



Apprenticeship to Nowhere

How law-breaking contractors use training programs for profit—and what you can do to stop them.

Apprenticeship programs have long provided workers with a means of entering a skilled trade or craft through on-the-job training. Today's programs combine paid, supervised training with formal classroom instruction, in order to produce workers who are well trained, skilled and knowledgeable. In exchange for their work on-the-job, apprentices receive a wage that, while less than the journey-level rate, increases according to a series of steps.

Unfortunately, not all employers value apprenticeship

Apprenticeship is not intended to be a "shield" for garnering cheap, disposable labor, or for gaining unfair bid advantage on public projects.

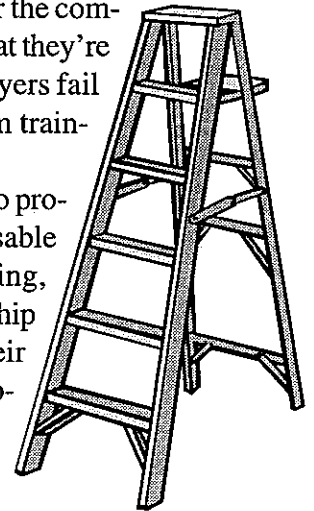
programs for their role in building a skilled workforce. Some see apprenticeship as a way of avoiding prevailing wage rates on public construction jobs. Apprentices on these jobs may find that they're not advancing according to the steps and percentage rates specified

in the apprenticeship agreement, but instead, are laid off as soon as the job ends. These apprentices may not receive adequate supervision, or the comprehensive on-the-job experience that they're entitled to. Most commonly, employers fail to offer the supplemental classroom training that is required by law.

Apprenticeship is not intended to provide employers with cheap, disposable labor. To keep this from happening, however, participants in apprenticeship programs need to know about their rights, as well as their employer's obligations to them.

Here are some of the most common violations and abuses of apprenticeship laws and regulations:

- * Payment of lower apprentice pay rate to workers who are not properly registered under an apprentice agreement.
- * Failure to promote and pay apprentices according to the steps and percentage rates in the program standards and apprenticeship agreements.
- * Failure to maintain the ratio of apprentices to journeyworkers contained in the program standards.
- * Failure to provide comprehensive on-job experience.
- * Failure to furnish related and supplemental instruction to apprentices.



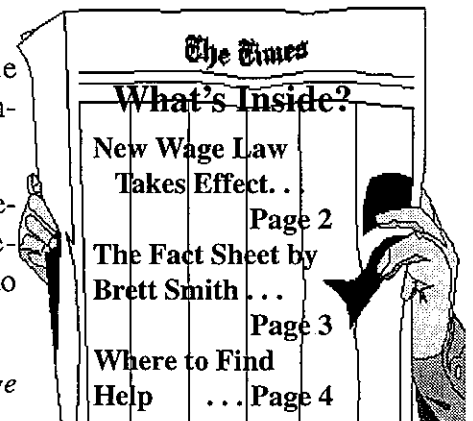
Survey Enclosed!

Help the FFCM help you

It's time for the second annual FFCM survey of construction workers in Massachusetts and we need to hear from you. You'll find the survey form inside. Postage is paid and all responses are confidential. If you responded to last year's survey, let us hear from you again. Have things gotten better or worse for construction workers in Massachusetts? You tell us!

It doesn't cost anything, but it counts a lot!

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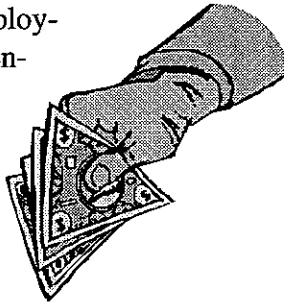
News in Brief

STREET PAVERS UNDERPAID

A Norwood construction company and its president are charged with failing to pay workers more than \$14,000 in wages on several public works projects. Dennis Clifford alleg-

edly failed to pay employees the prevailing wage while they worked for D. Clifford Construction, Inc., his Norwood-based business. Three employees were allegedly underpaid while engaged in paving streets in Norwood, Concord and Boston between April 1995 and December 1995.

Clifford is also charged with failing to keep true and accurate payroll records on behalf of the construction company during the time in which the violations took place. Clifford and his company were sentenced to pay full restitution in the amount of \$14,044 as well as \$5,000 in court costs.



HINGHAM CONTRACTOR DEBARRED

A Hingham corporation and its president have pled guilty to charges that they failed to pay more than \$15,000 in wages and provide accurate payroll records on contracting jobs in sections of Boston, the Attorney General's office recently announced. John Jacobus, president of Sentry Corporation of Hingham, pled guilty to seven counts of failure to pay the prevailing wage and two counts of failure to provide true and accurate payroll records.

