales para abogar por reglas más estrictas de clasificación de los trabajadores, tanto a nivel estatal como federal.

TRABAJO DESTACADO

Defensa de las normas federales que previenen la clasificación incorrecta: La Procuraduría General se unió a una coalición de estados para presentar un escrito alentando a la Junta Nacional de Relaciones Laborales a adoptar un estándar más protector para los trabajadores para determinar si un trabajador es un empleado o un contratista independiente. Esta norma anularía otra norma de 2019 que permitía a los empleadores clasificar a los trabajadores como contratistas independientes si pudieran demostrar que los trabajadores tenían la capacidad de administrar una empresa independiente similar.

Garantía de que la ley de Illinois protege a los trabajadores en Illinois: Los abogados de la Oficina del Procurador General y del Buró de Derechos Laborales trabajaron juntos para presentar un escrito de amicus curiae ante la Corte de Apelaciones de los Estados Unidos para el Séptimo Circuito en un caso llamado Johnson v. Diakon Logistics. En este caso, los conductores de reparto que trabajaban en los almacenes ubicados en Romeoville y Granite City habían presentado una demanda contra su empleador, alegando que el empleador había violado la Ley de Pago y Cobro de Salarios de Illinois. El empleador negó las denuncias de los conductores, argumentando en parte que la Ley no debería aplicarse porque los contratos de trabajo seleccionaron la ley de Virginia para regir el contrato. El Tribunal de Distrito se puso del lado de los empleadores. En su escrito de apoyo a la apelación de los conductores, la Procuraduría General argumentó en contra del uso de disposiciones contractuales que permitirían que empleadores con operación comercial en Illinois eludan las importantes protecciones codificadas en la Ley de Pago y Cobro de Salarios de Illinois. El caso aún está pendiente de una opinión del Séptimo Circuito.

LUGAR DE TRABAJO FISURADO

En los últimos años, muchas empresas se han organizado en "lugares de trabajo fisurados". En los lugares de trabajo fisurados, las empresas contratan a subcontratistas o agencias de empleo temporal o usan otras vías para evitar ser el empleador principal de sus trabajadores. Debido a que hay capas adicionales entre el empleador principal y los trabajadores, los empleados de bajo nivel tienden a cobrar menos y tienen menos beneficios. Más allá de eso, es más difícil garantizar que las empresas en lugares de trabajo fisurados sigan los estándares del lugar de trabajo porque puede ser difícil aplicar la responsabilidad a la organización correcta.

El Buró de Derechos Laborales ha trabajado con el Departamento de Trabajo de Illinois y con otros procuradores generales para abogar por protecciones más estrictas para los trabajadores y también para abordar la necesidad de que todos los trabajadores estén protegidos por nuestras leyes que previenen la discriminación y permiten que los trabajadores accedan a los beneficios.

TRABAJO DESTACADO

Apoyo a la regla estatal del empleo conjunto: El Buró de Derechos Laborales presentó una carta en apoyo de la regla de empleador conjunto propuesta por el Departamento de Trabajo de Illinois (IDOL) y testificó en la audiencia pública del IDOL sobre la propuesta. El "empleo conjunto" es un área crítica de la ley que se centra en la determinación de quién se considera empleador para fines de proteger los derechos de los trabajadores. Esta regla estatal codificó un estándar para determinar cuándo un empleador es responsable de cubrir las protecciones en el lugar de trabajo para los trabajadores bajo su dirección y control. La regla mejora la orientación a los empleadores y facilita la aplicación de la Ley de Salario Mínimo de Illinois. La regla entró en vigencia el 21 de enero de 2022.

Defendiendo la enmienda de los derechos de los trabajadores: La Procuraduría General está defendiendo la inclusión de una medida electoral para las elecciones de noviembre de 2022 aprobada por la Asamblea General de Illinois para preguntar a los votantes si la Constitución de Illinois debe enmendarse para incluir una "Enmienda de los Derechos de los Trabajadores". La enmienda propuesta agregaría una nueva sección a la Constitución de Illinois que otorga a los empleados el derecho fundamental de organizarse y negociar colectivamente a través de representantes de su propia elección con el fin de negociar salarios y horarios, condiciones de trabajo y para proteger su bienestar económico y seguridad en el trabajo. La enmienda propuesta también establece que no se aprobará ninguna ley que interfiera, niegue o disminuya el derecho de los empleados a organizarse y negociar colectivamente, incluida cualquier ley u ordenanza que prohíba la aplicación de acuerdos entre empleadores y organizaciones laborales que representen a los empleados que requieran membresía en una organización como condición de empleo.

En junio de 2022, un juez del Tribunal de Circuito del Condado de Sangamon desestimó una demanda que intentaba eliminar la enmienda propuesta de la boleta electoral de noviembre de 2022. El caso está pendiente de apelación y se anticipa una decisión antes de las elecciones de noviembre de 2022.

LIDERANDO COALICIONES MULTIESTATALES / ABOGACÍA NACIONAL

El procurador general Raoul le da la mano al ex procurador general de California, Xavier Becerra, antes de reunirse con organizaciones de abogacía sobre la política federal de inmigración. Becerra, ahora secretario de Salud y Servicios Humanos de los Estados Unido, colaboró con frecuencia con el procurador general Raoul en acciones multiestatales nacionales de derechos de los trabajadores.

La Procuraduría General trabaja con otros procuradores generales en los Estados Unidos para defender los derechos de los trabajadores a nivel nacional. La procuraduría general envía con frecuencia cartas a los líderes del Congreso promoviendo la aprobación de nuevas leyes que beneficiarían a los trabajadores y presenta comentarios a las agencias ejecutivas en apoyo de las normas que fortalecerían los derechos de los trabajadores. Cuando se proponen o implementan leyes y reglas que perjudican los derechos de los trabajadores, la oficina trabaja con otros procuradores generales para presentar demandas contra el gobierno federal o escritos de amicus curiae o de "amigos del tribunal" en apoyo a los trabajadores.

TRABAJO DESTACADO

Abogando por la transparencia en el lugar de trabajo: La Procuraduría General dirigió una coalición de 18 procuradores generales para presentar un escrito de amicus curiae ante la Corte Suprema de los Estados Unidos, pidiéndole que confirme el fallo de un tribunal inferior de que los trabajadores del transporte que cargan y descargan cargamentos interestatales están exentos de la Ley Federal de Arbitraje (FAA). El caso, Southwest Airlines Co. v. Saxon, fue presentado por Latrice Saxon, una supervisora de agentes de rampa en el aeropuerto Midway, e involucro la cuestión de si los trabajadores de carga se encuentran dentro de la exención de la FAA para los trabajadores del transporte. Los procuradores generales argumentaron que los estados tienen interés en garantizar que las disputas que involucran a los trabajadores del transporte se resuelvan públicamente, no en procedimientos de arbitraje confidenciales. En junio de 2022, la Corte Suprema de los Estados Unidos falló por unanimidad a favor de Latrice Saxon. La decisión preservó derechos importantes para los trabajadores de carga en Illinois y en todo el país.

Petición de un salario mínimo más alto para contratistas federales: En mayo de 2022, la Procuraduría General lideró coaliciones de procuradores generales para presentar escritos de amicus curiae en dos tribunales de distrito y en la Corte de Apelaciones de los Estados Unidos para que el Décimo Circuito respalde las acciones del gobierno federal destinadas a subir el salario mínimo a 15 dólares por hora para ciertos contratistas federales. El procurador general Raoul y las coaliciones argumentaron que un aumento del salario mínimo conduce a una mejora en el estado de ánimo y en la productividad de los trabajadores, así como a un mejor servicio y mejores experiencias para los consumidores. El procurador general Raoul también se unió a una coalición de 16 procuradores generales para la defensa de las protecciones estatales del salario mínimo para empleados de contratistas federales, con el argumento de que la venta de bienes o servicios al gobierno federal no libera a un empleador del sector privado de pagar el salario mínimo establecido en un estado ni de cumplir con las demás leyes sobre salarios y horarios.

Apoyo a la modernización de las leyes laborales: La Procuraduría General también se unió a una coalición de 17 procuradores generales para enviar una carta a los líderes del Senado de los Estados Unidos en la cual se invita a esa cámara a aprobar la Ley de Protección del Derecho a la Organización (PRO). La Ley PRO reforzaría y modernizaría la Ley Nacional de Relaciones Laborales al prohibir acciones que disuadan esfuerzos de sindicalización y permitan que empleadores y sindicatos cobren cuotas de "justa participación" a quienes no están cubiertos por un acuerdo sindical. El proyecto de ley fue aprobado por la Cámara de Representantes y está a la espera de la votación en el Senado de los Estados Unidos.

"Las personas tienen derecho a recibir salarios justos por el trabajo que realizan, incluso si trabajan para un contratista federal e incluso si están trabajando durante el confinamiento".

El procurador general
Kwame Raoul
Anunciando el escrito de amicus curiae en mayo de 2022.

SEGURIDAD EN EL LUGAR DE TRABAJO

Los empleados merecen ambientes de trabajo seguros. La Procuraduría General también aboga por la seguridad en el lugar de trabajo. Según las leyes estatales y federales, los empleados tienen derecho a trabajar en un lugar de trabajo seguro. Si bien la Administración de Salud y Seguridad Ocupacional federal es responsable de investigar los problemas de seguridad en los lugares de trabajo del sector privado en Illinois, la Procuraduría General trabaja con otros procuradores generales para promover normas de seguridad más estrictas en el lugar de trabajo a nivel federal.

TRABAJO DESTACADO

Promoción de la transparencia de la seguridad en el lugar de trabajo: En junio de 2022, el procurador general Raoul se unió a una coalición de 16 procuradores generales para apoyar una regla propuesta por la Administracion de Seguridad y Salud Occupacional federal (OSHA). La regla propuesta por OSHA exigiría que muchos empleadores proporcionen a OSHA información mucho más detallada sobre lesiones en el lugar de trabajo y enfermedades ocupacionales. Además, OSHA pondría esta información a la disposición del público. Los procuradores generales estiman que la nueva regla fortalecerá a los trabajadores, fomentará mejores condiciones de trabajo y aumentará la transparencia. Como lo señalan en su carta, la transparencia ayudará a que los reguladores estatales a hacer cumplir las leyes laborales y de seguridad del estado y a hacer frente a los peligros en el lugar de trabajo con más eficacia. La regla también aumentará la conciencia sobre los peligros ocupacionales entre los solicitantes de empleo, los investigadores, el público general y otros. La reglamentación propuesta sigue pendiente.

Protección de los trabajadores ante represalias por plantear problemas de seguridad: En junio de 2022, el procurador general Raoul lideró una coalición de 15 procuradores generales en apoyo a la procuradora general de Nueva York Letitia James y su demanda en la cual denuncia que Amazon no tomó precauciones de salud y seguridad adecuadas para los trabajadores de sus instalaciones en Nueva York durante la pandemia de COVID-19 y que aplicó medidas disciplinarias de forma ilegal contra los empleados que protestaron contra las condiciones de trabajo inseguras. En 2021, Nueva York entabló una demanda por represalias en contra de Amazon por haber despedido a un empleado y por haber aplicado acciones disciplinarias a otro empleado después de que estos quejaron de la falta de medidas sanitarias en una instalación de Amazon para evitar la propagación de COVID-19. En mayo de 2022, una corte de apelaciones del estado de Nueva York dio de baja la demanda entablada por la procuradora general James. El tribunal determinó que, como los empleados que recibieron medidas disciplinarias habían participado en protestas que el en la opinión del tribunal estaban vinculadas a una campaña de sindicalización, las demanda por represalias entablada por Nueva York quedaban relegada por la Ley Nacional de Relaciones Laborales (NLRA).

El escrito de amicus curiae presentado por la procuraduría general de Illinois argumenta que la determinación de la corte de apelaciones de Nueva York amplía en términos significativos el campo de reclamos que deben quedar relegados por la Ley Nacional de Relaciones Laborales, lo cual disminuiría el alcance de las protecciones estatales a favor de los trabajadores. La determinación de la corte de apelaciones de Nueva York podría quitarles a los procuradores generales estatales autoridad para enfrentar situaciones de represalias cuando un empleador despide o aplica medidas disciplinarias a un trabajador por unirse a otros en la denuncia de una conducta indebida en el lugar de trabajo. El litigio sigue pendiente en esta materia.

Protección contra sustancias químicas tóxicas para rescatistas: El procurador general Raoul trabajó con una coalición para frustrar los intentos de anular las protecciones en favor de rescatistas que trabajan con plantas químicas y otras grandes instalaciones en las cuales se utilizan o almacenan sustancias químicas tóxicas. En enero de 2020, la Procuraduría se unió a 15 procuradores generales y a la ciudad de Filadelfia para demandar a la Agencia de Protección Ambiental de los Estados Unidos (EPA) por haber revocado los resguardos que impiden y limitan los daños causados por accidentes químicos peligrosos. La demanda cuestiona la revocación por parte de la EPA de las enmiendas realizadas en la época de Obama a su reglamento del "Programa de Gestión de Riesgos" (RMP), conocido como Norma para Desastres Químicos. Esta norma introdujo mejoras fundamentales al RMP para mejorar la protección ante explosiones, incendios, emisiones de gases venenosos y otros accidentes en instalaciones que almacenan y utilizan sustancias químicas tóxicas. La revisión de medidas de seguridad y coordinación con los rescatistas locales antes de que se liberen sustancias químicas, u ocurran incendios o explosiones en dichas plantas es esencial, tanto para la seguridad de los rescatistas como para la seguridad de los empleados de las instalaciones y de la comunidad en general. Se espera que la EPA publique una nueva norma en septiembre de 2022.

Lucha contra la revocación de protecciones ante intoxicación con plaguicidas: En diciembre de 2020, el procurador general Raoul se unió a otros cuatro procuradores generales para presentar una demanda en contra de la Agencia de Protección Ambiental de los Estados Unidos (EPA) por revocar una regla ya implementada que protegía de los pesticidas tóxicos a trabajadores agrícolas, sus familias y a otras personas. Antes de la demanda, la Procuraduría había presentado comentarios sobre el cambio de la regla, como parte de una coalición de procuradores generales para plantear su consternación sobre la forma en que el cambio de regla debilitaría las protecciones contra la exposición humana a pesticidas cuando esos pesticidas nocivos se aplican en campos agrícolas.

En la demanda entablada en el Distrito Sur de Nueva York, el procurador general Raoul y la coalición plantearon que la EPA incumplió la ley federal cuando adoptó una regulación que permite que se sigan rociando pesticidas, incluso si hay trabajadores agrícolas u otras personas dentro del área inmediatamente adyacente al equipo de aplicación del pesticida, si es que esa área queda fuera de los límites de la granja. Como resultado de esta demanda, la regla de la EPA fue suspendida. Gracias a los esfuerzos de la Procuraduría, en mayo de 2022, la EPA reconoció de manera formal que un tribunal federal ha suspendido la aplicabilidad de esta regla.

Adopción de medidas para evitar futuras exposiciones a plaguicidas aéreos: En mayo de 2022, el Buró Ambiental de Springfield presentó una denuncia ante la Junta de Control de la Contaminación de Illinois en contra de dos empresas de aplicación aérea de pesticidas que están relacionadas y que prestan servicios de fumigación de cultivos. En agosto de 2019, estas empresas operaron un avión que sobrevoló un campo en el condado de DeWitt, el cual habría rociado a múltiples trabajadores agrícolas. El fumigador de cultivos habría tenido como objetivo un campo de soja cercano. Por último, al menos 17 trabajadores requirieron atención médica tras reportar varios síntomas de exposición. Mediante su acción ante la Junta de Control de la Contaminación de Illinois, la Procuraduría General aspira a obtener una orden que exija que las empresas cesen y desistan de futuras ilegalidades y que paguen las sanciones civiles. El litigio sigue pendiente en esta materia.

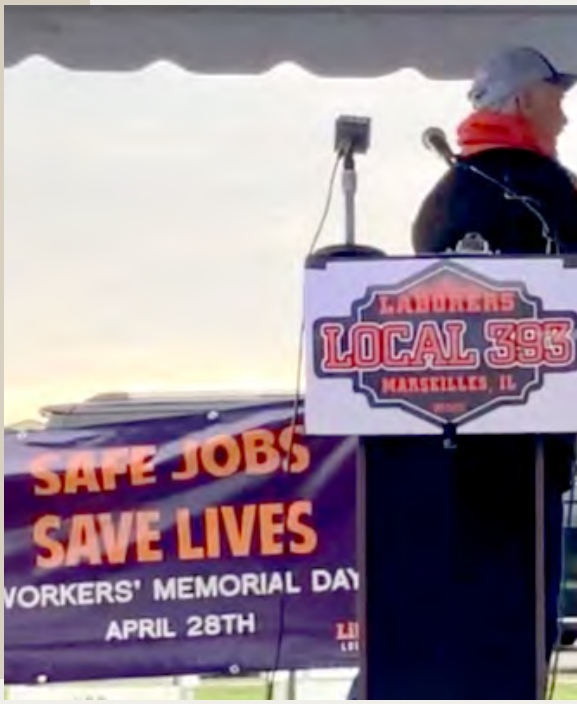
Seguridad en el lugar de trabajo en tiempos de COVID-19: Durante la pandemia de COVID-19, el Buró de Derechos Laborales lanzó una línea telefónica directa y un buzón de correo electrónico para los constituyentes que tuvieran preocupaciones de seguridad en el lugar de trabajo en relación con COVID-19. Desde que estos recursos fueron hechos disponibles, los abogados y el personal de la Procuraduría contactaron a cientos de empleadores en un esfuerzo por lograr que cumplieran las órdenes ejecutivas del Gobernador y la orientación de seguridad estatal relacionada con la pandemia.

