“SEARCHING FOR BREAD FOR OUR CHILDREN”: WAGE THEFT AMONG LATIN AMERICAN IMMIGRANT WOMEN LIVING IN WICHITA, KS.

A Thesis by

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“SEARCHING FOR BREAD FOR OUR CHILDREN”: WAGE THEFT AMONG
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The following faculty members have examined the final copy of this thesis
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fulfillment of the requirement for the degree of Master of Arts with a
major in Anthropology.

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I dedicate this work to my dad, Vic Lonning, who passed away May 14, 2016. None of this would have been possible without his sense of social justice, respect for women, his emotional support, or his unwavering parental pride.
ABSTRACT

Wage theft occurs when employers don’t pay their workers at least minimum wage and correct overtime compensation (Bobo 2011:6). Even though undocumented immigrants have illegally entered the United States and employers who hire them are violating the law, two federal courts have ruled that all workers have the right to be paid according to the Fair Labor Standards Act (FLSA), regardless of immigrant status. However, many undocumented Spanish-speaking immigrants are reluctant to file claims for stolen wages for a variety of reasons. Their primary concerns are job loss and deportation. Several studies have noted that more men from undocumented Spanish-speaking communities file claims for stolen wages than do women from these communities. I have found no good reason to believe that working Spanish-speaking immigrant women experience wage theft less often than their male counterparts. Instead, I believe these women face more barriers to filing claims for stolen wages.

Interviews with ten Spanish-speaking immigrant women revealed various levels of fear of job loss and various attitudes regarding the difficulty of finding a new job, if they were fired. Six of ten participants worried how they would support their children if they lost their jobs as a result of filing a claim for stolen wages. García and Oliveira note that Mexican women from a variety of social classes “consider motherhood as their main source of identity” (García and Oliveira 1997:382). Thus, for a woman, whose primary identity is that of a providing mother, risking her job and possibly getting deported are at odds with feminine constructions of responsible motherhood.

Several informants suffered for months and years under psychologically abusive managers and bosses. Catalytic events are powerfully emotional events that transform undocumented workers who were previously willing to put up with labor abuses, such as verbal abuse, unsafe working conditions, or wage theft, into persons who are no longer willing to tolerate such abuses. These events allowed Spanish-speaking immigrant women to reach a threshold at which they are not longer willing to suffer labor abuses in order to preserve their jobs and identities as providing mothers. After these catalytic events they were able to push past fears of job loss and deportation in order to file claims for stolen wages and preserve personal dignity by asserting their rights as workers who contribute to the US economy.
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<td>AFL-CIO</td>
<td>American Federation of Labor and Congress of Industrial Organizations</td>
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<td>DOL</td>
<td>Department of Labor</td>
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<td>FLSA</td>
<td>Fair Labor Standards Act</td>
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<td>ICE</td>
<td>Immigration and Customs Enforcement</td>
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<td>KCC</td>
<td>Kansas Communities of Color</td>
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<td>KSDOL</td>
<td>Kansas Department of Labor</td>
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<td>NYSDOL</td>
<td>New York State Department of Labor</td>
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<td>OSHA</td>
<td>Occupational Safety and Health Administration</td>
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<td>PIC</td>
<td>Partners in Change (in NY state)</td>
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<td>USDOL</td>
<td>US Department of Labor</td>
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<td>WHISARD</td>
<td>Wage and Hour Investigative Support and Reporting Database</td>
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<td>Worker Justice Center</td>
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“[We] have suffered more injustices and have survived them despite all odds.” (Anzaldúa 2005:424)

CHAPTER 1: INTRODUCTION

Introduction

In 2013, the Pew Research Center’s Hispanic Trends Project estimated that 11.1 million\(^1\) undocumented immigrants are residing in the United States, and roughly 57% of these emigrate from Mexico (Pew Research Center’s Hispanic Trends Project 2013; Passel 2005:1). The promise of greater economic opportunities and the chance for a better life for their children has pulled millions to risk their lives crossing harsh deserts and scaling walls (Gammage 2008:138). The lack of employment opportunities and oppressively low wages in their home countries has pushed millions of would-be immigrants to take enormous risks, abandon their home countries, and leave loved ones behind in search of a better life in the United States. The 1994 passage of the North American Free Trade Agreement (NAFTA) had a devastating effect on Mexican agriculture and several domestic manufacturing industries, leading to increased poverty levels, and thus creating greater motivations for emigration (Fine 2011:605). According to noted feminist scholar Evelyn Nakano Glenn, recent economic forces have increasingly enabled white women in the United States to work in white-collar supervisory and lower-level professional positions, while racial-ethnic women are often relegated to service work, where they must engage in “lower-level public reproductive labor” (Glenn 1992:3). Unfortunately, when Spanish-speaking immigrant women arrive in the United States, they are pushed into the most undesirable jobs due to low education levels, lower social class, racial-ethnic biases, low English proficiency, and unauthorized legal status (de Castro et al. 2006:249).

Contrary to the beliefs of many Americans who think Spanish-speaking immigrants have come to steal their jobs, several immigrants told me they would have preferred to remain in their home countries.

\(^1\) According to 2010 United States census data there were 308.7 million people living in the United States. Thus, 11 million undocumented immigrants make up roughly 3.6% of the United States population (Mackun et al. 2011:1).
Consistent with the findings of anthropologist Leo Chavez, some of my informants said they would not have immigrated to the United States if not for the failure of their local economies to provide them with sustainable incomes (Chavez 2013:viii). As one of my informants, Alicia, put it, “If I had the resources, the money in Mexico, I would still be in my country living happily.” Millions of Spanish-speaking immigrants like Alicia risked their lives to leave their countries of origin, where they could often only make the equivalent of 76¢ per hour, for a chance at making $7.25 per hour in the United States. When Spanish-speaking immigrants experience wage theft in the United States, employers are robbing them of the very wages which they have come to the United States to earn.

Wage theft occurs when employers deprive workers of legally mandated wages. The most common form of wage theft occurs when employers don’t pay their workers at least minimum wage for all of the hours they work and when they don’t pay qualified employees correct overtime compensation (Bobo 2011:6). For a discussion of the origin of this term, see the section in this chapter titled, Origin of the Term “Wage Theft.”

According to Hu-DeHart, “Corporate-led globalization depends on intense exploitation of labor, especially female labor…” (Hu-DeHart 2007:477). As the demand for cheap labor has increased in United States service industries and foreign manufacturing, undocumented Asian and Latina women have made up the legions of workers who have made market gains possible (Hu-DeHart 2007:475). Because many of these women are accustomed to making the equivalent of $46 per week in their home countries, when they arrive in the United States they happily accept minimum wage (currently $7.25 per hour). Some tolerate wage theft and payments as low as $3 to $5 per hour. These immigrant workers are used to both earning and spending very little. They are accustomed to maintaining a lower standard of living, thus making them cheaper for United States businesses to employ (Sanidad 2011:22). Employers and business profit from undocumented Spanish-speaking immigrants who, on the whole, have become an easily manipulated, docile workforce, willing to work harder, longer, and cheaper, while complaining less because they fear deportation and think they have no other job options (de Castro et al. 2006:255). Unscrupulous employers maintain this docile workforce through the “emotional and physical degradation...
of workers,” which takes the form of verbal abuse, humiliation, excessive work as punishment, threats of deportation, and threats of job loss (Sanidad 2011:48).

At the same time that United States employers demonstrate a “ferocious hunger” for low-wage immigrant labor, United States immigration policy has made it increasingly difficult for unskilled workers to immigrate legally and achieve legal residency permits (Fine 2011:605). One of my informants, Amelia, underwent a 14-year process in order to achieve legal permanent residency status. As a result of immigration policy changes made in the late 1960s, the country quota for legal immigrants from Mexico was set at just 20,000 individuals per year. In addition, the “Texas Proviso” was repealed, making it illegal for employers to hire undocumented workers (Fine 2011:605). Although economic forces both push immigrants out of Latin American countries and pull them toward job opportunities in the United States, discriminatory immigration policies have made it harder for them to live and work peacefully in the United States.

Wage theft is relevant to all Americans who eat in restaurants, stay in hotels, shop in stores, and work in offices cleaned by Spanish-speaking immigrant women who might be earning less than minimum wage or are not receiving overtime pay. In addition to wage theft, many of these women are also being verbally abused by managers and owners, sexually harassed, and/or made to fear sudden job loss or deportation (Gleeson 2013:2; Castañeda and Zavella 2003:126). We interact on a daily basis with industries that rely on cheap immigrant labor to offer us goods and services at the lowest prices possible (Gleeson 2013:2). The realities of capitalist market forces manifest in immigrant’s working lives in the form of managers who yell at them to work faster and longer, make them work off the clock to finish tasks, don’t pay for all their hours, make them work through lunch breaks, and don’t allow them time off to visit the doctor or attend the funeral of a loved one. How many of the guests that enjoy luxurious stays at lavish hotels have any idea of the drama that is playing out under their noses between abusive managers and intimidated undocumented housekeepers? American consumers are likely unaware of the processes that ensure the cleanest rooms, the cheapest clothes, and the most delicious meals at the lowest possible costs.

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2 The “Texas Proviso” refers to a portion of a federal law, passed in 1952, which states that employing unauthorized aliens was not considered “harboring” and was therefore legal (Brownell 2005).
This study explores the lived experiences of Spanish-speaking immigrant women who have suffered from wage theft. It focuses on reasons why these women chose to file formal complaints in an effort to reclaim stolen wages and barriers they face in doing so. In order to reach Spanish-speaking immigrant informants, I worked with Adelante/KCC, a grass-roots nonprofit organization in Wichita, Kansas. Early on in my participant observation at Adelante’s Worker Justice Center (WJC), I noticed that far fewer immigrant women came in to get help reclaiming their unpaid wages than did immigrant men. I chose to focus on immigrant women and wage theft because most studies on wage theft primarily involve immigrant men (Gleeson 2010:579; Sanidad 2011:7). Other studies on undocumented men and women treat the genders as a homogenous whole, and relatively few studies have focused on women’s interpretations of their experiences in the labor market (Suh 2002:561; Hondagneu-Sotelo 2007).

In 2014, of the 39 open cases at Adelante involving wage theft, only four of them were filed by female members. During my research, I have found no good reason to believe that working Spanish-speaking immigrant women experience wage theft less often than their male counterparts. Instead, I believe they face more barriers to filing claims for stolen wages, and this explains why Spanish-speaking immigrant women file claims in fewer numbers than their male counterparts.

One of the most interesting findings I have made during this research is that immigrant women have various levels of fear of upsetting their bosses and losing their jobs and various attitudes about how difficult it would be for them to find a new job if they might be fired. Seven of my informants admitted to varying levels of fear of job loss, ranging from somewhat anxious to very anxious about the possibility of losing their jobs. Six of ten informants revealed that they thought it would be very hard or somewhat hard to find a new job, should they need to. Although fear of job loss didn't deter my informants from filing claims, those women who thought it would be very difficult to find another job had a harder time deciding to file a claim for stolen wages and experienced more anxiety throughout the claims-making process.

Many of the studies and reports written on wage theft do not provide the social contexts in which wage theft and other labor abuses occur. In this thesis, I give voice to ten Spanish-speaking immigrant women and allow them to describe how they navigated the choice to file a claim for stolen wages and the social contexts that led up to their choices. Some of the women I spoke to endured months and even
years of shocking psychological abuse from their employers in addition to wage theft. My informants spoke of being regularly humiliated, disrespected, treated less than human, mocked, or otherwise verbally or physically abused by their employers and managers. Thus, for many of them, the choice to file a claim for stolen wages was motivated by anger, a sense of injustice spurred by catalytic events, and the desire to preserve their personal dignity, rather than just money.

**What is Wage Theft?**

Wage theft occurs when employers deprive workers of legally mandated wages. The most common form of wage theft occurs when employers don’t pay their workers at least minimum wage for all of the hours they work, when they don’t pay qualified employees correct overtime compensation, or when workers aren’t paid for all the work they have performed (Bobo 2011:6). Expressed in more general terms, wage theft occurs when employers are out of compliance with the Fair Labor Standards Act (FLSA) of 1938, state labor laws, and other federal labor laws, that govern the pay of workers.

**Many Americans Don’t Realize Wage Theft is a Problem**

Most Americans do not realize that wage theft is a widespread problem. When I discuss my research topic especially with white, middle-class Kansans, I’m often met with surprise and incredulity. “That can’t be happening very often. I’m sure the government crucifies them with fines so high that employers never want to do it (steal wages) again,” was one response I heard. Even American citizens who have gotten their own wages stolen think that it was just an isolated case, one bad employer, not realizing that the practice of wage theft is widespread (Bobo 2011:xxi). Although it remains difficult to estimate how widespread the wage theft problem is, an independent study conducted in 2009, revealed that 26% of low-wage workers surveyed in Los Angeles, Chicago, and New York reported that they were paid less

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3 For more on the role of catalytic events in the claims-making process, see Chapter 5.

4 Other labor laws include: the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), the Code of Federal Regulations, the Contract Work Hours and Safety Standards Act, and the Equal Pay Act.

5 Interview with CPA and financial advisor on 9/28/15.
than minimum wage for their work in the previous week. For those who worked more than 40 hours per week in the previous week, 76% were not correctly paid for overtime hours (Bernhardt et al. 2009:2). Few people that I talked to had ever heard of the Wage and Hour Division (WHD), a branch of the United States Department of Labor (USDOL), which enforces federal labor laws. Many people first learn about the agency when they personally experienced wage theft and are directed to this little-known government office by a friend, coworker, pastor, consulate office, or worker justice center.

In the 2000s, one of the most widely publicized cases of wage theft involved Wal-mart stores across the nation, which were forcing employees to clock out but continue working at the end of their shifts and through unpaid meal and rest breaks. Wal-mart managers were placed under extreme pressure from upper management to keep costs low. So to avoid paying overtime, local managers “shaved hours” off of employee’s time records, making it appear that none had worked more than 40 hours per week (Bobo 2011:24). In December of 2008, a Wal-mart press release announced the settlement of 63 wage and hour class action lawsuits filed by workers across the nation. Walmart agreed to pay between $352 and $640 million to settle these cases, claiming, “Our policy is to pay associates for every hour worked and to provide rest and meal breaks” (Walmart and Plaintiffs’ Counsel Announce Settlement of Most Wage and Hour Class Action Lawsuits Against the Company 2008). Thus, without effective enforcement of federal labor laws, large corporations and small shops alike will continue to bend to the market forces of capitalism, and will strive to cut costs at all cost.

Who is Covered By the FLSA Minimum Wage and Overtime Requirements?

The rules governing who is covered by the FLSA are quite complicated and difficult to fully understand, even for persons familiar with the FLSA. For simplicities’ sake, I will outline the simplest test used by the Wage and Hour Division (WHD) to determine if employees are covered by the law, although there are many industry specific exceptions. The FLSA covers enterprises (businesses and organizations) and their employees with 1) at least two employees, 2) whose “annual gross volume of sales made or business done is not less than $500,000,” and 3) whose workers are “engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials
that have been moved in or produced for such commerce by any person” (WHD Publication 1282:2; WHD Fact Sheet #14). When I spoke to a USDOL employee at the regional branch of the WHD in Wichita, Kansas, he indicated that the law is interpreted broadly and liberally, covering, for example, employees who use ink pens manufactured in other states or countries as part of their work. Processing credit card transactions and making long distance phone calls also qualify as interstate commerce (Bobo 2011:190; U.S. Department of Labor n.d.). This power to regulate interstate commerce is granted to the federal government by the United States Constitution’s Commerce Clause (Mettler 1994:636–637).

Also covered by the FLSA are “hospitals, businesses providing medical or nursing care for residents, schools and preschools, and government agencies” regardless of their annual revenue (WHD Fact Sheet #14). Domestic service workers, such as housekeepers, day laborers, and full-time babysitters are also covered by the FLSA, if their yearly cash wages from one employer is greater than an annually adjusted threshold established by the Social Security Administration ($2,000 in 2016), and they work a total of eight or more hours per week for one or more employers (WHD Publication 1282:3)(Social Security Administration 2016]).

Those exempt from the FLSAs minimum wage and overtime protections are salaried professionals, administrators, and executives, employees in certain computer-related occupations, outside sales employees, employees in the fishing industry, newspaper delivery persons, part-time babysitters and eldercare providers, and “[f]armworkers employed by anyone who used no more than 500 ‘man-days’ of farm labor in any calendar quarter of the preceding calendar year6, among others” (WHD Publication 1282:6-7; 29 U.S.C. §213).

The labyrinth of requirements and exemptions means millions of workers, both citizens and undocumented immigrants alike, are not covered by the FLSA. If a small business doesn’t make at least $500,000 in annual gross sales and the owners decide to cheat their workers on wages, the WHD of the USDOL does not have jurisdiction to pursue wage and hour complaints (WHD Fact Sheet #14). One of the women I spoke to, who worked for a locally-owned laundromat, was not able to receive help from the

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6 For a more detailed list of employees who are exempt (or partially exempt) from protections under the FLSA, see WHD Publication 1282: A Handy Reference Guide to the Fair Labor Standards Act and the FLSA 29 U.S.C. §213.
USDOL because the business did not meet the $500,000 annual gross sales requirement, leaving her without a reliable means of reclaiming her lost wages. In some areas, state laws attempt to close these exemption loopholes, but Kansas is not one of these (Gleeson 2013:61). Across the nation, millions of low-wage workers employed by small businesses are left without recourse when their employers steal their wages.

Memorandum of Understanding Between USDOL and DHS

According to Kim Bobo, noted activist and author on wage theft, billions of dollars in earned wages are being stolen from workers of all ethnicities, classes, and occupations each year (Bobo 2011:xii). Employers fail to pay their workers, sometimes intentionally, in an attempt to lower operational costs, sometimes passively, due to the inability to pay their workers. Although millions of American workers are affected, undocumented immigrants are especially vulnerable to wage theft, since both they and their employers often believe they do not have a means to reclaim their stolen wages. However, the FLSA was written to apply to all workers, regardless of immigration status. The law uses language like, “Every employer shall pay to each of his employees… at the following rates” (29 U.S.C. §206(a)). So even though undocumented immigrants have illegally entered the United States and employers who hire them are violating the law, two federal courts7 have ruled that all workers have the right to be paid according to the FLSA, regardless of immigrant status. And the USDOL's Wage and Hour Division (WHD), which enforces the FLSA, has stated that it will “continue to enforce the FLSA and MSPA [Migrant and Seasonal Agricultural Worker Protection Act] without regard to whether an employee is documented or undocumented” (WHD Fact Sheet #48).

In 2011, the USDOL and the Department of Homeland Security (DHS) signed a revised version of their memorandum of understanding (MOU), which restricts the ability of United States Immigration and Customs Enforcement's (ICE) to conduct raids at workplaces that have an open investigation with the USDOL. In other words, the USDOL is not required to report persons who have illegally entered the

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United States to immigration officials, nor must they report employers who have illegally hired said persons.

In this MOU, the DHS agrees to refrain from “worksite enforcement activities” at worksite that have ongoing labor disputes filed with the USDOL (Braker 2013:333; John Morton (DHS) and Patricia Smith (USDOL) 2011). In short, ICE vows to not arrest and deport workers who file a claim for stolen wages with the USDOL. Nor will they seek to arrest or deport them immediately after their case has been resolved. A local USDOL employee explained to me that the purpose of this MOU is to ensure adequate enforcement of Wage and Hour laws. Both employers and workers would be reluctant to cooperate with USDOL agents, if they believed that doing so would either get them fined for employing undocumented workers or deported for entering the country illegally.

Although I did not interview employers, I doubt that many employers are aware of this MOU between ICE and the USDOL because it is not common knowledge. Even if an unscrupulous employer did know about the MOU, they might be motivated to intimidate their workers with threats of deportation, if they believe their workers are ignorant of the MOU and their labor rights. None of the working women I spoke to specifically mention knowing about the MOU, even if they knew that they had to right to reclaim their wages regardless of their immigration status. Through the stories of these undocumented women who have experienced wage theft, I have learned that several employers threaten to call ICE in an effort to intimidate, frighten, and discourage workers from filing claims for stolen wages. And likewise, undocumented workers who don’t know their rights fear that filing a claim for lost wages might bring about an investigation that could get them deported.

ICE is well aware that some employers attempt to retaliate against workers who file claims with USDOL by calling ICE and asking to have their workers deported. In this 2011 memorandum, ICE pledges to continue to assess whether anonymous tips it receives are “motivated by an improper desire to manipulate a pending labor dispute, retaliate against employees for exercising labor rights, or otherwise frustrate the enforcement of labor laws” (John Morton (DHS) and Patricia Smith (USDOL) 2011). The revised MOU (2011) states that ICE will rely on the USDOL to inform them when they are conducting investigations at worksites. If the USDOL has any reason to believe that an employer or
Chapter 1

manager intends to call ICE in an effort to retaliate against workers, then they should inform ICE immediately, providing the workplace’s name and location. In addition, all active cases should be logged into a USDOL database, which ICE will cross-check before they begin enforcement at a worksite. The MOU is triggered when “an ICE target comes up with a conflict tag from the DOL database” (National Employment Law Project (NELP) and National Immigration Law Center (NILC) 2011:2). In the way, ICE pledges to refrain from raiding businesses where workers are involved in an a labor dispute and have open cases with the USDOL.

Prior to the 2011 revision of this MOU between ICE and the USDOL, ICE was much more aggressive in its enforcement policies. According to a 2009 independent report, ICE repeatedly pretended to be OSHA officials and fire safety inspectors in order to gain accesses to worksites and engender worker’s trust, just before arresting and deporting them (Smith, Ana Avendaño, and Ortega 2009:28). Prior to the revision of the MOU in 2011, there were numerous instances in which ICE thwarted the enforcement of US labor laws, with their “single-minded focus on immigration enforcement without regard to violations of workplace laws...” (Smith, Ana Avendaño, and Ortega 2009:7). When undocumented workers are too terrified of ICE to come forward with complaints of sub-minimal wages and unsafe working conditions, this allows “employers with rampant labor and employment violations to profit...” (Smith, Ana Avendaño, and Ortega 2009:5). Thus, the USDOL has an interest in making sure that undocumented workers feel that they can come forward with claims of stolen wages, without fear of ICE raids. This was one of the main motivations for the revision of the MOU between ICE and the USDOL in 2011.

As a result of the 2011 revision to this MOU, ICE has stopped targeting businesses that have open labor law investigations. As a result, employers threats to call ICE and have their undocumented workers deported is now an empty threat. Unfortunately, many undocumented workers, ignorant of this MOU, live in fear of deportation and never file claims for lost wages, because they believe that doing so might incur an investigation by ICE. Ironically, workers who file a claim for stolen wages with the USDOL are actually protected from immigration raids while their cases are pending. But since most undocumented workers are unaware of this MOU, employers continue to steal wages thinking their workers can be easily silenced by threats to call ICE.
How Do Employers Steal Worker’s Wages?

There are a variety of ways in which employers manage to pay their workers less than the wages they are due. Below is a non-comprehensive list of some of the most common ways that employers underpay their workers and violate federal labor laws. I have adapted this list from Kim Bobo’s 2011 book, selecting the wage theft mechanisms that have affected the ten Spanish-speaking immigrant women who I interviewed.

A) Employees are paid below minimum wage for the hours they work.

B) Employees are not paid for all of the hours they work, meaning some work hours are completely unpaid.

C) Employees do not receive correct overtime pay (time-and-a-half) for the hours they work beyond 40 per week.

D) Employees do not receive all of the tips they earn from customers.

E) Employees are paid in cash in order to avoid paying payroll taxes.

F) Employees are misclassified as independent contractors.

A) Employees are paid below minimum wage. One common way employers steal wages is by paying workers one lump sum per week or per month, rather than by the hour, at a rate that falls below minimum wage when divided by the total number of hours worked. A new hire at, say, a restaurant might be offered $300/week in cash, with no discussion of the number of hours her/she will be expected to work. But when the worker is expected to work ten or more hours per day, six days per week, for a total of at least 60 hours per week, their hourly pay works out to just $5.00 per hour. As of July 24, 2009, the minimum wage is currently $7.25/hour, and qualified employers who pay their workers less are in violation of the Fair Labor Standards Act (FLSA) (29 U.S.C. §206 (a)(1)(c)). In the situation described above, it is

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8 For a complete list of the ways in which employers steal wages, see Kim Bobo’s 2011 book “Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid and What We Can Do About It.”

9 See Figure 1a in Appendix for a list of minimum wage increases.
common for no one, neither employer nor employee, to keep track of how many hours the employee actually worked, since he or she is paid a lump sum. In such a case, the employer is not only in violation of the FLSA for not paying minimum wage, but also in violation of Section 211(c) of the FLSA, which mandates that records be kept of worker’s hours and pay\(^{10}\) (29 U.S.C. §211(c); WHD Fact Sheet #21).

According to sociologist Pierrette Hondagneu-Sotelo, Spanish-speaking immigrant women, who work as nannies and housekeepers, and are paid by lump sum often do not think of their pay in terms of dollars per hour (Hondagneu-Sotelo 2007:252). One of my key informants Carla, the founder of Adelante’s WJC, confirmed that most Mexicans do not think in terms of dollars per hour. “We [Mexicans] don’t talk or think in terms of minimum wage or pay per hour,” she explained. “If someone offered me $100 for a job, I would just think to myself, ‘Is this a fair price for this job?’ So when we come to this country and are offered a job, we just think, “Can I pay all my bills with this?” This alternative view of pay rates which, Mexican immigrants bring with them, makes it easier for employers to get away with paying less than minimum wage, since it may take some time for immigrants to realize that they are making less than minimum wage.

Another way employers manage to pay less than minimum wage is through illegal deductions from worker’s paychecks. Money is deducted from employee’s pay for missing cash from the register, missing merchandise, broken equipment, damaged merchandise, uniforms or personal safety equipment, tools of the trade, etc. These deductions are illegal if they cause the worker’s base rate of pay, or overtime pay, to fall below the minimum wage or time-and-a-half. (WHD Publication 1282:1; WHD Fact Sheet #16).

Note that the USDOL cannot work to reclaim back wages for employees who earn more than minimum wage. “The FLSA does not provide wage payment or collection procedures for an employee’s usual or promised wages or commissions in excess of those required by the FLSA” (WHD Publication 1282:2). For example, if an employee is promised $10 per hour but only receives $9 per hour, the USDOL will not help them to reclaim the “lost” dollar per hour, because this employee is already making more than minimum wage. Nor does the FLSA protect employees who were promised raises (above minimum

\(^{10}\) For a more detailed list of records that must be kept by employers, see Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA).
wage), but never receive them. Employment contracts, written and verbal, are variously enforced by state contract laws (FindLaw.com n.d.).

B) **Employees are not paid for all of the hours they work.** This type of wage theft can occur in a variety of ways, including failure to pay anything at all for some work hours, failure to pay the last paycheck, unpaid breaks that are worked through, failure to pay “donning and doffing” time, and failure to pay travel time.

One way employers fail to pay for all hours worked is by failing to pay a worker’s last paycheck. During my participant observation at Adelante’s WJC, I learned that unpaid last paychecks are extremely common in the construction industry. According to Carla, the founder of the WJC, this often occurs when contractors finish a job and fail to pay the contract laborers who helped complete the work. Missing last paychecks disproportionately affects male Spanish-speaking immigrants who work in construction, due to the nature of the industry and frequent termination of projects. But missing last paychecks can also affect female Spanish-speaking immigrants, who more commonly take jobs in what Evelyn Nakano Glenn calls “low-level public reproductive labor,” such as cleaning, laundering, food service, and childcare (Glenn 1992:3).

Wage theft can also happen when employees work through unpaid breaks. For example, 30 minutes are deducted from worker’s paychecks each day, presumably for a lunch break, but they are required to work their entire shift without any breaks at all. Although federal law does not require that employees be given breaks, Title 29 of the Code of Federal Regulations (CFR) section 785 notes that, “Rest periods of short duration, running from five minutes to about 20 minutes, are common in industry. They promote the efficiency of the employee and are customarily paid for as working time” (29 CFR §785.18). Longer breaks of 30 minutes or more, especially those intended as “bona fide” lunch breaks, are also not required by federal law. However, if employees do take lunch breaks of 30 minutes or more, they must be

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11 Of the ten Spanish-speaking immigrant women who I interviewed, two worked in food service, five worked in the cleaning industry, one in laundry, one in clerical, and one in the retail industry. Only one of the ten women later found a job in the much more lucrative construction industry. Most of these women told me about labor abuses they suffered at multiple jobs, but for clarity’s sake, I have listed the occupation in which they experienced the most wage theft.
completely relieved of all duties, otherwise, this time must be paid. An employee who is required to perform any duties while eating, whether those duties are active or inactive, such as answering the phone, is not considered relieved of all duties. For example, “An office employee who is required to eat at his desk, or a factory worker who is required to eat near his machine is working while eating” (29 CFR §785.19). Thus, wage theft occurs when 30 minutes (or more) are deducted from worker's paychecks, even though they worked through these lunch breaks.

This type of wage theft also occurs when employees are not paid for time spent “donning and doffing” of safety equipment or protective clothing, cleanup after the job is done, or travel time to and from job sites (Bobo 2011:11). These periods of less intense work might seem like off-duty time to employers looking to reduce payroll, but according to federal law, these periods of “inactive work” are still considered work hours to be paid. “A stenographer who reads a book while waiting for dictation, a messenger who works a crossword puzzle while awaiting assignments, a fireman who plays checkers while waiting for alarms… are all working during their periods of inactivity. … the employee is unable to use the time effectively for his own purposes. It belongs to and is controlled by the employer” (29 CFR §785.15). Women working for a cleaning service who must travel from house to house as part of the day’s work, either in a company van or in their own vehicles, but are not paid for travel time between jobs, are also experiencing wage theft (29 CFR §785.38).

C) Employees do not receive correct overtime pay (time-and-a-half) for the hours they work beyond 40 hours per week. According to the FSLA, every non-salaried non-exempt employee who works more than the “maximum hours” allowed for their industry (usually 40 hours per week), must be paid at least “one and one-half times the regular rate at which he is employed” (29 U.S.C. §207(a)(1)). The “maximum hours” allowed before overtime compensation kicks in varies from industry to industry, but for most of the Spanish-speaking immigrant women I interviewed, who were working in cleaning, food
service, and retail, 40 hours per week marks the beginning of overtime compensation for these hourly wage earners.

In 1913, the Oregon state legislature was the first to standardized the eight hour work day, with mandatory time-and-a-half compensation beyond 40 hours worked per week. According to historian Nancy Woloch, this law, and the other state and federal laws that later echoed it, were written “to discourage extra hours of work by raising their cost to employers” (Woloch 2015:99–100; Cobble 2011:172). However, if employers ignore overtime laws, and continue to pay hourly workers at their regular base pay for hours worked in excess of 40 per week, then they are not disincentivized in the way lawmakers had hoped. Many employers are able to get away without paying overtime for months and even years, since the WHD of the USDOL is backlogged with complaints, lacking the resources to fully enforce the law, and since many employees fear they will lose their jobs if they file a complaint with USDOL.

D) Employees do not receive all of the tips they have earned from customers. Unscrupulous restaurant owners frequently do not give servers the tips diners write on printed receipts. Instead, this tip money from debit and credit card transactions goes directly back to the business owner. The server for whom the tip was intended either only receives a small portion of the tips or never sees a dime. For this reason, USDOL employees urge restaurant patrons to leave tips in cash only (Bobo 2011:33–34). However, even cash tips can be stolen from servers by unscrupulous owners. One of my undocumented informants reported that she worked for a man who made them empty their pockets and aprons of cash tips at the end of each night. He then put their money into his own tip jars, which he would then deposit in the bank each night, presumably into his personal or business account. This qualifies as a form of wage

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12 For a more detailed list of employees who are exempt from overtime compensation, see WHD Publication 1282: A Handy Reference Guide to the Fair Labor Standards Act.
theft, since the USDOL requires that, “Employees must retain all of their tips, except to the extent that
they participate in a valid tip pooling or sharing arrangement” (WHD Fact Sheet #2).

The current federal minimum wage for restaurant servers is $2.13 per hour. But the FLSA requires
that servers be paid “not less than $2.13 an hour in direct wages and [employers must] make sure that
the amount of tips received is enough to meet the remainder of the minimum wage” (WHD Fact Sheet
#2). However, this does not give the employer the right to keep tip money that has been earned in excess
of $7.25 per hour, and employers who do so commit wage theft. Also, for restaurant workers who work
more than 40 hours per week, overtime compensation must be calculated as time-and-a-half of $7.25, not
$2.13, regardless of tips earned during overtime hours (WHD Fact Sheet #2).

E) Employees are paid in cash in order to avoid paying payroll taxes. Although it is not illegal for
employers to pay in cash, the law requires that they provide an itemized summary of how much tax was
withheld from their cash payments. A 2009 study showed that, for workers paid in cash, 93% did not
receive any such itemized summary (Bernhardt et al. 2009:32). This is likely because no taxes of any kind
are being withheld from cash payments to workers.

When employers pay in cash, this is a fairly good indicator that the employer is lying to federal and
local governments about the number of workers employed. The main motivation for the concealment of
workers is to avoid paying unemployment insurance, worker’s compensation, and the employer’s half of
payroll taxes (6.2% of Social Security and 1.4% of Medicare taxes for each employee). The problem with
this form of payroll fraud is that employers are cheating both employees and government agencies of
money they are due, shifting the burden of these taxes to other workers and business owners (Bobo

13 “Tip pooling and sharing arrangements” refers to the practice of servers donating all or a portion of their
earned tips to a collective pool of for distribution to other employees, such as bartenders and table
bussers. In order for a tipping pool to be valid it must meet the following conditions: 1) it can only involve
tipped employees, 2) it can only include tips collected by tipped employees, 3) it cannot result in
employees receiving less than minimum wage, 4) employees are not required to contribute more money
than is considered “customary and reasonable” (29 U.S.C. §203 (m); Wage and Hour Division Field
Operations Handbook § 30d04; (Borgen and Kan 2008:4; Wage and Hour Division (WHD) 2000)

14 None of the women I interviewed, who worked as servers in restaurants, ever mentioned receiving
supplemental pay when their earnings fell below minimum wage during slow periods. Compliance with
this portion of the FLSA is likely quite low.
2011:29, 40). If the employees who are paid in cash are United States citizens or legal permanent residents, then their employers are cheating them out of the Social Security benefits that would have been their right in retirement. However, undocumented workers who are paid by check still must have Social Security and Medicare taxes taken out of their checks, though they are not legally entitled to claim, and usually do not claim, Social Security and Medicare benefits later in life. Thus, when employers pay workers in cash, they cheat the government of both the employee and employer’s portion of payroll taxes (Goss et al. 2013).

F) **Employees are misclassified as independent contractors/contract laborers.** In this second type of payroll fraud, employers misclassify workers as independent contractors and lie to government agencies about the number of employees they have. According to a 2009 Government Accountability Office (GAO) report, 10-30% of employers audited in nine states had misclassified at least some of their employees (U.S. Government Accountability Office 2009:1). They do so in order to avoid paying payroll taxes, unemployment insurance, and worker’s compensation. Workers who are misclassified as contract laborers are then taxed by federal and state governments as sole proprietorships, and are thus forced to pay both the employer and employee’s halves of their payroll taxes (currently 12.4% for Social Security and 1.8% for Medicare) (IRS Publication 15). In this way, employers transfer their tax burden to these workers, who then must pay double the payroll taxes they would have paid as employees.

In the FLSA, the USDOL outlines the set of factors that are considered when determining if a worker is an employee or an independent contractor. Although no one factor, or set of factors, exclusively distinguishes one type of worker from the other, all of the outlined factors are considered when determining the classification of workers. For example, the USDOL considers that a worker is more likely to be an independent contractor, if she uses her own equipment to perform her work, determines how the work is to be performed, sets her own pay and hours, “exercises independent business judgment,” takes “initiative to operate as an independent business,” and “is free to work for others and hire helpers” (WHD Fact Sheet #21). While a worker should probably be classified as an employee if she performs labor that is “integral to the employer’s business,” is “economically dependent on the employer,” uses equipment
and tools provided by the employer, has relatively little control over how the work is to be performed, has little control over pay and hours, and is not free to hire and pay her own helpers (WHD Fact Sheet #21).

Employers misclassify workers because doing so avoids a whole host of legal protections extended to employees but not contract laborers. Employers who misclassify employees as independent contractors steal money from government coffers in the manner described above, as well as pose grave consequences for workers. Independent contractors are not covered by the wage and hour protections provided by the FLSA, anti-discrimination laws, occupational safety and health laws, and unemployment compensation, and they are not afforded rights to unionize under federal law. FedEx is the most well-known example of a large corporation who misclassifies its employees. FedEx saves itself hundreds of millions of dollars each year by fraudulently misclassifying it’s truck drivers as independent contractors (Greenhouse 2006). In June of 2016, FedEx agreed to pay its drivers in 20 states a total of $240 million dollars as a settlement for misclassifying them as independent contractors. But instead of then hiring the drivers as employees, in 2011 FedEx started contracting with outside companies that employ drivers (Wiessner 2016).

**Origin of the Term “Wage Theft”**

Although many researchers attribute the term “wage theft” to Kim Bobo, noted author and activist, the term originated several years before she published the first edition of her book in 2008, titled, “Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid and What We Can Do About It.” By 2008, this term was already in use by the labor rights community and labor law researchers (Bernhardt et al. 2008:52). Bobo was just the first researcher to clearly define the term and dedicate an entire tome to this topic.

In the early 2000s, policy experts, government agents, and labor rights advocates used terms such as “wage and hour violations” (O’Brien 2001:49), “theft of service” (Verga 2004), “wages below the legal minimum” (Phillips and Massey 1999:234–235), and “enforcement of labor standards” (Wial 1999:iv) before the term “wage theft” became widely used. It’s not too hard to see how “theft of services” and “wage and hour violations” could have given rise to the term “wage theft.”
The origin of the term wage theft is not fully known, but the first use of the term that I have been able to find comes from a 2002 article in The Austin Chronicle, an alternative weekly newspaper in Austin, TX. In the article, reporter Lauri Apple interviews both officers in the Austin Police Department and staff at Casa Marianella, an “immigrant-focused social service agency” about the “employers who try to steal workers’ labor” (Apple 2002). According to Apple, prior to 2002, the Texas Workforce Commission (TWC), “the state agency charged with handling wage-claim issues [was] too underfunded and under-resourced to effectively enforce the laws…” (Apple 2002). According to the Texas Penal Code, “employers who intentionally avoid paying wages” can be charged with “theft of services,” a crime similar to stealing telephone service, dining and dashing, or refusing to pay a taxi driver. Since the TWC was essentially ineffective, and apparently the Texas branch of the Wage and Hour Division did not have a large presence in the state at that time, immigrant rights advocates at Casa Marianella, were forced to take matters into their own hands, by writing letters to “nonpayers.” To address this weakness, “…[Austin Police Department] officers have met with Casa Marianella staff as well as representatives from the Mexican consulate, the Catholic Diocese of Austin, and other migrant-focused agencies to formalize a procedure for reporting wage theft” (Apple 2002). This is the only time in the article that Apple uses the term “wage theft.”

As we can see from this article in The Austin Chronicle, the term “wage theft” likely emerged organically from existing language that was being used at the time, including “theft of services” and “unpaid wages.”

**The Term “Wage Theft”**

The term “wage theft” implies that employers are knowingly and purposefully defrauding their employees of rightfully earned dollars. However, it was pointed out to me by a federal employee at Wichita’s regional branch of the WHD of the USDOL that not all employers who underpay their employees are aware that they are in violation of labor laws, and they do not all intend to cheat their workers. For this reason, the government employees at Wichita’s regional branch dislike the term “wage theft,” since it doesn’t apply to all of the cases they pursue. My informant offered an example of an employer of a small
business who purchased a punch clock for her handful of employees. This employer didn’t realize that the punch clock’s software was short-changing employees 15 minutes at the beginning of each workday. Hence, the term “wage theft” cannot accurately be applied to employers who are not aware their workers are getting shorted. A term such as “incorrect payment” is too ambiguous, as it could also apply to instances where employees are accidentally paid more than they are owed, or when employees intentionally steal from company coffers. The FLSA uses the terms “unpaid minimum wages” and “unpaid overtime compensation” as their preferred neutral nomenclature (29 U.S.C. §206(d)(3)). The Wichita branch of the WHD uses the term “unpaid back wages” in it’s correspondents with complainants.

I offer the term “underpaid wages” as an alternative to the more emotionally charged “wage theft,” which can be applied to both cases of willful and unwitting unpaid wages, depending on the context. Since it seems clear, however, that all of the women who I interviewed for this thesis were working for employers who knew that they were not paying employees all the money they were due, I maintain that these can be rightfully called instances of wage theft. So I will continue to use the term “wage theft” when talking about instances when employers knowingly underpay their workers. In our interview, the WHD employee commented, “When you go to a buffet restaurant and you get all you can eat for $6.99, you’re eating on the backs of undocumented workers.” I argue that if the buffet owner is able to offer such competitive prices and keep operational costs low, in part thanks to his or her knowingly paying their undocumented workers less than minimum wage, how can we not call this “wage theft”?

The term “wage theft” is not readily known in the Spanish-speaking community in Wichita, further complicating my efforts to recruit research participants. Sometimes when I would approach Spanish-speaking women, asking if they, or anyone they knew, had experienced “robo de sueldo” (the Spanish translation of “wage theft”), they would not understand my question, since they were unfamiliar with this term. This was pointed out to me by Carla, the founder of Adelante’s WJC, as I was preparing to canvass strangers at a citizenship clinic to be held at a park next to a Hispanic senior center. Carla mentioned that, “Have you experienced wage theft?” was not the best way to phrase the question on written materials that I was preparing to pass out. Instead, she recommended that I put (in Spanish) “Has your boss not paid you all of your wages?” The fact that many Latin American immigrants in Wichita don’t readily understand
the term “wage theft” indicates the relative lack of awareness that this practice is a widespread problem. This surprised me, because undocumented Spanish-speaking immigrants are more likely than United States citizens to become victims of this crime due to their illegal immigration status (Fine and Gordon 2010:555; Weil and Pyles 2005:91). The term “wage theft” takes an ill-defined, unfortunate situation that sometimes happens to workers, “My boss is not paying me all that I’m owed,” and highlights the fact that it is a crime, something that can be reported. As I discovered through my interviews with ten Spanish-speaking immigrant women, some women and their co-workers didn’t conceptualize underpaid wages as a crime they had the right to report, but rather an unfortunate circumstance that they had found themselves in, and had to suffer through, as a result of their undocumented status. Nevertheless, all of my informants made it clear they understood not getting paid all they had earned to be wrong and unjust, even if they didn’t know it was a crime they could do something about it.

When I sat down with a new hire at Adelante, a Spanish-speaking, college-educated immigrant from Venezuela, to explain my thesis research on wage theft, she commented with a laugh, “‘Wage theft,’ that sounds like if I have my paycheck in my purse and someone takes it.” This remark illustrates both the lack of awareness of this term, even among middle-class college-educated immigrants, and the ambiguity inherent in the term. Although the imagery of a literal purse robber is not accurate, figuratively, unscrupulous employers are taking money from their employee’s wallets and purses, when they fail to pay them all the money they have earned.

Noted wage theft author, Kim Bobo, has proposed the term “wage robbery” for cases in which employers knowingly steal workers wages, and do so with force or intimidation. Bobo’s argument is that since robbery involves the taking of possessions or money from a person through the use of force or intimidation, employers who both steal wages and harass or threaten workers should be considered guilty of this more severe crime. Bobo notes that, “Given the kind of intimidation many workers experience in the workplace, it is appropriate to consider the stealing of wages as wage robbery, not ‘just’ wage theft” (Bobo 2011:172). In most states robbery is considered a felony, while theft can be classified as a misdemeanor in most states, if the dollar amount is below a certain threshold. I agree that the degree of verbal, psychological, and sometimes physical, abuse that some Spanish-speaking immigrants endure
can be shocking. However, until “wage theft” is a household term, I advocate for it’s continued use as the main nomenclature, if for no other reason than clarity of message.  

Does it matter whether we call this phenomenon “wage theft,” “wage robbery,” or just “My boss is not paying me all that I’m owed”? Does knowing the term “wage theft” make an undocumented worker more likely to file a claim for stolen wages because now she knows that it’s a crime? I doubt it. Although I advocate for the use of the term “wage theft,” because it highlights the fact that underpaying wages is both wrong and a crime, I doubt that merely recognizing the term will motivate an undocumented worker to decide to claim her right to report it. For decades, linguists have been reluctant to embrace Sapir and Whorf’s linguistic relativity, which, in its strongest form claims that language, with its various categories and grammatical structures, shapes the way speakers perceive the world and choose to act within it (Sapir 1966). Scholars have pointed out the many counterexamples that reveal that language, at best, has only limited influence over how we perceive the world around us, a status it shares with a multitude of other factors. In recent decades, linguists have come to realize that there are several different questions one can ask when examining the relationship between language and thought. Social psychologist Dan Slobin suggests that the influence of language on thought may be greatest when one is trying to fit new ideas, concepts, and relationships into pre-existing conceptualizations that are “already encoded in the language,” like when one is trying to relate new ideas in writing or in presentations (Dan Slobin 1987:435). Psychologists Dedre Gentner and Susan Goldin-Meadow argue that the most promising area of research suggesting the power of language to shape thought comes from a conception of language as a toolkit, a set of resources we use to create more elaborate conceptual structures (Gentner and Goldin-Meadow 2003:10). Through their approach, we can create a category of “aggravated wage theft,” which communicates more specific concepts than just “My boss is not paying me all that he should.”  

