



UNITED STATES DEPARTMENT OF LABOR

SOLICITOR OF LABOR **ENFORCEMENT REPORT**

FISCAL YEAR 2022

The Office of the Solicitor's (SOL) mission is to provide legal services necessary to help achieve the Department's goals of promoting the welfare of wage earners, job seekers, and retirees, improving working conditions, advancing opportunities for profitable employment, and providing and protecting work-related benefits and rights. The Solicitor's Office enforces over 180 federal statutes and their implementing regulations.

Since becoming Solicitor of Labor, I have set enforcement priorities to make strategic use of our limited resources and effectively protect workers, focusing on the most vulnerable. Working closely with our client agencies within the Department, our enforcement work is geared towards promoting positive developments in the law, protecting workers and law-abiding employers, deterring employers from violating the law, and promoting voluntary compliance. We maintain a balanced program, continuing to bring cases that promote overall compliance with the law, while prioritizing cases that are impactful and shape the law in a manner that promotes equity and positive systemic change on behalf of workers. As described below, SOL's enforcement priorities are:

- I. Combatting retaliation against workers
- II. Reducing worker misclassification
- III. Taking impactful approaches and tackling difficult areas of law
- IV. Using all the tools in our toolbox
- V. Promoting equity and protecting those with less access to other forms of relief
- VI. Increasing pre-referral investigative assistance

This report highlights a few of SOL's critical accomplishments in each priority area in fiscal year 2022. This report focuses on SOL's enforcement work at the pre-litigation and trial stages, which is just one component of our work. SOL also performs extensive and vital work in other areas, including appellate litigation, amicus participation, supporting Department rulemaking, providing legal advice on development and implementation of Department policies and programs, and advising the Secretary of Labor and Department on a full range of legal issues.

Seema Nanda
Solicitor of Labor

I. Combatting retaliation against workers

All workers have a right to speak out against unfair or unsafe practices at work. But far too often, employers illegally retaliate against workers who stand up for their rights in the workplace, threatening workers with consequences like terminations, demotions, or even physical violence. Many workers face retaliation based on immigration status, which is particularly nefarious. And employer retaliation doesn't just hurt the worker who complains. It also undermines the ability of the Department of Labor to conduct investigations and enforce the law, lowering workplace standards for all workers.

As Solicitor of Labor, I have committed to intervening early and often to protect vulnerable workers from unlawful retaliation. In every region of the country, our offices have sought temporary restraining orders, preliminary injunctions, and temporary reinstatement to stop employers' retaliatory actions and to ensure that workers understand their rights and feel free to come forward. Our attorneys have also obtained court orders to make sure that employers do not interfere with workers' right to cooperate with government investigations.

This year, our office has gone to federal court across the country to fight for workers subjected to all kinds of employer retaliation. We won critical victories against unscrupulous employers who threatened to or did report workers to immigration authorities for bringing claims or cooperating with investigations. We took swift action to stop employers from intimidating workers into giving up their hard-earned wages. And we stood up against employers who sought to punish workers for complaining about COVID-19 safety protocols in the workplace.

FISCAL YEAR 2022 HIGHLIGHTS

SOL wins \$650,000 jury verdict against Massachusetts contractor who retaliated against worker, resulting in worker's detention by immigration authorities

An employee of Tara Construction was seriously injured on the job, requiring surgery. After the employee reported his injury and caused an Occupational Safety and Health Administration investigation, Tara Construction and CEO Pedro Pirez reported the worker to law enforcement and facilitated his arrest by U.S. Immigration and Customs Enforcement. During a seven-day trial in the U.S. District Court for the District of Massachusetts, SOL presented evidence that the injured employee was arrested in front of his two-year-old son and spent two traumatic weeks in a detention facility. After hearing the facts, the jury found that Tara Construction and Pedro Pirez violated Section 11(c) of the Occupational Safety and Health Act. The jury awarded the employee \$50,000 in compensatory damages and \$600,000 in punitive damages. [Read more in the press release](#)

SOL obtains court order requiring Connecticut restaurants and their owners to pay \$150,000 to employees they coerced into paying illegal kickbacks

Following an earlier investigation, restaurants The Ole Dog Tavern and Chubby's, and their owners Christopher Delmonico and Niall O'Neill, agreed to pay \$137,465 in back wages and liquidated damages to remedy their violations of the Fair Labor Standards Act's minimum wage and overtime requirements. But then, the employers used threats of immigration and law enforcement consequences, blacklisting, and termination to coerce their employees to return their hard-earned wages and damages. They fired one employee for requesting the money they were owed, and they drove two workers to a bank to cash their checks and then demanded payment outside the bank. Upon learning of the employers' actions, SOL immediately intervened and obtained a preliminary injunction to prevent further retaliation in violation of Section 15(a)(3) of the Fair Labor Standards Act. The restaurants and their owners ultimately agreed to a permanent injunction, and to pay \$150,000 to nine employees, including \$50,000 in kickbacks accepted, \$10,000 in back pay for the employee who suffered a retaliatory firing, and \$90,000 in punitive damages. [Read more in the press release](#)

