



DOL News Brief

January 17, 2013

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WINNER OF PRSA'S 2012 THOTH AWARD & RAGAN'S 2012 PR DAILY AWARD
— BEST ELECTRONIC NEWSLETTER —

A Hard Day's Night @DOL



In what may be one of the largest youth mobilizations against a U.S. Department of Labor rule, young fans from around the country sent letters and petitions asking Secretary W. Willard Wirtz to rescind a

regulation they thought would ban foreign entertainers. The teens were especially concerned about four Englishmen who had recently revolutionized popular music. Their names? John, Paul, George and Ringo. In 1964, the department, worried that American entertainers were facing unfair competition, tightened rules on foreign talent seeking to enter the United States. That year, the Beatles racked up the top two hits on the Billboard 100 and released the album, "A Hard Day's Night."

Many press articles at the time incorrectly reported that the new rules would ban music groups like the Beatles



from coming to the United States forever. In fact, the Immigration and Naturalization Service provided numerous exceptions to this rule, including allowing foreigners with unique talent to enter. Wirtz responded to one fan's plea, indicating that he thought the Beatles would be permitted to tour in the United States. "While the government of the United States is old, it is not run by old fogies," he wrote the young fan.

- [View the Centennial Video](#)
- [Read a Letter to Secretary Wirtz](#)
- [Read Another Letter and Wirtz's Response](#)

Whistleblower Protections at BNSF

BNSF Railway Co. of Fort Worth, Texas, has signed an accord with the Occupational Safety and Health Administration to voluntarily revise several personnel policies that OSHA alleged violated the whistleblower provisions of the Federal Railroad Safety Act. The law protects railroad workers from retaliation for, among other acts, reporting suspected violations of federal laws

What's New

Final Rule Announced on Mine Safety Measures

A new rule aimed at strengthening safety in the nation's most dangerous mines was announced on Jan. 17 by Secretary Solis. The final rule revises the Mine Safety and Health Administration's pattern of violations regulation. It will ensure that mine operators monitor and address the most hazardous safety problems in their mines and will place MSHA in a better position to identify operators that demonstrate a disregard for the health and safety of miners. "The tragedy at the Upper Big Branch Mine should not be forgotten," Solis said. "The rule we are announcing today will hold mine operators accountable when they disregard life-saving safety measures." The rule will allow MSHA to issue a POV notice without first issuing a potential POV notice; eliminate the existing requirement that MSHA can consider only final orders in its POV review, and establish general criteria and procedures that MSHA will use to identify mines with a pattern of significant and substantial violations. Joseph Main, assistant secretary of labor for mine safety and health, called the new rule, "one of MSHA's highest priority regulatory initiatives."

- [Read the News Release](#)
- [View the POV Single Source Page](#)
- [Listen to the Press Call](#)

Kicking the Wheels at the Detroit Auto Show

At the 2013 North American International Auto Show, it's all about cars, drivers, an accelerating industry and a jobs renaissance. Secretary Solis traveled to Detroit for the show, where she was joined by Bob King, president of United Auto Workers, and met UAW members who built the cars on



display. Several of those UAW members have credited the Obama administration's efforts to rescue the Big Three automakers as well as its strong emphasis on in-sourcing manufacturing as essential to bolstering their jobs and the industry. During the tour, Solis saw the latest products and technology being introduced by General Motors, Ford and Chrysler and also had an opportunity to test drive a new Chevy Volt.

- [View the Slideshow](#)

YouthBuild Grants Announced to Boost Education and Jobs

A total of \$75 million in grants are now available to fund approximately 75 YouthBuild programs around the country. The funding will be used to develop programs that will help out-of-school youth obtain a high school diploma or GED, as well as learn occupational skills in construction, health care, information technology and other fields. YouthBuild is a nonresidential,

and regulations related to railroad safety and security, hazardous safety or security conditions, and injuries. "Protecting America's railroad workers who report on-the-job injuries from retaliation is an essential element in OSHA's mission. This accord makes significant progress toward ensuring that BNSF employees who report injuries do not suffer any adverse consequences for doing so," said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. "It also sets the tone for other railroad employers throughout the U.S. to take steps to ensure that their workers are not harassed, intimidated or terminated, in whole or part, for reporting workplace injuries."