As we will see in Chapter 4, the degree of psychological abuse that some employers perpetrate against their workers can be horrific and shocking. In situations where workers are regularly humiliated, disrespected, treated less than human, mocked, or otherwise verbally or physically abused, I advocate for the use of “aggravated wage theft.” This maintains the use of the term “wage theft,” allowing for greater awareness to be brought to this topic, while at the same time describing how the withholding of money is
not always the full picture. As we will see in Chapter 4, eight out of ten of the Spanish-speaking immigrant women who I interviewed had experienced verbal abuse in at least one of the jobs where they had experienced wage theft. For most of my informants, wage theft is not simply a matter of being denied their wages. Wage theft is often just one of a host of abuses that an immigrant worker faces.

**How Common is Wage Theft?**

Kim Bobo, author of the only book dedicated to the topic of stolen wages, “Wage Theft in America,” claims that wage theft has reached “epidemic proportions” (Bobo 2011:xii). In fiscal year 2015, the WHD reported over $175,000,000 in back wages collected for 259,559 workers in 21,138 cases of FLSA violations throughout the United States. Despite these high numbers, WHD’s statistics show fluctuations in the number of wage theft cases investigated, the number of employees affected, and the amount of back wages reclaimed in the past decade, with modest increases in all three areas in the past decade (Wage and Hour Division (WHD) 2015a). According to a local USDOL employee, large fluctuations in the number of claims filed and employees affected roughly correspond to varying economic conditions—as overall United States economic conditions decline, workers are less eager to pursue claims for stolen wages for fear of losing their jobs. Wage and Hour Division reports show noticeable declines in the number of claims filed, employees affected, and back wages collected during the Great Recession of 2007 to 2009, with all three factors increasing after this global financial crisis. Since the WHD has increasingly targeted low-wage industries, whose workers should be earning minimum wage or close to it, one might expect that the average dollar amount of back wages claimed for each worker would decline. However, the WHD notes that, since 2004, “Despite the fact that we are helping more workers paid lower rates, we are still finding *more money due for each worker*” [italics in original] (Wage and Hour Division (WHD) 2015b). This indicates that the amount of money denied workers has increased in recent years and the wage theft epidemic is getting worse.

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15 See Figures 1b, 1c, 1d: Back Wages Collected from Fiscal Year Statistics for WHD, 2004-2015, in the Appendix.
However, statistics regarding the number of claims filed and the amount of back wages reclaimed reveals only a small sliver of the wage theft problem. It remains very difficult to determine the incidents of wage theft that go unreported. In an effort to gauge the level of compliance with minimum wage and overtime laws, the WHD conducts what they term “directed” or “agency-initiated” investigations designed to catch employers in the act by raiding “a randomly selected representative number of establishments within a targeted industry” (Wage and Hour Division and Employment Standards Administration 2001:5), without receiving any complaint or tip from workers there. In 2015, the WHD increased the percentage of directed investigations to 42%, with the remaining 58% being claim-initiated investigations. These agency-initiated investigations specifically targeted businesses in nine industries “where the data and evidence show the problems are largest, where emerging business models lead to violations, and where workers are least likely to exercise their rights” (U.S. Department of Labor and Wage and Hour Division 2015). These nine industries include agriculture, day care, restaurants, garment manufacturing, guard services, health care, hotels and motels, janitorial services, and temporary help (U.S. Department of Labor and Wage and Hour Division 2008:3). In fiscal year 2015, the WHD found wage and hour violations in 79% of these agency-initiated investigations, which represents a 65% increase from fiscal year 2009 (U.S. Department of Labor and Wage and Hour Division 2015). In other words, 79% of businesses in targeted industries were not in compliance with the FLSA and owed their employees back wages. However, since the WHD specifically targets nine industries, that it believes to be more likely to be in violation of the law, this statistic may not be representative of the 7.3 million establishments under their jurisdiction nationwide.

In 2009, an independent investigation by the National Employment Law Project of labor law violations was conducted through interviews with 4,387 low-wage workers in the three largest United States cities—Chicago, Los Angeles, and New York City. This study found that labor laws in these low-wage industries were “regularly and systematically violated, impacting a significant part of the low-wage labor force in the nation’s largest cities” (Bernhardt et al. 2009:2). They reported that 26% of workers surveyed were paid less than minimum wage, and of the workers who put in overtime, 76% of them were either paid their regular rate for their overtime hours, or were not paid the complete time-and-a-half requirement. Roughly
25% of workers reported that they were made to either come in early, or work after their shifts had ended, while 70% of them were not paid anything at all for this extra time (Bernhardt et al. 2009:2–3). According to Rutger’s professor of Labor Studies, Janice Fine, “For a developed nation with a functional legal system, long-standing and fairly comprehensive wage and hour laws at the federal and state levels… the United States has staggeringly low levels of compliance with wage and hour laws” (Fine and Gordon 2010:553).

**The Cost of Wage Theft to Society**

Wage theft not only costs workers billions in stolen wages, it also costs federal and local governments billions of dollars in unpaid taxes. In 2004, the Economic Policy Foundation, a business-funded think tank, estimated that businesses steal $19 billion each year in unpaid overtime alone (Becker 2004). A research director at the Drum Major Institute for Public Policy estimated that New York state suffers a loss of approximately $427 million a year from unpaid payroll taxes (Friedman and Traub 2010). At a time of massive revenue shortfalls at state and municipal levels, several states have realized how much tax revenue they are losing and have pushed to pass legislation that increases the fines violating employers must pay. Seventeen states, including California, Texas, and New York, have passed a variety of laws aiming to discourage a variety of labor law violations. Even cities like Fayetteville, San Francisco, and Seattle have responded to the growing loss of city revenues, by passing their own laws which increase penalties and seek to discourage misclassification of employees (National Consumers League n.d.). At a time when many states and municipalities struggle with budget deficits, wage theft contributes to this problem by decreasing public revenues through illegally withholding payroll taxes.

In addition, businesses who steal employee’s wages have an unfair economic advantage over those who are paying all their employees their full wages (Bobo 2011:xii). A restaurant that only pays its workers $5 per hour can afford to offer its menu items at lower cost to customers. A lawn care company that doesn’t pay its employees overtime can underbid a competitor who pays overtime hours at time-and-a-half. In highly competitive markets, owners might feel forced to cut worker’s pay or stop paying overtime, in an effort to offer their goods and services at lower rates. Thus, unscrupulous employers who steal
employees wages not only hurt workers and their families by depriving them of money that could be spend on food, clothing, house, and education, but they also make it harder for law-abiding employers to compete in local and national markets.

Motivations for Research

I first became interested in the working lives of foreign-born Latina women while I was working for a small medical supply company in a shared office building on Wichita’s east side. From 2008 to 2010, our office was cleaned nightly by a short, soft-spoken Mexican woman, who was responsible for cleaning all the offices in both our building and the adjoining building next door. Since I spoke Spanish, I would chat with her each night when she came to empty our waste baskets. In the course of our short conversations, I learned that she had to clean 65 office suites, and seven bathrooms, two break rooms, plus vacuum common areas and lobbies, in just four hours each night. The owner of the building set the lights in the two buildings to turn off at 9 pm to reduce his electricity bill. And since the contract between the cleaning agency and the building owner set a fixed price for her services, she was only being paid for four hours each weeknight. This meant she had to rush the whole time, emptying waste baskets and vacuuming as quickly as she could, while still trying to clean well enough to satisfy the mostly white office workers, whose businesses rented space there. Office workers would complain if the corners of the bathroom floor were not pristine, not realizing that one person was working to clean a maximum number of surfaces in the shortest amount of time. If her work took longer than four hours, say by 30 minutes each night, then she wasn’t paid anything at all for that time, plus she was cleaning in the dark. Then one evening in October, when I asked if her two children were going trick-or-treating on Halloween, she said they were not because they couldn’t afford costumes. If she had been paid a higher rate, paid for all of the time she worked, or been allowed to clean for five to six hours instead of just four, she would have been able to earn a bit more for herself and her children.

As the daughter of a Guatemalan immigrant, I knew first hand the challenges that immigrants face living in a country that is not their own. But since my mother had schizophrenia, and she was not able to take care of me, I was estranged from both my mother’s family and her Hispanic circle of friends. After her
suicide attempt in 1982, my father was granted full custody of me when I was just five years old. Growing up with my father and his family in a predominantly white middle-class world, I felt out of touch with the Hispanic immigrant experience. My curiosity about the lived experiences of undocumented Spanish-speaking immigrants grew as media coverage of the immigration debate in the United States increased in recent decades.

While searching for local organizations that catered to undocumented and Spanish-speaking immigrants in the Wichita area, I found the website for Adelante, a small grass-roots non-profit that serves low-income African Americans and Latinos. Adelante’s website introduces visitors to their several campaigns, which included 1) a Ban the Box initiative that aimed to ban the checkbox asking about previous felony convictions from job applications in Wichita, 2) an Environmental Justice campaign designed to reduce utility bills for low-income families through weatherproofing and high-efficiency light bulbs, 3) and neighborhood canvassing initiatives that sought to inform voters about the ways in which the policies of key Kansas elected officials have affected low-income families across the state. In 2014, their website boasted that since 2009 their WJC had helped community members reclaimed over $2,500,000 in stolen wages and worker’s compensation for injuries. Not knowing, at that time, about the USDOL’s role in recovering stolen wages, I wondered to myself how Adelante staff could empower undocumented workers to reclaim their wages and stand up to their employers despite their relatively vulnerable positions in society.

Early on in my participant observation at Adelante’s WJC, I noticed that far fewer immigrant women came in to get help reclaiming their unpaid wages than immigrant men. In 2014, of the 39 open cases at Adelante involving wage theft, only four of them were filed by female members. This fact made me wonder why so few Spanish-speaking immigrant women came forward with their stories of stolen wages and labor violations. I was reminded of the Mexican woman who cleaned our office building, and I wondered if Hispanic undocumented women hold even more vulnerable positions, leading them to be less likely to file claims for wage theft than their male counterparts. During my research, I have found no good reason to believe that working Spanish-speaking immigrant women experience wage theft less often than their male counterparts. Instead, I believe they face more barriers to filing claims for stolen
wages, and this explains why Spanish-speaking immigrant women file claims in fewer numbers than their male counterparts. In Chapter 5, I will discuss 12 barriers that Spanish-speaking immigrant women potentially face when considering whether or not to file claims for stolen wages.

Upon reviewing the literature, I found that several studies on undocumented Spanish-speaking immigrants in the labor market focused primarily on undocumented Hispanic men, particularly restaurant workers and day laborers (Gomberg-Muñoz 2011; González 2015; Valenzuela Jr. 2003; Adler 2005; Valenzuela Jr. et al. 2006). In studies on wage theft involving both undocumented Spanish-speaking men and women, the majority of participants were men (Gleeson 2010:579; Sanidad 2011:7), and relatively few studies focused on women’s own interpretations of their experiences in the labor market (Suh 2002:561). Even in Sanidad’s study of nine men and five women, she notes that typical workers she interviewed were “undocumented Mexican males working in the construction, cleaning and landscaping industries who seek help once one or several full paychecks have been withheld” (Sanidad 2011:6). Gleeson in her 2010 study of 34 men and seven women interviewed in Houston, TX and San Jose, CA, she states that she “found no distinct trends between the ways women … discussed their workplace rights vis-à-vis their equally positioned male counterparts” (Gleeson 2010:578–579). But she does highlight the need for research examining whether or not men and women who have experienced wage theft “engage in claims making” in different ways (Gleeson 2010:579). To my knowledge, this thesis is the first study focusing on wage theft as experienced by Spanish-speaking undocumented immigrant women living in the United States. This project attempts to fill in this gap in the research on gendered experiences with wage theft and immigration and explores Latin American immigrant women’s unique barriers to recourse.

Methods

In March of 2014, I approached Adelante staff about my proposed research, and offered myself as a volunteer who could help with day-to-day operational needs and at community events, while learning more about the immigrant community in Wichita through participant observation. When I described my project to Carla, the WJC coordinator, she was both elated and grateful to have a new helper. In 2008 she
responded to the increasing number of undocumented workers with wage theft cases by working with state representatives and like-minded organizations to draft legislation that would increase penalties for businesses who underpay their workers. Although they were not ultimately successful in passing this legislation, Carla was eager to see a university-affiliated study published on the realities of wage theft in Kansas. She was also grateful to have a free helper who could man sign-in tables, help communicate with Spanish-only individuals, make phone calls, and proofread her English.

Over the course of 19 non-consecutive months in 2014, 2015, and 2016 I participated in a wide variety of community events lead by Adelante and its affiliated 501c4, Kansas Communities of Color (KCC). For four and a half of those months in 2014, I worked closely with Carla, helping her run the Adelante WJC on Monday evenings from 5-7pm. During these Monday night intakes, I helped clients of all ages and various ethnicities fill out intake forms related to a wide variety of issues, ranging from problems collecting social security, problems with slum lords, fraudulent auto salesman, fears of family members getting deported, domestic violence, and even wage theft.

Even though Adelante is a grassroots social justice organization that strives to empower low-wage persons and families of color, no one was turned away from the Monday night intakes based on race or ethnicity. However, the majority of people who found their way to the WJC were low-income Hispanics and African Americans.

My role as a volunteer at Monday night WJC intakes was to greet people as they entered the large room downstairs where the WJC was located, determine if they had a new or pending case, listen as members told about the issues they were seeking help with, assist them in filling out the intake forms required to open their case, then follow up with phone calls and research. Even though the majority of people who came to the WJC did so for problems unrelated to wage theft, I learned a great deal about the challenges and obstacles faced by undocumented Spanish-speaking immigrants and the Hispanic community in Wichita. At the end of each intake night, Carla would recap the cases we had listened to

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16 Although anthropologists have shown that the traditional concept of race found in Western societies is genetically and biologically meaningless, I maintain the use of “race” here as a social construct, because that is the term my informants use to distinguish various populations that they serve, primarily African Americans and Hispanics/Latinos.
that evening, and rant against the political and economic forces that push low-income community members into these situations.

During the four and a half months that I assisted Carla at these weekly intakes, I only met three women who came in with wage theft cases. Instead of interviewing them on the spot, either Carla or I asked them if they would be willing to participate in my research and grant me an interview at some later date. Since I needed at least ten interviews with women who had experienced wage theft, WJC staff helped me to find female Spanish-speaking immigrants who had experienced wage theft by calling women who had come to Adelante prior to my arrival.

In addition to helping with Monday intake nights, I also participated in a wide variety of community events organized by Adelante and its 501c4 affiliate, Kansas People’s Action. I participated in voter canvassing drives to determine what issues local community members were most concerned about, helped canvass voters for state-level elections in November 2014, helped organize a prayer vigil to celebrate the visit of Pope Francis to the United States in September 2015, attended training meetings for using the Voter Action Network (VAN) database, called community members inviting them to upcoming meetings, and later developed and taught a citizenship class for Spanish-speaking legal permanent residents. Wage theft was only mentioned twice at these other community events, which instead focused on other issues important to low-income Hispanics and African Americans: higher paying jobs, clean water, equal educational opportunities for minority children, fair lending practices, equal employment opportunities, healthcare costs, the payday loan industry, discrimination against the LGBT community, racial discrimination, white domination of state and local governments, and the interests of large corporations over working families, especially in a conservative state like Kansas.

During my time volunteering at Adelante, I conducted 14 semi-structured formal interviews with Adelante staff and volunteers about wage theft and their personal motivations for working for social justice at this non-profit. I also had a number of informal conversations with 14 staff and volunteers at Adelante, during my participant observation. In addition, I conducted five semi-structured formal interviews with persons who were unaffiliated with Adelante but were knowledgable of wage theft practices, including one current employee at the local USDOL office and one former USDOL employee from out of state. These
interviews helped me to understand the vision, mission, culture, and office procedure at Adelante, as well as ways in which they handled wage theft cases.

**Establishing Trust with Undocumented Immigrant Women**

Since many undocumented immigrants are mistrustful of non-Hispanics who want to ask a lot of questions about their work in the United States, I had to rely on the trusting relationships that I built with women as a volunteer at Adelante or on the trust they had developed with Carla or Adelante in general. Since 2005, Adelante has been known to the Wichita Spanish-speaking community as an organization that is sympathetic to immigrant needs and concerns. As a volunteer at this organization, this trust was also extended to me by several immigrant women.

Although I have dark brown hair and eyes, my very pale skin and Anglo facial features do not reveal my mixed-race heritage. So to many participants, I was a middle-class white woman attending a local university, whose Spanish sometimes was not perfect. But for those who knew that my mother was from Guatemala, I believe that this added an additional layer of trust.

**The Challenges of Finding Informants**

It was much more challenging to find Spanish-speaking immigrant women who had experienced wage theft than I originally had anticipated. Reasons for this were many. Very few women (only three) came in to file wage theft claims during the four and a half months that I was helping with Monday intake nights. So the majority of my interviews were gained when a WJC staff person would call possible participants for me, asking them if they would be willing to grant me an interview, informing them about the nature of my research, and promising them that their names and identifying information would not be used in my report. Some of the women, who had filed claims as far back as 2008, had changed phone numbers since then, and thus we were unable to contact them.¹⁷

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¹⁷ Phone numbers often change quickly in the Spanish-speaking immigrant community, because their incomes are often low and employment is unstable. So when they run out of money to pay their cell phone bills, or lose their jobs, their numbers stop working.
Some of the women they contacted for me simply refused to give an interview for various reasons. One woman, who I met through one of my citizenship class students, was at first reluctant to be interviewed, because she mistakenly thought I was an attorney or a law student. She thought that talking with me about her stolen wages was the same as filing a formal complaint to reclaim these wages. One woman who refused an interview said that she simply didn’t have the time. She was working three jobs, raising two children as a single mother, and trying to put one of her daughters through college. Two other women whom I only heard about through a woman I met at Adelante were made to work off the clock for one hour each day, cleaning a local middle school. They declined to be interviewed because their husbands said it was not the right thing to do at that time. The latter two examples indicate that not having the time and their husband’s discouragement, are also possible reasons why undocumented Spanish-speaking immigrant women might be reluctant to file claims for stolen wages with Adelante or the USDOL. A comprehensive list of barriers to filing claims will be discussed in Chapter 5.

Since only three women came to the WJC to file claims for lost wages while I was volunteering, Adelante staff and I searched through records and found phone numbers for women who had filed claims with them in the past. Of the 20 women we called, eight agreed to be interviewed, seven phone numbers were disconnected, one did not return our phone calls, one returned to Mexico, one was in the hospital, and two declined, saying they were too busy.

In addition to the eight women who agreed to be interviewed about their experiences of wage theft and filing claims at Adelante, I also interviewed two women who had experienced wage theft, but had never filed a formal claim for stolen wages with Adelante, nor with the USDOL. I met these two women through the citizenship classes that I taught at Adelante in 2015 and 2016. My informant sample is heavily weighted toward women who have already filed claims for stolen wages (eight out of ten) because I relied on Adelante to meet and contact all of my informants, an organization that helps workers reclaim their stolen wages.

Because my informant sample is heavily weighted toward women who have already filed claims, I was able to form a more accurate picture of the social contexts in which these women chose to file claims of stolen wages. By listening to what these women said about the attitudes, words, and actions of their
coworkers, I was also able to glean a great deal about why many undocumented immigrant women are reluctant to file claims for stolen wages and the barriers they face in doing so.

**Interview Methods**

Once an informant had agreed to an interviewed, I encouraged her to choose the time and place for the interview. Unlike other researchers who approach potential undocumented informants at day labor sites or in the parking lots of mainstream restaurants\(^\text{18}\) (Valenzuela Jr. et al. 2006; Gleeson 2010:576–577; González 2015), I stipulated in my IRB that I would not approach the places of work for any of my participants. I knew that trust could only be established with a woman who was not being paid all her wages if she knew that I was not going to speak with her boss about the problem or go to her place of work, potentially getting her and her co-workers fired. Of the ten women interviewed, six graciously invited me to their homes, two preferred to meet at Adelante, one woman spoke with me over the phone, and one woman met with me at her husband’s residential job site. Since women are typically the primary caregivers for children, grandchildren, nephews and nieces, six of ten participants were interviewed with children nearby, ranging in ages from newborns to high school age.

All participants were informed about the nature and purpose of my research and gave their informed consent, under IRB numbers 3051, 3401, and 3153. From women who had experienced wage theft I asked for verbal consent instead of asking them to sign the consent form. Persons who are undocumented are not likely to feel comfortable putting their name and signature on a piece of paper on university letterhead. For this reason, I went over the consent form with them verbally, rather than asking for signed consent. When interviewing staff and volunteers at Adelante, all of whom have legal residency status, I did ask for signed consent after reviewing their version of the consent form with them.

I used alphanumeric identification numbers for all individuals in my fieldnotes and transcriptions to protect their identities (Guest, Namey, and Mitchell 2012:306). If my field notebook was lost or stolen, no

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\(^{18}\) All of the studies I have found involving Spanish-speaking immigrants approached at day labor sites and restaurant parking lots have had far more male than female participants (Valenzuela Jr. et al. 2006; Gleeson 2010:576–577; González 2015). By working through a non-profit organization, I was able to seek out only female participants.
one’s names would be revealed. I kept the participant ID key file secured using 1Password, a password manager developed by AgileBits, Inc.

During semi-structured interviews, I carried my interview questions and scratch paper for notes in a small 5 1/2” x 8 1/2” three-ring binder. This small binder allowed me to remove pages on which I had already taken notes about previous participants, and leave them in a secure location at home. This way, I could arrive at each interview with just my interview questions and a blank notebook. Thus, participants would know that I was not going to carry their stories and information around with me.

All ten women who experienced wage theft allowed me to record our conversations about their experiences of labor abuses. I attribute this willingness to the trust that I established with informants through my association with Adelante. I recorded our conversations using a Zoom H2n audio field recorder, and saved the resulting .mp3 files within password protected disc image files (dmg) on a 2009 13” Macbook Pro. Interviews were transcribed using Transcrivia 2, manual transcription software for the Mac. I transcribed interviews using a naturalized transcription protocol, which included vocalization such as laughs, coughs, sighs, and children’s cries, and non-vocalized sounds such as paper rustling, pencil tapping, finger snapping, etc., as well as silence, noting only long pauses (McLellan-Lemal 2008:105). Interviews were transcribed in Spanish, the native language of all of my wage theft informants.

During interviews, I invited participants to tell their work-related stories in their own way by opening with a grand tour question (Bernard 2011; Guest, Namey, and Mitchell 2012:138) like, “Tell me about some of the problems you were having at work when you were not getting paid all of your wages.” Participants often wanted to launch into their stories early in the interview, so I found it was best not to stand in their way. Following Russell Bernard, I found that the best interviews came when I got participants onto a topic and then got out of their way, letting them provide information they thought important (Bernard 2011:160). These semi-structured interviews with women who had experienced wage theft lasted between 30 minutes to three hours, depending on the amount of time participants had available. Often, my interview participants would provide, through the course of their narratives, most of the key details on their own. Then after they had shared the meat of their stories, I would ask about the remaining details, such as amount of money underpaid, number of hours worked, racial-ethnicity of
managers and owners, participant’s country of origin, number of children at home, etc. Thus, I found it more helpful with this population to allow them to tell their stories in their own ways, without peppering them with questions.

Only once or twice did I need to use the phased assertion (Kirk and Miller 1986:48), also known as the baiting probe (Agar 1996:142), to elicit more detailed responses from less verbose informants. This probe involves acting like you already know the answer to your own questions because you have learned them from other people. This makes participants feel more comfortable, because they are not the ones divulging the group’s “secrets” (Bernard 2011:165). One potential downside to the baiting probe is that it might prompt women to pretend to agree with me, telling me what they think I want to hear, in an effort to avoid conflict and show respect. Fortunately, almost of my informants were eager to tell their stories and spoke freely, without much prompting.

Nine out of ten of the women who I interviewed about their wage theft experiences were undocumented immigrants. The one participant, Amelia, who is a legal permanent resident spoke openly about her legal status, since her manager admitted to considering her status as justification for treating her better than her undocumented coworkers. Although I did not ask participants outright about their immigration status, all informants provided information that made it clear what their immigration status was. Some would talk vaguely about a fear of “what might happen,” if they complained about stolen wages and labor abuses, while others admitted outright that they didn’t feel they could do anything because “I don’t have papers.”

I had originally intended to conduct a mixed methods study, including qualitative and quantitative data (Creswell 2003:15–16). I intended to analyze the amount of back-wages owed to each woman, and the number of unpaid or underpaid hours worked, to determine if the dollar amounts or hours lost played a significant role in determining if and when women chose to file claims about their stolen wages. However, calculating the number of hours and dollars underpaid proved to be more difficult than I had originally anticipated. For women who kept track of their own hours, or were paid a fixed amount, or who had fixed schedules, calculating their lost wages was no problem. But several women worked varying schedules, which fluctuated based on the amount of work to be done, were paid various rates during their
employment, and did not have access to records of their hours worked, because all their timecards were still located at their former places of employment. USDOL investigators have access to employee time records and use them to calculate back wages due, but I did not have access to this information and had to rely on participant's memories or personal records.

Data Analysis Methods

In an effort to bring worker’s voices and experiences to the forefront, I analyzed my ten interviews with immigrant women who had experienced wage theft using the constant comparison method (Glaser and Strauss 1967). This allowed me to develop a theory grounded in workers’ lived experiences, perceptions, and ideas. In accordance with this method, I coded all ten interviews using nVivo 11 for Mac, using a 2-pass coding method. I coded the transcripts, searching for feelings, experiences, events, perceptions, and ideas that Glaser and Strauss refer to as “incidents” (Glaser and Strauss 1967:105). The incidents coded in each transcript were then compared with incidents across transcripts, in order to identify experiences and perceptions shared by multiple workers. These shared incidents were then grouped into themes. These themes emerged from participants’ lived experiences, as my interview questions were largely open-ended and grand in scope, allowing informants to frame their experiences in their own ways.

Following Bazeley and Jackson (2013), I coded the longest and most detailed interview first, then coded the interview with the greatest difference in content and experiences second, in order to maximize the variety of concepts to be coded (Bazeley and Jackson 2013). As recommended by Saldaña (2013), in coding I utilized a hybrid of various coding methods, including “In Vivo Coding” which focuses on members words and expressions, “Initial Coding” which is very similar to open coding, and “Emotion Coding” which focuses on emotional reactions to labor abuses as experienced by my wage theft participants (Saldaña 2013:59–60). I chose these three coding methods because In Vivo coding would allow participant’s own voices to be privileged, while Initial Coding allows for a wide variety of codes to be generated, while Emotional Coding allowed me to focus on participant’s choice of action following various
emotional responses. The latter was particularly helpful in discovering the role that catalytic events played in immigrant women’s choices to file claims.

Following Saldana (2013), I wrote analytic memos as I coded, using his 11 recommended topics for reflection to discover emerging patterns, informant choices, links, connections, overlaps, and flows among the various codes and categories (Saldaña 2013:41–49). Through the process of analytic memo writing, I began to develop connections between clusters of codes and their properties, linking their importance to emerging core themes. I chose to address key themes through an analysis of immigrant women’s specific barriers to claims-making, because this approach expresses the full range of my informant’s experiences and perceptions while addressing the claims-making challenges that are unique to this population. The themes I discovered, specifically catalytic events and women’s barriers to claims-making, will be discussed in Chapter 5.

The Fieldsite

The offices of Adelante/KCC are located in residential neighborhood with a large percentage of African American heads-of-household (U.S. Census Bureau 2010). The two-story red brick building sits adjacent to an African American Baptist Church, which owns and rents the building to Adelante/KCC. The building is situated on a large lot with ample parking out front and a roughly one-acre community garden/playground in the back. The edifice sits at the corner of a minor artery that sees a fair amount of automotive traffic and a small side street with little traffic. The Adelante/KCC building can be hard to find for some first-time visitors, because the main entrance faces the small, residential side street. The front door is not easily visible from the higher-traffic minor artery due to a small wing wall.

In 2014, the only signage identifying the building was located next to the main entrance, and thus only clearly visible from the small residential side street. In 2015, with the construction of a local FM radio station, a large white sign was placed in the yard that can be easily seen from both the minor artery and the smaller side street. But since the sign was part of the radio station construction, it only bears the name and logo of the radio station, not Adelante/KCC itself. Because Adelante/KCC operates in Kansas, a predominantly conservative state, the organization, unfortunately, receives bomb threats and staff
members have occasionally received death threats. Although the lack of more visible signage can make it harder for first-time visitors to find the building, it also serves to protect the organizations from politically and racially motivated violence.

Inside, the hybrid organization enjoys a relatively large office space, given its small size and budget. Upon entering through the main door, visitors step onto a landing between two flights of stairs. The stairs to the right lead up to the main level, while the few stairs to the left lead downstairs to the basement offices and meeting rooms. As visitors take the stairs to the right to the main floor, they find a small lobby/waiting area with a window accessing the receptionist’s office. It’s there that first-time visitors are greeted and directed to other offices or meeting rooms. Down a hallway from the main lobby are the offices of the director and the financial operations manager, which one can catch glimpses into if their doors are left open. Adjacent to the receptionist’s office is a small window-less conference room that is often the site of staff meetings, since two of its walls are covered in white boards used for brainstorming and minute-taking. The largest space in the building is a spacious great room on the main level, which is the site of a wide variety of community events, including membership meetings, canvassing meetings, leadership conferences, DREAMers conferences, cultural celebrations and dances, documentary film showings, citizenship classes, and other campaign meetings. This great room enjoys streams of natural light through its several tall windows with southern and western exposures. In 2014, two office cubicles were set up in the southeast corner of the great room to accommodate a couple more workstations. Adjacent to the great room on the east are two large offices that house the communications director, the fundraising director, and the lead organizer/campaign coordinator. To the west of the small conference room and receptionist’s office are the restrooms and kitchen. The large kitchen, with stove, refrigerator, sink, and ample cabinet space, conveniently allows for coffee, donuts, and pizza to be served through a small window that opens up into the great room.

The basement offices and meeting rooms can be accessed either by taking the short flight of stairs to the left from the entry landing or by taking the back stairs and ramp near the kitchen. Once downstairs, visitors find a small window-less waiting area with sofa, coffee table, and, for a brief period, a TV. Down the hall is the worker justice center (WJC), where persons who have experienced wage theft can go to
get help filing a formal claim for stolen wages. Also downstairs was a large multi-purpose meeting room in 2014 (that got converted into an office and small meeting room in 2015), men’s and women’s restrooms, and a local FM radio station studio, constructed in 2015.

Because Adelante/KCC are non-profit organizations that must rely on private donations and grants, money is always tight. This means that there is no contract with cleaning or maintenance services. Prior to the construction of the radio station in 2015, there were a few missing ceiling panels in the basement near the restrooms, exposing overhead plumbing and wires. Also in 2015, the new worker justice coordinator donated a new front door to replace a stubbornly sticky metal door. All staff members are expected to clean up after themselves, but the receptionist does the majority of the vacuuming and waste basket emptying. Since she is also a full-time college student and usually only works from 12 pm to 5 pm, she doesn’t always have time to clean. So many carpets are home to stray pens, paper clips, scraps of paper, crayons, and children’s toys. Because most of Adelante/KCC’s members are working men and women, they can only attend community meetings in the evenings. So Adelante/KCC encourages its members to bring their children with them to meetings rather than stay at home for lack of money for babysitters. Building blocks, coloring books, crayons, markers, and large doodle-worthy rolls of butcher paper are made available for children to entertain themselves with. Last night’s crayon masterpieces are often cleaned up to make way for morning strategy meetings.

My Role as a Volunteer

As a volunteer at Adelante/KCC, I was given a considerable amount of trust and responsibility, especially in late 2015 and early 2016, when I was asked to develop and teach a citizenship class for Spanish-speaking legal permanent residents. In 2014, when I was working as a volunteer at the WJC, my primary duties involved helping with Monday night intakes and following up on some cases later in the week by making phone calls or doing internet research. As a volunteer, I was given access to paper files and folders for all the open WJC cases, but I did not have regular access to the inter-office membership database, the WJC electronic database, nor organizational email accounts. I preferred to not have regular
access to these electronic databases because they were not needed for my research, and I wanted to maintain the integrity of Adelante/KCC’s commitment to its member’s confidentiality.

I did not follow up on any cases involving wage theft because doing so might have required me to call client’s managers or employers. My IRB stipulated that, for participants who had experienced wage theft, I would not make contact with their employers or managers and I would not approach their places of work. For this reason, I did not work on wage theft cases while I serving as a volunteer.

My role as a volunteer was different than that of a regular staff member in several ways. I did not have set hours during which I was expected to be at Adelante, outside of the Monday evening intakes at the WJC. I could opt out of membership meetings and other community events, if I chose. I was not expected to fundraise, which is an additional responsibility placed on each staff member. And although I was invited to a couple of staff meetings, I was not required to attend them regularly. I was trusted with more responsibility than other volunteers during day-to-day operations, partly due to my persistence and partly due to my ability to make myself useful, while other volunteers would wait to be told what to do. When staff was too busy to give the other volunteers specific tasks, they would often leave after accomplishing little. Overall, I was graciously treated as a respected member of the Adelante family, and trusted with a wide variety of sensitive details, including inter-office gossip and financial information, despite the fact that my role was that of a volunteer.

I was always warmly included as a member of the Adelante family, and often accepted as a mixed-race American. Despite the fact that many of the staff and members of Adelante had been ridiculed, discriminated against, and made to feel less-than by white Americans who were just as pale-skinned as me, I was always made to feel welcome in the struggle against racial injustice. Even though I was treated like a member of the family, it was clear that I was not raised in a Hispanic household, since I didn’t know the meaning of certain religious holiday traditions. When my co-workers talked about Las Posadas, a nine-day celebration leading up to Christmas, symbolizing the nine months of Jesus’ gestation, they had to explain it to me. This made it clear that I was not raised in a Latino family. I earned my acceptance as an outsider who wanted to support the welfare of Latinos living in the United States through my willingness to spend a lot of time volunteering at events geared to support the Hispanic community. One
Saturday, after I helped legal permanent residents fill out the paperwork for a citizenship screening held at a local park, Carla, the former WJC coordinator, turned to a Spanish-speaking friend of mine and said of me, “Que bueno que ella ayuda tanto aunque es gringa 19.” (It’s great that she helps so much even though she’s not a Mexican). Other times, Carla would address me as “mi hija,” (my daughter), a term of endearment used in the Spanish-speaking community when referring to a Hispanic girl or woman who is younger than one’s self. Thus, I was treated as a young woman, working for the same issues they cared about. At times, I was seen as a member of the Spanish-speaking community, a person of mixed racial heritage, who happened to not be raised in a Hispanic household.

Overview of Chapters

The lived experiences of ten Spanish-speaking immigrant women who experienced wage theft will inform an understanding of how these women bravely navigated the choice to file claims for stolen wages, even in the face of potential job loss and fears of deportation. For nine of my ten participants, children were central to their lives. They cherished their roles as mothers, grandmothers, and aunts. For those women who feared losing their jobs as a result of claims-making, they feared not being able to provide for their children, grandchildren, nieces and nephews, thus challenging their identities as good mothers, grandmothers, and financial providers to the children in their lives. I will examine how social contexts and verbal abuse from managers and owners give rise to catalytic events that transform women who were previously willing to put up with egregious labor violations into persons motivated by anger and a sense of injustice to defend their rights and personal dignity.

In Chapter 2, I will briefly cover the history of the USDOL. Then I will explore the agencies inadequacies, specifically those of the WHD, and discuss challenges it faces in effectively reclaiming lost wages for workers who have had their wages stolen. Chapter 3 will describe Adelante, its history, and role in the community. I will also explore staff’s personal histories and motivations for doing this work, despite

19 “Gringa” is a slang term used throughout Latin America to refer to a female foreigner from North America. “Gringo/a” is often considered a derogatory term, similar to “yankee” or limey” (Gringa / Gringo - An Insult? n.d.). But in this instance, it was neither meant nor interpreted as an insult, as it was said with affection.
the high stress, long hours, and funding challenges common in the non-profit world. In Chapter 4, through summaries of participant's work histories, I bring to light the complex social contexts in which wage theft occurs and illustrate how wage theft is often just the tip of the iceberg. In Chapter 5, I discuss barriers Spanish-speaking immigrant women encounter when considering filing claims for stolen wages and I examine the role that catalytic events play in shaping women's choices to file claims. Chapter 6 will point readers to other sources that detail various structural changes that could be implemented to reduce wage theft incidents, strengthen existing labor laws, and hold employers accountable for their actions. I will also make a few suggestions on the role that Catholic churches could potentially play in empowering immigrant women, providing education on immigrant's labor rights, and extending immigrant women's social networks.
“Do not take advantage of a hired worker who is poor and needy, whether that worker is an Israelite or is a foreigner residing in one of your towns. Pay them their wages each day before sunset, because they are poor and are counting on it. Otherwise they may cry to the Lord against you, and you will be guilty of sin.”
— Deuteronomy 24:14–15

A Brief History of the Fair Labor Standards Act of 1938

“I came to Washington to work for God, FDR, and the millions of forgotten plain common workingmen,” declared Frances C. Perkins, Secretary of Labor from 1933 to 1945, and the first woman to serve in a cabinet position (Barusch 2008:111; Bobo 2011:180). A formidable figure in Franklin D. Roosevelt’s administration, she played a significant role in drafting and passing key legislation, such as the Social Security Act, unemployment insurance, the minimum wages, the 40 hour work week, and child labor protections through the Fair Labor Standards Act of 1938. She played a key role in crafting legislation that establishes the core of protections for millions of United States workers and retired workers (Barusch 2008:111; Bobo 2011:180–181). Historian Arthur Schlesinger described her as having “a pungency of character, a dry wit, an inner gaiety, an instinct for practicality, and profound vein of religious feeling, and a compulsion to instruct” (Barusch 2008:111).

Although Frances Perkins was raised in a middle-class family in Massachusetts, her first glimpses of what life was like for the working poor, had a deep impact on her. For a course on industrial society at Mount Holyoke College in South Hadley, Massachusetts, she visited and reported on the living and working conditions of workers at Massachusetts paper and textile mills (Bobo 2011:181). Undoubtedly influenced by her Congregationalist upbringing, Perkins later said that these experiences “opened my mind to the necessity for and the possibility of the work which became my vocation” (Bobo 2011:181).
After graduating with bachelor’s degrees in chemistry and physics in 1902, Perkins organized a club for teenage girls working in factories. Through her Congregational church, Perkins offered the girls classes on cooking and sewing. Tragically, the hand of one of the teenage girls was cut off by an unguarded machine at a local factory, and the company tried to shirk its responsibility to the young female worker. Perkins lead a public protest and forced the company to compensate the young girl for the loss of her hand with $100 (Bobo 2011:182). After earning a master’s degree in political science from Columbia University in 1910, Perkins took a job as executive secretary at the New York Consumer’s League. During her work there, she advocated for a 54 hour work week for women and collected data on industrial accidents. She happened to be the Triangle Shirtwaist Factory in Manhattan, NY on March 25, 1911, when a terrible fire broke out, killing 123 women and 23 men. Perkins looked on in horror, as many young Jewish and Italian immigrant women jumped to their deaths to escape the fire. The owners routinely kept the doors locked to prevent the girls from taking breaks (Bobo 2011:184–185; Downey 2010:11). As a result of this horrific event, Perkins was hired to staff the newly created New York Committee on Safety and became an expert on factory conditions and worker’s safety (Bobo 2011:185). From 1917 to 1932, Perkins held a number of prominent positions, which allowed her to continued to fight for workplace safety and better working conditions, motivated by her belief that society should provide “adequate incomes and adequate education to all its workers” (Bobo 2011:184).

In 1933, Perkins became the first woman cabinet member in United States history, when Franklin D. Roosevelt nominated her as the nation’s 4th Secretary of Labor. Before she accepted the position, she publicly declared her intention to help establish “by federal law of minimum wages and maximum working hours, true unemployment insurance and old-age insurance, abolition of child labor, and the creation of a federal-state employment service” (Severn 1976:110–111; Bobo 2011:186). During the 12 years she spent in Roosevelt's cabinet, she played key roles in creating some of our nation’s most important New Deal legislation and institutions, including the Wagner-Peyser Act (1933), the Civil Works Administration (1933), the National Industrial Recovery Act (1933), the National Labor Relations Act (1935), the Social Security Act (1935), and most importantly for this study, the Fair Labor Standards Act (FLSA) (1938) (Bobo 2011:186–187).
By the time the FLSA was passed in 1938, labor standards had collapsed under the weight of the Great Depression. Most American workers were caught between unemployment, with its ruthless competition for jobs, and employment, with its extremely long hours for pitifully low wages. Millions of children labored in sweatshops to help augment family incomes, even though they were paid very little. In 1933, newly elected President Roosevelt promoted a document called the President’s Re-Employment Agreement, which allowed employers to voluntarily agree to pay their workers no less than $15 per week for a 40 hour work week (Grossman 1973:46).

But it was by no means certain that a comprehensive bill could be passed to accomplish similar measures. At that time, many doubted that a federal law regulating minimum wages, hours, and working conditions would be constitutional. During his 1936 campaign for re-election, President Roosevelt promised constants that he would establish fair labor standards to help lift working Americans out of poverty. But at that time, opposition to federal labor standards was fierce. In 1937, when a labor standards bill drafted by Frances Perkins was introduced in Congress, even labor unions opposed it. Labor unions feared that the proposed minimum wage would tend to become the maximum wage, and organized manufacturing feared that it would impede economic recovery (Grossman 1973:46). In 1937, Roosevelt argued before a special session of Congress that “the exploitation of child labor, the undercutting of wages, and the stretching of hours of work of the poorest paid workers prolonged depressions…” (Grossman 1973:47). But due to strong opposition from multiple fronts, the bill died in the House Committee on Rules.

In 1938, when Congress reconvened, Roosevelt and Perkins continued to push for a watered-down version of the bill. President Roosevelt argued that the bill would help to “end starvation wages and intolerable hours of work” (Grossman 1973:47). In an effort to frame the bill in terms of business interests, Roosevelt’s Justice Department suggested that the bill be adopted “not to provide workers with affirmative rights,” but because the lack of a wage floor allowed the sweatshops who paid workers the least an “unfair competitive advantage” (O’Brien 2001:35). When two supporters of wage and hour regulations won spectacular victories in Florida and Alabama’s congressional elections, the President won support from previously reluctant congressman, winning enough votes for the bill to pass both houses. On June
25, 1938, the Fair Labor Standards Act (FLSA) was signed into law, becoming the most important labor standards bill Congress has ever passed (Grossman 1973:47; Bobo 2011:149).

The FLSA established a national minimum wage at 25 cents an hour, overtime compensation, and a 44 hour work week, which reduced to 40 hours per week over a 3 year period, along with provisions regulating child labor. The bill covered an estimated 12.5 million workers who were engaged in interstate commerce. An estimated 300,000 workers immediately saw an increase in wages, and a million more workers saw a shortening of their hours (Grossman 1973:47–48).

Despite these victories, 25 cents per hour was a oppressively low wage, even for that time. And the 12.5 million covered workers were only a small portion of the workforce, as many industries successfully lobbied for exclusion. In an effort to ameliorate business interests, the minimum wage was designed to increase incrementally over 7 years, until it reached 40 cents per hour in 1945\(^{20}\). From 1938 to 1960, increasing numbers of industries were included in the bill, covering more workers under its jurisdiction (Grossman 1973:193).

The FLSA established the WHD of the Department of Labor as the enforcement agency. But from the beginning, the WHD has had relatively weak powers to enforce the law, a fact that persists to the present day (Fine and Gordon 2010; U.S. Government Accountability Office, Kutz, and Meyer 2009; U.S. Government Accountability Office and Kutz 2008). Upon its creation, Congress funded the WHD from the Department of Labor’s general operating budget, and appointed inspectors under the civil service rules, but gave the WHD division little control over them. In addition, the WHD was not given the power to issue cease-and-desist orders to employers, and fines for violations were extremely low (Fine and Gordon 2010:559–560). According to Kim Bobo, the founder of a noted WJC in Chicago and author of the only book on wage theft, “The responsibilities for program and [labor law] enforcement were added in a piecemeal fashion, without careful thinking about how they all would fit together. As a result, the [Department of Labor] has responsibility for enforcing hundreds of laws and dozens of programs that don't quite mesh and that actually overextend its ability to be effective” (Bobo 2011:150).

\(^{20}\) See Figure 1a: Minimum Wage History for a list of minimum wage increases.
Effectiveness of the Wage and Hour Division to Enforce the Fair Labor Standards Act

As a result of hurricane Katrina in 2005, the problem of minimum wage and overtime violations was drawn to the nation’s attention. Although Wage and Hour employees were well aware of the inadequacies of their own department, the media and the general public were relatively unaware of the silent wage theft crime wave, until egregious levels of wage theft took place during the reconstruction of New Orleans following Hurricanes Katrina and Rita (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:7). In the months and years following the hurricanes, uncounted numbers of undocumented Spanish-speaking immigrants flooded into New Orleans to help rebuild the city and its infrastructure (Fussell 2011:595). Unprepared for the unprecedented levels of wage theft experienced by reconstruction workers of all races during the reconstruction, the federal WHD in Louisiana was not able to handle the volume of wage theft complaints it received. And undoubtedly, thousands of cases of wage theft went unreported, as workers who had traveled to New Orleans from other areas had no idea how or where to file claims.

