

**STATEMENT OF JESSICA LOOMAN
ADMINISTRATOR, WAGE AND HOUR DIVISION
U.S. DEPARTMENT OF LABOR**

BEFORE THE

**SUBCOMMITTEE ON WORKFORCE PROTECTIONS
COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES**

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Chairman Kiley, Ranking Member Adams, and Members of the Subcommittee, thank you for the opportunity to testify today about the important work of the Wage and Hour Division of the U.S. Department of Labor to protect workers and leverage America's historic investments to create good jobs.

INTRODUCTION

The U.S. Department of Labor is focused on creating and sustaining good jobs, ensuring robust enforcement of workplace protections, and empowering workers. The mission of the Department's Wage and Hour Division (WHD) is to promote and achieve compliance with federal labor standards to protect and enhance the welfare of the nation's workforce.

WHD administers and enforces fundamental workplace protections enacted by Congress, including the Fair Labor Standards Act, which establishes minimum wage, overtime pay, and child labor protections; the Family and Medical Leave Act, which requires certain employers to provide employees with job-protected, unpaid leave for qualified medical and family reasons; the prevailing wage requirements of the Davis-Bacon Act and the Service Contract Act; and other federal labor standards laws. Collectively, the laws enforced by WHD cover most private, state, and local government employment and protect more than 165 million workers in more than 11 million workplaces throughout the United States and its territories. WHD carries out its mission in an increasingly complex and rapidly changing economy, yet these foundational employment protections are as vital today as they were when they were enacted. Our nation's economy is strongest when workers are protected from exploitation and when businesses compete on a level playing field.

WHD deploys comprehensive, data-driven strategies while prioritizing its limited resources towards those sectors of the economy where large numbers of lower-paid workers are most vulnerable to labor standards violations, including children employed in violation of federal child labor laws. We protect vulnerable workers and provide regulatory certainty by enforcing the law fully and fairly. We also help employers understand their responsibilities under the law to prevent wage and hour violations from occurring in the first place.

FY 2023 HIGHLIGHTS – BY THE NUMBERS

The Wage and Hour Division must use our resources strategically and effectively to achieve the maximum impact for the workers and employers we serve. During fiscal year 2023, WHD:

- Recovered over **\$274 million** in back wages and damages for more than **163,000 workers** nationwide, the equivalent of more than \$1,675 in back wages and damages per worker.
- Recovered more than **\$31 million** in back wages and damages for health care workers, more than **\$35 million** for construction workers, more than **\$6.8 million** for agricultural workers, more than **\$29 million** for food service workers, and more than **\$12 million** for workers in building services.
- Recovered more than **\$17 million** in back wages for more than **4,500 workers** on Davis-Bacon and Related Acts investigations, ensuring that jobs on federally funded construction projects are good jobs that protect local wage standards.
- Made significant progress to prevent and address illegal child labor, concluding **955 investigations** that found child labor violations affecting nearly **5,800 children** and assessed more than **\$8 million** in penalties for those violations.
- Conducted more than **4,500 outreach events** across the country, providing compliance assistance and workers' rights information to more than **450,000 stakeholders**, including employers, small businesses, and workers.
- Received more than **988,000 calls** from workers and employers, offering support in over **200 languages** and providing confidential assistance to employers that are eager to follow the law.

PROTECTING WORKERS

The Wage and Hour Division protects and empowers our country's most vulnerable and underserved workers. While the federal minimum wage remains \$7.25 per hour, the most common wage and hour violation is the failure to pay earned overtime pay, or one and one-half times the workers' regular rate of pay for all hours worked over 40 hours in a work week. These overtime violations account for approximately 84 percent of the back wages we recovered for workers last year.

Enforcement staff in our 54 district offices throughout the country ensure that workers receive their hard-earned wages. In a recent investigation of a home care agency in Georgia, we found workers were not paid overtime, resulting in the recovery of \$71,000 in back wages for 16 employees. One of those workers, who received more than \$11,000 in back wages told us that the money helped her get caught up on her bills and put groceries on the table.

WHD also protects employees who are misclassified as independent contractors and who do not receive the full protections to which they are entitled under the law. Misclassification harms not only workers, but their families and the businesses that follow the law. We see misclassification across industries, including healthcare, building services, construction, and restaurants. Our work to address misclassification has yielded important results. For example, in an investigation of a

Florida restaurant and bakery, our investigators recovered \$28,162 in back wages for 36 employees, including dishwashers, who were misclassified as independent contractors.

