

# Working for Justice



A report from the Labor Bureau of  

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New York State Attorney General  
**Eric T. Schneiderman**



September 2016



Dear New Yorker,

In 1887, New York was the first state in the nation to introduce a bill establishing a holiday in honor of workers. Now, 129 years later, I am proud that my office honors the spirit of Labor Day by ensuring that workers themselves participate in the prosperity and well-being that they make possible.

While my office relies on existing law to protect workers and hold unscrupulous and exploitative employers accountable, we are also on the cutting edge to surmount new or seemingly intractable challenges in the workplace. We strive daily to ensure that workers rise above poverty wages, are paid for the work they do, are treated with dignity and respect, and can aspire to a life of financial security and greater opportunity.

From January 2012 through Labor Day 2016, my office has helped more than 20,000 workers, secured almost \$27 million in back pay for them, and levied penalties of nearly \$2.5 million against unscrupulous employers. On Labor Day 2016, I am pleased to share this report, outlining our accomplishments on behalf of workers since Labor Day 2015.

During this past year alone, we helped some 3,300 workers and secured nearly \$5.7 million in recovered wages for them. We successfully pressed major corporations to end the practice of on-call scheduling and provide workers with reliable hours. We took our fight against wage theft in the fast food industry to the next level: we not only pursued franchise owners who stiff workers on their pay, but also brought a lawsuit against a franchisor as a joint employer, responsible, along with the franchise owner, for years of known wage violations in franchise stores.

We put a stop to unlawful non-compete agreements that severely hampered workers' job prospects and mobility. And we celebrated the passage of an historic increase in the minimum wage, an achievement made possible by an unprecedented collaboration among government leaders, unions, advocates, and progressive business leaders.

From rigorous civil enforcement of wage-and-hour laws to groundbreaking criminal prosecutions; from pursuing novel legal strategies to crafting new policies, I am privileged to stand up for New York's working men and women and proud of the progress we have made in our unrelenting pursuit of justice.

A handwritten signature in black ink, appearing to read "Eric Schneiderman". The signature is fluid and cursive, with a long horizontal flourish at the end.

Eric Schneiderman

# Upholding a Full Day's Pay for a Full Day's Work

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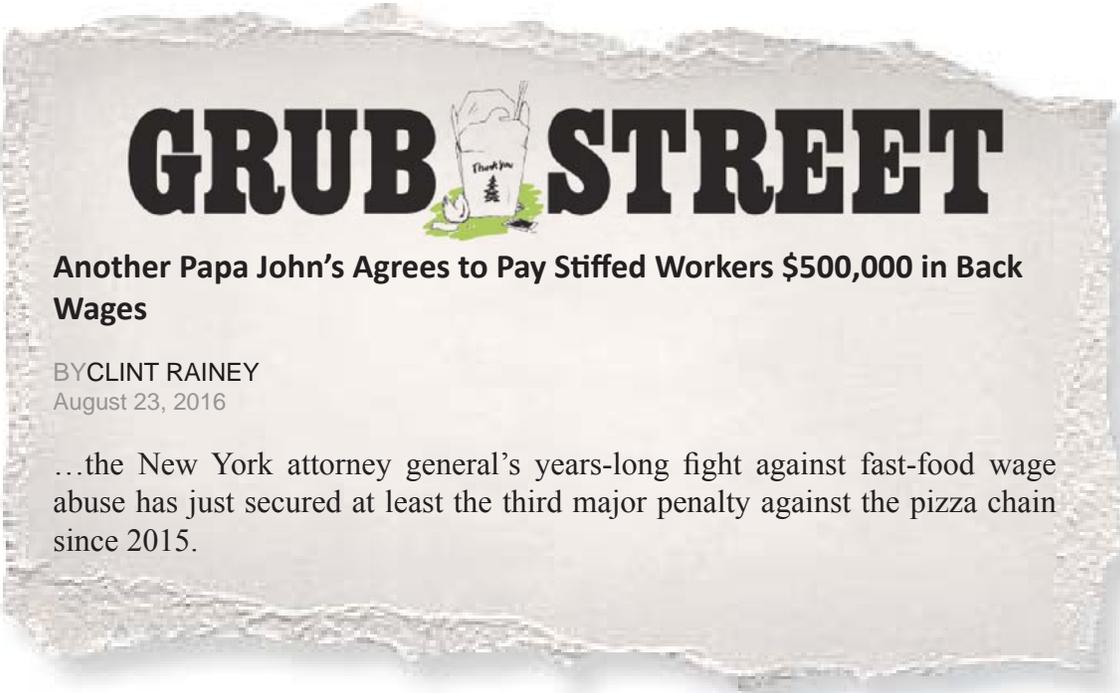
It's a simple proposition: you put in a day's work; you're paid for a day's work. Unfortunately, for too many workers, that's not the case. Attorney General Schneiderman has taken bold steps to protect workers and penalize employers who exploit them by flouting minimum wage, overtime, and prevailing wage laws. During his time in office, the attorney general has secured almost \$27 million in recovered wages for workers and imposed \$2.5 million in fines on employers. He has protected fast food and restaurant workers, construction workers, and home health care aides.

