

# State attorneys general can play key roles in protecting workers' rights

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# Summary

State attorneys general can be key allies in protecting workers' rights. While there are variations in the structure, resources, and jurisdiction of state attorney general offices, these offices often have a range of powers that can enable them to play a key role in advancing and defending workplace protections by ensuring that employers comply with the law. This report describes some of the ways state attorneys general have been involved in protecting workers' rights.

## Introduction: Broader state enforcement is needed to enforce workers' rights laws

Working people in America are being shortchanged: They are working harder, but inequality is rising and wages for all but the highest-paid workers are failing to keep up with economywide productivity growth (Gould 2018). Even worse, many workers are not being paid what they are owed by their employers. The failure to enforce workers' rights laws has resulted in billions of dollars in wages being stolen from workers' paychecks (Levine 2018; McNicholas, Mokhiber, and Chaikof 2017). For example, in the 10 most populous states in the country, each year 2.4 million workers covered by state or federal minimum wage laws report being paid less than the applicable minimum wage in their state—approximately 17 percent of the eligible low-wage workforce.<sup>1</sup>

The Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL)—the federal agency responsible for enforcing minimum wage and overtime laws—has been stretched increasingly thin. The number of payroll jobs in the U.S. is more than three times as large as it was in the 1940s—146.6 million in 2017 compared with 45.0 million in 1948—but the number of wage and hour investigators at WHD has remained essentially the same (BLS various years). In 1948, WHD employed one investigator for every

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22,600 covered workers; today, WHD has only one per every 135,000 workers (Cooper and Kroeger 2017). As a result, the agency’s ability to effectively police violations of labor law has suffered: from 1980 to 2015, the number of wage and hour violation cases WHD investigated decreased by 63 percent (Cooper and Kroeger 2017).

Moreover, the decline in union rates has put more workers at risk of labor law violations. Workers not covered by unions—those who are neither in a union nor covered by a union contract—are almost twice as likely (4.4 percent) to experience minimum wage violations as those in a union or covered by a union contract (2.3 percent) (Cooper and Kroeger 2017). And unions continue to be under attack: Trump’s budget blueprint calls for funding cuts to the National Labor Relations Board (NLRB), the federal agency charged with upholding private-sector workers’ rights to organize and join unions (Opfer 2018).

These staffing shortages and funding cuts show that the Trump administration is not making enforcement of our nation’s labor laws a priority. To protect workers’ rights to fair pay and fair treatment on the job, funding and resources for federal labor and employment law enforcement agencies need to increase dramatically. In addition, state governments can and should take up the fight to protect workers’ basic rights on the job. State labor departments are usually the primary enforcer of state labor laws, but there are other governmental entities that can and do engage in worker protection activities, including state attorney general offices.

This report explores the ability of state attorneys general to take up enforcement of our labor laws and protection of workers’ rights. By examining enforcement actions among a number of states, this report highlights the various ways state attorneys general exercise jurisdiction to protect workers and enforce labor laws.

## General background on state attorneys general

All 50 states and the District of Columbia, as well as Puerto Rico and other territories, have attorneys general. Although 43 of these attorneys general are elected statewide on a partisan basis, the staffs of these offices are generally career and operate in a professional, nonpolitical manner.<sup>2</sup>

Within the variety of office structures, most state attorney general offices have the following divisions (sometimes called “bureaus”): a division representing state agencies in trial courts; an appeals division, headed by the solicitor general; a division that brings public advocacy enforcement cases; a criminal division (where such jurisdiction exists); and a front office or executive team, including communications, intergovernmental, and outreach staff, a policy director; and other similar positions.

All state attorney general offices share a core commitment to the enforcement of state laws, but they vary widely in their jurisdiction, structure, resources, and areas of greatest focus:

- **Law enforcement.** Some offices have considerable resources to investigate and open cases on their own initiative and conduct their own law enforcement, while others have funding structures that limit such opportunities.
- **Representation of state agencies.** State attorney general offices are responsible for representing state agencies in court, and, in some states, they serve as agencies' general counsel as well. Depending on a variety of resource, institutional, structural, and political factors, attorney general relationships with the administrative agencies they represent vary considerably.
- **Public advocacy.** In their public advocacy activities, attorneys general tend to intervene in strategic or high-impact cases where there is a pattern of violations.
- **Criminal jurisdiction.** Some have extensive jurisdiction to enforce criminal laws, while others do not.

