

# HOW TO BUILD A **WAGE THEFT** TASK FORCE



# 1. Educate Yourself

- ⦿ **What is Wage Theft?**
- ⦿ **What is being done to combat Wage Theft around the country?**
  - Interfaith Action
  - State-Wide Measures
  - Local Ordinances (Miami-Dade, Broward, Alachua)
- ⦿ **How does Wage Theft affect YOUR community?**
  - FIU Research Papers
  - Conversations with friends, family, colleagues

# What is Wage Theft ?

- **Wage Theft** : The illegal withholding of wages or the denial of benefits that are rightfully owed to an employee.
- Wage theft is prevalent in the United States, particularly in low-wage or commonly immigrant labor.
- These violated rights have been guaranteed to workers in the United States since 1938 by the [Fair Labor Standards Act](#) (FLSA).



# Common Types of Wage Theft:

- Last Paycheck Case
- Illegal Bargaining Payment: *"Under the Table"* and *"Piece Work"*
- The Service Industry: Illegal Deductions and Stealing Tips
- The "Wal-Mart Pinch": Wage Theft in Retail
- Contingent Workers: Use of subcontractor, Misclassifying employees as "Independent Contractors"



## 2. Build your Support Base

- ⦿ Political Support
  - NAACP
  - Democratic Party
  - Local elected officials
- ⦿ Community Support
  - Progressive student groups
  - Religious organizations
  - Influential community members
- ⦿ Business Support
  - Local businesses

# 3. Map your Strategy

- ⦿ **Hold initial meeting with support base**
  - Delegate responsibilities
- ⦿ **Have a Timeline**
  - Deadlines are important to meet your goals
- ⦿ **Be aware of political opportunities**
  - Elections
  - Knowing (& exploiting) the opposition
- ⦿ **Set up media engagement (Messaging)**
  - Website
  - Literature



# Messaging examples

## ⦿ For Workers:

- Less spending money
- More likely to use government assistance programs

## ⦿ For Businesses:

- Unfair competition

## ⦿ For Local Governments

- Less tax revenue
- Drag on the local economy



# A National Epidemic

- Unavailable Statistics from the DoL
- 2008 UCLA Study found \$2.9 billion in stolen wages from a survey of only 3 cities: L.A., Chicago, and New York.
- Of the 4,500 workers surveyed, 26% were paid below minimum wage and a staggering 76% were not paid overtime.
- Study found that the bottom 15% of wage earners were most at risk of wage theft



**“Wage Theft: The Crime Wave  
No One Talks About”**





# Wage Theft in Florida



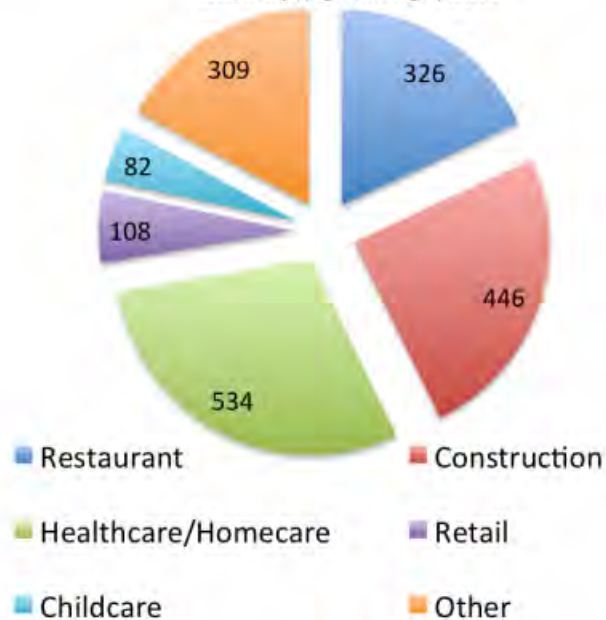
- ◎ **Over \$28 million of unpaid wages have been recovered** by the U.S. Department of Labor Wage and Hour Division in Florida, Miami-Dade's Wage Theft Ordinance and community groups throughout Florida.
- ◎ The primary pillars of Florida's economy are undermined by widespread theft of employees' wages. **Florida's key industries have the highest numbers of reported wage violations—tourism, retail trade and construction.**
- ◎ An average of **3,036 wage violations per year are reported** to the U.S. Department of Labor's Wage and Hour Division in Florida (DOL-WHD).