## Civil Enforcement of Wage-and-Hour Laws

Some companies in the fast food industry have become notorious for wage-and-hour violations. In October 2015, building on a strong track record in holding fast-food franchises to account, the attorney general, in collaboration with the U.S. Department of Labor, secured nearly \$500,000 in back pay and damages for some 250 workers at nine Papa John's Pizza franchises in Queens, the Bronx, and Brooklyn, owned by four separate current and former franchisees. The workers had been cheated out of minimum wage and overtime pay, as well as deprived of other labor law protections.

Papa John's franchisees again were brought to justice in August 2016, when, once more in collaboration with the U.S. Department of Labor, Attorney General Schneiderman announced a \$500,000 settlement with the owners of three Papa John's franchise stores in Manhattan and the Bronx for failing to follow minimum wage and overtime laws, and for failing to reimburse workers for work-related expenses. The settlement money will return wages owed to 200 workers; and, among other settlement requirements, the franchise owners must designate an officer to monitor ongoing compliance and submit quarterly reports to the Office of the Attorney General for three years.

While many large companies have been held to account for wage-and-hour violations, it's important to note that workers at smaller enterprises also deserve protection. One Manhattan restaurant owner repeatedly pocketed the tips that customers who ordered through online services such as GrubHub and Seamless intended for delivery workers. In March of 2016, the owner was ordered to return \$15,000 in unpaid tips to the workers. And in July 2016, the attorney general announced a settlement with the Bridgeview Yacht Club in Nassau County, requiring them to return \$50,000 to 19 workers who had not been paid adequately for overtime.



## GRUB STREET

### Another Papa John's Agrees to Pay Stiffed Workers \$500,000 in Back Wages

BY CLINT RAINEY  
August 23, 2016

...the New York attorney general's years-long fight against fast-food wage abuse has just secured at least the third major penalty against the pizza chain since 2015.

# Domino's Pizza: Holding Corporations Accountable

Since taking office, the attorney general has investigated 12 Domino's franchise owners and recovered some \$1.5 million in back wages for over 1,200 of their workers.

In the course of these investigations into Domino's—the largest pizza delivery chain in the country—the attorney general brought to light rampant, across-the-board exploitation of Domino's workers. In fact, these investigations uncovered internal documents produced by Domino's showing that, over a two-year period, 78% of New York franchisees listed rates for at least some employees below the required minimum wage, and 86% below the required overtime rate. It was time to hold Domino's the corporation responsible in order to ensure better treatment of workers and adherence to labor laws across the country.

That's why, in May 2016, after a multi-year investigation, Attorney General Schneiderman filed a groundbreaking lawsuit against Domino's and three of its franchisees, alleging that Domino's was, in fact, a joint employer and responsible for underpaying franchise workers at least \$565,000 at the ten franchise stores owned by the franchisees. As the attorney general's investigation uncovered, Domino's not only exerted extensive control over franchisees' daily operations, including many related to employee conditions, but the company also required its franchisees to use a computer system with a payroll report function that Domino's knew under-calculated wages. When wage theft is the norm at the vast majority of Domino's franchise stores, it points to systemic problems that can only be resolved by the franchisor.



## THE WALL STREET JOURNAL.

### Domino's Pizza Helped Franchisees Cheat Workers Out of Pay, Lawsuit Claims

May 24, 2016

New York Attorney General Schneiderman says a payroll software system under-calculated wages.

## Criminal Prosecution of Wage-and Hour-Laws

Sometimes, criminal prosecution of workplace violations is warranted, for example, when the violations are particularly egregious or there is a repeat pattern of non-compliance.

