

# Wage Theft in Florida: A Real Problem with Real Solutions



By the **Research Institute on Social and Economic Policy**  
For the *Florida Wage Theft Task Force*

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This report is the first in a series describing and exposing the extent of wage violations in the state of Florida. This project is an initiative of the Florida Wage Theft Task Force (WTTF) whose mission is to find solutions to and increase public awareness about wage violations experienced by Florida's working men and women. The report is being released for a countywide day of action against wage theft that the Miami-Dade Board of County Commissioners is expected to declare to coincide with an upcoming National Day of Action on November 18, 2010.

The focus of this report is on Miami-Dade and Palm Beach Counties, using information collected by two community worker centers and by the Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL). The cases of wage violations reported by each agency were clear violations of the Fair Labor Standards Act.<sup>1</sup>

This report was prepared by [the Research Institute on Social and Economic Policy \(RISEP\)](#) at Florida International University in Miami.<sup>2</sup> The WTTF and RISEP invite other groups around the state who serve individuals victimized by wage theft to participate in this data gathering project and we will provide technical support for your participation.<sup>3</sup>

The report introduces the Florida Wage Theft Task Force and briefly explains the problem of wage theft, as well as the county ordinance against wage theft recently passed by Miami-Dade County, and a similar ordinance currently being drafted for Palm Beach County. It then presents the data on wage violations accumulated by this project. The report presents data on: 1) the number of individuals reporting clear cases of wage violations known to the community based organizations between August 2006 and August 2010, and to the WHD from September 2008 through March 2010; 2) the industries where wage violations are occurring; 3) the total amount of back wages that were agreed to be paid by employers; 4) the number of employees that were paid some or all of their wages owed, by industry of employment; and 5) the number of employees who were not paid at all. The report concludes by presenting policy recommendations and solutions to eliminate wage theft in Florida.

## **Florida Wage Theft Task Force (WTTF)**

Since 2006, several Miami-Dade County, community-based organizations have been documenting wage violations because their members have been affected by the issue. After meeting to discuss community issues, they realized that wage theft was a widespread occurrence throughout the county and in several industries. In order to more efficiently address the issue, these organizations coalesced into the Florida Wage Theft Task Force. In 2007, the WTTF began with a core group of organization including faith based, legal advocates, immigrant rights, unions, and university researchers. Since then the WTTF<sup>4</sup>, has expanded to include several other

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<sup>1</sup> The Fair Labor Standards Act (FLSA) established minimum wage, overtime pay, record keeping, and youth employment standards affecting full-time and part-time workers in private sector and in federal, state, and local governments. The U.S. Department of Labor Wage and Hour Division (WHD) administers and enforces FLSA in Florida. <http://www.dol.gov/esa/whd/flsa/>

<sup>2</sup> This project is funded by grants supporting the work of the WTTF from the Sociological Initiatives Foundation (with the Florida Immigrant Coalition serving as Program fiscal agent) and the Unitarian Universalist Veatch Program at Shelter Rock through a grant to [RISEP](#).

<sup>3</sup> If you are part of an organization that might be interested in participating in this project or you would like more information, please contact [Cynthia S Hernandez](#), RISEP Research Associate, at [Cynthia.Hernandez1@fiu.edu](mailto:Cynthia.Hernandez1@fiu.edu) or (305)348-2614.

<sup>4</sup> WTTF members: We Count!, American Friends Service Committee, South Florida Interfaith Worker Justice, Florida Legal Services, Inc., Florida Immigrant Coalition, Florida Immigrant Advocacy Center, Service Employees International Union, Unite-Here, Restaurant Opportunity

member organizations as well as concerned business employers and citizens who also participate on an *ad hoc* basis. The [Florida Immigrant Coalition \(FLIC\)](#), a statewide immigrant rights organization, has been leading the coordination for the task force.

