



The Epidemic of Wage Theft in Shelby County, Tennessee

Stories of Unprotected Workers and
How We Can Address This Crisis

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Work is fundamental to who we are as human beings. Work has different meanings for different people, but for all workers, it is the way we meet our basic needs, sustaining ourselves and our families. For too many residents in Shelby County, their hard work is often underappreciated and even goes unpaid. These workers are victims of wage theft.

What is Wage Theft?

When employers violate the law and deprive a worker of legally mandated wages, they are guilty of wage theft. This report shares the personal stories of particular workers who have experienced wage theft. While most employers in our community do right by their workers, too many do not.

Wage theft occurs when workers are paid less than what the law requires. It includes:

- not being paid for all hours worked
- being paid below the federal minimum wage
- being denied overtime pay of 1 ½ times the usual wage when working more than 40 hours per week (for most workers)
- not receiving all of the tips customers have left for a worker
- not receiving a final paycheck for a job

Wage theft is most shocking when employers steal money from workers earning low wages. Yet wage theft affects many middle-income workers too, including construction workers, nurses, dietitians, writers, bookkeepers, and many more. This practice affects young workers, middle-career workers, and older workers.

Millions of workers each year experience wage theft, often forcing them to choose between paying their rent or putting food on the table. Wage theft also depletes the government's tax coffers, resulting in cutbacks of vital services. Wage theft hurts ethical businesses, by forcing them to compete against companies who make a profit by cheating their workers.

While the stories shared in this report are about particular Shelby Countians and their experiences with wage theft, it is important to remember that these are not just a few isolated incidents. Wage theft is an epidemic that plagues workers across the United States and here in our community.

There are laws that are in place to protect workers. Unfortunately, a lack of adequate enforcement leads to high rates of wage theft in Shelby County and nationally.

What laws exist to protect workers from wage theft?

Most commonly wage theft is a violation of the federal Fair Labor Standards Act (FLSA), which provides for a minimum wage, currently \$7.25 an hour. The FLSA also requires employers to pay many workers one and a half times their usual wage for all hours worked above 40 hours per week.

Tennessee is one of only 5 states that does not have its own minimum wage. This means that the Tennessee Department of Labor (TDOL) will only investigate limited types of wage theft;

primarily not receiving a final paycheck. TDOL is not able to handle minimum wage or overtime violations because of the lack of a state minimum wage law.

Construction workers on government projects generally have additional rights to be paid wages above the minimum wage. Under the Davis-Bacon Act, workers being paid by a contractor or subcontractor on a federal government construction contract are entitled to receive the prevailing, or average, wage for their particular type of skilled work in the city or region of the U.S. where the work is done. Prevailing wages, which are calculated by the US Department of Labor, are significantly higher than minimum wage. The State of Tennessee, the City of Memphis and Shelby County government have similar prevailing wage laws guiding their state and local government construction projects. Unfortunately, some contractors and subcontractors simply ignore these laws, classifying large numbers of workers as doing unskilled work, so that they don't have to pay them the wages workers are owed for their particular skill set.

Wage theft may also involve violations of tax laws, through misclassification of employees as independent contractors. When a worker is called an independent contractor, the employer does not pay its share of federal employment taxes, shifting the burden to the worker to pay the employer's share as well.

For example, a construction company may tell a worker that he is an independent contractor. At the same time, the company still gives him equipment to use in order to complete the job; tells him when he must be at the jobsite; and how long he is supposed to work each day. By law, he is an employee of this construction company. The company has classified him as an independent contractor in order not to have to pay its share of Social Security and Medicare taxes. This also allows the company to deny the employee workers' compensation coverage and unemployment benefits.

All of these laws outlined here apply to all workers in the US, regardless of immigration or ex-offender status. Once an employer has hired a worker, the employer must follow all labor laws when paying the employee for work that has already been performed.

Weak Enforcement Leaves Many Workers Unprotected

Recent research reveals that 2 out of 3 low-wage workers have experienced wage theft in the past work week.