In the past two years, the Office of the Attorney General has investigated and found violations by eight separate Papa John's franchisees, who together operated more than 30 restaurants. In one case, in particular, the attorney general determined that criminal prosecution was warranted. Specifically, the owner of nine Papa John's franchises throughout the Bronx had previously been investigated by the U.S. Department of Labor for overtime violations. Instead of following the law, the owner began paying his employees in cash for hours past forty and using fake names. The Office of the Attorney General executed a search warrant and obtained evidence of the cash payments. Because the owner repeatedly flouted minimum wage and overtime laws—even after prior government enforcement actions—the attorney general pursued a criminal case against the owner and corporation. And in November 2015, Attorney General Schneiderman secured a conviction against the owner for failure to pay wages and against the corporation for falsifying business records. Both defendants were ordered to pay \$230,000 in restitution to underpaid workers (on top of the earlier settlement with the U.S. Department of Labor for \$280,000), and the owner was sentenced to 60 days in jail.

Similarly, in December 2015, the owner of a restaurant in Port Chester, NY, pled guilty to failing to pay minimum wage and overtime to six employees over a period of four years. As a result, she was required to pay \$47,000 in back wages. But when she repeatedly failed to show up for her sentencing hearing, she was remanded to jail for a week. She has subsequently begun to repay the back wages and awaits sentencing.

In June 2016, Attorney General Schneiderman brought the owner of a Westchester-based home health care agency to account for his repeated exploitation of the home health care aides he hired. The employees were doing the difficult and critical work of caring for the elderly, the sick, and the disabled—bathing them, changing bedpans. In flagrant disregard for the law and for the rights of his employees, the owner went for weeks without paying them, continued to hire new workers whom he subjected to the same mistreatment, and induced the aides to keep working with false promises of future payment. Attorney General Schneiderman secured guilty pleas from the owner and corporation for failing to pay wages to at least 67 employees, inducing them to keep working despite nonpayment, falsifying business records, and defrauding the state unemployment insurance contribution system. As a condition of the plea, the defendant was ordered to pay more than \$135,000 in back wages to the workers and \$66,000 in state unemployment insurance fund contributions and penalties. If the owner fails to pay restitution by his December 2016 sentencing date, he faces jail time.



**lohud** THE JOURNAL NEWS  
PART OF THE USA TODAY NETWORK

### Port Chester restaurant owner pleads guilty in wage theft

December 18, 2015

The Attorney General's Office will distribute the \$47,000 in unpaid wages to six former employees.

## Criminal Enforcement of Prevailing Wage Laws

Federal and state prevailing wage laws ensure that laborers on public works projects—like schools, transportation infrastructure, and public housing—are paid wages and benefits comparable to the local norms for a given trade. These laws prevent construction companies from winning government contracts by underbidding their competitors through excessively low wages. It's unconscionable to use public tax dollars to profit unfairly off the backs of laborers, undermining what should be solid middle-class vocations and turning good jobs into bad.

The attorney general has aggressively pursued criminal action in especially egregious cases of malfeasance among government contractors who fail to pay the prevailing wage on public projects. During the past year, he secured seven convictions in cases that came about as part of a joint initiative between the Office of the Attorney General and the New York City Department of Investigation to combat wage theft at public works projects in New York City. All told, the seven convictions have resulted in \$2.3 million in restitution to workers; in addition, the contractors face a five-year bar from obtaining city contracts.

Included among those convictions were the December 2015 convictions of two brothers who worked as labor brokers, hiring workers on behalf of a contractor on New York City School Construction Authority and Housing Authority cases. They admitted to a scheme in which they demanded a kickback from workers, who ended

up netting well below the prevailing wage required by law. The brothers were convicted of grand larceny and ordered to pay \$37,573 in restitution. These criminal convictions were paired with earlier civil enforcement in which the attorney general secured from the contractor more than \$200,000 in back wages and \$90,000 in benefits for the underpaid workers.

Together with the Inspector General of the Port Authority of New York and New Jersey, Attorney General Schneiderman announced the March 2016 arrest of the owner of a concrete company for failure to pay workers to the tune of more than \$268,000 in wages and benefits for a construction project at JFK Airport. The contractor was con-

victed in July 2016 for falsifying business records. The Attorney General's Office ordered him to make payment of the \$268,000 in benefits to the employees as a result of this conviction.

