



A CONSTRUCTION INDUSTRY  
LABOR-MANAGEMENT  
ORGANIZATION

# The FAIR CONTRACTOR

A Publication of the Foundation for Fair Contracting of Massachusetts

Fall, 2008

Volume 12, Issue 2

## Changing Climate in Massachusetts 'Fair Contractors' Rewarded

### Treble Damages

Think of it as a legislative welcome sign for contractors that play by the rules. In recent months the Commonwealth has enacted new legislation intended to level the playing field by cracking down on employers who pay their employees late or don't pay them at all. The so-called treble damages bill, which went into effect earlier this year, allows workers to collect three times the wages they're owed—if they can prove that they weren't paid.

Advocates say that the measure won't just help workers but will also aid law-abiding contractors. "When contractors don't pay their employees, it isn't just the workers who suffer. It also makes it nearly impossible for contractors who play by the rules to compete," says Karen Courtney, executive director of the Foundation for Fair Contracting of Massachusetts.

### Misclassification

The Attorney General has also stepped up her enforcement of the state's independent contractor law, which protects workers from

being misclassified by employers trying to avoid paying the required wages, benefits and insurances. Martha Coakley recently issued an advisory intended to clear up ambiguities in an early version of the law. There is now a clear three pronged test to determine whether a worker can be considered an independent contractor.

While some construction industry officials initially opposed the bill, they've since reconsidered. "Most responsible contractors feel that complying with the law is important to even the playing field for everyone," Gregory Beeman, CEO of Associated Builders and Contractors of Massachusetts told the *Boston Business Journal* this fall.

### Enforcement

The new laws are part of a concerted effort in the state to educate workers about their rights and prosecute employers who violate those rights. In recent months the Attorney General's office has recovered hundreds of thousands of dollars for public construction workers who were intentionally underpaid by their employers. "Thanks to these efforts, Massachusetts is a fairer place to do business," says Courtney.



*The following contractors have been cited/debarred or required to pay settlements by the Attorney General's office for violating the state's wage and hour laws. The FFCM was involved in each case, helping construction workers file claims and get back the money they were owed.*

**Arelo, Inc.**, of Princeton, MA and its owner, Robert Arelo, of Holden, have agreed to pay more than **\$60,000** and an additional **\$25,000** in penalties for intentionally failing to pay the prevailing wage to 18 employees who worked on several public construction projects in Massachusetts between August 2005 and June 2007. After investigators from the AG's office determined that Arelo had failed to submit certified payroll records while employed on the Algonquin Regional High School project in Northborough, they expanded their investigation to include all public projects on which the contractor had worked.

**Dillon Tree Service, Inc.** and its owner, Joseph Dillon, both of Shrewsbury, MA, have agreed to pay **\$20,000** in restitution and penalties for violating the state's prevailing wage laws. An investigation by the AGs office determined that the company misclassified and underpaid three employees working on a tree removal project in Boston. The company agreed to pay \$16,000 in back wages and an additional \$4000 penalty.

**PowerComm, LLC**, and its owner David Kasnick, both of Virginia, have been ordered to pay nearly **\$16,000** in wages and penalties for misclassifying an employee as an apprentice electrician on the Street Lights Repair project in Holyoke, MA.

**Cellar Dweller Poured Concrete Foundation, Inc.**, and its owner, Brent Merchant of Allston, MA, must pay a civil citation in the amount of **\$10,000**. While working on the Norwood Senior Center project in Norwood, MA, the company failed to furnish records for inspection.

**Time Savers, Inc.**, and its owner John Gugliotta, of Hopedale, MA must pay **\$7,313.54** for failure to pay prevailing wages for work performed on five public works projects in Massachusetts.

**Rockwood Corp.** and its owner, Pierce A. Law of Syracuse, NY, must pay a civil citation in the amount of **\$7,500** for misclassifying employees as independent contractors for work performed on the Billerica Boston Rd. Standpipe Rehabilitation project.