- [Read the News Release](#)

Security Contractor Faces Lawsuit

The department has filed a lawsuit to require U.S. Security Associates Inc., — which provides uniformed and trained guards and other emergency responders under federal contract — to submit documents detailing the company's affirmative action plans for its facilities in Milwaukee, Wis., and Portage, Ind. The suit, filed after the company repeatedly refused to provide the documents as required by law, calls for the company to give the department's Office of Federal Contract Compliance Programs all information requested, cooperate with scheduled compliance reviews and fully comply with the requirements of all laws enforced by the agency. If the company fails to comply, the department asks the court to cancel all of the company's current government contracts and to debar the entire company from entering into future contracts.

- [Read the News Release](#)

Twitter Open House With Solis

If you've ever wanted to join us for a discussion at the Labor Department or talk to Secretary Solis, here's your chance: Come to our "open house" on Twitter Friday, January 18 at 12:30 p.m. EST! Want to know what the department is doing to protect workers? Interested in using social media to find jobs? This chat is for you. History buffs may also want to tune in for highlights of the department's accomplishments over our 100-year history. Join the conversation by using the hashtag #DOL100 or tweet questions in advance to @HildaSolisDOL.

- [Tweet your questions to @HildaSolisDOL](#)

Job Search Going Mobile

The department's Employment and Training Administration is keeping up with changing times by making some of its most popular online tools available as mobile-optimized websites. The new mobile tools will help smartphone or tablet users locate American Job Centers near them, conduct an online job search, search for jobs for veterans, view and compare salaries for various occupations

community-based alternative education program that provides skills training to 16-to-24 year olds at risk of falling out of the labor force. Enrollees have been in the juvenile justice system, are aging out of foster care, have dropped out of high school or are at risk of failing to reach key educational milestones. Over the years, more than 100,000 students have graduated from YouthBuild programs, providing them with a second chance at success.

- [Read the News Release](#)
- [Read the Blog Post](#)
- [Listen to YouthBuild Students Tell Their Story](#)

National News

Partnering With Iowa and Protecting Workers Rights

To help prevent employee misclassification as independent contractors by employers, the department's Wage and Hour Division and Iowa Workforce Development have signed a memorandum of understanding that protects workers rights. Mary Beth Maxwell, acting deputy administrator of the Wage and Hour Division; Jane Oates, assistant secretary of labor for the Employment and Training Administration; and Teresa Wahlert, director of Iowa Workforce Development, hosted a teleconference to discuss how their agencies will embark on new efforts, guided by the memorandum, to protect the rights of employees and level the playing field for responsible employers by reducing the practice of misclassification. Iowa is the 14th state to enter into this type of partnership with the department. Since September 2011, when the Wage and Hour Division began entering into memoranda of understanding with several states and announced a similar partnership with the Internal Revenue Service, the division has collected \$9.5 million in back wages for more than 11,400 workers.

- [Read the News Release](#)

DOL Working for You

California Students Save on Textbooks With DOL Project



Students studying for careers in health care, manufacturing and other fields will soon use textbooks priced at a fraction of their cost through the department's Trade Adjustment Assistance Community College and Career Training grant program. California's West Hills Community College, the grant recipient, along with 10 educational consortium partners, has developed "open source" textbooks. Study materials are taken from the Internet, vetted by faculty and professionals in the field, and produced as online content that students can print or download to their phones, tablets or computers. West Hills' president, Carole Goldsmith, estimates the new textbooks will

cost a student about \$10 instead of \$250 per book. She added that these savings are especially important for economically-challenged students seeking new careers and skills. The department's funding of the project "is shaping how educational reform is taking place across the nation," Goldsmith said, "while also preparing students for jobs in high-skill and high-demand occupations."

Job Corps Grad Becomes Amtrak Mainstay

Dena Robinson already had one career in her sights when she

and search for nearby job training providers. These changes are part of an ongoing effort to make workforce resources more accessible to a wider audience and to ensure that anyone interested in finding a job has all the tools they need at their fingertips.

