

The Life of a Wage Claim

Presented at the Garment Worker Member Meeting [Add region and date]

Purpose: For members to learn about the process of filing and winning individual wage cases (with the Labor Commissioner's Office).

Objective:

- Workers will learn about the different steps involved in preparing and winning an individual wage claim.
- Workers will learn how long it takes for a case to be resolved (in its entirety).
- Workers will understand that an individual's immigration status does not matter during the wage theft claim process.

Materials:

- Presentation, "[The Life of a Wage Claim](#)"
- Visual, "[The Ladder of a Claim](#)"
- Tape (for the opening activity)
- Booklet, "[The Life of a Wage Claim](#)"
- Survey: "[The Life of a Wage Claim](#)"
- Colored flags: green, red, and yellow

Process/Agenda (Total Time: 2 hours)

1. Introduce the Topic and Purpose (10 minutes)

Instructor: Welcome participants and review the agenda with them.

Today we have a training on the process of filing and winning an individual wage theft claim with the Labor Commissioner's Office.

- **Purpose of WRAP:** This training is part of a series of trainings in collaboration with the Department of Industrial Relations titled the Workers' Rights Ambassador Project, or WRAP. In this training series, you (as workers) will learn about workplace protections and protections against retaliation.

Before we begin today's activities and training, I want to see how much you know about the wage claim process. Everyone has received three colored flags: red, green, and yellow. I'm going to ask you some questions, and you'll need to use the flags to answer. The green flag means "I understand," the yellow flag means "Somewhat (So-So)", and the red flag means "I don't know." Does that make sense? *Answer any questions the participants may have. If there are no questions, ask the following questions:*

- I know the steps involved in filing a wage theft claim.
- I know where I can go to file a wage theft claim.
- I know what to do if I am experiencing—or if someone I know is experiencing—wage theft in the workplace.

Staff support: Help collect the group's responses. Note how many red, yellow, and green flags are raised during this section.

Thank you for your responses. This helps me gauge your prior knowledge before beginning the presentation. I'd like to provide a disclaimer. *Please read the following:*

- ★ **Please don't forget to share this disclaimer:** Before we begin, it's important to note that all the information I'm providing is general information about your rights as a worker. **I am not a lawyer, so this is not legal advice!** ★ ★

2. Opening Activity: Climbing the Ladder of a Claim (35 minutes)

Instructor: Let's start with an activity that will help us visualize the steps needed to file a wage claim and recover lost wages. *While the staff is handing out the materials, begin going over the instructions for the activity.*

Staff Support: Help distribute the materials for the opening activity.

- **Instructions (5 minutes)**
 - *Instructor:* We're going to divide you into 3 small groups. Each group will receive an envelope and a picture of a staircase. In your groups, you need to discuss the order of the steps that must be taken to reach the point of collecting wages in the event of wage theft. You will have 20 minutes to discuss this in your groups before returning to the large group to share your answer. *Answer any questions if there are any. If not, let the activity begin!*

- **Small Group Activity (20 minutes)**

Staff Support: Walk around to see if the groups have questions or need more tape.

- Each group should open the envelope they received. Inside the envelope there are 6 steps. Using the tape reviewed by the staff, they should arrange the steps in the order they believe will lead them to resolve and win a wage theft case.
- **Reflection and Wrap-Up (10 minutes)**
 - *Instructor:* What did you think of the activity? *Take 3–4 responses.*
 - This exercise was a way to visualize the steps one takes during the wage claim process. *Show participants the correct answer, which is in the Canva presentation.*

3. Training: The Steps of a Wage Claim (40 minutes)

Instructor: Now we're going to learn in more detail about the steps you need to follow to file a wage claim and recover your stolen wages. What do you think is the first step? *Take 2–3 responses before you start reviewing the information below.*

The Steps of a Claim: *try to break down the time (of the process) between steps*