In 2008, after it became clear that federal WHD offices across the country were unable to handle even their regular caseloads, the Government Accountability Office (GAO) launched a multifaceted investigation into Wage and Hour practices and procedures across the nation. In July of that year, Gregory D. Kutz, Managing Director Forensic Audits and Special Investigations for the GAO, gave a preliminary presentation before the House Committee on Education and Labor of an ongoing investigation into the inadequacy of Wage and Hour’s investigations of business who have violated labor laws. As part of this investigation, the GAO analyzed 70,000 closed cases from the Wage and Hour Investigative Support and Reporting Database (WHISARD) from 2004 through 2007. The GAO then conducted detailed reviews of 15 of these cases, in order to determine how well the WHD had investigated alleged violations of labor laws. According to Gregory D. Kutz, these 15 case studies “show that WHD inadequately investigated complaints” from workers who reported their employers for failing to pay the minimum wage, proper overtime compensation, and/or final paychecks. The GAO also data-mined the WHISARD database and found thousands of cases that were similar to the 15 case studies.
they reviewed in detail (U.S. Government Accountability Office and Kutz 2008:3). The GAO’s finding can be summarized as follows:

In the majority of the case studies, low-wage complainants were advised of their option to hire an attorney after WHD determined no action would be taken on their behalf. Examples of inadequate WHD responses to complaints included instances where WHD (1) inappropriately rejected complaints based on incorrect information provided by employers, (2) failed to make adequate attempts to locate employers, (3) did not thoroughly investigate and resolve complaints, and (4) delayed initiating investigations for over a year and then dropped the complaint because the statute of limitations for assessing back wages was close to expiring.\textsuperscript{21}

One of the 15 case studies involved a man who was working as a cook at a restaurant in Cleveland, Ohio. He called his local USDOL office and complained that his employer was not paying him overtime. The WHD investigator was not able to investigate the man’s case for 15 months, due to a backlog of cases. Then the case was closed by the investigator when they saw a news article stating that the business in question had closed (U.S. Government Accountability Office and Kutz 2008:6). If the USDOL’s WHD does not have enough investigators to work on all of the complaints that come in, then workers must wait long periods of time, ranging from a few weeks to over a year, before an investigator can be freed up to work on the case. As will be discussed in Chapter 5, several of the Spanish-speaking immigrant women who I interviewed in Wichita, Kansas, also had to wait as long as a year before an investigator could get to their cases.

Another case involved a woman who had worked as a cashier at a gas station in Tamarac, Florida. She complained to the WHD that she had not received her final paycheck. When an investigator called the employer asking for payment, the employer admitted to failing to pay this worker’s last paycheck, and agreed that payment was needed. Then employer asked the investigator to call back later to discuss the

\textsuperscript{21} From (U.S. Government Accountability Office and Kutz 2008:2–3).
issue further. When the employer later failed to return multiple phone calls, the investigator eventually
called the worker, saying they were unable to collect, and informed her of her right to file a private lawsuit.
The investigator then closed the case. When the GAO contacted the employer, they found that the
business was still in operation in 2008 (U.S. Government Accountability Office and Kutz 2008:6). Thus,
simple evasion on the part of the employer was enough for the investigator to close the case. If the crime
had involved car theft, for instance, police would not have dropped the case simply because the car thief
failed to return their phone calls.

One case involved a homeless person who was given free room and board at an assisted living
facility in Toledo, Ohio, in exchange for working as their nighttime watchman for over a year. The
homeless person was owed $4,000 in back wages. When the WHD investigator called the facility owner
for payment, the owner claimed that they considered the free room and board as payment, and they didn’t
have the funds to pay this person. The investigator dropped the case in 2006 and informed the worker of
his or her right to sue in small claims court. In 2008, the GAO determined that the business was still in
operation, suggesting that they likely could have found a way to come up with the money (U.S.
Government Accountability Office and Kutz 2008:6). The problem here lies in the fact that it is standard
WHD procedure to accept employer’s claims of inability to pay at face value. If employers claim they don’t
have the funds to pay workers, then the WHD accepts this without question and considers its
enforcement obligations done.

Another case involved a man who was working as a plumber, but he had been misclassified as an
independent contractor rather than an employee, resulting in lower wages. He was owed over $7,000 in
back wages, but an investigator wasn’t assigned to his case for 18 months. Shortly after the investigator
took the case, it was closed because the 2-year statute of limitations ran out (U.S. Government

Kim Bobo, noted author on wage theft, has suggested that the USDOL should “stop the clock” when
workers file claims for stolen wages. If the clock were stopped when the worker files the claim then they
could potentially get back more underpaid wages (Bobo 2011:181). For example, if a worker had been not
receiving overtime for over two years and it took six months for an investigator to get to her case, then
she would receive two and a half years worth of back wages, rather than just two years. Fine and Gordon recommend going even further by either completely abolishing the statute of limitations or drastically extending it. They argue that doing so would serve as an “ongoing deterrence” by drastically increasing amounts employers might have to pay (Fine and Gordon 2010:562). This would theoretically prevent unscrupulous employers from saving money by breaking the law. For instance, if an employer underpays workers for five years before an employee finally reports the problem, assuming this is the employer’s first offense, the employer would only be required to pay two years worth of back wages. Thus, by paying workers less than they are owed, employers can actually save money, creating more of an incentive to break the law than to follow it.

Gregory D. Kutz appeared before the House committee again in 2009, to present the final results of the GAO’s investigation. In the latter half of the investigation the GAO posed as fictitious complainants, calling ten WHD offices across the country, in states that see high volumes of wage theft cases. The purpose of this phase of the investigation was to see how various WHD offices in Alabama, California, Florida, Maryland, and Texas handled intakes and resolved various types of wage theft complaints. The fictitious workers who called in provided the names and numbers of fictitious businesses and fictitious employers, who were also participating in the GAO investigation. Numerous problems were found with WHD procedures in this portion of the investigation including, failure “to take appropriate action include delays in investigating complaints, complaints not recorded in the WHD database, failure to use available enforcement tools, failure to follow up on employers who agreed to pay, and a poor complaint intake process” (U.S. Government Accountability Office, Kutz, and Meyer 2009:8).

Five of the ten fictitious complaints were never even added to the WHISARD database. Most likely they were not recorded, because they were not able to successfully get employers to pay, and leaving them out of the database falsely boosts the percentage of cases successfully closed with payment of back wages (U.S. Government Accountability Office, Kutz, and Meyer 2009:4). The GAO discovered that the head of the WHD’s southeast region instructed WHD offices to not record failed attempts at conciliation. That’s why when the GAO analyzed the conciliation cases from this region downloaded from their database, they found that 95% of conciliation cases were allegedly adequately resolved (U.S.
One of the fictitious GAO complaints was filed by an undocumented Spanish-speaking woman, who claimed to have been working at a laundromat in Monterey Park, CA. She told her local WHD office that she had been getting paid less than minimum wage for over a year. Two weeks later, a Spanish-speaking investigator called the fictitious employee, and 5 weeks later was able to get the fictitious employer to agree to pay. But later on, the fictitious employee called the WHD again to say that she had not received a check, but the investigators took no further action. When the GAO officers checked the WHD’s records, this case was still marked as “agreed to pay” in their system, making it look as if the case had been successfully resolved (U.S. Government Accountability Office, Kutz, and Meyer 2009:5).

In another fictitious case, a man claiming to be a dishwasher in Miami, FL called to say he was not receiving overtime pay. Due to this office’s large backlog, they were not able to start working on his case right away, and he was told by an investigator that it could take eight to ten months before an investigation could begin. When he tried calling the WHD office to check on the status of his case, his phone calls were not returned for 4 consecutive months. When the GAO office checked, this case was never recorded in the database (U.S. Government Accountability Office, Kutz, and Meyer 2009:6).

A particularly egregious case involved a fictitious employee who claimed to have not been paid minimum wage by a fictitious lawn care company in Dallas, TX. The WHD investigator told the worker that their office didn’t have jurisdiction over the case because the lawn care company didn’t meet the minimum threshold for annual gross sales, which set at $500,000. The investigator told the worker that he had gotten this information about the business from an IRS database. But since this fictitious lawn care company never existed, there would have been no record of it in any IRS databases. When the GAO checked the man’s case file, it showed no record of contact with the IRS (U.S. Government Accountability Office, Kutz, and Meyer 2009:6). Because this case involved an investigator lying about work performed, this case was passed on to the Labor Department’s Office of Inspector General for further investigation (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:46).
The fourth of the ten fictitious claims involved a man who claimed to have been paid less than minimum wage for his work as a receptionist in Clifton, VA. The investigator called the fictitious employer promptly, but when she claimed that all her contracts had tried up and she didn’t have any money to pay back wages, the investigator simply accepted this without question (U.S. Government Accountability Office, Kutz, and Meyer 2009:8). It is not standard practice for WHD office to ask for proof of inability to pay, like with bank account records, for example. Nor do they always check with IRS to see how much money the business reported as income in the previous year. Standard procedure at most WHD offices is to simply take the employer’s word for it when they say they are unable to pay employee’s back wages.

When the fictitious employee and the investigator spoke on the phone again, the investigator informed the employee of his right to take the case to court on his own, and added the following:

INVESTIGATOR: Once the employer tells me that they are not going to pay and that they can’t, my ability to, you know, force payment has ended.

FICTITIOUS EMPLOYEE: So you really have no power to do any—all you did was just call her and ask her to pay me. I mean, she is just—

INVESTIGATOR: And, well, the thing is that—I explained the law to her. She knows that she needs to pay you. It is just that she is saying she doesn’t have the money to. I can’t wring blood from a stone. … I am bound by the laws that I am able to enforce, the money that Congress gives us and all of that lovely stuff. If you are having a problem with what our office is capable of achieving based on the laws that were written, then you need to write your congressman. Okay, do you know who your congressmen are? I mean, we can use all the help we can get.22

Wage and Hour Strategies for Dealing with High Volume of Cases

Clearly, WHD staff are also frustrated with their lack of ability to enforce the law and help workers reclaim the stolen wages they have earned. The frustration can be heard in the above investigator’s plea for help. This particular WHD investigator was frustrated not just with the limitations of the laws and the powers granted to them by the FLSA, but also by the inadequate money provided the agency in order to fulfill its mandate. Unlike other law enforcement officers, WHD staff do not have the authority to arrest employers when they find evidence that they have knowingly or routinely underpaid their workers (U.S. Government Accountability Office, Kutz, and Meyer 2009:1). Through the GAO’s investigation, it became clear to the House Committee on Education and Labor that many WHD offices across the nation were understaffed, overloaded with cases, working under ineffective procedures, and severely lacking in technological resources and training. The WHD staff were overwhelmed with more cases than they could handle and had developed a number of strategies for dealing with the high volume of cases. Some of these strategies included:

1) Not responding to or investigating all incoming new complaints.
2) Not recording some new cases in the WHISARD database to make it look as if they were able to handle a larger percentage of incoming complaints.
3) Asking employees to handle the situation themselves, by having a “nice conversation” with their employers on their own.
4) When investigators were not able to easily convince employers to pay, they would simply close the case and inform workers of their right to take the case to small claims court or civil court.
5) Marking the case as “agreed to pay” even if the employee never saw a dime of their back wages.
6) Claiming to have done more investigative work than they actually did.
7) Falsely claiming that they didn’t have jurisdiction over certain cases.

In 2014, when I visited the local WHD offices here in Wichita, Kansas, I immediately noticed the very large geographic area this office covered and the limited number of staff. The Wichita WHD office services all of Kansas and half of Missouri. At the time of my visit, they had only one full-time
investigator, one regional manager, and one clerical staff person. Since then, one additional investigator has been hired. The local staff I spoke to seemed to genuinely care about low-wage workers and have an intimate knowledge of the struggles that many low-wage workers, especially persons of color, face in their working lives. The staff gave me the impression that they would very much like to be able to do more, and to pursue cases more effectively, if they had additional staff and resources.

**Types of Wage and Hour Division Investigations**

The WHD handles wage theft cases in one of two main ways: through conciliation or investigations. Investigations of employers can be broken down further into full and limited investigations.

**Conciliations** usually involve “a single, minor violation, such as a missed paycheck,” or a single worker who has not been paid minimum wage or adequate overtime compensation (U.S. Government Accountability Office, Kutz, and Meyer 2009:2). In these types of wage theft cases, WHD investigators will call the employer and try to get him or her to pay the worker. In some instances, employers agree to pay right away, give a check to the employee for the appropriate amount, and then fax a copy of the check to the WHD as proof of payment. If the worker calls back later to say they never actually received the payment, then WHD staff are supposed to pursue the case further. But as the GAO revealed in their 2008 report, too often the WHD does not adequately continue to pursue payment of back wages, leaving cases marked as “agreed to pay” in their system, even when payment was not received by workers. The conciliation process is designed to resolve the case as quickly as possible, with the least amount of resources on the part of the WHD (U.S. Government Accountability Office, Kutz, and Meyer 2009:2).

During conciliations, the employee who filed the claim cannot remain anonymous, because the investigator will be calling and asking the employer to pay a specifically named individual. This can be a deterrent for workers, especially undocumented Spanish-speaking immigrants, who fear that they will be fired or deported if their boss finds out they filed a claim for stolen wages.

In 2008, the GAO discovered that the head of the WHD’s southeast region instructed offices in his region to not record failed attempts at conciliation. That’s why when the GAO analyzed the conciliation cases from this region’s database, they found that 95% of conciliation cases were adequately resolved.
Chapter 2

(U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:8). The head of the GAO considered this a "good news-bad news story." He was pleased that 95% of recorded conciliations were adequately investigated, but was appalled that an unknown number of failed conciliations were never recorded in the WHD database. The Committee on Education and Labor was appalled that such malfeasance came from a WHD regional manager (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:8–9; U.S. Government Accountability Office, Kutz, and Meyer 2009:9).

**Full investigations** usually occur when more than one employee for a particular employer complain of labor violations. In full investigations, the WHD investigates to determine if the employer has violated any of the laws under the WHD’s jurisdiction. In addition to the Fair Labor Standards Act (FLSA), which mandates wage minimums and places federal limitations on children’s labor, the WHD also is charged with enforcing the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), the Family and Medical Leave Act (FMLA), the Davis Bacon and Related Acts (DBRA), and other federal labor laws (U.S. Government Accountability Office, Kutz, and Meyer 2009:1). Obviously, a full investigation is very labor and time intensive.

In full (and limited) investigations, it is possible for the employee(s) who filed the claim to remain anonymous. If one employee was the first to file a claim with the WHD, but then several other employees were also affected, then the original complainant can potentially remain anonymous. The WHD sends the employer a letter stating that they have received complaint[s] that labor laws have been violated, and they have a certain number of days to provide the WHD with all of their payroll records for the last 2 years.

Then the WHD investigator goes to the business to interview each employee separately, interview the owners and managers, collect needed evidence, and look for signs of labor abuse. Since everyone is interviewed, the employer theoretically may not know which worker filed the claim first, reducing the risk of retaliation for workers²³.

In **limited investigations**, the WHD will interview all affected workers at a business, along with managers and owners, but will only look for the types of violations specific to the complaint. For example,

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²³ Interview with WHD regional manager in Wichita, Kansas, 2014.
if the complaint involved child labor, the WHD will only look for instances of children working more than federal laws allow or children working in unsafe conditions. If the WHD receives a complaint that women are routinely denied the federally allowed 12 weeks off after the birth of a child, then they will only look for violations of the Family Medical Leave Act (FMLA). Thus, limited investigations take less time than full investigations but can still be long and involved, especially in wage theft cases, since two years of payroll records must be collected.

Results of the GAO’s Investigation Reveal Human Capital Problems at the WHD

In the latter half of 2008, the House Committee on Education and Labor asked the GAO to continued its study in order to determine if the 15 case studies and the ten fictitious claims were isolated incidents or “symptom[s] of a larger problem throughout the agency” (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:2). What the GAO found is that, “There are serious problems with the WHD’s ability to effectively enforce the law. … [T]ime and again complaints were routinely brushed aside, improperly tracked, or inadequately investigated” (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:2). At the final hearing in 2009, Democrat George Miller, chairman of the committee, publicly expressed his concern for the failings of the WHD and the effects this has undoubtedly had on thousands of workers who never received help reclaiming their back wages. According to chairman George Miller,

Those most vulnerable to wage theft are likely bearing the brunt of our nation’s economic crisis. Families where a breadwinner has his or her wages stolen still have rent to pay, mouths to feed, children to clothe, and medicine to buy. They can’t afford to be paid less than what the law says. Simply put, when a business pockets wages due its workers, it is theft, and it is illegal. … We owe it to all hard-working Americans to ensure that the Federal Government lives up to its responsibility to guarantee that families are not being cheated out of their wages by unscrupulous employers.24

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After analyzing a random sampling of 115 non-conciliation cases out of 21,468 cases that they obtained from WHISARD, the GAO determined that 81% of cases were adequately investigated, leaving 19% inadequately investigated (U.S. Government Accountability Office, Kutz, and Meyer 2009:3; U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:9). The GAO defined inadequately investigated cases as ones in which at least one of the following occurred: a WHD investigator took longer than 6 months to begin investigation or conciliations, did not complete investigative work within a year, did not contact employer within 1 year, did not correctly determine coverage under federal labor laws, did not review employer records, did not correctly assess back wages due, or did not refer cases to the Labor Department’s Office of the Solicitor for further investigation when appropriate (U.S. Government Accountability Office, Kutz, and Meyer 2009:3).

The GAO’s final assessment was that once a WHD investigator was able to focus on a case, he or she did an adequate job of investigating larger cases 81% of the time, but that many WHD offices were just not equipped to handle their full case loads. For example, one case that was handled well involved a convenience store and its 12 employees who were being underpaid by the owner. The WHD was able to complete the case within four months, collect $59,000 for the 12 employees, conduct a detailed payroll analysis, and then follow up to make sure that all of the employees were, in fact, paid (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:9).

Greg Kutz of the GAO informed the committee that, in general, the majority of investigations were adequately conducted, but that the WHD had serious issues, which were “symptoms of human capital problems. The discouraging of people from filing complaints would seem to be a symptom that there are either not enough people to answer the phones, not enough people to follow up investigations, or something along those lines” (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:46–47).

Wage and Hour Division Lacks Necessary Technology to Enforce the Law

When Greg Kutz of the GAO addressed the House Committee on Education and Labor in 2009, he said, “[W]e were surprised to find that investigators had no special technology or tools to do their work. If
Labor’s mission in this area is to properly investigate wage theft allegations, then they need specialized tools to research and identify individuals and businesses. My unit would be far less effective in serving the Congress without the critical research tools that we use every day” (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:9). Kutz did not name the specific technological tools that he was referring to, but most likely they involve the capacity to access a variety of databases, such as records involving bankruptcy, mechanic’s liens, IRS records, businesses bank statements, public court records, arrest records, business license records, and the like. The committee was surprised to learn that when one business owner claimed to be unable to pay due to bankruptcy, the investigator did not access public bankruptcy records to confirm this. And when the GAO checked, this business had never filed for bankruptcy. According to Jonathan Meyer, Assistant Director at the GAO, reported to the committee that, “They don’t have access to public court records. That is just not part of their processes” (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:48).

**Why Has the Wage and Hour Division Been Unable to Handle Its Caseloads?**

The United States has surprisingly low levels of compliance with wage and hour laws, despite being a first world nation with somewhat comprehensive labor laws that have been on the books for over 70 years (Fine and Gordon 2010:553). According to an independent study conducted in 2009, 26% of low-wage workers surveyed in Los Angeles, Chicago, and New York reported that they were paid less than minimum wage for their work in the previous week. For those who worked more than 40 hours per week in the previous week, 76% were not correctly paid for overtime hours (Bernhardt et al. 2009:2). In 2001, the USDOL itself reported that as many as 50% of businesses were out of compliance with the FLSA in high-risk industries, such as nursing homes, poultry processing, day care, and restaurants (Wage and Hour Division and Employment Standards Administration 2001:7–9). With this much wage theft going on, it’s no wonder that underfunded, understaffed WHD offices have not been able to keep up with their caseloads.
When the FLSA was passed in 1938, it only covered about a third of U.S. workers. As discussed in the previous section, the bill had to be watered down, as Franklin Roosevelt and then DOL Secretary, Frances Perkins, pushed for its passage and negotiated terms of the bill with Congress, other parts of Roosevelt’s administration, the American Federation of Labor (AFL), the Congress of Industrial Organizations (CIO), and the business community. The resulting compromise meant that agricultural, domestic, service, and retail workers were all excluded from the original bill (Nordlund 1997:51). Large numbers of industries, comprising about two-thirds of the 1938 workforce, were excluded from the bill, because it was originally meant to regulate just the manufacturing sector. But coverage gradually expanded in the decades that followed the passage of the FLSA, including more and more occupations and industries (Fine and Gordon 2010:554). In 1961, the FLSA was expanded to include “enterprise coverage,” which mandated that covered enterprises must do at least $500,000 in gross annual sales, and the WHD was given the right to sue on worker’s behalves for payment of back wages (MacLaury 1998; U.S. Department of Labor 2016). Also in the 1960s, a number of labor laws were written that increased the number of laws, besides the FLSA, that the WHD was charged with enforcing. The Contract Work Hours Standard Act, the Equal Pay Act, and the Age Discrimination in Employment Act were all added to the WHD’s to-do lists in the 1960s (Bobo 2011:158). Even when the number of staff at the WHD reached an all-time high in 1978 of 1,343, the economy was expanding so quickly that the WHD could not keep up. In the 1970s, the WHD was only able to inspect 2% of enterprises, and this percent has declined every year since (Wial 1999:10–11; Fine and Gordon 2010:554). In 2005, Weil and Pyles calculated that for any of the 7 million workplaces covered by the FLSA, the probability that one of them would be investigated by the WHD in that year was well below .001% (Weil and Pyles 2005:62).

Current WHD offices are unable to handle their case loads, because from 1975 - 2004 the division experienced a 55% increase in the estimated number of covered workers and a 112% increase in the estimated number of enterprises covered by the FLSA (Bernhardt and McGrath 2005:2). In the same period, the number of WHD investigators declined by 14% (Bernhardt and McGrath 2005:3). To put things into perspective, in 1941, just 4 years after its creation, the WHD had 1,769 investigators “stationed in the field,” enforcing the FLSA. At that time the WHD was responsible for protecting 15.5 million workers. This
works out to a ratio of about 1 investigator for every 9,000 workers (Bobo 2011:158). In contrast, in 2010, the FLSA covers an estimated 130 million workers, in approximately 7 million workplaces. This works out to roughly 1 investigator for every 130,000 workers (Bobo 2011:159).

The result is a WHD that is sorely under-equipped to regulate vastly diverse and rapidly growing industries with increasingly limited financial and human capital resources. Over the decades, hundreds of laws and enforcements responsibilities have been added to its mandate in piece-meal, without careful planning, and in a way “that actually overextend its ability to be effective” (Bobo 2011:155).

The Failure of KSDOL to Support Adelante’s Worker Justice Center (WJC)

Like the federal WHD, states also have their own departments of labor, which ideally support the federal WHD in its efforts to enforce federal labor law. Some states also enforce their own state laws, some of which go above and beyond the FLSA and other federal labor laws. Currently, 29 states, plus the District of Columbia, have established state minimum wages that are higher than the federal minimum wage (National Conference of State Legislatures 2016).

But in reality, many of these state DOLs are severely underfunded, understaffed, and incapable of handling all of the cases that come into their offices. By the time I started volunteering at Adelante’s WJC in 2014, Carla had completely given up on referring wage theft cases to the Kansas Department of Labor (KSDOL). She expressed a great deal of frustration with this state agency’s unwillingness to pursue employers who had stolen worker’s wages. According to Carla, the KSDOL had not been helpful in pursuing many of the cases of wage theft that she had referred to them. The KSDOL is only interested in taking wage theft cases that involved $10,000 or more in unpaid back wages for multiple workers. According to Carla, they only want to take the large cases, so they can say, “Look what a great job we are doing. Look how many thousands of dollars we have recovered for workers.” But when a single worker comes in and he or she has not been paid $800, or even $2,000, the KSDOL does not actively pursue these cases. This frustrated and infuriated Carla because she felt that, “They have the power to help people, but they do nothing!” she remarked with bitterness.
In 2011, Carla sent repeated requests to the office of Karin Brownlee, asking for a meeting (Kansas Secretary of Labor from January 7, 2011 to September 20, 2012). But Brownlee’s office did not respond to Carla’s requests for a meeting. So when Carla read that Brownlee planned on giving a speech at Wichita State University in 2011, she and 7-9 Adelante supporters ambushed her there. When Carla confronted Brownlee, telling her about all the wage theft cases that had come into her office, Brownlee responded by denying that wage theft was a serious problem in Kansas, instead claiming that there was very little wage theft here. “Then why do I have 200 plus cases of wage theft sitting in my office?!” Carla retorted. According to Carla, Brownlee said that it only appeared to her that wage theft was a real problem in Kansas because she’s focused only on her little community. When Carla retold this story, she sarcastically imitated Brownlee by cupping her two hands around her eyes and bending forward to look at the papers on her desk, like a blinkered horse who could only see what was in front of her. According to Carla, “Karin Brownlee is so pro-business, she didn’t want to scare businesses from coming to Kansas. She’d rather have workers exploited than do something about it [wage theft].” Carla found Brownlee’s denials of the wage theft problem both ridiculous and insulting. Carla responded to this claim in a couple of ways.

Not long after this meeting with Karin Brownlee, Carla had a Spanish-speaking man come into the WJC, who had not been paid a substantial sum for his work for a construction company. The owner of the company knew he owed the man his wages but he refused to pay, saying that neither the worker nor the government had any power to make him pay. So Carla sent this case to the KSDOL, and carefully documented their responses, in order to show how ineffective she believed KSDOL to be. When Carla submitted the wage theft claim to the KSDOL, they accepted the case but didn’t appear to take any investigatory actions in the weeks that followed. So the worker took matters into his own hands and started showing up to the business owner’s house every evening, asking for payment. A local church also sent a letter to the employer on the worker’s behalf, asking for payment of back wages. When the employer complained to the KSDOL that the worker and the church were harassing him, the KSDOL sided with the employer and told the worker he had to stop “harassing” the employer. The KSDOL told the worker he could not pursue other means of collection because they had an open and pending
investigation. Carla perceived this accusation of harassment against the worker as evidence that the KSDOL does not actually want to enforce the law and reclaim wages for workers. According to Carla, if this case had involved 20 workers, and involved tens of thousands of dollars, KSDOL might have been more interested in pursuing it. Carla was particularly angered by this case because the employer was hiding assets under the names of family members, to make it look like he did less than $500,000 in annual gross sales. The employer knew that government agencies had limited abilities to enforce the law, and he taunted the worker, saying there was nothing he could do.

Carla further responded to Karin Brownlee’s assertion that wage theft was not a serious problem in Kansas, by going to Dr. Koeber, professor of sociology at Wichita State University. Carla expressed to Dr. Koeber the need for a study that showed the level of wage theft going on right here in Kansas. She proposed that research could be done through Hispanic churches, and she asked for his help in conducting such a research project. Dr. Koeber liked the idea and suggested it to a sociology grad student who was working for him at the time. The grad student also liked the idea and agreed to do the research as part of his master’s thesis. Carla offered to get them connected with local Hispanic pastors, who would then facilitate short interviews and surveys with Spanish-speaking members of their congregations. No funding was planned for this project, since the grad student would do most of the research under Dr. Koeber’s supervision, with some help from Adelante volunteers, who would work as translators. Unfortunately, the grad student dropped out of school, because he got overextended between too many projects, and the survey was never completed. But this vignette reveals that Carla was so angered and motivated by Brownlee’s denial of the wage theft problem that she was willing to find and a white academic to help her demonstrate what she already believed to be true about wage theft in Kansas.

According to Jonathan Meyer, Assistant Director at the GAO, in certain regions of the country, federal WHDs can enforce the law more effectively, if they have the assistance of strong state DOLs. If state DOLs are running “strong operations,” they can take most of the smaller cases, freeing up the federal WHD to focus on larger cases, involving more workers and larger liquidated damages. According to Meyer, this kind of partnership “allows the resources at the WHD to handle some of the bigger cases, some of the more problematic instances, instead of a lot of these smaller individual cases for one person”
In the 1960s, some states were able to adequately fund their state DOLs and effectively enforce state and federal labor laws. For example, in the 1960s, the New York Department of Labor (NYSDOL) had a very well funded state WHD with over 300 investigators, who would divide up their geographic turf and conduct routine inspections. Since then, state budgets have contracted substantially. Thus, state WHDs are now much smaller and far less effective (Fine and Gordon 2010:557). Unfortunately, this is not the case in Kansas, since the KSDOL doesn’t show interest in taking smaller cases, and doesn’t appear to work directly with the federal WHD to ensure enforcement of labor laws.

Proposals for Kansas Bills Seeking to Increase Penalties for Wage Theft Offenders

Carla founded the WJC in 2009, and by 2010 she was frustrated by the USDOL’s inability to pursue all of the wage theft claims that came to her office. Some workers didn’t qualify for help from the local WHD because the business they worked for didn’t do at least $50,000 in gross annual business. Worse yet, according to Carla, some small business owners knew this, and they would “laugh in worker’s faces” when they threatened to go to the USDOL for help. So in 2010, Carla joined forces with several other interest groups to draft two Kansas bills, which would create stiffer penalties for repeat wage theft offenders. Carla played a part in drafting Kansas HB2243 and SB219, along with co-sponsors Ponka-We Victors, a Democrat in the Kansas House of Representatives, and Oletha Faust-Goudeau, a Democrat in the Kansas Senate. These two pieces of legislation were also supported by the National Employment Law Office (NELP), the Service Employees International Union (SEIU), the Hispanic Chamber of Commerce, and Jim Garner, the then Kansas Secretary of Labor (January 2003 – January 2011). Jim Garner, who was appointed by Democratic Governor Kathleen Sebelius, worked with them to get the bill process going, and according to Carla, he was eager to support worker’s rights.

Kansas HB2243 and SB219 proposed that repeat offenders (employers who had already stolen worker’s wages) be made to pay three times the back wages due. The extra money would go to a Wage Claims Assignment Fund, managed by the WHD. This fund would help the WHD finance the hiring and
training of more investigators. In addition, wage theft would become a class A misdemeanor in Kansas, with the possibility for jail time for egregious violations.

The two bills were proposed in the Kansas House and Senate at the same time, but both were shut down by Republican opposition and were not even allowed to come up for a vote. Since that time, the wage theft bills have not been reintroduced. Shortly thereafter, Jim Garner was removed from office in January of 2011, and replaced by Karin Brownlee, who was appointed by a Republican Governor. According to Carla, Karin Brownlee did not show interest in treating wage theft as a serious problem nor working to improve enforcement of labor laws in Kansas.
CHAPTER 3: ADELANTE & NCC

“Los ricos hace lo que quieren, porque tienen poder… y nosotros tenemos que comer nosotros propias lagrimas.”

“The rich do what they want because they have power… and we have to eat our own tears.”

— Bianca

Adelante's Mission

The vast majority of my research took place at Adelante, a small grass-roots social change 501c3, located in Wichita, Kansas. Although the experiences of wage theft, which I focus on in Chapters 4 and 5, took place at various businesses and residences within the city, Adelante remains my primary fieldsite. I stipulated in my research design that I would not approach the workplaces of immigrant women who experienced wage theft in order to ensure that no one's jobs were jeopardized. All but two of the women that I spoke with about their wage theft experiences had come to Adelante in the past, seeking help in filing a formal claim for stolen wages.

Adelante's mission is to develop grassroots leadership that can identify root causes of social problems and seek long-term solutions, as well as empower and unify low-wage families to win justice and equality for all. Adelante embraces persons of all races and ethnicities, and its diverse membership includes African Americans, Latinos, whites, and mixed-race community members. However, Adelante currently strives to improve and empower the lives of African Americans and Latinos in the Wichita community, realizing that minorities are the hardest hit by economic downturns, suffer the highest rates of unemployment, and are often denied access to institutions that promote upward social mobility, such as universities, lending institutions, adequate healthcare, and improved housing (Chavez, Leo 1986; Sullivan and Rehm 2005:241; Office of the Surgeon General, Center for Mental Health Services, and National Institute of Mental Health (US) 2001). The majority of the staff and key volunteers are either African
American or Latino, and together they seek to combat the structural violence and racial prejudices that keep their communities from enjoying higher standards of living.

In order to maintain its tax-exempt status as a primarily education-focused 501c3, Adelante can only engage in lobbying and political activity up to 5-20% of its operating budget (U.S. Department of the Treasury Internal Revenue Service 2016). So in order to do more lobbying, promote political candidates, and engage in direct street actions Adelante is affiliated with its sister organization, Kansas Communities of Color (KCC), a nationally linked 501c4. The two affiliated organizations share staff, volunteers, and space, but both organizations are carefully managed to meet the Internal Revenue Service’s regulations that govern the activities of each type of organization.

Adelante/KCC is the only organization of its kind in Kansas. It is unique in that it strives to accomplish its goals through grassroots leadership, education, non-violent protests, and the building of electoral power. While there are other advocacy groups in Kansas that seek to improve the lives of working minorities, they are primarily run by concerned middle-class white citizens. The African American and Latino staff and members of Adelante strive to empower their own communities through direct street action and voter agitation.

Adelante/KCC staff recognize the connection between race and access to political power, and they dream of a world in which African Americans and Latinos in Kansas share the same health outcomes, educational success, job opportunities, and access to loans and equal housing as whites. They believe that the best way to ensure that their communities of color achieve these goals is to elect more persons of color into positions of power at local and state levels. To this end, Adelante/KCC looks for, and seeks to develop, local leaders from within their own communities of color. Meanwhile, they build community power by taking action to hold (primarily white) decision maker’s accountable for their decisions that disproportionately affect communities of color.

An example of this was a silent protest organized by KCC staff at the Kansas Statehouse in Topeka, in support of HB2622, a house bill designed to create a guest driver permit that would be available to all residents of Kansas, regardless of immigration status. Twenty-eight KCC supporters, black, white, and mostly Hispanic, took a school bus to Topeka to represent the millions of undocumented immigrants who
must drive illegally every day, because neither state nor federal transportation authorities will grant them valid driver’s licenses. The staff and members of KCC wanted to show their support of HB2622 by showing their faces at a hearing held by the mostly white Transportation Committee. KCC planned the event to confront the only Spanish-speaking Hispanic member of the transportation committee and put pressure on him to do all that he could to gain passage of the bill. One of the event’s planners told the group of KCC supporters, “Our white protectors say we’re being too pushy, and we should sit back and let them represent us. But it’s not urgent for them. It’s urgent for us.” One of the key principles of Adelante/ KCC is that social change should be created by African Americans and Latinos themselves, through organizing to make their collective voices heard. They believe that in order for change to be meaningful and lasting, it must be driven by their own communities, rather than by white supporters or advocates. Unfortunately, HB2622 was not ultimately granted an educational hearing, because the conservative, anti-immigration members of the transportation committee threatened to retaliate and block the bill if the mostly Hispanic KCC supporters were too forceful.

The People of Adelante and Kansas Communities of Color

Both Adelante and KCC are member-supported organizations, with memberships open to any and all individuals who wish to support the missions of each organization. Almost everyone who comes to Adelante/KCC is encouraged to sign-up for a $30 one-year membership to Adelante. For these $30 the whole nuclear family can receive membership benefits, including spouse and children. Membership benefits include access to the WJC, discounts on partner attorney’s fees ranging from 10-20% off, access to free legal clinics where they can visit with an attorney for 15-30 minutes, a copy of the periodically issued newsletter, and phone calls inviting members to community events and actions that may interest them. In 2014, Adelante/KCC had the support of about 1,300 members, with membership climbing to over 2,000 by 2016. Member’s personal information is stored in a database that KCC draws on to call members to attend upcoming events, and also when they are looking for volunteers during elections seasons. During election seasons, KCC needs people who are willing to go door-to-door, informing residents about the issues and political candidates. They also call on their members when they need
bodies to protest at payday lending offices, or protest unequal lending practices at local banks, or help with neighborhood cleanup operations, for example.

The $30 annual membership fee remains controversial among community members. Some people who come to the WJC are taken back when they are asked for a $30 membership fee before they can receive help. Persons who are financially unable to pay the $30 membership fee on the spot, are encouraged to pay in installments, starting with as little as $5. It’s not uncommon for members to pay their membership in three installments of $10. Those who put even $5 toward their membership can receive immediate help, with the promise to pay the rest of their membership fee later. Those who cannot pay at all are not turned away but are encouraged to donate their time in exchange for the membership fee.

People who find their way to the WJC are expected to give back to the organization, not just with their $30 membership fee, but also with their time, talent, and energy. When clients come to the WJC for with a landlord issue, or even a deportation crisis, they come expecting to receive help, not to be asked to give back to the organization, so that all members of the Hispanic community can be lifted up and empowered through cooperative action. Very few people who are asked to give back later come to volunteer their time. This irritates some of the WJC staff. Staff members feel that people who are unwilling to give back to the community through volunteer work are taking advantage of the organization. According to Carla, “They need to get involved in SCA with our mission and vision. There are a few people who I only see them when they need something.” But for many of the undocumented immigrants who come to the WJC, becoming active in public protests (fighting for driver’s licenses for all, for example) goes against their strategy of keeping a low profile in a country where they have no legal permit to live or work. So for many, keeping their heads down includes not becoming politically active in the way KCC wishes they would.

I have also met some members who happily pay the $30 membership fee, because they are proud to support an organization that fights for justice and equality for communities of color, and provides opportunities that they would not otherwise have been able to access. I spoke with one woman who was grateful to Adelante/KCC because she was able to afford a lawyer and get a divorce, thanks to reduced attorney’s fees negotiated through the WJC. I have also met members whose eyes were opened to the mechanism of structural violence thanks to educational programs at Adelante. They describe learning for
the first time that they were not alone in their personal struggles and that they would increase their power by joining together in peaceful resistance. I have talked to undocumented immigrants who learned for the first time that they have rights in this country and can work to protect themselves and their families through informing themselves about those rights. For one undocumented immigrant, who felt unwanted by American society, part of her relief came from knowing that there was even one safe place where she could go for help if needed.

Many African American and Latino members of Adelante they see the organization as a safe haven; not only as a place where they can go for help with their problems, but also a place where they can speak and cry openly about the frustration, shame, and rage they feel after years of being targets of racial discrimination. One woman I spoke to said that coming to Adelante and talking about the social injustices she has experienced has a therapeutic experience for her. These conversations are especially cathartic when the story can be related to someone who has had similar personal experiences and knows what it’s like to feel the pain of feeling disrespected and mistreated. Meanwhile, the staff at Adelante/KCC strive to educate their members on how to turn that anger and pain into actionable plans for social change.

When I attended membership meetings at Adelante, I was at first surprised to hear phrases like, “bridge the gap between black and Latino communities through a shared struggle on issues that affect both communities.” Membership meetings are meetings in which all current Adelante/KCC members, and even non-members, are invited to hear updates on the various campaigns that the organizations have been working on, get a chance to discuss the issues important to them, and make social connections with other people in their community. I was at first surprised to hear “black and brown” community members working together toward a shared vision of equality. I had read that a variety of racial prejudices and tensions exist between African American and Hispanic populations in many cities in the United States. Some African Americans feel resentment against Latino immigrants for illegally entering this country and competing with them for low-wage jobs. Meanwhile, some Latino immigrants believe African Americans to be less hard working than themselves, and unwilling to take advantage of opportunities that are afforded them by right of their citizenship in this country (Gleeson 2010:590; Gordon

25 From membership meeting handout dated 9/24/2015.
and Lenhardt 2007:1219, note 269). But instead of focusing on these radicalized beliefs, Adelante/KCC staff and members prefer to focus on their shared struggles against the white male power structure that perpetuates cycles of poverty for both communities. The history of how Adelante/KCC became a site for the shared “black and brown” struggle will be discussed in Chapter 3.

**The Worker Justice Center (WJC)**

In order to reach the WJC, located in a large room in the basement, visitors must pass through a small waiting area, take a left and head down a short hallway to the second door on the left. There are signs at the landing and in the hallway, directing visitors to the WJC. But first-time visitors who don’t realize they need to follow the signs might go upstairs to the main lobby. They may wait in the lobby for some time until someone finds them and directs them to the basement. However, if WJC staff or volunteers are not busy and they hear the front door chime, they will go looking for the person(s) who have just entered to make sure they are able to find the WJC or whatever else they are in search of.

Inside the WJC itself, it was my job to greet people as they entered the large room, ask them if they had an open case or a new case (in either English or Spanish), and ask them to add their information to a sign-in sheet, while having a seat in the waiting area. I would then go locate the person’s file if they had an open case or get a blank folder and paperwork if they had a new case. I would ask the visitors to sit at the large table near the door, or in chairs along the wall, while I gathered the appropriate paperwork. If the individual had a new case, I would sit with them at the large table in the waiting area, and listen to their story of whatever issue had brought them in seeking help. People of all races and ages would come in with cases ranging from landlord disputes, car sale disputes, neighborhood disputes, domestic violence, immigration issues, to workplace accidents, and wage theft. After listening to their story, I would ask them to fill out the intake paperwork, which asks for details such as name, address, contact information, the names and contact info for the business or party with which they had the problem, and a written description of the issue. Sometimes, visitors were reluctant to fill out the paperwork, or only partially filled out the required information, so I would help them complete the forms. Then I would give visitors
information about Adelante, tell them a little bit about what the organization does, and mention a few of
the benefits of becoming a member.

Then they would meet with Carla, the worker justice coordinator, at her large desk in the southeast
corner of the room. I would usually fill Carla in on the gist of their story, and she would sit down with them
to discuss their case. The visitor would often retell their story to Carla, who would listen and then offer
advice and resources. Carla had developed a resource book, which she kept in a white 3-ring binder, with
information about a wide variety of social, legal, and governmental organizations in the area. If the visitor
had a problem with a landlord, she would refer them to the appropriate housing authority. If the person
had been cheated by a car salesman, she would advise them on how to take the case to small claims
court. If the visitor had a domestic violence case, she would recommend one of the attorneys with which
she had a personal relationship, and work with them to negotiate a discount on attorney’s fees. If the
person had a wage theft case, she would help them fill out the paperwork to file a formal complaint with
the USDOL, and initiate contact with local USDOL staff.

In addition to these resources, Carla would offer emotional and practical advice on how to think about
the problem, how to conduct one’s self in various situations, and how to deal with the pain and anger
associated with the conflict. As a middle-aged Mexican immigrant with four children, she had plenty of
personal experiences that allowed her to empathize with visitor’s situations. According to Carla, her job at
the WJC is about much more than just connecting people with attorneys and government agencies that
can help them. “I work really hard to give people hope because fear triggers loss of hope. And lack of
hope leads to apathy. Then with apathy they go from work to home to work to home each day, and they
lose their desire for a better life.” Thus, Carla encourages people to keep fighting for justice in their cases,
even when the process becomes daunting.

Toward the end of their consultation, Carla would ask the visitors for $30 to become a member of
Adelante. This $30 was not presented as the cost of the consultation, but as a tax-deductible donation
and membership fee to join the organization. Services like reduced attorney’s fees are only offered to
Adelante members. Carla then told the visitor about the mission of Adelante/KCC to fight for greater
equality for low-wage minorities and create a Kansas that works for all of us. She would tell them about
Adelante/KCC’s current campaigns, invite them to attend meetings, volunteer at upcoming events, and participate in campaigns that might interest them. Most visitors will pay the $30 membership fee and join Adelante. Some will attend a few meetings if they are called and reminded about them, but very few become active participants who are willing to regularly volunteer their time. Carla expects people to give back to the organization that has helped them and is disappointed when they don’t. Those who do participate by coming to Adelante when Carla calls them to volunteer, receive extra time and attention on their cases, because she sees they are willing to give back to the organization and help others in the community.

A Brief History of Adelante and Kansas Communities of Color

In 2009, Adelante opened the doors of its WJC, a project started by Carla to educate the Hispanic community on worker’s rights. Since then, it has served as a place where people of all ages, races, and ethnicities could come to get help resolving a wide variety of work and non-work related cases. Because my focus is on Spanish-speaking immigrant women and their experiences with wage theft, I will here discuss the history of how Adelante, and its WJC, came to be a site that empowers these women to reclaim their lost wages.

As one of the original founders of Adelante said, the organization “didn’t appear out of thin air.” There were forerunner groups, namely Friends of Christ, that created the climate in which Adelante was founded. It all begin in the late 1980s, when Dwight, a Quaker minister and theologian from Oregon, moved to Wichita, Kansas to serve as part of a ministerial team at the Quaker church affiliated with Friends University. He really enjoyed this work on the ministerial team and was delighted to finally be teaching Quaker theology. But slowly a “creeping dissatisfaction” with “church life as usual” began to plague him. At that time he had two children, a modest house that he enjoyed fixing up, and a home/work life that was going well. According to Dwight, “I [finally] realized that it was because what I was reading about in the new testament, and what I was reading about in early Quaker writings, was so distant from my current experience. The early church and the early Quakers were proclaiming a gospel for the poor, and denouncing the powers of principalities.” Even though things in his personal and professional lives
were good, he felt “stuck,” feeling the disconnect between these early church writings that promoted advocating and ministering to the poor, and his privileged white middle-class lifestyle. So in 1988, he wrote a letter to 30 of his friends and colleagues saying, “I am feeling stuck here. I don’t know exactly what I’m supposed to be doing, but I think I need a community of people to wrestle with this with me. And if you’re wrestling about the meaning of what you’re doing too, let’s get together and let’s read and pray and talk about these things.”

Several of his 30 friends responded, saying that they too felt a dissatisfaction with the distance most white middle-class church communities maintained between themselves and the working poor and minorities. So, seven to eight like-minded people, who later called themselves Friends of Christ Community, spent about nine months in study and in prayer, “trying to discern what is the best role for white Christians with good intentions with low-income people.” One of the members of this initial group was Megan, who would later become the second executive director of Adelante. Another initial member was Samuel, who would bring in the influence of Shel Trapp and his organization National Communities of Color (NCC). This group of concerned Christians came across a book called "With Justice for All: A Strategy for Community Development," written by John M. Perkins, a civil rights activist and Christian minister from Mendenhall, Mississippi. "With Justice for All" was written to provide interested Christians with the strategies necessary to break cycles of poverty for communities of color and the working poor. This group of concerned Christians, Friends of Christ Community, agreed with John M. Perkins’ three Rs of community development: Relocation, Reconciliation, and Redistribution.