Since its inception as a formalized working group in 2007, the WTTF's members have seen the number of wage theft cases in Miami-Dade County increase rather than decrease. The economic climate in the state has only worsened the problem at both the local and state level. Nevertheless, the WTTF has successfully tested various means of fighting wage violations. The most visible opposition has been the passage of the Wage Theft Ordinance, which became effective on February 28, 2010 in Miami-Dade County. The ordinance is the first countywide anti-wage theft law in Florida. The ordinance was drafted by Florida Legal Services, one of the legal service members of the WTTF. Created to eliminate and prevent wage theft across the county, the ordinance is being enforced by the Miami-Dade County Department of Small Business Development (SBD), the agency also responsible for overseeing and enforcing the county's Living Wage Ordinance.

The SBD established a review and implementation process that first attempts to conciliate any claims by notifying the employer of the filed claim and asking both parties to provide supporting documents. The burden of proof is on the employer: if he or she has not maintained payment records (which is a violation of FLSA), the records of the employee are used and may include notes kept or sworn statements from co-workers and others. Should SBD staff be unable to conciliate a claim, the case is set with a hearing examiner. The hearing examiners are retained to adjudicate a series of cases one day a month. If a hearing examiner finds an employer guilty of wage theft, the employer will not only be liable for the original wages owed, but will also be liable for an additional amount equal to two times the wages owed as compensation to the worker. This not only makes the worker "whole," it also sends a deterrent message to other businesses that routinely steal wages. Additionally, the employer will be liable to the county for the cost of the hearing examiner.<sup>5</sup> The threshold for filing a claim is \$60 of unpaid wages, a day's work for some domestic workers and day laborers, and there is no cost for filing a claim. The Miami-Dade Wage Theft Ordinance covers all workers, including those who are not covered under the Fair Labor Standards Act.

Since the passage of the ordinance, the WTTF has continued to work very closely with the SBD, meeting monthly to discuss outreach, the types of cases being seen, and how to educate workers and employers about the ordinance. RISEP helped to design and translate the intake forms used by the SBD and will be analyzing the wage complaints that the SBD receives for the next report in this series.

Since the Wage Theft Ordinance passed in February of 2010, the SBD: has logged 402 wage claims, some of which were referred to the Miami's office of the WHD; processed over 280 intake forms; moved approximately 57 complaints forward to a hearing examiner; and collected nearly \$40,000, the majority of which was collected in less than five months as the ordinance only became fully implemented in September 2010.<sup>6</sup>

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Center-Miami, Women's Fund of Miami Dade, South Florida AFL-CIO, Florida Farm Worker Association, South Florida Jobs with Justice, and the Research Institute on Social and Economic Policy.

<sup>5</sup> Smith, Jeanette. 2010. Victory in Miami-Dade County. Wage Theft Toolkit. [www.wagetheft.org](http://www.wagetheft.org)

<sup>6</sup> RISEP ascertained these figures from the SBD's latest recorded information. November 10, 2010.

Other effective means of recuperating lost wages tested by the WTTF have been legal court cases, small claims court cases, and public shaming of employers who have chronically victimized numerous employees. In addition, the WTTF strives to support organizing and public education to workers on their rights as workers, and what to do if they are the victims of wage violations.

The WTTF has received national recognition from organizations such as the National Employment Law Project (NELP) and Inter Faith Worker Justice for its innovative work against wage theft; and is being looked to as a model for change in Palm Beach County and other parts of the state and country after the successful passage of Miami Dade's countywide wage theft ordinance. In addition to supporting the Wage Theft Ordinance, WTTF members continue to work on recovering wages for workers through conciliation and public shaming of employers who have chronically victimized numerous employees. In addition, the WTTF strives to support organizing and public education to workers on their rights as workers, and what to do if they are the victims of wage violations.

The success of the Miami-Dade Wage Theft Ordinance has inspired other counties in Florida to consider similar laws. In Palm Beach County, People Engaged in Active Community Efforts (PEACE), a congregation-based coalition of churches and synagogues, is working with El Sol Neighborhood Resource Center (El Sol), a worker center which has also documented cases of wage violations, and other community groups to follow similar steps as the WTTF in order to implement a countywide wage theft ordinance. As this report is being released, the Palm Beach groups have met with county commissioners and are preparing a first draft of the ordinance to be completed in February 2011.

