

TESTIMONY OF ATTORNEY PETER GOSELIN
TO THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
IN SUPPORT OF S.B. 798: AN ACT REQUIRING DOUBLE DAMAGES
BE AWARDED IN CIVIL ACTIONS TO COLLECT WAGES

Honorable Chairpersons and Members of the Committee:

My name is Peter Goselin. I am an attorney in private practice with more than fifteen years of experience litigating employment cases in Connecticut's state and federal courts. For the last four years, most of my legal practice has been devoted to representing employees in cases involving wage theft. I offer my remarks today in support of Senate Bill 798, which would amend Connecticut General Statutes §31-72 to make an award of double damages mandatory in cases of wage theft.

About the term "wage theft." I don't know if she coined the term but Kim Bobo, the founder and executive director of Interfaith Worker Justice is certainly the person who popularized it with her 2009 book "Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid – And What We Can Do About It." Simply put, wage theft is when you do the work and don't get paid. Although wage theft occurs in every industry and at every pay level, it has its most devastating effects among low wage workers where it takes several forms. Some employers are engaging in wage theft by failing to pay their employees the Connecticut minimum wage or overtime wages for hours of work over 40 hours in a one week period. However, in many instances employers are refusing to pay employees for days, weeks or even months of work.

For most of us, one of the most bedrock assumptions of our working lives is that after we have put in a week of work, we will receive a paycheck for the work we have performed. But for literally thousands of low wage workers in Connecticut that is simply not a reality. In the last four years I have personally represented nearly two hundred employees in wage theft cases involving the non-payment of hundreds of thousands of dollars. The offending

employers were mostly not fly-by-night operations but established businesses whose owners have determined that they can cut their bottom line by violating Connecticut wage laws. It is not exaggeration or hyperbole to say that these employers are directly profiting from the exploitation of some of the most vulnerable members of Connecticut's workforce.

I would like to introduce you – metaphorically, at least – to three of my clients who have been victims of wage theft.

Miriam worked as a house cleaner for three years. Monday through Friday at 6:00 AM, a van would stop on the corner outside her apartment to pick her up. Along with four or five other women she would be driven from house to house in one of the wealthiest communities in Connecticut. At each stop they would have only a short time to carry their supplies into the house, clean bathrooms and kitchens, mop floors, dust and vacuum, empty trash and then get back into the van and go on to the next house. Because they were not provided with proper protection from the cleaning chemicals, Miriam was prone to develop painful red rashes on her hands and arms. There were no lunch breaks but if she brought a sandwich she might have enough time to eat it between stops. The time spent in the van is the closest thing to a break that Miriam ever got between 6:00 AM when the day began until it ended somewhere between 6:00 PM and 8:00 PM.

Each week the employer gave her a check: \$350.00 for between 60 and 70 hours of work. If you calculate it at straight time, Miriam was paid between \$5.00 and \$5.83 an hour even though the minimum wage in Connecticut is \$8.25 an hour.

Calculated according to the law, Miriam was cheated out of between \$225 and \$350 a week, each week for three years. Miriam and four of her co-workers have been in litigation against this employer for almost two years as they fight us every step of the way. Yesterday, I happened to meet with a woman who went to work for the same employer a year ago. Turns out that the employer is still paying \$350 a week for 60 or more hours of work each week,

even though they had represented to us in litigation that they now pay their workers minimum wage.

Fred worked as a house painter. For several years he worked exclusively for the same company. During the warmer months of the year, Fred regularly worked fifty to sixty hours a week, but his employer lied to him and told him that he was a salaried employee so he didn't get paid for overtime. The only reason Fred finally sought out legal help is that the boss was a month behind in paying him when he quit, and he wanted to recover the \$2,000 he was owed – only to find out that he is actually owed over \$15,000.

Thomas was hired to work in a very trendy restaurant kitchen as a dishwasher. When he and the two other dishwashers were hired, \$75 a night sounded like a pretty good deal. Between the three of them, they never worked more than an eight hour shift so they were being paid more than minimum wage. But the boss fired first one and then another of his co-workers and Thomas' shifts got longer and more frequent until toward the end he was working five or six shifts in a row, usually between 12 and 14 hours each shift.

Thomas was desperate to keep his job, but after a few weeks of this he tells me that he would sit outside the restaurant after his shift was over and cry because he was in so much pain. One day Thomas showed up early on payday to get his paycheck – amounting to about \$6.00 an hour. The boss got mad at him when Thomas demanded his money, called him a string of filthy names and then literally kicked him out of the back door of the kitchen.

I have spoken on the plague of wage theft in Connecticut to a variety of audiences over the last four years and the almost universal response is one of disbelief. Can it really be that in Connecticut we have hundreds of employers cheating thousands of employees out of hundreds of thousands or even millions of dollars in wages? But the experiences of Miriam and Fred and Thomas and their co-workers and others provide the answer to the question: Yes, wage theft is a plague on low wage workers in Connecticut.

The courts have interpreted Connecticut General Statutes §31-72 as requiring payment of wages owed when a worker brings a claim, and only awarding double damages when the worker can show that the employer acted with "bad faith, arbitrariness or unreasonableness." This holds open the danger that an employer who is sued for wage theft can literally treat the lawsuit like it was an interest-free business loan. That is to say, the employer got the benefit of the money that he stole from the worker for months or maybe years, and although he now has to pay the wages owed he may suffer no penalty whatsoever. But it's actually worse than that. Most lawsuits are, as a practical matter, resolved through settlement. So in many instances, the employer can settle a wage theft claim by offering to pay less than the total amount of wages owed.

S.B. 798's proposed revision of §31-72, making an award of double damages mandatory where the plaintiff has proved her claim of wage theft, would make Connecticut law consistent with the federal Fair Labor Standards Act, under which the courts have said that double damages are the norm. More importantly, it would provide a genuine disincentive to employers to cheat their workers and would fairly compensate the workers when they are forced to bring legal claims merely to be paid the wages that the law says they are owed.