

WASHINGTON STATE ATTORNEY GENERAL'S OFFICE 2022 LABOR DAY REPORT



This report highlights the Attorney General's work:

As Attorney General, I am committed to protecting the rights, health, safety, and dignity of all Washingtonians. Multiple divisions in my office collaborate on my Worker Protection Initiative to enforce worker protection laws and stand up for working families. This report highlights some of the efforts of this Initiative over the past year to support, protect, and defend workers in Washington from unsafe, unfair, and unlawful practices. In the past year, the Attorney General's Office (AGO):

- Recovered nearly \$22 million in stolen unemployment money and returned those fraudulently obtained dollars to the state's unemployment system;
- Recovered more than \$23.5 million from companies cheating workers and used these recoveries to provide restitution to Washingtonians who were harmed;
- Criminally prosecuted wage theft; and
- Learned that our successful No-Poach Initiative resulted in billions of dollars in additional pay for franchise workers across the country.

My team and I are committed to continuing this important work and building on our success upholding the rights of our workforce in Washington State through our affirmative work on behalf of the people and support of client agencies in their efforts to protect workers.



Bob Ferguson
Washington State Attorney General



This report highlights the Attorney General's work:

- Recovering stolen unemployment benefits
- Combating Minimum Wage Act violations at for-profit detention center
- Holding private companies accountable for their unfair labor practices
- Standing up against workplace discrimination and sexual harassment
- Protecting warehouse workers
- Defending Hanford workers at the U.S. Supreme Court
- Protecting workers' wages
- Fighting predatory online job training programs
- Protecting farm workers and other Washingtonians who work outdoors
- Enforcing Washington's non-compete law
- Addressing Organized Retail Crime Theft
- Prosecuting environmental crimes committed by unlicensed asbestos removal businesses
- Boosting income for low-wage workers nationwide
- Protecting worker health during the COVID pandemic
- Combating immigration status and sex discrimination

2021

Oct.

Recovering stolen unemployment benefits

Result: Stolen funds recovered

During the COVID-19 pandemic, sophisticated criminals and identity theft rings stole billions of dollars in unemployment benefits from at least 11 states, including Washington. While multiple states suffered substantial losses, Washington is the only state to exercise state asset forfeiture power to recover stolen funds. Essentially, the AGO seizes stolen money in accounts at banks and other financial institutions. The AGO initiated a unique investigation searching for bank accounts across the country where stolen funds remained and launched a legal effort to reclaim these funds for the state. In its first forfeiture case, the AGO seized \$495,000 from 120 accounts at TD Bank and returned this money to the Washington State Employment Security Department. This was the first of many recoveries from financial institutions using state forfeiture law. To date, the AGO has recovered nearly \$22 million. This work is ongoing, and more seizures are expected in the coming months.

Total Recoveries, as of Sept. 1, 2022	
Bank	Forfeited Amount
TD Bank	\$597,015.41
PayPal	\$1,579,249.64
Wells Fargo	\$7,417,010.74
CitiBank	\$2,644,111.54
JP Morgan Chase	\$6,547,650.90
Metropolitan Commercial	\$574,721.30
Capital One	\$2,396,661.27
Total	\$21,756,420.80

Nov.

Combating Minimum Wage Act violations at for-profit detention center



Result: GEO ordered to pay \$23.2 million

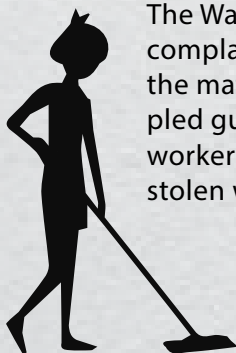
In 2017, the AGO sued the GEO Group, the operator of a for-profit Immigration and Customs Enforcement (ICE) detention center in Tacoma, for unlawfully exploiting the labor of immigrant detainees. Washington is the first state to sue an operator of a for-profit detention center for failing to pay minimum wage and unjust enrichment. In November 2021, the U.S. District Court ordered GEO to pay \$23.2 million for back wages owed and unjust enrichment.

2022

Jan.

Holding private companies accountable for their unfair labor practices

Result: Payment of \$33,000 in stolen wages to 24 employees



The Washington State Department of Labor and Industries (L&I) began receiving wage complaints from workers at an Auburn house cleaning business in June 2017. L&I referred the matter to the AGO for a joint investigation. In January 2022, the business owners pled guilty to felony theft for failure to pay the workers their wages and, at times, giving workers checks they could not cash. The business owners will repay more than \$33,000 in stolen wages to 24 employees.