This report is the result of a data collection project of the WTTF which has created a statewide database of verifiable wage violations to document the extent and form of wage theft occurring throughout Florida. The WTTF knows that many, perhaps the majority of wage theft abuses go unreported because workers fear retaliation by their employers. In the case of undocumented workers, the WTTF has documented cases in which employers have threatened to have workers deported when they asked for their unpaid wages. Other workers who are U.S. born or legal residents simply do not report their violations out of fear of losing their jobs, particularly in our current economic climate.

Nevertheless, the number of reported and verifiable cases being collected through this project appears to be dangerously high and growing. The information accumulated in this database project is intended to demonstrate the magnitude of the problem that violates both state and federal law, and shows the need for enforcement and policies that protects Florida's workers from this egregious rupture of the most fundamental contract between employer and employee.

### **What is Wage Theft?**

Wage theft happens when workers are paid below the minimum wage, not paid for overtime, forced to work off the clock, have their time cards altered, are misclassified as independent contractors, or are simply not paid a wage for work performed. Certain types of workers are more vulnerable to wage theft violations, particularly low-wage and immigrant workers who encompass a large portion of Florida's workforce. These workers include, for example, restaurant and other tipped workers, construction workers, day laborers, domestic workers,

agricultural workers, security guards, and child care workers. As the data in this report shows, cases of wage theft violations have also been documented in professional and higher salary occupations, such as legal service providers, architecture and accounting firm employees, public and private school employees, and medical professionals and para-professionals.

Wage theft is a growing problem across America as unscrupulous employers seek methods to cut business costs, particularly during difficult economic times. A recent national survey by researchers at the University of Illinois-Chicago found that two-thirds of low-wage workers surveyed experienced a pay violation in any given week.<sup>7</sup> Wage theft is especially acute in South Florida because of three main factors: 1. South Florida's service sector-based economy is comprised of low-wage and hourly jobs in which much of the workforce such as agricultural workers are excluded from federal and state laws; 2. the State of Florida abolished its Department of Labor in 2000, leaving the understaffed U.S. Department of Labor's Wage and Hour Division the only remaining labor law enforcement mechanism in the state; and 3. a large percentage of the region's workers are not covered under the Fair Labor Standards Act because they work for an employer who employs less than five employees or whose business does not generate more than \$500,000 annually, leaving the U.S. Department of Labor Wage and Hour Division with no jurisdiction to protect these workers.

Research interviews conducted by the [Research Institute on Social and Economic Policy](#) at Florida International University in 2007, revealed that employers who were practicing wage theft fell into two categories: they were either unaware of labor laws, such as the actual federal or state minimum wage, or they were knowingly committing wage theft.<sup>8</sup> Most of these unscrupulous employers often paid their employees in cash, far below the minimum wage, or misclassified their workers as independent contractors to avoid paying payroll taxes, such as social security, unemployment insurance and workers' compensation. These different types of wage theft violations give unscrupulous employers an incentive to reduce labor costs and create an unfair competitive edge over honest employers. A report written by the National Employment Law Project found that misclassifying workers has become a business model found not only in the agriculture industry but also in other industries and occupations such as construction, day labor, domestic work, and home health care.

Aside from wage theft violations, the RISEP study also found that the employers who intentionally practiced wage theft also tended to violate national workplace health and safety standards. For example, workers misclassified as independent contractors and hurt on the job were not entitled to workers' compensation. They had to pay their own medical expenses, which often resulted in unpaid leave as a result of their injury.

Weak enforcement of labor laws throughout the United States and particularly in Florida makes it unlikely that employers who violate labor laws, even those who do so willingly and repeatedly, will be held accountable.

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<sup>7</sup> Bernhardt et al, 2009. Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities.