In the late 1980s, right about the time that Friends of Christ was grappling with these issues, Samuel met well-known community activist Shel Trapp at a conference in Missouri. Shel Trapp and Gale Cincotta co-founded an influential network of grass-roots organizations across the nation, all working under their bottom-up model of community organizing. It just so happened that Shel Trapp had some seed money from the Charles Stewart Mott Foundation to give away for groups working on community organizing. So with a small grant from the Mott Foundation, they hired Megan part-time, to knock on doors and find out what low-income African American families were concerned about in their neighborhoods.
Then after much debate, five families from Friends of Christ decided to listen to Perkins’ advice and relocate to an apartment building near 10th and Hydraulic, in the heart of a primarily African American neighborhood. What Dwight gleaned from Perkins’ book was that, “If you’re serious about relating to people not like yourself, you’ve gotta move to where they live.” In 1989, they raised the funds to buy an apartment building, that had been taken over by crack dealers, and fix it up. They rented the remaining apartments to five African American families at reasonable rates and formed their first friendships with these black families.

At first, when people in the neighborhood learned that a bunch of white Christians had moved into a nearby apartment building, they came knocking on their doors asking for food and clothes. They thought the Friends of Christ were there to open a food pantry or a clothes closet because that was the traditional model for Christian do-gooders seeking to work with the African American community. But according to Dwight, “We were warned by John Perkins to not do that. That was bad for the relationship, that we would not be able to establish any kind of real partnership or friendship with people that we were providing charity to.” They explained to their neighbors that they were there to first learn about African American culture and what it was like to live in poverty, then later develop leadership and block clubs that could tackle whatever structural problems they felt faced their community. When they explained to their neighbors that they didn’t want the traditional top-down model of leadership, but preferred a bottom-up leadership model where African American leaders could organize themselves for social change, most of them “got it” and appreciated what they were trying to do.

The apartment was run for five years by Friends of Christ, with Megan as the lead organizer, who trained nearby residents how to run their own block clubs, determine their own objectives, and organize for change at the local level. Throughout these five years, Shel Trapp remained in contact with Megan and Friends of Christ, providing training and guidance on how to organize the neighborhood. Shel Trapp would fly in from Chicago about once every three months to attend an action, provide training, and identify next steps. He advised them to identify what he called “pothole issues,” small community problems that could be easily won, in order to convince disillusioned African Americans that they did in fact have the power to make change happen.
The five Friends of Christ families had torn down the wall between two of the apartments in the building, and they used the two apartments as a shared space where all of the residents of the building could meet, share meals, and discuss their plans. In 1990, out of these meetings came the idea for a spin-off organization, Adelante. This non-profit was envisioned as a statewide grassroots organization that would empower low-income and African American communities all across Kansas, working to make Kansas a state that served all of its citizens, regardless of race, ethnicity, or income level. Also around this time, Megan's husband began a non-profit called Hope Street Youth Development Group, which focused on developing leadership skills in low-income, at-risk youths. Then in the mid-1990s another spin-off group, The Peace and Social Justice Center started their first office there at the apartment building. All four organizations shared this one cramped bedroom for office space. According to Dwight, there was “this countertop that we built in and a couple of filing cabinets. And everybody had a place big enough for their computer and a little place to write on, and then the common space was shared for meetings of all those groups. And so it was kind of an incubator for non-profits.”

In 1991, one of Adelante’s first pothole issues arose when a door knocker heard from several people in the neighborhood that a nearby storm drain was plugged up and would create a huge lake every time it rained. They had called the office of Stormwater Management before, and nothing was every done about it. When the issue was brought up at the next block club meeting, about seven neighbors decided to pile into their cars and together confronted the Stormwater Management Department at city hall. The next day, they were shocked to see a drain cleaner out to fix the storm drain. According to Dwight, “the scales fell from their eyes. ‘Oh! So this is how things get done!’ Individuals can't get diddly squat. But if you go there in a group, you get action.”

Adelante has continued to operate under the leadership of five executive directors since its inception in 1990. For a time they were located on Broadway, and this is where they were located when the WJC was opened in 2009. For a time it was housed in the second-floor apartment above The Peace and Social Justice Center. From there, one of Adelante’s board members, a Baptist minister, found them a large space: an empty building that was owned by a Baptist church on the east side of town. This building serves as their current location.
From the beginning, Adelante/KCC was in partnership with NCC, a group co-founded by Shel Trapp and Gale Cincotta in Chicago. So from the beginning, Adelante/KCC was part of a national network of other organizations working on this type of grass-roots organizing where people directly affected by structural inequalities express their desire for change. And from the beginning, they operated under the guidance of Shel Trapp, a legendary community organizer. Adelante/KCC would send new and senior staff to Chicago for training sessions. And they would send leaders and members to Washington, D.C. each year for the national conference. As a result of this close connection between Adelante/KCC and NCC, most of the decisions for the direction and strategy of Adelante/KCC have been, and still are, inspired by NCC.

At the beginning, the majority of Adelante’s members were low-income African Americans. Currently, Adelante focuses on empowering both “black and brown” communities to strive for greater racial and economic equality. The shift toward an organization that represented both the African American and Hispanic communities in Wichita began in 2004. One day at an Adelante board meeting, the black chair of the board said, “You know, I have been noticing that this neighborhood is a lot more brown than it used to be. There are a lot of Spanish-speaking people around here, and I just know they gotta be getting the same bad deal we are. Why aren’t we organizing them too?” So they began door knocking in Spanish-speaking neighborhoods with the help of a bilingual translator. The translator, Camila, already had experience organizing people to establish new churches in their communities. Camila would later become Adelante’s fourth executive director and serve as its only Hispanic female leader. Since Camila began organizing around Hispanic and immigrant issues in 2004, Adelante has seen a remarkable upsurge in Hispanic membership and participation, making Adelante the multi-cultural organization that exists today.

**Funding Realities and Their Implications for WJC Operations**

Like many other non-profits its size, Adelante struggles to win enough funding for all of the many projects and campaigns they want to pursue. As is common in the non-profit world, the need far outreaches the available resources. Adelante has had varying success over the years, in securing grants for its operations and campaigns. Some grants provide funding for a short period of time, say a year to
complete a specific project, while others are for longer periods of time, or can be re-applied for each year or every couple of years. Because of the scarcity and irregularity of funding, Adelante has, at times, struggled to fund a full-time WJC coordinator. The WJC is ideally run by one full-time staff person, whose primary job is to oversee the WJC, with the help of two unpaid social work interns from a local university. However, due to lack of funding, many staff members must wear multiple hats, running more than one department, project, or campaign at a time. In addition to their regular jobs, each staff member is also required to meet personal fundraising goals of a few hundred dollars a month, meet phone canvassing goals, and new-membership goals. This situation produces three results: 1) Adelante staff are tasked with more work than they can possibly do because the need for justice is so great, 2) they are underpaid because funding is limited, and 3) projects and campaigns are not managed as effectively as they could be because staff persons are stretched thin. Because Adelante staff are overworked, overwhelmed, underpaid, and sometimes frustrated by the slow process of their campaigns, at times they struggle to maintain hope. As a result, some staff persons who had been giving the job everything they have may make a mistake that provides grounds for firing, or they may abruptly decide to quit, and find other employment elsewhere.

The WJC, since its birth in 2009, has helped workers recover over $2,500,000 for workplace injuries and wage theft. This is evidence that the WJC has been an invaluable resource to the community, especially for workers who were injured on the job and needed help fighting for worker’s compensation, or who have experienced wage theft and want to reclaim their wages. When the WJC is fully funded and staffed, they are able to work miracles for people, especially Spanish-only speakers, who might have been reluctant to navigate government agencies and small claims court on their own. However, when funding falls through, or when the WJC coordinator is forced to leave the job for various reasons, the result is a temporary stop of slow down in WJC operations. This means that occasionally, new clients who come in for help are turned away, and existing cases that need to be followed up on don’t get the time and attention they require.

Historically, the WJC has not asked for any other that award money to be donated to Adelante or the WJC, although some workers have chosen to donate small sums as a way of thanking the organization for their help in reclaiming the money owed to them.
Again, due to the lack of funding available to hire more staff, it’s not uncommon for a full-time WJC coordinator to spend a good portion of a week getting ready for an upcoming event or action that may have nothing to do with the WJC. Especially during election seasons, Adelante staff do their work under their 501c4, KCC, which allows them greater freedom to oppose and promote specific candidates. During election seasons, all KCC staff (which also happen to be Adelante staff) are pulled off their usual campaigns to help prepare for various election-related events. What this means for the WJC is that new and existing clients, who come in seeking help during that time, may be turned away and asked to come back later. After the special event or the election season has passed, staff members return to work as usual at the WJC or on their regular campaigns and projects. What this means for some clients, especially undocumented immigrants, is that they must be willing and able to return a second or third time in order to get the help they seek. As will be discussed in Chapter 5, there are a variety of reasons why it may be more challenging for Spanish-speaking undocumented immigrants, especially immigrant women, to return to the WJC a second or third time.

The Role of National Communities of Color in Setting the Agenda

The agenda and campaign goals at Adelante/KCC have changed over the years. When Adelante began, it primarily focused on local neighborhood “pothole” issues, such as landlord problems, in African American neighborhoods. When I was doing my fieldwork at Adelante/KCC in 2014 and 2015, they had branched out to a variety campaigns including:

1. Combatting payday lending companies that target low-income families and trap them in a cycle of debt.
2. “Ban-the-Box,” a campaign working to convince local officials to ban the box on city job applications that asks if job seekers have ever committed a felony. This issue has been promoted by African American staff and community members who feel that the felony box on applications creates a barrier for ex-convicts to rejoin the workforce and get their lives on track.
3. Environmental justice initiatives designed to protect the environment and keep utility bills down for low-income families.

4. Immigration issues, such as driver’s licenses for all, stopping deportations that separate immigrant families, attending national immigration reform rallies and demonstrations, and pushing for immigration reform at the national level through building Hispanic electoral power.

5. The WJC, which helps people of all ages and races (but primarily undocumented Spanish-speaking immigrants and low-income African Americans) deal with specific legal or work-related problems.

6. KSUN, a local FM radio station designed to provide a voice to the African American and Hispanic communities, with a variety of musical, cultural, and news related programming.

Although some of these campaigns are of greater interest to either African American or Hispanic staff and volunteers at Adelante/KCC, both groups agree that the foundation of structural inequality stems from the lack of representation of minorities in local, state, and federal governments. In large part due to Adelante/KCC’s early connection to Shel Trapp and NCC, their focus has shifted from small local “pothole” issues to a national push to change the face of government representation to include more people of color. Partly thanks to the vision of NCC, a network of 29 grassroots organizations, Adelante/KCC believes that the only way to create long-lasting structural change is to elect more “brown and black faces” to all levels of government. And the only way to achieve that goal is by agitating potential minority voters, motivating them to the polls to elect qualified minorities, who more accurately represent them. Although Adelante/KCC staff are free to develop their own campaigns, much of their agenda and inspiration for campaigns come from NCC, of which KCC is a part.

What that means for the WJC at Adelante is that it is sometimes seen as being at odds with the goal of building electoral power to increase the numbers of minorities in positions of political power. When Carla created the WJC from scratch in 2009, she received the support of then Executive Director Camila. But over the years, as the focus of Adelante/KCC has shifted toward political campaigns, there have been times when Camila discouraged Carla from spending so much time in the WJC. Camila, with her greater
connection to NCC, emphasized the importance of building lasting social change at the national level through electoral power, while Carla preferred to work in the WJC, doing direct service work, helping “her people” with their everyday problems.

For Carla, the WJC has always been her “baby,” a center that she built from the ground up. Her passion is empowering low-income individuals to claim justice in their everyday lives. Carla helps clients who come into the WJC to confront landlords who refuse to do repairs, stand up to auto salesmen who lie about the quality of their cars, take rapists to court, and reclaim stolen wages from employers who are not paying minimum wage and overtime, etc. But because Carla is such a talented organizer and strategist, a wonderfully emotive communicator, and someone who is able to move many to action through her powerfully stirring speeches about personal dignity and worker’s rights, it has been hard for Adelante/KCC executive directors to have one of their most talented organizers not out organizing and working on campaigns. Although Carla sees the WJC as her “baby” and prefers to spend her time there, she has twice been convinced to step away from the role of WJC coordinator and allow someone else to be hired for that position.

During my fieldwork there from 2014-2016, there have been two other WJC coordinators, besides Carla, working there at various times. Then in September 2015, the last WJC coordinator, Olivia, left her position due to health problems and the birth of a new grandchild. Since that time, Carla has remained focused on providing OSHA training and working as lead organizer and campaign coordinator, and the WJC center has been without a coordinator.

Why Motivations Matter

As I have discussed, all of the various jobs at Adelante/KCC come with a high degree of stress and demand long hours. And due to the entrenched nature of structural inequality, staff members sometimes struggle for years to achieve small victories. So staff members must be very passionate about what they are working on, in or order to tolerate the long hours, high stress, and low pay for any length of time. Unfortunately, this passion often comes from personal experiences of racial discrimination or life as an immigrant living in the United States.
In 2014, when I was working in the WJC, the makeup of the staff was very multi-racial, with three African American men, four Hispanic women, and two white men, on staff at that time. Most of the African American and Hispanic staff and volunteers, that I talked to, spoke about having experienced deeply painful racial discrimination throughout their lives, but especially during childhood. As one event-speaker put it, these personal experiences of being made to feel less-than, unwanted, and unimportant filled him with “a lifetime of rage.” Most Adelante/KCC staff channel this rage into action and a passion for change for their communities of color.

So when Adelante/KCC hires someone to fill a position, like the WJC coordinator, they are looking for someone who has that level of passion and determination, born of personal experiences with racial discrimination or life as an immigrant, that will see them through when the job tests them to their limits. However, if a staff member’s passion is for challenging government officials through direct street protests, and they are stuck in the WJC center helping victims of domestic violence find the right divorce attorney, for example, this staff member may not be motivated to stay in this position for a long period of time. This was the case for the WJC coordinator who was working there when I first started my fieldwork in 2014.

One thing I discovered early in my participant observation at the WJC, is that the people working there often had one or more issues of special interest, a specific group of people or type of person they are most interested in helping. This does not mean that they worked exclusively on those types of cases, but rather, when a client came in with a case that particularly interested them, they would spend additional time and energy helping that individual or group. For example, Carla became overwhelmed with anger when four women came into the WJC at separate times, all with old cases of rape, where the violation had occurred more than five years prior. Since the statute of limitations had expired, these women could not longer seek justice through the criminal justice system. Carla got so angry that the five-year statute of limitations on rape did not allow these women to bring their cases to court, she decided to work to change the law. She teamed up with Democratic representatives in the Kansas House and Senate, and the Kansas Coalition Against Sexual and Domestic Violence, based in Topeka, which helped write the legislation. In April 2013, HB 2252 passed, removing the statute of limitations on rape and aggravated sodomy, while giving victims of other violent sexual crimes ten years after turning 18 to report
a crime (Kansas Governor Signs Bill Eliminating Statute of Limitations on Rape Cases 2013). Carla was motivated to go above and beyond her regular duties as WJC coordinator. She worked to change an unjust law that involved an issue of special interest for her, women who had experienced violence perpetrated by men, then remained silent for years out of fear and shame. Thus, the types of cases that receive the most time and resources at the WJC depends heavily on staff’s and volunteer’s personal motivations, experiences, and issues of special interest.

While Camila was the executive director of Adelante, staff were encouraged to pursue projects and campaigns that were in line with NCC’s agenda for structural change. But once a project or campaign had been agreed upon, staff members were allowed a considerable amount of freedom in how they approached their various projects and used their time. This meant that staff and volunteers were free to spend extra time and energy on issues of special interest that piqued their passions. As a non-profit without a lot of established systems and corporate oversight, staff and volunteers enjoyed a good deal of flexibility in how they pursued their goals. The WJC coordinator was given a great deal of freedom to devote more time to cases that interested her, or cases where highly motivated clients came in on a regular basis to work on their cases. This also meant that there was no oversight of the WJC center by anyone other than the WCJ coordinator. So if the WJC coordinator and volunteers spent more of their time on cases of special interest, or were pulled away from the WJC to help with political campaigns, actions, or special events under KCC, then that meant there was less time for other cases. This resulted in a few cases “falling through the cracks,” meaning no one had time to follow up on these cases, and the clients were not motivated enough to call or stop by to inquire about progress on their cases. This was particularly problematic for certain clients, especially undocumented Spanish-speaking women, who were often very reluctant to pursue their cases on their own, and only did so when pushed by a friend, coworker, or WJC staff.

Adelante/KCC Staff and Motivations
In what follows, I will briefly introduce staff and volunteers at Adelante/KCC who were most influential in the day-to-day operations of the WJC. There have been 20 staff members and seven active volunteers at Adelante/KCC, at various times while I was conducting my fieldwork from 2014 to 2016. For brevity’s sake, I will only introduce nine staff and volunteers here. These nine staff and volunteers have been selected because they either worked in the WJC, or their work or decisions directly effected WJC operations.

**Carla** served as the WJC coordinator from Spring of 2009 - December 2013 and April 2014 - December 2014. Other positions she has held at Adelante include: OSHA Director, Lead Organizer, and Campaign Coordinator.

Others have described Carla as “a big heart.” I have described her as “a little tornado.” Standing at around five foot tall, Carla is a ball of energy, surging to accomplish her next mission. When I worked with Carla in the WJC between June 2014 and December 2014, most evenings I would find her stressed, exhausted, starving from not eating, with a headache, angry at the latest attack against immigrants from Republican politicians, searching for her glasses which were usually on top of her head, and cracking jokes a mile a minute. During one of my first evenings working with Carla at Monday night intakes at the WJC, she declared that she wanted interns to help us, and she wanted desks and computers for them to work at. When I returned a week later, she had exactly that, two social work interns from local universities, and new computers for them to work on, donated by local attorneys that Carla had called and hounded for donations. Carla is one of those people who can make amazing things happen, seemingly overnight. When she sets her mind to something, you had better look out.

Carla was born in southern Mexico, in a region known as the Yucatán. She immigrated to the United States in the early 1980s, with her husband and two-year-old daughter. They decided to emigrate because their daughter had severe allergies to many of the allergens present in rural Mexico. They knew that the United States would have better doctors who be able to treat her condition. Carla and her husband were granted amnesty in the 1980s, under President Reagan, and obtained their residency
permits, thanks to the 1986 Immigration Reform and Control Act. Once here in the states, Carla taught herself to speak English, drive a car, and use a computer, and eventually became a United States citizen. Since the beginning, Carla has been the most motivated person to serve as the WJC coordinator. Several people at Adelante acknowledge that the WJC is Carla’s “baby.” She is the one who founded it in 2009, wrote all the procedural materials, found a network of attorneys willing to work for Adelante members at reduced rates, went on the radio, distributed fliers, advertised in local Spanish newspapers, and worked to spread the word of the WJC’s opening. She has mentioned several times how much she enjoys this kind of direct service work, helping what she refers to as “her people,” poor Hispanic immigrants from rural Latin American countries. According to Carla, “Working here is not like working at any other job. Once you taste the rewards of this job you get addicted, once you see what it feels like to really help a family. You can’t get that from lots of other jobs.” However, others who have held the position of WJC coordinator did not get addicted. After several months of experiencing the high levels of stress and long hours that come with the job, they realized they were better suited to other work more in line with their passions and interests.

Carla’s love of helping immigrant families comes from her own experiences as an immigrant. “I know what it feels like to not know where your loved one is,” she said when describing an incident with her mother. Several years ago, Carla wanted to bring her nearly blind mother to the United States for a visit, so she hired a coyote to bring her. But the coyote lost her mother and Carla didn’t know where she was for several panic-stricken hours. She got down on her knees and prayed to God that if he got her out of this, she would not bring her mother here again until she got her citizenship. When her mother was found Carla was beyond relieved. She kept her promise to God, waiting until she got her citizenship to bring her mother to the United States again. But by then it was late, just three weeks before her mother died, and her mom felt well for only one of those weeks. When families come to the WJC because someone has been detained and will soon be deported, Carla knows what that mind-fogging panic feels like. From this empathy, Carla is driven to help immigrants, and all people in crisis, who come to the WJC seeking help with their problems.
After Paola was let go, Camila called Carla to come back from her four month hiatus to fill in temporarily at the WJC until they could hire another WJC coordinator. When a second WJC coordinator, Olivia, was hired in December of 2014, Carla became the OSHA Director, Lead Organizer, and Campaign Coordinator. After Olivia stepped down as WJC coordinator at the end of August 2015, Carla did not return to working at the WJC, but instead kept providing OSHA trainings and working on other campaigns. The WJC has been essential inoperative since September 2015, and this has been hard on Carla. She makes an effort to not go downstairs and to avoid the WJC, because if she sees people coming in for help, she will not be able to turn them away. So to avoid spending hours helping people, she would at first work at a cubicle upstairs, then later moved her office into the room farthest from the WJC. Carla hopes to one day be able to reopen the WJC at full capacity, once the funding to do so can be found.

Paola served as the WJC coordinator from August 2013 - March 2014, a little over eight months.

Paola is an ambitious young Latina woman, in her mid to late 20s, with a clear enthusiasm for immigration reform. She spoke passionately about attending a Not One More Deportation Conference in Arizona, where the attendees protested an Arizona detention center and managed to shut down all deportations from that facility for one day. “It was a very powerful feeling,” she said, “and I’d like to do something like that here in Wichita.” In 2014, Paola had dreams of one day becoming an immigration attorney so that she could help reunite families that have been separated as a result of United States immigration policies. As the daughter of immigrant parents, who moved to California when she was very young, she knows what it’s like to live in fear of your parents being snatched away from you at any moment. She feels that engaging voters and direct street action are the keys to future immigration reform.

Paola got the job at WJC coordinator after the then executive director, Camila, invited her to apply for one of the job openings available at Adelante/KCC at that time. Camila and Paola had known one another from church for several years. Paola was the WJC coordinator when I began doing interviews at Adelante in March of 2014. My first interview at Adelante/KCC was with Paola, who introduced me to the process by which wage theft victims file claims with the USDOL via the WJC. During much of the eight months that Paola served at Adelante as the WJC coordinator, she oversaw the work of two unpaid social work
interns from Newman University. When I met with Paola or saw her at meetings, she often looked exhausted. But she still seemed positive about the work they were doing to “create a Kansas that works for all of us.” In addition to running the WJC, Paola also helped with fundraising goals, led actions around Wichita and Topeka, and ran the monthly new member meetings. Unfortunately, Paola was let go at the beginning of April 2014, so I did not personally witness how she ran the WJC. But I was able to learn about some of the strategies she used to help reclaim worker’s lost wages through our first formal interview. These strategies will be discussed in the following section.

Paola’s true passion was for immigration reform, organizing, and direct street action, which is not the same as the direct service work that the WJC requires. Helping people with their everyday problems, like domestic violence, wage theft, and landlord disputes, focused her energy on local, small-scale issues, rather than the broader work of pushing for comprehensive immigration reform at the national level. This, coupled with the low pay and long hours, likely contributed to her serving as the WJC coordinator for just eight months.

Camila served as Adelante’s executive director from 2011-2015. Prior to this, she was the lead organizer and special projects director at Adelante from 2000 to 2005.

Camila is one of those strong, powerful women that may young girls aspire to be. She started out in organizing in 2000, when Megan asked her to help knock on doors and translate so that Adelante could begin to organize the Wichita Latino community. After about the second door, Camila took over and began speaking directly to the Hispanic families who answered their doors, no longer needing to translate for Megan. Although it appeared to Megan that “she was a natural” at door knocking and organizing, Camila had already been organizing for years doing church building. She worked with World Impact in the late 90s, building new independent churches in one of Wichita’s poorest neighborhoods, Planeview. With her background in Liberation Theology and church building, Camila said that when she found organizing “…

27 Beginning in the 1960s, Liberation Theology emerged and promoted a range of ideas including the Bible as a manual for social change, principles of respect for all humans, and a focus on the role of the church as not just a site for spiritual growth but also an instrument of social change. Liberation Theology sought to improve the social, political, and economic lives of the poor in the most impoverished countries of Latin America (Gonzalez 2014:44).
Chapter 3

[I]t was for me the next mission and the piece that was missing in my life at that time. ... As a woman, when you grow up, you do what you're supposed to do, or what you're told. And then all of a sudden you start claiming what you want... Then the question in my mind went from the role of the church to my role as a human being, and you know, as a Christian in this world.” So from 2000-2005, Camila dedicated herself to organizing at Adelante. Thanks to Adelante’s strong relationship with NCC from the beginning, Camila trained under Megan, who trained under Shel Trapp, who trained under Saul D. Alinsky, considered the father of modern organizing.

In 1982, Camila came to the United States with her sister when she was 12 years old. Fleeing a bloody civil war in El Salvador, Camila and her sister took a bus north to escape the violence. Although her older sister tried to shield her eyes, Camila witnessed the aftermath of brutal killings on their way out of the country. In her words, the El Salvadorian Civil War “did something to us. More women took up arms in this war than any other. I have a beautiful photo of an El Salvadorian woman with a baby in one arm and an AK47 in the other. When they picked up arms to fight, they said, ‘We’re not gonna take this,’ and ‘We don’t have to take this.”

From 2008-2010, Miguel was offered a job at NCC as their first Director of Immigrant and Worker’s Rights. She was the first person to bring the issue of driver’s licenses for undocumented immigrants to the national network, and begin to organize Latinos around this issue. As Director of Immigrant and Worker’s Rights, she traveled all across the nation, managing nine affiliated grass-roots organizations who were working on issues that affected Hispanic immigrant lives. “I really liked my job at NPA,” Camila said, “I was traveling a lot. But it was like I had this view of the country, and I had all these ideas. I wanted to show the network what a Latino lead organization, what a strong people of color organization could look like on the ground. I wanted to get on the ground and and just do it for a while, so I can see if I’m right.” So in mid-2011, after a fallout with the previous executive director, Camila came back to lead Adelante.

“Now look her, she’s a powerful woman,” Carla said when describing Camila’s leadership style. According to Carla, “Camila has a way of guiding you where you didn’t feel pressured or forced. She had a way of getting me to do things so that I wanted to do them.” Several other people I spoke with said that
Camila has been a terrific, strong leader and role model, since she came back to Adelante in mid-2011 as the executive director. In 2013, thanks to her strong relationship with NCC, Camila helped to turn KCC into a 501c4, so that they could take a firmer political stance in the November 2014 state elections. In the fall of 2014, KCC pushed to remove two key conservative Kansas politicians from their positions in a groundbreaking Get Out The Vote campaign. Unfortunately, these two conservative incumbents retained their offices, which came as a bitter pill for many KCC staff.

Camila’s real passion is for organizing to shift the racial imbalance in political representation at state and national levels. Her dream is to promote grass-roots leaders of color into positions of political power, so that they can truly represent the interests of working class people of color across the nation. While at NCC, Camila worked with Hilda Solis, President Obama’s appointee to the Dept. of Labor, to establish WJCs in NCC affiliated organizations across the country that could partner with the USDOL to fight wage theft, child labor, and worker’s compensation violations. However, her focus remains on big picture issues, such as comprehensive immigration reform and creating greater racial and economic equality for Spanish-speaking immigrants in the United States. In 2015, Camila took a position in New York state at Partners In Change, as their Immigration Field Director.

Miguel served as Adelante’s executive director from May 2015 to March 2016.

Born in Nicaragua, Miguel immigrated to Florida with his mother and three older brothers when he was just five years old, fleeing political violence and threats against his father’s life. He grew up in some of Miami’s poorest areas. He first got interested in organizing when a close friend of his got involved in a janitor’s strike at the University of Miami. In 2006, janitors there were being treated badly, were making low wages, and were denied health benefits by a cleaning contractor hired by the university. Thanks to capitalism’s emphasis on lowering costs to maximize profits, contractors and subcontractors must submit the lowest bid in order to win contracts, then “squeeze the workers to make [a] profit” (Hu-DeHart 2007:477). In response to these forces, the janitors decided to go on a hunger strike. When Miguel visited the striker’s camp, he talked with a number of striking janitors who hadn’t eaten for three days. Miguel was moved to a lifetime of activism and organizing when he spoke with a woman from Nicaragua who
happened to look just like his mother. She told him “a lot of us here would prefer to get paid shitty wages and have dignity and respect.” Miguel was deeply moved because her story of “stolen wages, sexual harassment, disrespect, abuse in the workplace” all sounded similar to what his mother was experiencing as a janitor at a large hotel chain in Miami. After a nine-month strike, the janitors won increased wages from $6.40/hr to around $9/hour, affordable healthcare insurance, and the right to unionize. Miguel was hooked on organizing for life.

According to Miguel, “What motivates me and why I fight. There is definitely a personal story to it. But there’s also more of a justice understanding. There’s more of a need for justice for everyone.” Miguel is one of those community leaders who throws his whole person into the fight, dedicating almost all of his time, his heart, his mind, and even much of his own money to the cause. If Miguel was near the front door when you entered the building, or not otherwise engaged when you entered the room, he would greet you with a warm hug, big smile, and a “Good to see you. Glad you’re here.” Miguel felt that in order for Adelante to stay a strong multi-racial force in the fight for justice, there needed to be a strong, emotionally support social networks and friendships within the group.

In 2011, Miguel joined the staff of the Restaurant Worker’s Resource Center, where he organized low-wage restaurant workers to demand fair pay and workplaces free of discrimination. During his time there, he taught restaurant workers how to draft demand letters with the help of attorneys, demanding that employers meet their collective demands by a certain date, or face weekly protests in front of the restaurant. According to Miguel, they had a lot of success with this method, which allowed workers to unite and claim justice through the power of their own voices, not via the legal system or government agencies. Miguel wanted to incorporate a similar demand letter process into the WJC’s tactics, but since he only stayed with Adelante/KCC for about 11 months, he was not able to realize this vision.

Similar to Camila, the previous executive director, Miguel saw the WJC as a part of the organization that did some good work, but drew a lot of the organization’s resources away from the broader mission set by NCC. This mission was to create a broader movement toward greater racial equity and diversity in local and federal branches of government. And since most of the people who came to the WJC did not go on to become active volunteers and leaders for change, it was seen as a side project that did not directly
contribute to achieving lasting racial equality. This is why Miguel wanted to transform the WJC into a more self-contained, self-funded program that could run on its own without consuming too many Adelante resources.

Miguel stayed with Adelante/KCC for just 11 months, leaving in March of 2016 due to the stress and challenges of running the organizations. Much of the funding for immigration reform dried up in 2013, because of the Republican opposition to President Obama’s proposed expansion of DACA/DAPA. With the future of immigration reform uncertain, many funders became reluctant to donate toward this cause, and many organizations like Adelante/KCC suffered as a result. In this political climate, Miguel struggled to find adequate funding to sustain the organizations. He returned to his home state of Florida, leaving the organization without an interim executive director in charge, since March 2016.

**Josefina** has served as receptionist and office manager since November 2012.

Josefina is a young college student who works part-time at Adelante as the receptionist and office manager. She is often the first face that people see when they walk into Adelante and climb the stairs to the main lobby and waiting area. Josefina greets people as they enter, and often directs them to the person, office, or event they are looking for. If first-time visitors come in looking for help from the WJC, Josefina will direct them to the offices in the basement. If the WJC Coordinator is out of the office during Monday Intake sessions, Josefina would often stay late to fill-in at the WJC, listen to visitor’s complaints and stories, and take notes for the WJC staff and volunteers to follow up on later. So as Adelante’s gatekeeper, Josefina saw who was coming in with what types of cases, and she sometimes helped get their cases started.

Josefina is passionate about getting young people like herself involved in the movement for comprehensive immigration reform. When DACA applications began to be processed by United States Customs and Immigration Services (USCIS) in August of 2012, Josefina helped over 50 of her peers file the paperwork to get deferred action status, which comes with a legal work permit and driver’s license lasting two years.
Like many of her peers, Josefina is fighting for immigration reform for her parents. Even though she and her siblings can live and work in this country legally, she knows that her parents could be deported under certain circumstances. When she was a little girl, her house was raided by Immigration and Customs Enforcement (ICE) while her father was out of town on a construction project. Since her father was not home that night, ICE left without arresting anyone. But her neighbors were not so lucky. Two of her neighbor’s houses were also raided, and ICE arrested and deported the fathers who were home at that time. After this scare, Josefina became aware of the precarious nature of her family’s life in the United States. That is why she continues working at Adelante/KCC, striving for immigration reform and family unity.

**Olivia** served as the WJC coordinator from December 2014 - August 2015.

Olivia and Carla met through distant relations and mutual friends around Wichita. So the two women had known one another for several years before Carla asked her to become part of a special project called the Immigrant Protection Network, and then later to serve as the WJC coordinator. At the insistence of Camila, Olivia was hired as the WJC coordinator so that Carla could spend her time managing the OSHA trainings and helping to lead other organizer’s campaigns. When Olivia began at Adelante, it took her a while to adapt to a more relaxed office culture, since she had recently retired from a successful position in Cox Communication’s sales department. She was used to creating work plans and schedules on the computer, not the miles of torn butcher paper that Adelante staff was accustomed to using for brainstorming and sketching out work plans. But soon many of Olivia’s more professionally produced schedules were welcomed by other staff members.

Olivia was born in Mexico, but her immigration history is much less traumatic than most of the other immigrants who have worked at Adelante/KCC. Olivia was a just a little girl, asleep in the backseat of the car when her parents crossed the United States/Mexico border in the early 1970s. At that time, immigration policy was less strict, and her parents were able to secure legal permanent residency status for her and themselves. So Olivia did not grow up fearing that her parents could be taken away at any
time, and she remained sheltered from the more difficult experiences of other Spanish-speaking immigrants.

Olivia seized her new job at WJC coordinator with great enthusiasm. She believed that if Adelante/KCC was to become a hub for local leaders of color, the building needed to be a place where people wanted to hang out, brainstorm, and meet new people. So she donated plush furniture for a nice little waiting area in the basement, a TV, magazines, a new vacuum cleaner, and a beautiful new front door to the building, to replace the old one that was sticking.

During her time as WJC coordinator, she was able to help workers reclaim $12,740 in stolen wages. Olivia said that all of this money was reclaimed for Spanish-speaking immigrant men who came into the WJC, since no women came in to file claims for lost wages while she was working there. But when Olivia discovered that many of the cases in the WJC were several months or years old, she instructed her volunteer assistant, Jazmín, to close the old cases. This meant that older cases that were still open were then closed, without following up with the client to see if the case could still be resolved.

Due to a lack of funding, Olivia's salary was cut by 50% in July of 2015. Her job had originally been envisioned as a half-time position, so this was another reason for the cut. So she went from full-time at 40 hours a week on WJC cases, to around half-time at around 20 hours per week, meaning the WJC was only functionally open three days a week. But Olivia probably wouldn't have been able to work more than this anyway, since around this time she started to develop stress-related health problems, which went undiagnosed for several weeks. When she finally diagnosed herself with internal shingles, she decided to step down from her position, especially since one of her daughters was about to have her first baby. Olivia left Adelante at the end of August 2015.

Jazmín served as a full-time volunteer to the WJC coordinator and other Adelante staff, starting in July 2015.

In the summer of 2015, Jazmín contacted Adelante so that her immigrant husband could receive free legal help from the staff immigration attorney that Adelante had at that time. She was so grateful for this free help that she decided to give back to the organization by volunteering full-time. Although many
people who walk into Adelante are asked to give back to the organization, few actually do so, and even fewer do so five days a week. Jazmin was not working at that time, and so welcomed the chance to get out of the house each day. Jazmín became Olivia’s full-time assistant in the WJC, but she also worked on other Adelante/KCC campaigns.

Jazmín's desire for racial justice came from personal experiences of discrimination as an adolescent. Since she grew up on the north end of Wichita, she went to a rural high school in a nearby small town. Her and her sister were the only two Hispanic youths attending at that time, and the mostly white student body made their lives hell. They were called “wetbacks” and a variety of other names, while being excluded from almost all social circles. The school counselor and principal were also not supportive in disciplining the white students who bullied Jazmín and her sister. As a result, Jazmín dropped out of school before graduating. But while she was volunteering at Adelante, Jazmín was also attending GED prep classes at a local learning center.

At the WJC center, Jazmín would assist Olivia in working on cases for clients. She would help with filing, organization, making phone calls, typing, and data entry. But her skills and work ethic were limited, so she did not handle many cases on her own. When Olivia instructed Jazmín to close old cases, she would either call the client to see if they were still interested in pursuing their case, or simply mark the case as closed in the database, without calling the client. After Olivia stepped down as WJC coordinator at the end of August 2015, Jazmín was left to hold the WJC together, along with Eli, an unpaid social work intern from Bethel College. But without adequate training or ambition, Jazmín didn’t step up as the WJC coordinator, and the WJC has essentially been inoperative since September 2015.

Eli did his social work practicum at Adelante from August 2015 to May 2016.

As a social work student from Bethel College, Eli chose to do his practicum at Adelante/KCC because of his interest in pushing for immigration reform and greater racial equality for undocumented immigrants. Although Eli was one of the few young, white, heterosexual males at Adelante/KCC, he was not a stranger to discrimination, since his family is Russian Mennonite. According to Eli, his father was beaten up by rural Kansans for being a pacifist during the Vietnam War and refusing to pledge allegiance to the
American flag. Historically, Russian Mennonites have experienced persecution in the United States for their unwillingness to baptize children before adulthood, pacifism, lack of willingness to assimilate into American society, and for speaking German. So when Eli learned that some undocumented immigrants were too afraid to go to church, for fear of getting pulled over, arrested, then later deported, he was moved to pursue a career pushing for immigration reform. His real passion was organizing through door knocking. Although normally quite shy, he enjoyed getting out and talking to families about immigration reform and justice for immigrants.

Normally, when social work interns come to do their practicum at Adelante they work with the WJC coordinator, helping clients resolve their specific problems. But Eli didn’t regularly work on cases, even though his desk was located in the WJC. This was both because Olivia stepped down as WJC coordinator at the end of August 2015, right when Eli began, and because he just wasn’t interested in direct service work. Eli was much more interested in community organizing and pushing for immigration reform. Had Eli or Jazmín been interested in taking over the WJC, it might have stayed fully operational after Olivia left.

Erik has worked with Carla and Adelante’s WJC since it opened in 2009.

Erik, a Kansas City based attorney, began working with Carla and the WJC in 2009, when Carla contacted him to see if he would offer reduced attorney’s fees to Adelante members. At that time, Erik was a young attorney, who was still working on building up his client base. Carla and Erik made an agreement that if she would bring him lucrative worker’s compensation cases via the WJC, then he would also be willing to take on smaller cases, like wage theft. Erik’s primary area of expertise is worker’s compensation and medical malpractice, both of which can turn out awards in the $50,000 to $75,000 range, if the case wins in court. At Carla’s urging, Erik agreed to take on wage theft cases when they came in, even though a typical wage theft case will only win between $1,000 to $5,000. Carla feels that wage theft cases are also very important, even though they involve much smaller sums of money. Poor

Kim Bobo has also noted that attorneys are often not interested in taking minimum wage theft cases to court, because “the amounts of money involved aren’t of much interest to attorneys” (Bobo 2011:77).
working-class families who are living paycheck to paycheck may have a hard time paying their bills if even $200 is stolen from their paychecks. And since the WJC helped Erik build his client base with the Spanish-speaking immigrant community, Carla feels that Erik is obliged to help with wage theft and other less profitable cases. But since Adelante and the USDOL handle most of the wage theft cases that come in, with only a few not qualifying for processing by USDOL, Johnny does not end up taking many wage theft cases to court.

Unfortunately, in September of 2015 Erik's partner had a family medical crisis. As a result, his partner was no longer able to practice and contribute to their two partner firm. This meant that Erik could no longer afford their Spanish-speaking assistant and receptionist. So for a while he was working all on his own, without any support staff. This also meant that he couldn't work as effectively on his cases for Spanish-speaking clients. Although Erik speaks some Spanish, he does not always speak well enough that his clients can always understand him. So most of his cases for Spanish-speaking clients did not see much progress from September 2015 to February 2016. When Erik joined a large law firm in February of 2016, it became harder for him to take small cases to court, since his senior partners expect big returns and will not allow him to invest large amounts of time on less profitable cases.

How Wage Theft Cases Were Handled at the Worker Justice Center (WJC)

Between 2014 and 2016, there were three different persons serving as WJC coordinator at various times, all of which were Hispanic women. Although the basic operations of the WJC remained the same under the direction of all three, each woman had her own way of running the WJC and brought her own desires, skills, and tactics to the job. Here I will cover some of the various ways in which each WJC coordinator handled wage theft cases.

Paola's Approach to Handling Wage Theft Cases

When I started conducting interviews at Adelante in March of 2014, Paola was the WJC coordinator at that time. And although I didn't get to work with her during intakes before she left at the beginning of April, I did get the chance to interview her and hear about how she ran the WJC center.
Paola explained to me that when a wage theft case comes in, she sits down with the client and listens to his or her story of workplace abuse and/or lost wages. It is her job to make sure it’s a valid case of wage theft, and that there is enough evidence to turn the case over to the USDOL for investigation. Paola would ask the client if he or she had other coworkers who would be willing to testify that they also were getting their wages stolen. If so, Paola would interview each coworker separately to make sure that their stories more-or-less matched and appeared truthful. She would also encourage each person to collect any and all records that they might have verifying the number of hours they had worked, and the number of hours or dollars that had not been paid. Some workers would bring in pay stubs to show how much they were paid, and contrast that with how much they feel they should have been paid. Some workers had taken pictures of their time cards using their cells phones, and Paola would ask them to print these out and bring them in. Other workers had notes of when they had worked written on little scraps of paper stuffed in various places. Paola would ask them to collect and bring all this evidence to the WJC on their next visit, usually in the next couple of days. When they would return with this evidence, Paola would make copies for their WJC case file, and also send copies to the USDOL to jump start their investigation.

Once the name and address of the business owner had been verified, and all the worker’s evidence had been collected, Paola would call the USDOL letting them know that she had a new case. Paola was already on a first-name basis with all of the staff at the local USDOL office, since the WJC had an already established relationship with them. Paola would tell the USDOL staff person some of the details of the case, and let them know that she would be sending the client over to them. Paola would then sit with the client(s) and help them fill out the USDOL paperwork to file a new complaint of wage theft. This was especially helpful for Spanish-speaking immigrants, a few of which could not read or write, who would not have been able to fill out the complaint form on their own. Once the case had been turned over to the USDOL, Paola’s work was usually done, except for a final exit interview. After the USDOL had conducted their investigation and reached a settlement with the owner, Paola would call the client to find out how the case went and how much money they were able to reclaim. This information would then be stored in the WJC database so that they could keep track of how much money they had helped workers to reclaim. At this point the client’s case was then closed.
However, there were a few cases that the USDOL could not investigate since the employer did not meet the requirements established in the Fair Labor Standards Act (FLSA). For example, if the worker was misclassified as an independent contractor, the FLSA does not apply, and the worker is not protected by the USDOL. In other cases, the employer did not make at least $500,000 in gross annual sales or did not have at least two employees. So again, their workers were unfortunately not covered by the FLSA and thus the jurisdiction of the USDOL. In these cases, Paola would act as a third party negotiator and call the employer or manager on the phone and try to convince them to pay. Usually, she was successful in reaching some type of agreement with the employer, even if that meant the worker had to agree to receive less than he or she was owed.

Paola expressed frustration that there wasn’t more she could do to help some of her clients. “We need to have a law that says there are real consequences to stealing wages,” she said. Since employers who are first-time offenders only have to pay the wages that they should have paid in the first place, there is no real punishment for failing to pay correct wages. In fact, it’s not unusual for first-time offenders to pay less than they owe their workers, since the statute of limitations is two years. If an employer (first offense) was stealing wages for five years, then they are only required to pay two years worth of back wages, with no additional penalty (Bobo 2011:172–173). This creates a greater incentive for employers to break the law rather than comply with it. Paola hoped that a law with increased punishments for employers who steal their worker’s wages would help to deter owners from this behavior.

Paola also felt that education was key. She tried to teach the workers who came to the WJC about how to keep track of their hours in their own personal timekeeping booklets, so that they would have their own records of how much they had worked, in case their wages were ever stolen. She would tell construction workers to get a signed contract, outlining the terms of their agreement with contractors. And she would encourage them to work for larger businesses covered by the FLSA and within the jurisdiction of the USDOL.

Since Paola was more interested in organizing for comprehensive immigration reform and working on direct action campaigns than working on cases at the WJC, this meant that she had less time and energy to devote to open cases. This resulted in some cases “falling through the cracks,” meaning they stalled.
out because no one was pushing to move them forward. If several weeks or months had passed since the last time Paola made contact with a client, she would call them to find out if they wanted to continue pursuing their case. If the client said no, then Paola would close the case. When Paola left the WJC and Carla came to fill in, she was angry about the number of cases she found that had not been followed up on and had never been resolved.

**Carla's Approach to Handling Wage Theft Cases**

Carla’s approach to resolving WJC claims was very similar to Paola’s because she trained Paola how to run the WJC when Paola was hired. But there were three main differences in the ways Carla handled cases:

1) For Carla, an open case was an open case. This meant that if there was an open case in the WJC, then it should be worked on by WJC staff, no matter how old it was, provided that the statute of limitations on the case had not yet run out. If a case had fallen through the cracks for whatever reason and Carla found it, she should call the client to see what has happened with their case and find out what needed to be done to resolve it.