The company has been sentenced to one year of probation and a six-month debarment from public works projects. Jacobus and Sentry must also pay a total of \$15,319.69 in restitution to four employees and \$2,000 in fines. Sentry provided exterior repair work as a general contractor for the Tynan School in South Boston and renovations of the Anti-Toxin State Labs in Jamaica Plain. Jacobus and Sentry paid laborers' wage rates to four employees working as carpenters. They also failed to keep true and accurate records of the employees' job classifications, and misclassified employees to reduce the company's workers' compensation insurance premiums.

NEW WAGE ENFORCEMENT LAW SOON TO TAKE EFFECT

Will make it easier for workers to go after employers who rip them off

A new state law, soon to take effect, will enhance the Attorney General's ability to punish employers accused of violating prevailing wage and overtime laws, substantially increasing the range of penalties for breaking the law and exploiting workers.

Under the new law, wage violations will be treated as

"The Attorney General's Office will now have a tool to not only prosecute criminally, but get people their wages."

Boston lawyer Nancy Shilepsky

civil issues, punishable by fines and citations. Employers who fail to pay the rate on public works jobs, or don't pay their employees overtime, could face civil fines of up to \$25,000. The

new law sets a criminal fine of up to \$10,000, or a prison term of up to six months, for the wrongful withholding of wages. Employers found guilty of a second offense may be fined up to \$25,000 or imprisoned for a year.

The old law treated wage cases as criminal cases, meaning that the burden was on the state to prove beyond a reasonable doubt that the employer had illegally withheld money or failed to pay overtime. This strict standard made wage cases difficult to win and expensive to pursue, thus discouraging many prosecutors from taking them. The new law requires a *preponderance of evidence*, a standard much more easily met.

The new law is expected to aid in efforts to bring employers into compliance with the prevailing wage law. Said Boston lawyer Nancy Shilepsky: "The Attorney General's Office will now have a tool to not only prosecute criminally [employers who exploit their workers] but get people their wages."

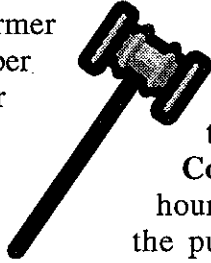
The wage enforcement law, signed by Governor Cellucci in August, will apply to publicly-bid public works projects as of February 1999. If you have questions about the law, call the Attorney General's Wage Complaint line at 617-727-3477 or the FFCM at 1-800-224-FAIR.

If you are being paid less than the prevailing wage on a public works job, make sure you save your pay stubs and keep a log of the job. CALL THE FOUNDATION FOR FAIR CONTRACTING at 1-800-224-FAIR

FFCM CLASS-ACTION SUIT MOVING FORWARD

A class-action lawsuit filed by five former employees of Roads Paving, Inc. and Roads Corporation, is moving forward after a Justice of the Superior Court dismissed a counterclaim filed by Roads charging the employees with abuse of process.

The class-action suit was filed on March 24 on behalf of several former employees and a class believed to number more than 200 current and former employees. The plaintiffs alleged that **Roads Paving Inc. and Roads Corporation** did not pay them the full hourly wage mandated by state law for the public projects that they worked on, particularly when they worked overtime.



In response to the lawsuit, Roads Corporation filed a counterclaim alleging abuse of process, arguing that the complaint was really filed, in part, to gain leverage for a labor union trying to organize workers at Roads Corporation, a non-union contractor. The Middlesex Superior Court dismissed Roads' counterclaim, stating that "the Court's examination of the complaint and supporting affidavits makes it eminently clear that there is reasonable factual support and an arguable basis in law for the plaintiffs' claim."

The Court dismissed Roads abuse of process claim under the anti-SLAPP (Strategic Litigation Against Public Participation) statute, a measure intended to protect parties from generally meritless suits brought by large private interests to deter common citizens from exercising their political rights. The plaintiffs are asking for attorney's fees, back pay and triple damages, which could amount to a recovery of more than \$1 million.

For information about how you can file a private right of action suit, call 1-800-224-FAIR

FFCM INCREASES STATE-WIDE COVERAGE

FFCM has a new field monitor who will be covering the central portion of the state. Chris Burger, a former intern with the Western Mass Foundation for Fair Contracting, joined the FFCM in July. Burger will be monitoring public construction in the central part of the state. "In the past, we weren't always able to pay adequate attention to public works projects taking place in the central part of the state. Today, there's not a public project in Worcester county that we don't have our eye on."

Welcome aboard Mr. Burger!