<sup>8</sup> Alejandro Angee and Cynthia S. Hernandez. "[Seeds of Justice: Combating wage theft among South Florida's plant nursery workers.](#)" The National Association for the Practice of Anthropology Bulletin. 2007. A copy of this paper can be found at: <http://www.risep-fiu.org/2007/10/planting-seeds-of-justice/>

## Where Does the Data Come From?

The data presented in the following part of this report comes from three sources: We Count!, El Sol Neighborhood Resource Center, and the Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) enforcement data from Miami-Dade and Palm Beach counties. The data from these organizations are derived from complaints presented to them by workers and, to the best of our knowledge, these cases do not overlap. In other words, the data reported by one agency is not also reported by another.

RISEP worked with the community-based organizations to standardize their data intake forms and the data they collect from each individual with a wage violation claim. RISEP analyzed the WHD data and consulted with representatives of the WHD to be sure we were interpreting their enforcement data correctly.

[We Count!](#)<sup>9</sup>, a founding member of the WTTF, is a multiethnic organization in the area of Homestead, Florida, that works to achieve social and economic justice by bringing immigrants, students and working people together to inform themselves about their rights, support each other, develop their leadership, and take action to improve their lives. Over the past four years WeCount! has worked with workers to recover wages owed to them and is launching a campaign called "Mi Trabajo Vale!" (My Work is Valued!), to encourage Latin American immigrant workers to denounce wage theft. The organization's level of trust among workers in the area has resulted in an overwhelming number of cases since 2006, which are presented in this report.

The [El Sol Neighborhood Resource Center](#) is located in Jupiter, Florida in Palm Beach County. It opened its doors in August of 2006 out of the need to give a voice to the voiceless and faceless immigrant population that has been growing in and around Jupiter. El Sol's core service is the Day Labor Program, in which workers come to the center and are registered and categorized by skill levels. This model provides a safe and efficient solution to unemployed laborers looking for work, and to contractors and homeowners needing workers. In the Jupiter area, El Sol is trusted by many low-wage workers who increasingly are presenting their cases of wage violations to the organization.

The U.S. Department of Labor's Wage and Hour Division (WHD) is responsible for administering and enforcing some of the nation's federal labor laws, which include federal minimum wage, overtime pay, recordkeeping, and child labor requirements under the Fair Labor Standards Act. The WHD administers and enforces the laws regardless of immigration status. These laws cover most private, state and local government employment. However, there are many workplaces, particularly in Florida, with employees who fall outside of the WHD jurisdiction, and who are thus among the most vulnerable to wage violations.

In 2009, an investigative report issued by the U.S. Government Accountability Office (GAO) found that the WHD of the DOL needed to improve their investigative and administrative processes because they were not adequately responding to wage violations and as a result were leaving low-wage workers vulnerable to wage theft and other labor law violations<sup>10</sup>

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<sup>9</sup> We Count! is located in Homestead, Florida, which is home to thousands of agricultural workers, mostly from Central America and Mexico. The majority of them have settled in this far southern corner of Florida because of jobs in the rich agricultural industry in the area.

<sup>10</sup> Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives. June 2009.

Following the release of the GAO report and the increasing awareness of rampant wage theft violations, the incoming Secretary of Labor, Hilda Solis, created a bi-partisan national effort to educate workers of their labor rights known as the “We Can Help Campaign”.<sup>11</sup> A criticism of this campaign, however, is the lack of effort to directly educate employers on labor laws.

The DOL’s WHD did, though, begin to publish enforcement data on wage violators throughout the country as an initiative to increase public awareness and reduce the incidence of wage violations. The WHD data used for this report contains all concluded WHD compliance actions for the six quarters from September 2008 through March 2010 for Miami-Dade and Palm Beach counties. It includes the employers who violated labor laws, the violations that were found, the number of employees who filed complaints, and the money that was agreed to be paid to employees by the violating employers.