Advocates who wish to engage with a state attorney general office should begin by learning about the structure, jurisdiction, resources, and current activities of that particular office. This will lead to a fuller and more realistic understanding of the untapped potential, as well as the limitations, that may exist. Some useful online resources providing general information about state attorney general offices include [StateAG.org](http://StateAG.org) (“an educational resource on the office of state attorney general”); the [National Association of Attorneys General website](http://naag.org) (naag.org); and the [Conference of Western Attorneys General website](http://cwag.org) (cwag.org).

Currently, there are several state attorney general offices that have units or staff dedicated to labor enforcement: California, Massachusetts, and New York have longstanding labor units, and, in recent years, new units have been created by District of Columbia Attorney General Karl Racine, Illinois Attorney General Lisa Madigan, and Pennsylvania Attorney General Josh Shapiro, while Washington Attorney General Bob Ferguson has also increased his office's involvement in labor enforcement (OAG DC 2017b; OAG Illinois n.d.).

Unlike their federal counterparts and state agencies, state attorneys general typically have a broad range of issues they can address that impact policy and people's lives. In addition to their statutory duties to represent state agencies in court, attorneys general often fulfill a generalized public advocacy role within their states. Attorneys general enforce state laws, educate the public about important rights, propose legislation, file amicus briefs, produce reports, author op-eds, issue opinion letters, make public statements that garner media and public attention, submit comments and provide testimony on state and federal legislation, and, in recent years, have sued the federal government over matters of national importance.

While state attorney general offices, like all government agencies, have limited resources and jurisdiction, they can often be more nimble and flexible than many other government agencies in addressing a range of emerging issues with a range of potential tools.

# Roles of state attorneys general in protecting workers' rights

## Enforcement of laws to protect workers

Using their authority to enforce state laws, state attorneys general have played an affirmative role in protecting workplace rights.

Some state attorneys general are granted explicit civil or criminal enforcement jurisdiction. For example, the Massachusetts Attorney General's Fair Labor Division has sole authority to enforce the Commonwealth's wage and hour laws, including laws and regulations pertaining to prevailing wage, minimum wage, overtime, retaliation, misclassification of workers, tip pooling, and child labor (Gerstein and Sheikh 2017; OAG Massachusetts 2018b). The Division has the power to investigate work sites, issue civil citations, and bring criminal charges where appropriate. The attorney general of the District of Columbia also has independent enforcement authority for wage and hour laws. States such as Ohio and Florida have enacted their minimum wage laws through constitutional amendments that grant enforcement authority to the state attorney general, although they may not have exercised that authority to date (Gerstein and Sheikh 2017; Levine 2018).<sup>3</sup>

State labor agencies, through varying arrangements, often refer labor and employment law cases to their attorneys general for enforcement. For example:

- In 2013, the Washington State Attorney General's Office partnered with the state's Department of Labor & Industries to launch an extensive investigation into a construction company for multiple violations of the state's prevailing wage and overtime pay laws. The attorney general's office recovered more than \$64,000 in unpaid wages plus \$25,000 in interest for the 14 misclassified workers (OAG Washington 2013).
- In 2017, New York Attorney General Eric T. Schneiderman, upon referral from and with the support of the state Department of Labor, prosecuted the owner of a home health care agency for wage theft. The owner was ultimately sentenced to one year in jail for defrauding 67 employees out of over \$135,000 in wages (OAG New York 2017c).
- In 2015, Indiana's attorney general brought a civil lawsuit, upon referral from its state labor agency, against a trucking company for wrongful termination and retaliation against an employee after that employee reported workplace violence in violation of Indiana's Occupational Safety and Health Act (Flores 2015).
- Since at least 2007, the Wisconsin Department of Justice (which is the state attorney general's office) has successfully pursued several cases to recover back wages for employees under Wisconsin's plant closing law. The law requires employers of a certain size to provide advance notice prior to shutdowns that impact a threshold number of employees (Wisconsin DOJ 2007, 2009b).<sup>4</sup> If the Department of Workforce Development cannot recover payment of certain wages owed within a certain

timeframe after receiving notice of the closure, the Department is required to refer the case to the Wisconsin Department of Justice.