# Wage Theft in Alachua County



Victims of Wage Theft in Alachua County from 2000-2010 by industry

source: <http://ogesdw.dol.gov/search>



- According to available numbers from the US Department of Labor Wage & Hour Division, there have been **2,077 wage theft violations in Alachua County involving 1,805 workers between 2000 and 2010.** This resulted in \$1,034,661 in back wages being restored to workers.
- Using the recent RISEP -FIU white paper findings that wage theft goes unreported 2 to 3 times as much as reported, then it can be inferred that **between 1,805 and 3,610 workers victims of wage theft went unreported and between \$1,034,661 and \$2,069,322 in back wages** went unrecovered in this time period.

# TESTIMONIALS

*“I was painting at the Canopy Apartments mostly. I also was hanging doors, cleaning carpets and was part of the cleaning crew at the District Apartments. I mainly pulled handles towards the end at a retirement community on 39th. I did between 7-12 rooms per day.*

*There are at least 5 people on my crew that were not paid right. I worked at the district from August 11th until the 21st. Worked from 8am until 10pm each day Monday through Saturday. Only reason I didn't work on Monday was because the buses didn't run. I Worked 16 and ½ hours on August 11th. Never got any break, which was hard when painting.”*

*–Anonymous, Gainesville.*

# TESTIMONIALS

*“At a Restaurant I worked at in Gainesville we had “cleaning days.” Basically they tell you they are having an “optional” cleaning day, but if you don’t come in, it looks bad and they might cut your shifts. We worked these days **off the clock**. I’ve also had tips taken from me by the employer as punishment. It was the last week I was working there, and I believe it was retribution for quitting, also they know they could get away with it. I reported it the Department of Labor, they said since my weekly average was minimum wage, they couldn’t do anything about it.”*

*–Claire, Gainesville.*

**WAGE THEFT:**

**A NATIONAL PROBLEM  
WITH A LOCAL SOLUTION**

by Jeremiah Tattersall,  
Founding member of the  
Alachua County Wage Theft Task Force

## 4. Going Public

### ⦿ Hold a Community Forum

- Engage the Media
- Invite elected official / Influential Community Members
- Flyer Community Events

### ⦿ Collect Surveys/Testimonials

- To engage people personally in the issue
- To gather local information
- To advertise for a future event



# 5. Outreach & Support

## ⦿ **Community Outreach**

- Community Organizations
- Religious Organizations

## ⦿ **Political Outreach**

- Elected Officials
- Political Parties
- Political Organizations

## ⦿ **Business Outreach**

- Local Businesses

## 6. Political Lobbying

- Meet with County Commissioners to gather support for ordinance
- Meet with City & State elected officials to gather their support
- Attend (Pack) County Commission Meetings when wage theft is discussed

# 7. Passing the Ordinance

- ⦿ Keep the issue relevant
  - Continue Outreach
  - Keep issue in the eye of the media
  - Get community to write to their County reps
- ⦿ Pressure County to Draft Ordinance
  - Have language for ordinance ready
- ⦿ Stay vigilant
  - Expect statewide preemption efforts
  - Ready counter-arguments to opposition

# **QUESTIONS & COMMENTS**

# US Department of Labor

- ⦿ The U.S. Department of Labor's Wage and Hour Division (WHD-DOL) is responsible for administering and enforcing laws regarding Wage Theft.
- ⦿ Complaints are handled by the closest investigator. For Gainesville this is Jacksonville.
- ⦿ Due to increased funding under the Obama administration there are now 6 investigators for the entire state

# US Department of Labor

- ⦿ In December 2010, in Florida there were 1.2 million workers for every WHD investigator, over eight times as many as the national average.
- ⦿ Currently it takes eight to ten months to just start an investigation of a new case.
- ⦿ The Fair Labor Standards Act (FLSA) has a two-year statute of limitations, except in the case of a willful violation, in which case it is 3 years.



