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EVALUATING THE LABOR DEPARTMENT IN NEW ORLEANS: DOL'S PERFORMANCE IN INVESTIGATING AND PROSECUTING WAGE AND HOUR VIOLATIONS AND PROTECTING GUEST WORKERS

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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EVALUATING THE LABOR DEPARTMENT IN NEW ORLEANS: DOL'S PERFORMANCE IN INVESTIGATING AND PROSECUTING WAGE AND HOUR VIOLATIONS AND PROTECTING GUEST WORKERS

MONDAY, OCTOBER 29, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
New Orleans, LA.

The subcommittee met, pursuant to notice, at 10 a.m., in room 308, Loyola Law School, 526 Pine Street, New Orleans, LA, Hon. Dennis Kucinich (chairman of the subcommittee) presiding.

Present: Representative Kucinich.

Staff present: Jaron R. Bourke, staff director; Noura Erakat, counsel; Jean Gosa, clerk; and Chris Mertens, intern.

Mr. KUCINICH. The committee will come to order.

Thank you very much to all of you for being here. Thank you and good morning, buenos dias. Thank you for all of you and your presence today. The Subcommittee on Domestic Policy of the Committee on Oversight and Government Reform is in order.

Today's hearing will examine the Department of Labor's Performance in Investigating and Prosecuting Wage and Hour Violations and Protecting Guest Workers in New Orleans.

I am Congressman Dennis Kucinich, Chairman of the committee. Our committee has very broad reach in all matters relating to regulatory reform and oversight of every area of the Federal Government except the Department of Defense and the Department of State. So in our capacity, we are here this morning to take testimony and hear from witnesses as part of our ongoing investigation and gathering of information.

We are able to proceed this morning without the ranking Republican because we have the permission of the Republican staff and the ranking member to proceed. The Ranking Member Darrell Issa is from California and is in his district. And a good part of California, as you know, has been hit with another form of disaster—fire. So he is in his district tending to that. He has OKed us going forward without him and I want to acknowledge his cooperation in this and other matters that come before our committee; and thank him for his indulgence.

Without objection, the Chair and the ranking minority member will have 5 minutes to make opening statements followed by opening statements not to exceed 3 minutes by any other Member who

seeks recognition. And without objection, the Members and witnesses may have 5 legislative days to submit a written statement or extraneous materials for the record. And maybe we can have as witnesses the people involved in that wrestling match upstairs. [Laughter.]

Do we know what that is about? In Washington, at this time, it would be people preparing to move out of their offices. [Laughter.]

Good afternoon and welcome.

This hearing continues an investigation that began earlier this year into the adequacy of labor law enforcement in New Orleans during the period following Hurricane Katrina.

In the aftermath of Hurricane Katrina, President Bush issued a number of executive orders to suspend labor laws and documentation requirements. These included the suspension of the Davis-Bacon Act and the suspension of Affirmative Action requirements. The Bush administration suspended regular enforcement of Occupational Safety and Health Administration standards and Department of Homeland Security documentation requirements.

At the same time, the Federal Government pumped billions of dollars of no-bid, cost-plus contracts into the Gulf Coast and into the hands of contractors. The need for urgent reconstruction and clean-up coupled with Federal funds attracted thousands of workers from within the United States and abroad.

The conditions constituted a serious challenge to the Department of Labor in New Orleans. As Mr. Paul DeCamp said in his testimony, "the final challenge is unlike anything WHD has experienced previously. The infusion of Federal assistance into the region and the need for an immediate response to the environmental conditions in the area resulted in multiple layers of contracting and blurred lines of employer accountability." As the Federal cop on the workplace safety, wages and hours beat, the Department of Labor would have to respond to the needs of a worker population unique to the Gulf Coast in an environment marked by a national catastrophe without precedent.

The Department of Labor's Wage and Hour Division was responsible for investigating and prosecuting the labor law violations in the region. It appears that, with inadequate resources, the task was too daunting for the Department of Labor. In the absence of aggressive enforcement, crimes against workers increased. Meanwhile, the number of Department of Labor investigations into New Orlean's situation decreased. Consider that the number of investigations dropped from 70 in the year before Katrina to 44 in the 11 months after Katrina.

Where was Sheriff Labor when workers needed her most?

Mr. Jeffrey Steele was never paid for the hours he worked. He filed a complaint with DOL in September 2006. Nothing happened. Finally, 5 months later after making numerous inquiries, a DOL investigator contacted Mr. Steele. Another month and a half lapsed before an investigator called Mr. Steele to ask him for more information that, as an investigator, she should have found herself. Two months more lapsed before the investigator called Mr. Steele again. Not surprisingly, fearing bad publicity, this phone call came 6 days before his testimony at the June 26th hearing. And now, 4 months later, after receiving national media attention, Mr. Steele's case

has still not progressed. Mr. Steele will testify today about his case's status. I ask, if Mr. Steele went to the DOL more than a year ago and his case received national media attention, and he has not been adequately served, then what can be said about similarly situated workers who have not received national attention or worse, who cannot even communicate with DOL?

The stories of violations are abundant. We will hear a number of them today. We seek to understand what the DOL did well, what it did poorly and what it failed to do on behalf of workers in the aftermath of Hurricane Katrina. Now, more than 2 years after Hurricane Katrina struck the Gulf Coast, we want to know what we can do to protect the workers who came to clean and rebuild the cities.

We already know what some of the problems are. Part of the problem seems to be that DOL was too slow to adapt to the need and to respond to labor abuses against a new immigrant population. For instance, our investigation revealed that the New Orleans District Office took 1 year and 4 months after the hurricane to hire a Spanish-speaking investigator, bringing the total capacity to two.

Nearly 2 years later, out of 12 investigators, only three are Spanish-speaking. At least for workers from Guatemala and Mexico, there is a chance of being helped. In contrast, workers from Brazil do not have much of a chance because they have not had a Portuguese-speaking investigator since last December.

Part of the problem seems to reside in Washington, DC, in the Department of Labor office. After the hurricanes deprived hundreds of thousands of people of their homes, including most, if not all, of the staff and investigators of the New Orleans Department of Labor office, what supplemental support did the Washington office provide? Our inquiry reveals that Washington sent the first detailed employee to help, for a period of 2 weeks, nearly 3 months after the hurricane.

At our June 26th hearing, Mr. Paul DeCamp, Department of Labor Wage and Hour Administrator, explained that the District Office did not hire more staff because labor law violations in New Orleans constitute a "temporary bubble, albeit a significant bubble in terms of violations and in terms of workload in the Gulf Coast and in New Orleans in particular," saying that will last for the next 2 to 5 years. I wonder what Mr. DeCamp thought would pop this bubble. The resolution of all labor law claims? The completion of clean-up and reconstruction in New Orleans? The expiration of the statute of limitations on claims that arose in the aftermath of the hurricane? We hope that Barbara Hicks of the Department of Labor can help us answer that question today.

Part of the problem seems to be the administration of the law. Guest workers, who come to work in the United States on H2–B visas, are susceptible to other labor law violations as well. Oftentimes, after paying a fee for their visa, after paying for a plane ticket as well as a substantial fee to the labor broker who invited them to work in the United States, they arrive in the United States only to find that there is no work for them. In many cases, they are subjected to horrible living conditions, non-payment for overtime, and no payment at all. In the worst case, these guest workers

have their passports and visas confiscated by employers, rendering them virtual slaves at the hands of someone who used legal means to import them into the United States.

Take the case of Matt Redd, a New Orleans real estate mogul, and certified Department of Labor guest worker employer, "legally" trafficked workers and rented those unfortunate migrant workers out to garbage collection companies and restaurants at an hourly wage. According to Mr. Saket Soni and Mr. Jacob Horowitz, the Alliance of Guest Workers for Dignity attempted their own citizens' arrest of Mr. Redd to retrieve their documents and subsequently protested in front of the Department of Labor office to pressure it to protect them. As of June 26th, the Department of Labor had done nothing on behalf of those guest workers. Today, a number of them will testify.

The Department of Labor claims that it has little or no authority to act on behalf of the H2–B visa holders. This is only partially true. Unlike statutes protecting agricultural guest workers, or H2–A visa holders, no similar regulations exist to protect non-agricultural guest workers. At present, the Department of Labor is drafting new H2–B regulations. This marks a significant opportunity for the Department of Labor to serve non-agricultural guest worker populations; populations that are working to rebuild one of our most beloved cities, New Orleans. I encourage the Department of Labor to use this opportunity to provide more protection, and not less, to the H2–B vis workers.

It is important to remember that, irrespective of the minimal statutory protections, the Department of Labor WHD still has the authority and the responsibility to prosecute employers for violations of the Federal Labor Standards Act and the Davis-Bacon Act, even when the victims are H2–B holders.

The interplay of labor law suspensions, an influx of workers, huge numbers of contractors, and non-enforcement of labor law created an environment, according to some of our witnesses, of virtual lawlessness in New Orleans, with respect to enforcement of labor law—an environment they have describe to us as the "wild, wild west."

Today, I hope that as we continue our inquiry, we can better understand why and how this occurred; and that we can take a path that can bring justice to those people who have worked hard to try to rebuild New Orleans, but are not getting paid, cannot get the government to go on their behalf to get paid. This subcommittee, will and is intervening on behalf of those workers, whatever their origin, to make sure that economic justice is done and to continue to see the efforts for rebuilding New Orleans continue with people feeling that when they put to work in, they are going to get paid for it.

So with that, we are going to move ahead to the witnesses, and I would like to make a brief introduction of the witnesses before we proceed.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Opening Statement
Dennis Kucinich
Chairman
Domestic Policy Subcommittee
"DOL's Performance In Investigating and Prosecuting Wage and Hour Violations And Protecting Guest Workers"
Monday October 29, 2007
Loyola Law School, Room 308

Good afternoon and welcome.

This hearing continues an investigation that began earlier this year into the adequacy of labor law enforcement in New Orleans during the period following Hurricane Katrina.

In the aftermath of Hurricane Katrina, President Bush issued a number of executive orders to suspend labor laws and documentation requirements. These included the suspension of the Davis-Bacon Act and the suspension of Affirmative Action requirements. The Bush Administration suspended regular enforcement of Occupational, Safety, and Health Administration standards, and Department of Homeland Security documentation requirements.

At the same time, the federal government pumped billions of dollars of no-bid, cost-plus contracts into the Gulf Coast and into the hands of contractors. The need for urgent reconstruction and

clean-up coupled with federal funds attracted thousands of workers from within the United States and abroad.

The conditions constituted a serious challenge to the DOL in New Orleans. As Mr. Paul DeCamp said in his testimony, "the final challenge is unlike anything WHD has experienced previously. The infusion of federal assistance into the region and the need for an immediate response to the environmental conditions in the area resulted in multiple layers of subcontracting and blurred lines of employer accountability." As the federal cop on the workplace safety, wages, and hours beat, the Department of Labor would have to respond to the needs of a worker population unique to the Gulf Coast in an environment marked by a national catastrophe without precedent.

The DOL's Wage and Hour Division was responsible for investigating and prosecuting the labor law violations in the region. It appears that, with inadequate resources, the task was too daunting for the DOL. In the absence of aggressive enforcement, crimes against workers increased. Meanwhile, the number of DOL investigations in New Orleans decreased. Consider that the number of investigations dropped from 70 in the year before Katrina to 44 in the eleven months after Katrina.

Where was Sherriff Labor when workers needed her most?

Mr. Jeffrey Steele was never paid for the hours he worked. He filed a complaint with the DOL in September 2006. Nothing happened. Finally five months later after making numerous inquiries, a DOL investigator contacted Mr. Steele. Another month and a half lapsed before an investigator called Mr. Steele to ask for more information that, as an investigator, she should have found herself. Two months more lapsed before the investigator called Mr. Steele again. Not surprisingly, fearing bad publicity, this phone call came 6 days before his testimony at our June 26th hearing. And now, four months later, after receiving national media attention Mr. Steele's case has still not progressed. Mr. Steele will testify today about his case's status. I ask, if Mr. Steele who went to the DOL more than a year ago and whose case received national media attention, has not been adequately served, then what can be said about similarly situated workers who haven't received national attention and worse, who can't even communicate with the DOL?

The stories of violations are abundant. We will hear a number of them today. We seek to understand what the DOL did well, what it did poorly and what it failed to do on behalf of workers in the

aftermath of Hurricane Katrina. And now, more than two years **after** Hurricane Katrina struck the Gulf Coast, we want to know what **we** can do to protect the workers who came to clean and rebuild its cities.

We already know what some of the problems are. Part of the problem seems to be that the DOL was slow to adapt to the need and to respond to labor abuses against a new immigrant population. For instance, our investigation revealed that the New Orleans District Office took one year and four months after the hurricanes to hire a new Spanish-speaking investigator, bringing the **total** capacity to 2.

Nearly two years later, out of 12 investigators, only 3 are Spanish-speaking. At least for workers from Guatemala and Mexico, there is a chance of being helped. In contrast, the workers from Brazil, do not have much of a chance because they haven't even had a Portuguese-speaking investigator since last December.

Part of the problem seems to reside with the Washington, DC DOL office. After the hurricanes deprived hundreds of thousands people of their homes, including most if not all of the staff and investigators of the New Orleans DOL office, what supplemental

support did the Washington office provide? Our inquiry reveals that Washington sent the first detailed employee to help, for a period of two weeks, nearly three months after the hurricanes.

At our June 26th hearing, Mr. Paul DeCamp, DOL Wage and Hour Administrator, explained that the District Office did not hire more staff because labor law violations in New Orleans constitute a "temporary bubble," albeit a "significant bubble in terms of violations and in terms of workload in the Gulf Coast and in New Orleans in particular" that will last for the next two to five years. What did Mr. DeCamp think would pop this bubble? The resolution of all the labor law claims? The completion of clean-up and reconstruction in New Orleans? The expiration of the statute of limitation on claims that arose in the aftermath of the hurricanes? We hope Ms. Barbara Hicks can help us answer that question today.

Part of the problem seems to be the administration of the law. Guest workers, who come to work in the U.S. on H2-B visas, are susceptible to other labor violations as well. Often times, after paying a fee for their visa, after paying for a plane ticket, as well as a substantial fee to the labor broker who invited them to work in the United States, they arrive in the U.S. only find that there is no

work for them. In many cases, they are subjected to horrible living conditions, non-payment for overtime, and non-payment at all. In the worst case, these guest workers have their passports and visas confiscated by employers rendering them virtual slaves at the hands of someone who used legal means to import them into the U.S.

Take the case of Matt Redd, a New Orleans real estate mogul, and a certified DOL guest worker employer, "legally" trafficked workers and rented those unfortunate migrant workers out to garbage collection companies and restaurants at an hourly wage. According to Mr. Saket Soni and Mr. Jacob Horowitz, the Alliance of Guest Workers for Dignity attempted their own citizens' arrest of Redd to retrieve their documents and subsequently protested in front of the DOL office to pressure it to protect them. As of June 26th, the DOL had done nothing on behalf of those guest workers. Today, a number of them will testify.

The DOL claims that it has little to no authority to act on behalf of the H2-B visa holders. That is only partially true. Unlike statutes protecting agricultural guest workers, or H2-A visa holders, no similar regulations exists to protect non-agricultural guest workers. At present, the DOL is drafting new H2-B regulations. This marks

a significant opportunity for the DOL to serve the non-agricultural guest worker population; a population that is working to rebuild one of our most beloved cities, New Orleans. I encourage the DOL to use this opportunity to provide more protection, and not less, to H2-B visa workers.

But it is important to remember that, irrespective of the minimal statutory protections, the DOL WHD still has the authority and the responsibility to prosecute employers for violations of the Federal Labor Standards Act and the Davis-Bacon Act, even when the victims are H2-B holders.

The interplay of labor law suspensions, an influx of workers, huge contractors, and non-enforcement of labor law created an environment, according to some of our witnesses, of virtual lawlessness in New Orleans. An environment they have described to us as the "wild wild west."

Today, I hope we can continue our inquiry to better understand why and how this occurred.

Mr. KUCINICH. First of all, Professor Luz Molina. Professor Molina is the clinical professor at the Law Clinic and Center for Social Justice at Loyola Law School. Professor Molina has spent much of her career working with poverty-stricken individuals in the areas of domestic law, immigration law and children's proceedings. She works with student practitioners in a labor and employment law practice as part of her Workplace Justice Project.

I am going to introduce everyone now and then I will ask you to all stand and I will swear you in jointly and then Professor Molina will begin.

Mr. Jeffrey Steele is a former clean-up worker in New Orleans. He has filed a claim with the Department of Labor. The claim is now becoming quite famous and it still has not been resolved.

Mr. Tyrone Wilson is a former clean-up worker in New Orleans. He too has filed a claim with the Department of Labor that has not been resolved.

Mr. Alfred McQuirter is a former clean-up worker in New Orleans.

Mr. Rodney Smith, a former clean-up worker in New Orleans.

Mr. Victor Hernandez works in New Orleans and has witnessed numerous labor law violations and has experienced many himself.

I want to thank all of you for appearing before our subcommittee today. It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify. I would ask that you rise right now each of you, and all the witnesses, would you please raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that all of the witnesses answered in the affirmative. You may be seated.

I would ask Professor Molina to come to the podium for the purpose of making her statement. I want to thank you for being here and the committee appreciates your leadership in this and you may proceed.