Feb.

Standing up against workplace discrimination and sexual harassment

Attorney General Ferguson filed a civil rights lawsuit against a Wenatchee nonprofit and its founder and CEO after receiving a complaint from a former employee. The lawsuit alleges discrimination and harassment of at least 12 women who worked at or visited the two thrift stores owned by the nonprofit: the Veterans Warehouse Thrift Store in Wenatchee and the Veterans Thrift Store in Kennewick. The lawsuit asserts this repeated, pervasive sexual harassment and retaliation violates the Washington Law Against Discrimination. The lawsuit is ongoing.

March

Protecting Amazon warehouse workers

Result: \$60,000 fine

The AGO advised L&I in conducting a series of worker safety inspections in several Amazon warehouses, and ultimately, issuing citations and a \$60,000 fine for “knowingly putting workers at risk of injury” by requiring warehouse employees to perform repetitive motions at a fast pace. The citations also require Amazon to correct the safety hazards identified by L&I so that workers are better protected in the future. Amazon appealed the citations, and a hearing is scheduled for 2023. Federal labor regulators and regulators in other states are also examining similar worker safety issues in Amazon warehouses.

April

Defending Hanford workers at the U.S. Supreme Court

Result: New legal protections for workers

The AGO defended a 2018 law before the U.S. Supreme Court designed to make it easier for workers at Hanford who develop certain illnesses from working at a site contaminated with radioactive waste to access the compensation benefits they earned.

The Trump Administration challenged the law in December 2018, and the law was upheld by the District Court for the Western District of Washington and the Ninth Circuit Court of Appeals. The Biden Administration appealed to the U.S. Supreme Court in September 2021.



The 2018 law was updated and enhanced by the Legislature during the 2022 session. The enhancements, which the AGO helped draft, ensure the protections apply to all individuals, including state employees, who conduct work on the Hanford Nuclear Reservation. These changes address key concerns voiced by the federal government. The Biden Administration has not challenged this new law, and it remains in place to protect workers at Hanford.



On June 21, the U.S. Supreme Court ruled against the 2018 law protecting Hanford workers. The decision does not impact the 2022 law, ensuring that workers at radioactive waste sites like Hanford still receive compensation benefits for health issues they have faced because of their work.

May

Protecting workers' wages

The AGO and L&I filed a wage and hour complaint in Spokane County Superior Court against three Lovely Bud cannabis retailers, parent corporation Cannabis Green, and their majority owners. Investigators determined the company paid employees overtime only if they worked more than 40 hours in a week at a single store. In many cases, employees who worked more than 40 hours at different stores were not paid overtime, in violation of Washington law.

The AGO and L&I Coordinated Enforcement Team brought enforcement actions in numerous wage theft cases, and resolved seven cases over the past year. This includes nearly \$300,000 in wages and interest due to more than 160 workers, as well as requirements that the employers change their pay practices, keep better records, and conduct self-audits for Department review to ensure their pay practices do not violate the law.

June

Fighting predatory online job training programs

Result: Protecting Washingtonians who entered into predatory and deceptive contracts



The AGO filed a lawsuit against Prehired LLC, a company offering a deceptive online job training program that duped Washingtonians into paying as much as \$30,000 for an online course. The lawsuit asserts this company violated the Consumer Protection Act by engaging in deceptive advertising, deceptive collection practices, and operating in the state without a license. Operating a private vocational school in the state without a license can make certain contracts for payment unenforceable. As a result of the AGO's lawsuit, Prehired is not currently operating in Washington.

Protecting farm workers and other Washingtonians who work outdoors

Result: New protections regarding outdoor heat and smoke exposure

L&I filed emergency outdoor heat exposure and wildfire smoke rules to protect farm and construction workers, road crews, roofers, and anyone else whose work is primarily outside. The AGO provided legal guidance for the development of these rules, and continues to provide counsel as L&I develops permanent rules. Washington is at the forefront of ensuring workers are protected from extreme heat and wildfire smoke exposure.



Addressing organized retail crime



Attorney General Ferguson established a statewide Organized Retail Crime Theft Task Force to improve coordination and collaboration among law enforcement agencies to address organized multi-jurisdictional crimes that endanger employees and cause significant economic harm. Organized crime can result in intimidation and violence for employees in retail stores. The Task Force met for the first time in July, and will meet quarterly over the next year. Workers' representatives, including UFCW 3000, are a central voice in this ongoing work.