SOL files lawsuit alleging that Texas-based global truck manufacturer fired a worker in retaliation for expressing concerns about potential COVID-19 exposure

As the COVID-19 pandemic spread rapidly across the country in March 2020, an employee of one of the world's largest truck manufacturers, Peterbilt Motor Co., complained that the company was continuing to operate a crowded assembly facility without taking adequate virus precautions. The company fired the employee in response. After an investigation found that the company's retaliatory action violated Section 11(c) of the Occupational Safety and Health Act, SOL filed a lawsuit in U.S. District Court for the Eastern District of Texas. The company subsequently agreed to an order resolving the case, including paying the terminated employee \$150,000 in back wages and compensatory damages. [Read more in the press release](#)

II. Reducing Worker Misclassification

Misclassification of employees as independent contractors deprives workers of core protections on the job. The law often guarantees basic protections like minimum wage, overtime compensation, family and medical leave, and even workplace safety standards only to people who are defined as “employees.” Employers across all industries often try to get around the law by misclassifying workers as independent contractors, rather than employees. Misclassification also gives a competitive advantage to employers who violate the law, creating an uneven playing field that disadvantages law-abiding employers.

That is why I have made reducing worker misclassification one of my top priorities as Solicitor of Labor. Across the country, our attorneys are working early and often with our client agencies that focus on misclassification, particularly the Wage and Hour Division and the Occupational Safety and Health Administration. We are spurring and lifting up best practices for investigating complex misclassification cases, and strategically utilizing our resources to bring the most impactful cases.

This year we took numerous employers across the country to court when they failed to properly classify their employees. We won major cases correcting illegal employer practices and restoring wages and rights to employees. Our cases made particular headway in the healthcare industry, with several large court victories and settlements that restored millions in hard-earned wages to front-line home care workers, nurses, and other professionals for their overtime work throughout the COVID-19 pandemic. These and other cases are aimed at shifting the incentives for employers who might consider misclassifying their employees and providing effective relief for workers, many of whom are today subject to mandatory arbitration agreements that limit their right to bring cases to federal court and can make systemic relief difficult to achieve.

FISCAL YEAR 2022 HIGHLIGHTS

SOL wins \$7.2 million judgment against Virginia-based national staffing agency for misclassifying 1,105 nurses and aides

Steadfast Medical Staffing is a staffing agency that employs certified nursing aides, licensed practical nurses, and registered nurses who perform work in various medical settings. But Steadfast willfully misclassified their workers as independent contractors and failed to pay them overtime when they worked over 40 hours in a week, as required by the Fair Labor Standards Act. When the company refused to follow the law, SOL filed a lawsuit in the U.S. District Court for the Eastern District of Virginia. After a two-week trial, the court ruled in the Department’s favor, ordering the company to pay at least \$7.2 million in back wages and liquidated damages to 1,105 employees, and asked the Department to submit updated figures reflecting defendants’ continued violations up to the date of judgment. SOL subsequently calculated that defendants owe over \$9 million in back wages and damages. [Read more in the press release](#)

SOL obtains \$9.3 million consent judgment, restoring overtime wages to 1,756 Pennsylvania medical professionals

U.S. Medical Staffing and its owner, Eric Matzkin, willfully misclassified thousands of employees, depriving them of overtime pay for front-line medical work over 40 hours in a week, as required by the Fair Labor Standards Act. In some cases, the employer falsely claimed to be a registry through which the company's clients solely employed workers. In other cases, U.S. Medical Staffing misclassified employees as independent contractors. SOL negotiated a consent judgment filed in the District Court for the Eastern District of Pennsylvania, requiring the company and Matzkin to pay \$9.3 million in back wages and liquidated damages to 1,756 employees, plus \$700,000 in civil money penalties. [Read more in the press release](#)

SOL obtains court order requiring national courier service to pay \$575,000 for misclassifying 62 drivers at Massachusetts location