Even though there are laws in place to protect workers, these laws are frequently not enforced. In 2008, the US Department of Labor's Wage and Hour Division increased the number of its investigators to almost 1,000. However, investigators remain inundated with far more cases than they can thoroughly investigate. These 1,000 investigators are responsible for enforcing wage laws for more than 130 million full and part-time employees working in nearly 7 million workplaces. This means that one investigator is responsible for more than 130,000 workers and 7,000 workplaces.¹

Wage theft has become an epidemic across the United States. In a study conducted by the National Employment Law Project (NELP), 4,387 low-wage workers were surveyed in New York, Los Angeles,

and Chicago. Those conducting the surveys, who were trained on wage and hour laws, discovered that 2 out of 3 low-wage workers had experienced some form of wage theft in the past work week.²

The study reports that if these workers remained at their current job for one year, they would lose an average of \$2,634 annually due to violations out of a total earnings of \$17,616. That translates into 15% of their earnings being taken from them because of wage theft.³

The NELP study revealed that workplace violations of wage theft are not limited to immigrant workers or other vulnerable groups in the labor force—everyone is at risk, although to different degrees.

Women were significantly more likely than men to experience minimum wage violations, and foreign-born workers were nearly twice as likely as their U.S.-born counterparts to have a minimum wage violation. This study also showed that foreign-born Latino workers had the highest minimum wage violation rates of any racial/ethnic group. But among U.S.-born workers, race made a significant difference. African-American workers had a violation rate triple that of their white counterparts.⁴

Workers Interfaith Network (WIN) conducted a non-scientific survey of 141 low-wage workers in the greater Memphis area in October 2009. Workers were approached at social service agencies and other gathering places where low-wage workers are likely to be. While WIN acknowledges that this survey is anecdotal rather than scientific, it does reveal that wage theft is quite common among workers surveyed. Of the 141 workers surveyed:

- Sixty-six percent reported they had personally experienced some form of wage theft.
- Thirty-eight percent had not received a final paycheck from an employer.
- Thirty-five percent had experienced either unpaid overtime or had been paid for fewer hours than they worked.
- Twenty-three percent had been paid below the federal minimum wage.
- Nineteen percent had an employer take tips given by customers for them.

The WIN survey showed that sixty-five percent of African-Americans reported some form of wage theft, with unpaid overtime being the most common form of wage theft. Sixty-seven percent of Latinos reported some form of wage theft, with not being paid a final check the most common form of wage theft.

Why Wage Theft Matters to More Than Just Workers

When workers who live in our community experience wage theft, it affects all of us. When workers' wages are stolen, their bills often go unpaid, their housing is unstable, and families have less food on the table.

People of faith should be guided by the teachings of our sacred texts, which tell us that we are supposed to protect workers and their wages. Both the Jewish and Christian faiths speak out strongly against this injustice. Not only does one of the Ten Commandments tell us, “thou shalt

Businesses who do the right thing could compete on a more level playing field if unethical employers faced real consequences for stealing wages.

not steal;” scriptures such as Deuteronomy 24:14 specifically warn employers not to withhold their workers’ wages from them.

Government leaders have a stake in this issue because wage theft often goes hand in hand with employers not paying all taxes owed. Payroll taxes and contributions to unemployment and workers’ compensation are frequently underpaid or not paid at all by business owners who steal wages. This means there is less money to provide for the public services we all depend upon.

Business owners that pay their workers what the law requires are at a serious disadvantage when competing with businesses that withhold proper wages from their workers. Ethical business owners could compete on a more level playing field if unethical employers faced real consequences for stealing their workers’ wages. Plus, the less that workers bring home in their paychecks, the less they have to spend in local businesses, further hurting employers who are struggling to recover from the lengthy economic downturn.

