



GROUNDED **BEFORE TAKEOFF**

*Pervasive Wage Abuse Among New York City
Area Airports' Subcontracted Workers*





With more than 145,000 members, 32BJ SEIU is the largest union of property services workers in the United States. We are united to raise standards at work and improve conditions in our communities so that one day “working poor” will be a contradiction in terms. For more information about us visit www.seiu32bj.org.

SEIU 32BJ authored this report and commissioned Anzalone Liszt Grove Research to conduct the survey.

EXECUTIVE SUMMARY

A recent report by the Economic Policy Institute found that wage theft is widespread and estimated that employers steal hundreds of millions of dollars a year from US workers. Other studies have shown that low-wage, subcontracted workers are the most vulnerable to violations of labor standards and basic rights in the workplace, including wage and hour violations.¹

There are 12,000 subcontracted workers at John F. Kennedy International, Newark Liberty International, and LaGuardia Airports. These men and women clean planes and airport terminals, push wheelchairs, move baggage, drive shuttles, and perform non-TSA security functions for millions of passengers. These workers are employed by private contractors hired by the airlines to provide essential passenger services. Many subcontractors pay wages that keep workers below the poverty line and violate labor, health and safety, and wage and hour laws, including keeping money workers are legally entitled to out of their paychecks.

In 2014, the New York State Office of the Attorney General investigated and entered into settlement agreements with two of the largest airline subcontractors operating at John F. Kennedy International and LaGuardia Airports. In one instance, the contractor was ordered to pay nearly a million dollars in back-pay and penalties for wage theft and numerous wage and hour violations. In addition, a number of private class-action lawsuits and complaints with governmental agencies have been filed against aviation subcontractors at all three airports.

In a survey of 500 subcontracted passenger services workers at John F. Kennedy International, LaGuardia, and Newark Liberty International Airports conducted in September of 2014 by Anzalone Liszt Grove Research, the vast majority of subcontracted passenger services workers report being the victim of wage theft and other violations of wage and hour laws.

Key Findings

- 1. Violations of employment and labor laws are widespread among airport workers.** 88% of current or recent New York and New Jersey subcontracted airport employees surveyed report at least one violation of wage and hour laws by their employer; more than two-thirds (69%) report multiple violations within the last year.

2. Airport workers are low-wage workers. The majority (69%) report earning \$9.50 or less per hour with approximately 18% reporting that they earned less than \$9 an hour.

3. Airport workers experience hardships because their low pay affects the quality of their lives. 1 in 5 workers report that they skipped a meal within the past week because of financial reasons.

Subcontracted passenger services workers at John F. Kennedy International, Newark Liberty International, and LaGuardia Airports are extremely vulnerable to wage theft and other wage and hour violations. Stricter oversight of aviation subcontractors operating at our airports is needed. While important, efforts by state regulators and the courts to address these issues are insufficient. Attorney General investigations and lawsuits address wage and hour violations contractor by contractor, whereas wage theft is pervasive across the airport industry.

The Port Authority of New York and New Jersey has acknowledged that subcontracted passenger services workers' wages are low. In an effort to alleviate this disparity, the Authority's board members passed a resolution in April 2014 to raise the wages of workers at LaGuardia, John F. Kennedy International, and Newark Liberty International Airports. In a letter to airline officials in January 2014, the Port Authority stated that "earning good wages and providing proper training increases job loyalty, reduces turnover, and improves customer satisfaction" and that the Port Authority and the airlines "must provide a wage and benefits system that lays the foundation for a world class passenger experience".²

Contractors that commit wage theft and other wage and hour violations go against the mission laid out by the Port Authority's policy. The Port Authority and the airlines that hire these contractors can and should use every tool at their disposal to ensure that contractors operating at our airports are paying workers for every hour worked. Escalating penalties and fines can be levied on employers who violate the law, up to termination of their operating permits and service contracts.

INTRODUCTION

Across the country, millions of Americans struggle to get by on low wages. The difficulty of making ends meet is compounded when employers commit wage theft and violate federal and state wage and hour laws. Wage theft is the failure of employers to pay workers what they are entitled to under these laws. Common examples of wage theft include instances where workers are paid less than minimum wage, shorted hours on their paychecks, forced to work off the clock, or not paid for overtime.