In May 2016, a New Paltz-based construction company and its owner were convicted of underpaying workers at a Harlem housing project, stiffing the workers of approximately \$800,000 over the course of 17 months, and trying to hide the wage theft by signing false checks that were never given to the workers. They were ordered to pay that money back to the workers, as well as \$83,000 in unpaid unemployment contributions to the New York State Department of Labor.



### Kennedy Airport Contractor Arrested for Cheating Workers out of Benefits

Thursday, March 31, 2016

Kenneth Padover and his company, Arbor Concrete Corporation, face 136 felony counts of falsifying business records and other charges.

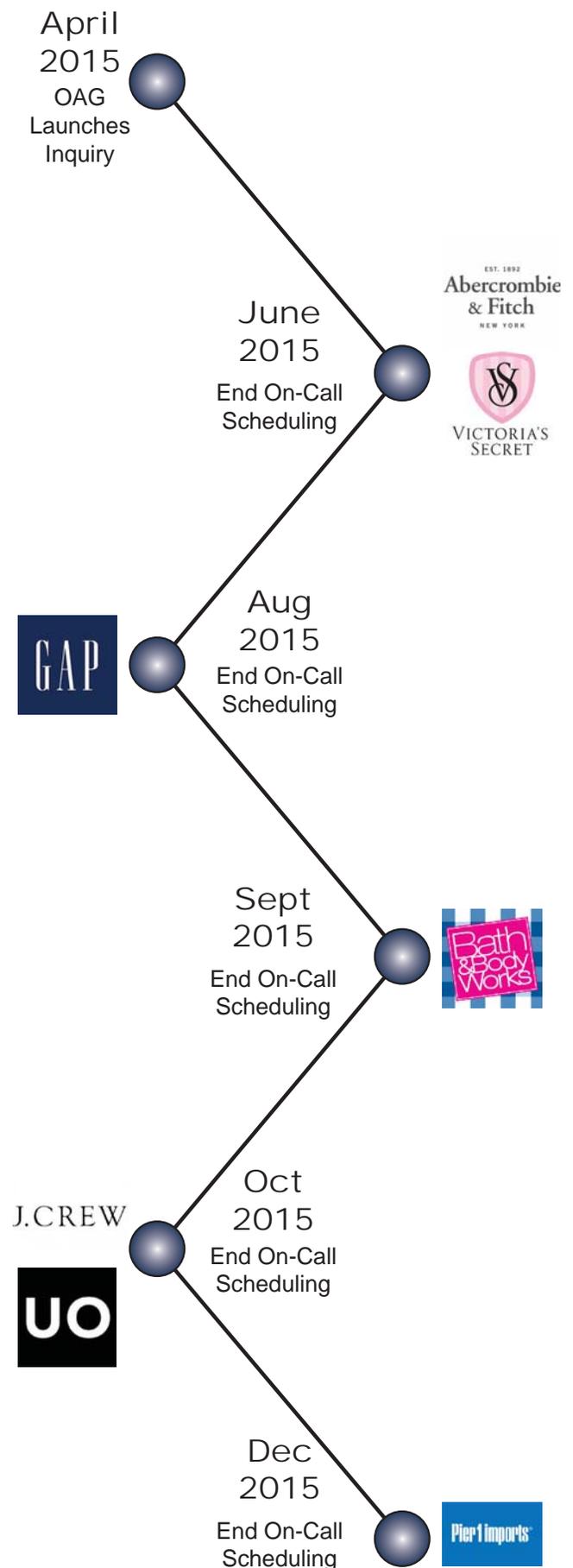
## Leading the Charge against On-Call Scheduling

It's hard enough managing a household in the best of circumstances. It's even harder when you're a low-wage worker and you have to worry about making the rent and putting food on the table. But it's an exponentially more daunting challenge when your employer uses "on-call" scheduling. With on-call scheduling, workers have to be available to work when the employer needs them, often at a moment's notice; they don't know their schedule in advance; and if the employer doesn't need them, they don't get paid. For workers who have to commit to working at certain times with no certainty that they actually will work and get paid, they face the insurmountable task of planning their schedules, lining up necessary child care, or committing to other jobs or education that can help them advance economically and professionally.

