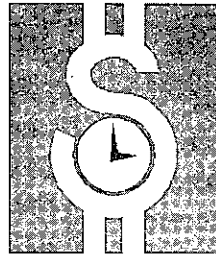


# The Prevailing Wage



# Watch

Volume Four, Issue Two

A Newsletter for Construction workers

Summer 2001

## Blowing the Whistle: A New Law Keeps Construction Workers Safe - and Contractors Honest

A new Massachusetts law greatly expands the protections for workers who blow the whistle on contractor fraud. The Massachusetts False Claims Act prohibits employers from requiring employees to disclose taxpayer fraud only within their companies - a requirement that was seen as discouraging many potential whistleblowers from coming forward. The Act also prohibits companies from retaliating in any way against workers who report fraud to government officials.

The False Claims Act affects any company that does business with the state of Massachusetts, including construction contractors, defense contractors, environmental services companies and health care providers.

Worker advocates across the country are already pointing to the Massachusetts Act as one of the strongest pro-whistleblower laws enacted to date. "This measure provides an important protection to workers who have information about false claims," said Karen Courtney, Director of the Foundation for Fair Contracting. Courtney noted that the FFCM plans to educate public construction workers about the False Claims Act, in the event that the workers become aware of fraud being committed by their employers.

Before the whistleblowing measure was signed into law, workers in Massachusetts who exposed cheating contractors could not only lose their jobs, they weren't entitled to damages from the government for revealing the wrong doing. Now, however, whistleblowers who shine a light on fraud can receive from 15-25% of the civil penalty assessed against the company. In the event that the government opts not to pursue a particular case, the whistleblower has the option of filing a lawsuit on his or her own.

While the measure could potentially protect any Massachusetts worker who comes forward alleging taxpayer fraud, it could be particularly relevant to public construction workers. The Attorney General's office already has the power to go after contractors who fail to submit true and accurate payroll records verifying compliance with state and federal prevailing wage laws. But while employees have only 3 years to pursue wage and hour violation claims with the state, the False Claims Act allows them 6 years. "This could be a really important tool for ensuring prevailing wage compliance," concluded Karen Courtney.



### Interview with Field Monitor Nick Arienti

This summer, the FFCM is pleased to welcome Nick Arienti on board as a new field monitor. Nick will be monitoring public construction projects in Essex and Eastern Middlesex counties. The Wage Watch recently caught up with Nick and asked him about his interest in public construction.

Here's what he had to say:



**WW:** Tell us a little about your background. How did you get interested in public construction?

**NA:** I spent the last three years working in the architecture field, involved in

construction administration as well as drafting and design.

**WW:** Does understanding the whole process of construction help your work as a monitor?

**NA:** Definitely. It's helped across the board.

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## COMPLIANCE MAN

**Dear Compliance Man:**

I would like to know how to go about filing a complaint about an employer. I recently learned about a landscaping firm that hires mostly Spanish-speaking workers, many of whom are not aware of prevailing wage requirements. Some of them have worked for the firm for several years, but make only \$9-\$10 per hour. Because I work with a corporation that does all public work, I am very familiar with state and federal wage laws. What can I do to file a complaint so this can be investigated?

**- Concerned in Quincy**

**Dear Quincy:**

Without hearing directly from the workers you mention, there is still quite a bit that can be done to expose this fraud being committed at the expense of the public and the workers them-

selves. First of all, I'd like to remind you that in addition to the e-mail you sent, you can call me directly on our fully-confidential hotline: 1(800) 224-FAIR. Anytime you (or any construction worker) would like to chat, leave a message - the Foundation for Fair Contracting won't forget you. Because the jobs you describe here are public, the contractor has a number of contractual obligations, including submitting payroll records. Once we've gathered the necessary evidence, the FFCM is not shy about filing complaints with the Fair Labor and Business Practices Division. The Foundation works directly with you, at no cost, to see that justice is done. And tip-offs like yours are always welcome. *For more info on this subject, see the cover story.*

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**Note from the editor: in the last issue of the Wage Watch, we listed apprenticeship programs that have been suspended. Charles M. Moran Plumbing and Heating, Inc should not have appeared on that list. Our apologies.**

### FFCM WELCOMES NEW FIELD MONITOR

*from front page*

**NA:** Because I understand the construction process, I understand the scheduling of projects. That's a big help because it means that I can predict the timeliness of payroll submissions by contractors, which is one of our responsibilities at the FFCM. I also have an understanding of the relationships and roles each party plays during construction.

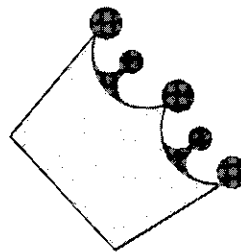
**WW:** *If you could send one message to contractors across the state, what would it be?*

**NA:** That's an easy one. If you're going to choose to work on public projects be prepared to do it according to the law or it might end up costing you. Contractors have an obligation to find out which laws apply to their work, not to plead ignorance after they've broken them.

**WW:** *What do you do when you're not collecting payrolls and enforcing the law?*

**NA:** I like to play golf and softball during the summer and I ski during the winter. Of course I play with power tools whenever I get the chance.

### KING PAINTING IN BRUSH WITH LAW



Methuen contractor King Painting recently pled guilty to seven criminal complaints for prevailing wage and record keeping violations. As part of a settlement with the Attorney General's office, the company must pay

\$6,500 in restitution to employees who were underpaid for work they performed on numerous public construction projects.

King Painting has been ordered to pay \$4,340 to employees who worked as painters on the Berlin Elementary School, the MDC Skating Rink in Waltham, and the Douglas Town Hall. King Painting and its president, Christopher King, must also pay a \$10,000 penalty to the Commonwealth. The company may not bid or work on any state public works construction project for six months. Christopher King was also charged and placed on pre-trial probation for one year.