Although the data presented in this report that emanates from WeCount! and El Sol is from the period August 2006 to August 2010, the data from the WHD is only available for the period of September 2008 to March 2010. There are other ways that the data on individual cases reported from these three sources is different and in this report we are careful to point out these differences to the reader. One example of a difference is that the Wage and Hour Division reports only those wages agreed by the employer to be paid back, whereas WeCount! reports the claim of lost wages from the employee as well as the amount of wages recovered from employers. El Sol records only the claims for lost wages made by employees. In spite of these reporting differences it is possible to make significant counts of numbers of victims and to derive the financial impact of wage violations. In the coming months we will add new cases from these three organizations and other organizations throughout Florida that are receiving and reporting complaints of wage violations.

## **Industries and Occupations Experiencing Wage Violations**

Table 1 shows the number of employees reporting wage violations categorized by the industry and occupation in which they worked. The industries were categorized using the North American Industry Classification System (NAICS), while the occupations were listed to describe the wage cases collected by We Count! and El Sol, from the period of August 2006 until August 2010. The information from the Florida Wage and Hour Division offices in Miami-Dade and Palm Beach Counties was documented for the shorter period from September 2008 through March 2010.

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<sup>11</sup> United States Department of Labor website, [www.dol.gov](http://www.dol.gov)

**Table 1. Number of Wage Violations Reported by Industry and Occupations**

Industry	Miami Dade County		Palm Beach County		Totals
	We Count!	WHD	El Sol	WHD	
Accommodation & Food Services	2	490	7	246	745
Construction	123	170	51	120	464
Health Care & Social Assistance	0	347	0	87	434
Administrative & Support & Waste Management & Remediation Services	0	303	0	15	318
Transportation & Warehousing	0	213	0	65	278
Manufacturing	0	190	0	11	201
Retail Trade	0	104	2	74	180
Information	0	160	0	3	163
Agriculture	8	20	0	96	124
Educational Services	0	109	0	4	113
Arts, Entertainment, & Recreation	0	17	0	82	99
Cleaning Services	7	63	21	8	99
Plant Nursery	53	13	29	4	99
Other Services	2	10	1	63	76
Auto Services	4	60	0	10	74
Management of Companies & Enterprises	0	41	0	13	54
Wholesale Trade	0	29	0	18	47
Finance & Insurance	0	42	0	4	46
Professional, Scientific, & Technical Services	0	24	1	16	41
Real Estate & Rental & Leasing	0	2	0	4	6
Missing Industry/ Occupation Info	0	0	36	0	36
<b>Totals</b>	<b>199</b>	<b>2407</b>	<b>148</b>	<b>943</b>	<b>3697</b>

Source: We Count! and El Sol data, DOL, WHD Enforcement data.

In Table 1 it can be seen that the highest number of wage violation complaints were documented for workers in the *accommodation and food services* industry, which includes many low-wage workers with jobs in hotels, food serving establishments, and casinos. The vast majority of these cases were documented by the WHD, and nine complaints from workers in this industry were also documented by the community-based organizations. The table shows that workers in other industries are also frequently victims of wage violations.



Workers in the *construction industry* had the second highest number of wage violations (464), closely followed by the *health and social assistance industry* (434). A great majority of the employees working in the health and social assistance industry were nurses' aides, home health care workers, and other health care aides working in health care facilities. Under the *administrative and support, and waste management, and remediation service industry* (318), security guards, solid waste collectors, telemarketers, and temp agency workers made up a large percentage of the affected employees. Employees, who made up the *educational services industry* (113), were mainly early child care educators, private school teachers, and staff working in colleges and universities, while employees who made up the *arts, entertainment, and recreation industry* (99), were musicians, dance and theatre groups, and amusement park employees. The majority of cases in the *professional, scientific and technical service industry* (41) were reported by employees working in law, accounting, and veterinary offices.

From Table 1 we can see that the highest concentrations of affected employees are the ones who are employed in the low-wage service industries, such as accommodation and food services and construction. The grand total of employees who reported verifiable wage violations for both counties was 3,697 between August 2006 and August 2010. This is an average of 924 victims of wage violations per year in only two of Florida's counties.