El procurador general Raoul regresa al trabajo después de recuperarse del COVID-19 en 2020. El Buró de Derechos Laborales ofreció orientación y ayuda a los trabajadores y empleadores que buscaron asistencia para cumplir con la guía de seguridad estatal y federal.

DIFUSIÓN

Si bien el Buró de Derechos Laborales se dedica a investigar presuntas infracciones a las leyes de protección de los trabajadores en Illinois, el Buró también cuenta con varios colaboradores importantes que ayudan a identificar instancias en que los trabajadores pueden ser perjudicados por infracciones a los derechos laborales. Los centros de trabajadores, los sindicatos, las empresas, las organizaciones de defensa y los trabajadores de todo Illinois ayudan a identificar a los malos actores, lo cual ayuda al Buró de Derechos Laborales en su importante misión. Para asegurarse de que los trabajadores conozcan sus derechos, el Buró de Derechos Laborales se ha esforzado por comunicarse con estos partidos interesadas y por educarlos sobre lo que constituye una infracción a las leyes de protección del trabajador en Illinois y cómo pueden denunciarlas. Desde noviembre de 2020, la Procuraduría General ha realizado actividades de difusión dirigidas a sindicatos, organizaciones de trabajadores y otras organizaciones. La Procuraduría también trabaja para crear y mantener alianzas con otras entidades gubernamentales estatales y federales para promover sus esfuerzos de cada organización para hacer cumplir las leyes, a fin de proteger a los trabajadores y las empresas respetuosas de la ley.

El procurador general Raoul le da la mano al vicepresidente de la Región Sur de la Sociedad de Historia Laboral de Illinois, Mike Matejka, en el evento del Día de los Trabajadores del Condado de LaSalle el 28 de abril, 2022, en Marseilles.



TRABAJO DESTACADO

Acercamiento a los sindicatos para promover el cumplimiento de leyes laborales: En febrero de 2022, el procurador general Raoul habló frente a líderes sindicales en la Reunión Estatal de Oficios de la Construcción sobre el Buró de Derechos Laborales y su investigación de presuntas infracciones a la Ley de Salario Mínimo de Illinois en la planta de Rivian en Normal. El procurador general Raoul destacó que el Buró inició la investigación tras recibir información del Local 197 de IBEW y la forma en que organizaciones como los sindicatos pueden identificar y notificar a la Procuraduría General sobre infracciones a las leyes de protección del trabajador de Illinois. Los representantes del Buró de Derechos Laborales han seguido participando en la Reunión Estatal de Oficios de la Edificación y la Construcción y en otras reuniones ocasionales de otras organizaciones laborales a fin de comunicar información actualizada sobre el trabajo de la Procuraduría y responder dudas.

Apoyo a las organizaciones de trabajadores que luchan contra la discriminación: El procurador general Raoul tomó la palabra en un evento realizado en febrero de 2021 por las organizaciones de derechos del trabajador del área de Chicago y destacó las prácticas discriminatorias de la industria del empleo temporal que afectan de manera negativa a los trabajadores afroamericanos y latinos. El Procurador General resaltó a la Buró de Derechos Laborales y manifestó que las conclusiones de un informe compilado por Chicago Workers Collaborative y Warehouse Workers for Justice demuestran la importancia de las acciones legales en contra de los empleadores que no cumplen con las leyes estatales sobre contratación justa.

Comprendiendo el uso de penalidades criminales para hacer valer las leyes laborales: En noviembre de 2021, el procurador general Raoul y el Grupo de Trabajo de la Unidad de Protección del Trabajador se reunieron con el procurador general de Pensilvania, Josh Shapiro, y con la fiscal adjunta de Distrito de Filadelfia, Danielle Newsome. El procurador general Shapiro y la fiscal adjunta Newsome analizaron sus experiencias enjuiciando casos por robo de salarios y otras infracciones a los derechos del trabajador usando los estatutos penales de robo de salarios de Pensilvania y la forma en que sus oficinas trabajan con otros fiscales, funcionarios del orden público, sindicatos, empresas y grupos de trabajadores en todo el estado en la investigación de infracciones penales a los estatutos de los trabajadores.

Creación de un programa de difusión para el Buró de Derechos Laborales: Los abogados y los profesionales del Buró de Derechos Laborales crearon un programa de difusión para educar a los residentes y a las organizaciones de Illinois acerca del papel del buró en la protección de los trabajadores de Illinois ante infracciones a las leyes laborales de Illinois, como la clasificación incorrecta y el robo de salarios, y para que el público es informe más sobre su funcionamiento. Los representantes del Buró de Derechos Laborales participaron en un seminario virtual sobre derechos del trabajador organizado por el congresista estatal Jay Hoffman para los constituyentes del distrito 113 de la Cámara de Representantes estatal. El Director del Buró de Derechos Laborales también participó como orador en el seminario sobre el salario prevalente organizado por la Fundación para la Contratación Justa de Illinois, Indiana y Iowa en abril de 2022.

El procurador general Raoul habla durante la publicación del informe "Abriendo la puerta: Poner fin a la discriminación racial a través de la aplicación innovadora" de Chicago Workers Collaborative y Warehouse Workers for Justice. El Procurador General discutió cómo los empleadores están contratando cada vez más trabajadores a través de agencias temporales y como investigaciones como esta son útiles para las investigaciones de su oficina.

Haciendo honor a la historia del trabajo y al Día de la Memoria del Trabajador: En abril de 2022, el Procurador General se unió a Local 393 de LIUNA en MarseIlles para inaugurar un nuevo monumento que conmemora a un sindicalista muerto en una protesta hace 90 años. El Procurador General habló ante una multitud de unos 100 miembros del sindicato y residentes del área acerca del trabajador del Buró de Derechos Laborales y su continua labor de investigación y fiscalización.

RECURSOS

LA PROCURADURÍA GENERAL DE ILLINOIS

Oficina principal de Chicago
100 W. Randolph St.
Chicago, IL 60601
TTY: 800-964-3013

Oficina principal de Springfield
500 S. Second St.
Springfield, IL 62701
TTY: 877-844-5461

Oficina principal de Carbondale
601 S. University Ave.
Carbondale, IL 62901
TTY: 877-675-9339

Buró de Derechos Laborales
Línea directa: 1-844-740-5076
Correo electrónico:
workplacerights@ilag.gov
www.illinoisattorneygeneral.gov/rights/labor_employ.html

Buró de Derechos Civiles
Línea directa: 1-877-581-3692
Correo electrónico:
civilrights@ilag.gov
www.illinoisattorneygeneral.gov/rights/civilrights.html

Buró de Derechos de Discapacidad

Línea directa en Chicago: 312-814-5684
TTY en Chicago: 800-964-3013

Línea directa en Springfield: 217-524-2660
TTY en Springfield: 1-877-844-5461

Correo electrónico: disability.rights@ilag.gov
www.illinoisattorneygeneral.gov/rights/disabilityrights.html

DEPARTAMENTO DEL TRABAJO DE ILLINOIS

Oficina de Springfield
524 S. 2nd St., Suite 400
Springfield, IL 62701
Teléfono: 217-782-6206

Oficina de Chicago
Edificio Michael A. Bilandic
160 N. LaSalle St. - 13th Floor
Chicago, IL 60601
Teléfono: 312-793-2800

Oficina de Marion
Edificio de oficinas regionales
2309 W. Main St.
Marion, IL 62959
Teléfono: 217-782-6206

Correo electrónico: DOL.Questions@Illinois.gov
www2.illinois.gov/idol/Pages/default.aspx
Centro de retransmisión de Illinois: 800-526-0844 (usuarios de TTY)

CONCILIACIÓN Y MEDIACIÓN

Clasificación de empleados
Teléfono: 217-782-1710
Correo electrónico: DOL.ECA@Illinois.gov

Igualdad de salarios
Teléfono: 866-372-4365
Correo electrónico: DOL.Questions@Illinois.gov

Oportunidades de trabajo para solicitantes calificados ("Ban the Box")
Teléfono: 312-793-5366
Correo electrónico: DOL.BTB@Illinois.gov

Salario prevalente
Teléfono: 217-782-1710
Correo electrónico: DOL.PWD@Illinois.gov

Derecho a la privacidad en el lugar de trabajo
Teléfono: 312-793-5366
Correo electrónico: DOL.RTPW@Illinois.gov

Ley de Seguridad y Protección Económica de las Víctimas (VESSA)
Teléfono: 866-372-4365
Correo electrónico: DOL.Questions@Illinois.gov

DIVISIÓN DE NORMAS LABORALES JUSTAS

Ley de Trabajo Infantil
Teléfono: 312-793-5570
Línea directa de la Ley de Trabajo Infantil: 800-645-5784
Correo electrónico: DOL.ChildLaborLaw@Illinois.gov

Servicios de jornaleros
Teléfono: 312-793-1804
Línea directa de Servicios de jornaleros: 877-314-7052
Correo electrónico: DOL.DayLabor@Illinois.gov

Salario mínimo/ horas extra
Teléfono: 312-793-2804
Línea directa de Salario mínimo/ horas extra: 800-478-3998
Correo electrónico: DOL.MWOT@Illinois.gov

Descanso de un día en siete (periodo de comida)
Teléfono: 312-793-2804
Correo electrónico: DOL.ODRISA@Illinois.gov

Agencias de empleo privadas
Teléfono: 312-793-1804
Correo electrónico: DOL.PrivateEmployment@Illinois.gov

Salario por debajo del mínimo y talleres protegidos
Teléfono: 312-793-2806
Correo electrónico: DOL.MWOT@Illinois.gov

Pago y cobro de salarios
Teléfono: 312-793-2808
Correo electrónico: DOL.Wages@Illinois.gov

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Continúa en la página 27

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December 21, 2021

ATTORNEY GENERAL RAOUL ANNOUNCES SETTLEMENTS WITH CONSTRUCTION SUBCONTRACTORS AT RIVIAN AUTOMOTIVE OVER UNPAID OVERTIME WAGES

Investigation by Raoul's Office, Department of Labor Reveals Companies Underpaid Workers

Chicago — Attorney General Kwame Raoul today announced settlements with construction subcontractors building a new production line for Rivian Automotive, Inc. (Rivian) that resolve a joint investigation by the Attorney General's office and the Illinois Department of Labor. The settlements require the chain of subcontractors to pay nearly $400,000 in back wages and penalties to resolve allegations that they failed to pay Mexican laborers for overtime worked.

The joint investigation conducted by the Attorney General's office and the Illinois Department of Labor (DOL) revealed that a chain of subcontractors hired to construct Rivian's new production line in Normal, Illinois failed to pay overtime wages to their Mexican workers at the site. The settlements require China-based Guangzhou Mino Equipment Co. (Mino); Spain-based IT8 Software Engineering, S.L. (IT8); and Mexico-based LAM Automation (LAM) – along with the companies' related entities – to pay owed overtime wages and civil penalties, totaling $390,000, to 54 workers who were denied overtime wages they earned.

"Any company doing business in our state must follow laws that require workers to be fairly compensated for the hours they work," Raoul said. "This settlement should send a message that employers cannot hide behind subcontractors to avoid responsibility for stolen wages. I am committed to holding businesses – large and small – accountable for violating laws that safeguard workers and support law-abiding businesses in Illinois, and I appreciate the Illinois Department of Labor's collaboration."

"Part of the mission of the Illinois Department of Labor is ensuring workers are paid the wages to which they're entitled. I'd like to recognize the hard work of employees within the Department of Labor and Attorney General's office for thoroughly investigating these claims and bringing them to a resolution," Illinois Department of Labor Director Michael Kleinik said. "Through IDOL's work with the Office of the Attorney General, we're pleased these back wages and penalties are resolved, and that action was taken to try and prevent this from happening to workers in the future."

According to the Attorney General's office, Mino, IT8, and LAM utilized an elaborate subcontracting arrangement that allowed the companies to deny overtime pay to Mexican laborers at the Rivian facility. After Rivian hired Mino to help build assembly lines at its facility in Normal, Mino then subcontracted work to IT8. IT8 then further subcontracted to LAM to obtain much of the workforce Mino used to fulfill its obligations to Rivian. IT8 and LAM helped laborers in Mexico obtain visas, including nonimmigrant NAFTA Professional (TN) visas, to work for IT8 and Mino at electrical vehicle plants in the U.S., including Illinois' Rivian plant. Although LAM was responsible for issuing payments to the workers, Mino and IT8 shared significant control over their work and their conditions of employment. In addition, Mino used these workers as part of its own labor force. The investigation by Raoul's office and the DOL revealed that employees at the Rivian plant typically worked between 60 and 80 hours per week, seven days a week. Illinois law requires an overtime premium of 150% of regular hourly wages for each hour worked over 40 in a week. LAM's employees did not receive the full overtime wages required by law.

"I applaud Attorney General Raoul, his staff, and the Department of Labor for their efforts and findings of the exploitation of workers by 3 subcontractors at the Rivian plant," Mike Raikes, Business Manager, IBEW Local 197 said. "It is a bittersweet day that the Workers Protection Unit was able to bring the investigation to a close and find fraud, manipulation, and the cheating of wages for vulnerable workers. However, it is sad that in the year 2021 we have contractors going to extreme lengths to intentionally break the law. These contractors knew they were illegally bringing in foreign workers, paying less than area standards and benefits, no overtime pay, and hurting our local workers, contractors, and economy by doing so."

Under the settlements, Mino and IT8 each agree to pay the 54 impacted employees $145,000 in owed overtime wages and penalties, and LAM will pay an additional $100,000. The Illinois Minimum Wage Law allows employees to recover up to triple the amount of damages for any underpayment of wages to which they are entitled. Through the settlements, Raoul's office is recovering nearly 270% of the overtime wages that employees should have received if they had been paid the required overtime premium rate.

Additionally, the settlements require Mino, IT8, and LAM to obtain certifications from any future subcontractors the companies utilize in Illinois to guarantee that the subcontractors will follow Illinois law. To help prevent future violations, the settlements also require subcontractors of Mino, IT8, and LAM to provide detailed wage statements to employees reflecting hours worked, pay rates and total wages earned.

These settlements are part of Attorney General Raoul's ongoing work to protect workers in Illinois from unlawful employment practices. In February 2020, Attorney General Raoul joined a coalition of 18 attorneys general in filing a lawsuit challenging a U.S. Department of Labor rule that would have eliminated key protections for workers under the Fair Labor Standards Act. The rule, which was ultimately invalidated, would have undermined protections against the unlawful conduct uncovered during the Attorney General's investigation into Rivian's subcontractors.

Bureau Chief Alvar Ayala, Counsel to the Attorney General Kimberly Janas, and Assistant Attorneys General Henry Weaver and Javier Castro handled the case for Raoul's Worker Protection Unit.

Attorney General Raoul encourages workers who have concerns about wage and hour violations or potentially unsafe working conditions to call his Workplace Rights Hotline at 1-844-740-5076 or to file a complaint online.

Return to December 2021 Press Releases

TOP

August 23, 2022

ATTORNEY GENERAL RAOUL FILES LAWSUIT AND CONSENT DECREE WITH RIVIAN SUBCONTRACTORS OVER UNPAID OVERTIME WAGES

Raoul's Office Has Recovered Over $700,000 in Unpaid Wages for Workers at Rivian, Litigation Continues to Recover Back Wages Still Owed

Chicago — Attorney General Kwame Raoul today announced a consent decree with construction subcontractors building a new production line for Rivian Automotive Inc. (Rivian), expanding on a settlement reached in December 2021. The settlement requires two subcontractors to pay over $300,000 in back wages and penalties to resolve allegations that they failed to pay Mexican laborers for overtime worked.

A joint investigation conducted by the Attorney General's office and the Illinois Department of Labor (DOL) revealed that a chain of subcontractors hired to construct Rivian's new production line in Normal, Illinois failed to pay overtime wages to their Mexican workers at the site. The consent decree Raoul filed today requires China-based Guangzhou MINO Equipment Co. (MINO) and Florida-based BIW Automotive Solution Inc. (BIW), to pay owed overtime wages and civil penalties totaling $315,000 to 59 workers who were denied overtime wages they earned.

"Any company doing business in our state must follow Illinois' laws that require workers to be fairly paid for the time they work," Raoul said. "These settlements should send a message that employers cannot hide behind subcontractors to avoid responsibility for stolen wages, and I appreciate the Illinois Department of Labor's collaboration. I am committed to holding businesses – large and small – accountable for violating laws that safeguard workers and support law-abiding businesses in Illinois."

"Illinois law requires that employees are paid in full and on time, including overtime wages," said Illinois Department of Labor Acting Director Jane Flanagan. "When employers skirt the law, it harms workers and undercuts law-abiding businesses. This resolution is the result of hard work and cooperation between IDOL and the Office of the Attorney General and should serve as an example of both agencies efforts to hold employers accountable for stolen wages."

The investigation by the Attorney General's office and DOL was based on a tip from the IBEW Local 197 related to alleged workplace violations by Rivian subcontractors. Two additional defendants, Mexico-based SDS Industrialservicio S.A. de C.V. (SDS) and its president, have refused to cooperate with the Attorney General's investigation or engage in settlement discussions. The Attorney General's office also filed a lawsuit today to ensure that they also pay penalties owed under Illinois law.