STATEMENTS OF LUZ MOLINA, CLINICAL PROFESSOR, LAW CLINIC AND CENTER FOR SOCIAL JUSTICE, LOYOLA LAW SCHOOL; JEFFREY STEELE, FORMER CLEAN-UP WORKER IN NEW ORLEANS; TYRONE WILSON, FORMER CLEAN-UP WORKER IN NEW ORLEANS; ALFRED MCQUIRTER, FORMER CLEAN-UP WORKER IN NEW ORLEANS; RODNEY SMITH, FORMER CLEAN-UP WORKER IN NEW ORLEANS; AND JOSE HERNANDEZ, FORMER CLEAN-UP WORKER IN NEW ORLEANS

STATEMENT OF LUZ MOLINA

Ms. MOLINA. Good morning, Congressman. I appreciate the invitation to speak to this issue. It is an issue that has been of great concern to us in the area. It is one that we are not used to and certainly after Katrina, we were unprepared woefully to address some of the issues that occurred in the labor area.

In particular, immediately after Katrina, we realized——

Mr. KUCINICH. Is that mic OK for you?

Ms. MOLINA. Yeah, I just need to pull it out or else I need to bend too much.

Mr. KUCINICH. Take your time. I wanted to mention to the witnesses, each person will have 5 minutes to make their statement. If your statement requires that you need more than 5 minutes, I can assure you it will be put in the record of the hearing. So, Jean, will you help us keep track of time and will you let people know when they have a minute to go? OK? Thanks.

Please proceed. Thank you.

Ms. MOLINA. I just want to make a brief statement and try to clarify the overall landscape of the labor issues in New Orleans. In particular, I think we have had three different labor issues after Katrina:

The first one was certainly related to some of the problems created by Katrina itself—new roof replacements, the park, the FEMA trailers and the debris removal. And all of those moneys came from Federal contracts.

The second wave of workers attracted to the Gulf had to do with the reconstruction of private residences and private buildings and had to do much with private insurance money.

I think we are entering a third period of attraction of labor to the city, related to the Road Home moneys that are going to be soon disbursed and are being disbursed as we speak.

I think the problem has to do with the lack of a significant presence in the area, for whatever reason, of the Department of Labor, in terms of investigations. I do not think New Orleans had ever seen the kind of violations that we saw right after Katrina. And in terms of those violations, it is not the kind of situation where you can just sit down and wait for the workers to come to you. A lot of the groups that do this kind of work, in particular, the Southern Poverty Law Center, I think understood immediately what the impact would be in the area, especially in the Gulf. And they deployed their workers to try to pick out these individuals who were not being paid and abused by the workers in the area, to try to make sense of what was happening right after the hurricanes, so this would have been in the fall of 2005.

If you do not have a plan in place, this is absolutely possible. If there is no understanding that as part of greater disaster response, there has to be a labor response, then there is a problem. I think the lesson to be learned here is that FEMA and the DOL have to be part of the immediate response. DOL has to have emergency response, because there is no way to put together the kind of investigations that are going to be necessary when this kind of influx of labor comes into a particular area.

I would like to answer whatever questions, Congressman, you have, regarding this issue. I have a lot of experiences as I have tried to respond in a small way with my students to these particular issues. But I can tell you, it has been very difficult because a lot of the response has to be legal and there are not many resources in that area in the city.

Mr. KUCINICH. I thank you very much, Professor Molina, for your testimony. We will have followup questions of you.

I am going to now ask Mr. Steele to come forward. And I would ask, Professor, if you would like to have a seat right there, that would be fine. And then once we get to the questions, we will ask people to come to the mic and we will question them.

Just in the interest of facilitating this, if the gentleman would like to put the wireless on him, that should not be a problem. I think it is important that his testimony be heard by the community.

STATEMENT OF JEFFREY STEELE

Mr. STEELE. Good morning, Congressman.

Mr. KUCINICH. I want to thank you for being here.

Mr. STEELE. My name is Jeffrey Steele, again. I testified before the subcommittee on June 26th of this past year.

I currently live in Montgomery, Alabama. Before Katrina, I worked in Atlanta, I ran several shelters in Atlanta. I met a lot of displaced people from New Orleans. So I wanted to be part of history, so I came to New Orleans to kind of do the right thing by helping people because I could not understand why we, as America, would sit there and let our folks sit there and flood out and get hurt.

I testified in June that I came out with Pastor Braddy and I worked in New Orleans. He promised free room and board and $10 an hour. We left Atlanta October 16, 2005 in a small van with others who had been recruited by Braddy. We arrived in New Orleans the next morning. We were put straight to work with nothing to eat since we had left Atlanta. We slept that night in the same van that we came down in.

Until September 2006, I worked in New Orleans for several different subcontractors doing clean-up work—Workforce Development, Phoenix Global, Copeland Construction; Xpress Staff, JNE. They were connected to Omni Pinnacle, Waste Management, ECC.

The work in New Orleans was very hard and dangerous. Day and night, we worked long and hot. We had no health insurance, no workmen's compensation or other benefits. We worked 16 to 18 hours a day for 7 days a week.

I lived with 40 to 60 other guys in a small house when I was not crammed into small, dirty apartments. We had very little to eat. We had to eat relief handouts or MREs. Most of the time we were starving.

None of those companies paid correctly for the work that we did. The pay was always late and every paycheck was short. There was never no overtime payment. And the companies took deductions out for housing, food and transportation. For the first 3 months I worked in New Orleans, I received $2,000 instead of the $17,000 I had earned—no overtime.

I tried to get back what was owed to me by talking with people from the Law Clinic. They sent my case to the Department of Labor. When I had not heard anything for a long time, I called the DOL directly in February 2007. I was asked if I had any information from my previous employers. I gave whatever information I had.

The DOL called me back and said they would file my claim. When I called them back a month later to find out what was happening, the woman said when she found out something she would let me know.

I did not hear anything back from the DOL until right before the subcommittee hearing in June 2007. The DOL supervisor called me

and immediately began to interrogate me. She ended the call by saying she wanted me to call her when I had more information. She treated me as if I was the bad guy. And then again, I only heard from these people somewhere in June—I mean in August 2007, 2 months after I came back from Washington, DC, briefly asking me the same thing, do I have any information. I gave them Coach's number and I said I had other people's numbers that I could give them when I got down here. But they since then have not called.

Then one of the companies, the JNE Construction Co., is still sitting here doing business in New Orleans, working for the Mayor directly.

I told Barbara Hicks—wherever she is at—I told the lady that was working for her exactly where these people was at, gave them all the information and these people have yet to call me back to say where is my money.

Mr. KUCINICH. Thank you very much, Mr. Steele.

We have Mr. Wilson. I would like to invite you to come up.

OK, Mr. Wilson, you may proceed, sir.

[The prepared statement of Mr. Steele follows:]

Jeffrey Steele
Domestic Policy Subcommittee
Oversight and Government Reform Committee
New Orleans, Louisiana
Monday, October 29, 2007

My name is Jeffrey Steele. I testified in front of the Sub-Committee at the hearing in Washington, DC on June 26th.

I currently live in Montgomery, Alabama. Before Katrina, I worked in Atlanta and met displaced residents who had evacuated from New Orleans. I decided I wanted to be part of history. I wanted to come down to help rebuild.

I testified in June that I was recruited by Pastor Braddy who was looking for workers for New Orleans. He promised free room and board, free food and $10 an hour. I left Atlanta on October 16, 2005 in a small van with others who had been recruited by Braddy. We arrived in New Orleans the next morning and were put straight to work with nothing to eat since we'd left Atlanta. We slept that night in the same van we'd come down in.

Up until September 2006, I worked in New Orleans for several different subcontractors doing clean up work. Many of these companies are still doing business and have offices in New Orleans today. - Workforce Development; Phoenix Global; Copeland Construction; Hamp Construction, Xxpress Staff and JNE. They were

connected to Omni Pinnacle, Waste Management, ECC and the Army Corps of Engineers.

The work in New Orleans was hard and dangerous. The days and nights were long and hot. We had no health insurance, no workman's compensation or any other benefits. We worked 16-18 hour days - seven days a week.

I lived with 40-60 other guys in a small house when I wasn't crammed into small, dirty apartments. We had very little to eat. We had to eat relief handouts or MRE's. Most of time, we were starving!

None of those companies paid me correctly for the work I did. The pay was always late and every paycheck was short. There was never any overtime pay. And the companies took deductions out for housing, food and transportation. For the first three months of work in New Orleans, I received only $2,000 instead of the $17,000 I had earned – no overtime.

I tried to get back what I was owed by talking with people at the Law Clinic. They sent my case to the Department of Labor in September, 2006. When I hadn't heard anything for a long time, I called the DOL directly in February 2007. I was asked if I had information about my previous employers. I gave whatever information I had.

In March 2007, the DOL called back and said they would file my claim. When I called back a month later to find out

what was happening, the same woman said that *when she found out something she would let me know.*

I didn't hear anything back from the DOL until right before the Sub-Committee Hearing in June 2007. A DOL supervisor called me and immediately began interrogating me. She ended the call by saying she wanted me to call her when I had more information. She treated me as if I were the bad guy.

Since the Sub-Committee Hearing in June, I have heard from the DOL only once when they called and asked me for more information. That was in July, right after the hearing. - I haven't heard from them since.

I went to New Orleans to help and to be part of history. I did the dirty, hard clean up work that was needed. But, like a lot of other workers, I was taken advantage of by contractor after contractor. I have been seeking justice, but haven't seen it yet.

As I said in June, this is not about Jeff – it's about the small men and women, like me, who don't have a voice. There may be another disaster like this in some other state and town.

Who can tell me how workers will be treated? Can you tell me who will protect us the next time?

Thank you.

STATEMENT OF TYRONE WILSON

Mr. WILSON. Good morning.

Mr. KUCINICH. Good morning.

Mr. WILSON. My name is Tyrone Wilson. I live in New Orleans. Before Katrina, I had been working for Orleans Parish school system as a bus monitor. I also worked as a substitute teacher and did volunteer work with the youth of New Orleans with the New Orleans Recreation Department.

The new school year had just begun before Katrina hit in 2005. I evacuated to Dallas the Saturday night before the storm. Like everyone else, I found out what had happened by watching the news. I came back about 2 weeks later and saw the devastation of our city. I finally moved back with my niece in La Place, Louisiana and found out we had all been fired by the Orleans Parish school system.

A friend of mine told me about Phoenix and Global. I went to work for them. I had worked for them for 2 weeks straight and had not gotten paid. I got the name of Brian Carter, the head of Phoenix and Global, and spoke to him on the phone. I had other workers standing there around me along with a supervisor from ECC. Carter said that ECC had never paid them and that is why he could not pay us. The man from ECC took the phone and told Carter that was not true, ECC had paid them.

When I got back on the phone with Mr. Carter, he was angry with me. But I told him that I had been working 7 days a week, 12 hours a day and that was not right for them not to pay us. I told him a lot of other guys had come from Atlanta, like Mr. Steele, and other parts of the country to come help clean up. I told him he was wrong for not paying any of us.

Carter met us later and paid some of us. I got around $900, which was much less than he had owed me. He said he had to take money out of our checks for taxes. I had worked 3 to 4 weeks straight, 12 hours a day, 7 days a week. But if I had not taken the money that he was giving us, I would not have gotten anything.

We were later told that JNE was going to take over. I worked from October until Christmas 2005 and got a check for $140. The second check I got, we were told we could not cash until after New Years. Neither of these checks were right and we had no money for Christmas.

I continued to work through February for JNE. I was not paid for several weeks at a time though. We were doing the clean up and debris work as well as the white goods, the refrigerators—smelly, stinking. We would go home, this is how it was. When we did get paid, it was never the right amount and I never got any overtime pay.

One day when about 30 of us had not been paid, I went with Mr. Steele and another man to the World Trade Center in New Orleans where JNE had an office. Well, it was not really JNE, it was ECC's office, which was the contractor. We went to ECC first and found out that JNE was a subcontractor of Hamp Construction. While we were in the building, we spoke to Mr. Hamp—I spoke to Mr. Hamp directly on the phone. And I told him people were not getting paid. He told me for us to write up all the days that we had worked.

They found some money to pay us and that was the last check we got from JNE.

I then worked for EENG, a company that oversaw the clean-up work with the city. I worked as an ineligible waste inspector and inspected debris for asbestos and other hazardous material. They were still hiring people.

Sometime after May 2006, Mr. Steele and I spoke to people at the Loyola Clinic. They later told me that they had filed my case with the Department of Labor. It was not until around the time Jeffrey testified in June 2007 in Washington that I got a call from the Department of Labor. I sent them check stubs and other information.

Mr. KUCINICH. You can complete your statement and we will put the rest in the record.

Mr. WILSON. I have not heard back from them yet.

I still see some those contractors here in New Orleans operating their business and making money. Something needs to be done about them making millions and millions of dollars while the people actually doing the work cannot get paid what they rightfully earned. Something has to be done and it should be done.

Mr. KUCINICH. I thank the gentleman.

Mr. McQuirter, you may proceed. You have 5 minutes and if you do not complete it in 5 minutes, the rest of your testimony will be put in the record. Thank you, sir, please proceed.

[The prepared statement of Mr. Wilson follows:]

Tyrone Wilson
Domestic Policy Subcommittee
Oversight and Government Reform Committee
New Orleans, Louisiana
Monday, October 29, 2007

Katrina Clean Up

My name is Tyrone Wilson. I live in New Orleans. Before Katrina, I had been working for the Orleans Parish school system as a bus monitor. I also worked as a substitute teacher and did volunteer work for the New Orleans Recreation Department.

The new school year had just started before Katrina hit in 2005. I had evacuated to Dallas the Saturday night before the storm. Like everyone else, I found out what had happened by watching the news. I came back about two weeks later and saw the devastation. I finally moved back to New Orleans that October and found out we had all been fired from the public school system.

A friend of mine told me about Phoenix and Global. I went to work for them. I had worked with them for two weeks straight and hadn't gotten paid. I got the name of Brian Carter, the head of Phoenix and Global, and spoke to him on the phone. I had other workers there standing around me along with a supervisor from ECC. Carter said that ECC had never paid Phoenix and Global and that's why he couldn't pay us. The ECC man took the phone and told Carter that that was not true – ECC had paid him.

When I got back on the phone with Carter, he was angry with me. But I told him that I had been working seven days a week and told him that a lot of us from here were the ones who had gone through Katrina. I told him a lot of other guys had come from Atlanta and other parts of the country to help clean up. I told him how wrong he was for not paying people.

Carter met us later and paid us something. I got about $900 which was much less than he owed me. He said he had taken money out of our checks for taxes. I had worked three to four weeks straight; twelve hours a day; seven days a week. But if I hadn't taken the money that day, I wouldn't have gotten anything.

We were later told that JNE was going to take over. I worked from October until Christmas 2005 and got a check for $140 and a second check we were told we couldn't cash until after New Years. Neither of those checks were right and we had no money for Christmas.

I continued to work through February for JNE. I wasn't paid for several weeks at a time though. We were doing the clean up and debris work as well as the "white goods." When we did get paid, it was never the right amount. And, I never got any overtime pay.

One day, when about 30 of us hadn't been paid, I went with Jeffrey and another man to the World Trade Center in New Orleans where JNE had an office. We went to the ECC

office first and found out that JNE was a subcontractor of Hamp Construction. While in the building, we spoke to Mr. Hamp directly and told him people were not getting paid. He said for us to write up all the days people hadn't been paid. They found some money to pay us and that was the last check we got from JNE.

I then worked for EENG a company that oversaw the clean up work in the city. I worked as an "ineligible waste inspector" and inspected debris for asbestos and other hazardous waste before it was hauled away. They were still hiring people, but started cutting our hours. I quit in June or July of 2006. That next school year, I applied for a job driving buses. I started that job in September, 2006 and that's what I am doing now.

Sometime after May 2006, Jeffrey and I spoke to people at the Loyola Law Clinic. They later told me they had filed my case with the Department of Labor. It wasn't until around the time Jeffrey testified in June 2007 in Washington that I got a call from the Department of Labor. I sent them check stubs and other information. I haven't heard back from them at all.

I still see some of those contractors here in New Orleans operating their businesses and making money. Something needs to be done about them making millions and millions of dollars while the people actually doing the work can't get paid what they rightfully earned. Something has to be done.

1019

JNE ENTERPRISES, INC.

2/3/2006

Tyrone Wilson

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/3/2006	Bill	1/5-1/18/06	203.10	206.10		206.10
					Check Amount	206.10

206.10

Local Chase

JNE ENTERPRISES INC. 1058

Tyrone Wilson 12/30/2005

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
12/30/2005	Bill	11/28-12/7/2005	865.62	865.62		865.62
					Check Amount	865.62

94 Room 865.62

JNE ENTERPRISES Inc.

Tyrone Wilson

1085

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
01/06/2006	Bill	12/8-12/19/05	215.26	215.26		215.26
					Check Amount	215.26

1/6/2006

Chase B...

29 - Thomas

215.26

STATEMENT OF ALFRED MCQUIRTER

Mr. MCQUIRTER. My name is Alfred McQuirter. I came down here from Atlanta around October 2005 after Hurricane Katrina. I had ran a parking lot in Atlanta right before the storm and came down here to work because of the promise of big money. Rev. Harrison Braddy promised us $25 an hour, but that kind of money was just a pipe dream.

After working for Braddy for a couple of months, I ended up working for Mike Noble who ran Fast Track. He later changed the name to Xpress Staff. Fast Track was a subcontractor for Waste Management.

I worked during the hurricane clean-up as a garbage man. I picked up debris and worked on the dump trucks. Braddy had gotten us down here to New Orleans under false pretenses. He lied and said we would not have to pay rent and he would put us up in a house. Well, he did put us up in a house, but he charged rent. At first, it was around $70 a week, but at times, we paid up to $280 a week. Mike Noble took over after a couple of months and said he would change things, but did not.