2) If the client said he or she no longer wanted to pursue the case, Carla would try to talk them into continuing to seek justice. Carla’s goal was to see that every person achieved justice, even if the client herself had given up hope. She would remind the client of the injustice of the wage theft, telling her that she deserved her money and had the right to claim what she had worked hard for. Carla also pointed out that if workers did not pursue their cases, this allowed owners to think they could get away with wage theft, and they would continue to treat future employees in the same way. She would also argue that they owed it to their children to bring home the money that was rightfully theirs. In this way, Carla would try to rekindle the hope, anger, sense of injustice, and parental responsibility that clients had originally walked into the WJC with, or order to get them to continue pursuing their cases.

3) Carla would try to agitate WJC clients into becoming active members of Adelante. She did her best to convince clients that what seemed like a personal crisis was actually part of a broader structural problem that could be changed through community organizing. When clients came in because a
undocumented family member had been arrested and would soon be deported, she would try to agitate them by revealing how much money private detention center contractors were making each night that their loved one stayed in a detention facility. But unfortunately, most clients did not want to become part of a national movement for immigration reform or fight racial and economic inequality. They just wanted help with their specific problems. So only a few of the people who Carla tried to agitate ended up becoming active members and volunteers at Adelante.

Carla believes that all human beings have rights given by God and that laws should respect those rights. Fueled by this belief, she would help clients to seek justice in their cases even when state and federal laws were not strong enough to protect worker’s rights. This was true for the wage theft victims who were not covered by the FLSA, as well as the women Carla encountered who couldn’t take their rape cases to court because they had passed the five-year statute of limitations. According to Carla, for many of the clients, it’s about more than just the money they weren’t paid, it’s about personal dignity. She revealed to me that, “For many of the people who keep coming in and working on their case, it has become an issue of pride and respect. They’re tired of being treated like liars. … Workers feel humiliated and that their value has been diminished when their wages are stolen.”

When Carla came back to the WJC after Paola was let go, she was encouraged by Camila to not take new cases that would be labor intensive. Instead, she was told to only take new cases that could be easily and quickly referred to other agencies or attorneys and to focus on closing the open cases they already had. According to Camila, there they no longer had the money to fund a full-time WJC coordinator, so Carla should only spend ten hours a week on WJC cases. Camila wanted Carla to focus her time and energy working on other campaigns. But when people started coming to the WJC, Carla did no such thing. “But I don’t have the heart to do that. I don’t want to tell people that I can’t help them,” she said when I asked why she didn’t tell people that the WJC was temporarily closed. Also, “I don’t want to lose our client base and their confidence,” she said. Because potential clients learn about the WJC purely by word of mouth, Carla didn’t want people to tell their friends and family that they went to the WJC and were turned away. She didn’t want the word to get out that the WJC was closed, or for people to lose confidence in the organization and stop coming. Instead, she took all the new cases that came in the door
and did what should could to help them, with the aid of her two social work interns and myself. Carla probably spent more than ten hours a week working on cases, but her workload was significantly reduced. She could direct her three assistants by telling them which phone calls to make, or documents to collect, in order to keep the cases moving forward. But even with three assistants, there were still some cases that fell through the cracks, since the WJC had hundreds of cases and still had no full-time WJC coordinator. When Carla encountered an old case that had not gotten much attention lately, she felt bad about it and was embarrassed that they couldn't do more to help people.

It's important to note that most of the wage theft cases that the USDOL receives don't come through Adelante or the WJC. From an interview with a USDOL agent, I learned that most of the USDOL's cases come to them directly, through the outreach that the agency does, trying to educate workers about their rights. This is even true for undocumented Spanish-speaking immigrants, many of whom learn about the USDOL's WHD through advertisements that USDOL pays for on the local Spanish-language radio station, and the outreach they do at mobile Mexican Consulate events. So in theory, it's possible for undocumented Spanish-speaking immigrants to navigate the WHD's claims filing process on their own. However, Carla's policy is not to just give WJC clients the phone number and address of the local USDOL's office. Instead, “They come here and we call USDOL together. You can tell people [native born citizens] to go here, do that, and they do it. That's part of American culture. But it doesn't work like that for Latinos. They need more guidance,” she explained. So instead of just telling people to go to the USDOL office, Carla always walks them through the process and is there to support them with any questions they might have.

According to Carla, undocumented Spanish-speaking immigrants are less likely to effectively seek out the help of government agencies without guidance from a Spanish-speaking advocacy. I found this to be true, to some extent, for the Spanish-speaking women who I interview who had experienced wage theft. One woman I spoke with came to the WJC because she had found the address for the USDOL and gone there on her own, and had filed a claim for lost wages and gotten her case stated at USDOL directly. But when the USDOL sent her a letter in English that she couldn't read, she brought it in the WJC to have it translated. She was very anxious and worried about the letter, because she thought that it was informing
her of an upcoming court date, and she believed that she needed to appear in court in two days. But, in fact, the letter simply stated that the WHD had accepted her wage theft claim, and they would let her know when an investigator would be freed up and able to start working on her case. So if this woman had filed her wage theft claim through the WJC, she might not have been so confused and anxious about the whole process. So even though it would be much faster for the WJC coordinator to simply direct clients to the local USDOL office to file their claims for wages theft, this option is not always the best one for some undocumented Spanish-speaking immigrants, who might be less able to navigate the process without bilingual assistance.

Olivia's Approach to Handling Wage Theft Cases

When Olivia began her work as WJC coordinator, she had not planned on returning to the workforce after her early retirement from Cox Communications. She planned on enjoying more personal and family time. But in November of 2014, Carla invited her to participate in a new program, the Immigrant Protection Network, and attend an educational retreat in Arizona. During this retreat, Olivia's eyes were opened to some of the brutal horrors that many Mexican and Latin American immigrants experience as they cross deserts to enter the United States, some of them fleeing violent drug cartels in their home countries. Since Olivia's immigration to the United States was a distant and uneventful memory, Olivia was not previously aware of the challenges many poorer immigrants must face. Carla capitalized on Olivia's deepening concern for the welfare of other immigrants and asked her to apply for the WJC coordinator position. Olivia did so and was hired in December 2014. Although Olivia had no formal training in social work service, many of the skills she learned as a sales manager at Cox Communications transferred over to her work at the WJC.

Olivia's approach to handling wage theft cases was different from Carla's in three ways:

1) Olivia relied more heavily on her own negotiation skills and less on the USDOL. At Cox Communications, Olivia managed her own sales team, which enjoyed record-setting profits. "I love convincing people to do things," she once told me, remembering how she would coach her staff on what to say to convince customers to purchase more entertainment packages. From her time at Cox, she
acquired negotiation skills that she put into practice as WJC coordinator. “Too many times there is nothing USDOL can do. … A lot of times I call the employer and negotiate myself. I’m courteous but firm. I’m not afraid to be confrontational if I have to be. I have negotiation skills that I learned at Cox Communications. I get on the phone and work my way up the chain of command. I ask for each person’s supervisor until I get up to corporate.” Using his method, Olivia was able to reclaim worker’s stolen wages, without having to file a claim with USDOL, and wait for an investigator to have the time to work on the case. This sped up the claims process for workers by quite a bit, since it sometimes took USDOL a year before an investigator could work on the case. All of these cases, in which Olivia used her negotiation skills in this way, were for Spanish-speaking male immigrants, since no women came in to file claims for wage theft while Olivia was the WJC coordinator.

2) Olivia perceived old case as dead cases. When she encountered an old case that had not been worked on for several months, she would instruct her assistant, Jazmín, to close the case. According to Jazmín, Olivia didn’t understand why these cases were still open. So Jazmín would either call the client to see if they still wanted to pursue the case, or she would simply mark the case as closed in Olivia’s WJC database. It is fairly common for low-income Spanish-speaking immigrants to not keep the same phone number for long periods of time, due to lack of stable income. So when Jazmín called to find out if clients wanted to continue to pursue their cases, most of the phone numbers were no longer in service. So Jazmín simply closed the old cases as she was instructed, even though the there was still the possibility for further action on these cases. This is especially true for the few undocumented Spanish-speaking women who still had open cases. Since they were more likely to lose hope and not actively pursue their cases, by calling or visiting the WJC on a regular basis.

3) Olivia expanded the WJC intake hours from Monday evenings 5 pm to 7 pm to Monday through Friday from 1 pm to 5 pm. This meant that clients would come in any day of the week and Olivia would be there to do an intake with them. This made things much easier for many clients who work multiple jobs to find a time to come in and discuss their cases. However, when Olivia was cut to half-time in July 2015, she had to reduce her hours, and she began coming in only on Tuesdays, Wednesdays, and Thursdays, from about 9 am to 3 pm or 4 pm. And when she started experiencing more stress-related health
problems in July and August, she would come in late and leave earlier than usual, since she was feeling so badly. But even with her reduced hours, she still provided wider periods of time in which WJC intakes were welcome.

Olivia recalled an example of how she handled a particular case involving wage theft and a company I'll refer to as Prestige Interiors. This local company specialized in interiors work, drywalling, fixture installation, flooring, etc. At first, one Spanish-speaking immigrant male worker came in to complain about not getting paid all of his wages. Then a day or two later, another worker came in with the same complaint. Then a few days a later a third worker from the same company also came in with a similar story. This went on until five to six Spanish-speaking male immigrant workers all came in with complaints about Prestige Interiors. After the second worker came in to complain, she called Prestige Interiors and left a message for the owner. A lower manager called her back, promising to look into the matter. When the third worker came to the WJC and complained, she called Prestige Interiors and said, “What is going on at your company? I have three workers here who claim they weren't paid. If I get one more complaint before such and such date, I will file a complaint with USDOL.” At this point, it became apparent that Prestige Interiors was having payroll problems, and Olivia gave them some suggestions on how to remedy the situation so this wouldn’t keep happening. Olivia negotiated with Prestige Interiors management to get payment for the five to six male workers who had not been properly paid.

Olivia was surprised when, several weeks later, Prestige Interiors called her when they ran into an unrelated tax issue. Apparently not knowing what to do, they called Olivia because they thought she was an attorney. Although Olivia never claimed to be an attorney, she gave the impression that she had command of the applicable laws and statutes, as part of her negotiation strategy. This story reveals the failure of business management to appropriately process payroll in compliance with the law, resulting in underpaid workers. Being primarily Spanish-speaking, these workers did not feel confident in their abilities to effectively negotiate for their pay. This is where the role of a bilingual, third party advocate, such as a WJC coordinator, can fill in the communication gap and help to get worker’s paid.
Olivia also emphasized that she tries to educate workers on their rights and how to avoid getting their wages stolen in the future. The three most important lessons Olivia teaches her wage theft clients are as follows:

1) Olivia shows workers how to keep track of their own hours in little time keeping notebooks provided by the USDOL. She shows them how to keep track of their hours, travel time between jobs, rest breaks, and lunch breaks, then tally up the hours each week. If workers are not paid properly, then they have proof of when they worked and what they should have been paid. Also, if employers use punch clocks to keep track of work time, then the workers have their own copy of their hours to use as evidence, should they have to file a wage theft case. This is especially helpful since most workers don’t have access to punch clock records.

2) Olivia advises workers to always sign a written contract, outlining the agreed upon terms between worker and employer, or contractor and contract laborer. Having a signed contract, even if it’s handwritten on a scrap of paper, can become valuable if the case has to be taken to small claims court. Olivia helped one worker create an outline of a written contract that he could use on future jobs. She then made copies and gave copies to workers in similar situations.

3) Olivia tells workers to always get the full name and address for their employers or contractors. Several workers she helped did not know the names or addresses of the person they had agreed to work for, and this made it impossible to continue their wage theft case. Olivia said that when she asked a worker for the name of the contractor who failed to pay him. He replied, “Well, everyone calls him Paco.” Olivia responded with, “That’s not good enough.” This is a common problem for subcontractors she said, since in small claims court, in order for the Sheriff to serve the papers to someone, they have to have an address where the papers can be served. Lack of identification of contractors is fairly common in the construction industry, where a worker might have been invited to help out on a job that needed a couple of extra hands. The worker is sent the job site address in a text message and he shows up the next day to work. The contractor or subcontractor may introduce himself by first name only, or by a nickname. The contractor might say, “I’ll pay you $500 for this amount of work.” If the worker agrees, he does the job. But if the worker is never paid when the job is done, he doesn’t know from whom he should try to collect,
since the never knew the full name of the contractor. The worker never knew the address of the contractor’s office, only the job site addresses. Workers who are not able to determine the name and address of the contractor who hired them are often not able to recover their wages.

The Importance of Having a Bilingual Advocate

Especially, for Spanish-speaking immigrants who do not speak English and do not understand United States laws, legal systems, and government agencies, having a bi-lingual advocate, like a WJC coordinator, can make the difference between being able to recover stolen wages and having to take those wages as a loss. This is especially true for Spanish-speaking immigrant women, who were much less likely than their male counterparts to come forward with claims for stolen wages, and less likely to want to pursue their cases for long periods of time, especially when doing so becomes challenging. Not only did the WJC coordinators provide help with filling out the USDOL wage theft application, they also helped workers in a variety of other ways, all with the purpose of assisting workers in reclaiming their lost wages and personal dignity.

The WJC coordinator also provides emotional support and reassurance to workers who come in with wage theft claims. The reassurance that the negative consequences of claims-making will be minimal is especially helpful for Spanish-speaking immigrant women who have not gotten paid all of their wages. These women may have heard about the WJC from a friend, but they were not provided with many details about claims-making and are not sure about the whole process. I have witnessed women who came in with wage theft cases, who really needed the money that was owed them, but were very afraid to file a claim with the USDOL for fear of retaliation from employers and managers. Many Spanish-speaking immigrant women I spoke to were reluctant to file a claim for stolen wages because they were afraid of losing their jobs, their boss finding out that she had filed the claim, or worse case, getting arrested and deported. This is where a WJC coordinator can step in to reassure the workers that she can request that USDOL not reveal the name of the person who filed the claim. The WJC listens to the worker’s story with compassion, and offers reassurance, saying that she has helped many other workers reclaim their wages.
without serious negative consequences. This reassurance can be enough to convince a worker that she took the right step in coming to the WJC for help.

The WJC coordinator can also provide a sympathetic ear for workers who have been insulted, degraded or humiliated by employers, in addition to wage theft. Unfortunately, here aren’t laws against treating workers disrespectfully, and so often there is nothing that the WJC can do in these cases, other than lend a sympathetic ear. The WJC coordinator listens with compassion, because as an immigrant herself, or as the child of immigrants, the WJC coordinator is aware of the challenges many immigrants face. According to Carla, “It’s our job to listen to people. Sometimes that’s what they really need, just someone to listen. It’s our job to listen and to focus their energy toward an appropriate action. We show them who is the appropriate focus for their energy.”

The WJC coordinator also can try to agitate a worker who is dominated by fear, trying to get him or her to become angry about the wage theft, in the hopes of motivating him or her to fight their case with greater diligence. Some workers, especially Spanish-speaking immigrant women, may not see the wage theft as a big deal worth going to so much effort for. She may believe that she doesn’t deserve the money anyway, since she is an undocumented immigrant, and she must suffer this type of wage abuse from time to time as a matter of course. If this is the case, the WJC coordinator tries to reframe the wage theft to make the worker see the injustice of the crime, and agitate the worker to see it as something they have the right to pursue. Jazmín, the full-time volunteer who helped in the WJC, said that she has talked to workers who say that the amount of wages stolen is too small to bother with. To them she responds with, “What if I reached into your purse right now and took $100 without asking? There’s no difference between that and what your boss has just done.” The other thing Jazmín said she hears from wage theft victims is, “There’s no point in complaining about it because nothing can be done about it. There’s no point [in filing a complaint] because I won’t get my money back.” Jazmín tries to assure them that if they have enough evidence, and their employer meets certain criteria, that it is possible to recover stolen wages.

The WJC coordinator also plays an important role in the claims-making process, simply by virtue of being a bilingual advocate for Spanish-only workers. The WJC coordinator, or her volunteers, can make phone calls on the worker’s behalf to English-only government agencies to ask questions, make
appointments, fill out paperwork, etc. When the worker gets a letter about their case from USDOL or small claims court, the WJC coordinator can translate the letter and explain what to expect next. As I will describe in Chapter 5, some workers would have difficulties navigating the complexities of the USDOL or small claims court without the help of a bilingual advocate. Nor would some Spanish-speaking immigrants have the courage to approach a government building, in a country where they are living illegally, without the encouragement of a bilingual advocate.

Ideally, the WJC coordinator will keep open cases moving, prevent them from stalling out before resolution has been reached. A case can stall out when it doesn’t keep moving forward toward resolution because no one is working on the case. There are a variety of ways that a case to stall out. For example, a worker may come to the WJC on their first visit, discuss their wage theft case, then be told by the WJC coordinator that they need to go home and collect all of the evidence they have on how many hours they worked. Or a worker may be asked to return to the WJC with pay stubs as evidence for their case, so that they can provide this evidence to the USDOL when their case is filed. But if a worker never returns with the requested evidence, then ideally, the WJC coordinator would call the worker to see what was going on and encourage the worker to come in again with the evidence. Or if the WJC faxed something on behalf of the client to an attorney or government office, but the fax was never received, the WJC staff would, ideally, follow up to make sure the fax was re-sent and that the case keeps moving forward. In sum, the WJC coordinator can play a vital role in keeping cases moving toward repayment of stolen wages, especially for undocumented Spanish-speaking immigrants who may be reluctant to push hard on their cases for a variety of reasons. These reasons will be discussed in the following Chapter.
“Trabajamos por nuestros hijos, para nuestra familia, no es justo que otra gente abusan. … [A]quí no hay permanencia de ninguna, porque todos somos iguales. Y andamos en lo mismo, buscando el pan para nuestros hijos.”

“We work for our children, for our families. It’s not right that other people abuse us. … Here, for us [as undocumented persons] there is no permanency for anyone. We are all here to do the same thing. We’re here searching for bread for our children.”

— Bianca

Introduction to Women Who Experienced Wage Theft

Many of the studies on wage theft are quantitative in nature, seeking to estimate the prevalence and severity of wage theft, but offering little in terms of social context (Bernhardt and McGrath 2005; Bernhardt et al. 2009). Even the GAO’s 2009 review of the WHD did not provide much context to illustrate the complex workplace dynamics, which are often verbally abusive, that give rise to incidents of wage theft. In their discourse regarding the problems of wage theft, congressional representatives framed the issue as the government letting down “hard-working Americans” who are “being cheated out of their wages by unscrupulous employers” (U.S. Government Accountability Office and U.S. House of Representatives Committee on Education and Labor 2009:3). Although this portrayal of the situation is not wrong it ignores the complex, and often egregiously abusive, ways in which employers treat their workers, especially undocumented workers. In this study, I focus on the specific ways in which female Spanish-speaking immigrants have been treated by their employers and the worker-employer dynamics that spur a woman’s choice to file a wage theft claim.

Many immigrant women are pushed into the most undesirable jobs, due to a variety of factors, such as gender, racial-ethnicity, immigrations status, social class, low education levels, and lack of English
proficiency (Hu-DeHart 2007:476). Immigrant women are more likely to experience a host of labor abuses, including wage theft and psychological abuse, in these less desirable, low-wage jobs, in the domestic and commercial cleaning industries, childcare, and food service industries (de Castro et al. 2006:249; Duffy 2007:316). In order to humanize these female workers, and illustrate the psychological quagmires that many of them must navigate in their daily work environments, I will summarize the workplace experiences of my ten wage theft informants, to whom I am grateful for their courage and willingness to participate in my research.

The ten women I interviewed range in ages from 37 to 50 years old. All live or have lived in Wichita, Kansas. Nine out of ten of these women immigrated from Mexico, while one participant was born in El Salvador. All 9 of the Mexican participants were undocumented immigrants, meaning they entered the United States without authorization. Only one participant, the woman from El Salvador, enjoyed legal residency status. To protect their identities, I use pseudonyms for all of my informants.

**Alicia**, age 37, grew up in the state of Jalisco, Mexico, and immigrated to Wichita in 2002 because one of her brothers and two sisters had been living here for several years. When she first arrived, her brother advised her not to work for Latinos, because they pay less and she wouldn't learn English, since she would be speaking Spanish all day at work. But she took a Spanish-only job anyway because she wanted a job quickly so that she could send money home to their elderly mother. Since she had several years of experience working in retail, selling clothes and shoes in Mexico, she quickly found a job running a small clothing store owned by a Mexican man. Like most rural Mexican women Alicia did not know how to drive. So she was happy to have found a job so close to her brother's house that she could walk to work.

Alicia ran all aspects of this clothing store for seven years for the absentee owner, who sometimes only visited the store once a year. She earned $6.55 per hour, with no overtime or benefits. When the minimum wage went up to $7.25 per hour in July of 2009, she did not demand a raise and her employer did not increase her pay. Then one day, she learned that the owner had sold the business when two new owners entered and introduced themselves. Alicia felt insulted that the owner did not tell her of his plans...
to sell the business even though she was running all aspects of the store. He didn’t offer her a severance package, nor any thanks for her seven years of hard work. For all of these reasons she felt that the previous owner didn’t value her work. When the new owners closed the store a year later, she was left without a job. Since she didn’t make enough money to save, she was also left without anything to show for her eight years of dedication to this small business. Although she was making less than minimum wage for a year and a half and didn’t receive any overtime for eight years, she was more upset about feeling undervalued and unappreciated, than she was about the lost wages. She didn’t file a claim for stolen wages, because at that time, she didn’t know she was entitled to this money or where to turn for help in reclaiming it.

In 2014 after the tragic death of her fiancé in a car accident, Alicia found a job at a small bakery, located inside of a Mexican grocery store. After working at the bakery for two weeks, her manager did not give her a paycheck, and she had to ask for it. A week later, the Spanish-speaking woman who was her manager paid Alicia what she was owed for the first two weeks of work. But when the second paycheck was ten days late, and she spoke to the manager about it, she was fired. Alicia agreed that she didn’t want to work for the bakery if she was going to have to struggle to get paid. When she left, the manager claimed they were not able to pay her last paycheck.

Alicia surmised that the manager assumed she wouldn’t file a claim for stolen wages because she didn’t speak English and was working as an undocumented immigrant. But by this time, Alicia had learned from one of her girlfriends, Andrea, that she had the right to reclaim her stolen wages through Adelante. When her discussion with the manager got heated, Alicia asked if they would have her last paycheck ready for her if she came back to pick it up in two weeks. When the manager said no, Alicia threatened “to seek council.” The manager countered with a vague threat to call immigration, saying, "Think about it long and hard before you do something so grave." Alicia retorted with, "I don't think you can do anything to me for just seeking counsel."

Alicia managed to recover most of her last paycheck herself by going directly to the white male owner of the bakery, with the help of her bilingual sister-in-law who gave her a ride to the business office and translated for her. But when the owner still owed her six and half hours worth of pay, she filed a claim at
Adelante. Alicia was not able to reclaim her last hours of pay because they were too close to the USDOL’s minimum of six hours of lost wages. Although she didn’t recover the last roughly $50 that were owed her, I think she still benefited from filing a claim at Adelante, as it provided an opportunity to have her frustrations heard and validated by a sympathetic person. Alicia admitted that she was partially motivated by the anger she still felt over having to remain silent when her previous employer didn’t value her work.

**Fernanda**, age 45, immigrated to California in 1999 from the state of Michoacán, Mexico, then later came to Wichita in 2008, to live with her brother, his wife, and their two small children. She has never been married and has no children of her own.

She worked for five years for a cleaning company that had a contract with Kohl’s to clean their stores. Since Fernanda does not know how to drive or own a car, she got a ride to work each morning with her coworker and friend, Erica. Fernanda and her five coworkers cleaned Kohl’s from 4 am to 8 am, six days a week. They cleaned under the supervision of a bilingual Hispanic male manager, who she said always went around screaming at them. According to Fernanda, they hardly ever heard him speak in a normal voice; he always seemed angry about something. If she and a coworker went to the restroom at the same time, the manager would come into the women’s restroom, snapping his fingers and yelling at them to get back to work. When the manager wasn’t getting into verbal and sometimes nearly physical fights with his employees he was sitting in his office, drinking juice or alcohol, talking or playing games on his phone. If Fernanda and her coworkers didn’t finish cleaning the entire store in four hours the manager would say, “That’s your problem.” Then he would make them clock out and continue working off the clock for 20-30 minutes until they finished their work. Thanks to capitalism’s emphasis on lowering costs to maximize profits, contractors and subcontractors must submit the lowest bid in order to win contracts, then “squeeze the workers to make [a] profit” (Hu-DeHart 2007:477; Bobo 2011:112–113). Thus, Fernanda and her coworkers paid the price for the cleaning contractor’s desire to offer their services at the lowest price possible.

Although Fernanda said the manager treated all the employees poorly, it was especially hard for her to watch him mistreat an older male coworker (55 to 60 years old), also Hispanic, who had diabetes.
When the older gentleman would finish his work at 8 am, the manager would yell at him and give him more work to do, off the clock, of course. The elderly man would hurry off to perform the task, but always with a look of fear about him. Fernanda was much more concerned about the manager’s verbal abuse and lack of respect for his employees than the 20 to 30 minutes they were made to work off the clock each day.

She continued working under these poor conditions, because of her “tranquila” or “calm” personality. She perceived a different job would be hard to find, especially since she did not know how to drive. She preferred to leave things as they were, leaving things to each person’s conscience. Fernanda reasoned that, “One day, we all pay [for what we do],” suggesting the abusive manager would get his just deserts in the afterlife.

One day, Fernanda’s coworker, Erica, had had enough of this derisive and combative manager. At various times, the manager had sexually harassed Erica. He had also made threats to call immigration. Erica convinced Fernanda to testify with her in a claim of abuse against the manager with the cleaning company’s Human Resources Department. Erica argued that, “We need to ask for help, because if we don’t, he’s just going to keep doing this to you. He’s never going to respect anyone.” Erica’s main argument was, ‘Help me to defend the other coworkers, so he doesn’t keep treating people this way.’ Fernanda agreed to lend her testimony against him and file the claim with Human Resources because she felt it wasn’t right how the manager was treating them.

A mediator from the cleaning company’s Human Resources Department came to Wichita from Topeka and spoke separately with Erica, Fernanda, and a few of their coworkers. Although they had filed an internal complaint within the cleaning company, the cleaning company sent Fernanda several letters about the case they believed she had filed with Kohl’s. Not long after this, the regional manager of Kohl’s called Fernanda (with her brother serving as a translator) and told her not to come to work for three days, because the cleaning company had accused her of stealing merchandise from the store. “I feel clean (innocent),” Fernanda retorted, “I’ve been working there for five years. I’m an older woman. I don’t know how I could go around stealing.” Because she felt clean-hearted, knowing she hadn’t stolen anything, Fernanda asked if she could see the surveillance videos. I mentioned that the videos would also show the
20-30 minutes they were made to work off the clock each day. And she pointed out the videos would also contain evidence of the fights the manager had gotten into with the employees. Fernanda’s focus on the false accusations and mistreatment indicates that the injury to her personal dignity was important to her than the daily wage theft. Not long after the cleaning company made false accusations of theft, Fernanda and Erica were fired.

Afterward, Erica and Fernanda went to Adelante in an effort to file claims for wage theft, but unfortunately, they did not end up filing a complaint. During their first visit to Adelante, they met with Carla, who told them that she was getting ready to step down as the WJD coordinator, but that if they came back the following week, the new coordinator Paola would be there, and she could help them file their wage theft claim with the USDOL. But when the two women returned the following week, Paola was not in. She was out and about, working on another one of Adelante’s campaigns. If Paola had followed up with the two women, they might have been able to make an appointment to meet and begin their claim. But after two unsuccessful trips to Adelante, Fernanda and Erica gave up on the idea of filing wage theft claims.

If they had known that they could call the USDOL on their own, they might have done so. Erica was fed up with the manager’s mistreatment and sexual harassment, and Fernanda was angry that she was falsely accused of stealing merchandise, and they wanted to teach their manager a lesson. But Carla’s policy is to not simply give out the phone number of the local USDOL office, because she feels most undocumented immigrants need more guidance, and she wants Adelante to be part of the claims-making process. So the women did not end up filing a claim for stolen wages, because Adelante staff was not available to help them when they visited, and they didn’t know they could also go directly to the USDOL to file a complaint.
Bianca, age 48, emigrated from Mexico in 1995 to live with her then husband. She now lives with her boyfriend, one of her two daughters, and one of her three sons in north Wichita.

From 2003 to 2006, Bianca worked for several members of a Hindu family as a domestic housekeeper and babysitter. She was paid $350 a week (1,400 per month) to clean five locations and babysit, working from roughly 9 am to 9 pm, seven days a week. She cleaned the house of the man who hired her (her main employer), and the house of his son and daughter-in-law, and his daughter’s house, and his elderly parent’s house, as well as the office of the small business he owned. Assuming she worked roughly 84 hours per week, she would have been making about $3.33 per hour. The minimum wage at that time was $5.85 per hour. But worse than the wage theft was the egregiously abusive environment in which she was forced to work.

Bianca suffered years of verbal abuse from this family, including being sexually harassed by her employer’s elderly father, who grabbed her hand and asked if they could have “a relationship in secret.” There were times when the family would not allow her to leave the house for days on end, until they said that it was alright for her to go. Many members of the family were addicted to drugs, they would sell large quantities of illegal narcotics, steal cars, and sometimes pay drug addicted homeless people a pittance to collect recyclables for the family’s recycling business.

Bianca endured the worst abuses at the home of her employer’s son and daughter-in-law. One day, while she was babysitting their two girls, they took some money from their parent’s hidden stash and got themselves some carry-out from a nearby restaurant. When they brought the food home, they made a huge mess on the floor around the table where they were eating. Bianca said something to the girls about how she had just cleaned the floor, and now they had gotten it all messy again. The 12-year-old girl got angry, grabbed a box of cereal, then threw cereal all over the kitchen, living room, and bathroom, yelling at Bianca to clean it up. When Bianca said she wouldn’t, since she had just thrown it everywhere on purpose, the little girl grabbed a knife from the kitchen and held it to Bianca’s throat, saying, “I’m going to kill you because I hate you.” Bianca was so shaken she left the house, and went outside to sit on the porch steps. But she didn’t leave because the parent’s had not returned home yet. When the parents

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29 “Hindu” is the term Bianca used to describe the racial-ethnic identity of this family.
came home, Bianca told them, through tears, that their 12-year-old daughter had taken money from somewhere in the house and threatened her with a knife. The mother said her kids weren’t like that. Instead, the mother accused Bianca of taking the money, saying she was the thief. Then the mother told her to get out of there because she wasn’t going to pay her for her time. "How is it that you’re calling me the thief when you are the ones who are not paying me?” Bianca retorted.

She continued working for the family for a few months. One day, when she went to pick up her check, she was told that they didn’t have the money, and she would have to wait until the weekend. She went to the mother-in-law’s house, insisting on being paid. But instead of paying her, the daughter-in-law accused her of stealing $1,500 worth of jewelry and threatened to call the police. “Look at my hands, and the bad shape they are in from working for you all,” Bianca retorted, “and now you’re calling me a thief? … Go search my house. It’s open. My kids are there. You can go. You can call the cops any time you like. I don’t have a cell phone because I don’t have the money to buy one. … How am I going to return your jewelry, if I have never stolen in my life? You all are the real thieves.” This angered the family, and they called the cops. An officer came, asked her a few questions, but never filed a report, since it became clear to him that she hadn’t stolen anything.

What angered and frightened Bianca the most was the thought that she would have been separated from her children if she had been jailed or deported. She couldn’t bear the thought of being separated from her children, simply because her abusive employers would rather falsely accuse her of stealing, than pay her the wages she was owed. This injustice is what finally pushed her to quit working for this abusive family after three years.

In May of 2015, Bianca started working at a small hotel located in the parking lot of a large Wichita hospital. Not long after starting work at the hotel, she was promoted to head of housekeeping. She later hired both of her daughters to work with her cleaning rooms. Due to the hotel’s proximity to the hospital, many of the guests stay there for several days, while visiting family members in the hospital. One day, Bianca’s oldest daughter was cleaning a guest’s room with Rosaria, another undocumented woman who was working as a housekeeper. They happened to be cleaning the room of a 65-year-old African American woman, who was still in the room at the time. Rosaria saw a bag of plastic water bottles sitting
next to the trash, and thinking it was rubbish, put it in the trash. When the guest saw this, she became irate and started yelling insults at Rosaria, saying that the bottles were meant for recycling and weren’t trash. But since Rosaria didn’t understand English, she could neither understand what the irate guest was yelling at her, nor defend herself. Rosaria just stood there looking at the angry, elderly African American woman. But Bianca’s daughter, who was bilingual, began defending Rosaria. She told the guest that it wasn’t right for her to be talking to Rosaria in this way, since she simply didn’t know the bottles were meant for recycling. The elderly woman doubled down on her insults, saying that all Mexican women were “wetback prostitutes” who had no right to be in this country because they were taking away opportunities from people of her race. Bianca’s daughter fought back, with some choice words of her own, then went to find Bianca, who was working on the second floor. When Bianca came down to handle the situation, the elderly woman was still irate, and yelled at Bianca, saying, “You think that because I’m 65 years old I can’t split your face? You illegal wetbacks have no right to be here, so I can do whatever I want to you.” Bianca responded with, “I apologize if my daughter has said some bad words to you. I ask for forgiveness in the name of my daughter, but I don’t think I can forgive you if you are not respecting us.” When the hotel managers found out about the conflict later, they fired Bianca’s eldest daughter for talking back to the guest. Bianca told me how wrong she thought it was that her daughter lost her job, simply for defending her coworker from slanderous insults. “That’s how they humiliate us,” Bianca told me, “and the manager allowed all of this, because the client is right, not us. We don’t have the right to defend ourselves, but the Americans do.”

While working at the hotel, Bianca was making $8.50 per hour, because she was head of housekeeping. She and her four housekeepers didn’t realize they had the right to a 30-minute unpaid lunch break. Instead, they were working through their lunch breaks, but 30 minutes was nonetheless deducted from their paychecks. Bianca didn’t notice this because she wasn’t keeping track of her own hours, but was trusting management and the hotel’s punch clock to accurately record their work hours.

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30 For a discussion of horizontal and diagonal hostility, see the section in this chapter titled “Horizontal Hostility.”
Bianca and her coworkers typically worked 30 to 35 hours per week, but since business in the hotel industry fluctuates during holidays, they sometimes had to put in several hours of overtime. She recalled one week when they were working 12 and a half hours a day, but these overtime hours weren’t showing up on their checks. Their pay stubs showed they had worked 39 or 40 hours that week, but no more. So they weren’t getting paid anything at all for their overtime hours. Since Bianca wasn’t keeping track of her own hours, she didn’t notice this until the amount of overtime lost was large enough to become noticeable.

Bianca related how demanding hotel work could be. Many of the rooms have king and queen size beds, which the women must lift several times to change the sheets and bedding. Lifting heavy mattresses all day can take its toll on their backs, and they often returned home exhausted. Periodically, the rooms must be “deep cleaned” which means every surface must be cleaned, including walls, floors, furniture, air vents, and windows. Bianca came to our interview with a bandage and a homemade split on her middle finger, since she had recently dropped a window pane on it during the last “deep clean.” She also talked about how humiliating it is to have to plunge and clean stopped-up toilets that clients leave overflowing with excrement. “Look what we have to go around doing,” she remarked one day to her daughter when they had to clean a particularly filthy toilet.

So when they realized they were not getting paid anything at all for their overtime hours, Bianca decided to file a claim for stolen wages at Adelante. But before she did so, she spoke with her coworkers about it, and they agreed that it was the right thing to do, even thought all of them, except her oldest daughter, were undocumented. One of her coworkers agreed because she thought it wasn’t right that they were “making the rich richer.” At the time of our interview, the USDOL was still investigating the hotel for wage and hour violations, so I don’t yet know how much money she will be able to recover.

After her deeply traumatic experience working as a domestic and babysitter for a large family, she wasn’t going to allow employers to abuse her any longer. Reflecting back on her experiences working for this family, Bianca asked herself, “Why did I put up with so much humiliation at those jobs? They stole from me. They trampled me. They spit on me. They even accused me of stealing, although I wasn’t a thief. And I put up with it by not saying anything, for fear of what? … I stayed quiet out of fear… [I didn’t
know] what could happen to me. I used to be one of those people who said, ‘No, it’s better that I do nothing.’” But later she realized that, “[If] someone has to stay behind the door, because they are afraid of who knows what, no one is going to pay attention to them.”

**Julia**, age 44, immigrated to the United States in 2005 from Zacatecas, Mexico. She now lives in a middle-class neighborhood with her husband, and two of her three children, and their small dog.

In 2013, Julia worked for just one month at Taco Tico. She got the job through her friend Clara, who I also interviewed and will discuss next. At that time, three people were working there Julia, Clara, and a Latino man, all undocumented. All three were paid minimum wage, $7.25 per hour. Julia said she only worked four hours per day so her checks were small. After working there for two weeks, she was paid without issues. But when it was time for her second paycheck, the check was late. When Julia asked the female Asian franchise owner where her check was, the woman got angry and said she had to pay the other employees first, since they had been working there longer. Evidently, this Taco Tico was struggling and there wasn’t enough money to pay all of their employees. “But I need my money because I have kids and I am paying my expenses,” Julia protested. “Well, that doesn’t matter. I have to pay them first,” the owner replied. Julia decided to quit working at Taco Tico because, as she put it, “No one can work for free.”

Years prior, when her children were in elementary school, Julia attended English classes at her children’s school. In addition to teaching English, they also provided talks on a variety of topics relevant to the lives of immigrant parents. It was there that she learned that as a worker she has the right to reclaim stolen wages, no matter what her immigration status. Knowing this, she and her friend and coworker Clara, went to Adelante to file claims for lost wages. But once there, the WJC coordinator told them it was unlikely they would get their money since they had had problems with Taco Tico in the past, and it was too hard to get them to pay. This franchise owner had been investigated by USDOL and had even been taken to court, but simply refused to pay\(^\text{31}\). Even though Julia and Clara went to Adelante with the intent of filing

\(^{31}\) See Chapter 2 for a discussion of the USDOL’s inability to collect from employers who stubbornly refuse to pay workers.
claims for stolen wages, they didn’t end up starting a case with the USDOL because the WJC coordinator told them there was little chance they would be able to reclaim back wages from Taco Tico.

Although Julia didn’t receive help from Adelante or the USDOL, she went back to Taco Tico and kept insisting to the owner that she needed to get paid. Julia kept insisting on getting paid, even though she hadn’t been there long and hadn’t worked many hours. Finally, a bookkeeper came, calculated her pay, and gave Julia a check for what she was owed.

I was surprised that she was able to resolve the situation on her own, since I have spoken to several women who said that either they or their coworkers were very afraid to file claims for stolen wages for fear of losing their jobs or getting deported. When I asked Julia if filing the claim was difficult for her, she replied, “No, it wasn’t a grave thing. In reality, no, I wasn’t afraid. Well, I wasn’t doing anything wrong,” she chuckled. “I wasn’t afraid because I had heard that there are laws that protect us, no matter your status.” When I asked what her main motivation was for filing the claim, she replied, “It wasn’t really about the money, because it wasn’t a large sum. But, well, [it was] because of the way they abuse us,” meaning the way American business owners take advantage of Spanish-speaking immigrants by not paying them for all their hours.

When I asked Julia why she thought other women in similar situations might be too afraid to come forward with claims for stolen wages, and she offered three ideas. 1) Undocumented women might be afraid that no one will listen or pay attention to them, 2) They might be afraid of upsetting their own husbands, if they doesn’t think filing a claim is a good idea, 3) As Latinas, we think that men are able to do things [like file claims] that we can’t do, suggesting that filing a claim for lost wages is the sort of thing only men do.

Clara, age 45, came to the United States in 2000 from the state of San Luis Potosí, Mexico. She now lives in north Wichita with her husband and two children under the age of 20. Clara had heard about Adelante and the USDOL from a female friend who had experienced wage theft years before she met Julia and started working at Taco Tico. So both women learned about their rights independently.

32 I believe that Julia used the exclusive “we,” not including me in the group of women she’s referring to.
So in 2013, when Clara and Julia were working at Taco Tico together and didn’t receive their paychecks, the two women went to Adelante together to file claims. Clara was owed more money than Julia since she usually worked five or six hours per day. Even though the USDOL wasn’t involved in the Taco Tico indecent, Clara got the phone number to the local USDOL office when she went to Adelante. So when she experienced wage theft again, she knew she could do something about it.

In 2014, Clara found work in the kitchen of a Mexican restaurant close to her house, which is popular with both whites and Hispanics in the area. She was initially promised minimum wage, $7.25 per hour, and she worked eight hours a day, five to six days a week. Clara quickly learned that, “Everyone [there] was terrorized,” by the restaurant owner, who was also a Mexican immigrant woman, but had either legal permanent residency status, or was a new citizen\(^\text{33}\). The owner would not allow her workers to take breaks, sit down, nor eat anything during their 8-hour shifts. The owner would get angry if the kitchen staff would eat any of the restaurant’s food, so the five kitchen workers would sneak food here and there, eating their lunches in hiding when the owner wasn’t looking.

Also, the restaurant owner hadn’t paid her workers anything at all for several months. Even though Clara was promised minimum wage when she started, after the first two weeks, the owner said she wasn’t able to pay her first paychecks. The owner claimed she didn’t have the money just then, but that if she could just hang in there for a little while she would be paid soon. So believing the owner at first, Clara hung in there and continued working eight hours a day, six days a week, without pay.

Since there was no punch clock, Clara and her coworkers would record their hours on little cards, with their names, dates, and hours they had worked. Cleverly, she decided to start taking cell phone pictures of the time cards, so she could keep a record of how much she had worked, even though the owner had forbidden them from making copies of their timecards. Then she downloaded all the photos onto her computer, saved them in a folder, and printed them out. After two months of not getting paid anything at all, Clara walked into the owner’s office and said, “You owe me all of this [money].” The owner agreed to pay, but when she cut Clara a check it was only for some of what she was owed. “No ma’am,”

\(^{33}\) New citizens are immigrants who have gone through the naturalization process, and have legally gained United States citizenship via United States Customs and Immigration Services (USCIS). Clara didn’t know whether the restaurant owner was a legal permanent resident or new citizen.
Clara said, “you have to pay me for all of the time.” Again, the owner claimed she didn’t have the money, but would pay her the rest soon. But Clara didn’t believe her. It didn’t make sense to Clara how the owner could have such financial difficulties when the restaurant was very popular and always full.

When Clara talked about the problem with her four coworkers, she found out that some of them had not been paid for eight months! Since she already had the phone number to USDOL, Clara started trying to convince her undocumented coworkers, two men and two women, to file claims for stolen wages with her. “I told them that it wasn’t right that a Hispanic person (and we were all Hispanics), it wasn’t right that one of our own people was doing this to us,” she said. “It didn’t seem right to me that other people, just because they look at us a certain way, they want to abuse us… and they don’t pay us. And we are like, ‘Okay, okay, these are the miseries that come.’”

According to Clara, many undocumented immigrants, like her coworkers, believe that being verbally terrorized and not being paid for several months are just miseries they must bear as a result of being undocumented immigrants in the United States. According to Clara, three of her coworkers did not want to file claims for stolen wages, even though they were working in slave-like conditions. “She’s not going to pay you,” they said, “She’s going to get angry.” Clara rejected this defeatist attitude, and tried to communicate to them that, “They should feel safe, that they too are important people, and have the right to their pay.” To her male coworkers Clara said, “You are men. You’re family men. You have a responsibility to bring money home. I’m a woman. My husband is the one who brings money to my home. My pay is extra money for the home. My children don’t depend on my income.” She encouraged them to think for themselves and claim their right to recover their wages. Only one of her coworkers, another woman, agreed with her and thought it was a good idea to file claims with the USDOL.

So after three and a half months of working without pay, she decided to file a claim for stolen wages. “When I saw how many months had passed,” she said to herself, “No more. I’m not going to come to work for free because I’m not taking care of my family.” Clara felt that she was neglecting her responsibility, as a mother, to help supplement her husband’s income and contribute to the financial care of her children.

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34 For a discussion of horizontal and diagonal hostility, see the section in this chapter titled “Horizontal Hostility.”
She went directly to the USDOL, instead of going through Adelante. She didn’t like that Adelante asked for a $30 membership fee in order to get help. And since the WJC coordinator at that time wasn’t able to help her with her Taco Tico paychecks, she decided to go directly to the USDOL.

Shortly after she filed the claim, the owner pulled her aside and offered to start paying her wages in secret, if she promised not to quit and not to tell any of the other employees. Clara agreed because she wanted her money, and it didn’t seem right to her that the boss wasn’t paying for her time. So, for a couple of weeks she continued to work, getting paid without the other employees knowing. But soon Clara decided to quit because she could see that filing the claim for stolen wages was going to make things harder for her there. And she had the freedom to quit without fear of poverty because her husband was earning the majority of the household income.

This case is an outlier, in terms of the amount of wages stolen, and the long period of time the owner denied her workers their pay. Clara worked for about four months with only partial payments, and some of her coworkers had been there for eight months without pay. I was shocked to learn that undocumented immigrants in Wichita, KS were laboring in slave-like conditions, not being paid anything for months of work. It remains hard to understand why her coworkers would continue to go to work each day, knowing they weren’t going to get paid. When I asked Clara directly about this, she seemed mystified as well and didn’t have a good answer. But some of the things she said suggest that the owner may have demoralized them by being verbally abusive and overly controlling of their actions, such that the workers no longer believed they deserved to be paid. Perhaps they thought this was just the type of mistreatment they had to put up with because they are undocumented. When I asked about threats to call immigration, Clara admitted that her coworkers were afraid, but she didn’t say the owner was threatening to have them deported. Since Clara no longer has contact with these coworkers, I was unable to interview them myself.