What Local Government Can Do to Prevent and Punish Wage Theft

The lack of adequate enforcement of wage and hour laws at the federal level, combined with the absence of a minimum wage law in Tennessee, leaves Shelby County workers quite vulnerable to wage theft. The current political climate on worker rights issues in both our national and state capitols make it unlikely that significant reforms on wage theft will take place at the federal or state levels right now.

Fortunately, local governments across the country are finding ways that they can reduce wage theft in their communities and punish employers who cheat workers. In 2010, Miami-Dade County passed a wage theft ordinance that creates a county-level administrative process for workers to file unpaid wage claims. In its first year, more than 660 claims were processed under the ordinance, with workers recovering nearly \$700,000 in damages. Also in 2010, Fayetteville, Arkansas passed an ordinance which allows for the revocation of business licenses for any violation of federal, state, or local law. In 2011, Seattle, Washington amended its municipal code to strengthen criminal penalties related to wage theft, as well as allowing the City to revoke business licenses for companies that have wage theft violations.

Workers Interfaith Network urges the Shelby County Commission to pass a local wage theft ordinance which allows workers to file wage complaints with the County. Investigation and mediation of wage claims by County government would provide workers with a viable means to recover the wages they are owed. It will also create real consequences for employers who have made wage theft part of their business model.

As the following narratives demonstrate, wage theft has devastating consequences for hard-working Shelby Countians. Too often, they face this crisis alone, with few resources for help. A local wage theft ordinance will give workers the tools they need to claim their rightful pay.

Stories of Wage Theft: Zorina Bowen

Age:55 Ethnicity: African-American Type of Work: Cook

Zorina Bowen worked at the University of Tennessee as a DNA specialist until she was laid off from her job on July 15th, 2009 after 17 years of dedicated service. She lost her job on her 52nd birthday.

Zorina began searching for any job she could get to pay the bills and support her two daughters, one of whom was in college, and the other who was disabled and living at home. She found temporary relief as a substitute teacher for Memphis City Schools, but summer began shortly after, and substitutes were no longer needed. Around this time, it just so happened that a friend of hers, who owns Safari World Tapas Bar, was looking to hire a cook.

Grateful for the opportunity at the downtown restaurant, she started immediately. For between nine and thirteen hours a day, Zorina worked in the kitchen, putting orders together, cooking meals, and washing dishes. Of course, she expected to be paid for her hard work and the long hours she put into her new job, which often lasted from breakfast through closing.

“She made us think that we were doing fine and everything was rolling along nicely,” says Zorina. “We were making money in the restaurant, we knew how many orders were coming through the kitchen, and the bar was doing good, so we had no reason to suspect that anything was amiss.” At Safari, employees were paid sporadically for their work, and were told by the owner that they had more coming. When Zorina finally inquired about the rest of her wages, she was asked by the manager not to return.

After confronting owner Faatimah Muhammad about her wages, Zorina was told she would be paid, but Muhammad kept stalling. She would not show up to meet Zorina, and eventually quit taking her phone calls. Zorina never expected anything like this to happen because she and the owner had been friends for over 20 years. As a result of the wage theft, Zorina continued to struggle with bills. Her daughter’s health insurance alone cost \$895 because of a chronic health condition. Because she could not pay her bills, the electricity and phone were shut off, and Zorina had to take out a title loan on her car to get them turned back on. Her daughter ended up having to take out a loan to pay for her insurance. After everything, Zorina received only \$440 from Muhammad, and two years later is still owed \$1,493.

Zorina was not the only person to experience wage theft at Safari. Other employees, including a chef, manager, and two servers, told her that they were treated similarly. While Zorina has continued to try and recoup her stolen wages, others have given up on this seemingly futile pursuit. For the past two years, Zorina and the Workers Interfaith Network (WIN) have written letters and made phone calls to the owner, who refuses to communicate or pay Zorina what she is owed. WIN held an action in front of Safari to protest the wage theft, but Zorina and the group were ignored and harassed.

