

TOWARDS JUSTICE
DEFENDING THE DIGNITY OF WORK

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2018 ANNUAL REPORT

Defending the Dignity of Work



A LETTER FROM THE DIRECTOR

Dear Friends,

As you know, our society is plagued by asymmetries in bargaining power that allow some to profit tremendously off others. The people who lose out—disproportionally immigrants and people of color—often have a hard time making ends meet, and on top of that, are denied the autonomy and bargaining power to get a better deal.

In 2018, Towards Justice fought back with humility and hard work on behalf of our courageous clients. We uncovered and challenged new ways that employers are taking advantage of workers, while also addressing the age-old power imbalances that calcify inequality and deprive workers of financial stability. With our client Ruth Mark, we launched a case against an alleged misclassification scheme through which immigrants like her were peddled the American dream of small business ownership and asked to pay thousands of dollars for work as commercial cleaners without any of the control and opportunity for profit that come with true independent business ownership. We also challenged the all-too-common short-changing of foreign guest workers through a lawsuit on behalf of a proposed class of Jamaican workers who allege that they never received tips when they worked at an exclusive Montana ski and golf resort.

Meanwhile, we worked with new partners in the law enforcement community to expand the fight against wage theft in Colorado and collaborated with national and local partners to call upon our City and State governments to thoughtfully protect workers from the scourge of wage theft. Finally, we continued advocating for shepherds, some of America's poorest and most vulnerable workers, in both the Tenth Circuit and the District of Columbia Courts of Appeals.

We did this thanks to an incredible group of staff, clients, board members, and partners. We said goodbye to our long time friend Justin Grant who, after being the face of Towards Justice in Denver for many years, decided to pursue a master's degree. And we supported Nina DiSalvo as she stepped back from her leadership role and allowed me to become Towards Justice's second Director. Meanwhile, we welcomed new staff members Deb Schaffer, Jesus Loayza, and Cat Ordoñez; and had the pleasure of hosting four tremendously talented summer interns and law clerks as well as an MSW Associate. These transitions forced us to focus on our mission, expand our community, and think critically about our direction as an organization. Towards Justice has big plans, and we've already achieved some terrific victories and taken some important steps in 2019.

Thank you for supporting Towards Justice as we grow, learn, and dig into the fight for worker power.

Onward,

David Seligman
Towards Justice Director

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IN THE COURTS

ENDING ANTICOMPETITIVE PRACTICES IN THE FAST FOOD INDUSTRY

In 2017, our clients brought a lawsuit against Carl's Jr. and its parent company alleging that no-hire agreements between franchises violate antitrust laws. These agreements undermine worker bargaining power by preventing workers from shopping around between employers for higher wages or better working conditions. Soon after our filing, public enforcers around the country began challenging these practices in a variety of fast food franchises. By the end of 2018, these agreements had been eliminated at several fast food franchises around the country.

PROTECTING SHEPHERDS FROM WAGE SUPPRESSION IN THE TENTH CIRCUIT

Towards Justice Attorney David Seligman argued before the Tenth Circuit Court of Appeals on behalf of some of the lowest paid workers in America—shepherds—who allege that their wages, which amount to between \$2 and \$4 per hour depending on the state, were suppressed by anti-competitive activity in the marketplace. Towards Justice was still awaiting the court's ruling at the end of 2018.

PROTECTING SHEPHERDS FROM GOVERNMENT NEGLIGENCE IN THE DC CIRCUIT

Towards Justice, with the support of our former Skadden Fellow Dermot Lynch, won a huge victory from the DC Circuit in 2018 on behalf of American and foreign shepherds who make regarding the government's ongoing failure to reasonably implement the temporary visa program that brings most shepherds to this country and keeps them here on temporary guestworker visas year after year, without any meaningful opportunity to shop between employers for a better deal. The DC Circuit reversed the trial court's decision in favor of the government, and the case has now returned to the trial court for more proceedings.



ADVOCATING FOR WORKERS ON H-2B VISAS

In September, Towards Justice filed a case on behalf of several black Jamaican citizens who came on H-2B visas to work at the Yellowstone Club, an ultra-exclusive golf and ski club that counts only the most elite as members. The workers allege that Yellowstone misled them about their employment, robbed them of their promised tips and services charges, and treated them differently from other workers.

PROTECTING NAIL TECHNICIANS FROM WAGE THEFT

In May, Towards Justice filed a case on behalf of nail technicians employed by Ella Bliss Beauty Bar. Our clients allege that Ella Bliss Beauty Bar policies and practices governing compensation are illegal, including its failure to pay nail technicians promised commissions, its failure to pay for the time nail technicians spent cleaning and doing other work and its failure to pay overtime.