Under Mike Noble, for the first couple of months, I was paid around $100 a week. If one guy got sick and could not work, Noble would take out some money from the rest of us guys' paychecks and said a mistake had been made in Tennessee. He would postpone and postpone paying us and then give us about $25 just for food. But all the paychecks kept coming up short.

There was nothing left over after getting food. And there was never any overtime pay, although Noble claimed overtime was added in. We had filled out tax forms and Noble was supposed to take money out for the taxes. I never got any tax forms back from the government. I worked an average of 60 to 80 hours a week. I kept working for Noble until around July 2006.

I did not know anything about the Department of Labor or did not know the Department of Labor or anyone could help get us our money back.

Thank you.

Mr. KUCINICH. Thank you very much, Mr. McQuirter.

We are going to ask Mr. Smith, and I thank you very much, sir, for your presence here today. You may proceed.

[The prepared statement of Mr. McQuirter follows:]

Alfred McQuirter
Domestic Policy Subcommittee
Oversight and Government Reform Committee
New Orleans, Louisiana
Monday, October 29, 2007

Katrina Clean Up

My name is Alfred McQuirter. I used to live in Cleveland for 26 years. I helped campaign for you, Congressman Kucinich, when you ran for mayor.

I had been living in Atlanta when Katrina hit. I was running a parking lot in Atlanta right before the storm and came down here to work because of the promise of big money. Rev. Harrison Braddy promised us $25 and hour. But that kind of money was a pipe dream.

After working for Braddy for a couple of months, I ended up working for Mike Noble who ran Fast Track – he later changed the name to Xpress Staff. Fast Track was a subcontractor for Waste Management.

I worked during the hurricane clean up as a garbage man. I picked up debris and worked on the dump trucks. Braddy had gotten us down to New Orleans under false pretense. He lied and said we wouldn't have to pay rent and he'd put us up in a house. Well, he did put us up in a house, but he charged us rent. At first it was around $70 a week, but at times I paid up to $280 a week. Mike Noble took over after a couple of months and said he'd change things, but didn't.

Under Mike Noble, for the first couple of months, I was paid around $100 a week. But if one guy got sick and couldn't work, Noble would take out something from everyone's paychecks and say a mistake had been made back in Tennessee. He would postpone and postpone

paying us and then give us $25 here and there. But all our paychecks kept coming up short.

There was nothing leftover after getting food. And there was never any overtime pay although Noble claimed overtime was added in. We had filled out tax forms and Noble was supposed to be taking money out for taxes. I never got any tax forms back from the government. I worked an average of 60 – 80 hours a week. I kept working for Noble until around July 2006.

I didn't know anything about the Department of Labor. I didn't know the Department of Labor or anyone could help get my money back.

Alfred McQuirter
930 Wagner
New Orleans, LA 70114
(504-994-9648)

STATEMENT OF RODNEY SMITH

Mr. SMITH. To the respected committee, my name is Rodney Smith. Before Katrina, I was living in Memphis where I was born and raised. I was recruited to work in New Orleans through a friend who was working for a temporary service that was owned by Mike Noble. I came down around the first of November 2005 following behind the van.

When I got here, I was promised, you know, to have good housing, you know, food, everything would be taken care of. I worked for Fast Track which later became Xpress Staff. I worked hopping garbage trucks, picking up garbage and debris. Fast Track Xpress was a subcontractor for Waste Management. I worked in the beginning on the west bank.

The smell from the garbage was always nasty and the work was dangerous because of the cars speeding around the trucks while we crossed the street to pick up the garbage cans.

I worked 40 to 50 hours a week, 6 days a week. Sometimes I worked from 5 a.m., to 10 p.m. A lot of times when we would finish up our route, we would have to go and pick up another person's route that had not finished.

My paychecks should have been around $500–$600 a week not including overtime, but I usually got around $300 a week. I did not understand how I would get different amounts of pay when my pay stubs said that I had worked the same number of hours. That happened a lot.

My checks never added up. And I had to pay $60 to $100 a week in rent plus $25 a week for transportation to and from the job in the company van. Mike Noble always promised to make adjustments in our pay, but when we would come back a few days later, he would say there was still another problem that had to be worked out. And things would never get worked out.

I did not know nothing about the Federal Government could get the money I should have been paid. I did not think there was any way to get my money back.

But thanks to you all, I believe I will be able to get it back some kind of way.

Thank you all.

Mr. KUCINICH. I appreciate it, sir.

Mr. Victor Hernandez. Mr. Hernandez, we want to thank you for being here.

[The prepared statement of Mr. Smith follows:]

Rodney Smith
Domestic Policy Subcommittee
Oversight and Government Reform Committee
New Orleans, Louisiana
Monday, October 29, 2007

Katrina Clean Up

My name is Rodney Smith. Before Katrina, I was living in Memphis where I was born and raised. I was recruited to work in New Orleans through a friend who was working for a temporary service that was owned by Mike Noble. I came down around the first of November 2005. I came down in a friend's car following behind Noble.

When I got here, I worked for Fast Track Xpress which later became Xpress Staff. I worked "hopping" garbage trucks picking up garbage and debris. Fast Track Xpress was a subcontractor for Waste Management. I worked in the beginning on the West Bank.

The smell from the garbage trucks was always nasty. The work was dangerous because of the cars speeding around the trucks while we crossed the streets to pick up the garbage cans.

I worked 40-50 hours a week - six days a week. Sometimes I worked from 5:00 in the morning to 10:00 at night. A lot of times when we'd finished up our route, we had to keep going and pick up another route that hadn't been done.

My paychecks should have been about $500 a week not including overtime, but I usually got around $300 a week. I didn't understand

how I would get different amounts of pay when my pay stubs said I had worked the same number of hours. That happened a lot.

My checks never added up. And, I had to pay $60-$100 a week in rent plus $25 a week for transportation to and from the job in the company van. Mike Noble always promised to make adjustments in our pay, but when we'd come back a few days later, he'd say there was still another problem that had to be worked out. And things would never get worked out.

I didn't know I could go to the federal government to get the money I should have been paid. I didn't think there was any way to get my money back.

Rodney Smith
1113 Clyde's Bank
Harvey, LA 70058
(504-287-8737)

RODNEY SMITH 3/24/2006 414.68
47.89 HRS / 6 DAYS -70.00
CLYDES BANK

FTSI-173191040 WM W/E 3/13-19/06 NOLA

FTSI 1626
RODNEY SMITH 3/3/2006 244.64
-70.00

FTSI-173191040 WM W/E 02/20-26/06 174.64

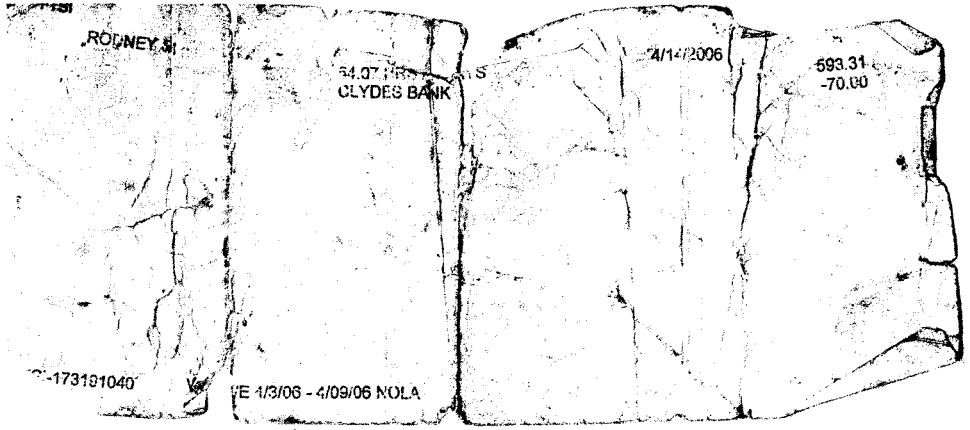
FTSI 22985
RODNEY SMITH 5/5/2006 468.60
46.63 HRS/5 DAY -77.00
CLYDES BANK

FTSI-173191040 WM W/E 4-24-06 / 4-30-06 NOLA 391.60

FTSI RODNEY SMITH 3/17/2006 388.76
45.73 HOURS 6 DAYS WORKED -70.00
CLYDES BANK 11.88
EXTRA FOR SHORT PAY FOR SHOP
FTSI-173191040 WM NOLA WE 3/6-3/12-06 45.73 HOURS 330.64

FTSI RODNEY SMITH 4/21/2006 19505
47.47 HRS/6 DAY 566.31
CLYDES BANK -70.00
FTSI-173191040 WM NOLA WE 4/10-4/16/06 496.31

FTSI RODNEY SMITH 3/31/2006 18206
57.72 HRS 7 DAYS 532.64
CLYDES BANK -70.00
FTSI-173191040 WM W/E 3/20-26/06 NOLA 462.64



FTSI

1520

Rodney Smith

3-11-06

$320.00

W/E 3-5-06 wm.
40hr. Shop

STATEMENT OF JOSE VICTOR HERNANDEZ

Mr. HERNANDEZ. Thank you and good morning. I would like somebody to help me because I cannot speak English very well.

Mr. KUCINICH. No problem. We have a translator here. I would ask the translator, would you mind being sworn?

Mr. HOROWITZ. Sure.

[Translator sworn.]

Mr. KUCINICH. State your name for the record, Translator.

Mr. HOROWITZ. Jacob Horowitz.

Mr. KUCINICH. Mr. Horowitz, thank you for your assistance here.

Mr. HOROWITZ. No problem.

Mr. HERNANDEZ. [Through translator] Good afternoon and thank you very much for having me. My name is Jose Hernandez and I am from El Salvador.

Mr. KUCINICH. Excuse me. Is it Jose or Victor.

Mr. HERNANDEZ. Jose Victor Hernandez.

Mr. KUCINICH. OK, OK, Jose Victor Hernandez. Thank you. Please proceed.

Mr. HERNANDEZ. I am 31 years old and I came to the United States the first time. The reasons I came to this country were to look for—to try and get ahead economically, which almost cost me my life coming here. I left my wife who was expecting a child, but I had to be brave, and with tears in my eyes, I came here, I left her. So many of my friends had told me that this is a good place to come work and make money. I decided to come to New Orleans because here is where there is work after the tragedy that we all know of.

It took about 2 weeks for me to find my first job. And I have to tell you that the language barrier is very difficult to overcome. What everyone always asked me was if I had a social security number, which I do not have because I am undocumented. When I finally found somebody who was willing to hire me, he said the only way he could pay me was under the table. And so I accepted that and he told me that I did not have to worry about reporting taxes. The work was to clean up trash in the city. We worked 10 hrs a day, including Sundays. The first week I did not receive any pay because they held the first week's pay and they told me that was the law. The next week when I received my paycheck, it was not complete. When I tried to talk to my boss about that, he just said that he did not understand what I was trying to tell him. And when he finally did understand me, he said he would just have to look over his notes and find the error. And he said that if there was a difference in the money, he would recompensate me. But that never happened. I thought about quitting, as some of my friends did. But they never were paid that week that the boss retained for the first week. So I continued my work in this company but I had the same problem in each paycheck. Sometimes the difference was not so big, but at other times, it was as much as $200.

With my dedication to the job, I learned how to do some of the heavy machinery. Sometimes the work was very difficult and I had to——

Mr. KUCINICH. If you could wind it up right now. If you want to add anything else.

Mr. HOROWITZ. He wants to say that 5 minutes is not enough time to talk about all of it.

Mr. KUCINICH. I would imagine. What we will do, if you would let Mr. Hernandez know that his entire statement will be included in the record. Whatever is in writing will be included.

We are going to go into a question period and he will be able to answer some more when we come back. We will come back to you in questions.

Mr. HERNANDEZ. OK, thank you.

Mr. HOROWITZ. I do not know if it is possible to request a little more time for the Spanish because they are getting half of their time when we——

Mr. KUCINICH. You know what, proceed. Go ahead, yes. We just did. [Laughter.]

Mr. HERNANDEZ. To clarify what may be the most important point, the work was too hard and the money was never what was promised. Some days we worked as many as 12 hours but were only paid for 10. There are still a lot of people working in the company that do not have any kind of documents. And they have no idea what to do every time their paycheck is wrong.

Thanks to institutions such as the Worker Center, we feel that we have some support on the job. Some of us are receiving English classes and we are getting help. And we are starting to learn what we can do when we have this kind of problem.

Thank you.

[The prepared statement of Mr. Hernandez follows:]

My name is Jose Victor Hernandez. I am 31 years old and I am originally from El Salvador in Central America. This is my first time in the United States of America, and I arrived here in New Orleans after Hurricane Katrina. The main reason that I had to abandon my country was to look for a better life economically, which almost cost me my life. Upon leaving behind my home, my wife who was expecting our second child, and with a million tears in my eyes and a bag full of hopes and more questions than answers, I fixed my gaze upon the United States that so many times I heard my friends say was a place where you could work and make money. It is said that Hispanics are appreciated and recognized for their work in the United States; therefore I decided to come to New Orleans. I heard there was work here after the tragedy that we are sadly all too familiar with.

It took me about two weeks to find my first job. I have to say that the language barrier is one of the most difficult things to overcome; no one is interested in talking with someone that does not understand, and everywhere I went first for work asked for a social security number, which I do not possess since I am undocumented. Finally I found someone who was willing to give me a job. My boss told me that the only way he could pay me was under the table, which I accepted and he also then told me that way I would not have to worry about reporting taxes. The work was to remove trash in the streets, and we worked ten hours a day including Sundays. The first week I did not receive any pay because they held one week's pay from all the workers and they said it was according to the law. The next week upon receiving my pay, I noticed it was not complete and when I tried to talk with my boss about this, he told me that he did not understand what it was that I wanted to say. When finally he was able to understand me, he told me that he would have to go over his books in order to see where the error occurred and if there was a difference in my pay he would correct the problem, which he never did. I thought about quitting like some of my friends, but my boss never paid them for the week of pay he had held back. I continued working for that company, but every time I got paid it was the same problem. Sometimes the difference in my pay was not a whole lot, but on some occasions it was as much as $200.

Due to my dedication to the job and the supposed lack of interest from American workers in driving the heavy machinery, I was given the opportunity to learn how to drive them, which I did in order to move up in the company. This was an additional responsibility because to drive the heavy equipment was a very serious task. My salary did increase but it was

still not adequate. Unfortunately, things began to get worse at this company when the bosses decided they wanted to be able to do more work in order to make more money for themselves, but meanwhile give even less money to the workers. They began to discount the time that they gave us for lunch and add two hours to our daily workload, so in this way we worked from six in the morning until six in the evening. Essentially, we worked twelve hours a day, but we were only being paid for ten hours a day. The work was very difficult, and when someone wanted to have a day off, the bosses would say, "That's fine, take the day off, but don't come back because we will look for someone to take your place." In the end I had enough courage to quit this job, and fifteen days ago I received a phone call from my former boss asking me to return to work, but he still did not want to pay me correctly for the work. I have had all kinds of supervisors, from racists that think that we are slaves and don't want to give us breaks, even to take a sip of water, to those that are more considerate and allow you a break every once in a while.

When I worked for that company I saw so many injustices against people that had no support from any government agencies, or that did not know what to do in certain situations. Oftentimes when something would happen, they would be told to be quiet and the most common threat was "if you say something, we will call Immigration (ICE)." The worst thing is to know that sometimes they would actually follow through on these threats in order to avoid paying someone for their work. They would call Immigration, which without asking why, would come and arrest workers, sometimes in their own homes.

Ladies and gentlemen, how long can so much injustice continue against us when all we want is to be able to live an honorable life with dignity? Sometimes they call us delinquents and take us to jail, when the only crime we are guilty of is to have been born poor and tried despite all obstacles to make our lives and our families' lives more bearable. Thankfully there are places that exist like the Interfaith Worker Justice Center here and others that support us when there is still so much injustice we have to fight against daily as immigrant workers living in New Orleans.

Mr. KUCINICH. We are going to be asking each of the witnesses to be available for questions.

We would like to start with Professor Molina, if you could step to the podium.

Professor Molina, it is up to you, it is up to any of the witnesses if they want to be mic'd or not.

Ms. MOLINA. Is this for the community?

Mr. KUCINICH. Yes.

Ms. MOLINA. Yes. It is important for them.

Mr. KUCINICH. Professor Molina, thank you again for being here.

Your Law Clinic serves and attracts many workers whose rights have been violated, including immigrant workers.

Ms. MOLINA. Yes.

Mr. KUCINICH. How many cases of wage theft are you investigating which you need assistance of the Department of Labor to prosecute?

Ms. MOLINA. Well, that is hard to say. I will tell you that currently we have, for example a group of 12 workers that also are part of a larger group of 45 workers that are having labor problems with a particular employer. And I think part of the problem here in figuring out who is responsible for some of these wage claims is the whole issue of whether the Fair Labor Standards Act applies. And I think that is where the most labor intensive part of the work really is.

Not every employment situation is subject to the Fair Labor Standards Act. And as you might know. Louisiana does not have a minimum wage and it is an at-will state. So what has to happen initially is once you get the lay of the land on the labor violations, is an aggressive approach to accessing all these employers so you can tell which ones are eligible—who are subject to the Fair Labor Standards Act. So for those 47 workers, it is likely that they are going to be a Fair Labor Standards Act case.

We have other cases that are exclusively under the jurisdiction of the Department of Labor, especially the ones that had the jobs as part of some Federal money. That would be the blue tarp work, the debris removal and the FEMA installation and maintenance. All of those would be Fair Labor Standards Act.

Mr. KUCINICH. Has anyone from the Department of Labor contacted you about collaborating on workers' claims to date?