### Back Wages Owed and Back Wages Paid

In this next section we present the amount of wages that were owed as reported by We Count! and El Sol, and the wages recovered by We Count!. El Sol refers the majority of its cases to private attorneys, thus El Sol is unable to track how much of the lost wages is paid back by employers. In this section we also present the wages recovered by the WHD. The WHD does not publish data on wages claimed by employees.

Table 2 shows the total amount of back wages owed to workers reporting their cases to We Count! and El Sol between August 2006 and August of 2010. In that period 347 workers reported their cases of wage violations to these organizations. The total of back wages owed during the 4 year period was \$408,672.09. We Count! was able to recover \$ 65,196.72 from offending employers. This amount represents 25.6 percent of the total owed (\$255,021.91) in the cases reported to WeCount!. The total amount of back wages still owed to workers is \$189,825.19. We Count! uses several methods for recuperating wages, including direct phone calls and sending certified letters to offending employers, direct visits to businesses, and shame public campaigns.

**Table 2. Back Wages Owed and Back Wages Paid  
among Cases Reported to We Count! and El Sol  
(August 2006 - August 2010)**

	Back Wages Owed	Back Wages Paid
<b>We Count!</b>	\$255,021.91	\$65,196.72
<b>El Sol</b>	153,650.18	n/a*
<b>Total</b>	\$408,672.09	n/a*

Source: We Count! and El Sol reported cases. \*Information not available

As mentioned previously, El Sol refers the majority of its cases to private attorneys and is unable to track how much in lost wages is paid back by employers. However, if we hypothesize that the recuperation rate is similar to the 25.6% recovery rate for the cases reporting to We Count!, then approximately \$39,281 would have been paid to workers reporting their wage violation cases to El Sol. This amount, however, remains purely speculative in the absence of data on recuperated back wages for these victims who reported their claims to El Sol in Palm Beach County.

Table 3 shows back wages paid to employees both in Miami-Dade and Palm Beach Counties, as reported by the Wage and Hour Division (WHD) of the U.S. Department of Labor, from September 2008 to March 2010. Information for wages claimed is not available for the cases reported by WHD. In Miami-Dade County, the WHD reported over \$2.6 million dollars in wages, had been recuperated and paid employees. In Palm Beach County the total amount reached nearly a million dollars for the same time period.

**Table 3. Back Wages Paid as reported by the Wage and Hour Division in Miami-Dade and Palm Beach County (Sept.2008-March 2010)**

<b>Wage and Hour Division</b>	<b>Back Wages Paid</b>
Miami-Dade County	\$2,619,719.77
Palm Beach County	\$947,804.64
<b>Total</b>	<b>\$3,567,524.41</b>

Source: DOL, WHD Enforcement Data

The total amount of wages that were recovered by the WHD and paid to employees in both counties was over \$3.5 million. While a significant amount, this assuredly is less than the total amount of wages lost by employees reporting their cases of wage violations to the WHD, because a large percentage of South Florida’s agriculture and service workforce are employed in workplaces that are excluded from federal and state labor laws and, consequently, fall outside the jurisdiction of the WHD.

We know, for example, that We Count! referred several workers’ cases to the WHD office in Miami but those cases were dismissed by the WHD because they were outside the agency’s jurisdiction. As mentioned earlier, the U.S. Department of Labor’s Wage and Hour Division jurisdiction covers those employed in businesses that have more than five employees, and those working in businesses that generate more than \$500,000 in annual gross income or are involved in inter-state commerce. Some of these workers whose complaints were dismissed by the WHD included workers in plant nurseries, landscaping, agriculture, day laborer and domestic service.

Table 4 presents the total number of employees who registered wage complaints, the total number of employees who received some or all of their wages, the total number and percentage of employees who were never paid, and the wages that offending employers agreed to pay, as documented by We Count! and the WHD in Miami-Dade and Palm Beach Counties. It is important to note, once again, that El Sol does not report the amount that was paid back to affected employees, and consequently, El Sol's cases are not represented in Table 4.