PROTECTING TENS OF THOUSANDS OF CIVIL IMMIGRANT DETAINEES FROM FORCED LABOR

In 2018, the Tenth Circuit Court of Appeals upheld the lower court's class certification ruling, finding that our clients, Towards Justice, and our co-counsel could represent approximately 60,000 former civil immigrant detainees in a class action lawsuit alleging forced labor and unjust enrichment claims against The GEO Group, the private company that owns and operates the immigrant detention facility in Aurora, Colorado.

PROTECTING RECENT IMMIGRANTS FROM A PREDATORY FRANCHISE SCHEME

In September, Towards Justice filed a case on behalf of cleaners employed by OpenWorks, a cleaning company that claims not to employ cleaners. Instead, our clients allege that the company requires its workers—many of whom are recent immigrants to the United States—to incorporate into separate LLCs and enter into franchise agreements under which they purportedly operate as independent companies. OpenWorks's alleged misclassification of its employees not only allows OpenWorks to skirt state and federal labor and employment laws. According to the complaint, it also allows the company to charge its workers predatory franchise fees and other costs, many of which it finances for its workers, thus indenturing them to OpenWorks with extraordinary debt.

IN THE HALLS OF POWER

EXPANDING PUBLIC ENFORCEMENT OF WAGE THEFT STATUTES

With public enforcement of wage theft ever more critical, Towards Justice and other community organizations participated in a June 2018 convening hosted by the Boulder District Attorney's Office to discuss public and private enforcement of the wage and hour laws. Following up on that discussion, Towards Justice, the Boulder County District Attorney's Office, and the Colorado District Attorney's Council co-hosted a convening for District Attorneys to discuss the role public enforcement can play in fighting wage theft and economic exploitation in our state. We are excited to continue this partnership and work to protect workers' rights strategically and collaboratively.

Meanwhile, Towards Justice, the University of Denver Josef Korbel School of International Studies, and the Southwest Regional Council of Carpenters, issued a white paper describing how the City of Denver could step up in the fight against worker exploitation. We hope this work, as well as our ongoing collaboration with Denver's new Office of Consumer Financial Protection, will help the city to stand up against rampant wage theft.

In July, Towards Justice joined Catholic Charities of the Western Slope in presenting about wage theft to the three county Law Enforcement Immigrant Alliance in Glenwood Springs, and brainstormed ways that community policing strategies can lead to effective wage theft prosecution

We continued to encourage the Colorado Department of Labor and Employment (CDLE) to engage in strategic enforcement of the wage and hour laws, rather than rely solely on a complaint-based system. In 2018, we commented on new rules that would govern this process, while also tracking CDLE wage theft complaint management and offering ongoing suggestions for improvement.

Finally, we worked with the CDLE to train 10 Just Wages Navigators—community volunteers who support workers in completing and submitting wage complaints to the CDLE. We trained Navigators to support workers using the CDLE's new online wage complaint platform and CDLE staff shared tips and tricks on how to successfully submit a wage theft complaint.





CO-HOSTING CANDIDATES FOR GOVERNOR'S FORUM ON WORK & WORKING FAMILIES

In May, together with the Plaintiff's Employment Lawyers Association and The Sawaya Law Firm, Towards Justice hosted a non-partisan forum for Colorado gubernatorial candidates to discuss issues important to our state's working families.

ENCOURAGING GOVERNOR POLIS TO MODERNIZE THE CDLE

In December, together with the National Employment Law Project (NELP), the Economic Analysis and Research Network (EARN), the Colorado Fiscal Institute, and Bell Policy Center, Towards Justice released a major report calling on Governor-Elect Polis to strengthen and modernize the Colorado Department of Labor and Employment.

IN THE COMMUNITY

In January, Towards Justice was honored to receive the Colorado Bar Association's Non-Profit Community Service Award recognizing our commitment to serving Colorado's Hispanic Community

In August, Jesús Loayza participated in the Mexican Consulate's Labor Rights Week as a presenter sharing information about wage theft and workplace rights

In May, Nina DiSalvo presented at the United Brotherhood of Carpenters Western District Payroll Fraud Conference in Las Vegas and the Freedom Network Conference

Towards Justice celebrated victory of Access to Justice partner DU Sturm College of Law Civil Litigation Clinic and the Direct Action Team, which recovered \$15,000 for workers connected with the clinic by Towards Justice

In July, David Seligman and Nina DiSalvo participated in Harvard Law School's, Unrigging the Labor Market Convening

In June, Nina DiSalvo served as a plenary session speaker at the Detention Watch Network annual conference