USPack Logistics, a national logistics and delivery company, and its chief operating officer, Frank Powell, misclassified their drivers at a Massachusetts location as independent contractors. The company and Powell paid drivers per delivery rather than an hourly wage, required them to pay for gasoline and vehicle upkeep and deducted various fees and insurance costs from drivers' pay. As a result, they paid drivers less than the federal minimum wage of \$7.25 per hour. They also failed to pay overtime when drivers worked over 40 hours in a week and did not maintain accurate records of hours work, as required by the Fair Labor Standards Act. After SOL filed a lawsuit in the U.S. District Court for the District of Massachusetts, the employers agreed to a consent judgment requiring them to pay \$575,000 in back wages and liquidated damages to 62 drivers at one Massachusetts location, and ensuring future FLSA compliance at all national locations. [Read more in the press release](#)

III. Taking Impactful Approaches and Tackling Difficult Areas of Law

As the world changes, workers face new challenges. The COVID-19 pandemic introduced a new deadly hazard to workplaces across the country. Technology changes how some employers interact with their workers. Class action waivers and mandatory arbitration agreements prevent workers from seeking redress in courts. New laws and court decisions mean a changing legal landscape. And some employers seek new schemes to evade their basic responsibilities to the people who work for them. As a result, new approaches can be necessary to address changing realities on the ground.

The Solicitor's Office does not hesitate to take novel cases and tackle difficult areas of the law. The Department must, in appropriate circumstances, take new approaches and confront difficult problems—especially when others are not in a position to do so—so that we can strengthen protections for today's workers.

This year, our attorneys brought a range of ambitious cases, resulting in major victories for the rights of workers. We used all available legal tools to protect workers from COVID-19. We successfully tackled complex issues to ensure employee access to health care benefits. And we won cases that foiled attempts by scofflaws to evade their basic responsibilities like workplace safety.

FISCAL YEAR 2022 HIGHLIGHTS

SOL obtains court approval for mental health parity settlement requiring UnitedHealth to pay \$15.6 million and take corrective actions

Under the Mental Health Parity and Addiction Equity Act, employer-sponsored health plans must apply similar rules to mental health and substance use benefits as they do for medical and surgical benefits. But UnitedHealth Group, the nation's largest health insurer, overcharged workers by setting reimbursement rates for out-of-network mental health services improperly low and impermissibly reviewed participants undergoing mental health treatments, resulting in many denials of payments for those services. In collaboration with the New York Attorney General, SOL negotiated a settlement in which United agreed to cease the violations, improve its disclosures to plan participants, and pay \$15.6 million in benefits to workers and penalties. [Read more in the press release](#)

SOL wins decision against Massachusetts tax preparation business for willfully exposing employees to COVID-19 hazards

In early 2021, the COVID-19 pandemic was raging and vaccines were not yet widely available. But Arana Murrell-Rosario, the owner of a Liberty Tax Service franchise, prohibited employees and customers from wearing face coverings in the workplace. Employees and customers were in a small workplace without sufficient ventilation, partitioning, or social distancing. The Occupational Safety and Health Administration conducted an investigation and issued a citation against the employer for willfully violating the Occupational Safety and Health Act's "general duty clause," which requires employers to furnish a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. SOL litigated the case to trial, winning a decision affirming the citation and requiring the employer to pay a \$95,000 penalty. [Read more in the press release](#)

SOL wins decision holding New Jersey company owner personally liable for \$2 million in OSHA penalties

Juan G. Quevedo Garcia operated a residential construction business that undercut competitors by brazenly violating workplace safety standards. On multiple occasions, Quevedo specifically told the Occupational Safety and Health Administration that he simply would not follow the law, because it was not worth the expense to provide his employees with a safe work environment. When the Occupational Safety and Health Administration issued citations to his company, he repeatedly changed corporate names to try to evade liability. SOL filed a lawsuit to hold him accountable, ultimately receiving a decision that held Quevedo personally liable for over \$2 million in OSHA penalties. [Read more in the press release](#)

IV. Using all the tools in our toolbox

The Solicitor's Office is the second largest litigation department in the federal government, enforcing over 180 federal statutes and their implementing regulations. But protecting over 150 million workers in the United States is a big job, requiring the Solicitor's Office to strategically deploy all the tools in our toolbox.

We utilize our enforcement tools to promote compliance with the law and maximize relief for workers. By pursuing remedies that are tailored to the violations we find, like compliance agreements that require remedial steps designed to promote future compliance, debarment of federal contractors, or select criminal referrals, we maximize the impact of each case. Early interventions like temporary restraining orders and preliminary injunctions are also critical to our ability to immediately stop serious harm to workers and to prevent tragedies. And contempt proceedings can be critical to obtain compliance after a court order.

