

# WASHINGTON STATE ATTORNEY GENERAL'S OFFICE 2021 LABOR DAY REPORT



## **This report highlights the Attorney General's work:**

- Protecting Washingtonians from COVID-19
- Combating Employment Discrimination Against Pregnant Women
- Opposing Wage Theft
- Enforcing Washington's Wage Theft Laws
- Standing Up Against Workplace Sexual Harassment
- Standing Up for Farmworkers
- Seeking Accountability for Unlawful Franchising Practices
- Increasing Protections for Temporary Workers
- Defending Washington's Paid and Protected Sick Leave
- Protecting Workers From Dangerous Chemicals
- Strengthening Worker Protections
- Protecting Workers from Environmental Hazards
- Leading the Way on Protecting Workers from Non-compete Clauses
- Standing Up for Amazon Warehouse Workers

## **A note from Attorney General Ferguson:**

As Attorney General, I am dedicated to protecting the rights and health of all Washington workers. Multiple legal divisions in the Attorney General's Office collaborate to stand up for workers and enforce the law. In the past 12 months, the Attorney General's Office has recovered more than \$3.4 million for workers across the state. This report highlights the efforts of Attorney General's Office's Worker Protection Initiative over the past year to support, protect, and defend workers in Washington from unsafe, unfair, and unlawful practices.

A handwritten signature in blue ink that reads "Bob Ferguson". The signature is fluid and cursive.

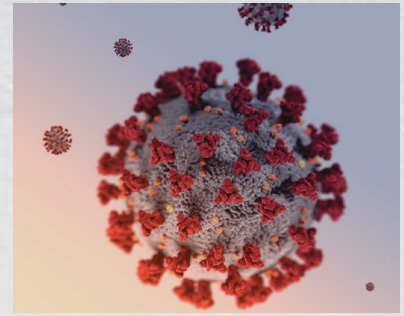
Bob

Sept.

### **Protecting Washingtonians from COVID-19:**

#### **Result: Protection of public health**

The Attorney General's Office defended Governor Inslee's emergency proclamations against 28 legal challenges that would have endangered the health of workers and others across the state during the COVID-19 pandemic.



Oct.

Nov.

Dec.

### **Providing Guidance on Rights and Responsibilities**

The Washington State Department of Labor and Industries, in partnership with the Attorney General's Office, issued updated policies under Washington's Minimum Wage Act and Industrial Welfare Act. The updated policies provide clarity to employers and employees about rights and obligations under these laws, including paid sick leave.

Jan.

### **Combating Discrimination Against Pregnant Women:**



#### **Result: \$41,000 in back wages and damages to worker**

The Attorney General's Office brought its first case to trial under the 2017 Healthy Starts Act. A judge ordered two related companies, Colmar and DB Delivery, to pay more than \$41,000 in penalties for firing a pregnant employee immediately after she asked for an accommodation. The employee's manager denied the employee's request for a legally required accommodation and immediately fired her over text message. In December, a judge found that the companies committed a "clear violation" of the law designed to protect pregnant employees.

### **Recovering Unpaid Wages for Veteran Employees:**

#### **Result: \$310,000 for veteran employees impacted by VIEW**

Attorney General Ferguson resolved a case against Tacoma-based non-profit Veterans Independent Enterprises of Washington (VIEW), including recovering more than \$310,000 in unpaid wages to 7 veteran employees. VIEW was formed in 1988 to provide housing and job opportunities to veterans in need, primarily those who are unemployed, recovering from addiction or have a criminal record. Individuals managing VIEW's finances spent hundreds of thousands of dollars of the organization's money for personal gain while VIEW failed to pay for repairs to low-income veteran housing, wages to its veteran employees, and, at one point, laid off its entire staff and asked them to "volunteer" their labor.

### **Enforcing Washington's Wage Theft Laws:**



#### **Result: Restored wages to hundreds of workers, and changes to pay practices, better recordkeeping and self-audits for employers**

The Attorney General's Office and the Washington State Department of Labor and Industries Coordinated Enforcement team have brought enforcement actions in numerous wage theft cases, and resolved seven cases. This includes wages and interest due to more than 360 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.