State attorneys general also often work with a range of other government agencies, not just labor departments, to enforce workers' rights laws:

- In Washington, the attorney general's office worked with the Washington State Department of Revenue, Office of Insurance Commissioner, Employment Security Department, and Department of Labor & Industries, among others, to recover over \$500,000 in unpaid wages and taxes from an athletic club that had underpaid its employees (OAG Washington 2015a).

Most state attorneys general who are actively engaged in labor enforcement are not specifically charged with enforcing labor laws; nonetheless, they may utilize labor statutes as well as other bases for jurisdiction to address workplace issues, as discussed in the examples below.

## Independent contractor misclassification

Numerous state-level studies show that between 10 and 20 percent of employers misclassify at least one worker as an independent contractor (Carré 2015). Independent contractor misclassification<sup>5</sup> occurs when employers treat workers as self-employed independent contractors even though they should be considered employees, and thereby deprive such workers of coverage by minimum wage, overtime pay, unemployment insurance, and workers' compensation laws (Carré 2015).

- The Illinois attorney general has used the state's Consumer Fraud and Deceptive Business Practices Act to pursue misclassification cases.<sup>6</sup> In 2009, the attorney general, along with the Illinois Department of Labor, investigated, sued, and eventually settled with five construction companies for misclassifying workers in violation of the state's Employee Classification Act, the Illinois Whistleblower Reward and Protection Act, and the Illinois Consumer Fraud and Deceptive Business Practices Act (OAG Illinois 2009).
- In 2018, the New York attorney general obtained the conviction of three Queens-based construction companies for misclassifying over 150 workers as independent contractors to avoid paying them overtime premiums, including a court order requiring the employers to pay \$371,447.01 for unpaid wages and \$359,747.86 in unpaid unemployment contributions to the New York State Department of Labor (OAG New York 2018a).

## Payroll fraud

Payroll fraud occurs when employers pay workers cash wages "off the books" and thereby fail to pay unemployment insurance taxes, procure required workers' compensation insurance, or withhold payroll taxes, among other things. In some states, efforts to address this conduct are combined with efforts to address independent contractor misclassification, through multi-agency misclassification task forces or other focused

enforcement efforts. State attorney general offices have brought cases to address such off-the-books employment (OAG New York 2014a, 2015b).

## Wage theft

Wage theft occurs when employers fail to pay workers the full wages to which they are entitled for their labor. This includes, for example, refusing to pay workers the total amount of promised wages, not paying for time spent preparing a workstation at the start of a shift or closing up at the end of a shift, not paying overtime premiums to workers who work more than 40 hours a week, and keeping workers' tips. Given that wage theft disproportionately affects workers from low-income households—who are already struggling to make ends meet—the loss of wages can have a particularly damaging impact.

- In 2017, the California attorney general filed suit against a janitorial cleaning company for failing to pay workers the minimum wage, underreporting payroll taxes, and providing false payroll information to its workers' compensation insurance carrier (OAG California 2017).
- In 2017, the District of Columbia attorney general filed a lawsuit against a home health care service provider and its owner for failing to pay 27 employees wages they had earned (OAG DC 2017a).
- In 2014, the New York attorney general recovered \$625,000 in restitution and another \$300,000 in damages for airport workers who were receiving as little as \$3.90 per hour. The investigation began after several workers notified the Service Employees International Union Local 32BJ, which has been organizing airport workers, that they were not earning the minimum wage (OAG New York 2014c).