**Paloma**, age 45, immigrated to Wichita from Durango, Mexico in 1995. She now lives in southern Wichita with her husband, and two of her three children. During the day, she takes care of her two young granddaughters, while her oldest son and daughter-in-law work. When I arrived at her house for the
interview, the baby was crying, and I could hear Paloma heating a bottle of milk in the microwave multiple times, to get it just the right temperature.

In 2011, Paloma started working for an American man of Chinese heritage, cleaning his house once a week. The man owned a home in Wichita, which he visited on the weekends. During the week, he lived in Oklahoma, where he owned a real estate management company. Paloma was paid $120 each week for cleaning the house while he was gone. Her husband would go with her in the evenings to clean the house after he got off of work. He would run the vacuum and take out the trash, to keep her company while she worked.35 Together, it would only take them two to three hours to clean the whole house, which probably would have taken her around four hours, if she had been working alone.

But after a while, Paloma’s boss started paying her with bad checks. When she would go to the bank to deposit her check, the money would appear in her account. But after a day or two, the money would be taken back out of her account, because the funds couldn’t be transferred. When she realized the first check was bad, she called the man’s real estate office and asked them to send her another check. They said they would, and Paloma trusted that it was taken care of. But subsequent checks they sent were also bad. Each time, the money would be added and then taken out of her bank account.

This went on for five and half months, with Paloma and her husband continuing to clean the man’s Wichita house, and getting paid in about 22 bounced checks. When Paloma was owed about $2,700 in back wages, she saw a flier somewhere, advertising a free legal clinic at Adelante, back when they sometimes went by the name “Hispanos Unidos,” Hispanics United. At the free legal clinic, Paloma spoke with Carla and an attorney, who told her that she didn’t qualify for help from the USDOL, because she was classified as an independent contractor, not as an employee. She also found out that the man’s real estate business was in bankruptcy, so it was unlikely that she would get paid, since the largest debt holders had frozen his accounts. Since Paloma was owed less than $4,000, she could take the case to small claims court, if she wanted. But there was still no certainty she would get the money she was owed.

35 This practice of helping friends, family, and coworkers complete their work is common in Latin America. It is considered “camaraderie,” camaraderie or similar to what we might call team spirit. It is common for friends, family members, and coworkers to help one another with their work, without expectation to be compensated. One informant told me of a man who worked cleaning a bank at night. If they weren’t busy, his wife, daughter, and son would all go with him to help him clean the bank in one hour, instead of four.
since her boss was in bankruptcy. Paloma stopped working for the man, since he hadn’t paid her in five and half months. And there was no certainty that he would pay her at any point in the future. She didn’t seem to harbor resentment against her boss, even though he owed her a large sum. He was never disrespectful to her, and she hardly ever saw him.

After about a year had passed, Paloma decided to go back to Adelante, to see if anything could be done to reclaim the $2,700 that was owed her. A young man, who was working at Adelante at that time, told her that she could take the case to small claims court, and he would help her file the paperwork. “Well, okay,” she said, “Nobody wins if they don’t try.” Adelante staff helped her fill out the paperwork and begin the small claims proceedings. Then the day before their court hearing, someone from the man’s real estate company called her and said he wanted to pay, and asked how much she was owed. Paloma said, “Okay, but I’m not going to want a check. I’m going to want cash.” So the boss agreed, and he wired her the money. She went and collected $2,700 in cash. So, even though Paloma wasn’t covered by the FLSA since her boss had classified her as an independent contractor, the threat of having to go through small claims proceedings was enough to convince the boss to pay. And apparently, because a year had passed since Paloma first found out he was in bankruptcy, enough time had passed for him to have the funds to pay her.

After the boss paid Paloma what she was owed, he asked her to come back to work for him, and offered to give her a $10 per week raise, for a total of $130 each week. “Are you going to pay me?” she asked. He claimed that the only reason he didn’t pay her before was because he wasn’t able to. So Paloma agreed to work for him again. When I asked why she agreed to go back to work for the man who failed to pay her for so long, she laughed and explained that, “Each of us deserves a second chance.” She went back to work for him for an additional year.

But after a while, she wanted to be put on payroll, because she realized that as an independent contractor she was not covered by a host of worker protections afforded employees. But when Paloma asked to be put on payroll, he said no. He couldn’t do that unless she was willing to accept $60 a week,

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36 Employees are covered by the FLSA, and are also ideally entitled to worker’s compensation, should they be injured on the job.
less than half of what she was getting. Paloma counter offered, saying she would be willing to take $100 a week, if he would put her on payroll. When he said no, she decided to quit. Paloma later admitted she didn’t want to accept lower pay “because it would have been like going backward.”

Unlike some of my other informants, Paloma was not experiencing verbal abuse from her boss. Nor was she angered and motivated to file the claim after some episode where he falsely accused her or insulted her. She appears to have been driven to file the claim for stolen wages by the sheer sum that she was owed. He owed her so much money that she thought it was worth the trouble to try to reclaim it.

**Lucia**, age 48, immigrated to Wichita in 2005 from Durango, Mexico. She has three children, who are all grown, and six adored grandchildren. Lucia is responsible for feeding a large family since she lives with her husband, her mother, her brother, and one of her grandchildren. Now that she’s not working, she also cares for at least three of her grandchildren during the day, while her grown children are at work. This means that much of her time is taken up with the domestic tasks of grocery shopping, preparing meals, changing diapers, comforting cryers, cleaning up after messy hands, and doing laundry. Lucia admits that she is running all the time. Women who have this much domestic work, have little time left over to go to Adelante to work on claims for labor abuses.

Lucia had been working for several years at a laundromat near her house when it was sold to new owners from Washington state in 2014. The owner, an El Salvadorian immigrant, put his 20-something daughter in charge as the manager. She was responsible for running all aspects of the business. Under the previous owner, Lucia was paid minimum wage, $7.25 per hour. But the new, young manager started paying her just $7 per hour, and in cash. When Lucia asked why she was making less and getting paid in cash, the manager said that the business “wasn’t registered yet” to pay with checks. The manager’s justification for the 25¢ pay decrease was that Lucia would have been taking home less than $7.25

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37 This is likely untrue since there is no need for a business to “register” in order to pay workers with checks. Businesses are legally obligated to report the number of employees they have by submitting W-4 forms, but this has nothing to do with checking accounts or the way in which employees are paid. The manager might have meant that they didn’t have a bank account setup yet. Or she might have meant that this new business didn’t have an Employer Identification Number yet, but this would not have prevented them from paying employees with checks. It seems much more likely that the owners wanted to pay cash so they could avoid payroll taxes.
anyway, if payroll taxes were taken out. So even though she didn’t like it, Lucia agreed and continued working for the new owners for three months at $7 per hour.

Lucia was also not getting paid correct overtime. She didn’t work a fixed schedule, but said she usually worked from 4 pm to 11 pm, and sometimes 1 pm to 11 pm, six or seven days a week, depending on when the manager would call her in to work. Based on these estimates, she was likely working between 42 to 51 hours per week. And she was only receiving $7 per hour for the hours over 40 per week, so she wasn’t getting paid correct overtime compensation.

In addition, Lucia said her cash payments were always short. At first, the manager would simply round her hours down to the nearest hour. So if she had come in at 2:30 pm, the manager would round down those 30 minutes, as if she had come in at 3 pm. Gradually, the amount of money missing from her cash payments grew, until one of her last payments was short $150, which would have been about half a week’s work. Occasionally, Lucia would see one of her coworkers who worked the morning shift. The coworker would ask Lucia if she also was missing hours. The coworker commented that they were not getting paid all their hours, but did not propose any action. When Lucia would mention the missing money to the manager, she would respond with a deferment tactic, saying, “I’ll check on it later,” but never did.

In addition, the manager said that sometimes she felt lazy and doesn’t want to cook after work. So she asked Lucia to come cook at her home, offering to pay her regular rate of $7 per hour. So three times Lucia went to the manager’s house to cook dinner for her. The meal prep took about two hours each time, so Lucia should have received an additional $42 dollars. But she was never paid for the six hours she spent cooking at the manager’s home.

It wasn’t until Lucia was injured on the job that she became angry enough to file a claim for stolen wages. Lucia explained that several times a day the washing machines would throw out water onto the floor. Sometimes customers would leave trash or plastic bags in their laundry, so the drainage tubes would get jammed, and the water reservoirs would overflow, spilling water out onto the floor. This meant that Lucia would have to mop up the water several times a day. But the mop bucket was old. The wheels had rusted to the point where they would no longer roll. So each time she had to empty the mop bucket, she had to pick it up, while filled with water. She told the manager several times that the mop bucket
needed to be replaced, but the manager just told her to put oil on the wheels. One day, when she went to
lift the rusty mop bucket filled with water, she felt something pop in her back, then came a tremendous
amount of pain. She later found out that she had two herniated discs in her lower back. But Lucia
continued working for two weeks, even though “…it felt like the pain of childbirth.” “I felt bad,” Lucia told
me, “I could hardly walk.” But she went on like this because she didn’t want to lose her job. She continued
to work until one day she realized she was “almost crawling on her feet.”

Finally, Lucia found the courage to tell the manager what she thought. Undoubtedly fueled by the
pain, Lucia got angry about all of the low pay, the unpaid hours, and the times she had cooked for free at
the manager’s house. “I complained about all of this. I told her it wasn’t right. … When these strong
feelings grabbed ahold of me, I told her to her face, ‘One tries to navigate their way through life [as best
as they can], and it’s hard enough without you all doing this. It’s just not right.’” But not long after saying
this, she started to have second thoughts, because she didn’t want to lose her job. The manager
eventually did fire Lucia, but not because of anything she said. The manager fired her because her back
injury was causing her to work so slowly that she wasn’t finishing all of her work on time. When I asked
Lucia, why she continued to work for those last two week, even though she was in so much pain, she said
she didn’t want to lose her job. Continuing to work with two herniated discs, and possibly some strained
muscles, likely made her condition worse and slowed her recovery.

Lucia’s best friend Alicia, also one of my informants, urged her to go to Adelante and file claims for
wage theft and worker’s compensation. After her accident, Lucia didn’t want to file any claims against her
previous employer. “Everything is in the power of God,” Lucia told her friend, saying that she would rather
leave it up to God. But Alicia, who firmly believed that undocumented immigrants have rights as workers,
argued, “No, no, no. Don’t leave everything up to God. You need to go [file a claim], because [if you don’t]
the bosses are going to get used to doing what they do. … They were stealing your wages… [and] this
injury is going to last your whole life.” So finally, Lucia agreed, and the two women went together to
Adelante to file two claims, wage theft and worker’s compensation.

But unfortunately, neither the USDOL nor OSHA were able to help Lucia. As you will recall from
Chapter 1, businesses are covered by the FLSA if they engage in interstate commerce, or do more than
$500,000 in annual gross sales. Although most laundromats do not make products that are shipped out of state, Lucia was in charge of handling “envious de dinero,” monetary remittances to client’s family members in their home countries. These money transfers would have qualified as interstate transactions. But unfortunately, the laundromat did not report more than $500,000 in annual gross sales, so Lucia did not qualify for protections under the FLSA and the help of USDOL.

Unfortunately, Adelante also wasn’t able to help her get worker’s compensation for her injury because the laundromat didn’t carry worker’s compensation insurance during the time of her injury. In the state of Kansas, employers are not required to purchase worker’s compensation insurance if they payout less than $20,000 in gross annual payroll. For certain types of businesses, the amount paid to family members who work for the business is not included in the gross annual payroll (Kansas Department of Labor 2016). Adelante put Lucia in contact with one of their partner attorneys, who contacted the laundromat owner and verified that their reported payroll was less than $20,000 per year. It could have been that because the El Salvadorian immigrant owner had just purchased the business that same year, not enough time had passed for them to reach the legal payroll threshold. And since they were paying their employees in cash, I doubt that they were accurately reporting their payroll numbers to the government. Either way, since the laundromat didn’t have worker’s compensation insurance and they were not willing to pay her out of pocket, Lucia was left strapped with medical bills that she couldn’t afford to pay. Unfortunately, millions of workers across the country, both citizen and undocumented workers alike, slip through the cracks in federal and state labor laws. They are not afforded basic labor protections because they work for small businesses or exempt industries. To this day, Lucia remains unemployed. She is afraid to go back to work because she fears that she might re-injure her back and her pain will become worse.

Andrea, age 42, immigrated to Ohio in 2008, with her husband and daughters, then moved to Wichita in 2011. She has since moved out of state and lives with her husband and two of her three daughters.

In 2011, Andrea started working as an office clerk for a transportation company that offered busses to Mexico. The company was owned by a Hispanic man, who ran the company from its headquarters in Texas. The owner’s brother managed the Wichita location. When Andrea was hired, she was offered $300
per week, paid in cash, but was promised a raise after two months, if they liked her work. Initially, she was only expected to work weekdays and Saturdays, but soon the manager started expecting her to work on Sundays, and stay late on Saturdays, without any increase in pay. Based on the hours she provided, Andrea was likely working about 53 hours per week. And at the flat rate of $300 per week, this would have worked out to $5.66 per hour. However, Andrea wasn’t thinking about her pay in terms of hours. She knew that this was low pay, but since she was paid one lump sum per week, and in cash, she wasn’t thinking in terms of dollars per hour, and thus didn’t realize how little she was making per hour. Plus, she was expecting a raise after two months.

When two months passed, Andrea asked her manager, the brother of the owner, about the raise he promised her when she was hired. But when she approached him about the topic, he would use a deferment strategy to avoid addressing the issue. Eventually, he said he needed a month to think about it. In the meantime, Andrea learned that “he was not a person with good upbringing.” She described him as “one of those people who didn’t talk, he screamed.” He was always getting angry at the employees, yelling, insulting, or mocking them. Andrea said that during the first three months she tried to quit twice. Reflecting back on it, she wasn’t sure why she stayed.

After six months had passed, she asked her manager again about the raise that she was supposed to receive after two months. The whole time she was making $300 per week, working seven days a week, and putting up with verbal abuse from the manager. Instead of saying yes or no to her raise, “The only thing he did was make fun of me, with an ironic smile, like a clinical smile.” That’s when Andrea realized her manager had no intention of having a real conversation about her wages.

Not long after this, Andrea and the manager got into an argument over a passenger’s fare. The company had a policy that a customer’s fourth trip was free. So Andrea booked a customer on a bus en route to Mexico at no cost. But the manager became irate because the free trip was on a bus with a bathroom, and he felt it should have been on a bus without a bathroom. According to Andrea, he yelled at her “with very strong words.” She said to him, “Don’t scream at me. Simply explain it to me.” But he appeared to be unable to communicate in any way other than this aggressive communication style. Afterward, Andrea waited a while until she saw that he had calmed down a bit, then she approached him
saying, “If you’re not okay with my work, tell me. It’s not inconvenient for me to quit this job. This doesn’t scare me.” Andrea is the only employee I interviewed who said she had threatened to quit as leverage against an abusive employer. Most of my informants have expressed a great deal of fear associated with the loss of employment. By revealing that she wasn’t afraid to quit at any time, she made it clear that he couldn’t push her around too much.

A few days after this, the manager called her and said that he had hired someone to replace her, and he expected her to train her replacement. This is when Andrea decided to quit. When she told me her reasons for leaving the job, she spent a lot more time talking about the verbal abuse and lack of respect from her manager, than the wage theft. The reasons she gave were, 1) he was not responsible, 2) he didn’t have the words to talk with you (“[E]l no tiene palabra de hablar con uno”), meaning he didn’t speak respectfully, 3) he expected a lot, and lastly, 4) he didn’t respect the agreements they had made, including the agreement to give her a raise.

Reflecting back on the experience, she described it as “one of those things that God allows to happen.” She admitted that she was a little afraid to quit her job. Even though her husband was working in roofing at the time, he wasn’t making much money due to seasonal fluctuations in business. Despite her husband’s low income, she wasn’t afraid to quit, because, as she put it, “I have always been one of those people that God has blessed. … If you have to leave your job, it’s because God is going to bless you with something better.” This optimistic attitude, and belief in a benevolent God, gave her the courage to stand up to her abusive boss, despite her undocumented status.

After Andrea quit her job, and the family had to survive on her husband’s earnings alone, they had just $18 at the end of the week, after all the bills were paid. So Andrea went to the Open Door, a food, clothing, and shelter program run by the United Methodist Church. A Spanish-speaking woman was working at Open Door that day and listened to Andrea’s story. It was the woman at Open Door who told Andrea that she could reclaim her stolen wages at Adelante, through the USDOL. Andrea was surprised to learn that she had the right to her back wages. “I didn’t have any idea,” she admitted, “that an undocumented person could do this. … We always are afraid that, um, they will threaten us…” She hesitated, searching for words. “…well, for being illegals.” Andrea, like millions of undocumented
immigrants, have no idea that as workers they have rights, and are entitled to the services of certain government agencies.

After speaking with the Open Door staff person, Andrea went home and told her husband what she had learned. Her husband was skeptical, saying, “Well, you’re going to fight with this company that has all of these years in business, and has all of this money? Don’t forget that you’re undocumented, and in the best case scenario you’ll lose,” implying that, in the worst case scenario, she could get arrested, detained, or deported. Andrea remained undaunted, and responded, “If I don’t take the risk, I’ll never know.”

With the help of Adelante and the USDOL, Andrea was able to recover all of her back wages, which included what she should have been paid if she had been making minimum wage, and correct overtime compensation for the hours she worked over 40 per week. The WHD was able to reclaim $5,266 for Andrea in just two weeks. Instead of conducting a full investigation, and interviewing all of the bus company’s employees, the WHD used the conciliations method, which consisted of a phone call asking for wages for a specific employee. If the employer agrees to pay after just one phone call, then cases can be resolved quickly. Andrea attributed her success to her positive attitude and blessings from God.

**Amelia**, age 42, came to the United States from El Salvador in 2008 as a legal permanent resident. As the youngest child in the family, she had older brothers and sisters who emigrated to the United States when she was just a year and a half old. Years later, when one of her older sisters got married and became a United States citizen, she was able to petition for Amelia to gain legal permanent residency in the United States. The whole process took 14 years, and Amelia was able to legally immigrate with her husband and two children when she was 34 years old. Amelia is the only one of the Spanish-speaking immigrant women, who I interviewed on wage theft, who had legal residency status. She also was the only informant with a high school education from her home country, and a professional career. Amelia was trained as an accountant and worked in an accounting office before emigrating to the United States.

When Amelia first arrived, she didn’t speak any English, so she couldn’t apply for jobs in accounting. Instead, she got a job working at a Chinese restaurant. She found this job through some friends who were working there. The owners paid her $600 in cash every two weeks, which worked out to just $5 per hour
after her 60 hour work week. She was getting paid much less than the minimum wage, working long hours, and not receiving correct overtime compensation. She took the job, even though she believed that Chinese restaurant owners normally exploit their workers. At first, Amelia didn’t realize how little she was making. Several informants have explained to me that when they first arrived in the United States, which has a different currency and a different inflation rate than their home country, they often don’t understand what the purchasing power of their earnings will be until they have spent some time here. And because wages in many Latin American countries are so low, new immigrants believe that even $5 per hour is good pay, relative to wages back home. Amelia did not complain to me about the low wages at the Chinese restaurant. Instead, she focused on her desire to benefit from social security savings, and the unfairly differential way in which the restaurant managers and owners treated their undocumented workers.

During her first few months at the Chinese restaurant, Amelia discovered that there was a significant difference in the way the owners treated her, as a legal permanent resident, and the other employees, who were undocumented immigrants. When her undocumented coworkers got sick, they weren’t allowed to take time off to see the doctor. But when she got sick and asked for time off, she got it. When she asked her coworkers how this could be, one responded, “They didn’t give me permission. That’s how it is here.” Amelia felt this differential treatment was unfair, but since she got along well with both the owners and her coworkers, so she didn’t make a big deal out of it.

After working at the restaurant for six months, Amelia decided she wanted to be paid by check rather than cash, so that she could have social security taken out. Both legal permanent residents and undocumented workers can have social security taxes withheld from their paychecks, but only citizens

38 For a discussion of horizontal and diagonal hostility, see the section in this chapter titled “Horizontal Hostility.”

39 Purchasing power refers to the amount of goods and services that a unit of currency can buy.

40 One of my informants revealed that women working as seamstresses for clothing manufacturers in Mexico are typically paid around 800 pesos per week. In 2016, this equates to about $46 US dollars per week or $184 dollars per month. By comparison, a worker in the United States who makes just $5 per hour, over a 40 hour work week, would earn about $200 per week or $800 per month before taxes. A worker making minimum wage, $7.25 per hour over a 40 hour work week, would earn $290 per week or $1,160 per month.
and legal permanent residents are entitled to draw on those benefits later in life (Goss et al. 2013). When Amelia realized she had the right to social security benefits, she went to the owners and insisted she be paid by check and have the appropriate taxes withheld. This is when she started to realize how little she was making, just $5 per hour. And when she spoke with her coworkers about it, she realized many of them had been working there for eight years making the same amount. After Amelia insisted, the owners put her on payroll, and gave her a raise to $700 every two weeks. But even with this raise, working 60 hours per week, Amelia would have only been making $5.83 per hour. In our interview, she did not seem concerned that she was making less than minimum wage. She was much more interested in collecting social security for her future retirement. In order to receive the raise and keep her job, the owners made Amelia sign a document in English, which she couldn’t read. The documents said that she would be paid partly by check, and partly in cash, but for sums less than what she was actually being paid. When she took the letter home to have her nephew translate it for her, he was surprised that she had signed it. But since she got along well with the owners and her coworkers, she continued working there for three and a half more years.

After four years at the restaurant, Amelia decided to apply for a job at a hotel in downtown Wichita. She was drawn to the hotel because the building was so beautiful. She was hired at $7.25 per hour, and the number of hours per week fluctuated, depending on the seasons and number of guests. When she first started working there, the female Spanish-speaking supervisor took a real liking to her, because she has a lot of personality, social capital, and was a great worker. The supervisor treated her more like a peer than a housekeeper, trusted her with more responsibility, and treated her better than the other undocumented women working there. At first, she really liked her supervisor and they got along great. But soon, she began to see how “two-faced” the supervisor was. Amelia began to see how badly the supervisor was treating the undocumented women who were working under her. The supervisor was always yelling at other women, sometimes with harsh and offensive words, pushing them to work harder and longer. Amelia remembered two pregnant housekeepers, one was seven months pregnant, who were made to “deep clean” rooms, which meant they had to lift heavy windows for cleaning, in addition to lifting heavy mattresses multiple times daily. When one of her coworkers had a death in the family, they were
not allowed time off to attend the funeral. When Amelia saw the supervisor yelling at her undocumented coworkers, she said to herself, “How can I permit this?”

Amelia started talking to her coworkers, telling them they should not allow this kind of verbal abuse. She organized a meeting with all of the housekeepers and the white female manager, above the supervisor. Since Amelia didn’t speak English, she got one of the bilingual employees to act as translator. She told me that during the meeting “Everyone was too afraid to talk to this white woman.” So Amelia started telling the manager about all the problems they were having with their supervisor, through an interpreter. The manager seemed surprised and said she would try to get better control of the supervisor.

But according to Amelia, the meeting had no effect. Instead, the mistreatment got worse. The supervisor would yell at them for complaining about the work, accuse them of not wanting to do their work, and punish them by making them clean bathroom floors without a mop, on their hands and knees. Amelia felt that this kind of humiliation was wrong, but her hands were tied, and she didn’t know what she could do to defend her coworkers.

But instead of reflecting on their common struggles as immigrants, tensions between the supervisor and housekeepers began to mount. As the treatment got worse, the housekeepers became more obstinate and argumentative, pushing back against the supervisor’s mandates. One morning, when everyone was clocking in, there was a screaming match between several workers and the supervisor. By this time the women were getting tired of being treated so poorly. The argument ended in tears for several of them. Amelia felt that the mistreatment was particularly unjust because the supervisor was from the same country as her coworkers, Mexico. “How is it possible that you treat them [like this] when they are from your same country?” Amelia began saying to the supervisor. But her appeals for national solidarity had no effect.

Amelia lost the preferential treatment she had enjoyed when she first started working at the hotel, back when she was still in the supervisor’s good graces. One day, the supervisor called all of the housekeepers, except for Amelia, and told them not to come into work that day. So when Amelia showed
up, she had to clean 48 rooms all by herself. This was the supervisor’s way of punishing her for standing up for her coworkers, and an attempt to silence her with crushing amounts of work. Amelia managed to clean all 48 rooms by herself, working from that morning until 8 pm that night. “I haven’t forgotten this,” she said, “because [after] this day, I couldn’t even lift my back for several days.”

After this incident, Amelia filed a formal complaint at the hotel against the supervisor. The complaint that she filed was for abusive treatment on the part of the manager, not wage theft. When she did so, she also put the names of her coworkers on the form, so that they could corroborate her story. But her coworkers didn’t want to add their testimony to her complaint. “They were afraid to talk,” Amelia explained, “because one of them said that … they could deport her. She was really worried. And the others didn’t want to be responsible if she was deported.” It should be borne in mind that for immigrants with families, deportation means separation from children, husbands, and other family members and loved ones, with no guarantee of reunion. So Amelia’s inter-company complaint was closed without any favorable results, because her coworkers were too afraid to complain about the verbal abuse and mistreatment they had received from their supervisor. When Amelia spoke with her coworkers, they said, “You can leave here anytime. Why do you put up with it? Don’t defend us, get out of here. You can find work anywhere, but we can’t.” Her coworkers were afraid to file a complaint with the hotel about their supervisor because they were both scared of losing their jobs, since they have limited access to the labor market, and at least one of them was afraid of being deported as a result of filing a complaint. At one point, Amelia wished she could denounce her residency status, and put herself in their shoes because, for her, it was easy to say they should defend themselves.

After three years of working at the hotel, Amelia was fired. When she asked why, she was told that, “We don’t have to give you a reason here.” Kansas is an “employment at will” state. As in many other states, employers can fire a worker who is not under contract at any time, as long as the termination is not motivated by age, gender, race, national origin, or religion, and they can do so without providing a reason (Hondagneu-Sotelo 2007:266). However, since Amelia was most likely fired because of the complaint she had filed against her supervisor, she probably could have filed a wrongful termination suit, if she had known about her right to do so.
Amelia said that the timing of her firing was especially troubling because she was fired on her son’s birthday and her son was in need of an eye operation. So at that time, she needed the money to pay for his operation. But since she was fired, she and her husband weren’t sure how they could afford their son’s operation. After being fired, Amelia said she fell into a depression, partly because they needed money for her son’s operation, partly because of all the verbal abuse and crying she witnessed at work on a daily basis. In her home country, El Salvador, Amelia was a well-respected member of the community. She was a benefactor to less fortunate families, she was active in the community, and spoke at rallies for social causes. “In my country, I was somebody… but here you’re nobody.” Even though she came from a loving, stable home, and she felt “psychologically prepared for anything,” she found herself depressed and experienced a loss of self-esteem.

At the hotel, Amelia and her coworkers were paid $7.25 per hour, but they weren’t paid correct overtime for the weeks they worked more than 40 hours. They also worked through their 30-minute lunch breaks, even though this time was deducted from their paychecks. Amelia could have filed a complaint of stolen wages. But she never did so, because at that time she didn’t know she had the right to, and hadn’t heard of Adelante or the USDOL.

Juana, age 50, immigrated to the United States in 1990 from rural Mexico. She now lives on the west side of Wichita with her husband and the youngest of her five children. All three of her grandchildren were playing outside during our interview. Since her husband needed her to bring some supplies to his job site, we ended up conducting the interview at her husband’s job site, on the steps of a residential home where he was dry walling.

Juana worked for 15 years cleaning an office building for her boss, an African American man who owned a commercial cleaning service. Her boss would contract cleaning services with building owners, and find cleaning staff to do the work. He operated this business from his home, calling his staff to let them know when a new building needed cleaning. Thanks to capitalism’s emphasis on lowering costs to maximize profits, contractors and subcontractors must submit the lowest bid in order to win contracts, then “squeeze the workers to make [a] profit” (Hu-DeHart 2007:477; Bobo 2011:112–113). In addition,
most cleaning contracts are written to charge a fixed amount each month, so that building and business owners can keep their costs predictable from month to month. This means that cleaning staff, like Juana, often work on a fixed schedule, cleaning the same hours each week. Juana was supposed to clean a large office building four hours a day, four days a week. On Wednesdays, she could clean for five hours, resulting in a 21 hour work week. Juana was paid $8.50 per hour, but if, for some reason, the building took longer to clean than usual, she was not paid for the time she worked in excess of 21 hours. She was paid every two weeks, usually with personal checks, sometimes in cash, but always on the 5th and 20th of each month.

Juana worked for this employer for 15 years, and for the most part, she was paid for her 21 hours of work. But occasionally her paychecks were two or three hours short, if she had to spend extra time cleaning. This might happen if there was an unusually large mess or carpet stains that needed be worked out, for example. She didn’t say anything to her boss about the unpaid hours because she worked so few hours a week that she didn’t consider the amount of stolen wages to be much.

Since Juana’s boss didn’t have a business office, she hardly ever saw him. She would just go to clean her designated office building every weekday, and he would usually pay her with checks in the mail. She only saw the other people who worked for her boss, cleaning other locations, once in 15 years. One time, he called a short meeting with all his employees, when he was thinking about establishing an office somewhere. He ultimately decided not to rent an office and continued running the business from his home. This meant that Juana worked alone, and didn’t have any coworkers with whom she could discuss wage theft or other problems they might have encountered with their employer. It also meant there was no punch clock that kept track of the hours Juana was working, nor did she keep track of her own hours. She just knew the hours she was supposed to work, and she would go to the building and clean during that time.

One month in 2015, Juana’s boss didn’t send her a check on the 5th. Then when the next paycheck was supposed to come on the 20th, she didn’t receive that check either. So she called her boss to find out why she wasn’t getting paid. Instead of apologizing for the missing paychecks, he started screaming at her, “How can I pay you if my clients aren’t paying me?!” When Juana complained that she needed her
paychecks in order to pay her bills, and asked how long it would be before he could pay her again, he accused her of not working all of the 21 hours per week she was supposed to work. According to Juana, her boss said, “No, because I’m just realizing how you have been stealing from me.” “How have I been stealing from you?” Juana argued, “If you want, you can come with me and see that I am working the hours that I say I’ve been working.” That’s when Juana decided to quit. She was angry that her boss had falsely accused her of not working all her hours, and he made no promises of being able to pay her in the future.

Juana’s husband overheard her boss yelling at her on the phone, and advised her, “Don’t stress about him yelling at you. Just quit and find another job.” “¡Ay! But I need the work,” Juana replied. She was hesitant to quit her job, because her family budget was tight, even though her husband was working at the time. When she wasn’t paid her last two paychecks, she had to put the water bill and the electricity bill on a credit card. Like several women I have spoken to, Juana didn’t want to lose her job, because she believed that it would be hard to find another one. Since quitting her job, she has remained unemployed for a year and a half, which she considers a problem. She would rather be working and contributing money to the household, but she hasn’t found anything yet. Her husband may have perceived work as easier to find since men working in construction often have multiple revenue streams, and it is relatively easy for them to pick up side jobs (Sanidad 2011:84–85).

Reflecting back on the experience, Juana admitted that she suspected her boss was paying his other employees, who were African American like him, with the little money he had. She thought that he probably wasn’t paying her because he found out that she’s undocumented, and he thought she wouldn’t complain because of her immigration status. “Well, my immigration situation means that I can’t do anything,” Juana confessed to me, meaning she too thought she had no right to recourse due to her status. But later in the conversation, she remembered that she had heard at her church that she had the right to reclaim her pay, but she thought that recovering stolen wages required the help of an attorney, which she couldn’t afford. So she didn’t give this option much thought. Juana never filed a claim for stolen wages for her last two paychecks because she wasn’t aware that she could do so at Adelante, and she didn’t have an accurate picture of what the claims-making process entailed.
Women’s Agency in the Face of Wage Theft

The undocumented Spanish-speaking immigrants with whom I spoke demonstrated remarkable agency in filing their claims for wage theft, despite the many barriers that might have prevented them from doing so. Several of the women I spoke to bravely pushed aside fear of furious managers/owners, losing their jobs, not being able to support their children, possible deportation, the disapproval of coworkers and husbands, the prospect of lengthy delays, and the fear that no one would listen to them or take them seriously. Some of the women I spoke to were able to stand up to their abusive employers and managers, despite significant asymmetries of power that existed between them. They summoned their courage, despite the fact that many Hispanic women are not accustomed to expressing criticisms directly to superior’s faces (Hondagneu-Sotelo 2007:129).

One example comes from Clara, who cleverly decided to start taking cell phone pictures of her timecards when the restaurant owner claimed she didn’t have enough money to pay her workers. Clara confidently confronted the owner saying, “You owe me all of this [money].” The owner agreed to pay, but when she cut Clara a check, it was only for some of what she was owed. “No ma’am,” Clara said, “you have to pay me for all of the time.” Clara rejected the notion that she and her undocumented coworkers should have to accept wage theft and poor working conditions, simply because they are undocumented.

“I’m not ashamed either,” Clara said about standing up to her boss. “Really, I’d say that I’m proud because, for me, I [usually] don’t go around trying to get into problems…. What I did was just to give [my coworkers] a little push.” Like several of my informants, Clara admitted that she normally does not like to go around getting into arguments, but she felt proud that she was brave enough to confront her boss, file the claim for stolen wages, and be a role model to her fellow workers.

Similarly, Alicia kept her own records of her work hours in a little booklet that she carried in her purse. She wrote down the date, times she started and ended work, and when she took lunch breaks. So when she was only paid part of what she was owed, she knew exactly how much the business owed her. Alicia bravely confronted her Spanish-speaking manager about her missing paycheck, and continued to insist on payment even when the manager countered with a vague threat to call immigration. Alicia showed so
much tenacity that she managed to recover most of her last paycheck herself, even before she went to Adelante to complaint that the owner still hadn’t paid her for six and a half hours of work. When reflecting back on the risks that she had taken, she revealed, “I’m not the type of person who gets into fights or arguments. … But there are times when one should not stay silent. Sometimes the moment arrives when one has to speak up and say something, even if this means one has to fight a little bit,” Alicia said with a short laugh.

Alicia managed to recover most of her last paycheck herself by going directly to the white male owner of the bakery, with the help of her bilingual sister-in-law who gave her a ride to the business office and translated for her. Once there, she spoke with the white, male owner of the bakery directly. When she arrived, she introduced herself, explained the situation and asked for her paycheck. She was surprised when he immediately handed her an envelope. “Wow!” she said smiling, “Well, how great! I was happy. I left with my sister-in-law, we went out with her friends, and I bought them some cookies.” But when Alicia eventually opened the envelope a couple of hours later, she found the check was only for about half of what she was owed. They still owed her about 38 hours worth of work. So she went back to the office and confronted the owner again, told him that she wasn’t paid everything, and showed him her time booklet as proof of what she was owed. Considering the asymmetries of power that exist between an undocumented Spanish-speaking immigrant woman and a white, male business owner, this was quite the act of bravery.

Alicia, like several of my informants who filed claims for stolen wages, distinguished herself from other undocumented immigrants who are too afraid to come forward and file claims for labor abuses. The key difference for her was that her human dignity and self-respect was more important than the fear of consequences associated with claims-making. Upon reflection, Alicia remarked, “I hear from a lot of people, a lot of Latinos who say, ‘You have to put up with everything. You have to put up with [the fact that] they humiliate you, they scream at you. You have to put up with [the fact that] they give you the work that nobody else wants to do.’ I hear this a lot among Latinos.” But when I asked her why she was different, why she was able to confront her Spanish-speaking manager and white, male business owner she said, “I believe that all humans, as persons, have dignity and morals and value. And it’s this value, more than anything, that each person has to maintain. Each person has to maintain their value and each
person has to maintain their self-respect.” Similar to several of my informants, Alicia felt that filing the claim for stolen wages was more about defending her personal dignity and worth, rather than reclaiming a certain amount of money. It should be pointed out that Alicia is not married and has no children, so she may have felt more free to defend her personal dignity, knowing that she has no one else to financially support other than herself.

Amelia, similarly, wanted to distinguish herself from other immigrants who think they must tolerate labor abuses. Amelia is a legal permanent resident, and thus has a protected status that her undocumented coworkers did not enjoy. However many people, citizen and undocumented alike, box themselves into work situations that are detrimental. Many workers regardless of status, tolerate labor abuses because they feel they must. Amelia knew she could not continue to work in an environment that was bad for her emotional health. She wanted to distinguish herself from those who do not choose to escape harmful work situations. “There is so much injustice happening. But also the majority of people permit it to continue happening… So I said to myself, ‘Not me!’ … ‘I’m not going to let anyone demoralize me. I’m not going to allow myself to fall. … I’m not going to allow myself to think that I made a mistake in coming to this country.’ So [that’s when] I started to look for work in construction.” After getting fired from her job at the hotel, Alicia pulled herself out of a short-term depression. She began working to make her life better, by looking for work in the construction industry, where she would be respected and could earn $24 per hour.

Other examples of agency come from Andrea, who bravely confronted her manager about his verbal abuse, unfair working conditions, and low pay. Andrea stood up to her manager, who mocked her when she asked for a raise and wage regularly verbally abusive. She told him not to scream at her and to explain what he didn’t like about her work in respectful tones. She also let him know that he couldn’t push her around because she didn’t have any hesitations to quit her job, thus diminishing his power over her. Andrea quit when her manager said he had hired a replacement and he expected her to train the new worker. Like Alicia, Andrea decided to leave her job and file a claim for stolen wage because her manager was not responsible and not respectful. Thus, the lack of respect afforded by her manager was far more important to Andrea than the $5,266 she was owed.
Those women who demonstrated the most agency were not necessarily those with the least to lose. Both Andrea and Amelia were supporting their children and really needed the income when they quit or lost their jobs. Andrea had to go to Open Door asking for assistance, and Amelia needed money for her son’s eye operation. Both women reached a threshold at which they were no longer willing to tolerate labor abuses. As will be discussed shortly, both women were spurred by catalytic events which motivated them to risk their jobs and identities as providing mothers in order to preserve personal dignity and assert their rights as workers who contribute to the United States economy.

**Horizontal Hostility**

As is evident from the above summaries of immigrant women who experienced wage theft the majority of them experienced some form of hostility or discrimination from other racial-ethnic minorities, such as African-Americans, Asian-Americans, Mexican-Americans, Hispanic citizens, and Hispanic legal permanent residents or new citizens. Although it may be tempting to categorize discrimination and conflict between various racial-ethnic minorities as horizontal hostility, I argue that these relationships are not horizontal when one party is undocumented and the other is not. Thus, hostility that arises between African-Americans and undocumented Spanish-speaking immigrants, for example, should not be considered horizontal hostility since they do not share “approximately equal status and possessing approximately equal power” (O’Connor 1990:87). The social distance between undocumented Spanish-speaking immigrants and other racial-ethnic minorities who enjoy either citizenship or legal residency status is so great that these should not be considered horizontal relationships. Based on her research

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42 I refer to Asian-Americans as persons of Asian ancestry, but who were born in the United States. These persons are the descendants of previous waves of immigrants.

43 Following O’Connor (1990), I refer to Mexican-Americans as persons of Mexican heritage who were born in the United States (O’Connor 1990:97). Mexican-Americans enjoy US citizenship.

44 I refer to Hispanic citizens as persons of Hispanic descent, but who were born in the United States. These Hispanic citizens may, or may not, speak Spanish, and are the descendants of previous waves of immigrants.

45 New citizens are immigrants who have gone through the naturalization process, and have legally gained United States citizenship via United States Customs and Immigration Services (USCIS).
with Spanish-speaking immigrant women in southern California, anthropologist Mary I. O'Connor writes, “relations between those with papers and those without tend to be vertical” (O'Connor 1990:87).

As many scholars have argued, we all navigate our lives through “layered social positions” and overlapping identities that shape who we are, how we act in the world, and how we are treated including gender, age, racial-ethnic identity, socio-economic status, citizenship status, nationality, sexual orientation, etc. (Sanidad 2011:71; Anzaldúa 2005:421; Duffy 2007:314; Glenn 1992:1). Glenn and Duffy argue that these various statuses and identities should be conceptualized as “intersectional” and “interactive,” rather than discrete and hierarchical (Duffy 2007:314; Glenn 1992:1). While Sanidad and Gleeson argue that for undocumented persons their immigration status can be thought of as a “master status.” According to Sanidad, for an undocumented immigrant, his or her legal status serves as a master status because it “…determines how he or she behaves and reacts to societal interactions, and how others react and respond to them… [It] influences the type of work they are able to secure, their working conditions and pay once employed, and their access to recourse once their rights have been violated” (Sanidad 2011:71). Although I did not specifically ask my participants about their perceived identities, the immigrant women with whom I spoke made it clear that they experienced their roles as mothers, grandmothers, and aunts as very important. They also made it clear that they knew that their lack of papers had very impactful influences on many aspects of their lives. Thus, since the lack of legal status creates such a large social distance between persons who are undocumented and minorities who enjoy legal residency or citizenship, I argue that the relationships between them are not horizontal but diagonal.

Members of other minority groups including African-Americans, Asian-Americans, Hispanic citizens, could be said to have diagonal or oblique relationships with undocumented Spanish-speaking immigrants since their relationships are still not as unequal as relationships between undocumented immigrants and white citizens. Relationships between white United States citizens and undocumented Spanish-speaking immigrants can be described as the most vertical, since white citizens control the country’s dominant cultural, political, and economic structures, while undocumented immigrants are not afforded basic rights and services (O’Connor 1990:81).
Nine out of ten of my participants reported experiencing some form of diagonal hostility from Mexican-American managers, Hispanic business owners with legal residency status, Asian-American restaurant owners and domestic employers, and African-American business owners and hotel guests. My informants reported that they experienced far more diagonal hostility from persons of other statuses and racial-ethnicities than they did vertical hostility from whites. Only two of my informants, Alicia and Amelia, mentioned experiencing some form of hostility or discrimination from a white business owner or manager. But their interactions with these white superiors was limited and the hostility was relatively slight, since they rarely had contact with one another. By contrast, the nine informants who experienced diagonal hostilities usually experienced conflicts with multiple employers or managers. Bianca suffered diagonal hostility on four different occasions: a Hindu family who physically assaulted and falsely accused her of stealing jewelry, a Hindu restaurant owner who didn’t allow his workers to eat anything all day and called them “dogs,” a Chicana coworker at the hotel who threatened to call ICE, and the African-American guest who called her and her coworkers “wetback prostitutes.” One possible explanation for the high frequency of diagonal hostility could be that Spanish-only undocumented immigrants often work with Hispanic, bilingual managers and owners who act as gatekeepers between the English-speaking (primarily white) world and the Spanish-speaking immigrant workforce (O’Connor 1990:83). These bilingual, Hispanic gatekeepers often serve as middle managers, striving to satisfy their white supervisors by effectively controlling their undocumented, immigrant workers. Thus, these bilingual gatekeepers are in unique positions to exploit their knowledge of Hispanic language culture to win favor with white supervisors and owners.

Similar to the findings of other scholars (Ayón and Becerra 2013), my informants expressed the belief that diagonal hostility from other Hispanics immigrants who have either legal residency status or citizenship is the “ugliest” form of discrimination. According to one of Ayón and Becerra’s informants, “… the Latino people… who have their papers are the worst. … [I]t’s not the ones that were born here, [its]…

46 The only exception was Amelia, who enjoys legal residency status. Her Asian-American and Mexican-American managers used her legal status as justification for treating her better than her undocumented coworkers, until she started to side with her coworkers and fight back against discriminatory treatment in the workplace. When Amelia started to complain about their abusive Spanish-speaking manager, she lost her privileged status and was treated with the same disrespect as her undocumented coworkers.
the ones that later became residents, or later became citizens, are the ones doing more discrimination [discriminating]” (Ayón and Becerra 2013:217). Six of my ten informants experienced this kind of diagonal discrimination. When Clara discussed their abusive, Hispanic owner with her coworkers she said, “I told them that it wasn’t right that a Hispanic person (and we were all Hispanics), it wasn’t right that one of our own people was doing this to us.” Amelia (from El Salvador) asked her abusive Mexican supervisor, “How is it possible that you treat them [like this] when they are from your same country?” And Bianca reminded her Chicana coworker who threatened to call ICE that, “Don’t you know that your family experienced the same thing [as us]?” Unfortunately, none of my informant’s appeals to national or racial-ethnic solidarity had their desired effect on their abusive Hispanic managers or owners.
CHAPTER 5: BARRIERS TO CLAIMS-MAKING

Barriers to Claims-Making

In her research with Spanish-speaking immigrants who experienced wage theft in Arizona, Sanidad (2011) discusses several obstacles that limit these worker’s access to recourse including lack of documented legal status, fear of discovery and deportation, lack of knowledge of labor laws, employer intimidation, lack of community resources, lack of support networks, whether or not a worker has access to other income, lengthy court and government processes, loss of self-esteem, and fear of not being listened to by court or government officials (Sanidad 2011:77–79).