Studies have shown that low-wage workers are most vulnerable to violations of labor standards and basic rights in the workplace, especially wage and hour violations.³ In a survey conducted in 2009 of low-wage workers, the National Employment Law Project found that low-wage employers in New York City systematically violated employment and labor laws, costing low-wage workers approximately \$956.8 million a year in stolen wages.⁴ The average amount of lost wages was almost 15% of what the affected workers should have earned if their employers did not violate employment laws.⁵ A 2014 study by the Economic Policy Institute stated that if wage theft is as prevalent in the rest of the United States as it is in New York, Chicago, and Los Angeles, then it costs workers more than \$50 billion a year in lost wages.⁶

There are 12,000 low-wage subcontracted airport workers in the New York area providing essential passenger and ground services like cabin and terminal cleaning, terminal security, wheelchair assistance, skycap services, and baggage handling. Jobs that were once directly performed by airline employees have been contracted out to private contractors who pay low wages and do not provide affordable benefits. Not only are these workers more susceptible to wage theft and other wage and hour violations because of their low-wage status, but the extensive system of subcontracting may also leave airport workers even more exposed to these violations. The U.S. Wage and Hour Division of the United States Department of Labor has recognized that workers employed in industries with subcontracting are considered vulnerable and that subcontracting has made the enforcement process harder.⁷ Vulnerable workers are typically those who are at risk of exploitation at work and who are reluctant to complain for fear of retaliation.⁸ Prior to becoming the new administrator of the Wage and Hour Division of the United States Department of Labor, Dr. David Weil reported that the practice of subcontracting workers “shifts the direct employment of workers to other business entities that often operate under extremely competitive conditions, increases the incentives for employers at lower levels of industry structures to violate workplace policies, including the Fair Labor Standards Act.”⁹

PASSENGER SERVICES WORKERS AT JFK, LGA, AND EWR REPORT RAMPANT WAGE THEFT

In September 2014, Anzalone Liszt Grove Research, a national polling firm, conducted a survey of 500 subcontracted passenger services workers at John F. Kennedy International, LaGuardia, and Newark Liberty International Airports. The workers surveyed are or were recently employed by aviation subcontractors who provide services to many different airlines. 69% of the respondents were male while 31% of the respondents were female. 49% of those surveyed were 35 years old or older. 41% of the workers surveyed report working at the airport for more than two years.

Anzalone Liszt Grove Research found that **88% of current or recent New York and New Jersey subcontracted airport employees surveyed report at least one violation of wage and hour laws by their employers and more than two-thirds (69%) report multiple violations.**

Key Findings

1. Violations of wage and hour laws are widespread among airport workers.

In New York and New Jersey

- a) Approximately 9 out of 10 New York and New Jersey workers (88%) surveyed indicate that within the last year they have been the victim of at least one type of wage theft and/or wage and hour violation.
- b) 50% of all surveyed workers report either being shorted on a paycheck without correction or receiving a late or bounced check.
- c) 44% of all tipped workers report that their manager or supervisor instructed them to report a specific amount in tips.
- d) 27% of workers report being docked for more time than they actually missed.
- e) 24% of workers report that they were required to work off the clock.

In New York

- a) 97% of surveyed workers report that when they were earning minimum wage they did not receive a uniform maintenance fee.
- b) 39% of workers surveyed report not always being allowed their full, legally required thirty-minute lunch break as part of a six-hour shift.
- c) 38% of workers surveyed report that they had at least some form of illegal deduction made in their paychecks over the last year.

2. New York and New Jersey airport workers are low-wage workers.

- a) Approximately 69% of all subcontracted passenger services workers surveyed report earning \$9.50 or less per hour. Approximately 18% report earning less than \$9 an hour.
- b) 61% of workers surveyed state that they had earned minimum wage at some point while working at the airport.

3. New York and New Jersey airport workers suffer hardships related to their low pay that affects the quality of their lives.

- a) 60% of workers report experiencing some form of financial hardship while working at the airport.
- b) 1 in 5 workers report that within the past week, they skipped a meal because of financial reasons.
- c) 50% of workers rely on some form of public assistance.



Examples of Wage Theft Reported

Airport Workers Not Paid for All the Time They Worked

Employers are required to pay their hourly workers for every minute that they work, yet workers report that they do not receive the entire pay for all the hours they have worked within a certain pay period.

“When I worked overtime, [the company] wouldn’t pay me all the money I was owed. I would have to ask the manager to correct my check and wait until the next check to get what they owed me. Once this took three weeks. This made it hard to tell if I was getting all the pay I was owed.”