**See next page**



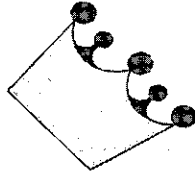
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# NEWS IN BRIEF

## King Painting in Brush with Law

*continued from previous page*

In addition to the wage violations, King Painting also pleaded guilty to failing to provide true and accurate payroll records on the Berlin, Waltham, and Douglas projects. Under Massachusetts law, contractors that work on public construction projects are required to submit true and accurate records reflecting the names and addresses of the employees working on the project, the type of work being performed, the daily and weekly hours worked by each employee, their hourly rate of pay, and any allowable deductions taken from their wages.



The Attorney General's Office also entered into a civil agreement with King Painting that requires the company to pay an additional \$2,160 in restitution to four employees who worked on Quinsigamond Community College, Ipswich Library, MCI Shirley, and the Saugus DPW Station. If the company violates the law again, it will face enhanced penalties as a second offender.

The case was investigated by Inspectors Robert Galvani and Patricia Bopp of AG Reilly's Central Massachusetts Division, and was prosecuted by Assistant Attorney General Bruce Trager.

## Pat Foley Painting, Inc. Caught in Overtime Scam

Pat Foley Painting, Inc., based in Hingham, MA, has been ordered to pay \$1,790 in back wages to two employees, along with \$4,540 in penalties to the Commonwealth, the Attorney General's office announced recently. Between November 1999 and January 2000, Pat Foley Painting failed to pay overtime wages to employees who worked as painters for the company. "My office is committed to enforcing the state's overtime laws," said Attorney General Tom Reilly upon announcing the citation. "The overtime laws assure that employees receive fair compensation when they work long hours. Both employees and businesses that follow the rules deserve protection." Chris Burger, a Field Monitor for the Foundation for Fair Contracting, said that he wasn't surprised by the judgment against Foley. "This isn't the first time we've heard complaints from employees of this company. As far as we're concerned, this particular overtime problem is part of a larger pattern."

## DNK Scores a 'Triple'

Lakeville, MA contractor **DNK Construction** has been fined three times in recent months by the Attorney General's Fair Labor and Business Practices Division. Included in the citations was an order to pay nearly \$10,000 in back wages to employees who worked as carpenters on the Braintree Housing Authority public works project last year. Between November 13, 1999 and March 10, 2000, the employees received approximately \$15 an hour less than the state's prevailing wage law entitled them to. In addition to the wage violations, DNK also received a separate \$5,000 bill for failing to turn over records to the Attorney General's office for inspection. The total amount owed for lawbreaking: almost \$17,000. Inspector Greg Reutlinger investigated all three of the claims.

## Stodden Electrical Contractor Receives Hefty Charge

**William R. Stodden Electrical Contractors**, based in Pittsfield, MA, has been ordered to pay \$8,791.00 in restitution to four employees who worked on the Richmond Consolidated School project last year. The Attorney General's office found that the Stodden had failed to pay prevailing wages to the employees between April and June of 2000. In addition to the above restitution, Stodden Electrical must also pay a civil penalty of \$4,400, for a total charge of \$13,191.00. Stodden ran into trouble last year when the state suspended the company's apprenticeship program. The Foundation for Fair Contracting was later contacted by employees who alleged that they were being paid the lower apprentice rate, even though the electrical contractor no longer had a registered program. Inspector Steve Spencer investigated the case for the Attorney General's office.

## Work Smart!

If you suspect that you're not 'getting' the rate, hold on to your pay stubs and keep a log of your hours.

**FOR A FREE LOG BOOK  
CALL 1-800-224-FAIR**

## Civil Citations List

The following contractors were recently cited by the Massachusetts Attorney General's office for violating the state's wage and hour laws.

**Rousseau Concrete Services** in South Hadley, MA must pay a total of **\$7,683.25** to five employees who were not paid overtime in 1998. Inspector Steven Spencer investigated the case for the Fair Labor and Business Practices Division of the Attorney General's office.

**D&K Electric** in Osterville, MA has been ordered to pay a total of **\$2,730.00** to an employee who failed to receive his wages in December, 2000. Inspector Paul Gordon investigated the case.

**AAU, Inc.**, of Lowell, MA must pay a total of **\$1,097.35** for failure to pay the prevailing wage to an employee who worked on the Winchester Lincoln School project last year. The case was investigated by Inspector Greg Reutlinger.

**Dan Amorello Services** of Worcester, MA has been cited twice by the Attorney General's Fair Labor and Business Practices Division. Amerello must pay a total of **\$1062.32** for failing to pay employees the prevailing wage on two separate public works projects: the Worcester Webster Street project and the Worcester Public Library project. Inspector Robert Galvani investigated both cases.

**Arello, Inc.**, of Holden, MA, was recently fined **\$200** by the Attorney General's office for failure to submit weekly certified payroll records while working on the Green Hill Golf Course last year.

Wellesley contractor **W.D. Fowler, Inc**, has been fined **\$100** for failure to submit records while employed on the Winthrop Fort Banks Elementary School project.

## Where to Find Help

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

**Division of Apprentice Training**  
1-617-727-3486

**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

**The Massachusetts Attorney General's Fair Labor and Business Practices Division at one of the following locations near you.**

200 Portland St.  
Boston, MA 02114  
617-727-3465

165 Liberty St.  
Springfield, MA 01103  
413-784-1128

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

184 North St.  
Pittsfield, MA 01201  
413-447-7324 x218

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

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