Ms. MOLINA. They did initially. I think that I presented some of those comments to the first congressional hearing in Washington in writing. Some of those hearings called for comments about the collaboration, but this happened, must have been March 2006. They were very concerned about what was going on in New Orleans and they approached us to see where the groups of workers were congregating, so that they could have access to those workers. But that was a limited engagement.

Mr. KUCINICH. Have they contacted you since the June 2007 hearing?

Ms. MOLINA. Not formally, no.

Mr. KUCINICH. In any way, have they contacted you?

Mr. KUCINICH. No, I happened to see Barbara Hicks last week and we chatted for a minute and we talked about some collaborative efforts. I also saw one of their new investigators on Thurs-

day. We have created a Thursday clinic for workers at the Worker Resource Center. And we are hoping to attract workers with wage claims to that time slot because it is after work. We thought that would give them more access. And the Department of Labor has sent someone there.

Mr. KUCINICH. Could they have been better prepared to respond to this challenge?

Ms. MOLINA. Well, obviously yes. I mean nobody was really prepared to respond to this. But I think the Department of Labor would have had to have had better knowledge about what happened after a disaster like this. I do not think that this is the first time that they were presented with this kind of situation. I think nationally the Department of Labor has to have a concrete plan to deal with these issues and I do not think there was such a plan.

Mr. KUCINICH. You know, I am struck by the fact that we have people that are still not paid, which suggests ongoing violations. The question is, do you have any knowledge that any of these contractors at this time are repeating the same kind of violations that we see expressed here? Are there any complaints that they are doing that, is there any indication that we may be seeing contractors proceeding at this very moment, taking advantage of workers? Or is this something that we are looking at as forensics on some past violations?

Ms. MOLINA. No, obviously not. I think there are terrible violations every single day.

One of the big challenges post-Katrina has been to identify and pursue particular employers because it is not a static employer group. You have individuals taking advantage of the situation in this area and so you have situations where a lot of employers are coming from other states. One of the challenges that we have faced I know has been identifying an address, a contact place for these employers so that they can be challenged about their wage violations. And as I said, it is incredibly labor intensive, it requires a lot of investigators to participate in that kind of work. And to my knowledge, I know that the Department of Labor does not have a work force of that size locally.

Mr. KUCINICH. Thank you very much, Professor.

Ms. MOLINA. Thank you, Congressman. I hope something can come from this.

Mr. KUCINICH. That is why we are doing this. Thank you.

I would like to ask Mr. Steele to come forward.

One of the issues that arises is identifying the subcontractors. I want to ask Mr. Steele, did you testify that you have identified the employer who stole your wages?

Mr. STEELE. Several times. I talk with Luz and Teresa on this several times. And when the lady, Ms. Hicks, called and she was interrogating—seemed to be interrogating me about what happened here, I told her I was in my right mind and what a lot of folks do not know, I had somebody else—I was on a landline phone talking and then I had my cellphone on and I was talking to another party in Washington, DC, about what was going on. And then I told her, I said listen to this conversation. She heard the lady saying—she heard the lady like interrogating me. And then it came back to Luz that I was not cooperating.

Mr. KUCINICH. Let me ask you this, who was that employer, for the record?

Mr. STEELE. That is it, which one?

Mr. KUCINICH. Which employer are we talking about that stole your wage?

Mr. STEELE. J&N Contractors, which I have found out since I have been here, it is located three blocks away from here.

Mr. KUCINICH. So you shared that information with the Department of Labor?

Mr. STEELE. Several times.

Mr. KUCINICH. And you called the Department of Labor, you shared it on the phone——

Mr. STEELE. I shared all the information that I had with me. I live in Montgomery, they called me in Montgomery and I told her, I said J&N is here in New Orleans working now. And a friend of mine who I helped get on, I helped Coach get on with the company that took our money and another friend of mine. She just shared with me the other day that J&N is three blocks away from here, from this school, right at this moment. He has a building up the street and these people from the DOL claim they cannot find this guy. They have not said nothing about finding him, talking with him about my wages or nothing.

Mr. KUCINICH. So you still do not have your money.

Mr. STEELE. I have not seen a penny, I have not heard from these folks.

Mr. KUCINICH. How long has it been?

Mr. STEELE. Since June, July, August, I heard maybe somewhere in August from Barbara Hicks from the Department of Labor, with the same thing, like I told you in June, they asking me about where these folks at. I am telling them I do not have access to a computer.

Mr. KUCINICH. How much do they owe you?

Mr. STEELE. With interest, it is probably about 30–35.

Mr. KUCINICH. Thirty?

Mr. STEELE. $30,000, $35,000 by now. I'm missing a total of seven or eight checks with 99 hours with all overtime.

Mr. KUCINICH. You know, if somebody is missing $30–$35,000, that can play havoc with their life. What has it done to you?

Mr. STEELE. I have been catching pure hell. I need that money now. You know, I am having to have surgery on my hand. My lights have been cutoff, my gas, my water. I have just been going through hell this year, pure hell. And I am tired of it. And I lost my cellphone messing with the people from the DOL. You know, they ran my bill up playing games, calling and calling and want to talk. Now I have AT&T trying to sue me for a damn thousand dollars right now, $1300. I do not have that kind of money to get my phone back on. And I would like to have my money before I leave New Orleans today. Because I want to set fire to something.

Mr. KUCINICH. Mr. McQuirter, could you come up?

Mr. McQuirter, you have stated that you know the identity of the subcontractor.

Mr. MCQUIRTER. Yes.

Mr. KUCINICH. Who is the subcontractor?

Mr. MCQUIRTER. Mike Noble. Originally it was——

Mr. KUCINICH. Colonel Mike? Last name?

Mr. MCQUIRTER. Noble, N-o-b-l-e, I think.

Mr. KUCINICH. OK. And you worked for the prime contractor, right?

Mr. MCQUIRTER. Right.

Mr. KUCINICH. And what was the name of the prime contractor?

Mr. MCQUIRTER. Waste Management.

Mr. KUCINICH. Waste Management, OK. And you started experiencing the theft of your wages almost right away, is that right?

Mr. MCQUIRTER. Right away, right with the first check.

Mr. KUCINICH. Describe for us how that happened. OK, you worked a week and then you were expecting to get paid and you worked 2 weeks and expected to get paid and then you did not get paid. How did it work?

Mr. MCQUIRTER. OK, we worked the first week an enormous amount of hours, I think it was like 80 hours that week.

Mr. KUCINICH. You worked 80 hours.

Mr. MCQUIRTER. For the first week. So we expected a nice check. And Mike came up and said that something had happened in Tennessee, that is where the checks originate from, Tennessee. The time was sent to Tennessee and they print the checks and send them back here. And he said something had happened in Tennessee that the time had came up short. So like we only got like maybe half the money that we should have gotten, something like $200–300.

Mr. KUCINICH. So you worked 80, you got paid for 40, is that what you are saying?

Mr. MCQUIRTER. Something like that, yes.

Mr. KUCINICH. Now what month and what year would that have been?

Mr. MCQUIRTER. 2005. Right after that——

Mr. KUCINICH. What month was that?

Mr. MCQUIRTER. October.

Mr. KUCINICH. OK, so we are talking about 2 years.

Mr. MCQUIRTER. Yes.

Mr. KUCINICH. How much money are you owed?

Mr. MCQUIRTER. I would say around $12,000 or $13,000.

Mr. KUCINICH. And you are owed that money from whom?

Mr. MCQUIRTER. Mike Noble.

Mr. KUCINICH. Mike Noble. And have you heard from Mr. Noble?

Mr. MCQUIRTER. No.

Mr. KUCINICH. What has that done to you, being short $12–13,000?

Mr. MCQUIRTER. Made life kind of miserable, you know. It put me in a position where I had to take any type of job really, to try to make ends meet.

Mr. KUCINICH. You worked 80 hours a week for how long?

Mr. MCQUIRTER. I would say for the first month we worked 80 and then it varied from 60 to 80.

Mr. KUCINICH. How was it that you were able to go so long without getting paid? I mean what did you say to Mr. Noble?

Mr. MCQUIRTER. Well, seemed like he would not completely shut us off, he would like give us maybe just eating money and say that, you know, when Tennessee makes the mistake, they are going to

pay us. But that never happened. Another week would go by and he would give us maybe $300 for what we should have been getting $600–700.

Mr. KUCINICH. So he kept leading you on.

Mr. MCQUIRTER. Yeah, yeah. But we had to continue to work. I mean we could not just sit there and not accept something, you know.

Mr. KUCINICH. So he caused you to believe that you would be paid.

Mr. MCQUIRTER. Yes.

Mr. KUCINICH. And you kept working, relying on what he said.

Mr. MCQUIRTER. Right.

Mr. KUCINICH. But the amount of money that he owed you kept piling up.

Mr. MCQUIRTER. Kept piling up, yeah.

Mr. KUCINICH. Now did you talk to him directly about this?

Mr. MCQUIRTER. Whenever we could. Like when he would come to town, you know, it was hard to get to him, he had his henchmen call around.

Mr. KUCINICH. Was it somebody that worked for Mr. Noble that you talked to?

Mr. MCQUIRTER. Well, he had a second in command.

Mr. KUCINICH. What was that person's name, do you remember?

Mr. MCQUIRTER. Linda Capri.

Mr. KUCINICH. What was it again?

Mr. MCQUIRTER. Linda Capri.

Mr. KUCINICH. Linda Capri, is that C-a-p-r-i?

Mr. MCQUIRTER. Yes.

Mr. KUCINICH. And Linda Capri, would you tell Linda Capri that you had not been paid and where is your money?

Mr. MCQUIRTER. Yes.

Mr. KUCINICH. And what did Linda Capri tell you?

Mr. MCQUIRTER. She would say the same thing, it was a mistake in Tennessee.

Mr. KUCINICH. In Tennessee.

Mr. MCQUIRTER. Or she would say like—OK, like each week, they would send her so many checks that she could write, she could write out personally herself, you know. If somebody come up with a complaint where they did not get their money, she could write out a personal check. But she would always tell us that she ran out of checks or the checks did not come in.

Mr. KUCINICH. OK, excuse me, Mr. Steele. I wanted to ask Mr. McQuirter, do you have anything else to say about this before we call Mr. Smith?

Mr. MCQUIRTER. No.

Mr. KUCINICH. I thank you. Now Mr. Steele, is there anything else you wanted to add?

Mr. STEELE. Well, I was going to tell you, I was a supervisor for——

Mr. KUCINICH. Let us wait—Mr. Smith, come on back up here.

Mr. STEELE. I was a supervisor for Xpress Staff. Dad lived in one of the houses when I ran one of the houses when I was working for Mike Noble. And the thing was that they would start sending checks down when Memphis was making a mistake. All the black

workers was being shut out without being paid properly but Linda is like bilingual, she took care of all the Mexican workers when their checks was messed up. She wrote their checks out but the black guys had to go through a little hell to get their money. I was still with Mike, I was there 1 day when Dad came in and said my check is wrong, you owe me for such and such hours. And I was talking to Mike on a walkie-talkie and I told him that I have some people that is mad about not getting paid, about not getting paid correctly. He stated, and then Dad shouted out and said, "They sitting there writing checks for themselves." And Mike asked me who is writing checks. And I said "well, Mike, I just have walked into the office, Dad is telling me that this lady had wrote her husband a check out instead of paying the workers off and then they closed to office up on us."

Mr. KUCINICH. So it is your belief that some of this unwillingness to pay, that there was a racial dimension to it, kind of discrimination going on. In addition to not being paid, you were being discriminated against racially, because some other people were getting money.

Mr. STEELE. That is right.

Mr. KUCINICH. OK.

Mr. STEELE. Then again, you have people like this who, you know, you are going to have Internal Revenue going after guys like Dad and Rodney and me because these people saying that they paid us and we have not received anything.

Mr. KUCINICH. OK, I thank you. Mr. Smith, you want to come up.

Mr. Smith, do you know the identity of the subcontractor?

Mr. SMITH. Yes, I do, sir.

Mr. KUCINICH. What is the name of the subcontractor, please?

Mr. SMITH. Mike Noble.

Mr. KUCINICH. Mike Noble. And you worked for the prime contractor?

Mr. SMITH. Yes, sir.

Mr. KUCINICH. The name of the prime contractor?

Mr. SMITH. Waste Management.

Mr. KUCINICH. Waste Management. You started experiencing the theft of your wages right away?

Mr. SMITH. I started like after two or three checks, I started noticing a change, you know, differences in my wages. Like if I worked 40 hours, I would like get $500, if I worked 30 hours, I liable to get $300. OK, so if I worked 80 hours, I liable to get——

Mr. KUCINICH. So they were consistently short-changing you, is that right?

Mr. SMITH. You know, every check would be a difference.

Mr. KUCINICH. So no matter how many hours you worked, they were always paying you less than what you should have been paid, is there right?

Mr. SMITH. Uh-huh. I have check stubs that show so many inconsistencies.

Mr. KUCINICH. Do you have your check stubs?

Mr. SMITH. Yes, I do.

Mr. KUCINICH. You do not have them here though, do you?

Mr. SMITH. Yes, sir.

Mr. KUCINICH. You have some check stubs? Could I see those?

[Documents proffered.]

Mr. KUCINICH. OK, let the record reflect that the witness has provided this subcommittee with some check stubs. Now here it states, Mr. Smith, the hours that you worked, money that went to Clyde's Bank, extra for short pay for shop. Now tell me about these check stubs, explain them to me.

Mr. SMITH. OK, see this one here is 47 hours, 6 days, that is $566. That is 45 hours, 6 days, that is $388.

Mr. KUCINICH. And how many hours had you actually worked?

Mr. SMITH. I had worked those hours, but I am saying look at the check, the amount of check.

Mr. KUCINICH. What should it have been?

Mr. SMITH. It should have been more than that. [Laughter.]

Mr. KUCINICH. We have that established.

Mr. SMITH. Yes, sir. And this happened on several occasions, on every one you can see all of them have some kind of—there is one, 57 hours, look 57 hours and that is 47 hours and look at the amount.

Mr. KUCINICH. So they kept on adjusting the amount of money that you were paid on an hourly basis, they kept changing it.

Mr. SMITH. Uh-huh, they just paid me like they want to pay me.

Mr. KUCINICH. What did they—has the Department of Labor ever asked for your check stubs?

Mr. SMITH. No, sir.

Mr. KUCINICH. So they have not seen your check stubs.

Mr. SMITH. No, sir.

Mr. KUCINICH. Well, they are going to see them today.

Mr. MR. SMITH. Yes, sir.

Mr. KUCINICH. May we have these?

Mr. SMITH. Yes, sir.

Mr. KUCINICH. We will make copies of them. Can we do that now? I just want to ask staff, can we get copies of these now? And then if we can get copies, we can give the originals back to Mr. Smith. If it is OK, the committee would like to have these to make copies.

OK, I want to thank you Mr. Smith. The committee is going to make copies of these right now and we will give the originals back to Mr. Smith.

Mr. Smith, you can be seated.

Mr. Wilson, you stated that you know the identity of the subcontractor?

Mr. WILSON. Yes.

Mr. KUCINICH. And who was the subcontractor?

Mr. WILSON. The subcontractor was—JNE was the contractor, the subcontractor was ECC.

Mr. KUCINICH. ECC?

Mr. WILSON. Yeah. That was the ones that was over the whole——

Mr. KUCINICH. Does that ECC stand for anything?

VOICE. Environmental——

Mr. KUCINICH. Unless you are sworn—do you know what it stands for?

Mr. WILSON. No, I do not know what it stands for.

Mr. KUCINICH. OK, but that is the name. OK, and the prime contractor was?

Mr. WILSON. ECC.

Mr. KUCINICH. I just want to make sure that we establish who the prime——

Mr. WILSON. The contractor that I worked for, JNE was the contractor who was contracted by Hamp, who was contracted by ECC, which was over everything.

Mr. KUCINICH. OK, I have it. When did you start experiencing the theft of your wages?

Mr. WILSON. The first week they held back and then the next 2 weeks, I did not get paid. It probably was about 3 or 4 weeks, that is when I spoke with Mr. Carter. Mr. Carter was with Phoenix and Global, that was the first one we worked for, Phoenix and Global.

Mr. KUCINICH. OK, and what month and year was that?

Mr. WILSON. I think it was in October 2005.

Mr. KUCINICH. 2005, OK. How much are you owed right now?

Mr. WILSON. Well, with the overtime, I have never really added it up, but I could say anywhere between three and four thousand dollars.

Mr. KUCINICH. OK. And what has that done to your life being short three and four thousand dollars?

Mr. WILSON. Well, at the time, during Christmas time without getting paid anything, then being down here and going through the devastation of Katrina, by me being from here, it was really a mess, because we really did not have any—I did not have anything coming in. And I wound up having to go into my retirement with the school system and had to take all that down because I was not getting paid right, to make ends meet.

Mr. KUCINICH. Now did you provide this committee or can you provide this committee with check stubs? OK, you just provided this committee with copies of your pay stubs, is that right?

Mr. WILSON. Right.

Mr. KUCINICH. And has the Department of Labor ever asked to see your pay stubs?

Mr. WILSON. I spoke with a lady, I think her name was Deborah Brown, on the phone. She called me to ask me about the case with Mr. Steele, and I spoke with her on the phone and she asked me if I had check stubs, to send them in, and I sent them in to the Department of Labor.

Mr. KUCINICH. Have you heard from them since?

Mr. WILSON. I have not heard anything from them.

Mr. KUCINICH. So you do not know if they have looked at them or not.

Mr. WILSON. I do not know. I know she did tell me that she received it and that was the last I heard.