## Joint-employer liability

When two or more businesses determine or have control over a worker's pay, schedule, job duties, or other important terms and conditions of employment, the joint-employer doctrine allows them both to be held accountable as employers and responsible for violations of employment and labor laws (von Wilpert 2018):

- In 2016, the New York attorney general filed a lawsuit against Domino's Pizza and three of its franchisees as joint employers. The lawsuit alleged, among other things, that Domino's required its franchisees to use software containing a payroll system that systematically undercalculated overtime wages for franchisee employees. The attorney general's investigation revealed that the company "urged franchisees to use payroll reports from the company's computer system (called 'PULSE'), even though Domino's knew for years that PULSE undercalculated gross wages" (OAG New York 2016b).
- In 2017, the Massachusetts attorney general settled a case with the owners of an aerosol factory for nearly \$1 million to resolve intentional overtime and minimum wage violations and for hindering the state's investigation. As a result, approximately 480

affected workers received restitution. In the lawsuit, the attorney general alleged that the company used staffing agencies to pay its workers in an attempt to protect itself from liability. In 2018, the attorney general settled a related case with the staffing company itself (OAG Massachusetts 2017b, 2018a).

## Immigrant workers' rights

Immigrant workers across the United States are often particularly vulnerable to workplace abuse:

- In 2015, the Illinois attorney general sued several employment agencies and restaurants for abusive and exploitative employment practices (OAG Illinois 2015). The attorney general alleged that two restaurants consistently underpaid Latino immigrant workers who were required to work 12- to 14-hour days, six days a week, with no official meal breaks; discriminated against them based on their race and national origin; and housed them in squalid living conditions (OAG Illinois 2015).
- In 2017, the Washington attorney general filed suit against a private prison corporation—which had been contracted by U.S. Immigration and Customs Enforcement to house detained immigrants—for not paying its detainee workers the minimum wage. The attorney general alleged that the corporation paid thousands of detainee workers \$1 per day or, in some instances, only snacks and extra food, for labor necessary to keep the prison operational. Washington's minimum wage is \$11 per hour (OAG Washington 2017; Johnson 2017).

## Noncompete agreements

Labor mobility is fundamental to the ability to earn good wages. But an estimated 30 million U.S. employees, many of them relatively low-wage workers, are prevented from leaving their jobs for better wages elsewhere because they are bound by noncompete agreements (Eisenbrey 2016; Dougherty 2017). While noncompete agreements are legal in many states, one powerful tool that state attorneys general can use to challenge the use of noncompete agreements is the doctrine of *parens patriae*. This doctrine “allows a state to bring an action on behalf of its citizen in order to protect its quasi-sovereign interests in their health, comfort and welfare” (Myers 2013). Illinois Attorney General Lisa Madigan’s office exercised its *parens patriae* authority to challenge the use of noncompete agreements directed at workers in fast-food restaurants, and was able to require 300 Jimmy John’s sandwich restaurants throughout the state to rescind the noncompete agreements it had forced its sandwich makers and delivery drivers to sign (OAG Illinois 2016a, 2016b); Madigan’s office also sued a payday lending company for unlawful noncompete agreements (OAG Illinois 2017a). New York Attorney General Eric Schneiderman has also reached several settlements in relation to employers’ use of noncompete agreements (OAG New York 2016e, 2016f).



## Prevailing wage

Prevailing wage laws seek to ensure that government contractors pay wages that are comparable to the local norms for a given trade when those contractors are working on public construction and certain other contracts. Without prevailing wage requirements, contractors can win bids on government contracts by reducing their workers' wages rather than competing on the basis of efficiency and management skills, materials costs, or the productivity of their workforce. Even after taking into account cost-of-living differences, median wages in construction are almost 7 percent lower in states where there is no prevailing wage law (Eisenbrey and Kroeger 2017).