Zorina says she feels betrayed by the experience because it was a friend who deceived her. “It’s not a good feeling, especially since it’s somebody I knew personally, somebody that knew

my situation, and still did this, knowing full well she probably had no intention of paying me in the first place, but was getting free work.”

Zorina feels there is very little that a worker can do ahead of time to prevent this type of situation: “A lot of the time you don’t know you’re in a situation like that until it happens. You go in there with the full faith of getting paid for the hours that you work, but a lot of times you never know until it’s time to get paid and you don’t get paid. The work is being done, the money is there, but you’re not getting it.”

Zorina is still looking for a long-term job, but has not had much luck in the current economy. However, she continues to take whatever job she can get in order to provide for her family, and is still fighting to recover her stolen wages.

Stories of Wage Theft: Delmar Vasquez

Age: 23 Ethnicity: Latino Type of work: Custodial worker

The downturn in the economy has forced many young adults to find ways to support their families. This was true for Delmar Vasquez.

Delmar, who is originally from Guatemala, knew that he needed to find a way to help provide for his family. Having completed school only through the 6th grade, he knew that he could face some obstacles in becoming employed.

A friend of Delmar’s recommended that he apply for a job with OJ’s Cleaning Services, headquartered in Little Rock, Arkansas. He was hired and began work near the end of February 2008 as a custodial worker at a number of businesses in Shelby County. “I started working for them because I needed to work; I needed money to pay bills and support my family” says Delmar.

“I called five times and met with the general manager two times, but they kept refusing to give me the money I had worked for.”

His duties included floor repairs, cleaning carpets, as well as general custodial work. He was told he would be making \$8 an hour. Delmar described his boss as a helpful person who made his first month at the company an easy transition to working. However, things began to change when it came time for Delmar to collect his first pay check.

Delmar had worked for 30 days, and was expecting to receive a paycheck for \$1,400. When he went to collect his paycheck, he was told that if he presented a valid work visa, then he would be able to get his paycheck, but not until then. The company had not said anything to Delmar during the previous month about any problems with his paperwork.

“I tried to recover my wages by asking them to pay me. I called five times and met with the general manager two times, but they kept refusing to give me the

money that I had worked for,” says Delmar. “It affected my family when I wasn’t able to get paid,” said Delmar, “because they were depending on me to help support them.”

He didn’t know what to do at first. While trying to find someone to help him with this problem he discovered the Workers Interfaith Network (WIN) and its Memphis Workers’ Center. What he learned there was that he was entitled to the wages he had earned because the federal Fair Labor Standards Act guarantees the minimum wage to everyone who works in the United States.

Delmar was able to recover the \$1,400 that he was owed by OJ’s Cleaning Services after a lengthy process that included going on delegations with community members to speak with the companies where he cleaned, as well as initiating an investigation with the U.S. Department of Labor. Delmar encourages other workers who have experienced wage theft to take action. “We should unite to fight against wage theft. Being united makes us stronger,” he advises them.

Stories of Wage Theft: Jenny Meyers*

Age: 20 Ethnicity: White Type of Work: Waitress

Like many other hard-working college students, Jenny Meyers, a junior at Rhodes College, works a part-time job while attending school. When Jenny was a freshman, she applied for a serving position at the T.G.I. Friday’s in downtown Memphis. She was excited about the job because she figured she could earn more money this way than through other low-wage jobs. Little did she know that she would end up having to fight for her rightful wages and work against a manager who wanted to steal them from her.

Her typical day as a server was, for the most part, pretty good. She would come to work in the evening, serve tables, and leave around 1:00 or 2:00 am. Although she usually waited tables and cleaned, she became the head of closing on certain nights, which gave her more responsibilities. She only had nice things to say about her co-workers and the management, except for one manager in particular.

When Jenny began her new job, she came to find out that the previous management had caused a lot of financial problems for the restaurant, and that a new manager had recently been brought in to “clean up their mess.” This mess included paying back thousands of dollars in stolen wages. The new manager was very good about ensuring that Jenny got the right amount in her paycheck if she raised a complaint, but she had to take extra care to make sure that her pay was correct.