Feb.

### ***Standing Up Against Workplace Sexual Harassment:***

#### **Result: Consent decree and \$350,000 paid to workers who were sexually harassed**

Attorney General Bob Ferguson entered a consent decree with Great Columbia Berry Farms LLC, a blueberry grower in Walla Walla County, including a \$350,000 settlement fund. The lawsuit asserts one of the company’s managers raped at least one female worker, sexually harassed several female workers over the course of years, and retaliated against those workers who spoke out against his conduct. At least four women were affected by the manager’s conduct. The entire monetary recovery will go directly to the women harmed by the manager and Great Columbia Berry Farms.

### ***Standing Up for Farmworkers***

In a federal case involving farmworker wages, Attorney General Ferguson submitted an amicus brief, arguing that Washington farmworkers perform skilled work that anchors the local food supply and boosts the economy, despite historically being paid poverty-level wages. The Attorney General also argued that farmworkers and their families have been asked to shoulder extraordinary burdens as essential workers during the COVID-19 pandemic. In March, the judge in the case issued an order that protects the wages of agricultural workers.



March

### ***Enforcing Washington’s Law Against Discrimination:***

#### **Result: \$168,000 to compensate employees harmed by Matheson Flight Extenders**

As a result of a lawsuit brought by Attorney General Ferguson, Matheson Flight Extenders was required to end its practice of discriminating against pregnant and disabled employees, and to pay \$168,500 to compensate harmed employees. Matheson provides terminal and ground handling services for charter, regional, national and international air carriers, and operates at over 30 locations around the U.S., including SeaTac and Spokane airports. An AGO investigation uncovered its practice of only accommodating workers injured on the job, and refusing to accommodate pregnant employees and disabled employees whose limitations stemmed from outside work, and identified nine Washington employees subjected to this unlawful policy.

April

### ***Seeking Accountability for Unlawful Franchising Practices:***

#### **Result: Pending claims for restitution and civil penalties for approximately 250 Washington workers**



Attorney General Ferguson filed a consumer protection lawsuit against National Maintenance Contractors (NMC), a janitorial services company. The company provides cleaning services contracts and then enters into franchise agreements with janitors to do the work. Many of these franchisees are native Spanish and Russian speakers. NMC took advantage of immigrants with limited English proficiency and promised them the independence of business ownership. In reality, NMC locked its franchisees into contracts that often left them earning less than minimum wage, paying exorbitant fees, and with little ability to advocate for themselves. The lawsuit seeks restitution for National’s approximately 250 Washington franchisees, and civil penalties against NMC.

## *Increasing Protections for Temporary Workers*

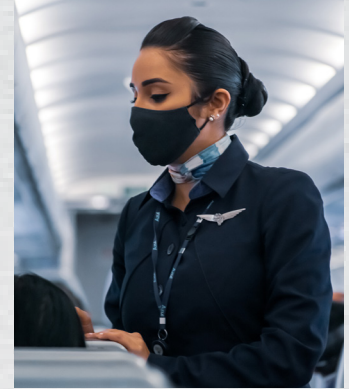
Attorney General Ferguson supported legislation sponsored by Representative Liz Berry that establishes specific standards under the Washington Industrial Safety and Health Act for staffing agencies and worksite employers. The standards include improved training, hazard assessment, and information sharing to better protect temporary workers. The bill was signed into law on April 14.

May

### *Defending Washington's Paid and Protected Sick Leave:*

**Result: Pilots and flight attendants can take protected sick leave as provided by Washington law**

The 9<sup>th</sup> Circuit Court of Appeals rejected arguments by the Air Transport Association, a trade group representing airlines, that asserted that protections under Washington's Paid and Protected Sick Leave Law could not be applied to any of their members' flight crews on claims of federal preemption. The law prohibits employers from disciplining employees for taking protected sick leave. The 9th Circuit decision affirms that the airlines cannot discipline flight attendants and pilots for taking protected sick leave.