Numerous studies have shown the financial and health-related toll that on-call scheduling takes on the workers themselves and on their families. This serves no one's interest.

In April 2015, when Attorney General Schneiderman wrote to fourteen companies to inquire about their scheduling practices, pressure began building on the companies to reform those practices; within a few months of that initial inquiry, the Gap, Abercrombie & Fitch, and Victoria's Secret announced that they would end on-call scheduling. Since then, in the period covered by this report, Bath & Body Works, Urban Outfitters, J. Crew, and Pier One Imports have followed suit. (The other companies that received letters indicated that they were not currently using on-call scheduling.) As a result, according to estimates from the Center for Popular Democracy, some 238,000 workers nationwide no longer have the stress and unpredictability of on-call scheduling to contend with, and will be given their schedules with significant advance notice.

And now Attorney General Schneiderman is leading this effort nationally: he and eight fellow attorneys general have sent joint letters to fifteen additional companies doing business in their respective states (California, Connecticut, Illinois, Maryland, Massachusetts, Minnesota, New York, and Rhode Island), as well as the District of Columbia. Discussions with these additional companies are underway.





STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

EXECUTIVE OFFICE

...Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. Without the security of a definite work schedule, workers who must be “on call” have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay...

Terri Gerstein,  
Labor Bureau Chief

## Raising Wages for New York Workers

It's vital to ensure that employers comply with wage-and-hour laws, but it's also vital to have laws that guarantee good wages in the first place. And when state minimum wage laws mean that too many people struggle in jobs paying poverty wages, it's time for a change. In 2016, the multi-year campaign for increasing the state minimum wage across the board came to fruition: in April, the Legislature passed and the governor signed into law a new minimum wage, rising to \$15 over the next few years.

This victory was the culmination of years of efforts to lift workers out of poverty-wage jobs. Last year, Attorney General Schneiderman stood alongside workers, advocates, and other public officials in pushing for an increase in the minimum wage for fast food workers, calling for the governor to convene a fast food wage board. The governor heeded his call, convened a wage board to consider an increase in fast food workers' minimum wage, and acted on the wage board's recommendation. And so fast food workers were guaranteed an increased minimum wage rising to \$15 an hour by 2018 in New York City and by 2021 elsewhere in the state.

But it's not just fast food workers who needed an increase. So building on the momentum created by last year's victory for fast food workers, Attorney General Schneiderman continued to beat the drums for an across-the-board increase in the minimum wage, and in March 2016 published an op-ed in the Daily News emphasizing that, while the governor can

convene other industry-specific wage boards, the better course of action is for the Legislature to pass a bill raising the minimum wage.

Attorney General Schneiderman argued that the minimum wage affects more than just high-school kids looking to make a few extra dollars. According to official state Department of Labor statistics from February, half of all workers earning less than \$15 per hour are 35 or older. In New York City, 80% of minimum-wage workers are over age 25.

A groundswell of support for a minimum wage increase—the result of an unprecedented collaboration among unions, elected officials, and advocates across diverse sectors—made it a reality, in April 2016. The wage increase is likely to benefit some 2.3 million people—more than 10% of the state population.

“There is **no reason** that anyone who is willing to work **full time** should live in **poverty.**”

A.G. Schneiderman

#NYAG4Workers

Office of the Attorney General  
Eric T. Schneiderman

## DAILY NEWS | OPINION

### \$15 an hour, one way or another: Pass a law, and if not, consider new wage boards

BY ERIC SCHNEIDERMAN  
NEW YORK DAILY NEWS  
Monday, March 14, 2016,

When we allow our fellow New Yorkers to work full-time and live in poverty, we are sending a message that we do not value them. And when we permit large employers to force taxpayers to foot the bill for major costs of doing business — by offering food stamps and other state benefit programs so workers can provide for their families — we send a message that New York is willing to subsidize companies that pay poverty wages.

## Ending Unlawful Non-Compete Clauses

There are instances where a non-compete clause in an employment contract might be warranted, but, under New York State law, they are few and far between. Such clauses, which restrict employees from working in a similar capacity for a competitor for a certain period of time after leaving their current job, apply only in very narrowly defined situations—for example, where an employee has highly unique skills or access to trade secrets. A March 2016 report published by the U.S. Treasury Department found that non-compete agreements cause various harms to “worker welfare, job mobility, business dynamics, and economic growth more generally.” And a May 2016 report published by the White House concluded that non-compete agreements depress wages and inhibit innovation. For these reasons, Attorney General Schneiderman has focused on ending the unlawful use of non-compete clauses because such clauses keep employees from seeking better, often higher-paying, jobs or even negotiating a raise in their current job and deter competitors from hiring workers for fear of a lawsuit by the original employer.

