

# Wage and Hour Training

Presented by  
John Batanchiev and  
Jacob Mortenson



1

**WHERE DIGNITY MEETS JUSTICE**

Join Nassau Suffolk Law Services as we continue to illuminate pathways to justice under our new name, **Legal Services of Long Island (LSLI)**. Help us guide our communities and neighbors in need toward accessible free legal services for all.

**LEGAL SERVICES OF LONG ISLAND**

[LEGALSERVICESLI.ORG](https://legalservicesli.org)

SCAN TO LEARN MORE

2

## House Keeping

Please keep your microphone muted.

Please put questions in chat or raise your hand.

We will have polls throughout the presentation.

Please complete survey at end of presentation.

Thank you!



LEGAL SERVICES  
OF LONG ISLAND

3

## Who We Are And What We Do

- Over 6,000 legal cases each year
- Direct representation, phone consultations
- Brief service or referrals
- Offices in Hempstead, Islandia, Riverhead
- Case handling staff includes attorneys, paralegals, and social workers
- Partnerships with Community Agencies



LEGAL SERVICES  
OF LONG ISLAND

4

## Office Locations

### Hempstead:

1 Helen Keller Way 5th Fl  
Hempstead NY 11550  
(516) 292-8100

### Islandia (Western Suffolk):

1757 Veterans Hwy Ste 50  
Islandia NY 11749  
(631) 232-2400

### Riverhead (Eastern Suffolk):

400 W. Main St Suite 200  
Riverhead, NY 11901  
(631) 369-1112



LEGAL SERVICES  
OF LONG ISLAND

5

## Our Programs

### Family

- Domestic Violence Family Court Project (Suffolk)
- Child Support Defense Project

### Disability & Health-Related Projects

- HIV Unit
- Mental Health
- ICAN - Advocates in Managed Long-Term Care
- Education and Disability Rights (Special Education and Rights of Developmentally Disabled)
- Disability Advocacy Project (SSD/SSI Appeals)



LEGAL SERVICES  
OF LONG ISLAND

6

## Our Programs

### Housing

- Civil Unit (Eviction Prevention)
- Foreclosure Project

### Other

- Consumer Debt
- Education Debt Consumer Advocacy Project
- Veterans Rights
- Human Rights Project
- Public Benefits
- Adult Care Facility Unit
- Senior Citizen Project (Nassau)
- Pro Bono Project (Suffolk)
- Volunteer Lawyers Project (Nassau)
- Community Legal Help Project



**LEGAL SERVICES**  
OF LONG ISLAND

7

## Legal Support Center for Advocates:

Advocates call (631) 232-2400 for assistance:  
Sharon Campo - x3368 Cathy Lucidi - x3324  
Hannah Fitzpatrick- x3343

- Provide Technical Support to Advocates
- “Advocates” include legislative staff, social workers, outreach workers, medical personnel, and guidance counselors
- Host Community Trainings
- Publish Newsletters



**LEGAL SERVICES**  
OF LONG ISLAND

8

# POLL



POLL

**What type of advocate are you?  
Have you ever called LSCA?**



9

## Visit our Website

- All About Our Programs
- Sign up for our “Legal Lessons”
- Trainings
- “Self-Help” Resources
- Other Events



**LEGAL SERVICES**  
OF LONG ISLAND

10

# Upcoming Presentations

## **The Basics of Applying for SSI for Children**

**Friday, March 28th, 2025**

**1:00 pm to 2:00 pm**

Join the Legal Support Center for Advocates and LSLI Supervising Attorney, Sarah Kupferberg, to learn about the basics of applying for supplemental security income (SSI) for children including eligibility guidelines, the application process, and how to appeal.

[Please register for this training taking place virtually on March 28th, 2025 from 1:00 pm to 2:00 pm](#)

## **Introduction to ICAN and Community Based Managed Long-Term Care**

**Wednesday, April 9th, 2025**

**1:00 pm to 2:00 pm**

Join Staff Attorney Amanda Davis for an introduction to home and community-based long-term care provided by Medicaid that helps elderly and disabled Long Island residents receive home care and other services in their homes, as well as an introduction to the Independent Consumer Advocacy Network (ICAN) and how they can help.