Sometimes her paychecks would have large gaps in them that couldn’t be accounted for. “If you didn’t know what you were looking for, then you had no idea,” said Jenny. “I’d be missing \$100, \$150, and I would have to make sure I scrutinized my check and kept up with everything.” This included writing down tips given on customers’ credit cards, keeping receipts and taking other measures to ensure she received the proper pay. All of the employees and management were aware of what was going on, and managers regularly reminded Jenny to write down her credit card totals and keep track of her hours in case there was a discrepancy.

Both the manager and employees suspected that the payroll manager was the one stealing the servers' wages. After all, she was the only manager who didn't advise employees to keep track of their hours and credit card totals. She was eventually fired once there was enough proof to show that she was indeed the one taking money from employees' paychecks. Jenny did not appreciate that T.G.I. Friday's management kept the manager on staff for six months before firing her, even though she was suspected of the theft.

Not only did Jenny have her tips stolen, but she was also often paid less than the minimum wage. Employers are legally required to make up for the difference if servers working for \$2.13 plus tips do not reach the minimum hourly wage of \$7.25 per hour. Sometimes she would find that her wages were not sufficient because the payroll manager refused to make up for the

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difference, and would claim she had made more cash tips than she actually had. When the manager claimed cash tips for the employees that they didn't receive, it would often bring them below the minimum wage.

"I'd go in on a school night when I had a test the next day, come home at 2:00 am from closing, exhausted, with only \$15. And the money that would be cash tips, I would claim however much I made, but they would claim more for me, so then I would end up having only made \$2 an hour the whole time I was there." This was what ultimately pushed her to quit her job at T.G.I. Friday's.

In the end, Jenny was able to recoup all of her stolen wages, which totaled up to about \$500, but only because she kept track of what she was owed. Workers like Jenny should not have to worry about making sure they are paid for their hard work, let alone have to feel guilty about asking for something they are owed by law. "I felt like I was being a problem, going in and complaining and giving the manager one more thing to deal with. It's never a comfortable conversation to have because you're asking for money, but it's the money you're supposed to have anyway. It makes you feel like you're trying to cheat the system when you're really being cheated."

Jenny feels that all workers should participate in training courses on how to read their checks and be ready to act in case they sense that something is missing. "Most of the burden falls onto the worker. You have to know how to read your check, be proactive, keep up with your stuff," she says.

*name has been changed

Stories of Wage Theft: Fernando Santiago

Age: 27 Ethnicity: Latino Type of Work: Waiter

Did you know that there are some waiters in Memphis who are getting paid nothing by the restaurants they work for, except for the tips you leave?

That's what happened to Fernando Santiago. Fernando was a waiter at Mis Pueblos restaurant on Hacks Cross Road. He worked 60 hours a week. The law required Mis Pueblos to pay him \$2.13 an hour. If customers' tips did not bring his pay up to the federal minimum wage of \$7.25 an hour, the restaurant was also supposed to pay the difference. Since Fernando was also working more than 40 hours a week, he was also entitled to overtime pay for the extra 20 hours a week he worked.

Fernando wasn't sure what the law said about his pay, but he knew he was entitled to some kind of wages besides tips. He called Latino Memphis, who referred him to WIN's Workers' Center.

“Wage theft is a kind of slavery. And slavery in America just doesn't make sense.”

After Fernando sat down with WIN staff member Alfredo Peña, they figured out Mis Pueblos owed Fernando over \$24,000 in minimum wages and overtime pay. Reflecting on his experience, Fernando said, “Wage theft is kind a kind of slavery. And slavery in America just doesn't make sense.”

After several negotiation sessions between Mis Pueblos and WIN, Fernando agreed to take a settlement of \$13,000 in back wages from the restaurant.

