

# The Prevailing Wage



# Watch

Volume Seven, Issue One

A Newsletter for Construction Workers

Spring 2007



If you're like many people you probably don't think that state politics has a whole lot to do with you. But think again. The recent elections in Massachusetts ushered in a new administration—and a new attitude towards wage enforcement. That means that our elected officials and agencies like the Attorney General's office and the Department of Labor and Workforce Development think that it's a priority that your rights on the job are respected. What does this mean for you? First of all, if you experience a wage violation—you're paid less than you're owed, denied overtime or classified as one trade when you belong to another—the state is much more likely to pursue your

case, which could mean more money in your pocket. And more wage enforcement means a level playing field for contractors who play by the rules and the construction workers they employ. The Foundation for Fair Contracting of Massachusetts is here to help you understand the rights you have. Our staff of professionals has years of experience in the public construction industry and has helped recover more than \$1 million in back pay owed to workers who've been paid less than what they are owed. In this issue of the Wage Watch we take you through your rights on the job—and explain just what you need to do if your rights are being violated.

Karen G. Courtney  
Director



## CHECK YOUR RIGHTS ON THE JOB

Summer is almost here—and means that another busy season of public construction will soon be underway. Whether you're fixing roads, building a brand new school, painting or repairing public buildings, it's essential that you know about the wages and benefits you're entitled to under state and federal law. The Foundation for Fair Contracting of Massachusetts has been educating public construction workers about their legal rights—and helping them when those rights are violated—for more than a decade.

### Right rate?

If you are a construction worker employed on a project that's funded by public money, then you should be receiving the prevailing wage. If your employer is paying you less, he or she is breaking the law and you may be able to get that money back. How much should you be making? Each job site is re-

quired to post a rate sheet listing the various trades and their rate of pay. Note: if you can't find a rate sheet on your job site, try the Clerk of the Works' trailer or call the FFCM at 1-800-224-FAIR.

### Classified information

Because your rate of pay is determined by your trade, some dishonest contractors can't resist the temptation to misclassify their employees as belonging to one trade when they really belong to another. This 'mistake' almost always involves the workers being paid less. **Helpful hint: make sure you keep a record of exactly what kind of work you're doing on the job.** This will help you back up your claim if you have been misclassified and are owed money.

If your classification is **apprentice**, the law permits your employer to pay you a percentage of the legal journey worker

### Keep a Log - It Helps!!!

- ✓ Save your pay stubs
- ✓ Keep a log of the job
- ✓ For a log book call us @ 1-800-224-FAIR



# Compliance Man

Got a question about your rights on the job? Ask Compliance Man.

**Dear Compliance Man:**

I recently received a letter from you people in the mail. It had my name, the company I've been working for and the project we're working on. Then it had the amount of money I guess I'm supposed to be making, but what I am getting is a lot less than that. So I have two questions. First of all, how did you get my name, and second, how do I get the amount of money that I should be getting?

**Signed**  
**Real confused in Reading**

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rate because you are a trainee. But all apprentices **must be registered** with the state Division of Apprenticeship Training, carry an official photo ID card, be supervised while on the job, and participate in courses that are related to their trade. If you are classified as an apprentice and any of these things are missing, you may want to file a complaint.

### **Check the check**

Start by taking a good look at your paycheck. First look at your rate of pay. Does it match the rate that's on the rate sheet at your job site? Also, pay attention to the kind of check you've been issued. If your employer is paying you with a personal check that makes no mention of the company or the job site (or is paying you in cash or "under the table"), that's a sign that something is wrong.

### **Step up**

Many trades receive gradual increases in rate of pay or "step increases" that go into effect every six months to a year. The rate sheet for your job will also indicate whether—and when—you are entitled to a step increase. If you are entitled to receive a step increase, make sure that that shows up in your paycheck.

### **Review the stub**

Next, look for a list of deductions. When you receive a paycheck from your employer, it should come with an itemized list of what's being taken out and why. Such deductions could include money being taken

## **Dear Reading:**

Thanks for writing! The Foundation For Fair Contracting of Massachusetts sends out thousands of letters like the one you describe to workers just like you. State law requires that contractors who get public money to work on construction projects—roads, libraries, schools, fire stations, etc—submit payroll records to the cities and towns that employ them. These records include your name and the amount that your employer says that you're earning. In our capacity as a 'watchdog' group, we show you that number so you can check it against what you're really making—the amount that shows up on your paycheck each week. Now, for the second part of your question. If there is a difference between your personal bottom line and what your boss says you're making, you'll want to file a complaint with the Attorney General's office. For more information on how to do just that, see this month's cover story, and call us at 1-800-224-FAIR or send an email to [info@ffcm.org](mailto:info@ffcm.org).

**Compliance Man**

out for a pension plan, health insurance, etc. If no itemized list is provided, that's a violation of state law. Also, make sure that any money being taken out of your check is for legitimate deductions. If your paycheck stub says, for example, that money has been taken out of your check and placed in a pension fund—and there is no pension fund—that's a problem.

### **Time and a half**

Your paycheck should also indicate whether you're entitled to overtime pay. The law says that for any hours you've worked beyond 40 hours per week, you're entitled to overtime, or one and half times your hourly rate. Note: overtime rules are not work specific. If you put in more than 40 hours a week for a specific employer, you should be getting time-and-a-half, no matter what kind of work you're doing.