- [Read the Blog Post](#)

Honoring Sen. Rockefeller

Secretary Solis released a statement this week honoring Sen. Jay Rockefeller of West Virginia who announced his retirement from the U.S. Senate on Jan. 11. "On everything from education to job creation, caring for seniors and veterans, and ensuring access to quality, affordable health care, Sen. Rockefeller has been a strong and outspoken voice for working families in West Virginia. His passion can be found in every corner of every community throughout the Mountain State," said Solis. After experiencing the tragedy of the Upper Big Branch mine explosion firsthand, she remarked that Sen. Rockefeller "has led an unrelenting fight for our nation's coal miners. And in the wake of the Upper Big Branch Mine explosion, I was proud to be at his side greeting and consoling families while rescue efforts were underway." Rockefeller will continue to serve until completing his fifth term, which ends in 2014.

- [Read the Secretary's Statement](#)

Going Green in Philly

Representatives of the Women's Bureau were on hand to discuss careers in green industries during the Jan. 15 Green Guide Workshop at the Free



Library of Philadelphia. Rose Holandez, senior program analyst for the bureau, informed attendees about emerging career opportunities for women. The event was attended by representatives from the Community College of Philadelphia, Infinite Solar Inc., and the Energy Coordinating Agency. The Green Guide is a Women's Bureau publication that provides resources and information that women need to enter and succeed in jobs in the green economy.

- [View the Green Guide](#)

New Texas Field Office

The Wage and Hour Division has opened a field office in College Station, Texas, to connect employees, employers, community organizations and other stakeholders with resources and assistance to ensure compliance with federal wage and hour laws. The field office address is located at 547 William D. Fitch Parkway, Room 112, College Station, TX 77845. The field office has oversight for agency enforcement activities throughout the greater College Station/Bryan area,

graduated from North Carolina's Kittrell Job Corps Center with skills in facilities maintenance and welding. But at the last minute she decided to explore other career options. Robinson enrolled in transportation training offered at Washington, D.C.'s Potomac Job Corps Center by the Transportation Communications Union/International Association of Machinists and Aerospace Workers. When she finished her studies, Robinson was hired by Amtrak's Virginia-to-Florida Auto Train, where she now provides a variety of customer services ranging from chef to dining attendant to bartender. Robinson often shares her story with fellow Job Corps students "to help them see what can happen when you stay focused and motivated."



DOL in Action

Safety Violations at Veterans' Medical Center in Michigan

The Battle Creek VA Medical Center has been issued seven notices of unsafe or unhealthful working conditions following a safety inspection conducted in July as part of the Occupational Safety and Health Administration's Federal Agency Targeting Inspection Program. Three repeat safety violations involved failing to evaluate the workplace to determine if permit-required confined spaces were present, failing to adequately guard equipment, and failing to fully guard the belt and pulley of an air compressor. As required by the Occupational Safety and Health Act, federal agencies must comply with the same safety standards as private-sector employers.

- [Read the News Release](#)

Racetrack Workers in Kentucky Receive Back Wages

Kenneth McPeek Racing Stables Inc., doing business as Kenneth McPeek in Lexington, Ky., has paid \$59,339 in back wages to 142 employees following an investigation by the department's Wage and Hour Division. Investigators found violations of the Fair Labor Standards Act's overtime and record-keeping provisions. Several nonexempt employees, who had been engaged to work at racetracks, were improperly classified as exempt from receiving overtime pay, the investigators determined. Additionally, the employer did not maintain accurate records of the employees' work hours and failed to post the FLSA poster in the workplace. Kenneth McPeek Racing Stables is a horse farm that breeds, trains and sells thoroughbred racehorses and participates in commercial racing at various racetracks throughout the United States.

- [Read the News Release](#)

Riddell All-American Sports Cited for Safety and Health Hazards

Riddell All-American Sports Co. has been cited with eight serious violations following an investigation by the Occupational Safety and Health Administration, which found that the company exposed workers to multiple safety and health hazards at its San Antonio facility. The violations include failing to ensure electrical equipment was free from recognized hazards, provide adequate machine guarding while employees operate industrial sewing machines and provide a fall protection program to prevent falls from the basket of a powered industrial truck. The Elyria, Ohio-based company, which employs about 25 workers in San Antonio, paints helmets for various sports. Proposed penalties total \$44,000.

including enforcement of labor standards on federal construction and service contracts. The Wage and Hour Division also services central and southeast Texas through a field office in Beaumont and an extension office in Clear Lake.

- [Read the News Release](#)

Weekly UI Claims

The department reported the advance figure for seasonally adjusted initial Unemployment Insurance claims was 335,000 for the week ending Jan. 12, a decrease of 37,000 from the previous week. The four-week moving average was 359,250, down 6,750 from the previous week's revised average of 366,000.

