

**A FAIR DAY’S PAY FOR A FULL DAY’S WORK:  
PRIVATE ENFORCEMENT OF WAGE AND HOUR RIGHTS**

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**Brief Description:** I will discuss wage payment claims (for unpaid wages and illegal deductions) and how these claims can be referred by legal services programs and others to the private bar for pro bono representation.

**Topical Outline:**

- I. What are wage payment cases?
  - a. They are cases where an employer refuses to pay wages due to the worker.

**Common examples:**

    - i. Not paying the worker at all.
    - ii. Withholding the last pay of a person who quit or was fired.
    - iii. Deducting for alleged losses sustained by the employer (damage, theft, etc.).
    - iv. Refusing to pay vacation, personal days, etc., at the end of employment.
  - b. These cases may not be large, but there is a principle of **fundamental fairness** that workers should be paid for their labors.
  - c. They are **not** cases alleging minimum wage or overtime violations.
- II. How are wage claims enforced?
  - a. Look at your **state “wage payment law”** for rights and remedies.
  - b. Government agencies
    - i. U.S. Department of Labor – not much help for these claims; enforces only minimum wage and overtime.
    - ii. **State agencies** – procedures differ by state. Example:
      1. California – provide administrative hearing.
      2. Pennsylvania – investigate and dun the employer; limited enforcement.
  - c. Private enforcement
    - i. **Demand letters** – often successful.
    - ii. **Litigation in small claims court** – may be additional remedies, including attorneys’ fees (although not usually enough to attract private counsel as a fee generating matter).

- III. CLS' referral of wage payment cases as pro bono cases
  - a. Why did we want to start referring these cases?
    - i. Cut down on CLS' employment workload.
    - ii. We felt a need to get some cases beyond demand letters and state agency complaints, into small claims court.
  - b. Why did we assess these cases as good pro bono cases?
    - i. Small cases.
    - ii. Not complicated.
    - iii. Opportunity for junior lawyers to get into court.
  - c. How did we help private lawyers take on these cases? By assembling a "starter kit" (available as session materials).
    - i. Short outline of the law.
    - ii. Form demand letter and pleadings.
  
- IV. Setting up your own wage payment pro bono project
  - a. Prepare a starter kit.
  - b. Identify referral sources – small claims court?

**Notes:**

**Bibliography & Website Links:**

- 1. State Compensation Laws (CCH 2004) (compilation of state wage and hour laws).
- 2. U.S. Department of Labor website
  - a. State payday requirements:  
<http://www.dol.gov/esa/programs/whd/state/payday.htm>
  - b. State labor offices: [http://www.dol.gov/esa/contacts/state\\_of.htm](http://www.dol.gov/esa/contacts/state_of.htm)