According to the Attorney General's office, MINO, BIW and SDS used an elaborate subcontracting arrangement to deny overtime pay to Mexican laborers at Rivian's facility in Normal. After Rivian hired MINO to build assembly lines, MINO subcontracted work to BIW. BIW then further subcontracted to SDS to obtain much of the workforce MINO used to fulfill its obligations to Rivian. Although SDS was responsible for paying the workers, MINO and BIW shared significant control over their work and their conditions of employment. The investigation by Raoul's office and the DOL revealed that employees at the Rivian plant typically worked between 60 and 80 hours per week, seven days a week. Illinois law requires an overtime premium of 150% of regular hourly wages for each hour worked over 40 in a week. SDS's employees did not receive any overtime wages required by law.

Under the consent decree Raoul's office filed today, MINO agrees to pay 59 affected employees $170,000 in owed overtime wages and penalties, and BIW will pay an additional $145,000. The Illinois Minimum Wage Law allows employees to recover up to triple the amount of damages for any underpayment of wages to which they are entitled. Through the settlement, Raoul's office is recovering about 150% of the overtime wages that employees should have received if they had been paid the required overtime premium rate. Raoul's office intends to vigorously pursue SDS and Semmelweis, the absent defendants, for the remainder of the money owed to workers.

The agreement announced today builds on the Attorney General's ongoing actions to protect laborers at Rivian. In December 2021, Attorney General Raoul announced settlements with subcontractors, including MINO, that recovered $390,000 on behalf of 54 other workers at the Rivian site. In total, the Attorney General's office has recovered over $700,000 in unpaid wages. Raoul's lawsuit against SDS and its president will continue.

The litigation is part of Attorney General Raoul's ongoing work to protect workers in Illinois from unlawful employment practices. In February 2020, Attorney General Raoul joined a coalition of 18 attorneys general in filing a lawsuit challenging a U.S. Department of Labor rule that would have eliminated key protections for workers under the Fair Labor Standards Act. The rule, which was ultimately invalidated, would have undermined protections against the unlawful conduct uncovered during the Attorney General's investigation into Rivian's subcontractors.

Bureau Chief Alvar Ayala and Assistant Attorneys Generals Javier Castro and Henry Weaver handled the case for Raoul's Workplace Rights Bureau.

Attorney General Raoul encourages workers who have concerns about wage and hour violations or potentially unsafe working conditions to call his Workplace Rights Hotline at 1-844-740-5076 or to file a complaint online.

Return to August 2022 Press Releases

TOP

August 26, 2022

ATTORNEY GENERAL RAOUL ISSUES STATEMENT ON APPELLATE COURT OPINION SENDING WORKERS' RIGHTS AMENDMENT TO VOTERS

Chicago — Attorney General Kwame Raoul today issued the following statement in response to an opinion by the 4th District Appellate Court in Sarah Sachen v. Illinois State Board of Elections. The opinion affirmed a lower court's decision rejecting a lawsuit that sought to remove a proposed constitutional amendment from the November 2022 ballot.

"I am pleased with the 4th District's decision, which will allow voters to decide whether Illinois' constitution should be amended to include a 'Workers' Rights Amendment.' We argued that the plaintiffs' claims failed because the decision of whether to amend the constitution should be made by the voters, not the courts. I am happy the court agreed.

"Voters should decide whether workers' rights to organize and collectively bargain should be enshrined in our constitution. This opinion means that, in a few short months, voters will have the ultimate say."

Return to August 2022 Press Releases

TOP

March 3, 2022

ATTORNEY GENERAL RAOUL LEADS BRIEF IN U.S. SUPREME COURT IN SUPPORT OF TRANSPORTATION WORKERS' RIGHTS

Chicago — Attorney General Kwame Raoul today led a coalition of 18 attorneys general in filing an amicus brief urging the U.S. Supreme Court to affirm a lower court's decision that transportation workers who load and unload interstate cargo are exempt from the Federal Arbitration Act (FAA).

The FAA requires workers to raise claims against their employer in private arbitration proceedings when they have signed an arbitration agreement; however, there is an exemption within the FAA for transportation workers. In today's brief, filed in Southwest Airlines Co. v. Saxon, Raoul and the coalition support Latrice Saxon, a ramp agent supervisor at Midway Airport, in her claim that she and other cargo workers fall within the FAA's exemption for transportation workers. Raoul and the attorneys general assert that those workers should be afforded the right to raise claims against their employer outside of private arbitration.

"We have seen the critical role cargo workers play in keeping our states running efficiently, and these workers deserve the same protections afforded to other transportation workers," Raoul said. "I urge the Supreme Court to uphold the FAA's interpretation that exempts cargo workers and allows states to better protect these essential workers from unsafe and unlawful working conditions."

In today's brief, Raoul and the coalition argue that the transportation sector plays a critical role in state economies and infrastructure, and a disruption in transportation or shipping operations caused by labor conflicts has the potential to impact nearly every aspect of commerce within a state. Because of this, Raoul and the coalition assert that states have an interest in ensuring that disputes involving transportation workers are resolved in public and transparent proceedings that allow the states to monitor such disputes and respond as necessary, as opposed to private and confidential arbitration proceedings designed by employers.

Additionally, states are better able to perform their investigatory and enforcement duties when these disputes are resolved in public forums. When workers are subject to arbitration agreements, which typically are drafted by employers and include confidentiality provisions and other protectionist terms, it is more difficult for states to gather information about the pervasiveness of unlawful practices. Raoul and the coalition argue that requiring transportation workers to arbitrate their claims would affect the amount of publicly-available information related to the working conditions of these employees, and hinder their ability to protect workers from unsafe and unlawful working conditions.

Joining Raoul in today's brief are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

Return to March 2022 Press Releases

TOP

May 14, 2021

ATTORNEY GENERAL RAOUL FILES CONSENT DECREE WITH ROOFING COMPANY IN LAWSUIT ALLEGING OVERTIME WAGE THEFT

Raoul's Consent Decree is First Under the Attorney General's New Authority to Protect Illinois Workers

Chicago — Attorney General Kwame Raoul today announced a consent decree with a Chicago roofing company resolving allegations the company unlawfully withheld overtime wages from its workers, some of whom often worked over 60 hours a week. The lawsuit and consent decree are the first the Attorney General's office is filing using its authority under a worker protection law Attorney General Raoul initiated in 2019.

The consent decree, filed in the Cook County Circuit Court, resolves a lawsuit Raoul's office also filed today against Star Roofing and Siding Inc. (Star Roofing). The consent decree requires the company to take action to ensure that its employees will be paid in accordance with state law, which entitles workers to overtime pay for hours worked in excess of 40 hours per week. Additionally, the consent decree requires the company to pay a total of $101,000 in owed overtime pay to nine workers.

"Employers that skirt wage and hour laws not only hurt workers who rely on their paychecks to support their families, but also gain an unfair advantage over law-abiding employers," Raoul said. "Our laws are designed to ensure that Illinois workers get paid fairly for the work they perform, and I will continue to use my office's authority to investigate and pursue claims against employers who refuse to follow the law."

"This is a good day for the workers. Far too many times employees at Star Roofing have not been paid for all time worked. It is bad enough that these employees are not paid the area standard that is enjoyed by union roofers," Gary Menzel, President of Roofers and Waterproofers Local 11 said. "I applaud the workers who stood up for their rights and I applaud the Attorney General's office for prosecuting bad employers. In these tumultuous times it is good to see that justice can still prevail."

Raoul's lawsuit alleges that for years, Star Roofing failed to pay nine of its roofing employees overtime wages for all time worked in excess of 40 hours per week. Star Roofing's alleged failure to pay these roofers at time and a half their regular rate of pay for all time worked in excess of 40 hours per week violated the provisions of the Illinois Minimum Wage Law, which designates the overtime rate of pay.

Under the consent decree, Star Roofing must maintain and provide pay records for workers to ensure that workers know their rate of pay and the amount of hours worked each week. The consent decree also requires Star Roofing to keep GPS records for all its vehicles and detailed records about the crew members traveling in each vehicle to deter workers from being paid off-the-books. Beyond obtaining the wages the workers are entitled to under the law, Raoul's consent decree also ensures that workers will continue to be paid in accordance with the law and allows the Attorney General's office to seek attorney's fees and costs if it becomes necessary to enforce the provisions of the consent decree.

Today's lawsuit and consent decree are the first filed under the authority that Attorney General Raoul secured in his 2019 legislation intended to protect workers from unlawful employment practices and to level the playing field for law-abiding businesses. Public Act 101-0527 was signed into law after being passed by the General Assembly with bipartisan support and formally established the Worker Protection Unit within the Attorney General's office. The law also provides clear legal authority for the Attorney General to investigate and bring enforcement actions against employers that commit wage theft and other workplace rights violations, such as violations of the Minimum Wage Law, the Wage Payment and Collection Act, and the Employee Classification Act.

The consent decree filed today builds on Attorney General Raoul's work to advocate for workers and enforce the laws designed to protect them. In April, Raoul filed a lawsuit and entered into a consent decree against three companies and a staffing agency to

prevent sex discrimination in hiring practices. Raoul previously sued Voyant, a beauty packaging company in Cook County, and installed a monitor following workers' complaints of sexual harassment and retaliation. Raoul also initiated a lawsuit against Colony Inc. and its temporary staffing agencies alleging they unlawfully conspired to fix workers' wages and restrict their right to find better employment opportunities. Attorney General Raoul also leads the Worker Protection Unit Task Force, which is composed of state agencies and law enforcement officials from around the state. The task force issued its first report in November 2020.

Attorney General Raoul encourages workers who have experienced unfair workplace practices to contact his office's Workplace Rights Hotline at 1-844-740-5076.

Bureau Chief Alvar Ayala handled the case for Raoul's Workplace Rights Bureau.

Return to May 2021 Press Releases

TOP

ILLINOIS ATTORNEY GENERAL **KWAME RAOUL**

PRESS RELEASE

www.IllinoisAttorneyGeneral.gov

For Immediate Release:
Sept. 2, 2022

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EL PROCURADOR GENERAL DE ILLINOIS ARCHIVA DEMANDA CONTRA COMPAÑIA DE CONSTRUCCION POR UNA CONSPIRACION COMPLEJA PARA NO PAGAR SALARIOS JUSTOS Y EVADIR IMPUESTOS

Raoul también anunció su informe del día del trabajo 2022 en el cual destaca su labor para proteger a los trabajadores en Illinois

Chicago – Próximo a las fiestas del Dia del Trabajo, el procurador general archivó ayer una demanda contra una compañía de construcción con sede en Bridgeview, Illinois por una conspiración elaborada para mantener a sus empleados fuera de la nómina y evadir la retencion de impuestos exigidos bajo la ley. La Procuraduría General archivó la demanda contra Drive Construction Inc., sus oficiales principales, y una red compleja de entidades e individuos alegando una conspiración de muchos años mediante la cual millones de dólares de salarios fueron pagados en efectivo para eludir a las leyes que protegen a los trabajadores en Illinois y aseguran salarios justos.

Cada año, Drive Construction (Drive), que se especializa en la carpintería, fontanería, y albañilería, obtiene contratos para proyectos de obras públicas que valen varios millones de dólares. La demanda de Raoul alega que Drive clasifico erróneamente a sus empleados como contratistas independientes para no pagar tasas de salarios justas a sus empleados por cada hora trabajada y para evadir las obligaciones de pagar sus contribuciones de seguro de desempleo al Departamento de Seguridad del Empleo de Illinois. Raoul alega que Drive violó la Ley de Salario Mínimo de Illinois, la Ley de Salario Prevaleciente de Illinois, y la Ley de Clasificación de Empleados de Illinois.

“La clasificación errónea de empleados como contratistas independientes priva a los trabajadores de sus derechos de ser renumerados justamente y estar cubiertos por el seguro de compensación al trabajador en el evento de un accidente laboral,” dijo Raoul. “Los empleadores que se ganan ventajas competitivas por abonar los salarios fuera de nómina en violación de la ley crean un ambiente de desigualdad entre las empresas que respetan las leyes. Me comprometo a asegurar que todas las empresas – grandes o pequeñas – sean hechas responsables cuando actúan en contra de las leyes que resguardan a los trabajadores y a apoyar a las empresas en Illinois que siguen la ley.”

La demanda archivada por Raoul procede de una investigación que se basó en información proporcionada por el Consejo Regional de Carpinteros Mid-America, el cual tiene un convenio colectivo con Drive.

“El Consejo Regional de Carpinteros Mid-America trabajó en estrecha colaboración con la Oficina del Procurador General para arrojar luz sobre este caso ejemplar de robo de salarios contra los trabajadores explotados,” dijo Gary Perinar, secretario-tesorero executivo para el Consejo Regional de Carpinteros Mid-America. “La unión de carpinteros persigue agresivamente a los casos de robo de salarios porque dichos robos lastiman a las familias trabajadoras, lastiman a los contribuyentes en Illinois, y lastiman a nuestros contratistas que operan de acuerdo a las reglas y que están en una gran desventaja contra las contratistas sin escrupulos que pueden proponen ofertas demasiadas bajas por engañar al sistema. A principios de este año, introducimos con orgullo nueva legislación para abordar el robo de salarios, la cual se convirtió en ley y ahora hace responsable a los contratistas tramposos. Continuaremos la lucha para las familias trabajadoras por todo el estado.”

La demanda archivada por Raoul alega que tan solo entre los años 2015 al 2020, Drive Construction obtuvo contratos con un valor de más de $40 millones para proyectos de obras públicas, incluyendo escuelas públicas y apartamentos públicos. Esos contratos exigían que Drive pagara a sus carpinteros a tasas de salarios prevalecientes bajo la ley de Illinois. La demanda alega que Drive les pago a sus trabajadores en efectivo por miles de horas a tasas muy por debajo de las tasas prevalecientes. Además, la demanda de Raoul alega que los empleados de Drive a menudo trabajaban más de 50 horas por semana en obras publicas así como privadas. La Ley de Salario Mínimo de Illinois exige que los empleadores paguen a una tasa de tiempo y medio para cada hora de extra trabajada por un empleado después de las primeras 40 horas en una semana. En lugar de pagar a los empleados a la tasa de tiempo y medio para el tiempo extra, Drive les pago a muchos de sus empleados por debajo de la mesa a la misma tasa por cada hora sin importar cuantas horas hayan trabajado en la semana.

La demanda del Procurador General también nombra a Jesus Cortez, Kelly Byrne, Francisco Guel, Raul Lovera y Juan Carlos Lara, quienes se alega ayudaron a Drive a establecer varias empresas falsas con el propósito de canalizar millones de dólares de salarios para los empleados de Drive por debajo de la mesa y para proteger a Drive Construction de cualquier responsabilidad por sus violaciones de las leyes de Illinois. Estas empresas incluyen Accurate Construction, Infinity Construction, R&L Construction of Illinois, y A Lara Construction. Según Raoul, las empresas falsas usaban casas de cambio para convertir el dinero de Drive Construction a efectivo y giros que luego usaron para pagar a los empleados debajo de la mesa. Para obtener más información haga clic aqui.

Según el procurador general, el esquema de Drive resulto en el robo de salarios de docenas de trabajadores. La demanda de Raoul busca pagos retroactivos para los trabajadores, penalidades contra Drive y sus agentes, y la devolución de las ganancias mal habidas de Drive.

Próximo al fin de semana feriado del Dia del Trabajo, el procurador general también destacó su informe exhaustivo, disponible en ingles y espanol, detallando las acciones de abogacía y protección que la Procuraduría ha tomado a favor los trabajadores de Illinois. Desde su

codificación en los estatutos de Illinois en el año 2020, el Buró de Derechos Laborales de la Oficina del Procurador General ha recuperado más de $1.4 millón en salarios debidos y penalidades y ha formalizado 12 acuerdos para proteger a trabajadores contra la discriminación y el robo de salarios.

La demanda de ayer forma parte del trabajo continuo del procurador general – mucho de cual se encuentra resumido en el Informe de Día del Trabajo 2022 del procurador general – para proteger a los trabajadores en Illinois contra las prácticas ilegales en el empleo.

Por ejemplo, la Procuraduría realizo una investigación en colaboración con el Departamento de Trabajo de Illinois contra una cadena d subcontratistas que construyeron líneas de ensamblaje en la instalación de Rivian en Normal, Illinois. En diciembre del 2021 y agosto del 2022, el procurador general anunció acuerdos con estos subcontratistas de Rivian Automotive para la recuperar más de $700,000 en salarios debidos por horas extra trabajadas por más de 100 trabajadores que ayudaron construir las líneas de ensamblaje en Rivian. En mayo del 2021, el procurador general Raoul anunció una acuerdo con Star Roofing para recuperar más de $100,00 en salarios debidos por horas extras trabajadas por techadores en al área de Chicago. Recientemente, el procurador general obtuvo una decisión de el Tribunal de Apelaciones del 4˚ Distrito que permitirá a los votantes decidir en noviembre si deben consagrar el derecho de los de trabajadores para organizarse y negociar colectivamente en la constitución de Illinois.

A nivel nacional, el procurador general dirigió una coalición de procuradores generales a principios de este año en archivando un escrito ante la Corte Suprema de los Estados Unidos apoyando un supervisor de agentes de rampa en el Aeropuerto Midway de Chicago. En última instancia, la Corte dictamino de manera unánime a favor de la supervisora Latrice Saxon en su demanda contra Southwest Airlines, preservando derechos cruciales para los trabajadores de carga en Illinois y en todo el país.

El director del Buró Alvar Ayala, el procurador general asistente sénior Christian Arizmendi, y procurador general asistente Henry Weaver están manejando el caso contra Drive Construction para el Buró de Derechos Laborales de la Procuraduría General.

El procurador general alienta a los empleados de Drive Construction que tengan información adicional y a trabajadores que tengan inquietudes sobre violaciones de las leyes de las horas y salarios o condiciones inseguras en el trabajo a llamar a su Línea Directa de Derechos Laborales al 1-844-740-5076 o presentar una queja por correo electronico.