FISCAL YEAR 2022 HIGHLIGHTS***SOL obtains permanent injunction ordering Alabama automotive plant to end child labor violations***

SL Alabama, a manufacturer of Hyundai and Kia auto parts, illegally employed children as young as 13 years old to work in hazardous settings. The Fair Labor Standards Act prohibits employing minors in hazardous occupations and makes it illegal for employers to ship products originating from any worksite in which child labor violations have been detected. SOL obtained a consent judgment in the U.S. District Court for the Middle District of Alabama, stopping children from working in hazardous occupations. The judgment also requires the employer to provide training materials to employees and subcontractors or other entities that provide workers to the Alexander City site to ensure compliance with child labor standards. The company must also hire a third-party company to provide quarterly child labor training to all management personnel and subcontractors for a three-year period. Finally, SL Alabama must impose sanctions – including termination or suspension – on any management or subcontractors found responsible for child labor violations. [Read more in the press release](#)

SOL wins a civil contempt order requiring an Arizona construction company to pay fines up to \$120,000 every three months for continuing to falsify employee time records

Construction company Valley Wide Plastering kept false records of the working times and hourly rates of its employees, potentially depriving them of overtime wages due in violation of the Fair Labor Standards Act. SOL first obtained a preliminary injunction in the U.S. District Court for the District of Arizona, ordering the company to stop the practice. But Valley Wide continued to violate the law and the court order. Therefore, SOL sought and won an order holding the company, along with its owners and vice president, in contempt. The contempt order requires that if defendants continue to create false records, they must pay fines up to \$10,000 per week, every three months, potentially costing \$120,000 every 90 days. The court also ordered defendants to pay the Department's attorneys' fees and investigative costs, and to arrange for Department representatives to provide training about the Fair Labor Standards Act to all company employees and owners. [Read more in the press release](#)

SOL obtains temporary restraining order forcing New Jersey general contractor to stop exposing workers to dangerous high-voltage power lines

When general contractor Litana Development disregarded warnings from OSHA and repeatedly had employees work dangerously close to energized high-voltage power lines, SOL obtained an imminent danger temporary restraining order stopping the company from working near the lines. SOL then negotiated a consent injunction requiring the company to keep employees at least 11 feet away from the power lines, pending relocation of the lines by the local utility. SOL also assisted OSHA in developing and issuing willful citations against the contractor and subcontractors, with penalties over \$500,000. These actions will help ensure that workers are not exposed to potential electrocution hazards. [Read more in the press release](#)

V. Promoting equity and protecting those with less access to other forms of relief

In many situations, the Solicitor's Office is the only viable avenue for legal recourse. Vulnerable and low-income workers may not have the resources to hire private attorneys to engage in complex litigation, or they may fear that stepping forward to file a lawsuit will open them up to retaliation. Many critical worker protection laws do not allow for private lawsuits, including laws protecting some whistleblowers and foreign workers. Even where the law does allow for private lawsuits, class action waivers and mandatory arbitration clauses prevent many workers from filing cases in court.

This year, the Solicitor's Office has brought cases to protect children, immigrants, people with criminal backgrounds, and people with intellectual and developmental disabilities. We asserted our authority to protect whistleblowers when they cannot protect themselves. And we stood up for rural hospital employees who were denied healthcare benefits without their knowledge.

FISCAL YEAR 2022 HIGHLIGHTS

SOL files lawsuit to protect Montana workers with intellectual and developmental disabilities who were improperly paid less than the minimum wage

Under the Workforce Innovation and Opportunity Act, employers must meet certain criteria to justify paying subminimum wages to people with disabilities in accordance with section 14(c) of the Fair Labor Standards Act. Specifically, they must provide information about peer mentoring, self-advocacy, and self-determination training opportunities available in their geographical area, and they must ensure that all workers paid subminimum wages receive career counseling, information and referral services, and training opportunities from a designated state agency. Special K Ranch falsely claimed that these services were provided, and since at least 2019, paid 35 employees as little as \$1.17 per hour. SOL filed a complaint in the U.S. District Court for the District of Montana, seeking full minimum wage to the workers for the entire period and continuing until the employer provides the required services. The complaint also seeks liquidated damages in an amount equal to the back wages. [Read more in the press release](#)

SOL wins order affirming authority to pursue damages for a New York COVID-19 whistleblower even after private state claim was dismissed

SOL defeated a motion by defendant Community Health Center of Richmond that attempted to preclude the Department from bringing a whistleblower action where the fired employee had voluntarily dismissed a previous New York state whistleblower claim. SOL successfully argued that the Department had its own independent interest in remedying retaliation. The complaint alleges violations of the Occupational Safety and Health Act based upon the suspension and subsequent termination of an employee who raised safety concerns about a mandatory in-person meeting in a small, poorly ventilated conference room with no masks and no social distancing in March 2020, at the beginning of the COVID-19 pandemic. [Read more in the press release](#)