*Law360:* In June 2016, Attorney General Schneiderman announced that Law360, one of the top legal news websites in the country, agreed to stop using non-compete agreements that had been mandatory for the vast majority of employees, including some in their first jobs out of college with no journalism experience. Under the settlement agreement, Law360 (a subsidiary of LexisNexis) will no longer require its approximately 150 editorial employees to sign non-compete agreements, except for a small number of top executives. Law360 also agreed to notify all current employees, and all former employees who left within the last year, that the non-compete agreement is no longer in effect.

*Jimmy John's:* That same month, Attorney General Schneiderman reached a settlement with Jimmy John's Gourmet Sandwiches to stop including sample non-compete agreements in hiring packets it sends to its New York franchisees. The sample non-compete agreements prohibited sandwich makers, for a period of two years after leaving a job with Jimmy John's, from working at any establishment within a two-mile radius of a Jimmy John's location that made more than 10% of its revenue from sandwiches and, for a period of one year, prohibited sandwich makers from working for any other Jimmy John's franchisee. Jimmy John's also agreed to inform its franchisees that the attorney general has concluded that the non-compete agreements are unlawful and should be voided.

*Examination Management Services, Inc.:* And in August 2016, the attorney general announced that Examination Management Services, Inc. (EMSI), a nationwide medical-information-services provider headquartered in Texas, agreed to stop using non-compete agreements for most employees in New York. The agreement resulted from a complaint filed with the Office of the Attorney General by a former EMSI employee, a phlebotomist who drove long hours to individual homes and offices around upstate New York performing physical examinations and collecting specimens. She was offered a job by a clinical laboratory company that offered more regular hours, higher pay, and no travel requirements, but the offer was rescinded when the company discovered she was subject to a non-compete with EMSI. When the attorney general intervened, EMSI agreed to release the former employee from her non-compete and to end its use of non-competes for all regular employees.



## Protecting Taxi Drivers from Exorbitant Leasing Fees

Taxi drivers may not be employees of medallion owners in the traditional or legal sense, but their ability to earn a living wage depends on the compliance of the medallion owners and their agents with New York City's Taxi and Limousine Commission's (TLC's) "lease cap rules." These rules strictly limit the amount of money drivers may be charged for leasing taxicabs and medallions to ensure them a baseline level of take-home earnings.

Attorney General Schneiderman has teamed with the TLC to protect the rights of New York City's taxi drivers under the lease cap rules. In March 2016, the attorney general and the TLC commissioner announced the third settlement resulting from that joint initiative. Style Management Corp. and its owner agreed to pay a total of \$750,000 in restitution to drivers because they had violated the lease cap rules and had also regularly shortchanged drivers on credit card fare earnings. Style also must take steps to ensure future compliance with the law, including appointing a compliance officer and filing quarterly reports with the attorney general.

And in April 2016, the attorney general obtained a consent order against Evgeny Freidman and his taxicab companies for breaching a 2013 settlement agreement with his office for violating TLC lease cap rules. That 2013 settlement required him and his companies to pay a total of more than \$1.2 million in fines and restitution for drivers, and to comply with the law going forward. While they paid the fines and restitution, they continued to violate TLC rules by failing to pay drivers in a timely manner and failing to provide drivers with proper receipts.

The April consent order requires Freidman and his companies to hire an independent monitor and pay \$50,000 in damages and a fine, \$210,000 to be distributed to 700 drivers as lease credits, and nearly \$16,000 to some 280 drivers as restitution for non-refunded money under the 2013 settlement.

## Enforcement of Child Labor Laws

In July 2016, the attorney general announced the arrest of a farm owner in Homer, New York, on multiple charges related to the death of a fourteen-year-old boy on the farm. The boy died after being crushed by a hydraulic lift he was allegedly operating to prepare bales of hay, in violation of child labor laws that prohibit the operation of certain heavy equipment by minors. In addition to the charges related to his death, the owner was also charged with multiple other violations, including paying farm workers off the books and hiring other minors in violation of child labor law restrictions. The attorney general will aggressively prosecute any employer who violates child labor laws.