-30-

February 26, 2020

ATTORNEY GENERAL RAOUL FILES LAWSUIT TO DEFEND KEY PROTECTIONS FOR WORKERS

Chicago — Attorney General Kwame Raoul, as part of a coalition of 18 attorneys general, today filed a lawsuit to stop the federal government from eliminating key labor protections for workers.

The lawsuit challenges a United States Department of Labor rule that seeks to unlawfully narrow the joint employment standard under the Fair Labor Standards Act (FLSA). The FLSA is the federal law establishing a baseline of critical workplace protections, such as minimum wage and overtime, for workers across the country. The joint employment standard determines employer liability for wage theft or other workplace violations when two or more entities employ a worker. This change would undermine critical workplace protections for the country's low-and middle-income workers and could lead to increased wage theft and other labor law violations.

"Workers deserve to have their rights protected regardless of whether they work one job or are contracted through staffing agencies or management companies," Raoul said. "I am committed to fighting any effort to weaken workplace protections and stopping bad employers from taking advantage of their employees."

Raoul and the coalition assert that the rule directly undermines Congress' intent for the FLSA, and that the department violated the rulemaking process requirements. Further, they argue that the rule would place significant regulatory burdens on states and harm states' economies and residents. Raoul and the coalition are urging the court to declare the rule unlawful and invalidate it.

Over the past few decades, businesses have increasingly outsourced and subcontracted many of their core responsibilities to intermediary entities instead of hiring workers directly. Because these intermediary entities tend to be less stable, less well-funded and subject to less scrutiny, they are more likely to violate wage and hour laws. In the suit, Raoul and the coalition argue that the department's new rule provides an incentive for businesses to offload employment responsibilities to smaller companies, which, under the new rule, will shield them from federal liability for wage and hour violations under the FLSA. This will result in lower wages and increased wage theft for workers, especially for workers in low-wage jobs. Further, the new rule will make it more difficult to collect unpaid back wages for workers.

The new rule, the complaint argues, is incompatible with the text of the FLSA and Congress' intent in passing it to protect workers from unscrupulous employers. The rule also violates the law by attempting to overturn 75-year-old Supreme Court precedent via regulation.

The lawsuit builds on Attorney General Raoul's efforts to fight unlawful employment practices and end the wage theft crisis. After becoming Attorney General, Raoul initiated legislation that codified a Worker Protection Unit within the Attorney General's office. The unit has the authority to enforce existing laws that protect workers' rights and lawful businesses in Illinois. The new law also established a Worker Protection Unit Task Force, which Attorney General Raoul convened for the first time in January. The task force will facilitate information sharing and collaboration between the Attorney General's office, prosecutors, the Illinois Department of Labor, the Illinois Department of Human Rights, the Illinois Department of Employment Security, and the Workers' Compensation Commission.

In 2019, Attorney General Raoul led a coalition of attorneys general in opposing a Department of Labor proposal to expand the fluctuating work week rule, the only rule under which employees' hourly and overtime rates of pay actually decrease as the hours they work per week increase. Also in 2019, Raoul testified before the Congressional House Appropriations Labor, Health and Human Services, and Education Subcommittee about the wage theft crisis and the importance of the federal government partnering with states to combat wage theft.

Joining Raoul in filing the lawsuit are the attorneys general of California, Colorado, the District of Columbia, Delaware, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Washington.

-30-

Return to February 2020 Press Releases

TOP

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-30-

Return to February 2020 Press Releases

TOP

2022 IL App (4th) 220470

NO. 4-22-0470

FILED
August 26, 2022
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

SARAH SACHEN, IFEOMA NKEMDI, JOSEPH OCOL, and ALBERTO MOLINA, Petitioners-Appellants, v. THE ILLINOIS STATE BOARD OF ELECTIONS; IAN LINNABARY, in His Official Capacity as Chair of the Illinois State Board of Elections; CASANDRA B. WATSON, WILLIAM J. CADIGAN, LAURA K. DONAHUE, TONYA L. GENOVESE, CATHERINE S. McCRORY, WILLIAM M. McGUFFAGE, RICK S. TERVEN SR., in Their Official Capacities as Members of the Illinois State Board of Elections; JESSE WHITE, in His Official Capacity as Illinois Secretary of State; and SUSANA MENDOZA, in Her Official Capacity as Illinois State Comptroller, Respondents-Appellees.	)	Appeal from the Circuit Court of Sangamon County No. 22CH34 Honorable Raylene Grischow, Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court, with opinion.
Justices Turner and Doherty concurred in the judgment and opinion.

OPINION

¶ 1 Petitioners—Illinois taxpayers Sarah Sachen, Ifeoma Nkemdi, Joseph Ocol, and Alberto Molina—filed a petition for leave to file a taxpayer action under section 11-303 of the Code of Civil Procedure (Code) (735 ILCS 5/11-303 (West 2020)). They sought to prevent respondents—the Illinois State Board of Elections (Board) and its members, Illinois Secretary of State Jesse White, and Illinois State Comptroller Susana Mendoza—from using public funds to place a proposed amendment to the Illinois Constitution on the November 2022 general election

ballot. Petitioners argued that the proposed amendment was preempted by federal law and violated the supremacy clause of the United States Constitution (U.S. Const., art. VI). Following a hearing, the trial court found no reasonable grounds existed for the filing of petitioners' action and denied their petition. Petitioners appeal. We affirm.

¶ 2 I. BACKGROUND

¶ 3 Article XIV of the Illinois Constitution of 1970 provides three methods for amending our state constitution. Ill. Const. 1970, art. XIV. Specifically, amendments may be made (1) during a constitutional convention, (2) after being initiated by the Illinois General Assembly, and (3) through a "constitutional initiative" that is petitioned for by a certain percentage of voters. *Id.* §§ 1-3. Amendments proposed by the General Assembly must be approved by a "vote of three-fifths of the members elected to each house" and then submitted to voters at the next general election "occurring at least six months after such legislative approval." *Id.* § 2. Amendments proposed by way of a constitutional initiative must be "limited to structural and procedural subjects" that pertain to Illinois's legislative branch and also submitted for voter approval during a general election. *Id.* § 3.

¶ 4 In May 2021, the General Assembly passed a joint resolution that proposed amending the Illinois Constitution by adding the following language to Article I:

> "SECTION 25. WORKERS' RIGHTS
>
> (a) Employees shall have the fundamental right to organize and to bargain collectively through representatives of their own choosing for the purpose of negotiating wages, hours, and working conditions, and to protect their economic welfare and safety at work. No law shall be passed that interferes with, negates, or diminishes the right of employees to organize and bargain collectively over their

wages, hours, and other terms and conditions of employment and work place [*sic*] safety, including any law or ordinance that prohibits the execution or application of agreements between employers and labor organizations that represent employees requiring membership in an organization as a condition of employment.

(b) The provisions of this Section are controlling over those of Section 6 of Article VII." 102d Ill. Gen. Assem., Senate Joint Resolution Constitutional Amendment No. 11, May 26, 2021.

Legislative sponsors of the proposed amendment, which the parties refer to as "Amendment 1," described it as creating "a constitutional floor for [collective] bargaining in Illinois" (102d Ill. Gen. Assem., Senate Proceedings, May 21, 2021, at 32 (statements of Senator Villivalam)) and asserted that it would "[p]rohibit[ ] the passage of any future right-to-work law" (102d Ill. Gen. Assem., House Proceedings, May 26, 2021, at 18 (statements of Representative Evans)). Amendment 1 is scheduled to be submitted to Illinois voters on the November 2022 general election ballot.

¶ 5 In April 2022, petitioners initiated the underlying action against respondents, seeking leave to file a taxpayer action to restrain and enjoin the disbursement of state funds pursuant to section 11-303 of the Code (735 ILCS 5/11-303 (West 2020)). Petitioners asserted that the National Labor Relations Act (NLRA) (29 U.S.C. §§ 151 to 169 (2018)) governs private-sector collective bargaining nationwide and, because Amendment 1 would regulate the same activity—by establishing a state-law right to collective bargaining for private-sector employees—it was subject to preemption by the NLRA and in violation of the supremacy clause. Petitioners further alleged that, as Illinois taxpayers, they suffered injury "when the state uses its general revenue funds for an unconstitutional purpose" and, therefore, they had standing to bring a claim under section 11-303. They maintained injunctive relief was appropriate, stating that "[w]here a proposed

constitutional amendment scheduled to go before voters is itself unconstitutional, the proper remedy is an injunction to prevent state officials from placing it on the ballot."

¶ 6 Petitioners asked the trial court to find that there was a reasonable ground for the filing of their complaint and to order it filed. They attached a copy of their complaint to their petition, alleging Amendment 1 was preempted by the NLRA and in violation of the supremacy clause and seeking both declaratory relief and injunctive relief. Specifically, petitioners asked the court to (1) declare that Amendment 1 was preempted by the NLRA and in violation of the supremacy clause and (2) preliminarily and permanently enjoin respondents from disbursing or using public funds to place Amendment 1 on the November 2022 general election ballot.

¶ 7 In May 2022, respondents White and Mendoza filed an objection to petitioners' proposed action, arguing no reasonable grounds existed for the filing of their complaint because their claims failed as a matter of law. Although the Board and its members were also named as respondents, they did not enter an appearance in the underlying proceedings.

¶ 8 Following a hearing the same month, the trial court entered a written order denying petitioners leave to file their complaint and agreeing with respondents that reasonable grounds did not exist for the filing of their proposed action. First, the court found that the requirements for the General Assembly's approval of proposed amendments—as set forth in article XIV, section 2, of the constitution (Ill. Const. 1970, art. XIV, § 2)—had been met and, as a result, the proposed amendment was constitutionally required to be submitted to voters for approval or rejection. Second, the court concluded it had "no power to restrain a referendum on grounds that, if the proposed law were enacted, its enforcement would be unconstitutional." It relied on supreme court authority to that effect and distinguished cases cited by petitioners on the basis that they dealt with alleged constitutional challenges to "the proposed *manner of amendment*" rather than challenges

to the enforcement or substantive validity of the amendment in the event the of a successful referendum. (Emphasis in original.) The court stated that, in the present case, the referendum was "plainly proper because the requirements for holding the referendum under [article] XIV, section 2[,] [were] met" and that challenges to the anticipated enforcement of Amendment 1 following a successful election were premature.

¶ 9 Third, the trial court found that although petitioners maintained the NLRA would preempt Amendment 1 with respect to private-sector employees, they conceded that it would have valid application to public-sector employees, who are not governed by the NLRA. The court determined Amendment 1 would also prohibit the passage of laws restricting union security agreements, a subject about which states are free to legislate. The court found that in preemption cases, state law is displaced only to the extent that it actually conflicts with federal law. Further, it concluded as follows: "At most, federal preemption would merely render [Amendment 1] dormant, not invalid, because it would still apply to situations not covered by the NLRA and would become enforceable even as to preempted applications in the event the NLRA were ever repealed." Accordingly, the court determined no grounds existed for denying voters the opportunity to decide whether to add Amendment 1 to the Illinois Constitution.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, petitioners challenge the trial court's denial of their petition for leave to file a taxpayer action. They argue that as taxpayers, they have standing to seek to enjoin the use of public funds for any unconstitutional purpose, including the placement of a proposed constitutional amendment on the ballot when the amendment itself is unconstitutional. Further, they contend that, even if they are not entitled to injunctive relief, they still have standing to obtain declaratory relief

with respect to the constitutionality of the proposed amendment. Finally, petitioners maintain the court erred in finding their constitutional claim—that Amendment 1 violates the supremacy clause because it is preempted by the NLRA—lacked merit.

¶ 13 A. Standard of Review

¶ 14 Under the Code, either the attorney general or "any citizen and taxpayer" of Illinois may bring "[a]n action to restrain and enjoin the disbursement of public funds by any officer or officers of the State government." 735 ILCS 5/11-301 (West 2020). When such an action is brought by a private citizen, he or she must first petition the court for leave to file the action. *Id.* § 11-303. Following a hearing, the trial court may grant leave if it "is satisfied that there is reasonable ground for the filing of such action." *Id.* When determining whether reasonable grounds exist, a court must take as true all well-pled factual allegations in the complaint. *Tillman v. Pritzker*, 2021 IL 126387, ¶ 16, 183 N.E.3d 94. A court may find reasonable grounds to be lacking if the purpose of the proposed action is "frivolous or malicious" (*Strat-O-Seal Manufacturing Co. v. Scott*, 27 Ill. 2d 563, 566, 190 N.E.2d 312, 313 (1963)) or where the petitioner's claims fail as a matter of law (*Tillman*, 2021 IL 126387, ¶ 22).

¶ 15 "The circuit court's decision whether to permit the filing of a taxpayer action under section 11-303 is reviewed for an abuse of discretion." *Id.* ¶ 15. However, this case also presents questions of law, including the proper scope of an action brought pursuant to section 11-303 and the legal sufficiency of petitioners' claims, which are subject to a *de novo* standard of review. *Hooker v. Illinois State Board of Elections*, 2016 IL 121077, ¶ 21, 63 N.E.3d 824 (stating a *de novo* standard applies to questions of law). As respondents point out, a trial court abuses its discretion if it bases its "decision on an incorrect view of the law." *North Spaulding Condominium Ass'n v. Cavanaugh*, 2017 IL App (1st) 160870, ¶ 46, 76 N.E.3d 770.

¶ 16 B. Availability of Relief Under Section 11-303

¶ 17 Here, the trial court concluded petitioners' claims failed as a matter of law. As stated, it initially determined it lacked the power to restrain a referendum on the grounds alleged by petitioners—that the referendum concerned a proposed constitutional amendment, which was, itself, unconstitutional and, if approved, could not validly be enforced. We find an analysis of the relevant supreme court case authority supports the court's determination and its decision was based on a correct interpretation of the law.

¶ 18 In *Fletcher v. City of Paris*, 377 Ill. 89, 91, 35 N.E.2d 329, 330 (1941), a group of taxpayers challenged the validity of a proposed municipal ordinance that was set for a referendum vote. As relief, they sought to enjoin the city from holding the election or expending city funds in connection with it. *Id.* On review, the supreme court identified the question before it as whether the taxpayers had the right "to enjoin the use of public funds to defray the expenses of holding an election called to vote upon the approval of [an] ordinance ***, which is alleged to be invalid." *Id.* at 92. The court ultimately determined the taxpayers were not entitled to such relief. *Id.* 98-99.

¶ 19 In setting forth its decision, the *Fletcher* court first stated that it had long been settled in Illinois "[t]hat the courts have no jurisdiction to enjoin the holding of an election." *Id.* at 92. It noted as follows:

> " 'The reason is that an election is a political matter with which courts of equity have nothing to do, and that such an attempt to check the free expression of opinion, to forbid the peaceable assemblage of the people, to obstruct the freedom of elections, if successful, would result in the overthrow of all liberties regulated by law.' " *Id.* at 93 (quoting *Payne v. Emmerson*, 290 Ill. 490, 495, 125 N.E. 329, 331 (1919)).

¶ 20 The supreme court rejected arguments by the taxpayers that the case before it was "different" because they sought to enjoin the use of public funds—not solely the holding of an election—and that their action could be "sustained because a taxpayer has the right to prevent public officers from paying out funds raised by taxation for expenses, or purposes, not authorized by law." *Id.* at 94. The court found the "primary purpose" of the taxpayers' action "was to have the court declare [the municipal ordinance] invalid before it became effective or in force," but that they had "no right" to do so. *Id.* at 94-95. It stated that to enjoin the enforcement of an unconstitutional statute, an individual "must be able to show that the statute is invalid and that he has sustained, or is in immediate danger of sustaining, some direct injury as the result of its enforcement and not merely that he suffers in some indefinite way in common with people generally." *Id.* at 95.

¶ 21 The *Fletcher* court described the taxpayers' challenge to the validity of the ordinance as premature and circuitous. *Id.* at 99. It noted that the election at issue constituted "one of the steps necessary in the passage of the ordinance" and, pursuant to statute, the ordinance "could not become effective until" it was submitted to, and approved by, voters. *Id.* at 95. It further stated as follows:

> "The courts have no more right to interfere with or prevent the holding of an election which is one step in the legislative process for the enactment or bringing into existence a city ordinance, than they would have to enjoin the city council from adopting the ordinance in the first instance.
>
> By the constitution, the powers of government are divided between three distinct branches of the government created by that instrument. The judiciary has no supervision over the legislative branch of the government. The courts can neither

dictate nor enjoin the passage of legislation." *Id.* at 96.

¶ 22 The *Fletcher* court favorably cited case authority describing court interference with legitimately held elections—those that have a lawful purpose, violate no law, and relate to the exercise of a constitutional right—as " 'dangerous to the rights of the citizen.' " *Id.* at 96-97 (quoting *Walton v. Develing*, 61 Ill. 201, 205 (1871)). It stated the weight of authority was "in favor of the position that the restraining power of the courts should be directed against the enforcement rather than the passage of unauthorized orders and resolutions, or ordinances, by municipal corporations." *Id.* at 97. Further, it concluded as follows:

> "The holding of an election is the exercise of a political right. Equity will not interfere in a case affecting only the enjoyment of political rights. The reasons for the application of this rule are even more persuasive in a case like this where the election sought to be enjoined is a necessary step in the legislative process of adopting and bringing into existence a municipal ordinance." *Id.* at 98.