*Yaya S. Karriem
Terminal Cleaner,
John F. Kennedy International Airport*

50% of all surveyed workers report that they had some sort of problem with their paycheck. 40% percent of workers surveyed report that they were shorted on their paycheck and never had the paycheck corrected. 13% report that their paycheck bounced and 12% of workers report that they received their paycheck late or had been asked to wait a day or longer before cashing or depositing their paycheck.

24% of airport workers surveyed report working off the clock. This includes unpaid tasks done before or after a shift. Even if a worker works off the clock just a few minutes a day, these minutes can add up to a substantial amount of lost income over time.

I have been shorted on my paycheck a few times in 2013. . . Once, I had over a hundred dollars missing from my paycheck. The company never gave me a reason as to why I was shorted. . . The company really makes it hard for us to get back the money we are rightfully owed. When I am shorted, I am required to go to the [company’s] offices which is not at the airport. They would tell me to provide evidence of the times when I was shorted even though they have a record of my hours and my pay. . . I spend so much time and money on transportation to fix the problem, that sometimes I feel that the money I spend on transportation to get my money back is more than what I was actually owed. So I let it go.

Gian Lopez, Baggage Handler, LaGuardia Airport

Excessive Lateness Docking Issue

In both New York and New Jersey, if a worker is late to work, an employer can dock the employee only for the time they actually missed. Some airport subcontractors, however, deduct more time than the employee actually misses.

27% of all workers report that they were docked more pay than for the time they actually missed when they were late for work.

Tipped Workers Are Instructed to Report a Certain Amount in Tips Regardless of What They Actually Earn

In New York and New Jersey, an employer is allowed to pay its tipped employees below the minimum wage only if these workers are able to make up the difference between what the company pays them and the minimum wage in tips. In New York, employers cannot pay their tipped workers below \$6.05 per hour in cash wages; for New Jersey, it is \$2.13 per hour. Tipped workers are required to report how much they receive in tips weekly. If workers report making less than the minimum wage when they add their tips and cash wages together, employers are required to pay the difference. To avoid paying workers additional money, some employers require their tipped workers to report a certain amount in tips regardless of how much the workers actually made. This practice is illegal.

44% of surveyed tipped workers report that the manager or supervisor has, at some point, instructed them to report a certain amount in tips regardless of what they actually earn.

The company always tells us to report a certain amount in tips to make up the difference between the minimum wage and how much money they actually pay us. I think that this usually means something around \$30 dollars and some change [per week] to make up the difference. There are definitely weeks where I don't make that amount in tips but I am forced to write it down. Even if you refuse to do it, they will report their figure for you, not what I actually received in tips. . . .I don't make enough already and they want to take even more money away from me. It makes me feel mad because when I pay my taxes, I have to pay taxes on these fake wages that I never even earned. This is just not right at all.

*Sharlene Charles, Wheelchair Agent and Unaccompanied Minor Escort,
John F. Kennedy International Airport*

Uniform Maintenance Fee

New York State mandates that employers pay workers a weekly uniform maintenance fee if they require their workers to wear uniforms and do not clean their workers' uniforms. The maintenance fee is currently \$9.95 per week for full-time workers.

97% of surveyed workers in New York who earned minimum wage at some point report that they did not receive this fee. If a worker worked full time at minimum wage for an entire year, this would have been \$517 in missed wages.

Missing or Shortened Lunch Breaks

In New York, an employer is required to provide an uninterrupted, thirty-minute lunch break to their employees who work shifts of six hours or more.

I have never received a uniform maintenance fee. When I heard from people that I was entitled to extra money in my paycheck but that [my company] never gave it to me, I felt pretty horrible. All that extra money, even if it is just a few dollars a week could have been saved to buy my daughter essential items such as diapers.

*Gian Lopez
Baggage Handler, LaGuardia Airport*

39% of surveyed workers who worked in LaGuardia or John F. Kennedy International Airports report they were not always allowed a full thirty-minute lunch break as part of a shift that was six hours or more. They also report that either their supervisors or job responsibilities cut their break short or that they did not receive the break at all.

Illegal Paycheck Deductions

Except in limited circumstances, employers in New York are not allowed to withhold or divert any portion of an

Last year, for about three months, we would consistently eat lunch close to 10pm or 11pm. My shift was from 1pm to 10pm. They would not give us a break any sooner because there was too much to be done. I would be starving by the end of my shift yet I would not be allowed lunch. . . .Imagine working for 9 or 10 hours and not eating any food. . . .You work so many hours, without food, you starve. . . .I started getting acid reflux and I would have to take antacids and other medicines to try to get the gas out of my body.