June

### *Protecting Workers From Dangerous Chemicals:*

**Result: Rules protecting safety at oil refineries upheld**

The Attorney General's Office, representing the Washington State Department of Labor and Industries, successfully asserted that the Process Safety Management of Highly Dangerous Chemicals rules apply to an oil refinery's fire water system, which is an essential system to protect workers from catastrophic releases of toxic, reactive, flammable, or explosive chemicals.

### *Partnering to Strengthen Worker Protections:*

Attorney General Ferguson began to expand its outreach to organizations representing workers across Washington State. The first step was to convene over 20 organizations advocating for and providing services to workers to discuss how the Attorney General's Office can strengthen its efforts to protect all workers in Washington.

### *Protecting Immigrant Workers:*

**Result: Holding a private company accountable for its unfair and exploitative labor practices**

The Attorney General's Office went to trial and presented to a federal jury its claims against The GEO Group, Inc. for failing to pay adequate wages to immigrant detainees at the Northwest Detention Center (NWDC)



in Tacoma. The trial arose from GEO's practice of paying immigrant detainees \$1 per day for work that they perform at NWDC to keep NWDC operational. The State sought a declaration stating that GEO must comply with the State's minimum wage laws when it operates a private detention facility within the state. The State also asked that GEO be ordered to disgorge unjustly earned profits GEO made from not paying immigrant detainees adequately. Although the jury deadlocked, the Court is set for a re-trial in October 2021.

July

### ***Enforcing Protections for Farmworkers:***

#### **Result: \$2.1 Million invested in worker housing and health care**

Last year, Washington State established emergency farmworker temporary housing rules to protect farmworkers during the COVID-19 pandemic. In December, Gebbers Farms was issued a \$2.1 million penalty under the Washington Industrial Safety and Health Act (RCW 49.17) for willful violations of the temporary housing rules. Two people who worked at Gebbers died of COVID-19 in July 2020. In July 2021, Gebbers and the State of Washington reached a settlement which requires Gebbers to pay \$2.1 million to improve existing temporary housing beyond current requirements, including providing air conditioning, indoor plumbing and kitchen facilities, and a cell tower to improve their ability to contact family members, and providing funding to community health clinics in Okanogan County, primarily to improve their ability to provide health care to Gebbers' workers.

### ***Protecting Workers from Environmental Hazards:***

The Washington State Department of Labor and Industries, in partnership with the Attorney General's Office, issued emergency safety rules for wildfire smoke exposure and heat exposure for outdoor workers.

### ***Leading the Way on Protecting Workers from Non-compete Clauses***

On July 9, President Biden signed an executive order on promoting business competition that directs the Federal Trade Commission (FTC) to craft a regulation that would "curtail the unfair use of non-compete clauses and other clauses or agreements that may unfairly limit worker mobility." A White House official cited Attorney General Ferguson's actions in recent years to end the use of no-poach clauses and take on abusive non-compete clauses in explaining the need for clear rules from the FTC.

Aug.

### ***Standing Up for Amazon Warehouse Workers:***

#### **Result: \$7,000 citation**

The Washington State Department of Labor and Industries, in partnership with the Attorney General's Office, cited Amazon for violations of worker safety and health rules in their fulfillment center warehouse in DuPont, Washington. The citation addresses the safety and health hazards workers face because of the pace of work Amazon requires in its warehouse.

### ***Securing Back Wages for Orchard Workers:***

#### **Result: More than \$450,000 back to workers**

The Department of Labor and Industries, in partnership with the Attorney General's Office, filed a lawsuit against G&G Orchards Inc., and RC Orchards LLC, and their owners, to recover more than \$450,000 in back wages owed to more than 400 workers. The lawsuit also asks the orchards to address their accounting practices, including conducting regular self-audits and submitting a report to the Department, and changing record keeping practices to ensure accurate recording of all hours worked and pieces picked by all employees.