¶ 23 In *Slack v. City of Salem*, 31 Ill. 2d 174, 201 N.E.2d 119 (1964), the supreme court favorably cited and relied on *Fletcher*. There, a city treasurer brought an action against the city and its governing officers "to restrain the holding of a referendum election to approve or disapprove the issuance of revenue bonds authorized by [statute]." *Id.* at 175. The city treasurer alleged that both the authorizing statute and ordinance calling for the election were, in substance, unconstitutional and "the expenditure of public funds to defray the cost of holding the referendum would therefore be illegal." *Id.* at 175. The court determined the situation before it was analogous to *Fletcher* and cited that case at length. *Id.* at 176-77. Further, it held the result would not be altered because the city treasurer sought both declaratory and injunctive relief. *Id.* at 177. The court stated as follows:

"This court has no power to render advisory opinions, and until the legislative process has been concluded, there is no controversy that is ripe for a declaratory judgment. Indeed, the constitutional issues upon which the opinion of this court is sought may never progress beyond the realm of the hypothetical." *Id.* at 178.

¶ 24 Next, in *Coalition for Political Honesty v. State Board of Elections*, 65 Ill. 2d 453, 460, 359 N.E.2d 138, 141, (1976), the supreme court distinguished the scenario presented from both *Fletcher* and *Slack*. There, an initiative petition proposing constitutional amendments was brought pursuant to article XIV, section 3, of the Illinois Constitution (Ill. Const. 1970, art. XIV, § 3) and taxpayers sought to enjoin the use of public funds (1) to determine the validity and sufficiency of the petition and (2) to arrange for and to conduct an election on the proposed amendments. *Coalition for Political Honesty*, 65 Ill. 2d at 456. The taxpayers alleged that none of the proposed amendments conformed to constitutional requirements, which restricted the subject matter of amendments proposed under section 3 of article XIV to "structural and procedural subjects" pertaining to the legislative branch. *Id.* at 458-59; Ill. Const. 1970, art. XIV, § 3.

¶ 25 In finding the holdings in *Fletcher* and *Slack* were not controlling, the supreme court pointed out that, unlike in those cases, the situation presented was "not concerned with an election or a legislative referendum, but rather, with the question [of] whether proposed amendments to our constitution satisfy the Constitution's own requirements for its amendment." *Coalition for Political Honesty*, 65 Ill. 2d at 460. It noted that the constitution contained specific requirements for proposed amendments under section 3 of article XIV (Ill. Const. 1970, art. XIV, § 3), setting forth "an express limitation as to the subject matter of a proposal." *Coalition for Political Honesty*, 65 Ill. 2d at 460. The court concluded as follows:

"A taxpayer's suit *** to enjoin the disbursement of public moneys

> [citation] is an appropriate proceeding to determine whether proposed amendments by initiative meet requirements of article XIV, section 3. *** [T]his court [has] stated: It has been held that injunctive relief will be granted to prevent a waste of public funds by the holding of an election under an unconstitutional election statute. [Citations.] It follows that any election called in violation of the constitution likewise may be restrained and an action for injunctive relief is a proper remedy. [Citation.]" (Internal quotation marks omitted.) *Id.* at 461.

The court stated that even if substantive constitutional questions were not "ripe" for determination, the question of whether the proposed amendments met the requirements under the constitution was directly before the court. *Id.* In other words, "No future events or consideration would or could sharpen or better define th[e] issue for [the court's] decision." *Id.* Ultimately, the court held that the proposed amendment did not meet constitutional requirements and could "not be submitted to the electorate for approval." *Id.* at 472.

¶ 26 In two more recent cases—*Chicago Bar Ass'n v. Illinois State Board of Elections*, 161 Ill. 2d 502, 641 N.E.2d 525 (1994), and *Hooker*, 2016 IL 121077—the supreme court decided similar issues to those raised in *Coalition for Political Honesty*, pertaining to whether an initiative petition, proposing constitutional amendments, complied with the requirements of article XIV, section 3 of the Illinois Constitution (Ill. Const. 1970, art. XIV, § 3). Notably, in *Chicago Bar Ass'n*, 161 Ill. 2d at 506, the supreme court stated it agreed with findings by the dissent in that case "that issues of standing and ripeness [did] not preclude a review of the merits." In addressing those issues, the dissent favorably cited the rule in *Fletcher* but noted the "exception" recognized in *Coalition for Political Honesty*:

> "While it is true, as a general rule, that a court may not enjoin an election [citation],

> we have recognized an exception to this rule where, as here, injunctive relief is sought to prevent the waste of public funds on a ballot proposition that is alleged to be in violation of the constitution." *Id.* at 516 (Harrison, J., dissenting).

See also *Jordan v. Officer*, 155 Ill. App. 3d 874, 877, 508 N.E.2d 1077, 1079 (1987) (stating that "[t]he general rule [set forth in *Fletcher*] is subject to exception, where injunctive relief is necessary to prevent a waste of public funds by the holding of an election under an unconstitutional election statute or any election called in violation of the constitution").

¶ 27 We find the above case authority makes clear that courts may not act to enjoin a constitutionally authorized election. Like in *Fletcher*, petitioners' challenge in this case is to the validity of Amendment 1. They seek a finding that the amendment is unconstitutional and unenforceable before it becomes effective. However, before the amendment process has been completed, their challenge is premature and not ripe for consideration. Amendment 1 may never be finally approved. As stated in *Slack*, 31 Ill. 2d at 178, the constitutional issues petitioners want resolved "may never progress beyond the realm of the hypothetical."

¶ 28 Additionally, this case is unlike the supreme court's decision in *Coalition for Political Honesty*. Here, the requirements for amendments proposed by the General Assembly are described in article XIV, section 2 of the constitution. Ill. Const. 1970, art. XIV, § 2. Those requirements include that proposed amendments are to be (1) read in full on three different days in each house, (2) approved by a vote of three-fifths of the members elected to each house, and (3) "submitted to the electors at the general election next occurring at least six months after such legislative approval." *Id.* In this case, petitioners have not claimed that the constitution's own requirements for its amendment were not properly followed or satisfied. They do not claim that the election is unauthorized and being called in violation of the requirements set forth in article

XIV, section 2 (Ill. Const. 1970, art. XIV, § 2). Accordingly, the present case does not fall with exception recognized by *Coalition for Political Honesty*.

¶ 29 Here, petitioners rely on both *Chicago Bar Ass'n* and *Hooker* for the proposition that "taxpayers may file an action under [section 11-303 of the Code] to prevent state officials from using public funds to present voters with a proposed constitutional amendment that is itself unconstitutional." They describe *Fletcher* and *Slack* as "outdated" and "inapplicable." Petitioners argue the case authority upon which *Fletcher* was based is "no longer correct" given the supreme court's decisions in *Chicago Bar Ass'n* and *Hooker*. We disagree.

¶ 30 Neither *Chicago Bar Ass'n* nor *Hooker* held that a taxpayer action under section 11-303 could be maintained to prevent the use of "public funds to present voters with a proposed constitutional amendment that is *itself unconstitutional*." (Emphasis added.) Rather, those cases applied the same "exception" to the rule in *Fletcher* that was recognized in *Coalition for Political Honesty*. The issues resolved in *Coalition for Political Honesty*, *Chicago Bar Ass'n*, and *Hooker* were essentially the same, *i.e.*, whether the proposed amendments and the elections to approve them would be unconstitutional because the constitution's own requirements for its amendment were not properly followed. Petitioners fail to recognize this important distinction. Moreover, the supreme court's more recent decisions in *Chicago Bar Ass'n* and *Hooker* did not overrule *Fletcher*. In fact, *Chicago Bar Ass'n* favorably cited *Fletcher* for the general rule that a court may not enjoin an election before noting the exception recognized in *Coalition for Political Honesty*. For the reasons expressed above, the circumstances of this case are like *Fletcher* and unlike those presented in *Coalition for Political Honesty*, *Chicago Bar Ass'n*, and *Hooker*, where elections were allegedly being called in violation of the constitution and, specifically, the constitution's own amendment provisions.

¶ 31 Petitioners also argue that *Fletcher* is "outdated" because it described the cost associated with an election as "too trifling" an injury to be grounds for an injunction. *Fletcher*, 377 Ill. at 98. They argue that subsequent supreme court case authority has held that "every taxpayer is injured by the misapplication of public funds, whether the amount be great or small." *Krebs v. Thompson*, 387 Ill. 471, 475-76, 56 N.E.2d 761, 764 (1944). Ultimately, however, even assuming the correctness of petitioners' argument, we note that the clear import of the supreme court's decision in *Fletcher* was not the insignificance of the financial injury to the taxpayers. Instead, the court spoke at length about the danger of judicial interference with a valid election or legislative process. *Fletcher*, 377 Ill. at 97-99. The court also relied on the impermissibility of a premature challenge to the validity of a law that had not yet passed through that process and been given effect. *Id.* at 98-99.

¶ 32 Here, because petitioners do not claim a violation of article XIV, their proposed action would seek judicial interference with a legislative process that is constitutionally authorized. Such interference is improper as expressed in *Fletcher*, and ultimately, there is no waste of public funds caused by the carrying out of an election that conforms to constitutional requirements. Further, petitioners' challenge to the validity of Amendment 1 is premature until such time as it becomes effective. We note petitioners argue on appeal that even if their claim for injunctive relief may not be maintained, they could still successfully pursue declaratory relief. However, as respondents point out, *Slack* specifically applied its holding to a request for a declaratory judgment. Thus, like petitioners' claim for injunctive relief, their request for declaratory relief is also premature.

¶ 33 For the reasons stated, we find the trial court was correct in finding petitioners' claims failed as a matter of law. The court's determination that reasonable grounds did not exist

for the filing of petitioners' taxpayer action was not an abuse of discretion.

¶ 34 C. Preemption

¶ 35 As stated, the trial court further found that no reasonable grounds existed for the proposed taxpayer action because (1) Amendment 1 could have some valid applications that would not be subject to preemption and (2) preemption could only render Amendment 1 "dormant, not invalid." Given our holding above, we find it unnecessary to address this additional basis for denying petitioners leave to file their action.

¶ 36 III. CONCLUSION

¶ 37 For the reasons stated, we affirm the trial court's judgment.

¶ 38 Affirmed.

2022 IL App (4th) 220470

Decision Under Review:	Appeal from the Circuit Court of Sangamon County, No. 22-CH-34; the Hon. Raylene Grischow, Judge, presiding.
Attorneys for Appellant:	Jacob Huebert and Jeffrey Schwab, of Liberty Justice Center, of Chicago, and Mailee Smith, of Illinois Policy Institute, of Springfield, for appellants.
Attorneys for Appellee:	Kwame Raoul, Attorney General, of Chicago (Jane Elinor Notz, Solicitor General, and Alex Hemmer, Deputy Solicitor General, of counsel), for appellees Jesse White and Susana Mendoza. No brief filed for other appellees.

No. 21-309

In the Supreme Court of the United States

SOUTHWEST AIRLINES CO.,
Petitioner,

v.

LATRICE SAXON,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

BRIEF OF ILLINOIS, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, THE DISTRICT OF COLUMBIA, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, NEW JERSEY, NEW YORK, OREGON, PENNSYLVANIA, RHODE ISLAND, VERMONT, AND WASHINGTON AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases:

Federal Statutes and Congressional Materials:

State Statutes:

Other Authorities:

INTERESTS OF AMICI CURIAE

The States of Illinois, California, Colorado, Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington, and the District of Columbia ("amici States") submit this brief in support of Respondent Latrice Saxon to urge affirmance of the court of appeals, which correctly held that the exemption in Section 1 of the Federal Arbitration Act ("FAA") for "seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce," 9 U.S.C. § 1, applies to workers like respondent who load and unload interstate cargo.

Amici States have a substantial interest in the proper scope of the FAA's exemption for transportation workers for several reasons. To start, the transportation sector plays a critical role in state economies and infrastructure, and a disruption in rail, airline, or shipping operations has the potential to impact nearly every aspect of commerce within a State. Accordingly, amici States have an interest in ensuring that disputes involving transportation workers are resolved in public and transparent proceedings that allow the States to monitor such disputes and respond as necessary, as opposed to private and confidential arbitration proceedings designed by workers' employers.

Additionally, amici States have a longstanding interest in protecting their residents from unlawful working conditions, which includes ensuring that workers can avail themselves of the appropriate forum when seeking a remedy for unlawful conduct.

Under petitioner's unduly narrow reading of the Section 1 exemption, however, many transportation workers in amici States would be required to raise their claims in private arbitration proceedings that lack the transparency of other fora.

Petitioner's narrow reading of the exemption would also undermine efforts by amici States to protect their residents from unlawful working conditions by investigating and remedying violations of state labor laws. When workers are subject to arbitration agreements—which typically include confidentiality provisions—it is more difficult for amici States to gather information about the pervasiveness of unlawful practices. A decision requiring transportation workers like respondent to arbitrate their claims would thus affect the amount of information that is made publicly available about the working conditions for these employees.

By contrast, the interpretation of the FAA exemption espoused by respondent and the lower court allows amici States to fulfill important interests and duties in a way that benefits their residents and economies. Accordingly, they urge the Court to affirm the lower court's decision holding that transportation workers who load and unload interstate cargo are exempt from the FAA.

SUMMARY OF ARGUMENT

At issue in this case is whether the FAA requires transportation workers like respondent, who load and unload interstate cargo for an airline, to raise claims against their employer in private arbitration proceedings or whether they fall within the scope of the FAA's exemption for "seamen, railroad employees, or any

other class of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1. Amici States agree with respondent that such transportation workers fit well within the Section 1 exemption because airline workers are analogous to "seamen" and "railroad employees" and, alternatively, because cargo loaders for airlines are "engaged in commerce." Resp. Br. at 9-10. Amici States write separately, however, to highlight two aspects of this issue that are directly relevant to their state experience and interests.

First, amici States explain how the historical context of the FAA's passage in 1925, including the States' experience during that time, favors respondent's interpretation. In particular, the late nineteenth and early twentieth centuries were marked by labor strife in the transportation industries that inflicted significant economic harm on States and their residents. These conflicts involved not only operational employees who worked on the vehicles themselves, but also employees like longshoremen and shop workers who were responsible for, among other things, loading cargo and performing maintenance on carriers in the rail yards. In response to this strife and the economic disruption it caused, Congress enacted a series of transportation-specific statutes to promote peaceful resolution of these disputes in public fora. Among other features, the statutes in place at the time of the FAA's passage applied to a broad swath of transportation workers, including those who loaded and unloaded cargo. Accordingly, and contrary to petitioner's suggestion otherwise, Pet. Br. 46-48, this historical context shows that when Congress ex-

empted transportation workers from the FAA, it intended that exemption to cover workers like respondent who load and unload interstate cargo.

Second, amici States have an interest in providing stability in the transportation sector and in performing their investigatory and enforcement duties, which are dependent in large part on efficient access to information and the ability to monitor workplace conditions. These interests are furthered by allowing transportation workers to raise claims in public proceedings. When workers are subject to the FAA, they must maintain confidentiality and present their claims on an individualized basis in private proceedings. If exempted from the FAA, however, workers may bring their claims in more transparent and public fora. For some transportation workers, like respondent, that vehicle is a federal or state lawsuit. For others, such as transportation workers who hold the same or similar positions but are subject to collective bargaining agreements, the nonconfidential processes of the Railway Labor Act ("RLA") would govern.

For these reasons and those discussed below, amici States agree with respondent that the lower court's decision should be affirmed.

ARGUMENT

I. Congress Exempted Transportation Workers, Including Workers Who Loaded And Unloaded Cargo, From The FAA In Response To The Widespread Economic And Societal Disruption Caused By Labor Conflicts In The Transportation Industries.

Labor strife in the transportation industries regularly froze interstate commerce and damaged state

economies in the late nineteenth and early twentieth centuries. Relevant here, these conflicts involved a wide range of employees, including those who were responsible for loading cargo and performing maintenance on carriers in the rail yards. Congress responded to these disputes with a series of legislative acts that established new public fora for resolution of disputes in the transportation industry. Although some of the initial statutory schemes were limited in scope, Congress soon expanded them to include transportation workers who did not actually transport goods or people across state lines, such as those who load and unload cargo—i.e., workers like respondent.

It was against this legislative and historical backdrop that Congress enacted the FAA but exempted "seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce" from its terms. 9 U.S.C. § 1. Contrary to petitioner's contentions otherwise, Pet. Br. 46-48, this historical context shows that Congress intended to include workers like respondent in the Section 1 exemption. And amici States have an interest in seeing that congressional intent enforced, given the extent to which States suffer when there is disruption in the transportation industry.

A. Labor conflicts in the transportation industries during the late nineteenth and early twentieth centuries caused substantial harm to the States, their residents, and their economies.

The years before the FAA's passage were a time of extreme labor unrest, especially in the burgeoning

transportation industries.[1] Transportation strikes posed a serious threat to States' economies because they prevented other industries from bringing their goods to market and because even a small number of striking workers could disrupt commerce across an entire region. The strikes during this era, moreover, were not limited to operational employees who worked on the carriers and often included workers who loaded and unloaded cargo.

In the Great Railroad Strike of 1877, for example, "the major part of the country's transportation system and thousands of industries dependent on it were brought to a halt."[2] The strike started in West Virginia but quickly spread to Maryland, Pennsylvania, New York, New Jersey, Ohio, Indiana, Kentucky, Missouri, and Iowa.[3] Both operating employees—brakemen, firemen, and others who ran the trains—and railroad shop workers—who built and maintained the railway vehicles—walked off the job.[4] In some cities, the strike spread to other industries; in Chicago, for instance, "lumbershovers," who loaded and unloaded timber from boats, and their supporters gathered in great numbers to blockade the docks.[5] Soon, not only

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[1] Shelton Stromquist, *A Generation of Boomers: The Pattern of Railroad Labor Conflict in Nineteenth-Century America* 3 (1987).