Mr. KUCINICH. When was that?

Mr. WILSON. It had to be between June and July.

Mr. KUCINICH. I thank the gentleman.

Mr. Hernandez, and I would ask his interpreter to come forward.

Mr. Hernandez, as your boss continued to make you work and pay you close to nothing, did you think about going to the Department of Labor?

Mr. HERNANDEZ. [Through translator] No, because of my immigration status as undocumented, the fear is that if I went there, that I would be deported.

Mr. KUCINICH. Were you aware that there was a Federal agency that took complaints about workers not being paid or underpaid?

Mr. HERNANDEZ. No, I did not know of any Federal agencies only until I met with the Worker Center.

Mr. KUCINICH. How much money are you owed?

Mr. HERNANDEZ. The think is that as they took a little bit out of each check, I really do not know exactly how much, but they always discounted—they always deducted from my check.

Mr. KUCINICH. And so did you quantify that, do we know the exact amount?

Mr. HERNANDEZ. I cannot really say.

Mr. KUCINICH. OK. Would you like the Department of Labor to represent you to collect your wages even after all this time?

Mr. HERNANDEZ. Maybe not for me, but at least for my friends that continue to work for this company.

Mr. KUCINICH. See, the one thing that it is important to know is that despite your status, the Department of Labor can help you, even with your status. Now under those circumstances, would you like them to be of assistance to you to help you reclaim the wages that you have been denied?

Mr. HERNANDEZ. I do not know, because since I already quit, I really do not want to have more contact with these people.

Mr. KUCINICH. You do not want to have contact with which people?

Mr. HERNANDEZ. With the company. If I am understanding correctly, the gentleman here, for example, is putting a complaint against JNE and that is precisely the company that I was working for. And I think that when they were fired from their jobs, they contracted, they hired Hispanic people because they thought that they would not have the problems with us that they were having with them because we would not complain about our wages.

Mr. KUCINICH. You still are entitled to protection of the law in this regard and I am going to ask staff afterwards to provide the proper information to Mr. Hernandez as to how he can pursue a case under law and to make sure that you can have a case filed with the Department of Labor. You will not have to talk to the employer but the Department of Labor will have to talk to your employer.

I just have one more question. Did the employer speak to you about paying you under the table?

Mr. HERNANDEZ. Well, at first I started working with a company that was subcontracted by JNE and they paid me cash. And they made us sign some documents saying that we were supposed to pay our own taxes.

Mr. KUCINICH. Do you have copies of those?

Mr. HERNANDEZ. I am not sure, but I think so. I can look for them.

Mr. KUCINICH. The committee would appreciate any copies of anything that you signed.

Did you complain at any time about the conditions to them?

Mr. HERNANDEZ. What conditions?

Mr. KUCINICH. About conditions, about not being paid or being underpaid or, you know, did you complain to them at any time?

Mr. HERNANDEZ. Yeah, I always talked to them but they only said, you know, we will check it over and if there is some kind of a difference, then we will fix it. But they never did.

Mr. KUCINICH. And did they ever say anything else to you when you complained, like did anyone ever tell you or was there an understanding that if you complained too much, you would be deported? Was deportation ever held over your head?

Mr. HERNANDEZ. Last year there was another company that had a contract with JNE and they asked us if we wanted to work for 4 hours after the work we did with JNE. We accepted that so we could make a little more money. But this company did not pay us for our wage for the 4-hours that we worked daily. And then after a month when we started to complain, they said that they would report us to Immigration if we continue to bother them about it. And so then JNE said that they would be responsible for paying us that money but that never happened either.

Mr. KUCINICH. I just want staff to make a note of this testimony because this might be something that is going to have to be referred to the U.S. attorney. This is obviously a question of criminal conduct here with respect to the employer and the subcontractor. So we are going to—this committee is going to continue to look into that.

What was the name of the second subcontractor for whom you worked 4 hours a day and which you were told do not complain that you are not being paid or you will be deported—what was the name of that subcontractor?

Mr. HERNANDEZ. I do not know the name of the company but the person that was in charge that worked with JNE was named Seals.

Mr. KUCINICH. Seals, is it S-e-a-l-s? Could you describe Seals, what—you know, man, woman?

Mr. HERNANDEZ. Yeah, he is a man, he worked as a mechanic also for JNE.

Mr. KUCINICH. Was he Caucasian, was he——

Mr. HERNANDEZ. Black African.

Mr. KUCINICH. OK. We want to thank you for your testimony.

The Chair is going to take a 5-minute recess. We are going to return with the second panel. I want to thank the members of the first panel and to assure you that we are going to pursue this.

We are in recess for 5 minutes, be back in 5 minutes and I would ask the next witnesses to be ready.

[Recess.]

Mr. KUCINICH. The committee will come to order. Thank you very much for being here. The committee will come to order.

We have panel two and I am going to introduce the members of panel two. You can stand when you are introduced, if you would please do that. Mr. Sabulal Vijayan, guest worker; Ms. Maria Eugenia, guest worker; Mr. Rolando Sanchez, guest worker and Mr. Axel Landivar, guest worker.

VOICE. Not here.

Mr. KUCINICH. He is not here, OK. Mr. Daniel Castellanos, a former guest worker and organizer with the New Orleans Workers' Center for Racial Justice.

We are also going to be joined by Mr. Jacob Horowitz of the New Orleans Workers' Center for Racial Justice. You are already sworn, Mr. Horowitz, so I appreciate you being here. But you could translate the oath if you would.

If you would raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that the witnesses have, through their translator, answered in the affirmative. Please be seated.

I am going to ask Mr. Sabulal Vijayan to please come forward. And translator——

Mr. HOROWITZ. I think he speaks English.

Mr. KUCINICH. OK, please proceed. And each witness will have 5 minutes. If you are using a translator, we will give you 7 minutes, so that we can get your testimony, your full testimony will be included in the record. Please proceed.

STATEMENTS OF SABULAL VIJAYAN, GUEST WORKER; MARIA EUGENIA, GUEST WORKER; ROLANDO SANCHEZ, GUEST WORKER; AND DANIEL CASTELLANOS, FORMER GUEST WORKER AND ORGANIZER WITH NEW ORLEANS WORKERS' CENTER FOR RACIAL JUSTICE

STATEMENT OF SABULAL VIJAYAN

Mr. Vijayan. Good morning. I am Vijayan Sabulal, I am from India. I working in the United Arab Emirates. I am a pipefitter with 20 years experience. When I was in India, I saw some advertisement for the post of pipefitter for Signal International in Mississippi.

Subagent of Signal promised H2–B visa leading to permanent visa status, and asked me to pay a huge amount for this. I thought that most of the time I worked in the United Arab Emirates, without my family. If I go to America, I can live happily with my kids and wife. I heard that in American everybody will get liberty and justice. So I paid nearly $20,000 to get this chance. There is about 600 employees from India reached Signal International in Mississippi and Texas.

After I reached Signal International on December 5, 2006, I get shocked, because they gave me a bed in a trailer with 24 people. I never lived in a room like this anywhere in my lifetime; and served very bad quality food and said that this was Indian food.

Company deducted $1,050 per month from our paychecks. We were struggling in this trailer and woke up at 3:30 a.m. to start to use our bathroom. We were like pigs in a cage.

I began organizing the people and making complaints to the camp manager. The management threatened us and told me that Signal invested millions of dollars in this labor camp and we are doing business. "This is not your India, it is America. If you want to stay in this country, keep quiet and shut up. Sit down, Sabulal." I did so because I was not ready to lose this job because of my great debt. I sold my wife's jewelry, borrowed from my friends and invested the money I had saved to build a home, to come to America.

Day by day, camp management was ignoring our needs, company said that this accommodation is approved by DOL, but we did not believe that. You can imagine that a room with 24 people and for asking better food, camp management called us animals. "Indians are behaving like animals." That was his answer. "We know the living conditions of Indians and you are getting more better food and accommodation here."

What are the promises they submitted to the Department of Labor, while applying for the visa, I do not know, but I think nobody inspected the camp and find out the reality. Signal started to reduce the salary from $18 to $13 and lay off some people, and they are forced to sign on new wage agreements.

We conducted meeting at the nearest Catholic church with the help of New Orleans Workers' Center and Southern Poverty Law Center. After all these meetings, my wife in India got some phone calls from Signal Indian recruiter, Dewan, asking for my phone number and contact details. My wife got threatened. In a phone call, Indian agent told me that Signal informed him that I am the leader, and stop all these meetings, otherwise everybody will be deported.

Another day, company management conducted a meeting in the labor camp and threatened us to stop all activities or we will all be deported from the United States.

The next day, March 9th, the real tragedy I ever faced in my life. In the early morning, I saw two people were locked up in TV room. 5:10 a.m., I was packing my lunch box inside the mess hall. Armed security guard with camp manager came to me and told me that "you are under our custody, obey the security guard and come to the TV room." I tried to take a cup of coffee but I was shivering and failed to take my breakfast. I went to my room, security guard tried to stop me and another security was shouting and chasing me. Camp manager shout at me and told me to go to the TV room, I told him that I need to wash my hands. I was losing my control, afraid that company was going to harm me and deport me to India. I afraid to go back home empty handed in front of my poor family and the society. I cut my wrist with a razor blade. The threatening situation created by Signal forced me to do so. I was in hospital for 3 days, my family wept for weeks, my child told me "come back, dad, I need my dad."

I got three increments in the company for my performance. I only get punished for fighting against this injustice. Department of Labor approved this labor certification, they did not check the reality inside the company.

My question is this—after all these incidents, what actions taken by Department of Labor against this injustice? Agents, subcontractor and companies in the United States are doing H2–B visa program as a business, and they are cheating the U.S. Government and the people by spoiling their life, and earning millions of dollars every year.

My request to this committee is this—please let the H2–B visa holder to live with dignity, give them enough time to earn some money. Give them the right to change his employer if they wish.

Please find these criminals who are doing H2–B visa program as a business and punish them. DOL can do a major role in this H2–

B visa program to stop selling this H2–B visa and to stop this modern slavery.

Thank you.

Mr. KUCINICH. Thank you very much. Could you provide the stenographer there with your written statement?

Mr. VIJAYAN. Sure.

Mr. KUCINICH. Thank you.

Next, we will hear from Ms. Maria Eugenia, who will be assisted in the translation by Mr. Jacob Horowitz. Proceed. Thank you.

[The prepared statement of Mr. Vijayan follows:]

Good Morning,

My Name is .
~~I am~~ Vijayan Sabulal , I am from India ,I was working in the United Arab Emirates . I am a PIPE FITTER with 20 years of experience.
When I was in India ,saw some advertisement for the post of Pipe fitter for Signal International,Mississippi.[redacted].

Sub agent of Signal promised ~~us~~ H2B visa leading to permanent visa status,and asked ~~me~~ to pay a huge amount for this,
I thought that most of the time I worked in the United Arab Emirates.without my family If I go to America I can live happily with my wife and childrens, I heard that in America everybody will get Liberty and Justice,
So I paid nearly $20,000.00 to get this chance.there is about 600 employees from India reached signal international ,Mississippi and Texas.

After I reached Signal International on December 5, 2006.I get shocked, because they gave me a bed in a trailor with 24 people, I never lived in a room like this anywhere in my life time, and served very bad quality food and said that this is Indian food, ~~but I never saw such Indian food in India.~~

company deducted 1050 $ for month from our pay cheques,we were struggling in this trailor and woke up at 3.30 am to start use bathroom.We were likes pigs in a cage.

I began organizing the peoples and making complaints to the camp manager.
the management threatened us and told me that Signal invested millions of dollars in this labor camp and we are doing business, "This is not your India , this is America ,if you want to stay in this country ,keep quite and shut up , Sabulal sit down, I did so, because I was not ready to loose this job, because of my great debt. I sold my wife's jewellery, borrowed from friends, and invested the money I had saved to build a home.to come to America.

Day by day camp management was ignoring our needs. company said that this accommodation is approved by DOL, but we did not believe that. You can imagine that a room with 24 peoples, and for asking better food camp manager called us animals, " Indians are behaving like animals," We know the living conditions of Indians and you are getting more better food and accommodation here."

What are the promises they(company) submitted to DOL while applying for the visa , I don't know, but I think nobody inspect the camp and find out the reality.
Signal started to reduce the salary from 18 $ to 13$ and lay off some peoples,and they forced to sign on new wage agreement.

We conducted meeting at the nearest catholic church with the help of New Orleans Workers Center and Southern Poverty Law Centre,
After all this meetings my wife got some phone calls from signals Indian recruiter "Dewan ," asking for my phone no and contact details, my wife get threatened. In a phone call Indian agent told me that ,Signal informed him that I am the leader and stop all this meetings otherwise everybody will be deported"

Another day company management conducted meeting in the labor camp and threatened us to stop all activities ,

The next day March 9, the real tragedy I ever faced in my life.
In the early morning.I saw 2 people were locked up in TV room. 5.10 am I was packing my lunch box inside the mess hall, armed security guard with camp manager come to me and told me that " you are under our custody." obey the security guard and come to TV room" . I tried to take a cup of coffee but I was shivering and failed to take my breakfast and I went to my room ,security guard tried to stop me and another one security was shouting and chasing me ,camp manager shout at me and told me to go to the tv room, I told him that I need to wash my hands, I was loosing my control , afraid that company going to harm me. and deport me to India, I afraid to back home with empty handed in front of my poor family and the society, I cut my wrist with a razor blade,

the threatening situation created by signal forced me to do so. I was in the hospital for 3 days, my family wept for weeks ,my child told me "come back I need my dad"

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My request to this ~~congress members~~ committee is this
Please let the H2B visa holder to live with dignity,give them enough time to earn some money. Give them the right to change his employer if they wish,

Please find these criminals who are doing H2B as a business and punish them.
DOL can do a major roll in this H2B visa program
To stop selling this H2B Visa
and to
Stop this Modern Slavery

Thank you all

STATEMENT OF MARIA EUGENIA

Ms. EUGENIA. [Through Translator] My name is Maria, I am from Bolivia. I am a guest worker.

I heard about the H2–B visa while I was in Bolivia and I took it as an opportunity to come and work. My country is in a political economic crisis, a very huge crisis, and there is no work there. I am a single mother with two children and I have a lot of debt. So I wanted to continue to support them so that they could go and study.

The promises that were made to me were very good. I was offered very good money, I was supposed to have a guaranteed place to live and food as well. And then they told me that my employer was waiting for me and that I should be in La Place, Louisiana in 3 days. So then I had to borrow more money so that I could pay for the trip and pay the recruitment fee and then I came.

When I came, however, there was no job. There were three of us and they told us that we would have to take responsibility for ourselves. They put us up for 2 days and then after that, we were on our own. So we started to make phone calls trying to figure out what we were going to do. And then we ended up coming to New Orleans. I first went to the house of another Latino, but once the $160 that I had brought with me was gone, I was left out in the street. I found myself alone without friends and without money. I did not have a place to live and I had to beg from people in the buses and Latino people. It was like that for me for more than a month and a half. There were a lot of times when I felt like I just wanted to die. It was a very difficult winter for me and I had no place to sleep and it was ironic to pay so much to come and then come and be homeless here.

I started to look for work with the visa that I had. Nobody had told me that the visa only functions for one employer.

So the question that I ask is what does the Department of Labor do when an employer like this breaks their contract, like the contract they had with me? What crime did I commit to be in this situation? I only came to make money and try and improve my situation and the situation of my children.

Thank you.

Mr. KUCINICH. Thank you very much for your testimony and I know it was very difficult. But the fact that you have come here and given it has been very important. So thank you.

Mr. Rolando Sanchez.

STATEMENT OF ROLANDO SANCHEZ

Mr. SANCHEZ. [Through Translator] Hello, my name is Rolando Sanchez. I am from Tegucigalpa, Honduras and I also came with an H2–B visa.

I came here to help my family and above all, to help my children. I found out about the opportunity from a newspaper ad in my country. So then I went to where the recruiter's office was. I was promised about this great opportunity to make money. There at the recruiter's office, I was told that I had to pay $4,000 to come. I also had to do some tests, some welding tests, I am a welder. And then each test that I did cost me 200 Lempira, which is the money in my country. They promised us good living conditions, good work

conditions, we were going to get housing. And then they also asked us to sign an IOU or a contract for $30,000. The contract we had to sign so that if we went to another company, we would be responsible for the $30,000. I had to take on a lot of debt to come here. In order to pay the amount of money that was being asked by the recruiter, I had to get a loan from the bank.

So then when I arrived in New Orleans, I was here and for an entire month and a half, I was given no work at all. During that month and a half, we were loaned $50 a week. But during that whole month and a half, our families were suffering, they were hungry at home. The interest on our loans was rising and rising. And then eventually I was sent to work in the road, working in a shipyard, repairing and building ships.

They placed us in some trailers. These trailers are supposed to be for six people, but they stuck 12 of us in them. We were not happy because it was a bad situation with so many people.

Then in January, I had an accident that I did not report. And then later I had another accident that I did report. But then the company did not want to be responsible at all for my treatment. We even had a big meeting with our boss and we demanded that he give us medical treatment but then after that, there was retaliation.

He lowered our wages and now he has brought Mexicans to displace us because he says he does not want to work with Hondurans any more. He also promised that we were going to get two more visa extensions or three more visa extensions. But now he just wants to displace us and bring people from another country.

The contract that we were hired on expired in June, but he continues to promise that extensions are coming and coming. In the case of my accident, I continued to be in the hospital, but he will not pay for my recuperation at all. I needed surgery on my left leg where I had this accident, so I would like to know what Department of Labor does when people like this, my employer, do not fulfill these contracts or their responsibilities.

That is all I have.