- [Read the News Release](#)

Upcoming Deadlines & Events

[Open Funding Opportunities](#)

Solicitation for Grant Applications For Youth Building Grants

- [Learn More](#)

Get Involved! Day of Service

To honor the life and legacy of the Rev. Dr. Martin

Luther King, millions of

people across the country

are volunteering this

Saturday as part of the

National Day of Service. If you're in the

Washington, D.C., area on Saturday, please

visit us at the Department of Labor table at the Service Fair on the National Mall.

- [National Mall Service Fair](#)
- [Find an Event Near You](#)



OASAM — Small Business Vendor Outreach Session

- [January 23 — Washington, DC](#)

OFCCP — 2013 Community Resource Fair

- [February 14 — Bloomington, MN](#)

OFCCP — Analyzing Personnel Activity Data/ Internet Applicant Recordkeeping Rule

- [January 24 — Columbus, OH](#)

OFCCP — Construction Best Practice Seminar

- [February 21 — Milwaukee, WI](#)

OFCCP — Construction Requirements

- [February 21 — Omaha, NE](#)

OFCCP — Everything You Want to

- [Read the News Release](#)

California Insurance Company Faulted on Pay Practices

A California insurance company with branch offices throughout the state has agreed to pay \$43,300 in back wages, \$43,300 in liquidated damages and \$33,000 in civil money penalties. Investigators from the department's Wage and Hour Division found that Colton, Calif.-based Premier Insurance Services used a commission-only pay practice which resulted in 90 employees being paid below the federal minimum wage and failing to receive an overtime premium for hours worked beyond 40 per week. The division settled a related case last year after investigators discovered similar violations involving Upland, Calif.-based Speedlane Insurance Services.

- [Read the News Release](#)

New York Roofing Contractor Faces Fines for Fall Hazards

Rochester-based roofing contractor A.M. Stern Inc. has been cited for alleged willful and repeat fall-related hazards following an inspection by the Occupational Safety and Health Administration's Buffalo Area Office at a Fairport, N.Y., worksite. On two occasions during the investigation, OSHA inspectors observed Stern employees exposed to falls of 15 to 30 feet while working at the unprotected edges of the building's roof. The designated safety monitor on site was not positioned close enough to employees working in unprotected sections to warn them about the fall hazards. A.M. Stern Inc., which faces \$159,250 in fines, was also cited for respirator, forklift and hazard communication hazards.

- [Read the News Release](#)

Florida Agriculture Initiative Continues

An ongoing enforcement initiative that focuses on the agricultural industry in central Florida has uncovered widespread violations of the Fair Labor Standards Act, the Migrant and Seasonal Agricultural Worker Protection Act and the field sanitation standards of the Occupational Safety and Health Act. The Wage and Hour Division's Tampa District Office conducted 144 investigations of agricultural industry employers in 2012, recovering more than \$135,000 in back wages for 926 workers and assessing approximately \$228,000 in civil penalties. The division also conducted more than 40 outreach sessions, providing valuable education and compliance assistance to hundreds of employers, employees and stakeholders.

- [Read the News Release](#)

California Union to Rerun Election

The officers of Studio Teachers and Welfare Workers of the International Alliance of Theatrical Stage Employees Local 884 in Los Angeles have agreed to conduct a new election for the office of business representative. The election will be supervised by the Office of Labor-Management Standards and is to be held by May 15. An investigation established that Local 884 failed to consistently apply an election rule deadline related to postmarks on voted ballots. Additionally, the union failed to ensure adequate election safeguards when the election chairperson mailed ballots without observers or other election committee members present and kept voted ballots at her home in an unsecured shoebox.