In April, Nina DiSalvo presented on Immigrant Detention and Labor Trafficking at the Freedom Network Conference

Staff Attorney Cat Ordoñez testified at a hearing concerning the Colorado Department of Labor and Employment's proposed Wage Order #35 on behalf of Towards Justice

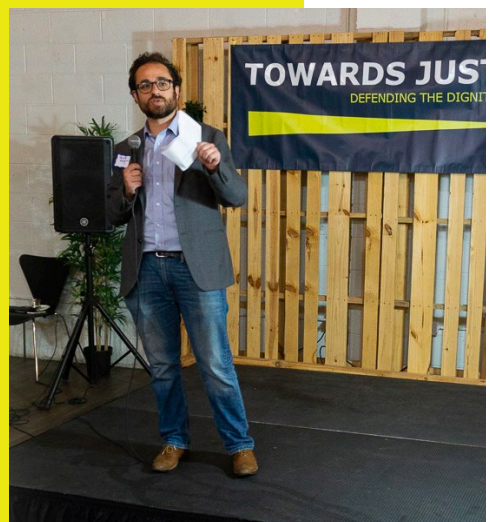
Jesus Loayza appeared on Univision and Mujeres de COLOR radio show to discuss how undocumented immigrants can protect their workplace rights and are entitled to the wages they have earned regardless of immigration status

At the Colorado Immigrant Rights Coalition, Jesus Loayza gave a Know Your Rights training focusing on wage theft and wage and hour law

David Seligman spoke at the National Consumer Law Center's Consumer Rights Litigation Conference on topics including how to obtain justice for workers and consumers in mandatory arbitration, and antitrust and other nontraditional clauses for action in the context of economic injustice for the working poor.

David Seligman drafted and filed an amicus brief on behalf of Towards Justice, Public Justice, and the National Consumer Law Center in the Ninth Circuit in support of the argument that arbitration agreements cannot force plaintiffs to waive their right to sue for injunctive relief that benefits the public generally.

David Seligman was invited to join the Clean Slate, a project hosted by the Harvard Law School Labor and Worklife Program to propose changes to American labor law.





FIGHTING WAGE THEFT IN RURAL COLORADO

In collaboration with University of Denver Graduate School of Social Work Four Corners Program, Companeros: Four Corners Immigrant Resource Center and the Hispanic Affairs Project, Towards Justice visited Carbondale, Montrose, Telluride, Cortez, Durango, Pagosa Springs and Alamosa on an epic Workers' Rights Outreach trip. We hosted 'Know Your Workers' Rights' and 'Wage Theft and How to Fight Back' presentations for community advocates and workers in English and Spanish. Thank you to the Ballentine Family Fund and DU's Latino Center for Community Engagement and Scholarship for sponsoring our rural outreach work and empowering workers across our state.

CELEBRATING PARTNERSHIP AT JUST WAGES! 2018

On October 10th we celebrated the contributions of our community in standing up against workplace exploitation at our annual Just Wages! Celebration & Fundraiser. This year we recognized our Wage Justice Champions Adam M. Harrison from the Sawaya Law Firm and the Southwest Regional Council of Carpenters. Special thanks to Alicia Perras, Lance Matthews, and Doug Brush for their help putting this event together.



TRAINING WAGE & HOUR ATTORNEYS AT WAGE JUSTICE DAY 2018

Towards Justice hosted its third annual Wage Justice Day at University of Denver Sturm College of Law and offered 7 CLE courses ranging in topics from What is Wage Theft? Issue Spotting Under Federal and State Law to Qui Tam in the Workplace Rights Context. Thank you to our fantastic presenters Jay Forester, Thomas Mitchiner, Mary Jo Lowrey, Camila Palmer, Scott Moss, Nantiya Ruan, Jennifer Seidman, Clayton Wire, Partner, Alex Hood and David Seligman.

COORDINATING WORKPLACE JUSTICE ADVOCACY: THE WAGE THEFT TASK FORCE

Together with El Centro Humanitario, Towards Justice continued to convene Colorado's workplace justice advocates through the Wage Theft Task Force in 2018. In April, we hosted Sheila R. Maddali, the Law & Organizing Director at ROC United (Restaurant Opportunities Center), who gave a compelling talk about Combating Wage Theft and Empowering Workers in the food service industry. In addition, we regularly heard reports from the CDLE on strategic enforcement and wage theft complaint adjudication, the City of Denver's new Office of Financial Empowerment, and local and national speakers engaged in the fight for workplace justice.



OUR TEAM

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Andrew Shmidt

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Deborah Schaffer

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Many Thanks to our Departing Staff and Board Members

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