[Please register for this training taking place virtually on April 9th, 2025 from 1:00 pm to 2:00 pm](#)

Scan the QR code or visit this link to register  
<https://legalservicesli.org/important-dates/>



**LEGAL SERVICES**  
OF LONG ISLAND

11

## Just a Note

Legal Services of Long Island makes every effort to keep legal educational materials up to date. The information contained in this material is not legal advice. Legal Advice depends upon the specific facts of each situation. These materials cannot replace the advice of competent legal counsel.



**LEGAL SERVICES**  
OF LONG ISLAND

12



## Introduction

- Employee rights cover a wide range of federal, state, and local laws and regulations. Today we are only covering basic New York State Wage and Hour Violations.
- There are various ways these employee rights are enforced - through administrative government agencies at all levels of government, private lawsuits, and sometimes there are even criminal proceedings depending on the nature of the violation.
- This presentation is only discussing the path to request the New York State Department of Labor to help.



Wage and Hour Training



13

## Employee vs Independent Contractor

- **What we are going to cover today are rights of those who are categorized as employees, if a person is categorized as an independent contractor many of these protections will not be applicable.**
- **There is much debate over the exact definition of an independent contractor, we will not cover that in this training.**



Wage and Hour Training



14

## Disclaimer

- Often, wage and hour violations are good-faith mistakes by employers done either due to an error or ignorance of the law. While that does not mean that this is acceptable it is important to note the examples of how employers may try to “hide” wage and hour violations are only the most extreme examples, and some employers may employ these sorts of practices without realizing they are against the law. Especially small business owners.



Wage and Hour Training



15

## POLL

**What is the current minimum wage on Long Island for non tipped workers?**

- a) \$16.50
- b) \$15.50
- c) \$7.25
- d) \$5.15



POLL



16



## Minimum Wage Violations

- What most people probably think of when they hear about an hour and wage violation. This is when someone is being paid less than the legal minimum wage. The minimum wage can vary from industry to industry, and county to county, the most up-to-date information on minimum wage in your area can be found here :

<https://dol.ny.gov/minimum-wage-0>

- **ALL EMPLOYERS** are required to pay a state mandated minimum wage to their employees in New York. Small businesses are not exempt.



Wage and Hour Training



17

## Minimum Wage Violation Examples and Tips

- **Example:** Pete's Pizza pays \$10, less than the local minimum wage of \$15. Buddy worked for 15 hours this week and has earned \$150. To ensure Pete's Pizza does not raise suspicion if their books get checked, Pete logs in their payroll software that Buddy worked for 10 hours for \$15 an hour.
- Accepting a lower pay rate does not prevent someone from raising this claim, you cannot waive the right to a minimum wage.
- It is common for employers to ask their employees to sign a document stating that they are waiving certain rights when they accept employment. These agreements are often unenforceable, always check with an attorney.



Wage and Hour Training



18

## Tip Credit

- Certain employees are paid well below what we generally consider “minimum wage” and have their income supplemented by tips. Mainly those in the service industry.
- Functionally, these employees still need to be guaranteed a minimum wage, but an employer may “credit” part of that minimum wage against tips an employee receives from customers of the business.
- The tip credit is not available to employers if weekly average tips are less than the tip credit for their industry or size.
- Tip credits are incredibly fact dependent, for more information visit <https://dol.ny.gov/minimum-wage-tipped-workers> and [https://dol.ny.gov/system/files/documents/2024/12/p717\\_11-24.pdf#:~:text=New%20York%20State%20law%20allows,the%20employee%20receives%20from%20customers](https://dol.ny.gov/system/files/documents/2024/12/p717_11-24.pdf#:~:text=New%20York%20State%20law%20allows,the%20employee%20receives%20from%20customers), and for further questions consult with an attorney.