### NEW YORK BUSINESS JOURNAL

#### Schneiderman: 'Taxi King' needs help watching his throne

##### The reign of New York's "Taxi King" is a troubled one.

April 19, 2016

Evgeny 'Gene' Freidman, the largest medallion operator in the entire country, can't be trusted to fairly compensate the taxicab drivers that work for him, according to New York Attorney General Eric Schneiderman. ... "No one is above the law and my office will continue to take action to protect the rights of hard-working New Yorkers," Schneiderman said in a prepared statement. "Taxicab drivers play a critical role throughout New York City, and their earnings should not be squeezed by taxi companies which own or manage medallions."

## Protecting Domestic Violence Victims from Workplace Discrimination

When a female employee reported for her shift at a Bon-Ton store in Erie County and informed her employer that she had received death threats from her estranged husband, had filed a police report, and was seeking an order of protection, she was sent home before the end of her shift and told to stay home until she had received the order of protection and provided it to the store manager. Later, her manager told her she would be able to take paid leave for the time off but would still need to stay home. This violated the New York State Human Rights Law, under which it is unlawful for an employer to discriminate against an employee based on the employee's status as a victim of domestic violence. Following the Office of the Attorney General's inquiry into the matter—in a joint effort of the Labor and Civil Rights bureaus—Attorney General Schneiderman announced a November 2015 agreement with Bon-Ton Stores, Inc., strengthening protections against discrimination based on domestic violence victim status across the company's 18 New York-based stores.

Under the terms of the settlement, Bon-Ton agreed to modify its policies and procedures to acknowledge that domestic violence victims are protected from discrimination under New York law; it would provide training and materials about discrimination against domestic violence victims to its 1,200 employees across the state; and it would make a \$5,000 contribution to the Erie County Sheriff's Department's Domestic Violence Unit. And Bon-Ton agreed to let the employee return to work and provided her with a safety plan. "With all that I was going through in my personal life, I wanted to go to work to maintain some stability in my world," said the employee. "The last thing I wanted was to be forced to stay home and let my estranged husband think that he can control my life." Attorney General Schneiderman will always stand with victims of domestic violence against discrimination.

# The New York Times

## Settlement in New York Domestic Violence Case May Set Broader Precedent

BY NOAM SCHEIBER

November 18, 2015

The New York State attorney general has reached a potentially significant settlement with Bon-Ton Stores, which has more than 200 department stores across the northern part of the country, over a workplace discrimination complaint filed by a victim of domestic violence....

Experts on workplace discrimination hailed the settlement as an important step in protecting victims of domestic violence.

## Protecting Workers' Rights at the Supreme Court

In a Supreme Court case that had the potential to pose an existential threat to the labor movement by seriously curtailing the organizing power of public sector unions, Attorney General Schneiderman led a coalition of attorneys general from twenty states and the District of Columbia in submitting a friend of the court brief. Specifically, the suit, *Friedrichs v. California Teachers Association*, challenged the ability of unions to collect fees from California public school teachers who are covered by an exclusive collective bargaining arrangement to cover their fair share of the costs of collective bargaining. The brief supported the State of California in arguing that “agency shop” or “fair share” fees are constitutional. In ruling on the case, the Supreme Court deadlocked four-four, thus letting stand the lower court decision upholding the right of unions to collect such dues—which, in turn, protects the organizing power of unions, and the opportunity for workers to lift themselves out of poverty and build a better future.

In another Supreme Court case, *Tyson v. Bouaphakeo*, that could have seriously undermined wage-and-hour law enforcement, Attorney General Schneiderman signed onto a multi-state amicus brief submitted by the Illinois attorney general. The case stemmed from a 2007 suit by workers at a Tyson Foods meat-processing facility, who filed a class action seeking overtime pay and damages because they were not paid for time spent putting on and taking off protective equipment and walking to work stations. Because Tyson did not track time spent on these tasks, the workers, as a class, relied on representative statistics to determine liability and damages. Tyson argued that the workers’ class action could not rely on such statistics, and that each worker would instead have to bring a claim individually. The amicus brief joined by Attorney General Schneiderman argued that limiting workers’ ability to bring collective and class actions to recover unpaid wages in situations where employers have failed to keep accurate records of the hours worked by their employees essentially rewarded employers for poor record-keeping and would significantly hamper wage-and-hour enforcement efforts. The Supreme Court ruled in favor of the workers.



