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Supplemental information from National Employment Law Project at request of hearing attendees on April 8, 2016

1. Committee Chair asked for further support for the following assertions stated in oral testimony, beyond what is already cited in the written testimony submitted by NELP:

“At NELP, we have seen many workers being forced to sign contracts saying they are “independent contractors” as a condition of getting a job; we see employers changing employees into independent contractors, individual franchisees, LLC’s or other non-employee labels to cut costs... This happens with alarming frequency in construction, janitorial, home care, delivery and transportation jobs.”

Proof:

The NELP report cited in the written testimony contains stories and case citations supporting these descriptions. [*Who’s the Boss: Restoring Accountability for Labor Standards in Outsourced Work*](#) (May 2014), available at <http://www.nelp.org/content/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf>. And the Congressional testimony here: <http://www.help.senate.gov/imo/media/doc/Ruckelshaus.pdf>, and here: <http://www.help.senate.gov/imo/media/doc/Ruckelshaus1.pdf> have specific citations to these fact patterns.

You can also find myriad stories of corporations requiring workers to attest to independent contractor status in this ProPublica Report: <https://www.propublica.org/article/the-demolition-of-workers-compensation>.

In addition, the following illustrative court cases culled from more recent summaries have facts that are identical to what NELP counsel describes in her testimony. There are too many to list in a comprehensive way; most low-wage jobs that are filled with independent contractor misclassification in janitorial, home care, delivery and construction require workers to sign “Independent contractor”-type agreements.

Delivery:

See, generally, *Fed Up with FedEx*, at p. 9: <http://www.jwj.org/wp-content/uploads/2013/12/fedupwithfedex.pdf>

Ansoumana v. Gristede's Operating Corp., 255 F. Supp. 2d 184 (S.D.N.Y. 2003)

Delivery workers were employees of labor brokers that provided delivery services to drug store chain required to sign “agreements” stating they were independent contractors.

Collinge v. IntelliQuick Delivery, Inc., 2015 WL 1299369 (D. Ariz.)

Construction:

See, generally, Interfaith Worker Justice stories of construction company take-it-or-leave-it arrangements: <http://labornotes.org/2010/04/when%E2%80%99s-worker-contractor-when-boss-wants-cheat>.

Calderon v. J. Younes Const. LLC, 2013 WL 3199985

Janitorial:

Coverall janitorial “franchisees”: <http://www.forbes.com/sites/caroltice/2012/05/11/are-some-franchisees-really-employees/#685c1c27306d>

Carpet installers:

Lee v. ABC Carpet & Home, 2002 WL 273313 (S.D.N.Y. 2002)

Limo and taxi drivers:

Suggs v. Crosslands Transp., Inc., 2015 WL 1443221

O'Connor et al v. Uber Technologies, Inc. et al, No. C-13-3826 (N.D. Cal. March 11, 2015).

Security guards:

Department of Labor v. International Detective & Protective Service Ltd., No. 09 C 4998 (N.D. Ill. May 24, 2011).

Barlow v. C.R. England, Inc., 703 F.3d 497 (10th Cir. 2012)

Schultz v. Capital Intern Sec., Inc., 466 F.3d 298 (4th Cir. 2006)

Ethelberth v. Choice Sec. Co., 2015 WL 861756

Agricultural and meat processing:

Heath v. Perdue Farms, Inc., 87 F.Supp.2d 452 (D.Md.2000)

Elizondo v. Podgorniak, 70 F.Supp.2d 758 (E.D. Mich. 1999)

Landscaping workers:

Sales v. Bailey, 2014 WL 3897726 (N.D.Miss.)

Home care and nursing:

Wilson v. Guardian Angel Nursing, Inc., 2008 WL 2944661 (M.D.Tenn.2008)

Maids and housekeepers:

Perez v. Super Maid, LLC, 55 F.Supp.3d 1065 (N.D.Ill 2014)

Harris v. Skokie Maid and Cleaning Service, Ltd., 2013 WL 3506149 (N.D.Ill)

In my practice at NELP for over twenty years, I have seen these arrangements grow. I am happy to provide additional information upon the Committee's request.

Very truly yours,

A handwritten signature in blue ink, reading "Catherine Ruckelshaus". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Catherine Ruckelshaus
General Counsel and Program Director