SOL files lawsuit against former West Virginia hospital CEO who failed to forward plan contributions, resulting in cancellation of employee employees' health insurance

When employees contribute to an employer-sponsored healthcare plan, they expect that their contributions will go to the healthcare plan, and that they will receive the promised health insurance coverage. But Charles Hatfield, former CEO of Williamson Memorial Hospital, failed to forward employee contributions to the company's healthcare plan, leading to the plan's cancellation and leaving employees without healthcare coverage. The hospital filed a bankruptcy petition, but Hatfield did not inform employees that he stopped forwarding their contributions to the healthcare plan. As a result, employees continued to incur expenses without knowing that the plan had been terminated. SOL filed a complaint in the District Court for the Southern District of West Virginia, alleging that Hatfield breached his fiduciary duties in violation of the Employee Retirement Income Security Act. The Complaint requests that Hatfield restore at least \$703,398 in losses to the health plan and its participants, and that the Court remove Hatfield from his position as fiduciary and permanently enjoin Hatfield from serving as fiduciary to any ERISA-covered plan in the future. [Read more in the press release](#)

VI. Increasing pre-referral investigative assistance

Cases in the Solicitor's Office start with investigations performed by our client agencies. Most investigated matters resolve before they are referred to our office for litigation, so the way that facts are developed and issues are considered during the investigation will determine whether and how workers are protected. For those cases that are referred to the Solicitor's Office for enforcement, an effective investigation – bolstered by pre-referral legal assistance from the Solicitor's Office – is more likely to lead to effective litigation.

We know from experience that complex investigations are far more effective when our attorneys are involved early and often. Our training and support help investigators understand key legal issues. When necessary, our early legal interventions make sure that investigators can do their jobs despite employer resistance.

This year, the Solicitor's Office provided critical legal support and advice in thousands of investigations. We ensured that investigators were able to do their jobs by obtaining 52 warrants and enforcing 34 administrative subpoenas. We provided comprehensive training for investigators across agencies. And we stepped in to negotiate critical settlements for our clients.

FISCAL YEAR 2022 HIGHLIGHTS

SOL wins injunction requiring Missouri mine operator to grant entry to inspectors

Mine inspectors need to be able to conduct inspections in order to keep workers safe. Wesley Partridge owns Partridge Sand & Gravel, which operates a sand and gravel pit. As Mine Safety and Health Administration inspectors attempted to enter the mine to conduct a routine inspection, Partridge used loading equipment filled with rocks and dirt to force the inspectors' vehicle off the road. Partridge then verbally harassed the inspectors and ordered them off the property. SOL filed a complaint in the District Court for the Western District of Missouri, seeking to ensure that inspectors had access to the mine. The company and Partridge ultimately consented to a court order barring them from interfering with, delaying or impeding a mine inspection. The order also bars them from threatening, harassing, or intimidating MSHA inspectors carrying out the provisions of the Federal Mine Safety Act. [Read more in the press release](#)

SOL files denial of access complaint to require Minnesota and Washington federal contractor to comply with anti-discrimination investigation

Federal contractor Rosemount Inc. and its subsidiary Rosemount Specialty Products refused to comply with a basic obligation for all federal contractors – providing employment data to the Office of Federal Contract Compliance Programs during a compliance review. OFCCP reviews contractor employment data to look for potential indicators of illegal employment discrimination. When Rosemount refused to provide employment data, SOL filed a complaint with the Office of Administrative Law Judges, seeking an order compelling the companies to provide it. If the companies do not comply, the complaint seeks an order cancelling their current government contracts and debarring them from obtaining future contracts. In response, the companies provided all data at issue. This result means that OFCCP will be able to conduct its review of the company's equal employment opportunity practices. [Read more in the press release](#)

SOL recovers \$131.8 million for Wells Fargo 401(k) participants after investigation finds plan overpaid for company stock

An Employee Benefits Security Administration investigation revealed that, on six separate occasions, trustees for Wells Fargo's 401(k) plan paid more for company stock than participants would ever receive, short-changing participants by as much as \$131.8 million in violation of the Employee Retirement Income Security Act. The trustees caused the retirement plan to pay between \$1,033 and \$1,090 per share for Wells Fargo stock, even though that stock converted to a value of only \$1,000 when distributed to plan participants. SOL negotiated a settlement returning \$131.8 million to plan participants and requiring Wells Fargo to pay a \$13.2 million penalty. [Read more in the press release](#)