Wage and Hour Training



19

## Tip Credit Issues to Look Out For

- If you are consistently being paid below the minimum wage WITH tips your employer is likely not following tip credit limits.
- If you are doing “non-tipped” work for 2 hours or more of your shift in the service industry your employer will not be able to apply the tip credit.
- Ex. Brenda works at a restaurant as a server. Manager makes her spend her four hours of her shift preparing rolls of silverware instead of waiting tables, as a result she does not get tips during those four hours. Employer CANNOT use a tip credit for Brenda that day.



Wage and Hour Training



20

## Overtime Payments

- With some exceptions, when an employee works over 40 hours in a week, they will be entitled to overtime pay. For the 41st hour onward the employee will be entitled to overtime pay, 1.5x their normal rate.
- Overtime payments need to be calculated WEEKLY, no matter how often you normally get paid.



Wage and Hour Training



21

## Overtime Example

- Billy gets paid every other week. Billy usually works 35 hours a week. On Week 1 his job is understaffed so he works 45 hours, and he works his usual 35 on Week 2. To avoid paying overtime Billy's employer inputs in their payroll system that Billy worked 40 hours week 1 and week 2, resulting in Billy's overtime not being paid out.



Wage and Hour Training



22

## Illegal Deductions

- This occurs most often in small businesses. Except when a deduction is for the benefit of the employee and notice is given in writing an employer cannot deduct money from an employee's wages.
- **Permissible:** Payment is deducted as part of a company health insurance plan.
- **Impermissible:** Payment is deducted because employee failed to convince customers to purchase product that was about to spoil, resulting in a loss of profit.



Wage and Hour Training



23

## Frequency of Payment

- Again, this will happen more often with small businesses because most larger organizations use an automated payroll system.
- This will vary from industry to industry, but in general- An employee must be paid at least twice a month.
- A common situation: Employer says that things are tough, and if an employee wants to keep their job, they'll need to wait longer than usual to get paid.



Wage and Hour Training



24



## WHAT TO DO

- You suspect your employer is committing one of these violations, what do you do?

Three options:

- **If you are a member of a union, the union likely has a process in place to adjudicate these issues, and it may preclude you from other remedies, ask your union representative.**
- **Contact a private attorney, you may be eligible to bring claims in a private lawsuit, this option will cost money.**
- **Submit a complaint with the New York State Department of Labor – The DoL will investigate your claim and bring an administrative proceeding on your behalf if they find cause. Legal Services of Long Island will help eligible Nassau County residents who wish to take this route by helping to gather and organize initial documentation to ensure the investigation goes as smoothly and as quickly as possible.**



Wage and Hour Training



25

## Department of Labor process

Steps to the department of labor investigative process

- **File a claim with the department of labor via their website.**
- **DoL will determine if you are eligible for their investigative process.**
- **If you are, you will be assigned a case number, then you must wait for an investigator to be assigned to your case.**
- **From there the process will depend on what kind of investigation needs to be done, the information the department of labor needs, and how cooperative the employer is with the department.**



Wage and Hour Training



26



## Department of Labor process Ctd.

- If after investigation the DoL believes there was a violation, an "order to comply" will be issued to the employer and the DoL will attempt to get the employer to pay up.
- An employer can attempt to contest the order to comply by requesting a formal hearing, where an administrative law judge will review evidence, hear testimony and issue a decision.
- If no hearing is requested by the employer, but they do not reply to an order to comply the DoL will issue a money judgment and attempt to enforce the judgment.
- If the DoL decides there was no violation, but you believe there was one, you can still file a suit with a private attorney.



Wage and Hour Training



27

## Statute of Limitations

The NY Department of Labor will accept complaints within 3 years of when the wages should have been initially paid.

New York Labor Law claims follow a 6 year statute of limitations

Fair Labor Standards Act claims are 2 years, or 3 years if it is a "willful" violation.



Wage and Hour Training



28

# Questions?



Wage and Hour Training



29

## Thank you for attending!

Please answer the survey after closing zoom.

Check out our website at  
[www.legalservicesli.org](http://www.legalservicesli.org)



LEGAL SERVICES  
OF LONG ISLAND

30