# KNOW YOUR RIGHTS

**You have important legal protections in the workplace, which may change over time.**

**The following requirements apply to most workers in New York.**

**Minimum Wage:** You must be paid at least the minimum wage, which is \$9.00 an hour as of August 2016. The minimum wage will rise at least to \$9.70 and at most to \$11 an hour at the end of 2016, depending on the area of the state and the size of the employer, and in subsequent years will rise incrementally each year until all areas of the state have a minimum wage of \$15.

**Minimum Wage for Fast Food Workers:** For fast food workers, the minimum wage is \$10.50 an hour as of December 31, 2015, in New York City, and \$9.75 an hour in the rest of the state, and will rise incrementally each year until all fast food workers have a minimum wage of \$15 an hour.

**Minimum Wage for Tipped Workers:** Employers are allowed to pay a lower, “tipped” minimum wage rate in an amount set by law to workers who regularly receive a sufficient amount of tips, but they must follow very specific rules in order to do so. Also, employers and their agents may not take a portion of employees’ tips. As of December 31, 2015, the minimum cash wage is at least \$7.50 per hour for tipped workers in the hospitality industry, assuming a tip allowance of no more than \$1.50 per hour. For other tipped workers, it is \$7.65 per hour if they earn at least \$1.35 per hour in tips, or \$6.80 per hour if they earn at least \$2.20 per hour in tips.

**Overtime:** You must be paid overtime at a rate of at least 1 ½ times your regular hourly rate for every hour that you work over 40 hours per week.

**Spread of Hours:** You also have a right to be paid an additional hour at the minimum wage each day that the amount of time between the start and end of your work day is more than 10 hours.

**Unlawful Deductions from Wages:** Your employer can only make certain deductions from wages that are legally permitted or required (such as taxes or health insurance contributions). An employer may not deduct from your wages based on cash register shortages, breakage, or to make you purchase a required uniform.

**Call-In Pay:** If you report for work at your employer’s request or with your employer’s permission, you must be paid “call-in pay” for at least three hours (if you work for a restaurant or hotel) or four hours (in other types of employment), or the number of hours in the regularly scheduled shift, whichever is shorter.

**Uniforms:** Your employer may require you to wear a uniform, but your employer may not charge you for the uniform or deduct the cost of the uniform from your paycheck. Your employer must also provide laundry services for free or pay you an amount of money set by law for the cost of laundering your uniform.

**Pay Notice:** When hired, your employer must provide you with a written notification of your rate of pay, and provide you every pay period with a pay record, or pay stub, showing gross wages, deductions, and net wages.

**No Retaliation:** You have the right not to be punished or retaliated against because you have complained about unlawful pay practices or other labor law violations to your employer or to a government agency like the Attorney General’s Office.

**In addition to your wage-and-hour rights listed above, some other important legal protections include:**

**Right to Organize:** You have the right to organize or join a union or to take collective action to improve your working conditions. For information or to file a complaint, call the National Labor Relations Board at 1-866-667-6572.

**Safe Workplace:** You have the right to a workplace which does not endanger your safety or health. For information or to report unsafe workplace conditions, call the Occupational Health and Safety Administration at 1-800-321-OSHA (6742).

**No Discrimination:** The New York State Human Rights Law makes it illegal for an employer to discriminate against an employee or job seeker because of his or her age, creed, race, color, sex, sexual orientation, familial status, national origin, marital status, disability, domestic violence victim status, criminal or arrest record, or predisposing genetic characteristics. If you work in New York City, you are also covered by the New York City Human Rights Law, which may offer additional protections beyond the state Human Rights Law. To report illegal workplace discrimination, call the Attorney General's Civil Rights Bureau at 1-212-416-8250.

**Workers' Compensation:** If you are injured or made sick on the job, workers' compensation insurance provides for medical care and wages you lose because your ability to work is affected. Employers pay for this insurance and may not ask you to pay anything toward the cost. For more information, call the New York State Workers' Compensation Board at 1-877-632-4996.

**Paid Sick Time:** If you work in New York City, you have the right to take paid sick leave in certain circumstances under the New York City Earned Sick Time Act. For more information, call 311 and ask for the New York City Department of Consumer Affairs.