Enforcing Washington's non-compete law

Result: \$287,100 recovered for construction workers harmed by illegal non-compete agreements

Attorney General Ferguson announced that Tradesmen International LLC would immediately stop enforcing non-compete agreements that restrict the job mobility of thousands of workers in Washington. Non-compete agreements violate Washington law, and Tradesmen never disclosed the agreements to workers. Tradesmen must inform workers that the non-compete agreements are no longer enforceable. Tradesman will also pay \$287,100 in restitution. Approximately 1,200 current and former employees may be eligible for restitution.

Non-compete agreements were banned in Washington on January 1, 2020, and are unenforceable. The AGO has taken numerous actions to end non-compete agreements and enforce the law.

Prosecuting environmental crimes committed by unlicensed asbestos removal businesses

Result: Accountability for endangering workers and consumers

The AGO prosecuted the owner of an asbestos removal business for repeatedly exposing its customers and workers to asbestos without adequate protection. The business owner was unlicensed and unqualified to perform asbestos abatement. The AGO filed criminal charges in February 2022, and in June the business owner pleaded guilty to two felonies and four gross misdemeanors. He was sentenced to 105 days in jail, and ordered to pay full restitution, totaling \$13,350, to consumers who paid for his services.



Study finds AG Ferguson's No-Poach Initiative boosted income for low-wage workers nationwide

Result: Salary increase for certain workers of approximately \$1,000 directly attributable to AG initiative at targeted chains

A recent independent economic study¹ evaluating the impact of Attorney General Ferguson's No-Poach Initiative concluded that it directly increased wages for low-income franchise workers nationwide. The study's authors determined that advertised wages increased by more than 3.3% specifically as a result of the Initiative — a pay raise of \$1,041.71 for workers employed by these corporations, who earn an average salary of \$31,567. The authors are not connected to the AGO, and the work was not requested by the office.

Attorney General Ferguson launched an investigation into no-poach clauses nationwide in January 2018. As a result of the Initiative to eliminate no-poach clauses, 237 corporate franchisors signed legally binding agreements to end no-poach practices nationwide, covering 4,700 Washington locations and nearly 200,000 locations around the country. This eliminated no-poach clauses in franchise agreements nationwide for every

company with three or more locations in Washington.

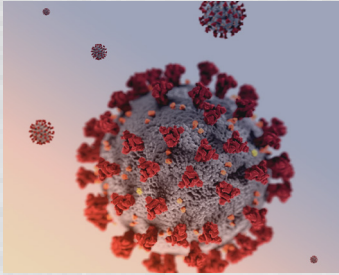
“When employers fairly compete for labor, workers benefit. This research reveals the extent to which the system was rigged against workers. I’m proud my legal team put a stop to it.”

Attorney General Bob Ferguson

¹ Callaci, B., Pinto, S., Steinbaum, M., and Walsh, M., *The Effect of No-poaching Restrictions on Worker Earnings in Franchised Industries* (July 6, 2022). Available at SSRN: <https://ssrn.com/abstract=4155577>.

Protecting worker health during COVID pandemic

Result: Successful enforcement of public health emergency orders



Stuffy's, a restaurant in Longview, provided indoor dining services during the early stages of the COVID-19 pandemic in violation of the Governor's Emergency Proclamation. L&I issued six citations for Stuffy's ongoing violations, which were classified as willful serious violations. The AGO represented L&I in Stuffy's challenge to the citations. On July 20, the Board of Industrial Insurance Appeals affirmed the violations and \$936,000 in citations, which collectively are one of the largest worker safety penalties ever upheld in Washington.

Aug.

Combating immigration status and sex discrimination

The AGO filed a civil rights lawsuit against Ostrom Mushroom Farms in Sunnyside for firing more than 140 of its U.S.-based mushroom pickers, most of whom were women. At the same time, Ostrom hired 65 seasonal, foreign agricultural workers under the federal H-2A program—all but two of whom were men. Ostrom also disciplined its female workers at higher rates than its male workers and retaliated against workers who spoke out and tried to assert their rights. The AGO's lawsuit asserts that Ostrom discriminated against its workers on the basis of gender, citizenship and immigration status, in violation of the Washington State Law Against Discrimination.