[2] Philip S. Foner, *The Great Labor Uprising of 1877* 10 (1977).

[3] *Id.* at 189.

[4] David O. Stowell, *Streets, Railroads, and the Great Strike of 1877* 73-74 (1999).

[5] Richard Schneirov, *Chicago's Great Upheaval of 1877*, *in* The Great Strikes of 1877, at 76, 87, 90-92 (David O. Stowell ed., 2008).

the railroads, but also "businesses that were dependent upon the railroads for their supplies—factories, mills, coal mines, and oil refineries—were forced to shut down."[6]

The Great Railroad Strike immediately began to strain States' economies. New York was "cut off . . . from its usual sources of grain and meat in the Midwest," causing prices of meat there to rise by 25 to 50 percent within days.[7] Shortages did not spare Midwestern cities, either. A St. Louis newspaper reported that "[f]lour has gone up to an enormous price."[8] Shipments of corn to Chicago fell precipitously from 1,400 daily carloads to just 94, and Baltimore, New York, Chicago, and Indianapolis reported coal shortages.[9] In addition to this severe economic damage, the strike led to general uprisings across the country, which resulted in more than 100 deaths.[10]

The Knights of Labor, a prominent labor federation, launched another major strike in 1886 on Jay Gould's southwestern railroads, resulting in the "economic paralysis of an entire section of the country."[11] Workers on the single rail bridge across the Mississippi River

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[6] Foner, *supra* note 2, at 189.

[7] Gerald G. Eggert, *Railroad Labor Disputes: The Beginnings of Federal Strike Policy* 11 (1967).

[8] *Ibid.*

[9] *Id.* at 12.

[10] Foner, *supra* note 2, at 47, 63, 73, 90; Schneirov, *supra* note 5, at 90-93.

[11] Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* 338 (2011).

to St. Louis—including freight handlers, baggage handlers, shop workers, and yard workers—went on strike, shutting down most traffic into the city.[12] Because St. Louis and points west depended on Illinois for their coal supply, shortages quickly worsened, which caused flour mills, brickworks, and other factories to close.[13] In small towns, groceries, flour, and fuel oil became scarce, and residents resorted to wagon trains "to supply the most urgent needs."[14] As the strike continued, Missouri reported that "[t]housands of tons are stopped in transit, and the people are consequently suffering enormous inconvenience, damage and loss," and Kansas explained that "the strike of a few railroad men cripples and stops the business and industry of great masses of our people."[15] A congressional report estimated direct losses to the railroads of about $2.8 million, while stating that losses to the general public "were beyond computation."[16]

This era of railroad unrest culminated in the 1894 Pullman Strike, "one of the most intense and bitterly fought labor disputes in the country's history."[17] As

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[12] F. W. Taussig, *The South-Western Strike of 1886*, 1 Q.J. Econ. 184, 195, 199 (1887); H.R. Rep. No. 49-4174, pt. 1, at xiii, 513 (1887).

[13] Taussig, *supra* note 12, at 202-203.

[14] *Id.* at 204.

[15] Bureau of Labor Statistics and Inspection of Mo., The Official History of the Great Strike of 1886 on the Southwestern Railway System 58, 60 (1886).

[16] H.R. Rep. No. 49-4174, pt. 1, at xxiii (1887).

[17] Eggert, *supra* note 7, at 152.

with earlier disputes, the striking workers included repair shopmen and yard workers, in addition to operational employees.[18] The conflict began as a boycott of the Pullman Palace Car Company, which had its main factories in Chicago, and quickly escalated into "a general strike of railroads in and around Chicago and westward and southwestward to the Pacific Coast."[19] At its peak, 16 percent of Illinois workers were on strike.[20] The strike also turned violent: strikers and their supporters liberally employed sabotage, burning boxcars, derailing trains, and blowing up bridges, and authorities responded with deadly force.[21]

The economic fallout for States was severe. Virtually all traffic on railroads in the West and Midwest was halted for two weeks.[22] Because Chicago was "dependent on large daily shipments of fruit, vegetables, milk, and meat," an "acute shortage" of these staples quickly set in.[23] Eastern cities, though not the strike's location, suffered meat shortages because of the bottleneck in Chicago.[24] As in the 1886 southwestern

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[18] Susan E. Hirsch, *The Search for Unity Among Railroad Workers: The Pullman Strike in Perspective*, *in* The Pullman Strike and the Crisis of the 1890s, at 49-50 (Richard Schneirov et al. eds. 1999).

[19] Eggert, *supra* note 7, at 160.

[20] Almont Lindsey, *The Pullman Strike* 12 (1942).

[21] *Id.* at 207-209, 254, 258; A. P. Winston, *The Significance of the Pullman Strike*, 9 J. Pol. Econ. 540, 541-542 (1901).

[22] Stromquist, *supra* note 1, at 89.

[23] Lindsey, *supra* note 20, at 209.

[24] Eggert, *supra* note 7, at 13.

strike, small towns were hit hardest of all, with Faribault, Minnesota, West Superior, Wisconsin, and Fargo, North Dakota facing actual famine.[25] Waterborne transport provided no immediate relief, because "longshoremen at Chicago and dockworkers at Duluth struck in sympathy with the railwaymen."[26]

While many of the most infamous labor conflicts occurred on the railways during this era, a number of others involved port workers. Some of the earliest strikes in United States history were on the waterfront, with longshoremen shutting down the port of New York in 1825, 1828, and 1836.[27] And in the early 1900s, the port of New Orleans, which served as an important hub for ocean trade, especially in cotton, suffered a series of riverfront strikes that "paralyzed the flow of commerce."[28] Importantly, these strikes were driven largely by longshoremen—port workers who load and unload vessels but (like respondent) do not themselves travel in commerce.

In October 1907, a general strike of 8000 longshoremen, teamsters, freight handlers, and "screwmen"—workers who stuffed cotton bales into ships' holds—froze the New Orleans port.[29] The strike unified all the various occupations involved in loading and unloading goods at the port, including freight handlers

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[25] *Ibid.*

[26] *Id.* at 18.

[27] Bruce Nelson, *Divided We Stand: American Workers and the Struggle for Black Equality* 17 (2001).

[28] Eric Arnensen, *Waterfront Workers of New Orleans* 38, 160 (1991).

[29] *Id.* at 162, 197.

on the rail lines.[30] The results were devastating: "Thousands of tons of bananas and citrus fruit were dumped in the river," thousands of workers unconnected with the strikes "were thrown out of work," and "[b]usiness of all kinds suffered tremendously."[31]

Two years later, in 1909, there was a general strike of seamen on the Great Lakes steamships. Twelve thousand workers refused to sail, idling the ports of Chicago, Buffalo, and Cleveland.[32] Their employers hired strikebreakers to mitigate the disruption, but that decision had dire consequences. Piloted by inexperienced crews, ships collided and ran aground twice as often as the previous year.[33]

Finally, there was the Shopmen's Strike of 1922, the same year that the FAA was first introduced in Congress.[34] As the strike progressed, locomotives broke down and were not repaired, leading quickly to nationwide shortages of coal, grain, and fruit.[35] The agricultural commissioner of Idaho estimated that his State suffered $100 million in economic fallout by the

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[30] Daniel Rosenberg, *New Orleans Dockworkers* 122 (1988).

[31] Oscar Ameringer, *If You Don't Weaken* 201 (1940).

[32] *12,000 Workers on Lake Boats Strike*, N.Y. Times, May 2, 1909, at 2.

[33] Matthew Lawrence Daley, *An Unequal Clash: The Lake Seamen's Union, the Lake Carriers' Association, and the Great Lakes Strike of 1909*, N. Mariner, Spring 2018, at 119, 132.

[34] S. 4214, 67th Cong. (1922); H.R. 13522, 67th Cong. (1922).

[35] Colin J. Davis, *Power at Odds: The 1922 National Railroad Shopmen's Strike* 102-103, 129 (1997); Margaret Gadsby, *Strike of the Railroad Shopmen*, 15 Monthly Lab. Rev. 1171, 1176 (1922).

strike's end.[36] This strike thus demonstrated how the work stoppage of shopmen—who did not physically transport goods or people across state lines—nonetheless caused great damage to state economies.

B. Congress responded by creating systems of public dispute resolution that covered workers who load and unload cargo, like respondent.

Congress responded to this era of turmoil with a series of laws aimed at facilitating the peaceful reconciliation of grievances among transportation industry employees. These laws for the first time established public—or, at the very least, publicly regulated—dispute resolution systems that applied to a broad swath of transportation workers, including those who load and unload cargo, as explained below. Importantly, it was against this backdrop that Congress enacted the FAA and its exemption for "seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1. That exemption should thus be read to preserve these separate dispute resolution systems rather than erasing them by placing transportation workers like respondent under the aegis of the FAA.

Congress' earliest legislative efforts created the general framework for railway-specific dispute resolution mechanisms. The scope of those statutes, however, was limited to employees defined as "all persons actually engaged in any capacity in train operation or train service of any description." Erdman Act of 1898, ch. 370, § 1, 30 Stat. 424, 424; Newlands Act of 1913,

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[36] Davis, *supra* note 35, at 163.

ch. 6, § 1, 38 Stat. 103, 104. A court construing this language at the time held that its "common meaning . . . include[d] only engineers, firemen, conductors, switchmen, train hands, and porters" but not "telegraphers" or "station agents and clerks." *Birmingham Tr. & Sav. Co v. Atlanta, B & A R Co.*, 271 F. 731, 742 (N.D. Ga. 1921).[37]

But this approach was short lived, as Congress soon passed the Transportation Act of 1920, ch. 91, 41 Stat. 456, which established the dispute resolution procedures existing at the FAA's passage. Through this legislation, Congress brought all railway disputes under public jurisdiction before new—and public—entities, namely, the Railroad Boards of Labor Adjustment and the Railroad Labor Board. §§ 302-304, 41 Stat. at 469-470. Unlike earlier laws, the Transportation Act expanded coverage to all "employees," and to any "subordinate official," explication of which was delegated to the Interstate Commerce Commission ("ICC"), § 300(5), 41 Stat. at 469. Notably, the Railroad Labor Board held on numerous occasions that baggage and freight handlers were subject to the Transportation Act. *E.g.*, *Am. Fed'n of R.R. Workers v. N.Y. Cent. R.R. Co.*, Decision No. 1220, 3 R.L.B. 687, 688 (1922); *Bhd. of Ry. & S.S. Clerks v. N.Y. Cent. R.R. Co.*, Decision No. 1209, 3 R.L.B. 665, 666 (1922); *see also* Resp. Br. at 15-16.

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[37] *See also* David A. McCabe, *Federal Intervention in Labor Disputes Under the Erdman, Newlands and Adamson Acts*, 7 Proc. Acad. Pol. Sci. City N.Y. 94, 95 (1917) (noting that the definition included "only engineers, firemen, conductors, trainmen, switchmen and telegraphers," but not "shopmen, car-workers and freight handlers").

In 1926, Congress enacted the Railway Labor Act, which continues to govern transportation disputes in the rail and airline industries today. Ch. 347, 44 Stat. 577 (codified as amended at 45 U.S.C. § 151 *et seq.*). Like the Transportation Act, the RLA created a permanent public body for resolving disputes, called the Board of Mediation. § 4, 44 Stat. at 579. Additionally, the RLA retained the capacious definition of "employee" as "every person in the service of a carrier . . . who performs any work defined as that of an employee or subordinate official in the orders of the [ICC]." § 1, Fifth, 44 Stat. at 577.

Indeed, the definition of employee in the RLA was generally understood as equivalent to the Transportation Act's broad definition.[38] Relevant here, ICC decisions from this era interpreted the RLA broadly to cover, among others, railroad employees involved in baggage handling. *E.g.*, *In re Regulations Concerning Class of Employees and Subordinate Officials To Be Included Within Term "Employee" Under the Railway Labor Act*, Ex Parte No. 72 (Sub-No. 1), 229 I.C.C. 410, 417 (1938) (holding that "red cap" porters who carried passengers' baggage in railway stations were employees under the RLA); *In re Regulations Concerning Class of Employees and Subordinate Officials To Be Included Within Term "Employee" Under the Railway Labor Act*, Ex Parte No. 72 (Sub-No. 1), 136 I.C.C. 321 (1928) (holding that "chief traffic officers," who supervise freight logistics, are employees under the RLA). And in 1936, when Congress expanded the RLA to

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[38] A. R. Ellingwood, *The Railway Labor Act of 1926*, 36 J. Pol. Econ. 53, 64 (1928).

cover airlines and their employees and subordinate officials, it did not alter the definition of employee. Act of Apr. 10, 1936, ch. 166, § 201, 49 Stat. 1189, 1189 (codified at 45 U.S.C. § 181).

Petitioner's primary response to this history is that the RLA is irrelevant because it was passed after the FAA. Pet. Br. at 46. But that position ignores critical context showing that by the time the FAA was enacted, the RLA's passage was "imminent." *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 121 (2001). Additionally, the RLA had been contemplated for years prior to its passage in 1926. Indeed, the Transportation Act had "lost the confidence of both the unions and many of the railroads" after the 1922 Shopmen's Strike. *Int'l Ass'n of Machinists v. Street*, 367 U.S. 740, 756 n.12 (1961). President Coolidge called for its replacement as early as December 1923, and the bills that would become the RLA were introduced in the House and Senate in February 1924, a year before the FAA was enacted.[39] In other words, Congress and the major stakeholders were drafting and negotiating the RLA in the midst of the FAA's passage.

Congressional enactments in other transportation industries during this time provide additional examples of how Congress sought to protect interstate commerce by facilitating publicly regulated mediation of disputes for transportation workers, including workers like respondent. For instance, the Shipping Commissioners Act of 1872, ch. 322, 17 Stat. 262, required that the shipping commissioner, a public official,

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[39] S. Rep. No. 69-606, at 2-3 (1926); H.R. 7358, 68th Cong. (1924); S. 2646, 68th Cong. (1924).

"hear and decide any question whatsoever between a master, consignee, agent, or owner, and any of his crew, which both parties agree in writing to submit to him." § 25, 17 Stat. at 267. Just as the term "employee" was not limited to train operators under the RLA, the term "any of his crew" was not limited to those who navigated ships under the Shipping Commissioners Act. Instead, the Act used "crew" and "seaman" synonymously. *See* § 26, 17 Stat. at 267 (detailing arbitration procedures for disputes of "any seaman"); *McDermott Int'l, Inc. v. Wilander*, 498 U.S. 337, 348 (1991) ("'Member of a crew' and 'seaman' are closely related terms."). And the Act defined "seaman" to include every person "employed or engaged to serve in any capacity on board" a ship. § 65, 17 Stat. at 277.

Congress also established a system to resolve longshoremen's disputes shortly before the FAA's passage. In 1916, Congress created the United States Shipping Board to fortify America's merchant marine. Shipping Act of 1916, ch. 451, 39 Stat. 728. The Shipping Board, in turn, established the National Adjustment Commission in 1917 to adjudicate labor disputes "arising in loading and unloading of ships" and "railroad freight-handling at water terminals."[40] And at least one of the National Adjustment Commission's rulings was successfully enforced in federal court. *Nederlandsch Amerikaansche Stoomvaart Maatschappij v. Stevedores' & Longshoremen's Benev. Soc.*, 265 F. 397 (E.D. La. 1920) (setting wages for dock workers).

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[40] Benjamin M. Squires, *The National Adjustment Commission*, 29 J. Pol. Econ. 543, 545-546 (1921).

It was against this backdrop that Congress enacted the FAA in 1925—including that statute's exemption for "seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1. By exempting transportation workers from the FAA in this manner, Congress recognized that it had already set up (and was in the process of setting up) several dispute resolution mechanisms to peacefully resolve conflicts between transportation carriers and their employees—including workers like respondent who load and unload cargo. The exemption should thus be read to leave those separate processes intact. *Circuit City*, 532 U.S. at 121 (Congress exempted transportation workers to avoid "unsettl[ing] established or developing statutory dispute resolution schemes covering specific workers"). Petitioner's view of the exemption ignores this important context and would unduly narrow the scope of workers that the exemption covers.

II. States Have An Interest In Maintaining Transparent Dispute Resolution Procedures For Transportation Workers, Including Workers Like Respondent Who Load And Unload Cargo.

Congress' decision to exempt a broad swath of transportation workers from the FAA reflected its judgment at the time of its enactment that disputes in the transportation sector were not suitable for resolution by private parties and without any regulatory oversight. This judgment still holds true today. Whereas arbitration under the FAA typically occurs in confidential, individualized proceedings, dispute resolution proceedings for exempted transportation

workers are conducted in a more transparent and regulated manner. These regulatory constructs serve important state interests by allowing States to monitor any disputes that may be developing within their borders and more efficiently perform their investigatory and enforcement duties. Petitioner's proposed interpretation of the Section 1 exemption, however, would narrow the class of workers able to pursue remedies through public and transparent processes and limit the amount of critical information flowing to the States.

A. Unlike arbitration proceedings under the FAA, the processes available to exempted transportation workers are transparent.

Determining whether a transportation worker is exempted from the FAA has significant practical implications, including for States, given the differences between the nature and purpose of private arbitration proceedings, on the one hand, and the procedures governing public dispute resolution processes, on the other. Specifically, the public processes allow States to better monitor any burgeoning disputes that might disrupt their economies and perform their investigative and enforcement duties. The confidential nature of private arbitration proceedings, by contrast, does not serve those interests.