- **What do I need to file a wage theft claim?**
 - What information is needed to file a claim? What did we learn in our previous trainings? *Take 1–2 answers before sharing the following:*
 - Employer information
 - Information about pay and hours worked
 - Information about time cards
 - Labels are also responsible for wage theft.
- **Step 1: Fill out the case form and file the claim**
 - How can GWC support you? And what does that support (representation) look like?
 - Our current process: We conduct interviews regarding wages and hours with all workers who come to the (legal) Clinic to assess whether there are wage and hour violations that could lead to a wage claim. We also request to see evidence against the employer and the labels, as this will influence the strength of the case. Without evidence, it is more difficult to win a case.
 - First, we meet with you, ask you basic questions, and ask to see evidence. Then we meet with our clinic team and our attorneys to discuss the details and determine if this is a case we can take on. Then we have a second meeting to request any missing information or explain the next steps we can take. If we take the case, we begin filling out the claim form and preparing the evidence to submit. If we cannot take the case, it is either because it is not a strong case (there is insufficient evidence) or because we recommend that you pursue self-help.
 - SELF-HELP: The clinic has a limit of 90 cases at a time..
 - Unfortunately, we cannot handle all the cases we would like to take on. In those situations, as more and more garment workers come to file cases, we now offer self-help services, which means we can help you prepare and file the case on your behalf. We explain all the steps of the wage claim process and sign a contract (in advance) stating that this is the only assistance we provide.
 - You also do not need representation to file an individual claim since the entire process takes place within the Labor Commissioner's Office. The important thing is that you fill out a form in Spanish so you can understand the paperwork, and that the form is a garment wage claim form rather than a general one, since there is a specific unit (the Garment Enforcement Unit—GEU) that processes wage claims for the garment industry. You will not have to go to court.
 - Your immigration status does not matter. You will never be asked about your immigration status.
 - You have up to **3 years** to claim unpaid wages

- **Step 2: Phone Interview with a Deputy (1–2 months later)**
 - What do you think happens in this step? Has anyone had experience with a phone interview with an agent? *Take 1-2 responses before sharing the following information:*
 - **1–2 months** after submitting your wage claim, you will receive a call from a deputy to review your wage claim forms, labels, and evidence.
 - The interview lasts 1 hour (without interruptions). The interview is very important because the agent will testify about your interview during the hearing. How can you prepare? Do the following:
 - Review the intake form and the labels provided
 - The garments you produced for each brand
 - How long you have produced for each brand and how often (monthly, weekly, daily)
- **Step 3: Settlement Conference (6 months to 1 year later)**
 - What do you think the settlement conference is? Has anyone participated in a conciliation conference? *Take 1–2 responses before sharing the following information:*
 - **6 months to 1 year** after the phone interview with the deputy, you will have a settlement conference (or negotiation meeting).
 - The purpose of the conference (or negotiation meeting) is: To try to reach an agreement with the employers or brands without having to go to a hearing. This is not a hearing; you will not be asked questions about the case.
 - If the employer or brand does not show up to negotiate, your case will proceed to a hearing.
 - How can you prepare? Read all the documents you received in the mail and also contact your representative if you have any questions. If GWC is representing you, we will prepare you before the meeting to review the value assigned to the claim and consider the amounts to be negotiated.
- **Step 4: Hearing (4 months to 1 year later)**
 - What do you think a hearing is? Has anyone ever been to a hearing? *Take 1–2 responses before sharing the following information:*
 - If you did not reach an agreement with the employer and ALL parties involved in the claim, you will attend a hearing to prove your claim. The purpose of the hearing is to demonstrate that your employer has committed wage theft and owes you back pay.
 - How do you prepare for a hearing?
 - Sign and date the Complaint and Waiver you received in the mail to receive a hearing date.
 - Review the complaint form, the evidence submitted, and prepare to answer the questions you will be asked during the hearing!

