

# Investigator | Workers cheated out of millions in wage theft



Nov. 19, 2014: Thousands of Northeast Ohio residents are trying to live on low wages, particularly minimum wage and often without any benefits, such as paid sick leave, a pension or even health insurance. WKYC-TV

Tom Meyer, WKYC 7:36 a.m. EST November 20, 2014

## *U.S Department of Labor records show the restaurant industry short-changing its employees the most*



(Photo: WKYC-TV)

CLEVELAND -- Thousands of Northeast Ohio residents are trying to live on low wages, particularly minimum wage and often without any benefits, such as paid sick leave, a pension or even health insurance.

Their difficult lives are made considerably harder when they do the work they have been hired to do, but their employers refuse to pay, pay for some hours but not others or fail to pay overtime premiums when employees' hours exceed 40 in a week.

It's called wage theft, and the problem appears to be getting more serious. Case filings in Northern Ohio Federal Court have skyrocketed 400 percent since 2005.

"Businesses like to save money and are always looking for ways to cut corners to save money," explained Attorney Julie Cortes from Legal Aid of Cleveland. "I think it's a common problem, and we have a steady intake of employees who are complaining in one way or another of not getting their wages."

Cortes estimates she receives up to 20 new complaints a month.

U.S Department of Labor records show the restaurant industry short-changing its employees the most.

Last year, the department's Wage and Hour Division investigated 3,875 full service restaurants and found minimum wage, overtime or record keeping violations resulting in \$26,376,624 in back wages.

Under the Fair Labor Standards Act, when customers tip employees, restaurant operators can benefit by claiming a credit toward their obligation to pay those employees the full minimum wage. An employer that claims this "tip credit" is required to pay a tipped employee only \$2.13 per hour in direct wages.

If an employee's tips, when added to the wages paid directly by the employer, do not equal the federal minimum wage of \$7.25 per hour the employer must make up the difference.

Private security companies (\$13 million) and the health care industry (\$10 million) also have been guilty of withholding employees pay, according to Department of Labor spokesman Scott Allen.

Clevelander Dwayne Henderson found himself on the wrong end while being employed at minimum wage by Royce Security.

In 2012, he went to Legal Aid, disputing a \$30 uniform fee taken out of his bi-weekly paycheck.

"I was really working for pennies. I wasn't getting enough money to pay my bills. It was really hard," Henderson said.

After Legal Aid approached Royce Security about the issue, Henderson was awarded \$1,500 compensation in a settlement before the case landed in front of a judge.

"I think I was taken advantage of because they knew I needed a job," Henderson added. "I needed help because I was in the hole every time."

Channel 3 News reached out to Royce Securities for a comment. Numerous phone calls were not returned.

"Wage theft is endemic, and no group of workers is immune, including workers earning good wages," said Anthony Lazzaro of the Lazzaro Law Firm in Cleveland. He says it's more likely to occur in nonunion workplaces.

Union workers generally receive pay according to their negotiated contract, and any wage theft would be challenged by the union. Immigrant and native born workers alike have their wages stolen, though low-wage workers are particularly vulnerable.

Lazzaro has been on the winning end of many collective action lawsuits. Plaintiffs included 4,000 workers at Case Farms in Holmes County, 2,000 employees of Nestle and another 1,800 individuals at West Corporation near Youngstown.

"Employees are becoming more savvy. They understand the laws. They're able to self-identify if they've been denied wages," Lazzaro said.

Recently, Lazzaro filed a collective action lawsuit against Caesars Entertainment and the Horseshoe Casino in Cleveland.

He argues the Casino has misclassified its table games supervisors as exempt salaried workers, so they aren't paid overtime money after work is performed.

"We don't comment on pending legal issues," said Horseshoe spokeswoman Shannon Mortland.

In June, the city of Cleveland admitted to wage theft against nearly 3,700 employees. The lawsuit brought on by former city clerk Cheryl Armbruster claimed city supervisors improperly rounded the starting and stopping times of employees' shifts.

"Oh course they are thieves. Do you know how much money they made off the employees?" Armbruster passionately explained. "I feel like I did a great service to the people."

Here's how the policy was implemented. If employees clocked in late or out early, their starting and stopping times were rounded against them to the nearest 6-minute increment.

However, if employees clocked in early or out late within a twelve-minute time frame, their starting and stopping times also were rounded to their standard start and end times.

In the end, the city agreed to pay over \$2.2 million in lost wages.