# US Department of Labor

- ⦿ The WHD-DOL does not have jurisdiction for many hospital, school, government, contractors, or farm workers due to laws such as the Agricultural Worker Protection Act and the Davis-Bacon Act.
- ⦿ Immigrant workers who are covered under WHD-DOL are often unaware or too afraid to seek redress.
- ⦿ Often WHD-DOL investigators will tell workers to attempt to settle with employers.

# Florida State Laws

- ⦿ There has yet to be a single investigation of violations to the state minimum wage law by the state of Florida.
- ⦿ The only other state in the nation without a functional state Department of Labor is Mississippi.

# Miami-Dade Wage Theft Ordinance

- ⦿ The Wage Theft Ordinance (WTO) entitles workers to double-liquidated damages, and makes employers liable to the County for administrative hearing costs.
- ⦿ As of September they have received 1,927 complaints and has recovered a total of \$511,429 through the conciliation process.
- ⦿ The average number of days it took to recover wages through the conciliation phase was 103 days.

# Miami-Dade Wage Theft Ordinance

- ⦿ There are more than 500 workers who have filed complaints that are STILL waiting to be helped.
- ⦿ Over \$2 million dollars that has yet to be collected for workers filing complaints.
- ⦿ The Wage theft program is understaffed with only 1.5 staff dedicated to handling complaints.
- ⦿ For the last two years, state lawmakers have sought to abolish the program through legislation preempting local governments from enforcing wage laws.

# **Miami-Dade Wage Theft Ordinance: Process**

- ⦿ Employee must be owed \$60 or more & the work must have been done in the county within the last year.
- ⦿ Worker cannot be currently taking legal or have judgment involving the same wage claim.
- ⦿ Worker must file signed complaint with details regarding the circumstances of the wage violation including date/dates the violation occurred, dollar amount of unpaid wages, supporting documents, etc.

# Miami-Dade Wage Theft Claim Form

Date: \_\_\_\_\_

Miami-Dade County

File Number: \_\_\_\_\_

Filed By: \_\_\_\_\_

## CLAIM FOR WAGES REPORTING FORM

Case Closed on: \_\_\_\_\_

Organization: \_\_\_\_\_

Case Referred to: \_\_\_\_\_

Date Referred: \_\_\_\_\_

Name of Claimant (First, Middle, Last)

\_\_\_\_\_

Address (RR, Box or Street Number) Apt. No. \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Home Telephone Number Work Telephone Number

\_\_\_\_\_

Cell Number \_\_\_\_\_ Personal Number \_\_\_\_\_

Email Address \_\_\_\_\_

DOB \_\_\_\_\_ No. of Dependents \_\_\_\_\_ Gender M \_\_\_\_\_ F \_\_\_\_\_

Country of Origin \_\_\_\_\_ Primary Language \_\_\_\_\_

Will you need an interpreter? Yes \_\_\_\_\_ No \_\_\_\_\_

Job Title \_\_\_\_\_

I performed the work which is the subject of this wage theft  
complaint in Miami-Dade County. Yes \_\_\_\_\_ No \_\_\_\_\_

What type of wage theft do you allege?

Please check all that apply.

I was not paid at all for some or part of the time \_\_\_\_\_

I was not paid as much as promised \_\_\_\_\_

Unauthorized deductions were taken from my pay \_\_\_\_\_

I was not paid the minimum wage and I should have been \_\_\_\_\_

I was not paid overtime and I should have been \_\_\_\_\_

I worked through breaks \_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_

Name of Business/Employer

\_\_\_\_\_

Address (RR, Box, Street Number) Apt. No.