Some state attorneys general have enforced the prevailing wage law directly. For example, New York's attorney general has brought cases against contractors for prevailing wage violations in construction of affordable housing, public schools, public housing, and airport construction, among other things (OAG New York 2013a, 2014b, 2016a). In addition, many states have false claims acts, which fight fraud against the government by allowing whistleblowers who report fraud against New York State or local governments to receive a portion of the money recovered (OAG New York 2017a). Several state attorneys general have used their state's false claims act to enforce prevailing wage laws.<sup>7</sup>

## Criminal prosecutions

New York's attorney general has obtained over 40 convictions of employers for violating labor laws since 2011. One such case involved a Papa John's franchisee who created false records and gave workers fictitious names in order to continue to illegally withhold overtime pay after becoming aware that he was under investigation by the U.S. Department of Labor for wage violations.<sup>8</sup>

## Representing state labor agencies in court

A core function of state attorneys general is representing the state in court. Offices may defend labor agencies in their enforcement of state laws when employers challenge that enforcement in court, or they may defend agency decisions in unemployment or workers' compensation cases. For example, in New York during the past decade, there have been numerous unemployment insurance cases where the New York Department of Labor determined that a worker had employee status, and was not an independent contractor as the employer claimed, and the attorney general's office defended those determinations in appellate courts.<sup>9</sup> This representational function can also come into play in cases with national implications, such as in the *Janus v. AFSCME* case, in which the Illinois Attorney General's Office represented the state as a party when defending public-sector unions' ability to collect fair share fees (OAG Illinois 2018).

In their representation of state agencies, state attorneys general have the ethical obligations and other constraints that accompany representing a client, but their work in this area often has important ramifications for workers' rights.

## Amicus briefs and comments on federal rulemaking

State attorneys general can also influence labor and employment policies and regulations by participating in litigation before the United States Supreme Court and by submitting comments in relation to federal rulemaking.

State attorneys general are active in filing amicus briefs in labor and employment cases, both individually and through coordinated multistate efforts.

For example, several state attorneys general filed a brief in support of the Obama administration's revised interpretation of the Labor-Management Reporting and Disclosure Act's (LMRDA) Persuader Rule, a rule that was intended to provide greater transparency and fairness in union elections in the private sector (OAG Massachusetts 2016; von Wilpert 2017). And 21 state attorneys general filed a brief in the *Janus v. AFSCME* case, urging the Supreme Court to uphold fair share fee provisions in public-sector collective bargaining agreements.<sup>10</sup> A coalition of 18 state attorneys general also filed a brief in the *Murphy Oil v. NLRB* case, speaking out against the use of forced arbitration in employment contracts (OAG Massachusetts 2017a). An estimated 60 million American workers have been forced to give up their access to the courts to resolve employment disputes because of mandatory arbitration agreements in employment contracts (Colvin 2017).

In 2017, several state attorneys general submitted comments to the United States Department of Labor urging the Trump administration to not roll back the 2016 overtime rule,<sup>11</sup> which would have updated the overtime salary threshold and given 12.5 million workers automatic overtime protections (OAG New York 2017b; Shierholz 2017).

In February 2018, a coalition of 17 state attorneys general filed public comments opposing the Trump administration's proposal to rescind 2011 regulations that ensure employees can keep the tips they have earned (OAG California 2018b). It is estimated that, under the proposed rule, employers would have pocketed \$5.8 billion in tips earned by tipped workers each year (Shierholz et al. 2017). As a result of this advocacy (in coalition with other groups), the omnibus spending bill enacted by Congress on March 23, 2018, included a provision that provides America's tipped workers with explicit protection of their hard-earned tips (Conti 2018).

In April 2018, a coalition of 11 state attorneys general wrote a letter to U.S. Secretary of Labor Alexander Acosta, raising serious concerns about the U.S. Department of Labor's Payroll Audit Independent Determination (PAID) program, a pilot program that allows certain employers who violate labor laws to avoid prosecution and penalties in exchange for simply paying the back wages their employees were already owed under federal law (OAG New York 2018b).

## General advocacy

In addition to their law enforcement role, state attorneys general have engaged in various types of advocacy to protect and support workers' rights.

## Public education

State attorneys general have used a variety of approaches to educate the public on labor topics, including public outreach events to educate participants about their rights. Through their websites, state attorneys general often provide information about a variety of labor law-related topics and workers' rights generally. Some websites also provide public access to formal complaint portals, which can be offered in various languages and may inform complainants that staff will not ask about an individual's immigration status (Gerstein and Sheikh 2017).