Mr. KUCINICH. Thank you very much.

Mr. Daniel Castellanos.

STATEMENT OF DANIEL CASTELLANOS

Mr. CASTELLANOS. [Through Translator] Good afternoon, I am Daniel Castellanos, I come from Peru.

Like many workers, after Hurricane Katrina, we came to help rebuild the city. As the situation in my country is very chaotic, the best option was to look for work somewhere else. So just like the others, you know, we read some ads in the paper that offered these types of jobs. In Peru, we had to pay between $4,000 and $5,000 to come. And of course, nobody has this quantity of money within their power. We had to get loans from the bank, sell our personal belongings. But with the promises that we were made—that were made to us by recruiters that we were going to make a great wage and live in great living conditions, we came with all these hopes.

Of the 800 people that applied for their visas with me, only 80 were accepted. The 80 of us that were selected, we felt very lucky. But then all of this changed once we arrived in New Orleans. We

realized that all the promises that had been made to us were completely false. The $10 that we were offered as an hourly wage was reduced to $6 an hour. The 60 hours that they offered us a week was reduced to 25. The house that we had been offered to live in was actually a hotel that was completely—that was half destroyed and we had to rebuild it ourselves. We slept six or eight people in a small hotel room. There was about 300 of us between the Peruvians, Bolivians and Dominicans that came. And everyone with the same problem, we had paid so much and we were not being given what we had been promised.

So we began to organize. We joined together to try and ask our boss for something better from the situation. For me, you know, I noticed that there was a lot of people living in these hotels that were from FEMA. And so I asked them, why is it that you gave us work and here in your own hotel there are so many people that are unemployed. And he told me in these words, "Black people are lazy." So at that moment, I did not really know what to think. You know, this is the idea that they put in our heads. And then they told the African-Americans that we had come to steal their jobs. So it is a game that the system plays.

So I organized my coworkers and we had a big meeting with the boss. But after that, he did not—nothing happened. As a result of that, we decided to sue our boss. Two days after we filed the lawsuit, my boss fired me, saying that I was lazy.

Now as an organizer, I have seen far too many things that are similar to what we are living right here. For example, there are so many people, employers, that bring people here just to rent them out. And they pass them from company to company charging them huge amounts of money.

Supposedly we are legal here, but we are the legal workers that are exploited here. We do not have rights. We are second class workers and as my friend has said, with only one boss.

So my question to the Department of Labor is why do they give these labor certifications to these companies that are just trying to profit and profit off of these situations. They just look for cheap labor, they try and displace local workers and changing the local workers for workers that are cheaper and easier to exploit.

So now as new immigration laws are being discussed, we want to be taken into account, so that we can improve the situation of guest workers. We feel that we are the experts in this because we live this experience every day. So we want to be taken into account by the Congress, so that we can help improve this law. And we also want to improve the situation and our relationship with our family members, our African-American brothers and sisters.

Thank you very much.

Mr. KUCINICH. I want to thank you very much for your testimony and to all the witnesses, if Mr. Horowitz could translate this back. The questions that you raised about the Department of Labor's responsibilities to you, these are also our questions. And we are going to be asking them shortly of the Department of Labor's witness who is on the next panel.

So we are going to move right away to that witness and I am going to ask the witness from the Department of Labor to come forward right now and we will get to the questions.

I want to introduce Ms. Barbara Hicks, who is the Director, Wage and Hour Division, Employment Standards Administration, Department of Labor District Office, New Orleans.

Ms. Hicks, welcome to this subcommittee, we appreciate your presence here.

Ms. HICKS. Thank you.

Mr. KUCINICH. I understand that you have a statement?

Ms. HICKS. Yes, sir.

Mr. KUCINICH. I would ask that you keep the statement to 5 minutes. If it is over 5 minutes, I can assure you that the full text of the statement will be included in the record and we would ask that you proceed. Thank you.

STATEMENT OF BARBARA HICKS, DIRECTOR, WAGE AND HOUR DIVISION, EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR DISTRICT OFFICE, NEW ORLEANS, LA

Ms. Hicks. Chairman Kucinich, ranking member and distinguished members of the subcommittee, thank you for the opportunity to appear before you today to discuss the efforts of the Department of Labor's Wage and Hour Division——

Mr. KUCINICH. Excuse me. I neglected to ask you to be sworn and I would—I apologize for that. I am going to ask you to raise your right hand.

[Witness sworn.]

Mr. KUCINICH. I thank you very much. Let the record reflect that the witness answered in the affirmative. I thank you for your indulgence. You may proceed with your testimony. Thank you.

Ms. HICKS. As the District Director of the New Orleans District Office, I supervise investigators, technicians and support staff in offices in the city of New Orleans as well as in four field stations across the state of Louisiana.

In understanding the efforts of the New Orleans District Office, it is important to understand the backdrop against which those efforts took place. As a result of Hurricane Katrina, which struck New Orleans on August 29, 2005, staff members of the New Orleans District Office evacuated from New Orleans and relocated to various locations around the country, including Houston, Dallas; Grand Rapids, Michigan; Baton Rouge; and Jacksonville, Florida.

Compounding the issues associated with—the District Office moved a total of five times. First, we operated out of Houston. From Houston, we operated out of the Baton Rouge office. From that location, we went to Clearview Mall and operated out of what had been a former retail shoe store. Then we moved to temporary space in the F. Edward Hebert Building in New Orleans. And then finally, in December 2006, we were able to move to our permanent location in F. Edward Hebert Building.

Compounding the issues associated with moving an office five times in the course of 16 months were the personal issues being dealt with by the New Orleans District Office staff themselves. Over half of the staff assigned to work in New Orleans experienced significant damage to their homes and belongings, with about one-third losing everything that they owned.

The issues that the New Orleans District Office experienced were not unlike those experienced by anyone trying to re-establish his or her life again in New Orleans. Some of those issues were:

Finding schools that were operating and able to accommodate the needs of the children.

Finding adequate healthcare for themselves and their families.

Finding repairmen who could help them with receiving basic services such as water, heat and electricity in their homes.

Repeatedly meeting with insurance adjusters in an attempt to obtain the money that they needed to repair their homes.

Finding affordable alternative housing until their homes could be repaired.

Finding alternative methods of transportation when vehicles were lost in the storm and public transportation was operating on a very limited schedule.

For those who did not have adequate insurance, meeting with the Red Cross and FEMA to obtain assistance.

These are just some of the challenges that the staff experienced. Despite these challenges though, each one of the New Orleans District Office staff members returned to the office and began working.

Upon returning to New Orleans, one of the most significant challenges was the sudden and dramatic demographic shift in the area. According to some news accounts, the Hispanic population in the New Orleans metropolitan area had increased from 2 to 20 percent. And it was obvious that the two Spanish speakers on staff at the time would not be adequate to serve the Hispanic workers who had come to the area to help rebuild. We realized that we needed to address this problem in both the short term and the long term.

Our short-term solution was to rotate experienced detailed investigators who were Spanish speakers from other offices across the country into New Orleans. Those details lasted anywhere from 2 weeks to 4 weeks at a time, with some doing even in excess of 4 weeks.

Our long-term solution has been to increase the number of Spanish-speaking investigators in the New Orleans District Office to improve outreach and accessibility to the Hispanic community. In addition, the New Orleans District Office opened a satellite office in Kenner, Louisiana, approximately 15 miles from the District Office. This is an office which is staffed by four—I am sorry, three investigators and one team leader. Three of those staff members are Spanish speakers. The team leader, in addition to having management duties, also conducts investigations. One of the main purposes of the satellite office is to provide easy access to Wage and Hour Division for workers who are reluctant to come to a Federal building to file a complaint. Kenner, Louisiana is located in a community that is heavily populated with Hispanic workers and businesses. So that is why we chose that location.

Our efforts to improve outreach also included outreach and I will briefly outline some of those.

In December, I traveled to Houston, Texas to meet with the Mexican Consulate to see what could be done or what role we could play in addressing wage issues that we heard.

Mr. KUCINICH. Please continue for a few more minutes, I just wanted to let you know.

Ms. HICKS. On three occasions, on January 19th, 24th and February 9th, early on, after the storm in 2006, we conducted—we had Spanish speakers, experienced Spanish speakers, investigators, that came down from other offices and participated in radio community call-in programs so that the community could be advised of what their rights were. In addition to that, they conducted investigations.

In March 2006, we participated in an outreach activity sponsored by Loyola Law Clinic in which workers were informed of their rights and how to file a complaint.

In May 2006, the Mobile Mexican Consulate came down and we participated in that affair in order to provide workers with their rights and how to file complaints when they were not paid correctly.

On August 13, 2006, the New Orleans District Office participated in a job fair which was co-sponsored by St. Joseph's Church and the Hispanic Apostolate.

We have developed a relationship with the Honduran Consulate and we have provided literature to that Consulate in order to get the workers their rights to them. And that literature was provided in Spanish and asked that it be distributed.

We developed a working relationship with the New Orleans Workers Center for Racial Justice. I met with Saket Soni right after the storm and provided him literature and asked him to distribute flyers announcing our presence at an outreach event that we held regularly, that outreach event, starting in March, February or March 2006 until it closed. The Good News Camp was a faith-based facility that provided food, clothing and other supplies to workers. Twice a week from February through August or until August 1st, we had two investigators to come to that facility twice a week, once for lunch and once for dinner, in order to provide workers the access that they needed in order to find out what their rights were and we were able to take complaints and give information about their rights during that time.

After that facility closed down, we began going to the Lantern Light Ministry, which was sponsored—it is at St. Joseph's Church, sponsored by St. Joseph's Church and the Hispanic Apostolate. And once a week, we made our presence there with a Spanish speaker in order to provide again compliance assistance.

Despite the outreach efforts, the heart of our effort has been with conducting investigations. There are two types of investigations. One that is complaint driven, meaning that we get a complaint from—a direct complaint from an employee, and the other one would be a directed investigation in which we have not received a complaint but we have received information that would suggest that there is a high probability that the companies are not complying with the laws that we enforce.

Before August 2005, most of the investigations conducted by the New Orleans District Office were generated by complaints from the general public. And this remains the case today in the field stations, in the four field stations in Monroe, Shreveport, Baton Route and Lafayette, Louisiana. In the New Orleans area, however, only a minimal number of complaints were coming into the office after the storm. For this reason, we decided that the New Orleans Dis-

trict Office would begin to systematically conduct directed investigations of all of the major prime contractors on government contracts and their subcontractors. Because the New Orleans District Office staff working in the Katrina-affected area heard and read stories almost on a daily basis from the media indicating that workers were being required to work 10 and 12 hours a day, 6 and 7 days a week, the New Orleans District Office management considered it a high probability that some workers were not being paid the prevailing wage or proper overtime. The news stories further indicated that workers engaged in installing the "blue roofs" were paid piece rates without overtime pay, and that at the lower layers of the subcontractors there were instances of employees receiving less than minimum wage or in some cases no pay at all. The same stories appeared in the media regarding debris removal contracts.

To date, the New Orleans District Office continues to conduct directed investigations of employers working on the various contracts let for the recovery of New Orleans. Complaints affecting employees in the New Orleans area are worked as they are received.

Our enforcement efforts have not been without challenges. Among the substantive challenges facing us in New Orleans, has been the misclassification of employees as independent contractors. We also have run into concerns with respect to coverage or the applicability of the statutes enforced by Wage and Hour Division. In addition, workers, frequently day laborers, often lacked basic information such as the name of their employer. For many of these workers, the statutes that Wage and Hour Division enforces simply did not apply because, for example, there was no employment relationship, or the requisite connection with interstate commerce. Thus, for a variety of reasons, including lack of coverage and inability of workers to identify their employer, in New Orleans we often found it difficult to link the workers to an employer that we could hold responsible for compliance with the applicable statutes. Moreover, even when we can establish such a link, the complexities of identifying employment relationships between workers and the companies for which they worked and of determining the existence of joint liability so as to reach an employer financially able to pay the back wages, often resulted in lengthier investigations and slower than typical back wage recovery.

Yet another challenge is unlike anything we had ever experienced previously. Federal assistance has poured into the region. The need for an immediate response to the conditions in the area resulted in multiple layers of subcontracting and blurred lines of employer accountability. In our experience with government contracts, a Service Contract Act investigation typically involves one or two tiers of subcontractors. In New Orleans, however, we frequently encountered situations where the prime contractor had dozens, if not hundreds, of lower tier subcontractors. In one case, we identified over 120 subcontractors to a prime contractor on a U.S. Army Corps of Engineers debris removal contract. In another example, a prime contractor had 72 first tier subcontractors working in one parish and 183 in another, for a total of 255 first tier subcontractors. Some of these upper-tiered subcontractors had little or no experience in government contracting and many failed to in-

clude the required wage determination and contract stipulations into contracts with their lower tiered subcontractors.

The New Orleans District Office's future strategies, indeed all of Wage and Hour, will buildupon the lessons learned over the past 2 years. Our new investigators have received advanced training in the government contract statutes, a course typically reserved for more senior investigators. Our direct enforcement program will continue to take a top-down approach to enforcing the government contract statutes, holding prime contractors responsible for their subcontractors' violations.

The long-term reconstruction of New Orleans will require a strong presence by the New Orleans District Office. We will continue to explore new strategies and partnerships to reach vulnerable workers, and pursue all opportunities to meet any new compliance challenges that may arise.

Mr. Chairman, this concludes my prepared remarks. I will be happy to answer any questions you or the members of the subcommittee may have.

[The prepared statement of Ms. Hicks follows:]

UNITED STATES DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

STATEMENT OF

BARBARA HICKS
DISTRICT DIRECTOR,
NEW ORLEANS DISTRICT OFFICE

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

October 29, 2007

Chairman Kucinich, Ranking Member Issa, and distinguished members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the efforts of the Department of Labor's Wage and Hour Division (WHD) in New Orleans following the devastation of Hurricanes Katrina and Rita. I have served as the District Director of the New Orleans District Office (NODO) of WHD since 2002, and have worked in the NODO since 1997. Since joining WHD in 1967, this is the third time I have been stationed in New Orleans, the first being from 1971 to 1974 and the second being from 1979 to 1990. As the District Director of the NODO, I supervise investigators, technicians, and support staff in offices in the City of New Orleans, as well as the four field stations across the State of Louisiana.

These investigators, technicians, and support staff in the NODO have done an incredible job under extraordinary circumstances. Our office has a strong record of enforcement on behalf of workers in New Orleans due to our efforts following the hurricanes. We have protected and secured the wages of the individuals who have been cleaning up and rebuilding New Orleans. I am honored to share with the Subcommittee the efforts of the NODO staff and to discuss the challenges that they have faced and continue to face.

In understanding the efforts of the NODO, it is important to understand the backdrop against which those efforts took place. As a result of Hurricane Katrina, which struck New Orleans on August 29, 2005, the staff members of NODO evacuated from New Orleans and

relocated to various locations around the country, including Houston; Dallas; Grand Rapids, Michigan; Baton Rouge; and Jacksonville, Florida.

Given the difficulty of securing office space in New Orleans – despite our best efforts in conjunction with the General Services Administration – immediately after Hurricane Katrina, the NODO operated out of the Houston District Office from August 29, 2005, until late September 2005, when NODO management team moved to the Baton Rouge field station. We remained in Baton Rouge until November 2005, at which time NODO management team and some staff members moved back to the area into a former retail shoe store in a mall in Metairie, Louisiana, just outside of New Orleans. As our staff members worked out personal issues, such as ensuring that their children continued to attend school and making arrangements for adequate housing for their families in New Orleans, they returned to the New Orleans area. It was not, however, until late December 2005, that all NODO staff was back working out of the temporary space in Metairie.

We continued to work from the shoe store until July 2006, when the office moved to temporary space on the seventh floor of the F. Edward Hebert Building in New Orleans. Finally, in December 2006, the NODO made its final move – this time to the sixth floor of the Hebert Building.

Compounding the issues associated with moving an office five times in the course of 16 months were the personal issues being dealt with by the NODO staff themselves. Over half of the staff assigned to work in New Orleans experienced significant damage to their homes and belongings with about one third losing everything they owned.

The issues the NODO staff experienced were not unlike those experienced by anyone trying to reestablish his or her life in New Orleans:

- Finding schools that were operating and able to accommodate the needs of their children.
- Finding adequate health care for themselves and their families.
- Finding repairmen who could help them with receiving basic services such as water, heat, and electricity in their homes.
- Repeatedly meeting with insurance adjusters in an attempt to obtain the money they needed to repair their homes.
- Finding affordable alternative housing until their homes could be repaired.
- Finding alternative methods of transportation when vehicles were lost in the storm and public transportation was operating on a very limited schedule.
- For those who did not have adequate insurance, meeting with the Red Cross and FEMA to obtain assistance.
- Standing in lines at multiple postal facilities in an attempt to locate mail.

Despite these challenges, every member of the NODO staff returned to continue working for the people of New Orleans and the surrounding areas. It is a testament to the men and women of the NODO that they continued to perform the work of the agency by conducting investigations under the various laws that we enforce to provide the protections to which employees are entitled.

Upon returning to New Orleans, one of the most significant challenges was (and continues to be) the sudden and dramatic demographic shift in the area. According to some news

accounts, the Hispanic population in the New Orleans metropolitan area had increased from two percent to 20 percent. It was obvious that the two Spanish speakers on staff at the time would not be adequate to serve the Hispanic workers who had come to the area to help rebuild. We realized that we needed to address this problem – in both the short term and the long term.