As we mentioned earlier in this report, the amount of back wages paid under-represents the higher actual amount of money that is claimed by affected employees, since the total number of employees who received some or all of their wages (2,971) is less than the total of employees who registered wage complaints (3,549). As Table 4 shows, the *Plant Nursery* occupation had the highest percentage of workers (76%) who were not paid wages owed. The *Educational Service* industry followed (48%); a large percentage of the workers who were part of this industry included early child care educators and other private school teachers. The *Construction* industry had the third highest percentage of workers losing wages at 46%, many of whom were day laborers. The *Wholesale Trade* industry was the only industry in which all the workers (n=47) who had registered complaints were paid.

**Table 4. Number and Percentage of Employees Paid, per Industry and Occupations  
(We Count! and WHD)**

<b>Industry</b>	<b>No. of employees registering wage complaints*</b>	<b>No. of employees receiving some or all of their owed wages**</b>	<b>No. of employees who were not paid***</b>	<b>Percent of employees who were not paid</b>	<b>Wages Paid****</b>
Plant Nursery	70	17	53	76%	\$29,362.49
Educational Services	113	59	54	48%	\$72,866.32
Construction	413	222	191	46%	\$327,906.40
Retail Trade	178	110	68	38%	\$94,767.75
Finance & Insurance	46	34	12	26%	\$10,796.74
Transportation & Warehousing	278	226	52	19%	\$193,888.47
Real Estate & Rental & Leasing	6	5	1	17%	\$1,330.25
Arts, Entertainment, & Recreation	99	86	13	13%	\$392,257.99
Accommodation and Food Services	738	647	91	12%	\$771,386.34
Auto Services	74	67	7	9%	\$34,648.69
Agriculture	124	115	9	7%	\$9,289.64
Other Services	75	71	5	7%	\$65,367.69
Cleaning Services	78	75	3	4%	\$167,150.10
Health Care & Social Assistance	434	423	11	3%	\$343,758.97
Professional, Scientific, & Technical Services	40	39	1	3%	\$19,089.44
Management of Companies & Enterprises	54	53	1	2%	\$76,081.41
Information	163	161	2	1%	\$356,453.86
Manufacturing	201	199	2	1%	\$93,061.84
Administrative & Support & Waste Management & Remediation Services	318	315	3	1%	\$471,993.33
Wholesale Trade	47	47	0	0%	\$101,263.41
<b>Total</b>	<b>3549</b>	<b>2971</b>	<b>579</b>	<b>16%</b>	<b>\$3,632,721.13</b>

\*This column represents the total number of employees who registered wage complaints from WeCount!, and the U.S. DOL cases in Miami-Dade and Palm Beach Counties.

\*\* This column represents the total number of employees from WeCount!, and the U.S. DOL in Miami-Dade and Palm Beach Counties, who were paid by offending employers.

\*\*\*The amounts in this column are calculated by subtracting the total number of employees who registered wage complaints from the total number of employees to whom offending employers agreed to pay. In this column we do not include wages claimed by employees registering their claims with El Sol because it is not known how much was recuperated in lost wages for these employees.

\*\*\*\* This column is the cumulative wages agreed to be paid by employers in the cases being handled by the U.S. DOL in Miami-Dade and Palm Beach Counties as well as the wages recuperated for the employees reporting their cases of wage violations to WeCount!. Not included in this column are the wages recuperated for the employees who reported their lost wages to El Sol because this data is not available.

## **Conclusion**

The negative effects of illegally shortchanging workers' wages ripple across communities and the economy. Families suffer when earnings are too low to meet basic needs. Local businesses and economies are denied vital stimulus that would flow from the additional spending of workers had they been paid all they had earned.<sup>12</sup> Honest businesses are undermined by unscrupulous competitors who practice wage theft. And governments at all levels take a hit, because they are denied tax revenues generated by higher earnings and because many working families must resort to public programs to meet basic needs when wages fall short.