Most of the laws enforced by WHD prohibit employers from retaliating, harassing, intimidating, or taking adverse action against employees for inquiring about their pay, hours of work or other rights, asserting their worker rights, filing a complaint about their worker rights, or cooperating with a WHD investigation. We have uncovered employers demanding kickbacks from employees, submitting falsified wage records, and intimidating workers. For example, following an investigation into a Michigan company's pay practices, the employer threatened to fire employees whom she suspected of cooperating with federal investigators. When one employee resigned, the employer contacted their prospective employer and made claims about the employee's misconduct. Ultimately, following our investigation into this retaliation, a federal court ordered the owner of the facility to pay \$16,500 in back wages and damages to the worker and to attend training on complying with federal anti-retaliation protections. In another case, a worker in New Hampshire who had received back wages as part of an investigation into overtime violations was pressured by her employer to return her recovered wages to them, also known as demanding a kickback, which is a violation and a form of retaliation. Our investigation resulted in the recovery of \$50,000 in punitive damages for the employees who suffered retaliation. Strong enforcement of anti-retaliation protections is essential to the success of all investigations because they help ensure that workers can raise complaints and participate in investigations without fear of retribution.

WHD also protects construction workers who are essential to building the nation's roads, bridges, and clean energy and water systems by ensuring that federal investments in our nation's infrastructure create and sustain good jobs. In a recent investigation in Florida, we recovered more than \$224,000 in lost wages and benefits for 37 employees working to build an outpatient clinic for veterans. Employers paid electricians less than the required prevailing wage rate, did not pay overtime correctly, and failed to track and pay required benefits. Effective enforcement and compliance with the Davis-Bacon Act and Related Acts protects workers and further protects responsible businesses when they compete for federal contracts.

Finally, WHD works to ensure that eligible employees have job-protected leave under the Family and Medical Leave Act (FMLA) and that new mothers receive break time and have access to private spaces to pump breast milk at work. Over the last three years, WHD recovered more than \$3.2 million for workers who were denied FMLA leave or who were otherwise deprived of the protections under the FMLA. Employees should not be forced to choose between their job and their health or the health of their family member. The PUMP for Nursing Mothers Act (PUMP Act) extended protections for nursing employees to approximately 9 million more workers. In the last year, WHD enforced the law for nursing employees who were not given a place to pump breast milk at all, for workers who were provided space, but then had their co-workers walk into the space, and for workers who were not allowed to take the time needed to pump. In one case, investigators responded to complaints that a plant employee was expressing breast milk on the factory floor after being denied access to the plant's lactation rooms and that the plant lacked adequate lactation rooms, forcing nursing employees to wait up to 20 minutes for a designated private space. Following the investigation, the employer agreed to ensure their policies comply

with the PUMP Act, to provide a reasonable amount of break time so that nursing mothers can express milk as frequently as needed, and to create additional lactation rooms.

COMBATting CHILD LABOR EXPLOITATION

The most vulnerable workers in America are children. While positive and safe first work experiences can allow young people to develop skills, earn money, and learn what it means to be part of the labor force, a job should not jeopardize a child's well-being or their educational opportunities. Since 2019, WHD has seen an 88 percent increase in the number of children employed in violation of federal child labor laws. The Department is committed to combatting all forms of illegal child labor because we cannot build our economy on the backs of children.

To address the most egregious forms of illegal child labor, WHD launched a national strategic enforcement initiative to combat illegal child labor and ensure children are not exploited or put in harm's way in the workplace. The Fair Labor Standards Act (FLSA) prohibits the employment of children under the age of 18 in non-agricultural occupations deemed hazardous by the Secretary of Labor, and it restricts the type of work and hours of work that children under the age of 16 may perform in both agricultural and non-agricultural occupations. WHD investigates every actionable child labor complaint, tip, and referral, and all FLSA investigations ensure compliance with federal child labor protections.

The Department has brought several important cases demonstrating that illegal child labor is not a 100-year-old problem, but that child labor exploitation is happening in America today. In 2022, WHD investigators found that Packers Sanitation Services Inc. LTD (PSSI)—one of the nation's leading providers of food safety sanitation—illegally employed more than 100 children (from 13 to 17 years of age) on the night shift at 13 meat processing facilities across eight states, using hazardous chemicals to clean the factory's equipment and kill-room floors. In February 2023, the Department announced that PSSI was assessed \$1.5 million in civil money penalties for these violations.

Also in 2022, a WHD investigation revealed that SL Alabama LLC, an Alabama manufacturer of Hyundai and Kia auto parts, had illegally employed 13-, 14-, and 15-year-old workers in manufacturing. The Department secured a permanent injunction prohibiting the employer from violating the FLSA's child labor provisions, including its "hot goods" provision, which prohibits the shipment of goods produced in an establishment in or about which oppressive child labor was employed within 30 days prior to removal of the goods.

In 2023, investigators found that Monogram Food Solutions LLC, a national food manufacturing company that manufactures meat snacks, appetizers, sandwiches, and more, employed at least 11 children, including two 15-year-olds to operate meat processing equipment in violation of federal child labor requirements. The Department obtained a consent judgment that requires the company to comply with the federal child labor laws at all of its production facilities and warehouses nationwide, and to take significant steps to ensure compliance with these laws in the future.

