

The Prevailing Wage



Watch

Volume Four, Issue Three

A Newsletter for Construction workers

Winter 2002

AG Nails Brockton Drywall Contractor

In a case transmitted by FFCM monitors almost three years ago, Dormon Construction Co., and its president James Dormon have been charged in 62



Dormon Construction gets nailed for cheating workers - the company owes 11 workers a total of \$82,000

indictments stemming from insurance, unemployment and prevailing wage fraud.

The company, which operated as a subcontractor on a number of public works projects across the state, has been accused of failing to pay a total of \$82,000 in prevailing wages. Dormon Construction installed drywall at Hamilton-Wenham High School, Marlboro Middle School, and Topsfield Public Library.

Dormon failed to pay prevailing wages to eleven employees who framed, hung and taped drywall. In some cases, the employees were paid as much as \$20 below the mandated hourly rate. The company also stands accused of committing workers' compensation fraud to the tune of \$270,000.

If convicted of all charges, Dormon could face more than 65 years in prison and fines of more than \$400,000.

The FFCM received complaints from numerous Dormon employees, including one who was paid just \$10 an hour. "These penalties are well deserved," said FFCM monitor Chris Burger.

INSIDE:

For some contractors, tax time means fraud time

The rap sheet

We're Ten Years Old!

The Foundation for Fair Contracting Celebrates Ten Years of Fighting for the Rights of Public Construction Workers



It's hard to believe, but the Foundation for Fair Contracting is turning ten years old this year! That's ten years of fighting for the rights of public construction workers in Massachusetts.

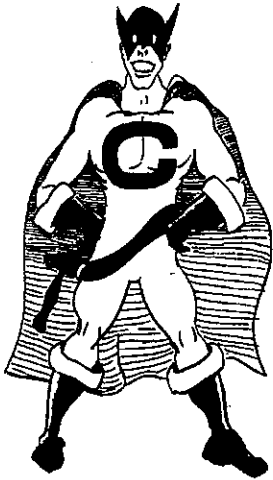
Since opening our doors in 1992, the FFCM has worked to level the playing field for contractors who play by the rules. By educating workers about their rights - and informing cities and towns about their legal obligations - the FFCM has made a real difference for construction workers all over the state.

The group was formed in response to concern in the construction industry that laws and regulations designed to protect workers were not being enforced adequately.

"We've gotten hundreds of thousands of dollars back to workers who've been underpaid or defrauded on the job," says Karen Courtney, the director of the FFCM. "Most important though, we've helped create a climate in which contractors who take advantage of their employees must pay a price."

And don't expect the FFCM to slow down after a decade, says Courtney. In the coming months, the group plans TV ads and expanded legal advocacy to better help workers.

Compliance Man: Tax Time Means 1099 Kinds of Trouble



Dear Compliance Man:

My boss tells me we are in a "contracting relationship," in which he "subcontracts" my laboring for his construction business. Trouble is, I have a hunch that I've been left holding the tax bag. It sure seems strange to say I'm in business for myself. Last I checked, he's calling the shots. - "Holding the Bag" in Boxboro

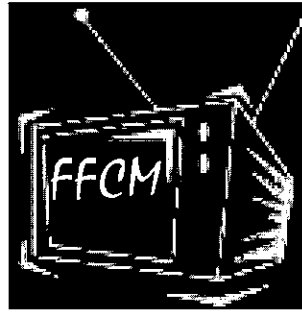
Dear Boxboro:

If you get a 1099 in the mail, it means that your boss hasn't been withholding money from your paycheck in order to pay taxes. In the worst case situation, you could end up with a huge tax bill come April 15th.

But before you sell your house or pawn your dog, it's important to find out if you really are an independent contractor. As the IRS explains, the issue is very complicated - what else is new! The good news, though, is that as a construction worker, unless you have your own business, you are almost always an employee - not an independent contractor.

Does your boss tell you what to do or how to do it? If you are told how, when, or where to do the work, what tools or equipment to use, or where to purchase supplies and services, you're probably an employee. Have you received on-the-job training? This indicates that your boss wants the work done a certain way, and that you are probably an employee.

If you need help figuring out your status, call the Foundation for Fair Contracting at 1-800-224-FAIR, or call the IRS at **1-800-829-1040** and ask for a form SS-8. And if the IRS finds out that your boss misclassified you? Well, then it's up to your boss to pick up the bill. So check your status before you write that check.



Your Rights: Coming to a Screen Near You

Watch for ads about your rights as a public construction worker this spring. The ads, brought to you by the FFCM, will be airing on cable stations across the state.

