



## Eastern Atlantic States

REGIONAL COUNCIL OF CARPENTERS

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May 11<sup>th</sup>, 2022  
House Education and Labor Committee

Testimony of Francisco Esparza;

Good afternoon, Chair Scott, Ranking Member Fox, and members of the Education & Labor Committee. I appreciate the opportunity to testify today on my experience and expertise on the issues of workers' rights, wage theft, and the uneven process of wage recovery for victims of wage theft. I am Francisco Esparza and I am a Council Representative for the Eastern Atlantic States Regional Council of Carpenters, a union carpenter, and a former victim of wage theft in the construction industry's underground economy.

I came to United States 18 years ago when I was 11 years old. I am a Dreamer. As a DACA recipient I understand that I am fortunate to be able to have a career in this country and the ability to work for all that I earn. To be honest, that realization is not one that comes easily to many people like me. Countless construction workers, especially in the District of Columbia, see themselves as voiceless and invisible. They keep their head down go to a job and believe that the business of the underground economy is just the way things are. In the underground economy of the construction industry, you are told you are "lucky" to have a job in general and will be compensated by the means dictated by your employer or your labor broker. This is not how things should work in this country, but all too often they do. It takes education, some courage, and self-respect for many to decide that they have been cheated and deserve fair compensation.

In 2019, myself and 222 others started to speak up and take action to receive the \$618,000 in stolen wages we earned<sup>1</sup>. Our class action lawsuit against contractor Anning-Johnson was for unpaid wages, unpaid overtime, and workplace fraud under Federal and District of Columbia law was a major victory for workers who do not think they have a voice. It was historic, because it is so rare. Without the laws put into place in the District of Columbia we would have not had the ability to take this step.

The District of Columbia has stronger than average laws in place to help workers fight back against wage theft. The Districts' Minimum Wage Act, Wage Payment and Collection Law, and Work Place Fraud Act, provide more opportunity for workers like me to fight back. Steps like this taken

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<sup>1</sup> (Esparza v. Anning-Johnson Co., 2019)



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on the local level mean a lot, and are helpful, but more must be done on the federal level to protect all workers. The Wage Theft Prevention and Wage Recovery Act before this committee is an important step to make this happen and can help workers receive the victory I and 222 other construction workers like me were a part of.

Even with this win, we see wage theft, worker misclassification, and construction industry tax fraud running rampant in the underground economy. The actions workers have taken have not deterred unscrupulous contractors and labor brokers from stealing wages on the most vulnerable workers so that they can profit more. These profits are not only on the backs of the workers they victimize, but the honest U.S. taxpayers, like me. Workers' compensations, funding for American infrastructure, our schools, veterans' programs and more are paid not paid into because of these actions.

Recent studies and research show these issues are still prevalent and more enforcement and changes to our laws are necessary. In a national study by researchers and economists from Harvard University, Michigan State University, and Allegheny College, it was estimated that the we have lost out on \$8.4 billion in state and federal tax revenue<sup>2</sup>. Additionally, the study found that possibly 2.16 million construction workers are misclassified or "off the books", there is a \$1.7 billion shortfall in workers compensation, there is a \$725.1 million in unemployment insurance, and \$811.1 million in overtime is not paid.

Also, a study by UC Berkeley Labor Center shows that 39 percent of construction worker families are on public assistance to make ends meet because of low pay, wage theft and misclassification as independent contractors. That compares to 31 percent of all worker families. The cost to state and federal governments of this abuse of construction workers and taxpayers is \$28 billion a year.

The District of Columbia has taken steps to improve a worker's ability to fight back against these crimes, but studies have found that workers are still victimized in DC all the time. A 2021 survey of workers found that nearly 50% of those surveyed are part of the underground economy<sup>3</sup>. These workers reported that instead of receiving a paycheck with a paystub and with taxes deducted, they are being paid with a personal or business check without any payroll deductions, or they are simply

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<sup>2</sup> (Ormiston, Belman, & Erlich, 2020)

<sup>3</sup> (Sinyai & Galeas, 2021)

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being paid in cash. The study also found that the union construction workers that were interviewed did not see these actions.

After I was educated by the Eastern Atlantic States Regional Council of Carpenters on my rights, and joined the class action lawsuit against Anning Johnson, I became a union carpenter. I did this to protect myself and earn the fair wages I deserve with the backing of a union that will fight for me. I later was fortunate to become a Council Representative. I take this responsibility very seriously. I was once a voiceless worker. Now I am the voice for not only the union carpenters I represent in the District of Columbia, but also the non-union workers looking for help. Workers need education on their rights. Workers need the ability to fight back. I am proud to be part of an organization that does this work and proud to be before leaders like you today.

I hope my testimony and experience was helpful to you. Congress must act so that Wage Theft Prevention and Wage Recovery Act is made law. Your actions to strengthening penalties on violators, improving workers ability to pursue wage theft claims, expand outreach to workers and businesses on the issues, and facilitate the collection of evidence to assist in enforcement can help a worker gain the wages they deserve and hopefully help deter these crimes in the future. Businesses that play by the rules will also benefit because the cheaters underbid them. Good employers should not be punished for following the law Too many times fines are imposed and bad actors in the industry see them as, “just the price of doing business”. Without stronger enforcement, higher penalties, and education to workers we will never stop these practices. Workers deserve better in this country and with your we will see less victims in the underground economy.

Thank you again for your time.

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### Works Cited

- Esparza v. Anning-Johnson Co., No. 1:19-cv-03481 (District Court for the District of Columbia November 19, 2019).
- Ormiston, R., Belman, D., & Erlich, M. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College, Michigan State University, Harvard University.
- Sinyai, C., & Galeas, E. (2021). *The Underground Economy and Wage Theft in Washington DC's Commercial Construction Sector*. The District of Columbia : The Catholic Labor Network .

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