Through my research, I have found that an undocumented immigrant is more likely to file a claim for stolen wages if she has at least some of the following factors in her favor:

- Knows she has the right to minimum wage and overtime compensation despite her immigration status,
- Knows she can reclaim her stolen wages through Adelante or the USDOL,
- Is optimistic that someone will be able to help recover her wages,
- Has a car to get to Adelante/USDOL offices, or knows someone who can give her a ride during business hours,
- Has a flexible schedule or sufficient time to file the claim, including collecting evidence such as pay stubs and timecards,
- Speaks English or has the help of a bilingual advocate, such as a WJC staff person,
- Is furious at employer and highly motivated to file the claim as a result of a catalytic event,
- Persists with claims making, even when doing so becomes difficult,
- Has the support of coworkers, friends, or spouse,
- Is not too afraid of losing her job, or believes that a new one will be easy to find, thanks to an extensive social network.
For six of my ten informants, fear of job loss was a major concern during the process of filing a claim for stolen wages, as many other immigration scholars have noted (Gleeson 2013:83; de Castro et al. 2006:252; Weil and Pyles 2005:64). To varying degrees, my informants feared that their bosses or managers would retaliate against them by firing them. Although retaliation against workers who file both internal and external complaints has been ruled illegal by several courts, workers who have been fired in retaliation must file a complaint with the WHD and/or sue to get their job back in civil court, a costly and time-consuming process (WHD Fact Sheet # 77A; Gleeson 2013:82). Losing one’s job can be problematic for undocumented immigrants who have little to no savings and limited access to the labor market. Several of my informants perceived new jobs as difficult to find. For these women, fear of job loss and belief that another job would be difficult to find did not stop them from filing a claim for stolen wages, but it did make the decision to file claims, and the process of doing so, a more anxiety-filled experience. By contrast, women who said that they were not afraid to lose their jobs, reported experiencing less fear and anxiety during the claims-making process. However, fear of job loss is not the only barrier that Spanish-speaking immigrants must cross when faced with the decision of filing a claim or not. In this section, I will expand upon Sanidad’s list of barriers to what she terms “claims-making” for undocumented Spanish-speaking immigrants (Sanidad 2011:77–79).

1) Not knowing about their rights and recourse
2) Fear of job loss and limited access to the labor market
3) Lack of English proficiency
4) Lack of Transportation and Ability to Drive
5) Immigration status and fear of deportation
6) Gender
7) Time constraints due to work and/or domestic responsibilities
8) Lack of a catalytic event that spurs claims-making
9) Lack of support from coworkers, friends, or husbands
10) Fear of entering USDOL building or other government offices
11) Lengthy USDOL delays and investigation time

12) Fear of not being believed or listened to

Not Knowing About Their Rights and Recourse

Clearly, a worker’s ignorance of his or her right to reclaim stolen wages will serve as a major barrier to filing a claim. Undocumented Spanish-speaking immigrants are more likely to believe that they are not entitled to coverage under United States labor laws, such as the FLSA, than citizens. They are also less likely to know about their labor rights in general than United States citizens (Vinck et al. 2009:474). Immigrants who don’t believe they have the right to earn minimum wage, or reclaim their back wages, are not likely to seek out resources for doing so. Several of my informant’s expressed surprise when they learned that they, as undocumented immigrants, could reclaim wages that were owed them by employers.

Although federal law requires employers to display the Minimum Wage Poster\textsuperscript{47} “…in a conspicuous place in all of their establishments so as to permit employees to readily read it” (Wage and Hour Division (WHD) 2016), none of my informants reported having learned about their rights to minimum wage and overtime compensation from a poster at work. This could be because employers only post the Minimum Wage Poster in English and most of my informants have little to no English reading skills. Although the WHD website provides PDFs of posters in a variety of languages, including Spanish, it does not state that employers must display a poster in their employee’s native language(s). In addition, the English Minimum Wage Poster does not direct Spanish speakers to seek information in their native language from another source. It simply explains the basics of the FLSA in English, then provides a phone number at the bottom, along with a web address. Although Spanish-only speakers could call the phone number listed on the English Minimum Wage Poster and speak with someone in Spanish, the English poster does not say this. Also, if a Spanish-speaking immigrant assumes that labor laws do no cover her, then she is unlikely to call the number, even if she can read all or parts of the poster.

Then how are Spanish-speaking immigrant women living in Wichita learning about their rights to reclaim stolen wages and resources for doing so at Adelante and the USDOL? Four of ten women I spoke

\textsuperscript{47} See Figure 4a in the Appendix for the most recent Federal Minimum Wage Poster.
to heard from a friend that they have the right to reclaim their unpaid wages and/or about Adelante and the USDOL. One woman learned this information from her coworker, one learned at an English class lecture, one saw a flier for a free Adelante legal clinic, and one found out from a staff person at Open Door, a local clothing and food bank. Thus, more than half of my informants learned about their rights and recourse by word of mouth from other Spanish-speaking immigrants in their social networks. Three of my participants formed a chain of helping friendships, each telling the other about the possibility of wage theft recourse. Andrea, who learned about her rights at Open Door, then told Alicia, who later filed her own claim when she experienced wage theft at a bakery. Then Alicia encouraged her friend Lucia to file a claim when she injured her back and experienced wage theft while working at a laundromat.

For some women, lack of knowledge about rights and recourse is not a barrier. Fernanda’s coworker, Erica, was so angry at their manager for disrespecting and mistreating them at Kohl’s that, “She went around looking [for help] because she was really upset.” According to Fernanda, Erica is the type of person who “takes action, makes things happen.” Thus, depending on a worker’s personality and level of indignation, some are more likely than others to seek out information about rights and recourse.

Fear of Job Loss and Limited Access to the Labor Market

Six of ten Spanish-speaking immigrant women I spoke to were reluctant to file claims for labor abuses because they feared retaliation from employers, especially in the form of job loss. For these immigrant women, losing one’s job poses a challenge because they have limited access to the labor market, in comparison to workers who speak English and have legal residency permits or citizenship (Hondagneu-Sotelo 2007:124). One of the most interesting findings I have made during this research is that immigrant women have very different perceptions of how difficult it would be for them to find another job, if they might be fired. Seven of my informants admitted to varying levels of fear of job loss, ranging from somewhat anxious to very anxious about the possibility of losing their jobs. While six of ten informants revealed that they thought it would be very hard or somewhat hard to find a new job. Attitudes toward searching for new work ranged from “It’s really bad if you have to go around looking for work” to “If you have to leave your job, it’s because God is going to bless you with something better” and “Sometimes it’s
a little bit difficult [to find work] because you don’t speak the language. But we are here in Wichita. Here there are opportunities because there are Hispanics.” Although fear of job loss didn’t deter my informants from filing claims, those women who thought it would be very difficult to find another job had a harder time deciding to file a claim for stolen wages, and experienced more anxiety throughout the claims-making process.

Retaliation against workers who file complaints of labor abuses has been ruled illegal by several courts. However, retaliation laws are poorly enforced, and employees who have been fired must submit a complaint with the WHD and/or sue to get their job back in civil court, a costly and time-consuming process (WHD Fact Sheet # 77A; Gleeson 2013:82). Most low-wage workers cannot afford to hire an attorney to represent them in court and cannot not afford the time off of work to appear in court and meet with an attorney. Thus, retaliation against disgruntled workers continues, despite its illegality. According to an independent investigation published in 2009, 43% of immigrant workers who had made a complaint to their employer or union experienced some form of illegal retaliation including getting fired or suspended, threats of deportation, or threats to cut their pay or hours (Bernhardt et al. 2009:7).

Although four of the women expressed high levels of anxiety over the thought of losing their jobs, and were uncertain if they would be able to find another job, this did not stop them from filing claims for stolen wages. For these women, fear of job loss and belief that another job would be difficult to find simply made the decision to file claims, and the process of doing so, a more anxiety-filled experience. By contrast, women who said that they were not afraid to lose their jobs reported experiencing less fear and anxiety during the claims-making process. Three of these four women were still unemployed at the time of our interview. They had not been able to find another job since they had experienced wage theft and either lost or quit their jobs. This suggests that for some undocumented Spanish-speaking women, their access to the labor market is indeed limited. My findings are similar to those of Sanidad, who heard from undocumented Spanish-only workers that they are “effectively tied to their employers” (Sanidad 2011:66). These workers are often reluctant to challenge, confront, or file claims against abusive employers because they fear job loss and the resulting period of unemployment (Sanidad 2011:66).
There are a variety of factors that limit Spanish-speaking immigrant's access to the labor market, including lack of English proficiency, fear of E-Verify, lack of access to employment agencies and other resources, lack of transportation and ability to drive, and domestic responsibilities and time constraints. Through my research, I have found that the latter two factors impact immigrant women more than their male counterparts. It should be noted that some of these factors also limit immigrant’s ability to successfully file claims for stolen wages.

**Lack of English Proficiency**

I learned through my informants that immigrants who speak little to no English, often seek work at locations where they will not be required to speak the language. This limits their employment options to establishments where they will be working primarily with other Spanish-speakers, or where a bilingual coworker can translate for them when needed. Several of my informants found themselves employed in businesses where they worked under bilingual managers who would act as liaisons between the lower-level Spanish-only workers, and English-speaking owners and upper-level managers. Lack of English proficiency means that Spanish-only workers do not seek work via the internet or by submitting résumés in English, but rather through their social networks and word of mouth.

One of my primary informants, Alicia, recounted a time that she lost a job simply because she didn't speak English. She was thrilled when she found a job working at a Mexican café because it was within walking distance of her home. At this time, she was living with her brother and didn’t know how to drive, so she thought this job was perfect for her. They hired her to run the cash register, which she learned quickly, thanks to years of experience in retail. But after a couple of days of training, Alicia’s trainer saw that she didn’t speak English, so she was let go. “A lot of white people come here,” her manager explained, “If they ask you something, well, you’re not going to know how to answer them. And who’s going to help you? You’re going to be there by yourself at the cash register.” Amelia was devastated. She blamed herself for not having learned English when she first arrived in the United States, as her brother had recommended. “Imagine how I felt. Oh heavens, I almost cried,” Alicia revealed. “But I didn’t blame
them. They needed someone who could speak both languages…. I felt so impotent. I felt culpable. Why hadn’t I learned English? … A lot of people have less time here than I do, and they are already speaking English. … It’s important that we learn the language because we are here in a country that is not our own, a country that speaks English.” Alicia was quite sad when she lost this job because, at that time, she was living with her brother and she hoped to earn enough money to rent an apartment on her own and send money to her elderly mother in Mexico. At the time of writing, Alicia is still unemployed and seeking work, while taking English classes four days a week.

Fear of E-Verify

Since 2007, the federal government has required employers to verify that their employees have the legal right to work in the United States within 3 days of hiring (Smith, Ana Avendaño, and Ortega 2009:15–16). All employers are responsible for completing and maintaining an I-9 form for each of their employees, citizen and non-citizen alike. Workers are supposed to submit documents to employers, such as birth certificates, visas, passports, social security cards, medical records, or proof of legal permanent residency, establishing their legal right to work in the United States (Gammage 2008:152). A lucrative black market has arisen to meet the demand for fraudulent documents. Employers are neither equipped to determine if these documents are legitimate, nor interested in spending the time to do so (Massey, Malone, and Durand 2003:22). Instead, employers take a minimalist approach to complying with the law (Gordon 2009:49). Complying with the law takes time away from more profitable activities. Additionally, it is not in an employer’s interests to reject needed workers based on their immigration status, and the consequences for this minimalist approach are few for employers.

The Department of Homeland Security maintains an E-Verify website, making it easier for employers to register and check the status of prospective hires. In exchange for checking employee’s and potential employee’s legal statuses on this federal database, employers receive protection from liability for “unknowingly” hiring undocumented workers (Smith, Ana Avendaño, and Ortega 2009:24–25). However,

48 Alicia loves to read and spends a good deal of time at the library near her home. She is widely read on a variety of topics including fiction, history, mythology, and self-help. But she almost always reads in Spanish, since her English isn’t good enough yet to comprehend whole books in English.
these requirements do not prevent employers from hiring undocumented immigrants, instead it places the onus of illegality on the undocumented worker who, if caught, is convicted of aggravated identity theft, and other felonies, for submitting false documents (Sanidad 2011:25–26). The E-Verify requirements constitute a form of structural violence against immigrants, forcing them to bear the brunt of the risk associated with their hiring, while employers are not prosecuted for hiring undocumented workers.

Employers find out that workers have submitted false documents when they receive No-Match Letters from the Social Security Administration. These No-Match letters simply alert employers to the fact that a worker’s provided social security number does not match their name in the Social Security’s database. The letter states that the employer’s only responsibility is to inform employees of this mismatch so that they can correct the error. Employers are also encouraged in the letter not to take corrective action again workers for whom they receive No-Match letters (Sanidad 2011:36).

What this means for undocumented workers is that every time they apply for a job at a new location, especially businesses that use E-Verify, this puts them at risk of employers discovering they are undocumented. To avoid this possibility of discovery workers are reluctant to do anything that might cause them to lose their current job and have to look for a new one (Gleeson 2013:82). Thus, fear of discovery through E-Verify could make an undocumented worker more reluctant to file a claim for stolen wages against their current employer.

Since not all employers comply with the law and use the E-Verify system, undocumented workers seek out businesses where they hear from a friend or acquaintance who works there that the owners don’t check the legal status of potential employees. For workers who want to avoid E- Verify risks, this limits their already narrow access to the job market to employers who don’t comply with E-Verify requirements.

Lack of Access to Employment Agencies and other Resources

As one of my informants, Bianca, pointed out, undocumented workers in Wichita, KS don’t have access to employment agencies, like temp agencies, and other agencies that provide job training and résumé assistance. Workforce Alliance is one such resource that provides free and valuable training for
job seekers, such as workshops on résumé writing, interviewing, Microsoft Word and Excel, and worker safety. But these workshops are only available in English. Bianca explained her position thus, “If you go to one of those offices where people look for work, the first thing they ask is for your papers. … So one has to look for work by other means, through coworkers and family…” The fact that undocumented immigrants don’t have access to temp agencies and other employment resources further limits their access to the labor market. Through my research, I have discovered that workers who perceive it difficult to find another job are less likely to file claims for stolen wages, especially if they believe that doing so could cause them to lose their job and require them to look for a new one.

Only one of my informants is a legal permanent resident. At the time of our interview, she was looking for work in the construction industry and using employment agencies as a resource to help her with her résumé. But she only has access to these resources as a function of her legal residency status.

Lack of Transportation and Ability to Drive

Not knowing how to drive and not having a car can severely limit a Spanish-speaking immigrant's access to the labor market, as it limits them to businesses that are within walking distance of home, close to available bus routes49, or where a coworker can pick them up for work each day. During fieldwork conducted in rural Mexico in 2014, I learned that most rural Mexican women do not learn how to drive, and are not expected to do so. This is due to both gendered expectations related to driving and poverty. Most rural Mexicans cannot afford a car. Those who can are often men who need a vehicle for work. Thus, Mexican immigrant women who immigrate to the United States are much less likely than their male counterparts to know how to drive. Several of the immigrant women I interviewed only learned how to

49 Taking public busses to work can be problematic in Wichita, KS as the cities bussing system leaves much to be desired. There is not adequate coverage of the city, such that in some areas, a worker would have to walk several blocks either to catch the bus, or to work once getting off the bus. One informant told me that it used to take her four hours to travel to and from her English class each day, because the routes she needed to take had to pass through the downtown bus station, where she would have to wait and change bus routes. In addition, the busses in Wichita stop running at 5 pm each evening, and do not run on Sundays. So a worker who relies on public transportation to get to work has limited access to the labor market, since they can only take jobs that require them to work during bussing hours.
drive here in the United States. They were forced to learn here, since Wichita lacks adequate public transportation and driving is central to mobility in this city.

Undocumented Spanish-speaking immigrants have a number of concerns surrounding driving. One of my informants, Alicia, wanted to learn how to drive so that she could be more independent and look for work anywhere in the city. However, when she started taking driving lessons she became very afraid of getting into a car crash and hurting herself or other people. Many immigrants, both men and women, are also trepidatious about driving since they can be pulled over at any time for a moving violation or broken tail light. They fear deportation will soon follow after an officer discovers they are undocumented when they don’t have a driver’s license, social security number, and don’t speak English. An undocumented immigrant woman might be reluctant to learn how to drive for these reasons.

The lack of the ability to drive limits where female immigrants can look for work. Two of my informants expressed great relief when they found work within walking distance of home. One of them, Fernanda, got a ride to work each morning with Erica, her coworker and friend. So if she lost this job, she would have to look for work either closer to home, or at a location where a coworker would be willing to pick her up each day. Although Fernanda was willing to file a claim against her employer, she was not happy about losing her job, since not being able to drive makes it hard for her to find another one.

**Domestic Responsibilities and Time Constraints**

Feminist scholars have long pointed out the ways in which women’s responsibilities for unpaid work in the home puts them at a disadvantage in the workforce, both because women must sometimes take long-term absences from the labor market in order to raise children, and also through the burden of the “second shift” that working women must put in at home (Hochschild and Machung 1989; Duffy 2007:315). In addition, women who have large domestic responsibilities, especially for the care of children, have limited access to the workforce since they must take jobs where they can work at times conducive to childcare.

For example, Juana and I struggled for over a month to find a time when we could meet for an interview, due to her busy schedule. At the time of our interview, she was working cleaning offices in the
morning and early afternoon, then usually got off of work just in time to go pick up her grandchildren from school, then rushes home to prepare the evening meal for her family. So if Juana were to lose this job, she could only accept jobs that required her to work in the mornings and early afternoons, before her grandchildren got out of school. She couldn’t take a job in the evenings, since she watches her grandchildren for her adult children who are working at that time. This type of domestic responsibility means that some working women have limited access to the labor market, since they can only work at certain times of the day.

Lucia was probably the most burdened by domestic responsibilities of all my informants. “Sometimes I’m really racing,” Lucia admitted to me, while describing her busy schedule. “Well, it’s a race sometimes because [after my English class gets out at noon] I have to come home and make the food for the men.” The men she is referring to are her brother and husband, who both live with her, along with her mother, and at least one of her grandchildren. She usually takes care of at least three of her five grandchildren, for her adult children. Lucia is reluctant to tell her children “no” when they ask her to babysit, both because she loves her grandchildren, and because she’s afraid that if she tells her kids “no” once, they won’t want to bring the grandchildren over on other occasions. Once, when I met with Lucia to help her with her worker’s compensation case, she could only meet with me for an hour to work on her detailed accident report, since she immediately had to rush off to pick up her daughter from work. Sometimes, when I would spend time with Lucia and our mutual friend Alicia on the weekends, Lucia would have to rush home around 5 pm. When I asked Alicia if Lucia had to go home to cook dinner for her family, she said no, she didn’t go home to prepare the meal, but to serve it. She said that Lucia usually already has food prepared and saved in the fridge, but that her husband and brother expect her to come home to serve the meal, then clean up the dishes afterwards. According to Alicia, Lucia is “one of those old types of women who you don’t see much anymore. They follow the old lifestyle where women are in the home. We are more modern.” A woman who has a demanding family, and this much domestic responsibility, is limited in the number of hours she can work, the times of day she can work, thus, has limited access to the labor market.
Chapter 5

Job Seeking Strategies and Social Networks

As other scholars have noted, undocumented immigrants seek out new jobs primarily through word of mouth referrals within their social networks (Hondagneu-Sotelo 2007:95; Gomberg-Muñoz 2011; Cranford 2005). When I asked my informants how they usually look for work, the overwhelming majority said they look for work by asking friends, family, and acquaintances if they know of a place that is hiring. While other women, who are bolder, approach strangers. Alicia looked for work by going to businesses near her home (since she didn’t know how to drive) where she has seen Hispanic people working. She asks the Spanish-speaking Hispanics working there if the business is hiring. Another informant, Andrea, told me in a very relaxed tone as if it was nothing, “[I] go to the street and I see a person who is Hispanic, and I ask them if they know where one can find work or anyone who is hiring. I ask strangers.” She continued by adding, “Here in this country, I have noticed that it’s not that easy for people to speak with other persons [strangers]. But I have always said that if you don’t ask, you’re not going to know if really there is work for you or not. Or maybe, you can make friends with this person who you just spoke to.” As Andrea illustrates, women who are outgoing, have large social networks, or who are not afraid to approach Spanish-speaking strangers, find their chances of securing a job via this method greatly increased. Informants who seemed to have more outgoing and optimistic personalities reported believing it is relatively easy to find a new job.

In contrast, women who are shy, have few friends and limited social networks, reported longer periods of unemployment and the belief that new work is hard to find. Four of the women I spoke to admitted that they don’t have many friends. One attributed this to spending too much time with her fiancé, two attributed this to having large domestic responsibilities caring for their grandchildren all day, and one attributed this to working such long hours that she didn’t have time for making friends. The number and quality of connections in a woman’s social network could potentially have bearing on whether or not she chooses to file a claim for stolen wages. A women who has a small social network and believes that it will be very hard to find a new job may be more reluctant to file a claim for lost wages, since she fears losing her current job as a result.
Lack of English Proficiency

According to Sanidad, lack of English proficiency was the second most frequently mentioned barrier\footnoteremove{50} to claims-making or seeking payment of stolen wages (Sanidad 2011:78). One of her informants revealed that when he had to take his case to small claims court for payment, he didn’t understand the legal jargon court officials were using, even though he had a basic level of English. This meant that he didn’t understand what was being asked of him in the courtroom. Another of Sanidad’s informants revealed that he didn’t think he could have filled out all the paperwork required to file a claim, in English, without the help of a bilingual WJC staff person. “That’s where a lot of people get discouraged, even myself…” one of Sanidad’s informants admitted (Sanidad 2011:79). When a Spanish-speaking immigrant doesn’t have a close friend or family member who is able to take off work and translate for them at a moment’s notice, they just get discouraged and give up on the idea of filing a claim for back wages due to lack of English proficiency.

All ten of my Spanish-speaking female informants spoke very little or no English. Thus, bilingual WJC staff persons become invaluable in facilitating the claims-making process for Spanish-only immigrants. For example, one of my informants, Bianca, came to Adelante in a state of anxiety with a letter (in English) she had received in the mail from the USDOL, regarding the claim for stolen wages she had recently filed with the WHD. Since she couldn’t read the letter, she brought it to me at Adelante to be translated. The letter had her anxious and angry for a couple of reasons. First, she was angry that the USDOL sent her a letter with her name and address on it. She thought the claims-making process would be confidential. At that time, she was very concerned that her son would find out she had filed a claim for stolen wages against the hotel where she worked. Her son, who lived with her at that time, worked for the same hotel chain, but at a different location. So she was afraid that if her son saw the letter and found out she had filed a claim for stolen wages against the hotel she would put his job at risk too. Second, she was confused about the contents of the letter. She thought that the letter was notifying her that she needed to

\footnotetext{50}{In Sanidad’s 2011 study, fear of deportation was the most frequently cited barrier to filing a claim for stolen wages. It should be noted that her informants lived in Arizona after the passage of SB1070, the “Show Me Your Papers” law that allowed AZ police and immigration officials to stop anyone who they suspected might be an undocumented immigrant.}
appear in court. She was anxious that the court date would be very soon and she wasn’t prepared. But when I read the letter, it simply stated that the WHD had received her complaint of underpaid wages, and that due to a backlog it could be several months to a year before an investigator could be assigned to her case. The letter stated that they would notify her when an investigator was free to begin working on her case. Although lack of English proficiency did not prevent Bianca from filing a claim for stolen wages, it made it harder for her to understand the process and added to her anxiety.

As discussed previously, lack of English proficiency could be a barrier for Spanish-speaking employees who work in businesses that only display the Minimum Wage Poster in English. This poster informs workers of their rights to a minimum wage of $7.25 per hour, overtime compensation, and a variety of other rights under the WHD’s jurisdiction. If a Spanish-only worker sees the poster, it will likely not be very helpful to them, since it doesn’t direct them to a number or a website where they can find more information in their native language. Although the 1-800 number listed on the poster can connect callers with someone who speaks Spanish, the English poster doesn’t add “Se Habla Español” next to the number, so that Spanish-speakers will realize they too can call this number.

**Immigration Status and Fear of Deportation**

Because of their immigration status, many undocumented Spanish-speaking immigrants experience oppressive feelings of insecurity and an intense aversion to risk (Gleeson 2013:82; Sanidad 2011:47). They may fear that they will be deported if they are pulled over for having a broken tail light, or that if they complain to their boss about unfair treatment, their boss will call immigration and have them deported. For undocumented immigrants with families in the United States, what deportation means to them is separation from their children, spouses, and other loved ones, with no promise of reunion. Imagine living a life where, at every turn, everyone you love and everything you have worked so hard to earn could be ripped from you without a moment’s notice. According to Sanidad, this oppressive insecurity affects immigrant’s everyday decisions since, “The threat of discovery in everyday activities causes them to perceive risk in any and all encounters with the law” (Sanidad 2011:47). The lack of legal status creates a
submissive, compliant, and easily controlled workforce made up of workers who are too scared to exercise their labor rights (Weil and Pyles 2005:91).

Many undocumented immigrants simply want to live and work in the shadows, keeping as low a profile as possible, so they can continue to live in the United States and provide for their families. Thus, doing something like filing a claim for stolen wages is antithetical to keeping a low profile. As one of my informants, Alicia, revealed,

Sometimes, one becomes scared because of their condition [of not having papers]. You become afraid of what might happen to you, for saying something, as an undocumented person. If you do something, they are going to notice you. What an undocumented person wants to do is be the least noticed possible. … If they pay you $5 an hour, you say nothing. If you raise your voice, or you say something, they can hear you, and this can bring you consequences… This is a fear that is always there.

Thus, for immigrants who believed that complaining about labor abuses could trigger discovery of their immigration status and possible deportation, filing a claim is antithetical to what they want to accomplish in this country: a peaceful life where there are able to live, work, worship, and provide for their children.

Three of my informants reported hearing threats of deportation at work51. Alicia’s manager vaguely threatened to call immigration, saying, "Think about it long and hard before you do something so grave," such as file a claim for unpaid wages. Fernanda did not directly receive threats of deportation, but her coworker was threatened by their abusive Kohl’s manager, who said he would call ICE on her if she didn’t stop making a fuss. Bianca worked in a hotel where threats of deportation flew above her and her undocumented coworkers, as they were caught in the crossfire of a conflict between a citizen Chicana52

51 It should be noted that all three of these threats of deportation came from bilingual managers who were either Hispanic or mixed race.

52 The term “Chicano” refers to a person of Mexican ancestry, who was born and raised in the United States (Ruiz and Korrol 2006:151). Also known as Mexican-Americans.
and the hotel’s white upper management. The Chicana was angry at hotel managers because her mother
had recently been fired, so she threatened the regional managers with, "Don’t forget about me, because I
know that you have illegal people working here, and I can report you to immigration anytime I want." In
this situation, the deportation threat wasn’t directed at the undocumented workers, but instead was used
as leverage against management by a disgruntled mixed-race employee. “So one remains quiet because
of the fear,” Bianca explained. "This makes me afraid, very afraid, you understand? I’m afraid because
something could happen to me, you never know.” For Bianca, oppressive insecurity means going to work
every day not knowing what could happen to her that day.

When I asked one of my informants, Amelia, why she thought undocumented immigrants might be
afraid to file claims for stolen wages, she mentioned the famous expression, “Es mejor un golpe que me
va a pasar.” Translated literally: “The best thing is a hit or blow that is going to happen to me.” Translated,
loosely: A hit to the head that I know is going to happen, is better than the unknown. Meaning, some
undocumented workers are experiencing aggravated wage theft would rather stick with the terrible job
they have, than take a chance at filing a complaint, losing their jobs, having to look for a new one, getting
captured by E-Verify, or possibly being deported and being separated from children and loved ones. That’s
when some undocumented immigrants say to themselves, “No, it’s better that I do nothing.”

It should be borne in mind that undocumented immigrants need not receive direct threats of
deportation from their employers in order to feel afraid that their employers might call immigration on
them. Some undocumented immigrants reported feeling afraid this could happen, even when they hadn’t
received any direct threats from managers or owners. This is because they have heard stories of other
immigrants getting deported as a result of manager or owner retaliation. Before the USDOL and ICE
established a revised MOU in 2011, there were an untold number of instances of owners who called
immigration and were successful in getting their undocumented employees deported after they had filed a
claim for stolen wages or unsafe working conditions. A 2009 study published by the AFL-CIO, cited 18
case studies that occurred between 2005 and 2008, where ICE deported workers after employers called
them, retaliating against workers who complained about wages or unsafe working conditions. This report
also highlights instances where ICE interfered with labor law enforcement by arresting workers who had
unresolved labor disputes (Smith, Ana Avendaño, and Ortega 2009:15). These 18 case studies were likely just the tip of the iceberg. Before ICE was required to tamp down their aggressive strategies in 2011, they engaged in a variety of subterfuge tactics in order to arrest and deport undocumented immigrants. This included pretending to be fire marshals in order to gain access to a Tennessee poultry plant and pretending to be OSHA officials in order to trick undocumented workers in North Carolina into assembling for a “mandatory safety meeting” (Smith, Ana Avendaño, and Ortega 2009:28). Even the 2011 revised MOU between USDOL and ICE states that, “Under no circumstances will ICE personnel engaged in enforcement activities at a worksite suggest that they represent or act for DOL absent the express [sic] approval of DOL” (John Morton (DHS) and Patricia Smith (USDOL) 2011:3). Thus, in 2011 ICE agreed that it would no longer pretend to be USDOL agents in order to gain access to unauthorized workers without USDOL’s expressed approval. Since none of the undocumented immigrants that I spoke to knew about the 2011 revised MOU between ICE and the USDOL, they still feared that their enraged bosses and managers might call ICE on them, in retaliation for filing claims of labor abuses, and that this could result in their deportation. Undocumented immigrants that I spoke to sometimes feared this occurring, even if their current managers and owners weren’t making explicit threats to call ICE.

Eight out of ten of my informants were able to bravely push past their fears of possible job loss and deportation to file claims for stolen wages. Some of them were able to do so after catalytic events that sparked anger or a sense of injustice, which helped them to push past these fears and take action. According to psycholinguist and feminist philosopher Luce Irigaray, women’s oppression arises from their submission to a culture that “uses them, makes of them a medium of exchange, with very little profit to them” (Irigaray 2005:321). With this concept in mind, I would like to compare the work experiences of Bianca and Amelia, two women who worked in the hotel cleaning industry with undocumented coworkers, where they were experiencing aggravated wage theft (they were being verbally abused, humiliated, and were not paid all of their wages). In Bianca’s case her coworkers were willing to push past their fears of deportation and job loss to file claims with her, while in Amelia’s case, her coworkers were too afraid of possible deportation and thus submitted to a culture that uses them with little profit to themselves.
both women worked with undocumented female workers, why were Bianca’s coworkers willing to come forward with claims for wage theft, while Amelia’s decided to remain silent?

One possible explanation is that Bianca’s coworkers already had a language of resistance and class consciousness. According to Bianca, one of her coworkers commented, “We are making the rich richer,” when discussing how hard they worked for such little pay. And Bianca’s daughter, who worked with her, commented, “Even though I don’t have papers, I don’t want them to trample me.” Bianca’s coworkers were called “wetback prostitutes” by an enraged customer, were continually humiliated by hotel management, were made to work long hours without breaks or overtime pay, were bitten by bedbugs that plagued the hotel, and were suffering back problems from lifting heavy mattresses all day long. Because Bianca had been so thoroughly abused and humiliate by a family for whom she worked for 3 years, she had been transformed through a multitude of catalytic events from a person who “put up with it” into a person who proudly defended the her (and her coworker’s) labor rights and personal dignity. Through all of this, Bianca and her hotel coworkers understood both that these working conditions were unjust, and that they had the right to complain. By filing a complaint with the USDOL, Bianca’s undocumented coworkers chose to stand up against a system that oppressed them, treated them as commodities, and made use of their labor with little profit to themselves (Irigaray 2005:321).

In contrast, Amelia described her undocumented coworkers as more timid and fearful, and unwilling to speak up for themselves against their abusive supervisor. When Amelia organized a meeting with the manager above her supervisor, she had to do all the talking because, “Everyone was too afraid to talk to this white woman.” After the manager tricked Amelia into having to clean 48 rooms by herself, she filed an internal complaint with the hotel against the manager. But the complaint had no favorable results because instead of having a language of resistance, one of her coworkers was very afraid of getting deported, and “…the others didn’t want to be responsible if she was deported.” Amelia’s undocumented coworkers were thus held captive through their submission to a system that took advantage of their labor and offered them little compensation in return.
Gender and Justice: Why Do Fewer Immigrant Women Report Wage Theft?

Early on in my participant observation at Adelante’s WJC, I noticed that far fewer immigrant women came in to get help reclaiming their unpaid wages than immigrant men. In studies on wage theft involving both undocumented Spanish-speaking men and women, the majority of participants were men (Gleeson 2010:579; Sanidad 2011:7). Other studies on undocumented men and women, treat the genders as a homogenous whole, and relatively few studies focused on women’s own interpretations of their experiences in the labor market (Suh 2002:561; Hondagneu-Sotelo 2007). Even in Sanidad’s study of 9 men and 5 women, she notes that typical workers she interviewed were “undocumented Mexican males working in the construction, cleaning and landscaping industries who seek help once one or several full paychecks have been withheld” (Sanidad 2011). Gleeson has highlighted the need for research examining whether or not men and women who have experienced wage theft “engage in claims making” in different ways (Gleeson 2010:579).

In 2014, of the 39 open cases at Adelante involving wage theft only four of them were filed by female members. During my research, I have found no good reason to believe that working Spanish-speaking immigrant women experience wage theft less often than their male counterparts. Instead, I believe they face more barriers to filing claims for stolen wages, and this explains why Spanish-speaking immigrant women file claims in fewer numbers than their male counterparts. We have already discussed a couple of barriers to claims-making, that women more commonly face: not knowing how to drive and having large domestic responsibilities. In this section, I will explore ideas my informants provided when I asked them why they thought women might be less likely to file claims for stolen wages.

One commonly cited reason my informants gave for why women might be more reluctant to file claims for stolen wages than their male counterparts, was the fear that they would not be believed or listened to. Some of the responses I heard were, “Maybe we think that they will not pay attention to us with equal attention that they would give to men,” and “Women don’t report, don’t denounce any abuse. They stay quiet out of fear, because, well sometimes, first because they think they will not be believed,” One informant said that two of her coworkers saw no point in filing a complaint about their manager because they didn’t think they would be believed. One woman, Bianca, said that she, in fact, was not
believed when she told the mother, for whom she was babysitting and housekeeping, that her 12-year-old
girl had just assaulted her with a kitchen knife. “My kids aren’t like that,” the mother replied, upon hearing
Biana’s tearful story. Although this incident involves aggravated assault rather than wage theft, it
illustrates how women’s fears of not being believed can come from actual experiences of not being believed.

One young man I spoke with, Juan, who is a well-respected leader in the Hispanic community, talked
about how some Spanish-speaking women who are in abusive relationships may be reluctant to file
claims for stolen wages for fear of being blamed and shamed by their husbands. Echoing the work of
Gloria Anzaldúa (2005), Juan explained it thus,

In Hispanic culture, women are held to a different standard. Women are supposed to be seen and not heard. Women don’t feel empowered. People feel humiliated if they get taken advantage of. Then if they come out about it, they feel shame. They’re afraid their husbands will say, ‘I told you not to do that.’ Right away, it gets turned around on her. ‘Look kids, mom messed up again. Why are you so stupid?’ When you get talked to like that, you start to go into your little box.

Drawing upon similar experiences from his childhood, he believes that women who are in abusive
relationships may keep quiet about wage theft in order to protect themselves from possible shaming and blaming from their husbands. According to noted Ecuadorian-American poet and essayist Gloria Anzaldúa, Mexican men who work in the white male world face “excessive humility and self-effacement, shame of self and self-deprecation.” According to Anzaldúa, Anglo men feel “inadequate and inferior and powerless,” then they transfer these feelings of inadequacy onto Mexican men by humiliating and shaming them. The Mexican male’s loss of dignity and respect in the male realm “breeds a false machismo which leads him to put down women and even to brutalize them” (Anzaldúa 2005:423). In this way, abuses perpetrated by white males can find their way to Latina women, through a chain of abusive relationships.
Several informants said that single mothers, who are raising children alone, are particularly vulnerable, since they don’t have a second income to fall back on, and cannot afford to lose their jobs.

None of the immigrant women I spoke with were in this position, since the two unmarried women I interviewed did not have children, and those with children were married or living with a boyfriend.

Another interesting observation came from Josefina, the Adelante/KCC receptionist, who greets people as they come in the door to Adelante. When I asked Josefina why it might be harder for women to file claims for stolen wages, these were her observations.

I’ve noticed when guys come in with a wage theft complaint, they’re always certain that there’s something they can do. I feel like a lot of them know that it doesn’t matter if they are undocumented or not, that it’s your right to get paid…. Women tend to be scared more, especially if their employer threatens they will lose their job, or something. Especially, they’re like a lot more vulnerable, if they have a family they are raising. ... I feel like they tend to be more scared to lose their job. ... And like, with guys, you always see them with an attitude like 'Can you help me with this, so I can get my money back?' You know, like very optimistic, very positive that they are going to get their money back. And for the ladies, it's like 'Well, can you help me? Is there anything I can do?' [with an unsure tone of voice]. So, that’s what I see.

According to Josefina, Spanish-speaking immigrant women who have experienced wage theft are more fearful of losing their jobs, less likely to be certain about their rights, and less likely to be certain that something can be done to reclaim their underpaid wages than their male counterparts.

This sentiment was echoed by Amelia, who immigrated from El Salvador, and is now a legal permanent resident working in construction. When I asked her why women might be less likely to complain about stolen wages than their male counterparts, she replied,
I have really seen how this is. For women, it’s because of fear. It’s because they have been educated with fear. The woman is more humble, more quiet… And this is bad! … Unfortunately, this happens due to the education that parents give to women from their infancy until old age, [an education] to put up with things. This is the difference. Men, on the other hand, generally speaking, are more machista. That’s the way they are educated… From the nest [we emerge] dragging a chain from our ancestors… They can be more free to express themselves. … This brings women to not denounce, to not denounce any abuse, to keep quiet out of fear. … It shouldn’t be this way!

For Amelia, Spanish-speaking immigrant women’s oppression stems from acculturation processes which discourage them from expressing their idea, feelings, desires, and needs in a way that empowers them. According to Amelia, her coworkers chose to keep quiet about labor abuses out of fear that hampered their ability to express themselves freely.

Some Women Choose Not to Actively Pursue Their Cases of Wage Theft

In Sanidad’s 2011 study of 14 Spanish-speaking immigrants who had their wages stolen, she interviewed nine men and five women who had come into the WJC where she worked. She admits that workers who were not selected for her study included those who did not pursue recourse after their initial intake, meaning, workers who did not follow-up on their cases, by returning to the WJC for a follow up visit. When I looked through the old case files at Adelante for cases involving wage theft, what I saw was that women were more likely than their male counterparts to not pursue their cases after the initial intake, and were more likely to give up on trying to reclaim their stolen wages at some point during the process. Thus, research conducted only with participants who follow up on their cases, will inadvertently be selecting out female participants who are Spanish-speaking immigrants.

Some workers might have elected not to pursue their cases because they thought the whole process would be more time and trouble than it was worth. The way the intake process normally worked was, during the intake, the WJC coordinator listened to the facts of the story and offered advice and a
sympathetic ear. Then WJC coordinator asked the worker to bring in details about their case, such as the name and address of the employer, the dates and times they had worked, and an estimate of how much they were owed, if they didn’t already bring this information. Workers were told to go home, find copies of time cards, pay stubs, slips of paper with work hours written on them, or anything else that might serve as evidence for the WHD to use in their cases. For workers who had been experiencing wage theft for many months or several years, going back and calculating how much they had worked, and how much they were owed, could be a daunting task. This is especially true for those who worked irregular hours. My suspicion is that many workers, especially those who work in industries like the hotel industry, where the amount of work varies significantly with the seasons, perceive the difficult task of reconstructing their hours as more trouble than its worth. And although I wasn’t able to confirm this, the difficulty associated with reconstructing hours worked\textsuperscript{53} may be one of the reasons why workers never return after their initial intake. More research should be conducted to determine why workers don’t return for followup visits to pursue their cases.

Cases could take several months to complete, and require coordinated and consistent efforts on the part of the workers themselves, WJC staff, USDOL staff, and at times, attorneys. Sometimes, a WJC coordinator gets busy with other cases and clients who are more demanding of their time and attention. Therefore, the clients who did not regularly check up on their cases with visits to the office or phone calls were less likely to achieve resolution than workers who regularly called WJC staff and asked about the status of their cases. When a WJC staff person receives this kind of call from a worker, they check on the status of the case and usually take some action to push the case forward. Clients who saw the best results, were those who followed up on their cases, provided whatever documents or testimony was needed, and called in regularly to push their cases forward. I saw several old case files where the

\textsuperscript{53} If the USDOL chooses to conduct a full investigation, then the USDOL investigator will go to the place of business and demand copies of all employee time records and amounts paid. Thus, the onus of reconstructing the hours employees worked becomes the job of USDOL investigators in the case of full investigations. However, workers are still asked to reconstruct their hours worked as part of the intake process, so that WJC staff and USDOL agents can get a feel for how egregious the case is and how much money the worker is owed. If the USDOL agent decides to remedy the situation with conciliations (a phone call to the employer) then the agent will rely on the reconstructed hour and pay estimates provided by the employee.
Spanish-speaking immigrant women who had experienced wage theft did not actively pursue their cases. In one case, after a period of inactivity on the case, a WJC staff person called the female worker several months later to see if she wanted to continued pursuing her case. She did not, so the case was closed. In another case, the immigrant woman said she got her job back, so she didn’t want to continue pursuing her wage theft case, even though the employer still owed her money. Thus, simply knowing one’s right to reclaim wages is not always enough to spur a worker to file a case of wage theft and see it through to payment of back wages.

Sociologist Pierrette Hondagneu-Sotelo encountered similar responses from immigrant women who worked as domestic housekeepers and nannies in Los Angeles, who were reluctant to file claims for stolen wages, even though they might have been owed large sums of money. Hondagneu-Sotelo visited free legal clinics in the 1990s, where dozens of Latino immigrants came seeking help from attorneys with various labor issues. According to an attorney working at one of the legal clinics, “What motivates them to come is the indignity of being fired” (Hondagneu-Sotelo 2007:230). According to Hondagneu-Sotelo, many of these undocumented Latina housekeepers believed that they had been wrongfully terminated, and had the right to seek legal redress, such as reinstatement or compensation for missed work. But upon visiting with an attorney they learned that California is an “employment at will” state, such that employers can terminate workers at any time for any reason, provided their criteria for doing so is not based on race, color, sex, religion, or national origin (Hondagneu-Sotelo 2007:230, 266). So they had no legal right to reclaim their jobs after being fired. However, the legal clinic attorneys would often find that the immigrant domestic workers had not been paid minimum wage or overtime, so they could then begin a wage theft case, if the women chose to do so. However, many of the Spanish-speaking immigrant domestics chose not to file claims for wage theft, even after they understood they had the legal right to do so. At this point, they had already lost their jobs, so the threat of job loss was not in the picture. Hondagneu-Sotelo asked these women why they chose not to pursue their legitimate cases of wage theft, even after the threat of employer retaliation was not present. She found that several women did not want to file claims due to allegiance to the families for whom they had worked. One woman said that even though she had been fired in a blowup, she didn’t want to betray the family’s children, who she had come
to love, by suing their parents. What the woman really wanted was her job back, not payment for back wages. The woman did not seem overly concerned that she hadn’t been making minimum wage (Hondagneu-Sotelo 2007:231). This, lack of concern for making the minimum wage is consistent with my findings.

For the women who I came across in similar situations, who chose not to pursue similar cases of wage theft, it seems that their desire to avoid conflict and need to stay employed as long as possible, in order to continue providing for their children, are the concerns that dominate. The desire for minimum wage takes a back seat. As we will see in the next section, this can be explained by the central role that motherhood plays in the constructions of Mexican feminine identities.

Motherhood as a “Guiding Principle”

Nine out of ten of my informants spoke about the importance of children in their lives. Only two of my informants, Alicia and Fernanda, were unmarried and without children of their own. Despite the fact that Alicia had no children of her own, she continually expressed her desire to have children and spoke about the deep feeling of loss she experienced after the death of her fiancé. After his death she perceived her chances of finding another potential father at her age (37) to be quite low, and she worried that she had missed her chance to become a mother. Fernanda, my other informant without children of her own, expressed her deep love for her niece and nephew, the children of her brother, with whom she lived. Before our interview began, Fernanda revealed, “I have never had a child… but I enjoy my niece and nephew. They love me a lot. Sometimes they call me ‘mom.’ [They’re] very affectionate.” Several of my informants spent the first few minutes of our interviews talking about their children or grandchildren, their various personalities, and caregiving strategies. The topic of children was so popular with my informants that I got the feeling they would have preferred that I interview them about their children and grandchildren than wage theft. At times, I had to gently guide the conversation away from childcare topics, and back to wage theft after a beloved child had entered the room asking for something. It became clear to me the great importance my informants placed on the children in their lives and their roles as

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54 Nine of my ten informants immigrated from Mexico, with only one informant hailing from El Salvador.
mothers, aunts, and grandmothers. Even those women who did not have children of their own communicated to me either their desire for children, or their love of surrogate children.

According to Mexican sociologists, García and Oliveira, Mexican women from a variety of social classes “consider motherhood as their main source of identity” (García and Oliveira 1997:382). This finding is consistent with those of Teresa Valdés (1989) whose work in Santiago, Chile also revealed that motherhood is central to women’s lives. According to Valdés, women considered themselves good mothers if they were able to control their fertility and work outside the home, so as to not have more children than they could both financially support and attentively raise (Valdés 1989). Similarly, Gates (2002) found that Mexican women defined motherhood broadly, including both actual caring for children, as well as contributing financially to their wellbeing through extra-domestic work. Thus, Mexican women consider caring for children and providing for them financial as central to their feminine identities (Gates 2002:516).