This report shows that community-based organizations and the Department of Labor's Wage and Hour Division can be successful at assisting workers in recovering wages, but will not be able to resolve all cases due to the sheer volume of cases. In addition, the WHD has limited jurisdiction and does not cover all workers. Because much of Florida's workforce population falls outside of the WHD's jurisdiction, other enforcement mechanisms such as Miami-Dade's Wage Theft Ordinance, which does cover all workers, are needed to ensure that workers, communities, and local governments will not miss out on the **\$3,672,721.13** that We Count!, WHD and Miami's SBD has collected in back wages. The additional effect of local governments creating these mechanisms is that the message to unscrupulous employers becomes very clear -- wage theft will not be tolerated -- and while that message does need to be sent at the local, state, and federal levels, it begins at the local level if we are to see a true change in attitude amongst employers who have been using this business model unchecked for years.

## **Recommendations**

The following section lays the foundation for six concrete solutions identified by the Florida Wage Theft Task Force critical to reducing and eliminates wage and hour violations in the state of Florida. Some recommendations focus on existing laws and regulations while others propose to reform current legislation. The Wage Theft Task Force believes that public policy, as implemented by Florida's state and local governments, has a fundamental responsibility to protect Florida's workers against wage and other workplace violations.

### **The Creation of Other Wage Theft Ordinances at the Local Level**

The U.S. Department of Labor's Wage and Hour Division cannot be the sole enforcement mechanism in the state of Florida because of its limited jurisdiction. Other county agencies need to create local wage theft ordinances, such as the Miami-Dade ordinance, to protect their county budgets, ethical employers, residents, and communities from the effects of wage theft.

### **Encourage the Florida Attorney General to Improve the Enforcement of the Minimum Wage and other Workplace Protections**

The Florida Attorney General may bring an enforcement action to enforce the state minimum wage; however, to our knowledge, this has never been done. In an effort to protect Florida's workforce from wage theft and other labor violations, the state attorney general must enforce Florida's labor laws and be allotted the resource to do so.

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12 Bobo, Kim. Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid - And What We Can Do About It, 2009

### **Encourage the Right to Organize**

Empirical research has shown that unions improve wages and benefits to workers, especially minority and low-wage workers. Wage theft becomes almost impossible in unionized workplaces, because the wages specified in a union collective bargaining agreement are legally enforceable and are guaranteed through union enforcement procedures. Employers must allow for workers to negotiate contracts through unionization because increased unionization is a right step towards protecting workers against wage theft.

### **Labor Education and Protection to All Workers, Regardless of Immigration Status**

Federal and state labor protection laws do not exclude undocumented workers and, thus, are enforced and administered regardless of immigration status. However, many undocumented workers rarely speak out against workplace abuses to avoid threats, harassment, unemployment, or even deportation. Undocumented workers are the most susceptible to workplace violations.<sup>13</sup> One of the most comprehensive responses to wage violations is to have workers who, regardless of immigration status, know their labor rights and are not afraid to speak out against offending employers. Consequently, workers should not be penalized for speaking out and employers must not be allowed to retaliate against an employee, regardless of immigration status, if they demand or file an unpaid wage claim. In addition, undocumented workers should be protected from deportation throughout the process of any a wage violation filed on their behalf. Employers must also be familiar with labor laws and must be aware that the penalties for breaking them will be strict.

### **Expand FLSA to cover all Workers**

The Fair Labor Standards Act (FLSA) does not cover many workers, who are the most marginalized and vulnerable to workplace violations like day laborers, agriculture, and domestic workers. FLSA needs to be expanded to cover all workers who do not currently have labor protections.

### **Re-Establish a Florida Department of Labor**

Government regulations and enforcement mechanisms are crucial to ensuring that workplace violations are not a commonly practiced business model. To do this, the state of Florida needs to restore the Department of Labor. Without enforcement mechanisms in place, Florida will continue to experience a large number of wage and hour, and other workplace violations.

**Florida must find the political will to protect workers and honest employers from wage theft, a growing illegal practice with negative implications for local and state level economic health and growth.**

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<sup>13</sup> NELP. Just Pay: Improving Wage and Hour Enforcement at the United States Department of Labor, 2009.