



PENNSYLVANIA

Office of Attorney General
Fair Labor Section

2021

LABOR DAY REVIEW

Attorney General Josh Shapiro created the [Fair Labor Section](#) in the Office of Attorney General (OAG) to protect workers' rights, address workplace safety issues and promote a level playing field for businesses. Workers should get paid a fair wage for a fair day's work. Businesses should fairly compete in the marketplace, and no one should be able to gain a competitive advantage by breaking the law. This report reviews key accomplishments over the last year and since the onset of the COVID-19 pandemic.

“*Everyone who works hard deserves to retire with dignity, enjoy time with their family and friends and live their own American dream. As Attorney General, I will continue to protect those dreams.*”

- Attorney General Josh Shapiro



PROSECUTING WAGE THEFT

The OAG's three-year investigation into Glenn O. Hawbaker, Inc.'s prevailing wage practices revealed that the company stole nearly \$21 million dollars between 2015 and 2018. The company, one of PennDOT's largest contractors, stole fringe benefit money from more than [1,200 prevailing wage workers](#) and used it to pay for health, welfare, and retirement benefits for all of its employees - including the owners and executives. On [April 8, 2021](#), the OAG charged the company with felony crimes. On [August 3, 2021](#), the company entered a plea requiring it to pay nearly \$21 million back to the workers they stole from, and placing it under the oversight of a corporate monitor for the next five years. This case represents the largest of its kind in U.S. history.

On [September 27, 2019](#), criminal charges were filed against Scott Good, owner of Goodco Mechanical, and the company for failing to pay workers wages earned. Good forced plumbers and electricians to record part of their time classified as laborers on their timesheets according to predetermined ratios when working on prevailing wage projects. This scheme resulted in workers being underpaid by more than \$64,000 over five years. Good and Goodco pled guilty on [March 19, 2021](#). On [April 26, 2021](#), Good was sentenced to four months to two years less four days in prison followed by three years of probation and 200 hours of community service, and was required to pay restitution to the affected workers. Goodco was fined \$10,000.

PARTNERING WITH DISTRICT ATTORNEYS TO COMBAT WORKER MISCLASSIFICATION

On [March 9, 2020](#), the OAG and the Delaware County District Attorney's Office began a joint enforcement pilot program to combat the misclassification of construction workers in Delaware County. The collaboration has already led to prosecution of several cases.

The owner and three employees of G&R Dry-wall and Framing were charged with multiple counts of worker misclassification, making false statements, theft, receiving stolen property, deceptive business practices, and related charges. Employees were misclassified as independent contractors to evade taxes, workers' compensation contributions, unemployment compen-

sation contributions, and other worker protections. All four were sentenced to probation, and are required to pay workers \$28,119 in restitution.

On June 10, 2021, the owners of Mid Ulster Construction were charged with workplace misclassification, making false statements, theft, receiving stolen property, deceptive business practices, insurance fraud, workers' compensation fraud and conspiracy, after an investigation revealed that the company misclassified its workers. In December 2020, two of the misclassified employees fell 20 to 30 feet while working without appropriate fall protection; one employee was seriously injured, and the other fatally injured due to the fall.



LISTENING TO WORKERS THROUGH THE PANDEMIC

Since March of 2020, the Fair Labor Section helped resolve over 2,300 public complaints ranging from unsafe workplaces to unemployment compensation benefit issues to discrimination in the workplace.

The OAG published a [Rights and Resources Guide](#) providing information to Pennsylvanians about their rights, including newly enacted state and federal protections.



“My office is working to protect the health, safety, and financial security of all Pennsylvanians during this public health and economic emergency. With the intense amount of information and misinformation out there, we wanted to help individuals impacted by this crisis, know the facts, their rights, and what they are entitled to during these uncertain times.

- Attorney General Josh Shapiro

ADVOCATING FOR MORE PROTECTIONS FOR GIG WORKERS

On [May 4, 2020](#), the OAG announced a public-private collaboration with DoorDash to expand financial, health, and childcare-related support to DoorDash and Caviar gig workers across the nation. DoorDash agreed to expand COVID-19 financial assistance for workers who had or were particularly vulnerable to COVID-19 or who had COVID-related childcare responsibilities, to provide subsidized telehealth access to workers, and to provide last-mile delivery of food and/or supplies to vulnerable communities in Pittsburgh and Philadelphia.

On [June 2, 2020](#), the OAG announced a second public-private collaboration with Instacart. Instacart committed to expand COVID-19 financial assistance to workers who had COVID-19 or needed to quarantine for a probable case and childcare assistance pay to workers who had COVID-related childcare responsibilities. Instacart also provided free telehealth access to workers and donated \$50,000 to the Greater Pittsburgh Food Bank.



“ *We need other gig economy companies to step up and prioritize the health and safety of workers—especially those on the front lines still making deliveries and interacting with the public during the COVID-19 emergency.* ”

- Attorney General Josh Shapiro

DEFENDING WORKERS' RIGHT TO ORGANIZE

The OAG defended workers' right to organize against several lawsuits challenging Pennsylvania law throughout the last year. The suits attempted to invalidate Pennsylvania's Public Employee Relations Act, which sets out the rights and obligations of public employees, employers, and labor organizations. The right to organize is a critical component of modern workplace protections, ensuring workers have a seat at the table to negotiate wages, benefits, schedules, and other terms and conditions of employment. The OAG successfully defended each case, obtaining favorable rulings or resolutions. The OAG will continue to defend workers' rights against these challenges.

LEADING EFFORTS TO STOP HARMFUL TRUMP ADMINISTRATION RULES

Advocating for proper worker classification

On [October 28, 2020](#), AG Shapiro, joined by more than 20 state attorneys general, two cities, and two local agencies, filed comments to the U.S. Department of Labor (“DOL”) in opposition to a proposed rule that would make it easier for employers to classify workers as independent contractors rather than employees. In a victory for workers, on [May 5, 2021](#), the DOL announced its withdrawal of the rule, citing in its notice many of the key points raised by the state attorneys general in their comments.

Fighting for worker protections

On [June 25, 2019](#), AG Shapiro led a 19-state coalition in comments opposing a Trump administration proposed rule that narrowed the definition of “joint employer,” making it harder to hold employers accountable for labor violations. When DOL issued the final rule, AG Shapiro and New York Attorney General James filed a federal lawsuit challenging the rule. On [September 8, 2020](#), the court agreed with the states and, in a major victory for workers everywhere, issued an opinion vacating the joint employer provision of the rule.

Maintaining fair wages for tipped workers

On [December 10, 2019](#), AG Shapiro and 19 state attorneys general submitted comments opposing a DOL rule which would eliminate the “80/20 rule.” The proposed rule eliminated the 20 percent cap on non-tipped work, thus allowing employers to assign unlimited amounts of non-tipped work to employees and still take a tip credit, resulting in tipped workers not receiving the proper wage.

On [January 19, 2021](#), AG Shapiro and Attorney General Raoul of Illinois, with a coalition of nine state attorneys general filed a federal lawsuit challenging the rule under the Administrative Procedure Act. In response to the concerns raised by the states, the DOL revised the rule to preserve the “80/20 rule” and has delayed other portions of the rule’s effective date to December 31, 2021, pending further rulemaking.



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