After recovering this portion of his wages, Fernando said "I feel good, and not that good at the same time, because they only paid me part of what they owed me. But it's good to know that no matter what, we all have rights here. What they were doing was stealing. Maybe this will make the manager start paying his employees like he's supposed to."

Fernando knows that he was not the only employee experiencing wage theft at Mis Pueblos. He has encouraged other waiters and kitchen staff to come forward to demand that they be paid minimum wage and overtime. Mis Pueblos has the same owners as another restaurant, El Toro Loco, where Cynthia Marquez experienced wage theft (see page 12 for Cynthia's story.)

Stories of Wage Theft: Jamal Jones*

Age: 37 Ethnicity: African-American Type of Work: Oil change technician

Jamal Jones's passion is working on cars. A mechanic by trade, he currently works as a technician at a national oil change shop in Bartlett. Although he really enjoys his job and appreciates being able to do what he loves, he didn't appreciate it so much when one day, his manager asked him to work while he was on his unpaid lunch break.

The shop where Jamal works is normally staffed with four people at a time, but management will sometimes send two people home if business is slow. When there are only two people left on staff, one of the workers will often take his 30-minute lunch break while the other continues to service cars. While Jamal was working, his manager asked him to clock out and begin his lunch break. As soon as he clocked out, two cars pulled up for an oil change, and his manager asked him to “help out” with both cars, even though he was on break.

At first, Jamal didn't think it was a big deal, but once he began on the second car, he realized the unfairness of the situation. He told the manager that he did not want to work while on break, but the manager brought up the fact that in the past, Jamal had come to work late a couple of times. When the manager told him to help him out with the cars to make up for it, Jamal felt that he was being pressured into essentially working for free.

That day, Jamal worked free for 15 minutes, and was never compensated for that work. For a working man who supports a wife and three children on wages that are just above minimum wage, 15 minutes of pay can make a difference.

At another oil change business where Jamal previously worked for 7 months, he was expected to work off the clock on an almost daily basis. His supervisor would tell him to clock out when no cars were in the shop, but he had to clean the shop while he wasn't being paid. When another car would drive up, Jamal was told to clock back in. He doesn't know how much all those unpaid hours adds up to.

"It makes you feel like you're being used, like you don't have rights, that you don't have any say so whatsoever."

Not surprisingly, Jamal knows of other oil change employees who have also been asked to work while on break. He says that most of them are afraid to say something to the managers because they are afraid of losing their jobs. All that time can add up to serious amounts of lost wages on behalf of hard-working folks everywhere, and serious amounts of free labor for national chains like the one where Jamal works. "It's a choice," says Jamal. "You're not being forced, but at the same time, it's a thing you can't do anything about. It makes you feel like you're being used, like you don't have rights, that you don't have any say-so whatsoever."

When Jamal was pressured by the manager to work off the clock to make up for being late, it really affected how he felt about his position. His overall perception of the management at the oil change shop is less than stellar. One manager sits around all day, feet propped up on the desk, while the technicians work hard servicing cars. He has also had to deal with a manager who has told offensive, racist jokes about African Americans. "A lot of times they figure if they're in a management position, they can ask or do anything, whatever and whenever they want to."

Jamal believes that managers who ask workers to work during breaks should be fined, and employees should be compensated for any time they worked without being paid. Unfortunately, Jamal does not feel he has any sort of recourse in his current position. "We figure the only thing the district manager is going to do is give the store managers a tap on the wrist. They don't know what's going on in the store because it never gets out. The store managers are still going to be there, and somewhere down the line they're going to do it to somebody else."

Jamal says that he doesn't mind being asked to work while on break as long as he can clock back in and be paid for his work. For now, he plans to continue working at the oil change shop in order to save enough money to become an independent mechanic with his own shop.

*name has been changed

Stories of Wage Theft: Juan Diaz

Age: 28 Ethnicity: Latino Type of Work: Construction/Dry Wall

Juan Diaz is a husband, a father, and a provider for his family. He knows the importance of working hard in order to take care of his family. For the last 7 years, he has worked as a framer and drywall hanger for various construction companies.