Parbattie Dhanrajh, Terminal Cleaner, John F. Kennedy International Airport

employee's wages even if the employee consented to the deduction.¹⁰

38% of all New York workers report that their employers made illegal deductions on their paychecks within the past year. These illegal deductions included the cost of their uniform, the cost of items that are missing or stolen, the cost of their Port Authority badges, and parking fees.

RECENT ACTIONS TO COMBAT WAGE THEFT/WAGE AND HOUR VIOLATIONS

Within the past few years, more workers in the New York area airports have started to combat the problems of wage theft and wage and hour violations at LaGuardia, John F. Kennedy International, and Newark Liberty International Airports through private litigation, the New York State Department of Labor, and the New York State Office of the Attorney General.

Airport Contractors Pay Close to \$1 Million to Settle Wage and Hour Investigations With the New York State Office of the Attorney General

In 2014, New York State Attorney General Eric Schneiderman announced two major settlements for wage theft and wage and hour violations against two airport subcontractors operating at John F. Kennedy International and LaGuardia Airports.



NY State Attorney General Eric Schneiderman Announces \$925,000 Settlement with Alstate Maintenance for Wage Violations (September 2014)

In September 2014, the New York State Office of the Attorney General announced a settlement with Alstate Maintenance, an airline subcontractor operating out of John F. Kennedy International Airport, for paying its skycaps far below minimum wage. The \$925,000 settlement consisted of \$625,000 in restitution and another \$300,000 in damages. The investigation found that between 2008 and 2014, Alstate paid their skycaps as little as \$3.90 per hour, which fell far below the required cash wage rate. The rates paid by Alstate during most of this time period were lower than the New York State minimum cash wage rate in 1991, which was \$4.25 an hour. While most of the workers received tips, Alstate also failed to qualify for a tip credit, which would have allowed the company to pay workers at the lower hourly tipped cash wage rate. In addition, the investigation found that Alstate did not reimburse these skycaps for the costs of laundering and maintaining their mandatory uniforms, as required by law.¹¹

When I stood there next to the Attorney General as he was telling the public about the money that [my employer] had stolen from me and my coworkers. . . . I was surprised because while we knew that [my employer] had not done right by us for all these years we did not realize that they owed us that money. . . . I was really excited to know that finally, my co-workers and I were going to get what we worked hard for and deserved all these years. With the settlement money, I will be able to pay off all these bills that I never had the ability to pay off in the past.

Sachem Medard, Skycap, John F. Kennedy International Airport

In May 2014, the New York Attorney General announced a settlement of almost \$20,000 with Air Serv, a large aviation services company subcontracted by airlines at LaGuardia, John F. Kennedy International, and Newark Liberty International Airports. The Attorney General found that Air Serv underpaid nearly 300 of its minimum wage wheelchair attendants at John F. Kennedy International and LaGuardia Airports.¹² Instead of raising the attendants' wages on December 31, 2013, when New York State's minimum wage rose to \$8 an hour from \$7.25 an hour, Air Serv unilaterally reclassified the workers as tipped employees. Air Serv was ordered to pay \$16,000 of the settlement funds to the attendants and \$4,000 in penalties to New York State. In addition to payment of restitution funds and penalties, Air Serv will be required to designate a compliance officer responsible for ensuring the proper use of the tip credit. For 18 months, this compliance officer will furnish the Attorney General's Office with quarterly reports for any

quarter during which a tip allowance is taken in order to ensure that tip credits are taken only when permitted by law.¹³

Workers Sue Over Wage and Hour Violations

Airport workers have also filed private lawsuits and complaints with state agencies against their employers to recover stolen or unpaid wages. Below are just a few highlights of these private lawsuits.