Our short-term solution was to have investigators with Spanish language skills detailed to New Orleans from offices all over the country to work on a temporary basis in the New Orleans area. The first of them arrived shortly after we moved into the shoe store in November 2005. Other investigators with Spanish language skills rotated through the NODO to help with outreach activities and investigations of employers who employed workers who only spoke Spanish. To date, twenty investigators with Spanish language skills have been detailed to the NODO for various lengths of time, generally ranging from two weeks to four weeks. In addition, from approximately August 2006 through May 2007, a bilingual Assistant District Director from the Dallas District Office worked most of his time in the NODO, helping with the management of the office and assisting with the investigations. We in the NODO are grateful for the willingness of our WHD colleagues to assist the people of New Orleans, as well as for the flexibility of their managers, co-workers, and families around the country in handling their absences from their home offices.

Our long-term solution has been to increase the number of Spanish-speaking investigators in the NODO and to improve outreach and accessibility to the Hispanic community. To that end, we advertised for and hired three additional Spanish speakers – two investigators and one team leader (who conducts investigations in addition to his supervisory duties). In addition, the NODO opened a satellite office in Kenner, Louisiana, approximately fifteen miles from the District Office. The office is located in a community heavily populated with Hispanic residents and businesses. It is staffed with three investigators and a team leader. Of the four individuals who staff the satellite office, three are Spanish speakers. One of the main purposes of this satellite office is to provide easy access to WHD for workers who are reluctant to come to a federal building to file a complaint.

Our efforts to improve outreach began almost immediately after returning to the New Orleans area. Some of the outreach events that took place soon after the hurricane include:

- In the second week of December 2005, I traveled to Houston, Texas, and met with the Mexican Consulate to offer assistance with addressing wage issues being experienced by Hispanic workers in the New Orleans area. It was agreed that if the NODO secured a location to hold an outreach event to provide workers with information regarding their rights, the Mexican Consulate would publicize the event to the workers. The NODO secured the location and the event took place on January 11, 2006.
- On January 19, January 24, and February 9, 2006, experienced Spanish speaking investigators came to New Orleans from other WHD offices and participated in community call-in radio shows (in addition to conducting investigations). The first segment of these shows was devoted to advising the Hispanic worker about their rights under the laws that WHD enforces and informing the listening audience about how to contact WHD if they believed that their rights were violated. The second segment was devoted to answering questions from the listening public. These events were broadcast by the two Spanish language radio stations operating in New Orleans at the time. This service continues to the present with the most recent broadcast taking place on October 10, 2007.

- On March 25, 2006, the NODO participated in an outreach activity sponsored by Loyola Law Clinic in which workers were informed of their rights and how to file a complaint if they were not paid correctly.
- On May 20, 2006, the NODO participated in a Mobile Mexican Consulate in which workers were advised of their rights and how to file a complaint if they are not paid correctly.
- On August 13, 2006, the NODO participated in a job fair for Hispanic workers sponsored by St. Joseph's Church and the Hispanic Apostolate.
- We have developed a relationship with the Honduran Consulate, and we provided the Consulate with literature and contact information for its constituents.
- We developed a relationship with Javier Gallardo, Day Laborer Project Coordinator for the New Orleans Worker's Center for Racial Justice. NODO has furnished this organization with WHD literature written in the Spanish language to distribute to workers as the day laborer sites are visited. In addition, the NODO has visited those sites with Mr. Gallardo to be available to take complaints or provide information.
- For most of 2006, until the operation was closed, twice per week the NODO visited the Good News Camp, a faith-based organization that provided workers with free lunches and dinners, clothes, cleaning supplies, etc. Good News camp was located in City Park where many of the immigrant workers had pitched makeshift tents and were living there. Each week on Tuesdays during the lunch meal, and on Thursdays during the dinner meal, the NODO sent two investigators (at least one Spanish speaker) to visit the camp site and provide information about rights under the wage and hour laws to the workers or take complaints about wage issues. The NODO presence at this facility was publicized by notifying local advocacy groups, announcing it on radio shows, and distributing flyers written in Spanish and English.

Because the NODO is committed to ensuring that workers who have come to aid the City and its citizens in rebuilding efforts are provided the protections that they are entitled to, various types of outreach events continue to the present time.

The heart of our efforts to ensure compliance, however, has been our investigations. There are two types of investigations: "Complaint" and "Directed." Complaint investigations are generated by complaints in which individuals call, write, or visit the NODO and provide information that employers are not complying with the laws that WHD enforces. Directed investigations, on the other hand, are initiated by the NODO as a result of information obtained from other than a direct source that indicates a likelihood that employers may not be complying with the laws.

Before August of 2005, most of the investigations conducted by the NODO were generated by complaints from the general public. This remains the case in the field stations located in Monroe, Shreveport, Baton Rouge, and Lafayette, Louisiana. In the New Orleans area, however, only a minimal number of complaints were coming into the office after the storm. For this reason, we decided that the NODO would begin to systematically conduct directed investigations of all of the major prime contractors on government contracts and their subcontractors. Because the NODO staff working in the Katrina-affected area heard and read stories on a daily basis from the media indicating that workers were being required to work 10 and 12 hour days, six and seven days per week, the NODO management considered it a high probability that some workers were not being paid the prevailing wage or proper overtime. The

news stories further indicated that workers engaged in installing the "blue roofs" were paid piece rates, without overtime pay, and that at the lower layers of the subcontracts there were instances of employees receiving less than minimum wage or in some cases no pay at all. The same stories appeared in the media regarding the debris removal contracts.

To date the NODO continues to conduct directed investigations of employers working on the various contracts let for the recovery of New Orleans. Complaints affecting employees in the New Orleans area are worked as they are received.

Our enforcement efforts have not been without their challenges. Among the substantive challenges facing us in New Orleans has been the misclassification of employees as independent contractors. We also have run into concerns with respect to "coverage," or the applicability of the statutes enforced by WHD. In addition, workers—frequently day laborers—often lacked basic information such as the name of their employer. For many of these workers, the statutes that WHD enforces simply did not apply because, for example, there was no employment relationship or the requisite connection with interstate commerce. Thus, for a variety of reasons—including lack of coverage and inability of workers to identify their employer—in New Orleans, we often find it difficult to link the workers to an employer that we could hold responsible for compliance with the applicable statutes. Moreover, even when we can establish such a link, the complexities of identifying employment relationships between workers and the companies for which they work, and of determining the existence of joint liability so as to reach an employer financially able to pay back wages, often resulted in lengthier investigations and slower-than-typical back wage recovery.

Yet another challenge is unlike anything we had experienced previously. Federal assistance has poured into the region. The need for an immediate response to the conditions in the area resulted in multiple layers of subcontracting and blurred lines of employer accountability. In our experience with government contracts, a Service Contract Act investigation typically involved one or two tiers of subcontractors. In New Orleans, however, we frequently encountered situations where the prime contractor had dozens, if not hundreds, of lower-tier subcontractors. In one case, we identified over 120 subcontractors to a prime contractor on a U.S. Army Corps of Engineers debris removal contract. In another example, a prime contractor had 72 first-tier subcontractors working in one parish and 183 in another, for a total of 255 first-tiered subcontractors. Some of these upper-tiered subcontractors had little or no experience in government contracting, and many failed to include the required wage determination and contract stipulations into contracts with their lower-tiered subcontractors.

The NODO's future strategies, indeed all of Wage and Hour, will build upon the lessons learned over the past two years. Our new investigators have received advanced training in the government contracts statutes—a course typically reserved for more senior investigators. Our directed enforcement program will continue to take a top-down approach to enforcing the government contract statutes, holding prime contractors responsible for their subcontractors' violations.

The long-term reconstruction of New Orleans will require a strong presence by the NODO. We will continue to explore new strategies and partnerships to reach vulnerable workers, and pursue all opportunities to meet any new compliance challenges that may arise.

Mr. Chairman, this concludes my prepared remarks. I will be happy to answer any questions you or the Members of the Subcommittee may have.

Mr. KUCINICH. Thank you very much for your testimony. The Chair suspended the 5-minute rule because we wanted to make sure that you would feel that you were given a chance to make a complete statement. I felt that was important to be fair to you.

Ms. HICKS. Thank you.

Mr. KUCINICH. The testimony that we have heard sounds as if it reflects the existence of widespread systematic lawlessness. Some people have called it a wild, wild west atmosphere. Would you agree with this description?

Ms. HICKS. No, sir, I wouldn't not agree with that description. It has been a challenge, but I am not sure what wild, wild west means.

Mr. KUCINICH. Well, I would imagine that it means that labor law is not being enforced.

Ms. HICKS. But labor law is being enforced.

Mr. KUCINICH. Broad non-enforcement of labor law.

Ms. HICKS. Then I would not agree with that.

Mr. KUCINICH. At this committee's June 26th hearing—let me go back to something here.

How many cases do you have pending? How many complaints have you had to your office?

Ms. HICKS. I can give you some information on the complaints that we have had based on the fiscal years.

Mr. KUCINICH. OK, let us start with 2005, how many complaints did you have?

Ms. HICKS. In 2005, fiscal year 2005, we had 508.

Mr. KUCINICH. How many people were on the staff in 2005?

Ms. HICKS. Five investigators, two support and two managers in the District Office. But also we had two investigators and a support person in Baton Route, one in Lafayette, one in Shreveport and one in Monroe.

Mr. KUCINICH. And how many—now when something is a complaint, is that a complaint received and is it a complaint that has been handled? Or does it just indicate intake as opposed to——

Ms. HICKS. These are actually concluded complaints.

Mr. KUCINICH. OK, how many were opened, how many were unconcluded complaints?

Ms. HICKS. I do not know how many were unconcluded. I do not have those numbers.

Mr. KUCINICH. Did you keep statistics if somebody called and complained?

Ms. HICKS. If we—yes, if we got a complaint and it was a complaint that we had jurisdiction over, then a complaint would be taken and an investigation would be generated as a result of that complaint.

Mr. KUCINICH. So the only numbers you have are cases that you completed. You do not have any about cases that somebody asked you, filed a complaint that you did not get into.

Ms. HICKS. No, I do not. If we had no jurisdiction, we would have no record of that.

Mr. KUCINICH. How would you know if you had jurisdiction if people did not get calls back?

Ms. HICKS. No, when I am saying complaints, it means that we talked with someone and explored whether or not we had jurisdic-

tion. When callers call in, there is someone that talks with that person about what their complaint is, what their issues are. And if it is one that Wage and Hour has jurisdiction over, we will take that complaint.

Mr. KUCINICH. Are there workers being cheated out of their wages?

Ms. HICKS. I think there are workers being cheated out of their wages.

Mr. KUCINICH. Are they being cheated out of their wages by contractors and subcontractors?

Ms. HICKS. Yes, I believe they are.

Mr. KUCINICH. Are those workers both U.S. citizens born in the United States—do they include U.S. workers born in the United States?

Ms. HICKS. Yes.

Mr. KUCINICH. Do they include people who are documented workers who are guests here from other countries?

Ms. HICKS. Yes, I believe they do.

Mr. KUCINICH. Do they include undocumented, people who are undocumented?

Ms. HICKS. Yes.

Mr. KUCINICH. So your testimony is that you are aware that there has been a number of cases of people not being paid for the work that they have done.

Ms. HICKS. That is correct. With respect to their status of documented or undocumented, we do not know that because we do not ask.

Mr. KUCINICH. Thank you. And what kind of action has been taken with respect to those cases? How many—have you collected money for workers?

Ms. HICKS. Yes, we have.

Mr. KUCINICH. In how many of those cases have you collected money for the workers?

Ms. HICKS. We have collected—what year are you asking about?

Mr. KUCINICH. Start with 2005, 2006.

Ms. HICKS. 2005, we concluded 526 cases; in fiscal year 2006, we concluded 506 and fiscal year 2007, 536.

Mr. KUCINICH. Are you counting cases that originated before Katrina?

Ms. HICKS. In 2005, there would have been some that originated——

Mr. KUCINICH. Let us go to 2006 then so we do not——

Ms. HICKS. 2006, we concluded 506. Now some of those may have originated prior to Katrina, I just have no way of knowing that.

Mr. KUCINICH. You heard the testimony of the first panel, all witnesses knew the identity of the subcontractor they worked for and the contractor. And in one upper tier case, it was ECC and in the other it was Waste Management, Inc. These companies were among the largest prime contractors after Hurricane Katrina but the wage theft, according to the testimony, occurred about 2 years ago.

Can you tell this committee what happens to a worker's right to unpaid wages after 2 years?

Ms. HICKS. In a government contract, there is no statute of limitations. So the worker is still entitled to their wages.

Mr. KUCINICH. What about the Fair Labor Standards statute?

Ms. HICKS. The Fair Labor Standards Act, there is a 2-year statute of limitations.

Mr. KUCINICH. When does that begin to run?

Ms. HICKS. I am sorry?

Mr. KUCINICH. When does that statute begin to run?

Ms. HICKS. It begins to run after—in other words, we cannot collect anything that was earned prior to 2 years.

Mr. KUCINICH. What can Department of Labor do for workers after 2 years has elapsed?

Ms. HICKS. The Department of Labor can do nothing unless we can prove willful, then we can use 3 years statute.

Mr. KUCINICH. So I just want to clarify this. Can you do nothing or can you do something?

Ms. HICKS. For Fair Labor Standards Act after 2 years, we cannot. If the statute has run on the money that was earned, we cannot do anything.

Mr. KUCINICH. What can you do with a case once the 2-year period, the statute of limitations has expired?

Ms. HICKS. We cannot do anything.

Mr. KUCINICH. Can you file an action to get back wages?

Ms. HICKS. After 2 years, no.

Mr. KUCINICH. And yet this committee has information that there are people who have been waiting quite awhile. If they are not—if they cannot get their wages back, they are just out of luck, is that right?

Ms. HICKS. My understanding is that those were government contract cases and since there is no statute on government contracts; no, the money is not lost.

Mr. KUCINICH. Why has it taken more than a year to resolve Mr. Steele's case, especially after his particular case received national attention?

Ms. HICKS. It is an open case but I can—I think it would be helpful to explain to you about our investigation procedures. When we get a complaint from an employee that says, you know, I worked for a particular company and was not paid for it, and the complaint appears valid—and we did take Mr. Steele's complaint. But in those cases where we go to the employer and there is no evidence that the employee worked, then we must go to the employee and say to the employee can you give us some information that would help to substantiate that you in fact worked for the company. Can you give us the names of other employees that you worked with. And that is the process that we follow in all cases where the employer denies——

Mr. KUCINICH. Well, we have had people come up here and name the contractor and the subcontractor.

Ms. HICKS. Yes, sir, I heard.

Mr. KUCINICH. Are you familiar with all those cases?

Ms. HICKS. I am.

Mr. KUCINICH. And has nothing been done on them? Are these cases still open?

Ms. HICKS. They are still open.

Mr. KUCINICH. Are any of these cases being referred to the Justice Department?

Ms. HICKS. We are still working these cases.

Mr. KUCINICH. And, you know, we had at our June 26th hearing the Administrator of the Wage and Hour Division, Mr. DeCamp, said that myriad labor law violations in New Orleans constitute a temporary bubble, albeit a significant bubble, in terms of violations and in terms of the workload in the Gulf Coast and New Orleans in particular that will last for the next 2 to 5 years. For that reason Department of Labor did not want to hire permanent employees in New Orleans.

Let me ask you a few questions about this. Do you agree with Mr. DeCamp's assertion that labor law violations in New Orleans constitute a temporary bubble?

Ms. HICKS. I believe it constitutes a temporary bubble, yes.

Mr. KUCINICH. When is that bubble going to pop then?

Ms. HICKS. I do not know when it is going to pop.

Mr. KUCINICH. And what would be the cause of it popping? You do not know? When are you going to resolve all of your cases, do you have any idea?

Ms. HICKS. Well, no I do not know when we are going to resolve them, but we are working on them.

Mr. KUCINICH. There is a relationship between that and the clean up and the reconstruction in New Orleans. Do you know when that is going to be completed? Do you have any idea?

Ms. HICKS. Any idea when the reconstruction is going to be completed?

Mr. KUCINICH. Right, because it does affect your workload.

Ms. HICKS. No, I have no way of knowing when the reconstruction is going to be completed.

Mr. KUCINICH. Now what about when the statute of limitations runs out on claims that arose in the aftermath of the hurricanes? You know, does that change the bubble?

Ms. HICKS. The statute of limitations running out——

Mr. KUCINICH. The statute of limitations running out, does that cause the bubble to pop?

Ms. HICKS. I do not know whether it will cause the bubble to pop or not.

Mr. KUCINICH. Well, if the cases cannot be acted upon, then you go back to what Mr. DeCamp said. He said that it is a temporary bubble that is going to last 2 to 5 years. Well, if he is countenancing the lapsing of the statute of limitations, what he may be saying is that the bubble is going to pop but people are not going to get their money.

Ms. HICKS. I do not know what Mr. DeCamp is saying but it——

Mr. KUCINICH. What do you say, what is your opinion?

Ms. HICKS. My opinion is that one of the reasons that we do outreach and get our name out there and our contact information out there, is so that employees know where to come to file a complaint prior to the statute of limitations running. If they can contact us and let us know that they are not being paid correctly and it sounds as if it is a complaint that we can address, then we will take that complaint.

Mr. KUCINICH. I do not understand, hearing the testimony that I have heard from some of the witnesses here. I am trying to see how their testimony fits with your statement that labor law is being enforced. Do you understand why I would have trouble trying to make that fit? You are telling me labor law is being enforced and their testimony under oath is a clear indication that labor law is not being enforced. You know, I am trying to figure out how I make this fit.

Ms. HICKS. Well, it is being enforced. On the government contract cases as I indicated earlier, there are hundreds of subcontractors and we are systematically investigating, directed case investigations on all of those layers of contractors.