Wholesale Food Manufacturer Faces Penalties for Safety Violations

Progressive Gourmet Inc., a wholesale food manufacturer, faces \$73,400 in fines for alleged repeat and serious safety violations at a production facility in Wilmington, Mass. Inspections by the Occupational Safety and Health Administration's Andover Area Office found the facility lacked adequate procedures to prevent the unintended startup of machinery — such as cookers, ovens and conveyors — while employees performed service and maintenance on the equipment. The company also failed to provide all affected employees with information and training on how to power down and

Know About Adverse Impact, Records and Record Retention

- [February 21 — Houston, TX](#)

OFCCP — Record Keeping Required by OFCCP

- [February 20 — Orange, CA](#)

OFCCP — Tracking/Monitoring/Analyzing Personnel Activity Data

- [January 31 — Milwaukee, WI](#)

OFCCP — What to Expect During an OFCCP Audit/ Overview of Section 503 and 4212

- [February 8 — Columbus, OH](#)

OFCCP — Women in Nontraditional Jobs

- [February 7 — Omaha, NE](#)

OFCCP — Your Construction Requirements

- [February 20 — Columbus, OH](#)

OLMS — Compliance Assistance Seminar

- [January 30 — Euless, TX](#)
- [February 19 — San Francisco, CA](#)
- [February 22 — Buffalo, NY](#)

OSHA — Informal Stakeholder Meetings on Preventing Injuries and Fatalities from Vehicle Backovers

- [February 5 — Arlington, TX](#)

WHD — Outreach Forum on Classification of Bona Fide Executives, Administrative, Professional Employees

- [January 22 — Edinburg, TX](#)

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USDOL Rights of 24 #AR uniformed officers violated. ow.ly/gUk54 Learn how @USDOL action led to \$150,000+ in back wages.
3 hours ago · reply · retweet · favorite

lock out the machines' power sources before performing maintenance. The company was also cited for lack of routine inspections and maintenance to ensure safe operation of the plant's anhydrous ammonia refrigeration system, insufficient space between stored materials and overhead piping containing ammonia to allow for safe access to stored materials, and for slipping and tripping hazards from wet work floors.

- [Read the News Release](#)

New Jersey Health Care Company Sought for Contempt

Broadway Healthcare Management of Hackensack, N.J., and owner Michael Konig were the subjects of a petition for civil contempt recently filed by the department for violating a 2009 consent judgment that prohibited violations of the Fair Labor Standards Act at the company. Investigations conducted by the department's Wage and Hour Division determined that Broadway Healthcare Management willfully took steps to avoid paying overtime wages to nurses and support staff employed at several of Broadway's 10 locations throughout New Jersey.

- [Read the News Release](#)

Georgia Law Firm to Restore Employee Retirement Plans

A U.S. District Court judge has ordered former attorney Benjamin S. Eichholz and the Eichholz Law Firm P.C. in Savannah, Ga., to restore losses and interest to the firm's retirement and pension plans. Under the terms of the order, Eichholz and the firm will restore \$15,053 to the plans and transfer \$32,206 in plan assets to an independent fiduciary. The order resolves a lawsuit filed by the department based on the findings of an investigation by the Employee Benefits Security Administration that found Eichholz and his former law firm breached their fiduciary responsibilities in violation of the Employee Retirement Income Security Act and caused losses to the plan in excess of \$1 million. In December 2009, Eichholz pleaded guilty to obstructing EBSA's investigation. He was sentenced to 21 months in prison and ordered to pay restitution of \$50,117 to the plans.

- [Read the News Release](#)

Illinois Bumper Manufacturer Fined for Safety Hazards

Flex-N-Gate Corp., which operates as Guardian West in Urbana, Ill., has been cited by the Occupational Safety and Health Administration with six serious safety violations. They include failing to protect workers from exposure to hazardous materials and provide adequate emergency response plans and training at the company's bumper manufacturing plant. The inspection was initiated in 2012 after OSHA received a complaint alleging workers were exposed to high levels of hydrochloric acid following a release of the acid during refilling operations. Proposed fines total \$41,200.

- [Read the News Release](#)

Officers at Arkansas Police Department To Receive Back Wages

After resolving a lawsuit filed by the department with the U.S. District Court for the Eastern District of Arkansas, the Wynne Police Department will pay \$150,085 in back wages and liquidated damages to 24 uniformed officers following an investigation by the Wage and Hour Division. The investigation found violations of the overtime and record-keeping provisions of the Fair Labor Standards Act. Investigators found the police department failed to pay employees for all hours worked, failed to pay the proper overtime premium to officers who worked beyond 86 hours in a two-week work period and did not maintain the required records. The FLSA requires that fire or police departments establish a work period ranging from seven to 28 days, in which overtime need be paid only after a specified number of hours.

- [Read the News Release](#)



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