**Signet Electronics Systems Inc.**, and its owner Charles Caron of Norwell, MA have been ordered to pay **\$3, 836** in restitution and **\$1,655** in civil penalties after failing to pay the prevailing wage to workers employed on the Easton Middle School project in Easton, MA.

**Premier Caulking of Derry, NH** was issued a civil citation in the amount of **\$4,000** for failure to pay prevailing wages to workers on the Chelsea Soldiers' Home public works project.

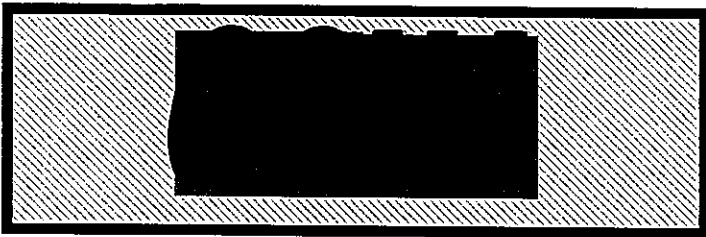
**D'Agostino Associates of Newton, MA** and its owner, John D'Agostino, were issued a civil citation in the amount of **\$2,862.85** for failure to pay prevailing wages for work performed on the Franklin DPW public works project.

**Contract Floor Installations** of Boston, MA and its owner, James M. Cooley, must pay civil citations in the amount of **\$2,913** for failing to pay prevailing wages while employed on the Mattapoisett Library public works project. The contractor was also cited for failing to submit certified payroll records.



The Fair Contractor is a publication of the non-profit Foundation for Fair Contracting of Massachusetts. The FFCM mailing address is Box 256, State House Station, Boston, MA 02133. The Fair Contractor accepts letters to the editor. For information, call 1-800-224-FAIR or write [www.ffcm.org](http://www.ffcm.org).





## AG ISSUES ADVISORY ON TRAINING SAFETY

A state law requiring all construction workers on public works projects costing more than \$10,000 to complete 10 hours of OSHA-approved health and safety training will be enforced by the AG's office. OSHA-10, as the measure is known, took effect in July 2006 and requires that construction workers receive training prior to beginning work on public projects. Construction workers who lack proof that they've received the ten-hour training can be removed from the job site effective immediately. "Providing construction workers with safety training is the most effective way we have to protect them on the job," explains FFCM field monitor Art Butler. He notes that unlike traditional health and safety enforcement where fines or penalties go into effect only after a worker is hurt or killed on the job, the new law reflects a more proactive approach. Massachusetts is just the second state to enact such a law; Rhode Island passed a similar measure in 2000. According to the Bureau of Labor Statistics, more workers are killed on construction jobs than in any other occupation.

## CONSTRUCTION COMPANIES THAT BILKE WORKERS FINED, DEBARRED

*The FFCM was involved in both cases, helping construction workers get back the money they were owed.*

Two Massachusetts construction contractors have been ordered to pay their employees nearly **\$300,000** in back wages and fines after the Attorney General found that they'd underpaid their workers and knowingly submitted inaccurate payroll records. Medford contractor **L&H Construction, Inc.** and its owner, Lillian Gately, have agreed to pay nearly \$160,000 in restitution to 24 employees, as well as \$10,000 in penalties for the violation. L&H failed to pay the workers the prevailing wage while they were employed at the Patrick Lyndon School in West Roxbury. The company was also found to have underpaid employees who worked on a variety of other public construction projects. In addition to the fines and restitution, L&H has also been barred from bidding on public construction work for one year.

A Wrentham construction company has agreed to pay nearly **\$110,000** in restitution and fines to nine workers who didn't receive the prevailing wage. **Air Safe Contracting Company, Inc.** and its owner, Kathryn Earles, were found to have intentionally violated the state's prevailing wage law and to have knowingly not paid overtime. An audit of the contractor's certified payroll records showed that Air Safe failed to pay prevailing wages and overtime to workers on various public projects. The company was also debarred for one year.

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