

Awarded Stolen Wages, Workers Struggle to Collect

FEB. 19, 2015



Jin Ming Cao was legally granted restitution of \$142,812 in unpaid wages, but the owners of the restaurant where he was a waiter have yet to pay. Yana Paskova for The New York Times

About New York

By JIM DWYER

After due consideration of records and testimony, the State of New York found that Marco Lino, who chopped vegetables and mopped floors and hoisted crates six days a

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week in a Bayside, Queens, greenmarket, was owed \$51,025.20 in unpaid wages. For Gregoria Geronomina Jimenez and 34 other workers at three restaurants in Upper Manhattan run by the same owners, the Industrial Board of Appeals ruled that \$385,364.34 in earnings had not been paid over four years. Jin Ming Cao, a waiter at a Chinese restaurant in Midtown Manhattan, was underpaid by \$142,812.05, part of \$1.8 million that a federal judge decided was due to 26 employees of that restaurant and two others run by the same people.

No one has collected.

“After considerable efforts to obtain restitution for you in the above matter, we find that we can take no further action for you at this time,” a State Labor Department investigator wrote to Mr. Lino in October.

Mr. Lino, like Ms. Jimenez, Mr. Cao and their several dozen co-workers, has not collected anything close to the money that various agencies, boards and courts have found was due him. State and federal laws intended to protect people from being cheated out of their earnings often yield only pieces of paper declaring what they are owed, not actual cash. In a report to be released next week, a coalition of public interest

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legal groups and labor

advocates call for changes in New York's laws that they believe will give workers a fighting chance to recover stolen wages.

“Our research identified at least \$125 million in judgments and orders, providing a glimpse into the scope of the wage collection problem in New York,” concluded the report from the coalition, which includes the Legal Aid Society, the Urban Justice Center and the National Center for Law and Economic Justice.

Some employers are simply in dire straits, and the failure to pay workers is one of the final bubbles of a drowning business. Others, however, appear to be masters at hiding money and shifting property.

One prominent case of vanishing assets involved the owners of the Babi nail salons on Long Island. A half-dozen employees sued them. Every morning at 8 they were picked up by van in Flushing and driven to salons in Carle Place, Glen Head and Greenvale for workdays of 10 hours to 11 hours. The workers were paid a daily rate that ranged from \$20 to \$60, well below the legal minimum wage, said Karen Cacace, supervising attorney of the employment law unit of the Legal Aid Society.

At the time the lawsuit was filed in 2009, the owners had millions of dollars in assets, including \$400,000 in cash, according to court records. Just before the trial, the salon owners sold a commercial property for \$2 million and a home for \$1.13 million.

The jury awarded the workers \$474,000 for wage theft, for retaliatory firings and other damages. So far, they have collected only \$110,000, because they were not able to win a motion ahead of the trial to “attach” properties or assets that might be needed to pay a judgment.

The maneuvering disgusted Sam Song, 47, who thought he had won some measure of justice.

“They were playing tricks and hiding their money and assets,” Mr. Song said. “They didn't treat the law or legal system very seriously.”

Two years ago, legislation was introduced by State Assemblywoman Linda

B. Rosenthal and State Senator José R. Peralta that was intended to limit the gamesmanship, but it never left committees. A new version of the bill will be offered next week. It would make it possible for workers to file a wage lien, similar to a mechanics' lien. The bill would change the civil court procedures to allow a judge to attach assets before a case has concluded if the workers can show they are likely to succeed. Its third important provision would make it easier to hold primary shareholders of corporations liable for unpaid wage judgments.

The changes are not intended to hold businesses hostage to frivolous claims, according to Hollis Pfitsch, a staff attorney at Legal Aid.

The Queens greenmarket where Mr. Lino worked shut down, and the owner did not have enough money to hire a lawyer, said John S. Lee, an accountant who helped the owner. "He has nothing, but he did not cheat this man," Mr. Lee said.

Mr. Cao, however, said the restaurants where he worked simply re-emerged with the same managers and menus, under a new name. "The bosses really didn't care about the lawsuit," Mr. Cao said. "You can win the case, but everybody is holding an empty judgment."

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A version of this article appears in print on February 20, 2015, on page A20 of the New York edition with the headline: Awarded Stolen Wages, Workers Struggle to Collect. [Order Reprints](#) | [Today's Paper](#) | [Subscribe](#)