In December 2023, a California poultry processor and supplier to supermarkets and food distributors—including Ralphs, ALDI, Grocery Outlet, and SYSCO Corp.—agreed to pay nearly

\$3.8 million in back wages, damages, and penalties after the Department found the company endangered young workers in Southern California. Investigators found that The Exclusive Poultry Inc. and related companies employed children as young as 14 to debone poultry using sharp knives and to operate power-driven lifts to move pallets, as well as to work in excess of the hours permitted under the regulations. The company also retaliated against employees for cooperating with investigators by cutting their wages.

As we continue to devote significant resources to child labor enforcement, we also take a whole-of-government approach to prevent and address child labor exploitation. In February 2023, the Department announced an Interagency Task Force to Combat Child Labor Exploitation, which furthers collaboration and improves information-sharing among federal agencies. This Task Force includes the Departments of Agriculture, Commerce, Education, Health and Human Services, Homeland Security, Justice, and State, all of which are taking concrete steps to improve cross-training, outreach, education, and services for children who could be subject to illegal child labor. As a part of these efforts, the Departments of Labor and Health and Human Services entered into a Memorandum of Agreement in March 2023, which formalized an ongoing partnership between the agencies and outlined procedures the agencies will follow as they work together to deepen information-sharing, coordination, cross-training of staff, and public education efforts.

RULEMAKING AND COMPLIANCE ASSISTANCE

In addition to our enforcement efforts, WHD continues with important rulemakings and the development of guidance to implement the worker protection laws Congress entrusted to the Department. We also provide guidance, outreach, and education to ensure that employers understand their obligations under the law and that workers understand their rights and protections. We know that the vast majority of employers want to get compliance right, and we are committed to giving employers and industries the information they need to comply with the law. Modernizing regulations and ensuring their consistent application helps ensure foundational wage and hour laws remain relevant in a changing economy and are widely understood by workers and employers.

On August 8, 2023, the Department published a final rule to amend regulations issued for the administration of the labor standards under the Davis-Bacon Act and the more than 70 Davis-Bacon Related Acts (collectively, the DBRA). The DBRA ensure that construction workers on federally funded construction projects are paid locally prevailing wages and that the government's extensive construction contracting activity does not have the unintended consequence of depressing workers' wages. In light of the Biden-Harris Administration's unprecedented investment in our nation's infrastructure, these regulations are more important than ever to ensure fair wages for the workers building and repairing our roads, bridges, federal buildings, and energy infrastructure.

On January 10, 2024, the Department published a final rule, effective March 11, 2024, revising the Department's guidance on how to analyze whether a worker is an employee or independent contractor under the Fair Labor Standards Act. When employees are misclassified as independent contractors, the foundation of their economic security is eroded: they may be deprived of the

right to be paid minimum wage or overtime and lack access to crucial benefits they may be entitled to under the law. Meanwhile, when businesses misclassify employees, they put responsible employers at a competitive disadvantage. The updated rule aligns the Department's approach with how courts determine whether a worker is an independent contractor or employee under the Fair Labor Standards Act. The Department's new rule recognizes that independent contractors in business for themselves play an important role in the economy, and it provides businesses with a consistent approach to analyze if a worker is properly classified as an independent contractor. The final rule will help reduce the risk of misclassification of employees as independent contractors.

WHD also remains committed to providing America's employers and workers with clear and easy-to-access information on how to comply with federal employment laws. Through written guidance, webinars, and thousands of events and engagements, we provide outreach and education to employers, workers, and other stakeholders to help ensure workers and employers understand their rights and responsibilities under the laws we administer and enforce. We also provide comprehensive compliance assistance through a wide array of tailored tools and resources by topic and industry, including many specifically developed for small businesses, so we can promote understanding, early detection, and correction of potential wage and hour violations.

Since the beginning of this Administration, WHD has held nearly 14,000 events to educate employers, small businesses, workers, and community organizations about the laws that WHD enforces. Our district offices throughout the country continue to provide confidential compliance assistance to employers and answer thousands of calls a day to help business owners and workers get their questions answered. WHD is building partnerships with all stakeholders, including local, state, and federal governmental agencies, worker advocates, unions, business associations, and employers, to accomplish the goal of making sure workers are paid correctly on payday and receive all of the wage and hour protections to which they are entitled.

CONCLUSION

The Department of Labor is dedicated to protecting and enhancing the welfare of the nation's workforce. We will use every tool at the Department's disposal to ensure workers receive the highest protections under the law. Our focus on enforcing the law, recovering wages for workers, and combatting illegal child labor helps protect the most vulnerable workers from exploitation. At the same time, WHD's rulemaking and extensive outreach and education efforts help pave the way for America's employers to take the high road and comply with fundamental labor standards. We are proud of what we achieved since the start of the Biden-Harris Administration, of the workers and employers we have helped, and of the lives we have impacted. Working together, we can build a strong economy that works for everyone.

Thank you again for the opportunity to appear before you today, and I look forward to your questions.