Workers Reach Settlement with City of Taunton

Receive nearly \$18,000 in back wages

Two workers who filed a claim against the City of Taunton, charging that they were not paid the prevailing wage on a school project, have reached a settlement with the city.

The conflict began nearly two years ago when the workers were employed on a project at the West Taunton Schools. The contractor who employed the two would only pay them the prevailing wage when they were physically inside one of the buildings.

The workers, who quickly caught on that something wasn't right, filed a civil suit against the city with the assistance of the Foundation for Fair Contracting.

On January 30, the case was settled, and the city of Taunton issued checks totaling nearly \$18,000 to the two workers.

"We congratulate Taunton for doing the right thing by these workers," says FFCM Director Karen Courtney. "But other cities and towns should take note that under this section of the law, cities and they are liable for payment of prevailing wages."



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 or write www.ffcm.org.

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 with and advising workers, to providing information and assisting in filing complaints.

Louis A. Berrelli and his company, **Southwick Electric Co., Inc** of Southwick, MA, must pay a total of **\$11,768.42** after the company failed to pay an employee the prevailing wage on a public works project. An investigation by AG inspector Steven Spencer found that Southwick paid the construction worker less than the prevailing wage for more than 10 months of work on the Belchertown Police Department and Senior Center public works project. The worker complained to the FFCM in 2000 that the company had classified him as an apprentice, and was paying him \$7 less per hour than he was entitled to.

Patrick McDermott and his company, **Quality Electrical Control**, of Wayland, MA, owe 2 workers a total of **\$7,884.34**. The company failed to pay prevailing wages to two employees who worked on the Freetown-Lakeville Apponequet Regional High School public works project from July 2000 through February 2001. The FFCM began investigating the case after discovering that despite listing two apprentices on the job, Quality had no registered apprenticeship program. Inspector Mario Paiva investigated the case for the AG's office.

David Comalli and his company, the **Comalli Group**, of Pittsfield, MA, must pay 7 employees a total of **\$6,358.08** after failing to pay them the prevailing wage on the Reid Middle School public works project. The FFCM notified the AG's office about potential problems at the company after hearing complaints from workers that Comalli continued to hire apprentices despite having no registered apprenticeship program. Inspector Steve Spencer investigated the case for the AG's office.

John P. Ferreira and his company, **Ferreira Construction Co.**, of Rehoboth, MA, will pay 4 employees a total of \$5,935.21 after the company failed to pay prevailing wages from April to July of 2001 on the Dartmouth High School public works project. A worker on the project complained to the FFCM that he was not being paid overtime when he worked more than 40 hours in a week. Inspector Mario Paiva investigated the case for the AG's office.

Other citations:

George Kellum and **Kellum Construction Co.**, Rehoboth, MA - **\$21,526.85** for failure to pay the prevailing wage to 3 employees over 6 months on the Dartmouth High School public works project.

Michael Mackin, and **Mackin Construction**, Greenfield, MA - **\$13,494.75** for failure to pay the prevailing wage on the Rt. 2, Rt. 2A and Adams Road public works project.

Bob Patrick and **Envirotemps, LLC**, Tolland, CT - **\$7,792.80** for failure to pay prevailing wages to 6 employees on the Mattapoissett O.R.R. School public works project.

Denise Brusco and **Construction Dynamics**, Fitchburg, MA - **\$5,572.58** for failure to pay the prevailing wage to 5 employees on the Westminster Elementary School public works project.

Thomas Leonard and **T.L.C. Exteriors of Chicopee**, MA, must pay **\$4,557.42** to 2 employees who worked on the Winchendon Housing Authority and Hyde Park Elderly Housing public works project from October 2000 to January 2001.



Not Getting the rate? Help us help you! Keep good records, save your stubs, and call the FFCM

1-800-224-FAIR

More Contractors Exploiting Immigrant Workers

In recent years, the Boston area has seen a dramatic influx of immigrant workers from all over the world. For some unscrupulous contractors, the lure of a workforce that is often unfamiliar with state and federal labor laws has proved tempting.

A typical case: immigrant workers employed on a public works project in the central part of the state were not being paid the prevailing wage or overtime. The workers knew that there was something wrong, explains Art Butler, Field Monitor for the Foundation for Fair Contracting, but were afraid to come forward for fear of losing their jobs. "The problem is that you have some contractors who take advantage of undocumented workers," says Butler. The case was further complicated by the fact that the workers didn't appear on the certified payrolls that public works contractors are required to submit to the state. "It was like these guys were phantoms," says Butler.

To prevent abuses, Butler urges cities and towns to keep a close eye on public construction jobs in their areas. "Look over the job to make sure that everything is done right. Contractors can't get away with this if someone is keeping an eye on them."

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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The Foundation for Fair Contracting
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