In 2009, he had trouble finding work in his field after the economic downturn created a harsh job market for construction workers. After searching for 2 months for work, he was hired in April of that year by Ranger Construction Company.

“I would drive to work each morning and think about how excited I was for the new day of work that I was about to start,” Juan said about his new job. Juan was expecting to be paid \$15 an hour for his work, and he was very excited to be able to provide for his family with this new position.

However, his boss at Ranger often treated Juan and his co-workers in a very harsh manner. “They seemed to care more about the production of the work than they did about our safety”.

“It was like an arrow through my heart when I heard there wasn't going to be a check for me.”

On Friday, after his first week of work, the boss tapped Juan on his shoulder and told him that he no longer had work for him, and that he needed to get his stuff and head home. When Juan asked his boss about his one week of pay that was owed to him, his boss responded he did not plan to pay him. “It was like an arrow through my heart when I heard there wasn't going to be a check for me,” said Juan.

Juan describes his situation like this: “When you spend one or two months without work, and then you can't get what is owed to you, it's like you and your family are all alone in the desert. You are depending on that money to pay your light bill and buy diapers. I just want to be able to provide the necessities for my family. I would often imagine that when I got home the electricity would be turned off, or the landlord would have put our belongings on the street.”

This was not the first time Juan had experienced wage theft. He actually had been through a similar scenario 5 or 6 times before. The first time he went to an attorney who told him that he either needed to be dead or in a wheelchair to make the amount of money owed to him worth the attorney's time.

Juan had heard of the work of Workers Interfaith Network, and decided to come in and see what could be done about his stolen wages. In talking with staff at the Workers' Center, Juan found out that the organization had dealt with Ranger Construction's wage theft before. With the support of the Workers Center, Juan was finally able to recover all of the money that was owed to him. This happened only after months of negotiation with the company, as well as picketing the business, and assistance from a pro bono attorney.

Stories of Wage Theft: Cynthia Marquez

Age: 20 Ethnicity: Latina Type of Work: Waitress

Like many young adults today, Cynthia Marquez understands having to work a full-time job to support her family. At the same time, she's going to college part-time to make a better life for herself. What Cynthia did not realize was that her employer was violating her right to be paid minimum wage.

When Cynthia moved back home in the spring of 2010 from college in order to help her family, she began to look for a job. A friend of hers suggested that she talk to an acquaintance who was opening a restaurant. Cynthia went to meet with this new restaurant owner, and without even filling out an application was told to come in the next day to begin working. On April 1, 2010, Cynthia started working at the Poplar Avenue location of El Toro Loco first as a cashier, and then as a waitress.

When she began working for El Toro Loco, the manager Arturo told her she could either work for \$2.13 an hour or she could work for tips. Cynthia knew that she couldn't afford the gas to drive from where she lives in Mississippi to the restaurant on \$2.13 an hour, so she chose to work for tips. What she did not realize was that the law required the restaurant to pay her both \$2.13 an hour and all of her customers' tips. If together these did not equal the minimum wage of \$7.25, the restaurant was responsible for making up the difference.

Even more upsetting was that often when customers would tip Cynthia, she would not receive the tips. On many occasions, she had customers that would tell her what a great waitress she was, and that was why they tipped her so well. Cynthia would ask why they didn't tip her the last time they ate there, and the customers would tell her that they gave the tip to the guy at the cash register. Once she approached Arturo about a \$10 tip a customer said she had left for Cynthia the previous week, and he said he did not remember someone leaving a tip with him. Not having any proof that the tip had been left with Arturo, Cynthia dropped the issue.

Cynthia would come in at 10:00 A.M. to help open the restaurant for business the day, and work until 11:00 P.M. or even midnight with only 2 hours of breaks. She worked for 5 or 6 days a week. On a good day at the restaurant, Cynthia would make \$150-\$200, and on a slow day, she would make about \$60 in tips.