The activities of the Fair Labor Section in Pennsylvania's attorney general's office provide an example of extensive outreach in this area. In its first year, the Section conducted labor roundtables with leadership from organized labor across the Commonwealth and participated in dozens of meetings with workers' rights and other stakeholder groups. During the fall semester, the Temple University Beasley School of Law Sheller Center for Social Justice participated in a clinical experience with the Fair Labor Section, in which students investigated the use of noncompete agreements for low-wage workers in Pennsylvania. Finally, after co-authoring public comments regarding the proposed rescission of the 2011 tip rule described above, Pennsylvania Attorney General Josh Shapiro held press conferences at a diner in Philadelphia and a restaurant in Pittsburgh about the potential adverse effects of the proposed rule change. There was extensive media coverage of these events, which raised public awareness of the issue.

## Opinion letters

State attorney general opinion letters are typically issued in response to a formal request for legal guidance by a state agency or state officials. Although not generally binding on the courts, a final opinion typically goes through a formalized review process and carries with it the full weight and authority of the office. Opinions often detail the duties and responsibilities of a state agency or official under state and federal law, or elucidate ambiguous or unclear statutory provisions in a state law (Gerstein and Sheikh 2017). For example, the Delaware and New Mexico state attorneys general each issued opinion letters asserting that the local governments in Sussex County, Delaware, and Sandoval County, New Mexico, did not have the statutory authority to enact local "right to work" ordinances, which would have barred unions from collecting fair share fees in the private sector (*Delaware State News* 2017; OAG New Mexico 2018).

## Reports

In 2014, the New York Attorney General's Office issued *Pinched by Plastic*, a report on the payment of wages by payroll cards (OAG New York 2014d). The report was based on responses to inquiry letters sent by the attorney general's office to approximately 40 national employers that were using payroll cards. It found that virtually all payroll card programs charged fees for card-related activities, and these fees added up, reducing take-home pay received by the lowest-paid workers in the state (OAG New York 2014d). In 2014, the New York Attorney General's Office also began issuing annual Labor Day reports, providing a detailed overview of the Labor Bureau's actions to protect the state's workers (StateAG.org 2017b). Massachusetts began publishing a similar annual report in 2016 to highlight notable cases, investigations, and trends in labor enforcement in Massachusetts (StateAG.org. 2017a).

## Legislation

Many state attorneys general have units within their office dedicated to drafting and proposing legislation. Some have used their legislative units to introduce bills that enhance worker protections and target abusive practices. In 2014, then Illinois Governor Pat Quinn signed into law Illinois House Bill 5622, a bill protecting low-wage workers who receive wages through payroll cards from unreasonable fees (OAG Illinois 2014). The Illinois Attorney General's Office played a key role in this legislation: After receiving complaints from workers about onerous payroll card fees, the attorney general's office, with assistance from the Illinois Department of Labor, drafted the original legislation, which was eventually sponsored by several state house representatives.

Similarly, after issuing its report on the payment of wages through payroll cards, New York Attorney General Eric Schneiderman's office also drafted legislation to regulate the use of payroll cards and enhance protections surrounding workers' access to wages (OAG New York 2015c). In 2016, Schneiderman also proposed a bill to curb the widespread misuse of noncompete agreements (OAG New York 2016c).

Washington Attorney General Bob Ferguson made wage theft the centerpiece of his 2015 legislative agenda. His office introduced legislation barring companies who have repeatedly violated the state's wage theft laws from doing business in Washington (OAG Washington 2015b).