As the Court has explained, "[t]he principal purpose of the FAA is to ensure that private arbitration agreements are enforced according to their terms." *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 344 (2011) (cleaned up). In other words, the FAA focuses on honoring the intent of private parties, and not the public implications of those agreements. To that end,

parties may agree "to arbitrate according to specific rules," *id.*, including that "proceedings be kept confidential," *id.* at 345, or that they proceed on an individualized, as opposed to collective, basis, *Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612, 1621 (2018).

In fact, "the promise of confidentiality" has become "a linchpin" of private arbitration's appeal.[41] The leading arbitration associations not only highlight the confidentiality of their services, but also structure their governing rules to allow parties to elect for nearly complete opacity in the proceedings. For instance, the American Arbitration Association's employment arbitration rules—which Southwest has selected to govern its arbitration proceedings, *e.g.*, Dist. Ct. Doc. 53-1 at 12, 31—provide that the "arbitrator shall maintain the confidentiality of the arbitration and shall have the authority to make appropriate rulings to safeguard that confidentiality."[42] Although the rules state that any award issued by the American Arbitration Association "shall be publicly available," there are significant limitations on the information that is provided to the public, including that awards are only made available for a fee, generally do not disclose the names of the parties and witnesses, and may not include any written reasons supporting the award.[43] Arbitrations conducted pursuant to the

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[41] Judith Resnik, *The Privatization of Process: Requiem for and Celebration of the Federal Rules of Civil Procedure at 75,* 162 U. Pa. L. Rev. 1793, 1818 (2014).

[42] Am. Arbitration Ass'n, Employment Arbitration Rules and Mediation Procedures, Rule 23 (Nov. 1, 2009), https://bit.ly/3tqVOwP.

[43] *Id.* at Rule 39.

JAMS Employment Arbitration Rules are even less transparent, as those rules require arbitrators to maintain the confidentiality of both the proceedings and the award.[44] Additionally, the arbitrator has authority to issue orders to protect the confidentiality of sensitive information, sanction parties for violating the rules, and exclude nonparties from hearings.[45]

In practice, then, "[a]rbitration is frequently conducted pursuant to confidentiality rules and agreements that can conceal the existence and substance of a dispute, the identities of the parties, and the resolution of the controversy."[46] Indeed, under the arbitration agreement at issue in this case, which would apply to respondent if she were not exempted by section 1 of the FAA, "[a]ll aspects of the [arbitration] program, including the hearing and record . . . of proceedings are confidential and shall not be open to the public." Dist. Ct. Doc. 53-1 at 16, 34.

By contrast, the public dispute resolution procedures for transportation workers exempted from the FAA are considerably more transparent, and the resulting settlements, judgments, or awards are typically made public.

To start, many transportation workers, including those, like respondent, who are not subject to a collective bargaining agreement, can present their claims

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[44] JAMS Employment Arbitration Rules & Procedures, Rule 26 (June 1, 2021), https://bit.ly/3pszlOL.

[45] *Id.* at Rules 26, 29.

[46] Laurie Kratky Doré, *Public Courts Versus Private Justice: It's Time to Let Some Sun Shine in on Alternative Dispute Resolution*, 81 Chi.-Kent L. Rev. 463, 466 (2006).

directly in federal court. *E.g.*, *Hawaiian Airlines, Inc. v. Norris*, 512 U.S. 246, 254-56 (1994). Unlike the FAA, court proceedings are typically open to the public, and filings and decisions are available to all on a public docket. *E.g.*, *Union Oil Co. of California v. Leavell*, 220 F.3d 562, 568 (7th Cir. 2000) ("People who want secrecy should opt for arbitration. When they call on the courts, they must accept the openness that goes with subsidized dispute resolution by public (and publicly accountable) officials."). Any judgments entered are available for members of the public (and state regulators) to view, as are transcripts of relevant proceedings and the court's reasoning underlying its decision. When a case settles, the agreements remain accessible "if filed in court."[47] And even if the agreement itself remains private, the docket and "court file must remain accessible to the public." *Brown v. Advantage Eng'g, Inc.*, 960 F.2d 1013, 1016 (11th Cir. 1992).

Other workers, including rail and airline employees subject to a collective bargaining agreement, pursue certain of their claims not in federal court but through the processes set up by the Railway Labor Act. *E.g.*, 45 U.S.C. § 151, Fifth; *id.* § 181; *Hawaiian Airlines, Inc.*, 512 U.S. at 254-256. These processes are relevant here because the Court's decision in this case will affect workers who are similarly situated to respondent (but who are subject to a collective bargaining agreement) and thus subject to the RLA.

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[47] Resnik, *supra* note 41, at 1818.

The RLA proceedings, moreover, are consistent with state interests because they occur largely in non-confidential settings and because they are focused on avoiding disruption to transportation operations. Indeed, in contrast with the FAA, which focuses on upholding agreements made between private parties, the "heart" of the RLA is the duty of both "management and labor, to exert every reasonable effort" to come to agreements and settle all disputes "in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof." *Bhd. of R.R. Trainmen v. Jacksonville Terminal Co.*, 394 U.S. 369, 377-378 (1969) (cleaned up). This purpose—which focuses on the public need for functioning transportation industries—extends both to major disputes, which "concern[ ] the making of collective agreements," and minor disputes, which refer to "grievances arising under existing agreements." *Slocum v. Delaware, L. & W.R. Co.*, 339 U.S. 239, 242 (1950).

For major disputes, the RLA "established rather elaborate machinery for negotiation, mediation, voluntary arbitration, and conciliation," *Detroit & T. S. L. R. Co. v. United Transp. Union*, 396 U.S. 142, 148-149 (1969), that is overseen by the National Mediation Board, an independent agency consisting of three members, 45 U.S.C. §§ 154, 155; *Bhd. of R.R. Trainmen*, 394 U.S. at 378. According to the National Mediation Board, "97 percent of all mediation cases in the history of the [Board] have been successfully resolved

without interruptions to public service," with a success rate of "nearly 99 percent" since 1980.[48] These processes, in addition to being governed by a public body, generally take place in the public sphere, notwithstanding the private nature of the mediation discussions themselves.[49] Indeed, the National Mediation Board docketed a number of new mediations earlier this year arising out of failed negotiations between a coalition of rail unions and their employers.[50] The existence of these disputes, moreover, was not confidential; on the contrary, there were numerous status reports provided publicly over the course of the two-year negotiation period.[51]

So-called "minor disputes" are subject to different systems of public dispute resolution. Railroad employees have their disputes heard by the National Railroad Adjustment Board, whereas airline employees bring their grievance to carrier-specific adjustment boards. *Consol. Rail Corp. v. Ry. Lab. Executives' Ass'n*, 491 U.S. 299, 304 n.4 (1989); *Int'l Ass'n of*

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[48] National Mediation Board, Mediation Overview & FAQ, https://bit.ly/36WmNsN.

[49] *E.g.*, U.S. Move Rebuffed In L.I.R.R. Dispute, N.Y. Times (Nov. 8, 1979), https://nyti.ms/3tnxvjF (announcing that talks at the National Mediation Board have failed); Talks on Wages Pressed to Avert L.I.R.R. Strike (Dec. 7, 1979), https://nyti.ms/34a5HXo (discussing last-minute negotiations).

[50] National Mediation Board, Weekly Report January 31-February 4, 2022, https://bit.ly/3HvmCRO.

[51] *E.g.*, Marybeth Luczak, *Next Stop for CBC Union, Railroad Negotiations: Mediation* (Jan. 25, 2022), https://bit.ly/3vvCXDJ; Frank N. Wilner, *Railroads, Labor Trade Contract-Change Demands* (Nov. 4, 2019), https://bit.ly/3HB8M0h.

Machinists, AFL-CIO v. Cent. Airlines, Inc., 372 U.S. 682, 685 (1963). Unlike arbitration proceedings under the FAA, proceedings under the RLA are not confidential. On the contrary, the National Railroad Adjustment Board maintains an online database identifying all pending cases,[52] as well as a search function for closed cases that allows the public to access full party information, case facts, findings, and awards.[53]

Likewise, the "boards" governing airline industry disputes are required by statute to be court-like, adversarial, and public. *IAM v. Cent. Airlines, Inc.*, 372 U.S. 682, 695 (1963) (when Congress created these boards, it intended them "to be and to act as a public agency, not as a private go-between; its awards to have legal effect, not merely that of private advice") (internal quotations omitted).[54] Furthermore, many system board decisions can be found online, and hearings are typically not closed to the public.[55]

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[52] National Mediation Board: Caseload Report, https://bit.ly/3Mhx2Ik.

[53] National Mediation Board: Knowledge Store Award Search, https://bit.ly/3HIQB96.

[54] *See also* Katherine Van Wezel Stone, *Labor Relations on the Airlines: The Railway Labor Act in the Era of Deregulation*, 42 Stan. L. Rev. 1485, 1547 n.97 (1990) ("It is not uncommon in a System Board proceeding for both sides to be represented by lawyers, a court reporter to be present, a transcript to be produced, and post-hearing briefs to be filed. In addition, many such System Board proceedings follow standard rules of evidence and adopt a rule of stare decisis.").

[55] *E.g.*, Transport Workers Union Local 555, Arbitration Rulings, https://bit.ly/36iqskk; Agreement By and Between Southwest Airlines Co. and Transport Workers Union of America AFL-CIO Local 555 Representing Ramp, Operations, Provisioning and

B. States are better able to protect their economies and exercise their investigatory and enforcement powers when transportation-industry disputes are resolved transparently.

The procedures associated with RLA and court proceedings are better suited to resolve transportation disputes than arbitrations conducted pursuant to the FAA, in large part because of their transparent and public-facing nature. As demonstrated by the historical events discussed above, *see supra* Section I.A., disruptions in transportation due to unresolved disputes between employers and employees have a significant negative impact on States, their economies, and their residents.

States have a clear interest in avoiding disruption, both within their borders and in neighboring States, since "[a] strike in one State often paralyzes transportation in an entire section of the United States, and transportation labor disputes frequently result in simultaneous work stoppages in many States." *Bhd. of R.R. Trainmen*, 394 U.S. at 381. States also have an interest in preparing for any possible disruptions to their transportation infrastructure, which is made more difficult when disputes are heard in confidential proceedings and resolved by opaque judgments.

The private nature of arbitration proceedings under the FAA can also interfere with States' investiga-

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Freight Agents, Article 20(L)(10), https://bit.ly/34EbqFd (requiring that there be an agreeable location for hearings and that employees have access to that location).

tory and enforcement duties. Courts have long recognized that the States' traditional police powers extend to regulating working conditions. *E.g.*, *West Coast Hotel Co. v. Parrish*, 300 U.S. 379, 397-398 (1937). Accordingly, States have not only established minimum standards on a wide range of working conditions, but also granted state agencies and officials the authority to investigate and enforce violations of those standards.[56] In many States, the legislature has designated multiple agencies or officials as responsible for investigating such violations. In Illinois, for example, both the Illinois Department of Labor and the Illinois Attorney General have the power and duty to investigate potential violations and initiate enforcement actions on behalf of employees and the public. *E.g.*, 15 ILCS 205/6.3(b); 820 ILCS 115/11. Similarly, California has vested several agencies with such authority, including a Labor Commissioner tasked with establishing a field enforcement unit that investigates "industries, occupations, and areas in which . . . there has been a history of violations." Cal. Lab. Code § 90.5(a)-(c).

States utilize this authority to investigate and bring enforcement actions against companies in the transportation industry. In 2021, for instance, the New York Attorney General recovered nearly

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[56] *E.g.*, Ala. Code § 25-2-2(a); Ark. Code Ann § 11-2-108; Colo. Rev. Stat. 8-4-111(1)-(2); Conn. Gen. Stat. § 31-3; 19 Del. Code §§ 107, 1111; D.C. Code § 32-1306; Ga. Code Ann. § 34-2-3; Kan. Stat. Ann. § 44-636; Ky. Rev. Stat. § 337.340; 26 Me. Rev. Stat. § 42; Md. Lab. Code Ann. § 3-103; Mass. Gen. Laws ch. 149, § 3; N.H. Rev. Stat. Ann. 273:9, 275:51; N.J. Stat. § 34:1A-1.12; N.M. Stat. Ann. § 50-4-8; N.D. Cent. Code, § 34-06-02; Ohio Rev. Code Ann. § 4111.04(A)-(B); Or. Rev. Stat. § 651.060(1); S.D. Codified Laws § 60-5-15; Utah Code Ann. § 34-28-10(1).

$600,000 in stolen wages from a subcontractor to American Airlines that provided passenger services at JFK Airport.[57] The State's investigation uncovered a years-long practice of failing to reimburse workers for their uniform maintenance and laundry, which resulted in illegal deductions under New York labor laws.[58] Likewise, in 2018, the Massachusetts Attorney General obtained nearly $500,000 in restitution and penalties for 141 former employees of a medical transportation business.[59] The State opened an investigation after receiving complaints from employees and uncovered a systemic failure to pay an appropriate overtime rate.[60]

To be sure, arbitration agreements under the FAA cannot supersede this authority or prevent state investigations into potential violations. *E.g.*, Dist. Ct. Doc. 53-1 at 10 (recognizing that the arbitration agreement does not preclude state or federal claims). But the confidentiality provisions that typically govern arbitration proceedings can make it more difficult for state investigatory and enforcement bodies to become aware of potential systemic violations in their State. Specifically, contractual provisions that require confidentiality affect States' ability to efficiently conduct investigations and determine whether enforcement

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[57] Press Release, *Attorney General James Recovers $590,000 for Airline Workers Subjected to Minimum Wage Violations* (July 9, 2021), https://on.ny.gov/3HvqQJ6.

[58] *Ibid.*

[59] Press Release, *AG Healey Cites Transportation Company Nearly $500,000 for Misclassification and Overtime Violations* (Sept. 24, 2018), https://bit.ly/3vzqfUA.

[60] *Ibid.*

actions are warranted. As a practical matter, state agencies are often dependent on constituent complaints, third-party information, and publicly available information when determining whether to open an investigation into an employer. Accordingly, when employee grievances, and any resultant awards, are shrouded in secrecy, it is more challenging for state agencies to assess whether the purported violations are occurring on a widespread basis and thus would warrant an investigation or enforcement action. When such matters are resolved in public-facing fora, by contrast, States are better able to track employee claims, search public databases, and identify troubling trends in workplace conditions.

This difficulty is exacerbated by contractual terms that incentivize proceeding exclusively through arbitration and declining to participate in state-level investigations and enforcement actions. For example, the Southwest arbitration agreement at issue here provides that if an employee "chooses to file a charge/complaint with a governmental agency that has investigatory power over some or all claims, [the arbitration proceedings] will be stayed . . . until the government agency resolves the charge/complaint." Dist. Ct. Doc. 53-1 at 11. What this means, in effect, is that if employees seek to have their grievances heard in a time-sensitive manner, they will likely forego filing charges that they would otherwise be entitled to pursue at the state or federal level which, in many circumstances, can be quite substantial. *See Hawaiian Airlines*, 512 U.S. at 256 (explaining that substantive state-law protections independent of the collective bargaining agreement are not preempted). These practices thus not only deprive employees of an

unhindered right to bring grievances and charges simultaneously, but also further limit the information brought to the attention of state regulatory bodies.

For these reasons, States have an interest in maintaining the scope of the FAA exemption as it was understood at the time of its passage, which would have included workers like respondent who load and unload cargo. Narrowing the class of workers who fall within the exemption would not only hinder the States' ability to monitor disputes in the transportation industries, but also make their investigatory and enforcement duties more difficult.

CONCLUSION

The decision below should be affirmed.

Respectfully submitted,

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EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, Plaintiff, v. STAR ROOFING AND SIDING, INC. Defendant.	Case No. Jury Demand

CONSENT DECREE

I. THE LITIGATION

1. The Office of the Illinois Attorney General (hereinafter "OAG") filed this action ("Complaint") on behalf of Plaintiff, the People of the State of Illinois, alleging that Defendant, Star Roofing and Siding, Inc., ("Star Roofing") failed to pay Francisco Nava, Antonio Torres, German Torres, Jose DeJesus Rodriguez, Jose Barriga, Fernando Romano, Gilberto Aguilar, Edward Ferrier, and Javier Campa, at time and a half their regular rate for all time worked in excess of forty hours per week in violation of the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq*. (the "Act").

2. In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, Star Roofing and the OAG have agreed that this action should be finally resolved by entry of this Consent Decree ("Decree"). This Decree fully and finally resolves the OAG's claims in the Complaint. The parties further agree that Star Roofing has not admitted liability for any of the conduct alleged in the Complaint, and that Star Roofing has agreed to the entry of this Consent Decree for the sole purpose of bringing this matter to an efficient resolution.

II. FINDINGS

3. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulation of the parties, the Court finds the following:

a. This Court has jurisdiction over the subject matter of this action and over the parties.

b. No party shall contest the jurisdiction of this Court to enforce this Decree and its terms or the right of the OAG to bring an enforcement suit upon an alleged breach of any term(s) of this Decree.

c. The terms of this Decree adequately resolve the OAG's complaint against Star Roofing, fair, reasonable, and just.

d. The rights of the public are adequately protected by this Decree.

e. This Decree conforms with the Illinois Rules of Civil Procedure and the Act and is not in derogation of the rights or privileges of any person.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

III. NON-ADMISSION

4. This Decree, being entered with the Consent of the OAG and Star Roofing, shall not constitute an adjudication or finding on the merits of this case nor shall it be deemed an admission by Star Roofing of any violation of the Act or wrongdoing. Star Roofing denies any liability and all claims contained in the Complaint and denies that it has violated the Act. Star Roofing is entering into this Consent Decree solely for purposes of avoiding further litigation costs and expenses.