### **Better safe than sorry**

If you think that you're being paid less than the prevailing wage on a public job, you haven't been getting overtime, or suspect there is something shady going on with your benefits—don't wait till it's too late to get what you're owed. Most important, act quickly. Many workers are hesitant to come forward until after they've quit. The longer you wait, the harder it will be to back up your claim. **Document what kind of work you've been doing, for how long and at what rate, then contact the FFCM 1-800-224-FAIR about filing a claim.**

# The Rap Sheet

The following contractors were recently 'rapped' by the Massachusetts Attorney General's Office for violating the state's wage and hour laws. The Foundation For Fair Contracting was involved in each citation, from meeting and advising workers, to providing information.

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A construction company with offices in Quincy, MA and Rolling Meadows, IL has been ordered to pay 10 laborers more than \$33,000 and pay nearly \$7,000 in fines to settle charges that it violated the state's prevailing wage law. **Krishna Construction** and its owner, **Fenil Kusumgar**, were charged with underpaying the workers while they were employed on two different public construction projects involving parking garage project in Pittsfield and Worcester. Inspector Joseph Drzyzga investigated the case for the AG's office.

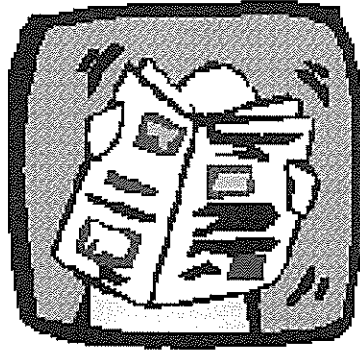
**J.E. Murray, Inc.** and its owners, **Robert E. Murray** and **Jeffrey P. Murray**, have been ordered to pay 15 operating engineers more than \$9,000 after violating the state's prevailing wage law. They were charged with failing to pay the workers the prevailing wage on three different public works projects: the Wrentham Crocker Pond, Dartmouth and Wrentham Lake Pearl projects. The underpayment took place between September 2002 and July 2005. Inspector Mario Paiva investigated the case for the AG's office.

Nine laborers will be receiving more than \$6,500 in back pay after the AG's office found that their employer, **New England Infrastructure**, failed to pay them the prevailing wage for their work on the new Belmont Fire Station in Belmont, MA between May 2004 and July 2005. The owners of the company, **Todd Pietrasiak** and **Hugh Joseph Deery**, were also ordered to pay a civil penalty of \$910. Inspector Ed Horniak investigated the case for the AG's office.

**John McGeowan** and his company, **Barr, Inc.**, of Putnam, CT, have been ordered to pay two workers

a total of \$3,821 after failing to pay them the prevailing wage on several public works projects between 2003 and 2006. The AG's office, which also assessed a civil penalty of \$840, found that the company had been misclassifying workers on projects including the construction of libraries in Dracut, Oak Bluffs, Boxboro and Blackstone. According to workers on the project, they'd been told that company policy was to pay for vacation time out of the prevailing wage. Inspector Ed Horniak investigated the case for the AG's office.

A drywall contractor who claimed that his employees were independent contractors has been ordered to pay a penalty of \$4500. **Joshua Moore** and **Matrix Drywall Construction, Inc.** of Tyngsboro, MA, were found to have misclassified the employees in August 2005. Inspector Scott Simpson investigated the case for the AG's office.



**Kenneth Nelson** and his company, **K. Nelson & Son Masonry**, have been ordered to pay \$3,198 to six employees who were underpaid while working on the Swampscott High School public works project last summer. The case was investigated by Inspector Scott Simpson for the AG's office, which also assessed a civil penalty of \$510.

A contractor who failed to submit accurate payroll records for work performed on the Lawrence School public works project in Brookline, MA has been ordered to pay a fine totaling \$3,500. **Im Khom** and the company he owns, **Elephant Construction Company**, were found to have intentionally failed to provide the records as required by state law. The case was investigated by Michael Cantwell for the AG's office.

**Waterman Excavating Inc.** of Cheshire, MA had to pay a civil citation in the amount of \$2,608.56 for failure to pay prevailing wages for work performed on the Williamstown Water Treatment Plant project. Inspector Joseph Drzyzga investigated the case for the AG's office.



The Wage Watch 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 Wage Watch accepts letters to the editor. For information, call 1-800-224-FAIR or write [www.fcm.org](http://www.fcm.org)

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**The state of Massachusetts requires that public works contractors submit payroll records every week in order to ensure that construction workers are receiving the legally-required wage. If they fail to do so, they'll be fined by the AG's office. Get caught three times, and the contractor is barred from bidding on public works projects.**

**B.L. Johnson Construction** and owner **Bruce L. Johnson**, Northern Essex Community College project.

**Powell Stone and Gravel Co., Inc.** and owner **Jeffrey Powell**, Brookside Elementary School project.

**Saia Electric Company** and owner **Matthew Saia**, City of Holyoke's Electrical Repair Works project.

**Abenaki Corporation** and owners **Susan C. Jordon** and **Ryan M. Jordon**, numerous Massachusetts Highway Department public works projects.



## WHERE TO FIND HELP

### **FFCM Hotline - 1-800-224-FAIR**

Division of Apprentice Training  
1-617-626-5409

IRS - For tax-related questions  
1-800-829-3676

National Labor Relations Board  
1-617-565-6700

Occupational Health & Safety Administration  
1-617-565-8110

Massachusetts Department of Labor  
1-617-727-3492

US Department of Labor (federal projects)  
1-617-624-6700

### *The Massachusetts Attorney General's Fair Labor and Business Practices Division:*

**One Ashburton Place  
Boston, MA 02108  
617-727-3465**

**1350 Main St. 4th Floor  
Springfield, MA 01103  
413-784-1128**

**One Exchange Place  
Worcester, MA 01608  
508-792-7600**

**105 William St.  
New Bedford, MA 02740  
508-990-9700**

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