- If you have a witness, make sure they are also prepared to answer questions at the hearing.
- After the hearing (**6 months to 1 year later**):
 - You will receive an Order, Decision, or Award (ODA). This is the decision and the amount owed to you by your employer and all parties involved, sent by mail approximately 6 months to 1 year after the hearing
- What should you do when you receive the ODA?
 - If you are satisfied with the decision issued by the hearing officer, you do not need to do anything. The decision will be final and enforceable as a court judgment.
 - You will receive a package with more information on how to collect the award between **6 months and 1 year** (possibly longer) after receiving the ODA.
 - BUT if you are not satisfied with the hearing decision, you have the right to appeal, or challenge, the decision.
 - Appealing a decision is a process that will take time, and the paperwork will be filed with the court.
- What happens next? (**6 months to 1 year later**):
 - You will receive in the mail a document titled “Award of Judgment” (AOJ), a Form 204, and a Form 205. These documents must be signed so that you can collect your compensation through the Garment Restitution Fund.
- **Step 5: State Fund (1 year – 1.5 years later)**
 - After 1 to 1.5 years, you will receive a phone call or a notice in the mail to collect your check.
 - What is the Garment Restitution Fund or the State Garment Fund? Does anyone know what the Garment Fund is? *Take 1–2 responses before sharing the following information:*
 - **The Garment Restitution Fund:** It was created as a last-resort tool for workers who have won their case but have not collected what is owed to them by their employer.
 - Only three industries in the state of California have a fund to collect money from a case. These industries are garment, agriculture, and car washing.
 - Workers may **ONLY** collect money from the state fund if:
 - 1) they filed their case with the Labor Commissioner (they cannot collect from the state fund if they filed their case in city court)

- 2) the case heard by the Labor Commissioner was against an employer in one of the three industries with a special fund.
 - Revenue for the fund comes from manufacturing registrations and annual renewal fees.
- What do I need to collect my money from the state fund?
 - Sign the AOJ and 204/205
 - Depending on the case, it is also recommended to have an active ITIN
- Do I need an ITIN or Social Security Number (SSN)?
 - You do not need an ITIN to collect from the Restitution Fund; HOWEVER, the state will withhold taxes (~33%) from your award before issuing the check.
 - If you do not have an SSN/ITIN, you can also ask the LCO for information on how to obtain an ITIN.
- **Testimony, Questions, and Answers [10 minutes]**
 - **WORKER TESTIMONY:** Have a worker who has had a successful claim share their experience with the group.

4. Closing Activity (25 minutes)

Instructor: Finally, let's participate in one last activity that will help us review the material we discussed today.

- **Instructions (5 minutes)**
 - **Instructor:** We're going to divide you into 5 small groups of 10–15 people. Each group will be assigned a step we discussed today. In your groups, you'll discuss what you learned from that step and any advice you have for garment workers who are at that stage of the individual wage claim process.
 - **The Steps of a Claim:**
 - Group 1: Fill out the case form and file the claim
 - Group 2: Phone interview with a deputy
 - Group 3: Settlement Conference
 - Group 4: Hearing
 - Group 5: Garment Restitution Fund
 - ***Groups can be divided in any way the instructor wishes***
 - You will have 10 minutes to discuss in your small groups before returning to the large group. Choose 1–2 people to serve as representatives to share what you discussed with the rest of the group! *Answer any questions if there are any. If not, let the activity begin!*
- **Small-group exercise (8 minutes)**
 - Each group will need to answer the following questions:
 - What did you learn from that step?

- What advice do you have for seamstresses who are at that stage of the claims process?

- **Closing and Reflections (12 minutes)**

- **Instructor:** Ask the workers to return to the main group to finish the activity.
- Ask the representatives from each group to prepare to share. Each group will have 1 minute to share with the main group. The groups will share what they discussed in the following order.
 - Group 1: Gathering Information/Evidence
 - Group 2: Fill out the case form and file the complaint
 - Group 3: Negotiation Meeting
 - Group 4: Hearing
 - Group 5: State Fund
- **Facilitator:** Ask members to clap when everyone has finished sharing. *Ask members to turn their attention back to the facilitator.*
- Today we're discussing each step involved in filing a wage theft claim with the Labor Commissioner. Every case and situation is different, but today we'll discuss what we've generally observed with members.
- If you have questions about the process, please contact a staff member!

5. **Closing: Exit Survey (10 minutes)**

Instructor: Before we finish our WRAP training, we'd like to ask you to take a few minutes to complete a survey for today's session. This survey will help us understand how much you've learned about the process of filing and winning a wage claim after this training. Be sure to hand in your survey to a staff member.

Support Staff: You should be assisting workers in filling out the surveys.

- [Link](#) to the exit survey.