

Workers prevail in workforce lawsuit

Lawsuit

First in a two-part series

By Kyle Chancellor

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GALLUP — The New Mexico Department of Workforce Solutions exists to protect and represent workers and ensure their rights are not being violated, and after a lawsuit settlement, may actually start doing just that.

On Wednesday, workers rights groups EL CENTRO de Igualdad y Derechos, New Mexico Comunidades en Accion y de FÃ©, Organizers in the Land of Enchantment and Somos Un Pueblo Unido announced they had reached a settlement in a lawsuit against the New Mexico Department of Workforce Solutions. The settlement will make it easier for workers to seek help, and will stop the department's lax enforcement of their own rules.

Jose "Pancho" Olivas, of Gallup, was the lead plaintiff in the lawsuit along with three other workers.

"Filing this lawsuit was not about retaliation, it was about standing up for our rights as workers. If you don't stand up and do something, nobody will," Olivas said.

Olivas' claim against the DWS' Labor Relations Division stemmed from their refusal to investigate his claim that his former employer owed him close to \$40,000. Olivas and his family had moved from Gallup to Farmington to work in the kitchen of a newly opened restaurant. His employer made a verbal agreement to pay Olivas \$13 an hour. For the seven months he was employed there, Olivas said he worked 120 hours a week, and his employer refused on multiple occasions to pay him overtime.

When Olivas approached the Labor Relations Division for help, his troubles continued. He said that firstly, the Workforce Connection office in Gallup was almost useless. The office essentially handed Olivas paperwork to fill out without any information on how or help to do it.

Then, when Olivas had completed the paperwork, he was immediately denied, because he was seeking over \$10,000.

"We need this department. They're it when it comes to workers' help and enforcement of state wage laws," Emmanuelle Leal-Sánchez, Communications Coordinator for Somos Un Pueblo Unido, said.

With the settlement agreement, many workers like Olivas can now refile their complaints against their employers in hopes of rectifying the wage theft they have experienced.

Through the settlement, the Labor Relations Division has also taken thefol-

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Madeline Cadman, left, Francine Boyd and Janice Peterson sit together at the Department of Workforce Solutions Thursday in Gallup.

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lowing steps to end the practices challenged in the lawsuit: ! LRD will now investigate all wage claims, regardless of their dollar value ! LRD will take enforcement action on wage claims going back three years, or longer if the violation is part of a continuing course of conduct ! Employers who fail to pay minimum or overtime wages must pay damages to wage claimants, calculated at three times the value of the unpaid wages, when a case reaches the administrative enforcement phase and is not resolved in settlement ! LRD will no longer close wage claims for impermissible procedural reasons ! LRD will provide language access services to all wage claimants who need it, by requesting each claimant's language preference on the claim form, providing interpretation in each telephonic and in-person interaction, translating all form letters and claim forms into Spanish, allowing claimants to fill out claim forms in any language, and offering an interpreter to anyone who telephones the agency.

“We were just trying to get the department to do the job we need them to do,” Olivas said.

The Department of Workforce Solutions was not available for comment Thursday.

Wednesday: *Three Gallup workers first to file complaints under new department rules.*