## Multistate advocacy

There is a growing level of multistate action on workers' rights issues among state attorneys general. In 2016, nine attorney general offices jointly sent letters to a number of retailers about their use of on-call shifts (shifts in which workers are expected to call in an hour or two before the start of a shift to learn whether or not they are needed for the day).<sup>12</sup> The retailers that were using on-call shifts terminated the practice. In April 2018, 11 state attorney general offices jointly sent a letter to U.S. Secretary of Labor Acosta,

expressing concerns about the Wage and Hour Division’s new pilot program, titled the Payroll Audit Independent Determination, which allows employers to avoid paying damages and penalties by voluntarily paying back wages only to underpaid workers (OAG California 2018a). And in February 2018, all 50 state attorneys general and the attorney general of the District of Columbia signed a letter to Congress seeking an end to mandatory arbitration for sexual harassment cases.<sup>13</sup>

## Conclusion

State attorney general offices can be key allies in protecting workers’ rights. While there is variation in their structure, resources, and jurisdiction, state attorneys general have a range of powers that can enable them to play a leading role in ensuring legal compliance by employers and advancing and defending workplace protections.

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## About the authors

**Terri Gerstein** is an Open Society Foundations Leadership in Government Fellow and a Fellow at the Harvard Law School Labor and Worklife Program. Previously, she worked for over 17 years enforcing labor laws in New York State, including as a Deputy Commissioner of Labor and most recently as Labor Bureau Chief for Attorney General Eric Schneiderman. Before her government service, Terri was a Skadden Fellow and Echoing Green Fellow at the Florida Immigrant Advocacy Center (currently named Americans for Immigrant Justice), where she represented immigrant workers and co-hosted a Spanish-language radio show on workers’ rights. She also served as a law clerk for the Honorable Mary Johnson Lowe in the U.S. District Court for the Southern District of New York. She is a graduate of Harvard Law School and Harvard College.

**Marni von Wilpert** is associate labor counsel supporting EPI’s Perkins Project on Worker Rights and Wages, a policy response team tracking the wage and employment policies coming out of the White House, both houses of Congress, and the courts. Von Wilpert came to EPI in 2017 from the National Labor Relations Board, where she was an attorney in the Appellate and Supreme Court Litigation Branch from 2014–2017. Before coming to Washington, D.C., von Wilpert served as a law clerk for Judge James E. Graves, Jr., on the United States Court of Appeals for the Fifth Circuit (2013–2014). She has a J.D. from Fordham University School of Law and a bachelor’s degree from the University of California at Berkeley.

# Endnotes

1. Those states are: California, Florida, Georgia, Illinois, Michigan, New York, North Carolina, Ohio, Pennsylvania, and Texas. See Cooper and Kroeger 2017.
2. See the [StateAG.org](https://www.stateag.org) website.
3. FLA. CONST. art. X, § 24(e) (2004) (“The state attorney general or other official designated by the state legislature may also bring a civil action to enforce this amendment.”); OHIO CONST. art. II, Section 34a (2006) (“An action for equitable and monetary relief may be brought against an employer by the attorney general and/or an employee or person acting on behalf of an employee or all similarly situated employees in any court of competent jurisdiction.”).
4. 2 Wis. Stat. Ann. § 109.11.
5. In addition to independent contractor misclassification, the term “misclassification” is also sometimes used in discussions regarding employers who misclassify workers as being subject to the executive, administrative, or professional exemption from overtime, as well as to refer to public contractors who misclassify workers into the wrong job category for prevailing wage purposes.
6. 8 ILCS Ch. 815 et seq.
7. See, e.g., OAG New York 2017a.
8. See, e.g., OAG New York 2016d, 6–7; OAG New York 2015a.
9. See, e.g., *In the Matter of the Claim of Catherine Nance, Respondent. Nyp Holdings Inc., Doing Business as New York Post, Appellant. Commissioner of Labor, Respondent*, 2014 NY Slip Op 03720, 2014 WL 3490935; *In re Yoga Vida NYC, Inc.*, 28 N.Y.3d 1013, 64 N.E.3d 276 (2016).
10. See OAG New York 2018c; EPI 2018.
11. The attorneys general of New York, California, Delaware, Illinois, Iowa, Maryland, Massachusetts, Vermont, and Washington all joined the brief.
12. See, e.g., Office of the Attorney General of New York to Aeropostale Inc., “[Request for Information Regarding ‘On Call Shifts,’](#)” April 12, 2016.
13. National Association of Attorneys General to Congress, “[Mandatory Arbitration of Sexual Harassment Disputes,](#)” February 12, 2018.

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