The Fact Sheet

by Brett Smith

The Foundation for Fair Contracting
P.O. Box 256
State House Station
Boston, MA 02133

Dear Sir:

It is because of your newsletter The Prevailing Wage Watch of June 1998 that I am making this inquiry. In the column "The Fact Sheet" by Brett Smith, it was stated: "All work performed on a prevailing wage project, including site preparation, is covered by the Prevailing Wage Law." I am currently working on a prevailing wage project. However, according to the wage schedule, I can receive the prevailing wage for building work only.

According to what I have been told, as long as I am in the actual confines of the building, I am entitled to the prevailing wage. However, once I am assigned to site work, laying out and grading roads, utilities or baseball fields, I am not entitled to the prevailing wage. My question is: Am I entitled to the prevailing wage even though the posted wages have "building work only"?

Name and Address

Withheld by Request

Dear reader:

I received your letter asking whether or not work done outside of a building project is covered by the Prevailing Wage Law. In the situation you describe, you were working on a building project but were not being paid the prevailing wage while outside. The contractor was incorrect for not paying you the prevailing wage.

The prevailing wage must be paid to anyone who is working on a contract for the construction, reconstruction, alteration, remodeling or repair of any public work.

In your letter, you refer to a wage schedule for building work only. I assume that you are referring to the Minimum Wage Rate Sheet which is required to be posted at every public works project.

The rates that appear on the Wage Sheets do not differentiate between where the work is performed; they cover the job classifications on the project.

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Failure of the program sponsor to "complete" apprentices.

The Foundation for Fair Contracting of Massachusetts is trying to stop the abuses and violations outlined above. Working with the Division of Apprentice Training (DAT), the agency in Massachusetts that protects and promotes the welfare of apprentices by setting and maintaining minimum training standards, we're going after employers with bogus apprenticeship programs. Employers who do not meet the standards set by the DAT risk having their apprenticeship programs cancelled.

Apprenticeship is widely recognized as the single most effective way of training skilled labor. Yet too often, employers abuse the system, seeking not to provide the training necessary to perform the work of a trade, but to avoid paying the rate.

If you have been a participant in an apprenticeship program that was guilty of ANY of the abuses above, contact the FFCM or the DAT.

If you received a lower apprentice pay rate without being properly registered under an apprentice agreement during the last three years, you may be entitled to back pay.

The Massachusetts Division of Apprentice Training has recently begun helping apprentices whose employees have violated apprenticeship laws to obtain back pay.

According to Gayann Wilkinson, Deputy Director of the DAT, "the division is here to ensure the integrity of apprenticeship program standards and to protect the well-being of the apprentices. If you have any questions or concerns about a particular program, you should call the DAT."

Also, make sure to return the survey of conditions in the construction trades enclosed. Whether you're a long time construction worker or just getting started in a trade, the Foundation for Fair Contracting wants to make sure that you're being treated fairly.

The Division of Apprentice Training can be reached at 617-727-3486

Where to Find Help

FFCM Hotline
1-800-224-FAIR

The Industrial Accident Board
1-617-727-4900

National Labor Relations Board
1-617-565-6700

Occupational Health & Safety Administration
1-617-565-7164 (OSHA)

Mass. Dept. of Labor & Industries
1-617-727-3492

Division of Apprentice Training
1-617-727-3486

Attorney General's Office--Wage Complaints
1-617-727-3477

AG's Springfield Office
1-413-784-1128

AG's Pittsfield Office
46 Summer St. Pittsfield
(Open Tuesday) 1-413-784-1128

AG's Worcester Office
340 Main St., 2nd Fl., Worcester
(Open Mon. & Tues.) 1-508-792-9404

AG's Fall River Office
(Open Tues.) 1-508-672-9026

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For example, someone employed as a Laborer on a public building project could have responsibilities involving interior construction and the next day, be working outside on site work and excavation. Regardless, the employee is entitled to the full Laborer's rate.

Although it is important to always keep a log book documenting work performed, it is especially important to keep track of your time when performing different types of work in different locations. If the employer's prevailing wage practices are later questioned, an employee with good documentation will have the upper hand in the dispute.

Thanks for writing in. If the writer's story sounds familiar to others, please contact the Foundation for Fair Contracting at 1-800-224 FAIR so that we can assist you in filing a complaint to possibly receive the money that you are owed.

The Fact Sheet by Brett Smith



The Wage Watch is published quarterly by the non-profit Foundation for Fair Contracting of Massachusetts. The FFCM mailing address is Box 256, State House Station, Boston, MA 02133. *The Wage Watch* accepts Letters-to-the-Editor. For information call 1-800-224-FAIR.