In June of 2010, Cynthia was asked to go to the newest location of El Toro Loco on Kirby to train new workers, and help manage the restaurant. When she began working at the new location, she worked every day, and was still putting in 12 hour days. Again, she was told that she could either work for \$2.13 an hour or for tips.

At the Kirby location, Cynthia was expected to wait tables, bartend, and ensure that everything that was needed to run the restaurant was there. This took her away from waiting tables sometimes, and because she was only working for tips, she was not being paid.

Cynthia began to feel frustrated and angry about the decrease in pay. “I wasn’t even making half of what I was making at the Poplar location, and I didn’t make enough to pay for the gas I was using to drive back and forth from Mississippi”.

While working at the Kirby location, Poncho the manager began to harass Cynthia. “He would say let me kiss you, leave your boyfriend and come with me,” Cynthia recalls. “I would tell him to stop, but the sexual harassment got worse and worse.” What Cynthia experienced is not uncommon. When issues of wage theft occur, there are often other problems in the workplace, such as unsafe conditions or discrimination.

One of Cynthia’s friends talked with her about Workers Interfaith Network (WIN), because she knew that Cynthia was not being paid the minimum wage. Cynthia contacted WIN and began to discuss her rights as a worker. She had no idea that El Toro Loco was supposed to pay her \$2.13 an hour plus tips, and this angered her to discover that she had been lied to.

When WIN began looking into the matter, they discovered that the US Department of Labor (USDOL) had done an independent investigation of El Toro Loco, and Cynthia would be receiving a check for \$2,000 from USDOL for a portion of the back pay owed to her.

Like many young workers, Cynthia was unsure of her rights, but now she has a better understanding of what she and others that work in restaurants are supposed to be paid. Looking back on the situation Cynthia’s advice to others is to “Jot down their hours, jot down every time they get a table, how much they’re getting on their credit cards, just to make sure it’s the right amount.”

What You Can Do to Stop Wage Theft

As you can tell from reading these stories, wage theft has many faces. You may not be experiencing wage theft, but it is very possible that your neighbors, family members, or even someone you work with may be a victim of wage theft. Fortunately, there are many things that we can do to stop, reduce, and deter wage theft:

- If hiring a contractor, ask companies during the bidding process what they pay their workers.
- If you are an employer, become familiar with wage laws and your responsibilities to your employees.
- When you go out to eat, give your waiters their tips in cash, and hand them directly to your server to prevent tip stealing.
- Contact Workers Interfaith Network if you think you have been a victim of wage theft, and encourage your friends to do the same.
- Contact your Shelby County Commissioners and encourage them to pass a local ordinance to protect workers from wage theft (see back cover for contact information).

Together, we can help put an end to wage theft, and support workers across our county so that they can earn what is rightfully theirs.

Shelby County Board of Commissioners

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District 5:	Steve Mulroy	steve.mulroy@shelbycountyttn.gov

Board of Commissioners Phone: 901-222-1000.

About Workers Interfaith Network

Workers Interfaith Network brings together low-wage workers, people of faith, and community members to take action for justice in the workplace. If you would like to get involved in the campaign to pass a local wage theft ordinance, or you have been a victim of wage theft, contact us:

Workers Interfaith Network, 3035 Directors Row, B—1207, Memphis, TN 38131
(901) 332-3570 workersinterfaithnetwork.org

Endnotes

¹ Bobo, Kimberley (2011). *Wage Theft in America: Why Millions of Americans Are Not Getting Paid--and What We Can Do About It*. (2 ed., p. 159). New York, NY: The New Press.

² Bernardt, Annette, et al (2009). *Broken Laws, Unprotected Workers; Violations of Employment and Labor Laws in America's Cities*, (New York: Center for Urban Economic Development at UIC, National Employment Law Project and UCLA Institute for Research on Labor and Employment) p. 5.

³ Ibid, p. 5.

⁴ Ibid, p. 5.