IV. SCOPE AND DURATION OF THE CONSENT DECREE

5. This Decree will become effective as of the date of entry by the Court (hereinafter, the "Effective Date") and remain in effect for two years from the Effective Date (the "Term").

6. This Decree shall be binding upon Star Roofing and its present and future directors, officers, managers, agents, successors, and assigns. During the Term of this Decree, Star Roofing shall provide a copy of this Decree to any organization or person that proposes to merge with Star Roofing or acquire a majority or all of its stock or substantially all its assets, prior to the effectiveness of any such merger or acquisition.

7. For purposes of this Decree, these terms are defined as follows:

a. "Employee" shall refer to any individual permitted to work by Star Roofing.

b. "Effective Date" shall mean the date of entry of this Decree by the Court.

c. "Document" shall include, without limitation, anything in which there is portrayed or contained, or from which can be retrieved, any facts, information, or data, including all of the things delineated in Ill. Sup. Ct. R. 214 and without limitation on the foregoing, all electronic data processing materials.

8. Nothing shall preclude the OAG from taking legal action to enforce the terms of this Decree; bringing a separate action should the OAG discover additional violations of the Act outside the scope of conduct covered by this Decree..

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V. INJUNCTIVE PROVISIONS

(A) GENERAL PROVISIONS

9. Star Roofing, its officers, agents, employees, and all persons acting in concert with it, are enjoined from engaging in violations of the minimum wage and overtime pay requirements of the Act.

10. If Star Roofing fails to pay the amount set forth in Section VII of this Decree, the OAG may immediately apply to the court for appropriate relief. If the OAG believes that Star Roofing has failed to comply with any other provision of this Decree, the OAG shall notify Star Roofing of the alleged noncompliance in writing and give Star Roofing 15 calendar days to remedy the noncompliance to the OAG's satisfaction. If the parties do not reach an agreement at the end of the 15-day period, the OAG may apply to the court for all appropriate relief. Star Roofing recognizes that the OAG may seek the following:

a. Entry of a monetary judgment in the amount of any outstanding payments owed under the terms of the Decree plus all attorneys' fees and costs expended in obtaining and collecting the judgment or in otherwise enforcing this Decree; or

b. Other relief as appropriate.

(B) RECORD-KEEPING

11. Within 30 days of the Effective Date, Star Roofing shall begin maintaining documents reflecting the time worked by each employee of Star Roofing. These records shall be kept, at a minimum, through the Term of the Decree and shall include, but not limited to, the following for each Star Roofing employee:

a. The time the employee begins working each day;
b. The time the employee stops working each day;
c. The crew leader each employee is traveling with each day and the vehicles assigned to that crew leader each day.
d. For each Star Roofing vehicle, GPS records sufficient to track the address of each stop that the Star Roofing vehicle makes throughout the day, as well as the time and mileage in between each stop.
e. The total hours worked by the employee each week; and
f. The day of the week that the employee's work week begins.

12. Star Roofing shall ensure that all Star Roofing vehicles used to transport Star Roofing employees are equipped with a GPS system. Star Roofing shall maintain any and all GPS data for all of its vehicles throughout the Term of this Decree.

13. Within 30 days of the Effective Date, Star Roofing shall begin maintaining documents reflecting the wages paid to each employee of Star Roofing, including, but not limited to:

a. The employee's regular rate of pay along with an explanation of the basis of pay, including whether the rate of pay is (i) per hour, (ii) per day, (iii) per piece, (iv) based on commission on sales, or (v) other basis;
b. The hours worked by the employee each week;
c. Total weekly straight-time earnings or wages paid for hours worked during the week, exclusive of premium overtime compensation;
d. Total premium paid over and above straight-time earnings for overtime hours;
e. Total additions to or deductions from wages paid each pay period, including purchase orders or wage assignments.
f. Total dollar amount of wages paid each pay period;
g. Date(s) of payments identified and the pay period covered by each payment; and
h. Date and amount of any bonus or other compensation paid to the Employee.

14. Within 30 days of the Effective Date, Star Roofing shall ensure that, at a minimum, the information referenced in Paragraph 13 is reflected in the paychecks issued to Star Roofing employees

(C) DISTRIBUTION OF POLICY

15. Star Roofing shall create a policy ("Policy") stating that all hours worked in excess of 40 per week must be compensated at one and a half times an employee's regular rate of pay. The Policy shall be translated in Spanish. Star Roofing shall forward a copy of this policy to the OAG within 30 days of the Effective Date. Star Roofing shall provide all of its Employees with a copy of the Policy within 60 days of the Effective Date.

16. The Policy, and its translations, shall also be printed in a font that is easily legible (at least 12-point font) and be posted or maintained in a conspicuous, visible, and accessible place for all Employees to view.

17. Star Roofing shall provide certifications to the OAG of its compliance with the requirements of this Section of the Decree within 60 days of the Effective Date.

(E) NOTICE TO EMPLOYEES

18. Star Roofing shall post the Notice attached as Appendix A, in English and Spanish, on all bulletin boards, all places where notices are customarily posted, and all places the OAG deems appropriate within 30 calendar days of the Effective Date. Star Roofing must make all reasonable efforts to ensure that the posting is not altered, defaced, or covered by other materials.

(J) REPORTING REQUIREMENTS

19. On a twice-annual basis, starting six months from the Effective Date, Star Roofing shall submit to the OAG a certification of its compliance with all provisions of this Decree. Star Roofing shall send the certifications required by this Decree, in electronic or paper form, to the following address:

Alvar Ayala
Workplace Rights Bureau Chief
Office of the Illinois Attorney General
100 W Randolph Street, 11th Floor
Chicago, Illinois 60601
aayala@atg.state.il.us

20. The OAG reserves the right to audit Star Roofing's compliance with this Decree every four months commencing 120 days from the Effective Date, until the completion of the Term. In the event the OAG exercises its right to audit, Star Roofing will, upon request, produce the following documents:

a. Employees' personnel records;

b. All records and information referenced in section V(B);

c. Contact information for all employees, including name, address, telephone number, and e-mail address; and

d. Any other documents necessary to accomplish the goals of this Decree.

VII. MONETARY RELIEF

21. Within 14 calendar days of the Effective Date, Star Roofing shall deliver checks to the OAG for Francisco Nava, Antonio Torres, German Torres, Jose DeJesus Rodriguez, Jose Barriga, Fernando Romano, Gilberto Aguilar, Edward Ferrier, and Javier Campa. The check shall represent payment for owed wages and shall be issued with any applicable tax withholdings in the following amounts:

e. Star Roofing shall deliver a check made out to Francisco Nava for $6,100.00.

f. Star Roofing shall deliver a check made out to Antonio Torres for $1,470.00.

g. Star Roofing shall deliver a check made out to German Torres for $23,150.00.

h. Star Roofing shall deliver a check made out to Jose DeJesus Rodriguez for $6,730.00.

i. Star Roofing shall deliver a check made out to Jose Barriga for $1,120.00.

j. Star Roofing shall deliver a check made out to Fernando Romano for $17,630.00.

k. Star Roofing shall deliver a check made out to Gilberto Aguilar for $17,930.00.

l. Star Roofing shall deliver a check for $15,270.00 to Edward Ferrier's estate pursuant to instructions that the OAG will provide after the Effective Date.

m. Star Roofing shall deliver a check made out to Javier Campa for $11,600.00. The checks shall be issued with an itemization of any applicable withholdings.

22. The above-referenced payments and any reports due under this Consent Decree shall be delivered to the following address:

Alvar Ayala
Workplace Rights Bureau Chief
Office of the Illinois Attorney General
100 W Randolph Street, 11th Floor
Chicago, Illinois 60601

VIII. DISPUTE RESOLUTION

23. In the event that the OAG believes that Star Roofing has failed to comply with any provision of the Decree, the OAG shall have the right to seek court intervention. Additionally, no party shall contest the Court's jurisdiction to hear a dispute arising from the Decree nor challenge the OAG's ability to bring an action to enforce the terms of the Decree in this Court. Implementing work rules that are not designed to affect specific employees, but rather are applied equally to all employees and are in accordance with law will not be deemed retaliatory. Prior to seeking court intervention the OAG will provide notice of non-compliance to Star Roofing and 14 days to cure the alleged non-compliance.

IX. SIGNATURES

24. Facsimiles and electronic (PDF) copies are deemed acceptable, binding signatures for the purposes of this Decree. This Decree may be executed in counterparts, each of which will be deemed an original, and all of which constitute one and the same agreement.

THE OFFICE OF THE ILLINOIS ATTORNEY GENERAL

KWAME RAOUL
Attorney General of the State of Illinois

Dated: 5/11/21

By: _____
Alvar Ayala
Workplace Rights Bureau Chief
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
(312) 343-0099
aayala@atg.state.il.us

STAR ROOFING AND SIDING, INC.

Dated: _____

By: _____
Brian Mager
President

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Workplace Rights Bureau Chief
Office of the Illinois Attorney General
100 W Randolph Street, 11th Floor
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THE OFFICE OF THE ILLINOIS ATTORNEY GENERAL

KWAME RAOUL
Attorney General of the State of Illinois

Dated: _____

By: _____
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(312) 343-0099
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Dated: MAY 8 2021

By: _____
STAR ROOFING AND SIDING, INC.
Brian Mager
President

APPENDIX A
NOTICE TO ALL EMPLOYEES

This notice is being distributed pursuant to a Consent Decree between the Illinois Attorney General and Star Roofing.

We hereby notify our employees of the following:

Employees have a right to be paid at time and half (1.5) their regular rate for all time worked in excess of forty hours per week. Employees also have the right to know their hourly rate of pay.

If you feel you have not been paid for all time worked in excess of forty hours per week at time and a half your regular rate of pay, or you have been the victim of any other violation of the Illinois Minimum Wage Law, you may contact the Office of the Illinois Attorney General's Workplace Rights Bureau or the Illinois Department of Labor to report any such violations at the numbers below:

Office of the Illinois Attorney General, Workplace Rights Bureau
844-740-5076
(TTY) 1-800-964-3013

Illinois Department of Labor
312-793-2800
(TTY) 1-800-526-0844

KWAME RAOUL
ILLINOIS ATTORNEY GENERAL

AVISO A TODOS LOS EMPLEADOS

Este aviso se distribuye en conformidad con un Decreto de Consentimiento entre la Oficina del Procurador General de Illinois y Star Roofing.

Por la presente notificamos a nuestros empleados sobre lo siguiente:

Los Empleados tienen derecho a ser pagados tiempo y medio (1.5) su taza regular de pago por cada hora que trabajan más allá de 40 horas por semana. Los Empleados también tienen derecho a conocer su taza regular de pago.

Si siente que no se le ha pagado a tiempo y medio (1.5) su taza regular de pago por cada hora que trabajan más allá de 40 horas por semana, o que ha sido víctima de cualquier otra violación del Acta de Salario Mínimo de Illinois, usted puede comunicarse con la Oficina del Procurador General de Illinois o con el Departamento de Trabajo de Illinois a los siguientes números.

Oficina del Procurador General de Illinois, Buro de Derechos Laborales:
844-740-5076
(TTY) 1-800-964-3013

Departamento de Trabajo de Illinois
312-793-2800
(TTY) 1-800-526-0844

KWAME RAOUL
ILLINOIS ATTORNEY GENERAL

12-Person Jury

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois,

Plaintiff,

v.

STAR ROOFING AND SIDING, INC.

Defendant.

Case No. ***2021CH02363***
Jury Demand

COMPLAINT

Plaintiff, the People of the State of Illinois, by and through its attorney, Kwame Raoul, Attorney General of the State of Illinois, brings this complaint against Star Roofing and Siding, Inc. ("Star Roofing").

NATURE OF THE CASE

1. Plaintiff brings this Complaint pursuant to its power under the Illinois Attorney General Act, 15 ILCS 205/1 *et seq*., (the "Act") to initiate and enforce all legal proceedings on matters related to the payment of wages including the provisions of the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq*. ("IMWL").

2. For years preceding the filing of this lawsuit, Star Roofing failed to pay overtime wages for all time worked in excess of forty hours per week to Francisco Nava, Antonio Torres, German Torres, Jose DeJesus Rodriguez, Jose Barriga, Fernando Romano, Gilberto Aguilar, Edward Ferrier, and Javier Campa, who were employed as roofers with Star Roofing. Star Roofing's failure to pay these roofers at time and a half their regular rate of pay for all time worked in excess of forty hours per week violated section 4(a) of the IMWL, 820 ILCS 105/4a.

JURISDICTION AND VENUE

3. This action is brought pursuant to section 6.3(b) of the Illinois Attorney General Act, 15 ILCS 205/6.3(b), and seeks equitable relief and statutory penalties for violations of Section 4(a) of the IMWL, 820 ILCS 105/4(a).

4. This Court has jurisdiction over Plaintiff's claims because Defendant committed many of the violations complained of herein in Cook County, Illinois, and Defendant conducts and transacts business within Cook County. 735 ILCS 5/2-209(a)(1); 735 ILCS 5/2-209(b)(4).

5. Venue is proper in this judicial district because Defendant maintains offices in Cook County, and many of the events giving rise to Plaintiff's claims occurred in Cook County. 735 ILCS 5/2-101.

PARTIES

6. Plaintiff brings this action by and through Kwame Raoul, Attorney General of the State of Illinois, as authorized pursuant to Section 104(A)(1) of the Act. 775 ILCS 5/10-104(A)(1).

7. In 2019, the General Assembly found that the welfare and prosperity of all Illinois citizens and businesses required the establishment of a unit within the Attorney General's Office dedicated to combatting businesses that underpay their employees, force their employees to work in unsafe conditions, and gain an unfair economic advantage by avoiding their tax and labor responsibilities. *See* 820 ILCS 205/6.3(b).

8. The Attorney General's worker protection unit enforces Illinois wage statutes to ensure that workers are paid properly for their work and businesses that skirt Illinois law do not gain an unfair advantage over law-abiding businesses.

9. Star Roofing's actions constitute a direct violation of the State's public policy of ensuring a level playing field for business and a fair day's pay for a day's work for Illinois workers.

10. Star Roofing is a corporation headquartered and authorized to transact business in Illinois.

11. Star Roofing is an "employer" as defined under the IMWL. 820 ILCS 105/3(c).

12. Star Roofing provides roof installation and repair services throughout the greater Chicago area.

FACTUAL ALLEGATIONS

13. Star Roofing's shop is located at 1900 N. Springfield Ave, Chicago, IL 60647.

14. Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar, were or remain employed as roofers with Star Roofing.

15. Francisco Nava worked for many years with Star Roofing through approximately March 2018.

16. Jose Barriga worked for many years with Star Roofing through approximately June 2017.

17. Edward Ferrier worked for many years with Star Roofing through approximately November 2018.

18. Javier Campa worked for many years with Star Roofing through approximately November 2018.

19. Antonio Torres worked with Star Roofing from approximately September 2019 through approximately July, 2020.

20. Jose DeJesus Rodriguez worked with Star Roofing from approximately May 2018 through approximately June 2020.

21. Fernando Romano has been employed with Star Roofing for many years and remains employed to this day.

22. German Torres worked for many years with Star Roofing through approximately late March 2021.

23. Gilberto Aguilar has been employed with Star Roofing for many years and remains employed to this day.

24. Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar regularly worked in excess of forty hours per week for Star Roofing, often working over 60 hours per week.

25. Star Roofing engaged in a practice of paying these employees for up to forty hours in a check, while paying the remainder of their time worked, including hours worked in excess of forty each week, in cash and at their straight time rate.

26. Star Roofing's check failed to provide any itemization of the hours employees were being paid each week, or their pay rate, which made it hard for employees to verify whether they were being paid all wages due.

27. Star Roofing also failed to keep accurate time and payroll records for its employees.

28. Star Roofing's failure to compensate Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar for all time worked in excess of forty (40) hours per week at time a half their regular rate of pay violated the overtime requirements of the IMWL.

COUNT I
Violation of the Illinois Minimum Wage Law- Overtime Wages

29. The People restate and re-allege Paragraphs 1 through 28 of this Complaint as though fully set forth herein.

30. Defendant suffered or permitted Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar to work, and these employees did in fact work, in excess of forty (40) hours in individual work weeks during their employment with Defendants.

31. Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar were not exempt from the overtime wage provisions of the IMWL.

32. Defendant violated the IMWL by failing to compensate Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar for all time worked in excess of forty (40) hours in individual work weeks at time and a half their regular rate of pay.

33. Pursuant to 820 ILCS 105/12(a), Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar are entitled to recover three (3) years of unpaid overtime wages.

34. Pursuant to Section 6.3(b) of the Act, the Attorney General of the State of Illinois may initiate and enforce all legal proceedings on mater related to the payment of wages, including the IMWL, and recover owed wages for employees.

WHEREFORE, Plaintiff, the People of the State of Illinois, prays that this Honorable Court:

a. Enjoin Star Roofing from engaging in employment practices that violate the IMWL;

b. Order Star Roofing to submit to monitoring of their payment and record keeping practices;

c. Enter a judgment in the amount of all overtime wages and statutory damages due to Francisco Nava, Jose Barriga, Edward Ferrier, Javier Campa, Antonio Torres, Jose DeJesus Rodriguez, Fernando Romano, German Torres, and Gilberto Aguilar as provided by the IMWL;

d. Grant such other and further relief as the Court deems appropriate

THE PEOPLE OF THE STATE OF ILLINOIS,

By and through,

KWAME RAOUL
Attorney General of the State of Illinois

Dated: May 14, 2021

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