\_\_\_\_\_



# **Miami-Dade Wage Theft Ordinance: Process**

- Once a complaint form has been accepted as completed Staff will promptly notify Employer via telephone of the complaint.
- Staff encourages the Employee and the Employer to reach a conciliatory agreement to resolve the complaint. The vast majority of cases are resolved at this point.
- Depending upon the outcome of the initial notification, Staff will serve the complaint and provide written notice to the Employer by certified mail.

# **Miami-Dade Wage Theft Ordinance: Process**

- ⦿ Employer will have an opportunity to respond to the complaint and to show proof of payment or to dispute the amount owed to the Employee.
- ⦿ Either party may request that the Hearing Examiner subpoena witnesses to testify on their behalf.
- ⦿ Burden of proof rests upon the Employee.
- ⦿ If the Hearing Examiner determines that a wage theft violation has occurred, the Hearing Examiner will order the Employer to pay the original wages owed plus two times that amount.

# **Miami-Dade Wage Theft Ordinance: Process**

- ⦿ The Employer, if found guilty of wage theft, must also pay the Board of County Commissioners for the actual administrative and processing costs of the hearing
- ⦿ The Employer will have 45 days after receiving the written order to comply with the order and may request one 45 day extension.
- ⦿ The Employer, if found guilty of wage theft, may appeal the decision of the Hearing Examiner to Circuit Court within 30 days of the issuance of the order

# CONCLUSION:

- ⦿ Nationally we have a woefully underfunded Department of Labor.
- ⦿ On the state level we have an unapologetically anti-worker legislature and Governor.
- ⦿ We must organize locally to bring a **Wage Theft Ordinance** to Alachua County in order to solve this unspoken crime epidemic.

# Organizations & Individuals Currently Supporting an Alachua County Wage Theft Ordinance:

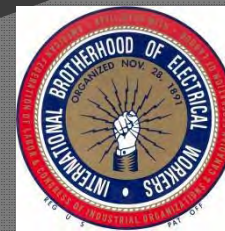
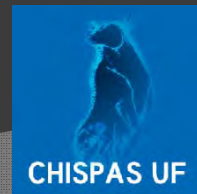
## Alachua County Commissioners and Candidates :

- Mike Byerly
- Charles S. "Chuck" Chestnut IV
- Robert "Hutch" Hutchinson.



## Organizations:

- North Central Florida Central Labor Council
- Alachua County Labor Party
- International Brotherhood of Electrical Workers Local 1205
- Graduate Assistants United at UF
- Gainesville area Students for a Democratic Society
- Interfaith Alliance for Immigrant Justice
- CHISPAS at UF
- Gainesville Dream Defenders
- Gainesville Industrial Workers of the World



# **HOW A WAGE THEFT ORDINANCE HELPS SMALL BUSINESSES**

By Alex Cardelle,

Former Intern for the Miami-Dade Small Business  
Development Department's Wage Theft Program



## Small Businesses:

Wage Theft is not economic regulation, it is *economic enhancement*.

By having an ordinance-based, rather than court-based, provision the county is able to SAVE employers from lengthy and costly court battles.

Funds recovered from wage theft claims can act as a small economic stimulus that is likely to be spent locally in small businesses.

## Small Businesses (cont'd)

By ensuring an even playing field, a wage theft ordinance combats *Labor Piracy*.

The ordinance rewards responsible businesses and gives offenders a fair, unbiased chance to comply.

Since we know payroll issues are usually symptoms of larger problems, we help identify and assist small businesses who are struggling by referring them to partner agencies that can help.

# THANK YOU FOR COMING

Don't forget to sign our sign-up sheet or  
Visit the Alachua County Wage Theft Task Force's Website:

## www.ACWTTF.org

To find out how YOU can get involved.