Mr. KUCINICH. How many people are doing the investigations? How many case investigators do you have?

Ms. HICKS. Well, we have—are you talking about just in the New Orleans area or the whole District Office?

Mr. KUCINICH. Both.

Ms. HICKS. OK, just in the New Orleans Office, we have nine investigators and we have one team leader who also does investigations. We have one investigator in Baton Rouge, one in Shreveport and one in Monroe.

Mr. KUCINICH. And these investigators are in charge of investigating how many contractors, subcontractors, hundreds?

Ms. HICKS. We all do hundreds. We are, as an office, charged with doing hundreds, not any one investigator. One investigator that is assigned a case would, if it has 100 and some odd subcontractors on it, they would be charged with doing that.

Mr. KUCINICH. And how long might a case take to investigate, one case?

Ms. HICKS. A government contract case could take a long time because it's mainly the problem of locating the subcontractors.

Mr. KUCINICH. Can you find the subcontractors always?

Ms. HICKS. Sometimes we cannot, but almost always the prime contractors can.

Mr. KUCINICH. And if the prime contractors cannot find the subcontractors, do you hold the prime contractors accountable?

Ms. HICKS. Yes, we do.

Mr. KUCINICH. Have you ever taken action to decertify a prime contractor?

Ms. HICKS. What we do is withholding from the prime contractor.

Mr. KUCINICH. But can you stop a prime contractor from doing work if they are not paying their workers?

Ms. HICKS. Yes, they can be debarred.

Mr. KUCINICH. How many have been debarred?

Ms. HICKS. Prime contractors, I am not aware of any prime contractors that have been debarred.

Mr. KUCINICH. We have testimony here from witnesses who have said that they have not been paid. They named the subcontractor and the prime contractor. Why if we have cases open that have not been resolved—you know, people have testified here under oath that some have not been paid for a long time, how is it that these prime contractors can continue to operate under law if you say that the labor law is being enforced?

Ms. HICKS. Well, when we take complaints, a part of our job is to verify whether or not that information is correct. We cannot just go to the employer and say you owe this person because we said so. We have to take a look at investigative steps. We look at the records, we talk with other employees and then we draw a conclusion——

Mr. KUCINICH. Do you ask for pay stubs as you are gathering information?

Ms. HICKS. We ask for payroll records, we get payroll records from the employer.

Mr. KUCINICH. And have you been able to ascertain through payroll records that people were underpaid?

Ms. HICKS. Yes.

Mr. KUCINICH. Have you been able to ascertain from payroll records that people were not paid at all even though they did the work?

Ms. HICKS. There have been some cases of that.

Mr. KUCINICH. Were you able to ascertain that some people were—from the lack of records and from interviewing people who were undocumented that some people were told that they were going to be paid under the table and they were not paid?

Ms. HICKS. Well, again, we do not know whether employees are documented or undocumented because we do not ask that question, it is immaterial. We have found workers who had not been paid.

Mr. KUCINICH. Have you communicated to people in Kenner in Spanish that they have rights, that they are protected under law, that they can come to the Department of Labor to present their complaint?

Ms. HICKS. Yes, sir, we have. Early on right after the storm, right after we got back into our space here in the New Orleans area, we conducted outreach with the Spanish radio station and those were call-in shows, so that the first half of that program would be devoted to explaining the rights that workers had and the second part would be to answer questions that they presented.

Mr. KUCINICH. Do you have any printed materials?

Ms. HICKS. Printed materials? We do have printed materials that we have distributed all over the city. Some of the advocacy groups have helped us.

Mr. KUCINICH. I want to go back to your assertion that you are enforcing labor law.

Ms. HICKS. All right.

Mr. KUCINICH. Are you familiar with Mr. Wilson's case?

Ms. HICKS. Yes, I am familiar with Mr. Wilson's case.

Mr. KUCINICH. What is the status of his case?

Ms. HICKS. The status of his case is that we are in the process—we have been able to confirm a portion of the time that he indicated he worked for an entity and we are in the process of conducting the investigation on that.

Mr. KUCINICH. And you know, in a case like Mr. Steele, Mr. Smith, Mr. McQuirter, any of the other witnesses who have testified, how long might it take for their case to be worked through your system?

Ms. HICKS. Sir, I have no way of knowing how long it will take. That will depend upon how soon we can get the records that we

need and how soon we can get in touch with employees to conduct interviews.

Mr. KUCINICH. How many complaints do you have against ECC?

Ms. HICKS. I do not know.

Mr. KUCINICH. How many complaints do you have against Mr. Reed?

Ms. HICKS. Mr.?

Mr. KUCINICH. Reed.

Ms. HICKS. I am not familiar with that name.

Mr. KUCINICH. The Reed case that involved Mr. Steele, was it? I'm sorry, it was Matt Redd, the head of Louisiana Labor LLC. Are you familiar with him?

Ms. HICKS. I am familiar, yes.

Mr. KUCINICH. And let us talk about that for a second. He is the head of Louisiana Labor LLC. According to news clippings and witness testimony, we understand that guest workers attempted a citizens' arrest of Mr. Redd on February 15, 2007 for his abuse of the workers which included Fair Labor Standards Act violations. And the workers who are members of the Alliance of Guest Workers for Dignity protested in front of your offices on March 13, 2007, so you would investigate Matt Redd for possible FLSA violations.

At our June 26th hearing, more than 7 months after your office had notice that Mr. Redd might be a FLSA offender and 6 months after the workers protested in front of your offices, it is this committee's understanding that nothing has been done with respect to Mr. Redd's alleged illegalities. Is that true?

Ms. HICKS. No, that is not true.

Mr. KUCINICH. Well, what have you done to date?

Ms. HICKS. Because it is an open investigation, I am not at liberty to discuss it.

Mr. KUCINICH. Well, you know, did you open up an investigation after the June 26th hearing?

Ms. HICKS. We opened one, I am not sure about the date.

Mr. KUCINICH. Did you open up that case before or after March 13, 2007?

Ms. HICKS. It would have been after March.

Mr. KUCINICH. Was it before or after the June 26th hearing?

Ms. HICKS. That I do not know, I do not remember.

Mr. KUCINICH. I want you to provide this committee, if you would, with information about when the case opened. That is not privileged, that is something that——

Ms. HICKS. I will be glad to get that information for you.

Mr. KUCINICH. See, what is interesting—I want to look at that case again because 7 months after your office had notice that Mr. Redd may be a Fair Labor Standards Act violator, 6 months after workers protested in front of your office, you still have not been able to produce anything for the record about anything being done. Now I am going to have to take note that in the absence of you producing any information to this committee, that there is an open question here about whether or not the labor law is being enforced. You made a pretty broad statement to this subcommittee, Ms. Hicks, that labor law is being enforced here. We have heard extensive testimony that it is not and we still do not have a definition about the Redd case, a pretty egregious example of citizens having

to get the attention of the New Orleans office by picketing it and also having to have a congressional hearing to call to the attention—this is the second time. It is now the end of October 2007—July, August, September, October, 4 months.

Are you familiar with Mr. Redd?

Ms. HICKS. I am not familiar—what do you mean by am I familiar?

Mr. KUCINICH. Do you know him?

Ms. HICKS. No, I do not know Mr. Redd.

Mr. KUCINICH. Has anybody in your office been directed to talk to him?

Ms. HICKS. Yes.

Mr. KUCINICH. Do you know if they have interviewed him?

Ms. HICKS. Yes.

Mr. KUCINICH. Are you familiar with the people who have said that Mr. Redd has committed a violation of the Fair Labor Standards Act?

Ms. HICKS. I am familiar with that allegation.

Mr. KUCINICH. Have you interviewed any of them?

Ms. HICKS. I am sorry?

Mr. KUCINICH. Has your office interviewed them?

Ms. HICKS. I need to retract that because I am not sure that any of them indicated that there was a violation of the Fair Labor Standards Act when they contacted us.

Mr. KUCINICH. So you are saying you have not made a determination yet as to whether the Fair Labor Standards Act has been violated?

Ms. HICKS. No, we have made a determination. What I am saying is I cannot discuss it.

Mr. KUCINICH. What can you tell the people who testified on the previous panels about what you are doing to try to address the issues that they have brought before this subcommittee?

Ms. HICKS. Are you referring to the——

Mr. KUCINICH. The witnesses who have said—in the two panels previous to you. Were you here for both of them?

Ms. HICKS. Yes, sir, I was.

Mr. KUCINICH. You heard their testimony.

Ms. HICKS. Yes.

Mr. KUCINICH. What can you tell people generally about the complaints that they have about not being paid? What can you tell them about what your office is going to do for them?

Ms. HICKS. We are going to continue to work their complaints where they have provided information. The workers who testified about guest worker problems, we do not have jurisdiction there, so I cannot promise anything there.

Mr. KUCINICH. Now in conversations with my staff, Ms. Hicks, you said that personal hardship among the investigators in the aftermath of the hurricanes, in addition to an unprecedented number of subcontracts and influx of workers has made the DOL's mandate extremely difficult to fulfill. Is your office still struggling to meet the needs of the worker community in the Gulf Coast?

Ms. HICKS. We are struggling because it is a lot of work.

Mr. KUCINICH. Do you have enough people?

Ms. HICKS. Yes, we do have enough people.

Mr. KUCINICH. You are sure of that?

Ms. HICKS. Yes, I believe we do.

Mr. KUCINICH. You do not need more. You can handle your caseload right now with all the people you have.

Ms. HICKS. Including those that are detailed in and are still being detailed in. In fact, right now we have details.

Mr. KUCINICH. Do not need any additional resources from Washington?

Ms. HICKS. No, sir, right now, we have everything that we need.

Mr. KUCINICH. Now Mr. DeCamp in his testimony said that the Department of Labor is significantly underfunded in 2007, and I am quoting him in saying that "The continuing resolution really hurts our hiring efforts frankly, and made it difficult to replace even retiring staff"——

Ms. HICKS. Excuse me, I am sorry, but this is really annoying, the talking behind me and I am having trouble blocking out that and listening to you.

Mr. HOROWITZ. I am translating——

Mr. KUCINICH. OK, you know what, I would ask in deference—I can understand that. Do you want to move a few seats over? We just have a few more minutes here, if you just want to move so she can focus on what she has to say. That is fair.

Ms. HICKS. Thank you.

Mr. KUCINICH. That is OK, that is fair, we want to make sure you can hear.

I was quoting from Mr. DeCamp and he is talking about the Department of Labor, saying "It is significantly underfunded in 2007. Continuing resolution really hurt our hiring efforts, made it difficult to replace even retiring staff. We need more resources," he said. "We have asked for them in the pending budget request." This is Mr. DeCamp.

Ms. Hicks, your statement seems to be at odds with Mr. DeCamp's belief that you cannot afford all the resources necessary, that you have had a hard time replacing your staff. How do you reconcile your answer with his statements?

Ms. HICKS. I reconcile that by stating that Mr. DeCamp addressed Wage and Hour as a whole, the entire country, all of our offices. With respect to New Orleans, there have been no resources that we have asked for and not gotten, because of Hurricane Katrina and because of the massive work that was there.

Mr. KUCINICH. Are there any resources that you wanted to ask for and you did not?

Ms. HICKS. No, sir, I asked for—everything we needed, we asked for it.

Mr. KUCINICH. According to our records, the last Portuguese-speaking investigator worked with your office in December 2006. Our records also indicate there exists a significant Portuguese-speaking worker population in the Gulf Coast. Have you hired any new Portuguese-speaking investigators to meet the needs of the worker population?

Ms. HICKS. No, we have not.

Mr. KUCINICH. Do you feel that you could benefit from such investigators?

Ms. HICKS. I believe we could benefit from them.

Mr. KUCINICH. So then are you underfunded, or are you not?

Ms. HICKS. It is difficult to answer that question because I can repeat that I have gotten all of the resources that we have asked for. So presumably there is funding there for it.

Mr. KUCINICH. Do you ask for what you need? I mean you are head of the office there, do you let them know what you need?

Ms. HICKS. I do, I do.

Mr. KUCINICH. Did you make a request for Portuguese-speaking persons?

Ms. HICKS. No, I did not.

Mr. KUCINICH. Why not?

Ms. HICKS. Because we have Portuguese speakers at our disposal. Whenever we need a Portuguese speaker, I can get one from one of the other offices.

Mr. KUCINICH. Our committee has a letter from the Southern Poverty Law Center that describes their frustrations with the Department of Labor's District Office representation of workers in the cases involving Paul Davis National and ITT, Inc. Now their letter included the following critiques: (a) Department of Labor investigator did not clearly communicate with his clients regarding the agency and its investigation; (b) The investigator never discussed the settlement or how it was calculated with workers; (c) Without communicating with the workers, the investigator sent settlement checks to a Florida address even though many of the workers do not reside in Florida and the Florida office did not have the capacity to communicate with the workers in Portuguese; and (d) In addition to this, the workers were asked to sign claims waiver forms in Spanish, which most of the workers could not read nor speak.

What do you have to say about these critiques?

Ms. HICKS. The forms that the workers signed, I am not sure what language they were in, but those were—the purpose of that is to verify that these workers were paid. And because those checks were distributed by the Wage and Hour Division, we knew that they were paid.

Mr. KUCINICH. This committee is going to submit to you written questions as a followup to this and we will ask for your cooperation. We are going to continue to track the cases.

We just have a few more questions. The Department of Labor is now drafting regulations that, according to the Department of Homeland Security, will streamline the certification process, making the environment more susceptible to fraud, hurting not only migrant workers, but domestic workers as well. We understand from our witnesses that H2–B employer violations and charges of fraud are already abundant. How many complaints have you received from the non-agricultural guest worker population alleging that their H2–B employers are abusing them or violating their contracts, such as we have heard today?

Ms. HICKS. Because we do not have jurisdiction with those regulations, we have not received any complaints.

Mr. KUCINICH. OK, although you do not have authority to hold H2–B employers accountable for violating their H2–B contracts, you do have the authority to refer these fraud cases to the Department of Labor Office of Inspector General, and to refer employer

violations to Department of Homeland Security. How many fraud cases have you referred to the Office of Inspector General?

Ms. HICKS. I am not aware of any fraud cases——

Mr. KUCINICH. How many cases of the H2–B employer abuse have you referred to the Department of Homeland Security?

Ms. HICKS. I have not referred any that I know of.

Mr. KUCINICH. But you can refer cases of inadequate housing conditions to the Federal Housing Authority. How many cases of inadequate living conditions have you referred to Federal Housing Authority?

Ms. HICKS. None.

Mr. KUCINICH. Ms. Hicks, it seems as though protecting guest workers is a very difficult task because their labor law violations cannot be addressed by a single Federal authority, unlike their guest worker counterparts. In your opinion, would you be able to better protect guest workers if you had the authority to do so as opposed to the existing system in which fraud is referred to the OIG and employer violations are referred to the DHS and housing conditions stipulated in the H2–B contracts are referred to Federal Housing Authority?

Ms. HICKS. I am not quite sure I understood the question, sir.

Mr. KUCINICH. Would it be easier for you to protect guest workers if you had the authority to do so?

Ms. HICKS. If we had the authority to do so, we would step up to the plate.

Mr. KUCINICH. Would it be better for you to have that authority, do you think, than the fragmented condition that we have right now?

Ms. HICKS. No, it would not necessarily be better for us to have that.

Mr. KUCINICH. Well, you explained that you and all your staff were personally affected by the hurricanes, certainly these hardships have created a backlog. What have you done differently to address this backlog? And is it not likely that the statute will run, that the bubble will pop before you ever catch up?

Ms. HICKS. If you are talking about complaints, we are on top of our complaint backlog. We have not gotten that many complaints. The bubble popping, I am assuming you are referring to the statute running out and if complainants come to us prior to that happening, then we will take the complaint and work it. If the statute is running, it is given, you know, top priority.

Mr. KUCINICH. Would you benefit from more time?

Ms. HICKS. On the Fair Labor Standards Act? Generally, we are able to complete our Fair Labor Standards Act prior to the statute running.

Mr. KUCINICH. You know, I have to say, and I am saying this on behalf of the people who have testified here today, workers, and the thousands who did not, that I am perplexed by your testimony today. And, you know, we have people who presented information indicating that they cannot get a resolution to their case, some of which involve more than a year of back wages of being underpaid and having contractors and subcontractors who are giving them the run-around, or who are openly discriminating against them. I just do not see that the kind of enforcement that you claim exists is

present, because frankly, if it was, I would not have had two hearings about this already.

We are going to have to look into this a little bit deeper. We may have to—we may need to invite you to Washington. We need to have a discussion more with the Department of Labor because something is not squaring here. Either you do not have the resources you need and you are not able to cover these cases or you do have the resources you need and there is some other reason why we have people here who are not getting satisfied. As long as there are workers here whose cases have not been resolved and they represent a broad-based ignoring of concerns of potentially thousands of people, this committee is going to have to stay engaged.

Now you can only speak confidently about the claims that you know about, but you cannot say about innumerable claims like Mr. Hernandez, about whose you have not even heard. So I like to conclude these hearings with a feeling of resolution, but we are going to have to keep this file open, we are going to continue to ask questions of your office. I imagine that it has been very tough for you in a lot of ways in try to get a staff together and keep it working in the wake of the hurricanes because it affected your people as well. But the hurricane was 2 years ago and if there was a problem in staffing up or in meeting the needs, you have just told us that you have the people that you need. We have a lot of cases that are still open. Something is wrong here and we are going to stay on it until everything is right.

So I want to thank all the witnesses here and let you know that we will continue. This hearing stands adjourned.

[Whereupon, at 12:52 p.m., the subcommittee was adjourned.]