One of my informants expressed the central role of motherhood in Mexican feminine identities when she spoke about the key role women play within their families. According to Alicia, “Mexicans, at least the ones in my environment, say, ‘The mother is the pilar of the home. She’s the pilar of the family.’” Alicia went on to explain that the mother is considered the pilar of the Mexican family because she’s the emotional support of the family. When Alicia lost her fiancé, she called mom daily and cried to her on the phone. “[My mother] gave me comfort as if she were a monk,” Alicia revealed. She respects her mother more than anyone else in the world because of her mother’s resilience and fortitude. In this way, Mexican women’s identities are elevated through the love and admiration they receive as emotionally supportive mothers and caregivers to their children.

As Gates (2002) points out, Mexican women define motherhood broadly, including both actual caring for children, as well as contributing financially to their wellbeing through extra-domestic work (Gates 2002:516). This is consistent with my findings, as almost all of my informants mentioned providing for their children as a primary concern when they thought about the possibilities of job loss and deportation. “But I need my money because I have kids and I am paying my expenses,” Julia protested when her boss claimed not to be able to pay her. “I do everything I can to help my children,” Lucia said when speaking
about how often she babysits her 5 grandchildren for her adult children. Bianca also considered of her children first when she thought about what might happen if she were jailed or deported. Through tears, Bianca revealed, “The man wanted me to go to jail. This made me so sad. And I said to the daughter-in-law, ‘You have children… and it would hurt you a lot if you were put in jail for something you didn’t do.’ …I told her, ‘I have my youngest daughter…’ [crying] I told her, ‘You have children, and one day you will understand.’” What scared and enraged Bianca the most was the thought of being separated from her children, through either jail time or deportation, because of false accusations made by her abusive employers. In this way, consideration for their children plays a central role in undocumented immigrant women’s choices to file claims of stolen wages. Women who are very afraid of losing their jobs and being unable to support their children, or are fearful of getting deported and being separated from their children, experience more anxiety associated with claims-making as a result of the centrality of motherhood to their identities.

As Gates notes, Mexican “women may act in ways that appear at cross-purposes to their interests, but may in fact help them secure practical changes [or choices] that they value” (Gates 2002:510). What I have found is that Spanish-speaking immigrant women’s key desire is to keep their jobs, in order to continue providing for their children. Although, it might seem like it is in a mother’s interests to bring home as much money as she possibly can for the care of her children, what I found it that Spanish-speaking immigrant women are far more concerned with keeping their jobs, even when they are making sub-minimal wages. For a woman whose primary identity is that of a providing mother, risking her job and possibly getting deported, are at odds with feminine constructions of responsible motherhood. Although it may seem to an outside observer that keeping quiet about wage theft and psychological abuse is at odds with a worker’s interests, I have found that immigrant mothers believe they are securing the practical needs of their children by not filing claims for stolen wages. Thus, constructed femininities surrounding motherhood may be contributing to women’s choices not to file claims for stolen wages.
Lack of Catalytic Events Spurring Claims-Making

The literature on wage theft and immigrant rights rarely mentions the catalytic events that spur workers who are experiencing labor abuses to confront employers, file claims, or otherwise seek redress for work-related wrongs. There is much discussion in the literature of dangerous and illegal working conditions, the difficulty of enforcing labor laws for undocumented immigrants, and the claims or lawsuits that sometimes arise out of these situations. But there is little talk about the catalytic events that spur workers who were previously willing to put up with poor working conditions and motivate them to confront employers and managers, file claims for stolen wages, or bring lawsuits.

My informants felt more free to speak openly and in detail about their lived experiences surrounding labor abuses because they knew I volunteered at Adelante, an organization what is known to protect the interests of immigrants in the community. Also, I revealed to most of my informants that I am the daughter of an immigrant from Guatemala and that I’m mixed-race. I believe that this lent an extra layer of trust for my informants. Thus, I am able to make a significant contribution to the literature because I was able to gain informant’s trust through my association with Adelante, my use of ethnographic methods, and my mixed-racial heritage.

I define catalytic events as events that transform undocumented workers who were previously willing to put up with labor abuses, such as verbal abuse, unsafe working conditions, or wage theft, into persons who are not longer willing to tolerate such abuses. For undocumented workers, catalytic events play a crucial role in motivating them to file claims for stolen wages because these events help them overcome fears of job loss and deportation. The anger, rage, humiliation, or sense of injustice that workers feel as a result of catalytic events help them to overcome their fears of the possible consequences associated with claims-making. Most of the women I spoke to did not experience just one catalytic event, but rather a series of events that pushed them to file claims for stolen wages. Often, these catalytic events have little or nothing to do with the wage theft workers are experiencing, but rather have to do with verbal abuse, humiliation, or lack of respect from owners and managers. Thus, wage theft claims can at times become vehicles for indignant workers to seek redress for other abuses about which they are more upset.
One of the few researchers who discusses the importance of these transformative events is sociologist Hondagneu-Sotelo (2007), whose detailed ethnography focuses on Spanish-speaking immigrant women working as domestic housekeepers and nannies cleaning and caring in Los Angeles. In her book, she discusses how many domestic housekeeper/nannies lose their jobs in what she calls “blowups.” Blowups are catalytic events in which the homeowner/employer becomes enraged at the housekeeper/nanny for some perceived offense and fires her abruptly. As a result, the housekeeper/nanny feels humiliated and degraded, and she often swears off working as a housekeeper or nanny ever again. According to Hondagneu-Sotelo, these women often believe that they can file wrongful termination suits and they seek legal assistance in reclaiming their jobs. But when they speak with an attorney, they learn they live in an “employment at will” state, where employers can fire them for any non-discriminatory reason. Then the women learn they can file a case of stolen wages if they chose, since they were usually working very long hours (12 to 16 hour days) for less than minimum wage (Hondagneu-Sotelo 2007:122–128). In these instances, the blowup serves as the catalytic event that motivates a Spanish-speaking immigrant woman to file claims and seek redress, even if she seeks redress for a violation other than the one that originally angered her.

For the Spanish-speaking immigrant women who I spoke to they generally did not experience just one catalytic event, but rather a series of events that pushed them to file claims for stolen wages. Seven of the ten women I spoke to experienced some form of catalytic event. Similar to Hondagneu-Sotelo’s blowups, catalytic events provide the emotional fire that motivates workers to file claims. And similar to Hondagneu-Sotelo’s findings, many of my informants were far more upset about the verbal abuse, lack of respect, and the emotional trauma of job loss, than the wage theft. Thus, wage theft claims can at times become vehicles for indignant workers to seek redress for other abuses about which they are more upset.

Two of my informants, Bianca and Lucia, provided excellent examples of how they were transformed from persons who put up with almost anything, into women who were angered by the injustices they had

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55 Two of my ten informants did not file claims for stolen wages because they did not know they could do so at Adelante or the USDOL. However, one of these two women, Amelia, chose to file an internal complaint against her verbally abusive supervisor at the hotel where she worked. I include Amelia in my count of informants who filed claims after catalytic events, event though the internal complaint she filed had to do with abusive treatment, and not wage theft.
experienced and wanted to fight back against unscrupulous employers by filing claims for wage theft. As you will recall from Chapter 4, Bianca suffered for three years, working as a housekeeper/nanny for a large family. While working for this tumultuous family, she was only paid around $3.33 per hour, endured sexual harassment, insults, had the cops called on her after false accusations of stolen jewelry, and was threatened at knifepoint by a 12-year-old girl. What scared and enraged her the most was the thought of being separated from her children, through either jail time or deportation, because of false accusations made by her abusive employers. “Why did I put up with so much humiliation at those jobs?” Bianca asked herself. “They stole from me, they trampled me, they spit on me, they even accused me of stealing, although I wasn’t a thief. And I put up with it by not saying anything, for fear of what? … I stayed quiet out of fear… I used to be one of those people who said, ‘No, it’s better that I do nothing.’” As a result of these catalytic events, Bianca realized that, “[If] someone stays behind the door, because they are afraid of who knows what, no one is going to pay attention to them.” The anger and sadness that these catalytic events created allowed her to push aside her fears and file claims for stolen wages, even though the lost wages were not her primary concern.

Lucia was similarly transformed by catalytic events from a person who preferred to “leave things up to God,” into someone who was no longer willing to tolerate stolen wages and unsafe working conditions. The manager treated her like a personal servant, by asking her to come cook at her home and then never paying her for her time and culinary talents. Eventually, Lucia herniated two discs while lifting a mob bucket that the owner refused to fix. But Lucia put up with all this because she felt she really needed the job.

A compounding catalytic event occurred after Lucia injured her back and she continued working for several days, even though she was in extreme pain. When Lucia told her manager that she had gone to the doctor and had paid a $10 copay for the visit, the manager reached in her purse and offered her a $10 bill. Lucia felt angered and humiliated by the manager’s offer of $10 because she was in an incredible amount of pain and she would need serious medical attention, including x-rays, multiple doctors visits, physical therapy, chiropractic treatments, and possibly surgery, all as a result of the manager’s negligence. “Oh, no,” Lucia said to her manager when she offered the $10, “No, that’s not going to do me
any good, thanks. Probably, you'll get more use out of it.” Reflecting back on this catalytic event, Lucia revealed, “Maybe this was a rude thing to say, but it was a humiliation to me.” She felt humiliated by the thought that $10 could cover what had been done to her. Even though Lucia didn’t experience verbal abuse in the form of yelling, verbal insults, or threats, she was non-the-less insulted by the manager’s disregard for her safety, and subsequent belief that she could so easily be paid-off.

However, Lucia’s transformation into a person who was willing to file claims didn’t happen right away. She admitted that she was the type of person who said, “Everything is in the power of God,” meaning she would rather leave things up to God than take matters into her own hands by filing claims for stolen wages or workers compensation. This belief was pushed aside by the final catalytic event, which came a few days later. Her friend Alicia, another informant who experienced wage theft, convinced her that she shouldn’t leave things up to God, but should go to Adelante and file claims. Alicia argued that this injury was going to affect Lucia for the rest of her life, and if she did nothing the owner and manager would get away with thinking they could continue to treat their workers in this way. Thus, even thought Lucia was not immediately transformed by these early catalytic events, I witnessed as she became more and more angered by the accident and humiliations as the months went by and she faced challenge after challenge in her case. Unfortunately, because the laundromat made such little money, and employed so few people, neither USDOL nor OSHA could help her claim the wages and medical benefits she deserved, since neither agency covers very small businesses56.

The absence of catalytic events can help to explain why one of my informants, Paloma, didn’t file claims for stolen wages for five and half months. During these months, she continued to clean the owner’s house and was paid in 22 bounced checks. When I asked her if the owner was ever rude or disrespectful to her, she said no. Thus, the absence of catalytic events helps to explain why Paloma continued to work even though she was not being paid. When Paloma was owed about $2,700 in back wages, she saw a flier somewhere advertising a free legal clinic at Adelante. She went to the clinic to find out if anything could be done about all of the money that was owed her by her boss. Paloma eventually was able to reclaim the $2,700 that was owed her. She was motivated to file a claim for stolen wages by

56 See Chapter 2 for a discussion of FLSA exemptions.
the sheer sum that was owed her, and she did so when the amount of money she stood to reclaim made it worth the trouble to try to reclaim it. My feeling is that if she both experienced catalytic events prior and knew where to file a claim for stolen wages, she would have done so sooner.

It should be noted that the occurrence of catalytic events is not a guarantee of that undocumented workers will be willing to push aside their fears and file claims for stolen wages or other labor abuses. Two of the women I spoke to, Clara and Amelia, had coworkers who were unwilling to come forward and file claims with them even thought their manager/supervisor was regularly yelling, insulting, and abusing them. Thus, not all undocumented workers experience verbal abuse as catalytic events that help them to push aside fears of job loss and deportation. These exceptions will be discussed further in the following section on the role of coworkers in claims-making.

For some undocumented workers who are afraid of losing their jobs and fear possible deportation, the lack of catalytic events could be a barrier to filing claims for stolen wages because nothing is pushing them to ignore these fears. Since many employers retaliate against workers for complaining about labor abuses such as wage theft, the fear of job loss is a legitimate one. And because there is not a formalized and easy process by which fired workers can reclaim their jobs, it makes sense that low-wage undocumented workers would rather hang onto the sub-minimum wage jobs they have than risk losing them for the possibility of reclaiming back wages. Although some workers are motivated to file claims for stolen wages even in the absence of catalytic events, the lack of these events can help to explain why many undocumented workers are reluctant to file claims for stolen wages. They simply are not angry, enraged, humiliated, or insulted enough to ignore their legitimate fears of employer retaliation.

The Role of Coworkers, Friends, and Husbands in Claims-Making

Coworkers, friends, and husbands can play a vital role in a Spanish-speaking immigrant woman’s decision to file a claim for stolen wages. These parties can either encourage or discourage these working women to file claims of labor abuses. What I saw frequently among my participants was that their friends and coworkers encouraged and/or supported them to file claims. Five of my informants enjoyed such support from friends or coworkers. This support could take the form of simply telling a friend about their
rights to reclaim stolen wages and the possibility of doing so at Adelante/USDOL, to going with them to file the claim and lend their voice in testimony. On the other side of the coin, three women did not receive the support of their coworkers or husbands, but they none-the-less chose to file claims on their own.

Discouraging Claims-Making

Two of the women I spoke to, Clara and Amelia, had coworkers who were unwilling to come forward and file claims, despite the fact that their manager/supervisor was regularly yelling, insulting, and abusing them. To be clear, Clara and Amelia were themselves willing to file claims for labor abuse on their own, but they did not have the support of their undocumented coworkers. Clara was working in a restaurant kitchen where some of her coworkers had not been paid for 8 months! All the while the owner was yelling at them, insulting them, not allowing them to take lunch breaks or rest breaks during their 8 hour shifts. These labor abuses could have served as catalytic events, but in this case, they did not. Clara tried to tell her coworkers, “…that they too were important people and had the right to their pay.” But Clara was not able to convince her coworkers to come forward and support her claim for stolen wages. After Clara filed the claim, she went back to work and told her them what she had done. But instead of feeling relief that payment might eventually come their way, her coworkers were unhappy with Clara for filing the claim, saying, “She’s not going to pay you… she’s just going to get angry.” Although, I wasn’t able to interview Clara’s coworkers myself, it’s clear from their defeatist attitude that they didn’t think filing a claim would do any good. They might have been so demoralized by the owner’s verbal harassment and labor abuse that they didn’t think they deserved their pay. Thus, not all undocumented workers experience verbal abuse as catalytic events that help them to push aside fears of job loss and deportation. But despite her coworker’s reluctance to come forward, Clara was able to reclaim her stolen wages several months later through the help of the USDOL.

This defeatist attitude toward claims-making is not uncommon among low-wage workers, citizen and non-citizen alike. According to an independent study of 4,387 low-wage workers published in 2009, 20% of workers said they experienced a serious problem at work, such as unsafe working conditions or sub-minimal wages, but they did not make a complaint to their employer for a variety of reasons, such as fear
of job loss or their hours or pay getting cut in retaliation. A full 36% of these workers said they kept quiet because they thought making a complaint wouldn't make a difference (Bernhardt et al. 2009:3).

One of my informants, Amelia, experienced this first hand, when she organized a meeting with the manager above her abusive supervisor. Nothing was done after she informed the manager that the supervisor was regularly yelling at them, accuse them of not wanting to do their work, and bullying them by making them clean bathroom floors without a mop, on their hands and knees, and making the pregnant housekeepers do “deep cleaning.” After Amelia complained to the manager the abuse continued and even got worse. Unfortunately, when management is unresponsive to worker’s internal complaints this abets some worker’s defeatists attitudes that filing a complaint will not bring positive changes in working conditions, but will only bring the associated risks that go along with claims-making.

Husbands can also play a role in influencing a Spanish-speaking immigrant woman’s decision to speak up about wage theft. When I was searching for informants, I heard about two women who were made to work off the clock for one hour each day, cleaning a local middle school. I heard about them from Flor, a woman I met at Adelante. Flor said she would ask the two women at the middle school if they would be willing to speak with me confidentially about their experiences for my thesis. When I saw Flor again, she said the two women wanted to ask their husbands before they agreed to an interview. I was surprised to hear this, but agreed to wait. When I saw Flor again the following week, she said the two women declined to be interviewed, because their husbands said, “It was not the right thing to do at that time.” Flor explained that the women and their husbands were afraid the women might lose their jobs because they didn’t have papers. In the case of these two women, their husbands played a critical role in determining if it was a good idea to even speak about the wage theft they were experiencing.

The other way husband can influence a Spanish-speaking immigrant woman’s decision to file claim for stolen wages is through his income. A husband’s income can have both a positive or a negative effect on a women’s decision to file a claim. In some cases, if a women’s husband’s income is relatively high and he makes enough money for the family to survive on, then a woman might not be motivated to file a claim, since the family can get by without her income. This was the case for Paloma and Clara. Paloma was able to continue cleaning a man’s residential home for five and half months, all the while receiving
bounced checks, because her family could survive on just her husband’s income. Thus, she waited a considerable length of time before taking action against her employer. Likewise, Clara revealed that her “…husband is the one who brings money to my home. My pay is extra money for the home. My children don’t depend on my income.” So she was able to work at the Mexican restaurant, where the owner was claiming not to have enough money to pay her, for three and a half months without pay. For these two women, their husband’s ample income did not prevent them from filing claims for stolen wages. Instead their husband’s incomes made it possible for them to continue working for several months without pay, before eventually filing a claim for stolen wages.

It should not be assumed that most Spanish-speaking immigrant women earn merely “supplementary” income. Although it may be the case that some women earn less than their husbands, many Spanish-speaking immigrant women become primary breadwinners during certain times of the year or during slow business periods, especially for women whose husbands work in seasonal jobs such as lawn care and construction. During the winter months, when lawn care and construction jobs dwindle, many immigrant husbands spend large parts of the year relatively idle, while their wives continue working and bringing hope the lion’s share of the income for those months. These immigrant women might be working in less seasonally dependent industries, such as cleaning, childcare, and food service industries (Hu-DeHart 2007:476). Thus, immigrant women in these situations can become the primary breadwinners during certain times of the year.

If a husband’s income is not sufficient to support the family, this could either encourage or discourage a woman to file a claim for stolen wages, depending on the amount of back wages owed her. If a woman is not getting paid anything at all and her husband is making little, this might push her to file a claim, since her family really needs the money. But if she is experiencing only a small amount of wage theft, say just one hour a day, and her husband’s income is low, then she might be less likely to file a claim for stolen wages, since she could lose her job as a result and the family would struggle to survive on the husband’s income alone. Even though there is logic to this thought process, for one my informants, Andrea, her husband’s low income was not a deterrent, and she bravely filed a claim for stolen wages anyway. As a result of quitting her job, she had to seek assistance with food from a local charity. Andrea was working
for a bus company, getting yelled at and mocked by her manager, and was only making $300 per week, or roughly $5.66 per hour. When Andrea told her husband about the possibility of filing a claim for stolen wages, he replied, “[Y]ou’re going to fight with this company that has all of these years in business, and has all of this money? Don’t forget that you’re undocumented, and in the best case scenario you’ll lose.” At that time, her husband’s income was low, because he was working in roofing, and industry that fluctuates with the seasons. But Andrea remained undaunted, despite her husband’s low income and pessimistic assessment of her chances of success. Thanks to her bravery and optimist attitude, just two weeks later she was able to reclaim $5,266, with the help of Adelante and the USDOL. Thus, not all Spanish-speaking immigrant women are swayed by the opinions and incomes of their husbands, regarding the filing of wage theft claims.

Encouraging Claims-Making

Coworkers and friends can also play a critical role in encouraging Spanish-speaking immigrant women to file claims for stolen wages. Two women who I talked to, Fernanda and Lucia, would likely not have filed claims for stolen wages had they not been encouraged to do so by a coworker or friend. As has already been discussed, Lucia’s friend Alicia encouraged her to go to Adelante and file claims for both stolen wages and a worker’s compensation case, saying, “No, no, no. Don’t leave everything up to God. You need to go [file a claim], because [if you don’t] the bosses are going to get used to doing what they do. … They were stealing your wages… [and] this injury is going to last your whole life.” Alicia went with Lucia when she filed the claims at Adelante, because she had done the same herself a few months prior, and knew how the process worked.

Similarly, Fernanda was convinced to file a claim for stolen wages by her coworker Erica. They were both working cleaning a Kohl’s store where they were experiencing aggravated wage theft. Fernanda admitted she probably would have continued to work under these bad conditions, due to her “tranquila” or “calm” personality and belief that, “One day, we all pay [for what we do],” suggesting that the abusive manager would get his just deserts in the afterlife. But her coworker, Erica, had had enough of the manager’s mistreatment, and even thought she didn’t yet know her rights, she wasn’t around looking for
help. Erica talked to several friends and acquaintances about what she could do, until she found someone who told her she could file claims for stolen wages at Adelante. Erica also filed an internal complaint with the cleaning company and she asked Fernanda to lend her testimony as well. Fernanda was fairly easily convinced, when Erica argued, “We need to ask for help, because if we don’t he’s just going to keep doing this to you. He’s never going to respect anyone.” Thus, Erica played a critical role in convincing Fernanda to file a claim for stolen wages and an inter-company complaint of managerial abuse.

I found it more common that my informants were encouraged to file claims for stolen wages by coworkers, friends, or husbands than discouraged. These friends, coworkers, and husbands were also undocumented immigrants. Five women I spoke to (that’s half of my wage theft informants) received encouragement and went to Adelante with a female friend or coworker who was also an undocumented immigrant, while three informants were discouraged from filing claims by coworkers or husbands. The remaining two women worked cleaning offices and houses, had no female coworkers, and their husbands were silent on the matter of claims making.

Lengthy USDOL Delays and Investigation Time

As the GAO revealed in both its 2008 and 2009 reports to Congress on problems plaguing WHD offices across the nation, lengthy delays due to backlogs of claims has caused serious problems for workers who hope to reclaim stolen wages with the help of the USDOL (U.S. Government Accountability Office and Kutz 2008:1; U.S. Government Accountability Office, Kutz, and Meyer 2009:8). For example, a man who was working as a plumber in Maryland had been misclassified as an independent contractor rather than an employee, resulting in lower wages. He was owed over $7,000 in back wages, and he called his local WHD for help reclaiming this lost income. The GAO discovered that an investigator wasn’t
assigned to his case for 18 months. Since the statute of limitations on wage theft is typically two years, this meant there was 6 months left for the case to be resolved. But since the clock does not stop when a worker files a complaint, at that point, he could only have reclaimed 6 months worth of back pay.

However, the plumber didn’t get even that, because the investigator wasn’t able to get the employer to pay within those 6 months. So the man’s case was closed because the two year statute of limitations had run out (U.S. Government Accountability Office and Kutz 2008:6). Kim Bobo, noted author on wage theft, has suggested that the USDOL should “stop the clock” when workers file claim for stolen wages. If the clock were stopped when the worker files the claim then they could potentially get back more underpaid wages (Bobo 2011:181). For example, if a worker had been not receiving overtime for over two years and it took 6 months for an investigator to get to her case, then she would receive two and a half years worth of back wages, rather than just two years. Fine and Gordon recommend going even farther by either completely abolishing the statute of limitations or drastically extending it. They argue that doing so would serve as an “ongoing deterrence” by drastically increasing the amount employers might have to pay (Fine and Gordon 2010:562). It would also theoretically prevent unscrupulous employers from saving money by breaking the law. For instance, if an employer underpays their workers for five years before an employee finally reports them, assuming this is the employer’s first offense, they will only be required to pay two years worth of back wages. Thus, by paying workers less than they are owed, employers can actually save money, creating more of an incentive to break the law than to follow it.

Even after the delays caused by USDOL backlogs, it can sometimes take several months for an investigation to be completed, depending on the nature of the case, once an investigator is freed up to begin working on a case. As you will recall from Chapter 2, there are two basic methods WHD offices uses to seek payment from employers, conciliations and investigations. If the case is a simple one involving, say, one worker who is owed their last paycheck, an investigator may simply call the employer

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57 Under the FLSA, the statute of limitations for wage theft is typically two years, but can be extended to three years in cases of “willful violations.” It is up to the discretion of the WHD investigator to determine when a violation is a willful violation, but generally, the act is considered willful if the employer “knew its actions were illegal or acted recklessly in determining the legality of its actions” (U.S. Government Accountability Office and Kutz 2008 p. 3). According to the regional manager at the Wichita WHD office, they generally consider violations willful if the employer is a repeat offender.
and demand payment. If the employer is willing to pay, these types of cases can be resolved quickly. But if the case involves several employees who are experiencing wage theft, then they will have to wait until an investigator can be freed up to begin a thorough investigation of their case. During full investigations, a WHD investigator will go to all of the locations the employer owns within the Kansas/Missouri district, and demand to see their time keeping and payroll records for the last two years. Investigators will also interview managers and employees individually, to get a more detailed picture of how the wage theft was occurring and what other labor laws might have been violated.

For example, one of my informants, Bianca, filed her claim for wage theft with the WHD in September of 2015, and there as a little over 2 month delay before an investigator could start working on her case. Once an investigator was freed up to begin working on her case, she was notified by mail with a letter in English, which she had to have translated for her by an Adelante staff person. Then the investigator went to the hotel where she worked and interviewed all of her coworkers and managers individually. But there were further delays in her case because the hotel staff had not done a good enough job of record keeping, and they were either having a hard time producing payroll data for the full two year period, or they were withholding the information and pretending that they couldn’t find or reproduce these records. When I spoke to Bianca in March of 2016, an investigator had been working on her case for 3 months, and he would call her at the beginning of each month to let her know that he was still working on her case. And he let her know up front that some cases can take as long as year or more to resolve.

Even though Bianca was grateful that the USDOL agent was working on her case and keeping her up to date on its progress, the lengthy investigation created an uncomfortable situation for her. Although she had not lost her job as a result of filing the claim, even when the managers found out that it was her who had filed the complaint, Bianca feared that she could lose her job at any moment. When I saw her in March of 2016, she had broken a finger when a window she was cleaning fell on it, during a routine “deep clean.” She was worried that the managers might decide to fire her if she filed a worker’s compensation case, since they already knew she was the one who had filed the wage theft claim. Even though several courts have ruled it illegal to retaliate against workers who exercise their rights, since she is an undocumented immigrant the employer can fire her at any time, claiming that they just discovered she is
undocumented. Thus, lengthy USDOL investigations creates situations in which employees, especially undocumented ones, may be reluctant to claim other rights they have as workers.

According to my other informants, who were able to reclaim their stolen wages with the help of the Wichita WHD office, their cases took anywhere from two weeks to a year to resolve. And several of them reported having been told up-front, either in writing or in person, that the process could take a year or more to complete.

One informant, Clara, reported having ambivalent feelings about the lengthy USDOL investigation. At first she was surprised that her case would take a whole year to resolve, but later she was delighted that her $6,000 check finally arrived. “When Daniel [the WHD investigator] told me [it could take] a year, I said to myself, ‘Oooye, a year! Oooye!’ Clara explained. She said she eagerly anticipated her check, saying to herself, “Aye, where is my check?” during the first few weeks after she filed the claim. But after a few weeks had passed, she more-or-less forgot about the case, and thus waiting became much less difficult. Reflecting back on the whole experience, she admitted that, “The time passed quickly, and at the end the recompense arrived.” The restaurant owner sent the check to the USDOL, then they sent it to Clara, because she didn’t want to have anything to do with the owner. Although Clara was initially surprised and impatient to receive her check, ultimately, she felt the year-long process passed quickly, and she was glad to finally have her back wages.

After workers file claims for stolen wages, the WHD mails them a letter stating that their case has been received and, if applicable, is awaiting an investigator who can begin working on their case. This letter also states that some investigations can take a year or more before resolution. Although none of my informants reported deciding not to file claims for stolen wages upon learning this, it’s entirely possible that a worker, who hears from a friend or acquaintance that the whole process can take a year or more before they see any money, might decide it’s not worth the time, risk, and energy to file a complaint.

Fear of Entering Government Buildings

Many undocumented immigrants have fears and anxieties around entering government buildings. These fears might serve as a deterrent to filing a claim for wage theft for some immigrants. When I visited
the local WHD offices, housed in the basement of the Wichita United States Courthouse, I learned from the district manager that the majority of workers who receive help with wage theft claims come to them directly, not via Adelante. Local WHD staff regularly attend public Hispanic cultural events, such as Cinco de Mayo and Día de Los Muertos celebrations, to do outreach and inform the undocumented Spanish-speaking community about their rights as workers and the possibility of reclaiming their wages. Because the USDOL does its own outreach, many undocumented immigrants in Wichita receive help with their stolen wages directly from the USDOL, without involving Adelante. These immigrants contact the local WHD office by either going to the office in person or calling their 1-800 number. Two of the ten women I spoke to about wage theft said they went directly to the WHD at some point. They were not afraid to do so because they had already learned about their rights as workers and knew the USDOL is there to help. However, I have heard from other individuals, and have read in the wage theft literature, that going to a government office can be an intimidating and anxiety-ridden experience for many undocumented immigrants (Bobo 2011:186; Sanidad 2011:77–78; Smith, Ana Avendaño, and Ortega 2009:28).

When I went to the United States Courthouse located in downtown Wichita for an interview, it took me about 15 minutes just to enter the building. Upon entering the Art Deco courthouse, I was met in the lobby by three white, male security guards, who spend most to the day lounging in chairs and talking near the metal detector and airport-style baggage scanner. One of the security guards directed me to place all of my belongings on the scanner, and place my keys, wallet, watch, and jewelry in a small plastic tray, then walk through the metal detector. Then the security guard informed me that no cell phones or recording devices were allowed in the building, so I had to go back to my car, which was parked down the block, to leave my cell phone in the glovebox. When I returned, one of the security guards asked me for a government-issued photo ID. Fortunately, I had not left that in the car as well. Obviously, this whole exchange could have been confusing and intimidating for an undocumented immigrant, especially since none of the three white, male security guards spoke Spanish. Several of my informants have Mexican photo IDs, which they acquired from the mobile Mexican Consulate’s office. They could have used these to enter the courthouse. But many undocumented immigrants have no government issued IDs, and thus
would not have been permitted into the United States Courthouse to visit the WHD office (Bobo 2011:350).

In addition, many undocumented immigrants believe that they can be discovered, arrested, and deported at any time or place, including at a courthouse (Sanidad 2011:77). Although, I have never heard of ICE arrests at Wichita courthouses, undocumented immigrants in other states, such as Rhode Island and Florida, have been arrested by ICE at courthouses, while in the process of enforcing their labor rights (Smith, Ana Avendaño, and Ortega 2009:28).

Fear of entering government buildings also applies to workers who cannot be helped by the USDOL, because either they or their employers are not covered by the FLSA. In these cases, workers can choose to take their employers to small claims court and sue for payment of back wages. But many undocumented immigrants would not even consider pursuing their wage theft claims, if it meant they had to represent themselves in small claims court. This would require them to navigate a court system in a language they do no speak, in a country that is not their own, all the while fearing that someone will discover they are living and working in the United States illegally, then have them deported. One of Sanidad’s informants was very nervous about doing exactly this and explained his perceptions thus, “A person who does not have papers is not used to being in court. Only when the police detain you or something similar do you have to do go and present yourself in court. So, there exists fear above everything else... That is why you say to yourself it’s better to leave the problem as it is” (Sanidad 2011:78).

Even Carla, the founder of Adelante’s WJC, expressed similar fears when she has to visit the United States Customs and Immigration Services (USCIS) office. Carla originally came to the United States without authorization, but was later granted amnesty in the 1980s. Then she took the naturalization exam and became a United States citizen a few years ago. But she admitted to me that she still gets a visceral reaction. “By body just reacts,” she said, describing how her heart pounds and her hands shake when she has to visit USCIS offices, “…even though I’m a US citizen now.” The years she spent as an undocumented immigrant had a profound affect upon her, and her fear of entering government buildings persists.
Thus, for some immigrants entering government buildings can be a very intimidating and anxiety-producing experience, that could deter them from pursuing claims for stolen wages. For an immigrant who believes they could get arrested and deported at a courthouse, it likely would not be worth risking deportation, separation from families and loved ones, along with all the loss of income from employment in the United States, just to reclaim, say, $2,000 or $4,000 in back wages. Thus, some immigrants might make this calculation and decide not to pursue claims-making, if it involves entering government buildings.
CHAPTER 6: CONCLUSION

Minimizing Barriers to Claims-Making for Spanish-Speaking Immigrant Women

In Chapter 5, I discussed several barriers that Spanish-speaking immigrant women face in claims-making, which help to explain why fewer working undocumented Spanish-speaking women file claims for wage theft than their male counterparts. Numerous other studies and reports have made detailed the costs of wage theft to society, have made recommendations as to how wage theft can be reduced, how labor laws can be strengthened, and ways in which employers can be held accountable for their actions (Bobo 2011; Gleeson 2013; Fine and Gordon 2010; Weil and Pyles 2005; Sanidad 2011; Bernhardt et al. 2009). Reducing wage theft and barriers to claims-making is important because it will benefit both marginalized workers and mainstream workers, by slowing the labor standards race to the bottom (Sanidad 2011:94). Given the substantial literature on possible solutions to the wage theft epidemic, I will focus here on ways in which barriers to claims-making for Spanish-speaking immigrant women can be reduced. Through the reduction of barriers to claims-making, these women will enjoy greater freedom and courage to come forward with claims for wage theft.

As I pointed out, one of the major barriers to claims-making for my informants was fear of employer retaliation and job loss. My informants who had outgoing personalities, large social networks, or who were not afraid to approach Spanish-speaking strangers to ask about work opportunities, were more likely to express less anxiety about claims-making, because they believed it would be relatively easy to find new work if they needed to. Thus, extending undocumented women’s social networks, especially for those who have limited social connections, would allow them to worry less about filing a claim, losing their jobs, and having to search for new employment. As I covered in Chapter 5, social networks are particularly important for undocumented immigrants since they have limited access to the labor market, and cannot simply fill out English job applications at any establishment they choose (Gomberg-Muñoz 2011).
Chapter 6

Congreso de Mujeres / Congress of Women

Through my research, I became aware of a group of women who meet at a Catholic church in south Wichita, KS. This group of loosely affiliated women who call themselves el Congreso de Mujeres, or the Congress of Women. These Spanish-speaking women meet at the Catholic church once a month to praise and worship together, sing songs, pray for God to meet their needs, listen to religious-themed lectures, and share spiritual testimonies. Spanish-speaking Catholic churches across the country could provide education on labor laws and workers rights to their parishioners, since a large percentage of Spanish-speaking immigrants attend neighborhood churches every Sunday. The formation and encouragement of women-centered groups, like el Congreso de Mujeres, could provide safe spaces for undocumented Spanish-speaking women to learn about their labor rights, file claims for stolen wages, gain gender-specific confidence training, and extend their social networks.

Through her research on worker’s rights centers, well-known activist and scholar Janice Fine noted that before some Spanish-speaking immigrant women could successfully form immigrant-led cooperatives, they attended “consciousness-raising” leadership development workshops designed to boost their sense of self-worth. Fine noted that when non-profits began training immigrant women on how to form and run their own cooperatives, they discovered that these women were facing multiple challenges at home, including domestic violence and health issues. Accord to Fine, non-profit workers provided the needed training to help immigrant women become “ready to deal with their problems” (Fine 2006:118). In a similar way, Congresos de Mujeres could be expanded to include gender-specific consciousness-raising workshops that would promote the idea that it is alright for women to challenge authority figures, such as owners and managers, when their labor rights are being violated. Immigrant women could receive training on how to assertively express their needs and desires in constructive and empowering ways. This training would come in addition to education on existing labor laws and information about recourse for reclaiming back wages. Women who have already successfully reclaimed their stolen wages should be given a chance to tell their success stories at Congreso de Mujeres meetings. This would help to allay women’s fears of being fired or deported as a result of claims-making.
This would provide undocumented women who are silently suffering wage theft and other labor abuses the encouragement they need to come forward.

One of my informants mentioned that she heard at church that undocumented workers could reclaim their back wages in cases of wage theft, but she believed that this would require her to hire an attorney, an expense she could not afford. Thus, churches, and Congresos de Mujeres specifically, could provide accurate information about the claims-making process. Bulletin boards could be maintained in church lobbies where workers could post information about employers who had stolen their wages or treated them disrespectfully. This would allow workers to avoid employers who were notorious for breaking labor laws and mistreating their workers. Church volunteers could be trained to help assist immigrant women, and men, through the claims-making process by doing things like answering their specific questions, translating English letters from the USDOL, by providing rides to immigrants who don’t know how to drive or don’t own a car, by providing childcare for mothers when they need a few quiet minutes to work on paperwork or discuss their cases with USDOL agents and Adelante staff, and by providing phone support for women who have too many domestic responsibilities to leave the home during the day.

Undocumented women’s social networks could also be extended via Congresos de Mujeres since they would provide time and space for women to fellowship with one another, share stories, and form new friendships. If a woman lost her job, be it through employer retaliation or for any other reason, she would automatically have a large social network of potentially hundreds of other immigrant women to ask if they know of any place that is hiring Spanish-speaking workers. The feeling that a new job would be easier to find, would afford undocumented women the confidence they need to file claims for stolen wages.

However, adding civic education to the primarily spiritual objectives of Congresos de Mujeres in Wichita, KS, might prove more difficult than it would appear at first glance, despite the rich history of Liberation Theology in Latin America. Beginning in the 1960s, Liberation Theology emerged and promoted a range of ideas including the Bible as a manual for social change, principles of respect for all humans, and a focus on the role of the church as not just a cite for spiritual growth but also an instrument of social change. Liberation Theology sought to improve the social, political, and economic lives of the poor in the most impoverished countries of Latin America (Gonzalez 2014:44). Although Liberation
Theology has a rich history in many Latin American countries, little of this philosophy appears at Catholic churches in Wichita, KS. According to Carla, the founder of Adelante’s WJC, when she approached pastors and priests in Wichita about the possibility of doing civic engagement work, they were less than enthusiastic. Carla explained, “They just want to focus on the word of God and they don’t think civic education is part of their job. I think they should do both, teach people the word of God, plus teach them how to live in this country.” Given this, there may be some resistance to including labor law educational programs into religious contexts in Wichita, KS, despite the rich history of Liberation Theology in Latin America.

Conclusion

This thesis has explored the lived experiences of Spanish-speaking immigrant women who have suffered from wage theft, and focused on reasons why these women chose to file formal complaints to reclaim stolen wages, and barriers they faced in doing so. Several studies have noted that more men from undocumented Spanish-speaking communities file claims for stolen wages than do women from these communities (Gleeson 2010:579; Sanidad 2011:7). During my research, I have found no good reason to believe that working Spanish-speaking immigrant women experience wage theft less often than their male counterparts. Instead, I believe these women face more barriers to filing claims for stolen wages. I have outlined many of these barriers in Chapter 5.

One of the primary barriers to claims-making expressed by my informants was the fear of job loss. Working mothers and wives worried how they would support their children and families if they filed a claim, angered management, and then lost their jobs as a result. One of the most interesting findings I have made during this research is that immigrant women have various levels of fear of upsetting their bosses and losing their jobs, and various attitudes about how difficult it would be for them to find a new job, if they might be fired. Thus, attitudes towards job loss and job searching played a critical role in women’s decisions to file claims for stolen wages or not. Six of ten informants revealed that they thought it would be very hard or somewhat hard to find a new job, should they need to.
For women who have outgoing personalities, large social networks, or who were not afraid to approach Spanish-speaking strangers to ask about work opportunities, their chances of finding a job was greatly increased. Informants who seemed to have more outgoing and optimistic personalities reported believing it is relatively easy to find a new job. Thus, women who have the advantages that come with greater social capital are more likely to find it easy to file claims for stolen wages, and to find new work if they should need to. Although fear of job loss didn’t deter my informants from filing claims, those women who thought it would be very difficult to find another job had a harder time deciding to file a claim for stolen wages and experienced greater anxiety throughout the claims-making process.

In contrast, women who were shy, had few friends and limited social networks, reported longer periods of unemployment and the belief that new work is very hard to find. Four of the women I spoke to, admitted that they don’t have many friends. One attributed this to spending too much time with her fiancé, two attributed this to having large domestic responsibilities caring for their grandchildren all day, and one attributed this to working such long hours that she didn’t have time for making friends. The number and quality of connections in a woman’s social network could potentially have bearing on whether or not she chooses to file a claim for stolen wages. A woman who has a small social network and believes that it will be very hard to find a new job, may be more reluctant to file a claim for lost wages, since she fears losing her current job as a result.

In Chapter 4, I provided summaries of my ten informant’s work histories and focused on the complex social contexts in which wage theft occurred and women’s choices to file claims. What I found was that wage theft was just the tip of the iceberg, in terms of labor abuses. Most of my informants also endured some form of verbal abuse or disregard from managers and owners, while some endured years of shocking psychological abuse from their employers, in addition to wage theft. My informants spoke of being regularly humiliated, disrespected, treated less than human, mocked, or otherwise verbally or physically abused by their employers and managers. Thus, for many of them, the choice to file a claim for stolen wages was motivated by anger, a sense of injustice spurred by catalytic events, and the desire to preserve their personal dignity, rather than just for the money.
There is ample discussion in the literature about how racial-ethnic inequalities, capitalist forces, and harsh immigration policies have shaped Spanish-speaking immigrant workers into a vulnerable, docile, manipulatable, and silent workforce, which is reluctant to complain about unfair and unsafe working conditions (Hu-DeHart 2007; Duffy 2007)(Sanidad 2011:48)(de Castro et al. 2006:255). I help to explain how catalytic events transform undocumented workers who were previously willing to put up with horrific abuses, such as verbal abuse, unsafe working conditions, wage theft, physical assault, and threats of deportation, into workers who were motivate to confront abusive employers and managers and file claims for stolen wages. Examples of catalytic events included getting falsely accused of stealing merchandise/property, being fired without so much as a thank you, experiencing a workplace injury, being mocked or humiliated by a manager, being physically assaulted at work, being threatened with deportation, and being forced to perform excessive amounts of work as punishment. Catalytic events can be single events or a series of events which fill workers with rage, anger, or a sense of injustice, and provide the emotional fire these undocumented workers need to overcome their fears of job loss, deportation, and other possible consequences associated with claims-making.
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Wial, Howard

Wiessner, Daniel

Woloch, Nancy
### APPENDIX

#### FEDERAL MINIMUM WAGE RATES UNDER THE FAIR LABOR STANDARDS ACT

**Minimum Hourly Wage of Workers First Covered By:**

<table>
<thead>
<tr>
<th>EFFECTIVE DATE</th>
<th>1938 ACT</th>
<th>1961 AMENDMENTS</th>
<th>1966 &amp; SUBSEQUENT AMENDMENTS</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td>NONFARM</td>
</tr>
<tr>
<td>OCT. 24, 1938</td>
<td>$0.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OCT. 24, 1939</td>
<td>$0.30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OCT. 24, 1945</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>JAN. 25, 1950</td>
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<td></td>
<td></td>
</tr>
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<td></td>
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<tr>
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<td></td>
</tr>
<tr>
<td>SEPT. 3, 1964</td>
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</tr>
<tr>
<td>SEPT. 3, 1965</td>
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<td>$1.25</td>
<td></td>
</tr>
<tr>
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<td>$1.40</td>
<td>$1.00</td>
</tr>
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</tr>
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<td>$2.10</td>
<td>$2.00</td>
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<td>$2.30</td>
<td>$2.20</td>
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<td>JAN. 1, 1978</td>
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<td>$2.65 for all covered, nonexempt workers</td>
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<td></td>
<td>$2.90 for all covered, nonexempt workers</td>
</tr>
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<td>JUL. 24, 2009</td>
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<td>$7.25 for all covered, nonexempt workers</td>
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**Figure 1a: Minimum Wage History**
**Figure 1b:** Back Wages Collected from Fiscal Year Statistics for WHD, 2004-2015, revealing fluctuations in back wages collected by the WHD. Note: The dollar amounts indicated in the 3 charts below include all acts enforced by the WHD, which includes wage theft, child labor provisions under the FLSA, the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), and the Occupational Safety and Health Act of 1970 (OSHA). Thus, “back wages” refers to more than just those owed as a result of wage theft (Wage and Hour Division (WHD) 2015b).
Figure 1c: Number of Employees Receiving Back Wages from Fiscal Year Statistics for WHD, 2004-2015. Note that the number of employees who received back wages declined noticeably during the Great Recession of 2007 to 2010. One likely explanation is that workers were reluctant to come forward and file claims because they feared they would not be able to find a new job during the recession, should they be fired in retaliation (Wage and Hour Division (WHD) 2015b).
Figure 1d: Average Back Wages Paid per Employee from Fiscal Year Statistics for WHD, 2004-2015 (Wage and Hour Division (WHD) 2015b).
EMPLOYEE RIGHTS
UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE
$7.25 PER HOUR
BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

OVERTIME PAY
At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR
An employee must be at least 18 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hours restrictions. Different rules apply in agricultural employment.

TIP CREDIT
Employers of “tipped employees” who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employers must pay tipped employees a cash wage of at least $2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least $2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.

NURSING MOTHERS
The FLSA requires employers to provide reasonable break time for a nursing mother employee who is subject to the FLSA's overtime requirements in order for the employee to express breast milk for her nursing child for one year after the child's birth each time such employee has a need to express breast milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

ENFORCEMENT
The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The Department may litigate and/or recommend criminal prosecution. Employers may be assessed civil money penalties for each willful or repeated violation of the minimum wage or overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA's child labor provisions. Heightened civil money penalties may be assessed for each child labor violation that results in the death or serious injury of any minor employee, and such assessments may be doubled when the violations are determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA.

ADDITIONAL INFORMATION
• Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions.
• Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.
• Some state laws provide greater employee protections; employers must comply with both.
• Some employers incorrectly classify workers as “independent contractors” when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA’s minimum wage and overtime pay protections and correctly classified independent contractors are not.
• Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

Figure 4a: Federal Minimum Wage Poster