- In October 2014, PrimeFlight, the second largest passenger services contractor operating at LaGuardia Airport, agreed to a \$605,503 settlement in a wage and hour class action lawsuit brought by a former LaGuardia Airport porter on behalf of tipped PrimeFlight employees in New York State.¹⁴ In this case, initially filed in October 2011, the former employee alleged that he and other workers were not paid time and a half for overtime, were not informed that the company was applying a tip credit to their wages, were forced to report \$60 per week in tips regardless of what they earned, and were not paid a required uniform maintenance payment.¹⁵ This settlement affects over 1,000 current and former PrimeFlight employees at LaGuardia Airport.¹⁶
- A group of Air Serv janitors, cleaners, aircraft appearance inspectors, ground transportation drivers, and other aircraft maintenance workers at John F. Kennedy International Airport filed a class action lawsuit against Air Serv in October 2010 to recover unpaid wages.¹⁷ The class is in excess of 500 individuals.¹⁸ The plaintiffs allege that, beginning in or about 2004, Air Serv engaged in a pattern and practice of underpaying plaintiffs by:¹⁹
 - Reporting fewer hours on plaintiffs' time sheets and paychecks than what they worked;²⁰
 - Deducting time for meal breaks regardless of whether breaks were actually taken;²¹
 - Failing to make "spread of hour" payments;²²
 - Failing to pay overtime for hours worked in excess of 40 hours a week and 10 hours a day.

In May 2013, the case was granted class action status.²³ The case is still active.

- In September 2014, workers from Airway Cleaners, the third

largest contractor providing passenger services at John F. Kennedy International Airport, filed a class action lawsuit against the company for various wage and hour violations.²⁴ These workers allege that the company failed to pay them for all hours worked, failed to pay them the proper wages for the spread of hours, and failed to pay them for the uniform maintenance fee.²⁵

- In October 2014, workers from Global Security Associates, a security services contractor at John F. Kennedy International Airport, filed a class action lawsuit against the company for various wage and hour violations.²⁶ The complaint contains allegations that the company failed to pay its employees the minimum wage, failed to pay its workers overtime compensation, failed to pay its employees the proper wages for the spread of hours, failed to pay its employees the uniform maintenance fee, and unlawfully deducted the cost of uniforms from its employees paychecks.²⁷

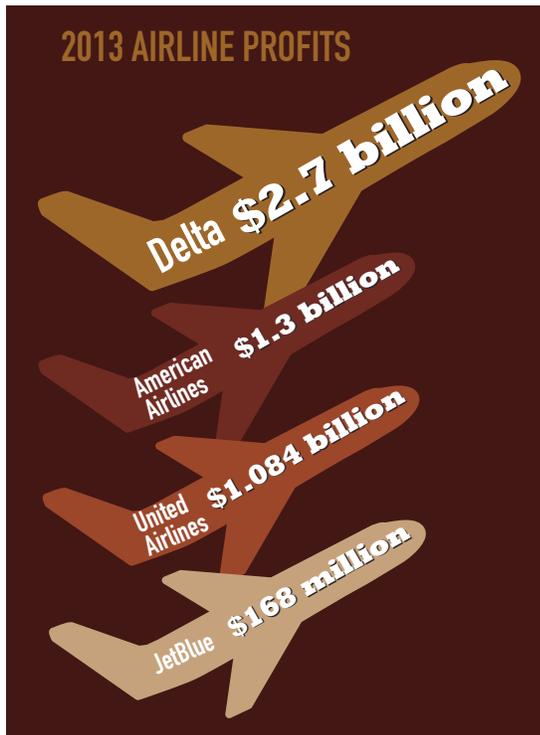
Wage theft of subcontracted passenger services workers does not only occur in the New York City Area Airports, it is a problem at airports across the country.

- An Air Serv cleaner working at various locations in Atlanta including Hartsfield-Jackson International Airport alleged in an October 2013 lawsuit that Air Serv failed to pay him for hours worked, including overtime.²⁸ After complaining about not being paid for all of his hours, the plaintiff claimed that his hourly wages were dropped from \$9.00 to \$7.25.²⁹ In December 2013, the Court approved a Fair Labor Standards Act Settlement of the case where Air Serv agreed to pay the plaintiff \$25,000.³⁰
- In 2010, Servisair agreed to pay up to \$900,000 for the settlement of a wage and hour class action lawsuit initiated by a former airport ramp agent.³¹ The plaintiff alleged that Servisair automatically deducted 60 minutes for meal breaks that employees did not take.³² As a result, Servisair failed to pay time and a half for all hours worked in excess of 40 hours a week.³³ He also alleged that Servisair did not maintain accurate records of meal periods taken, hours worked, and applicable rates of pay.³⁴ Servisair also allegedly deducted employees' wages to cover health benefits that were neither requested nor received.³⁵

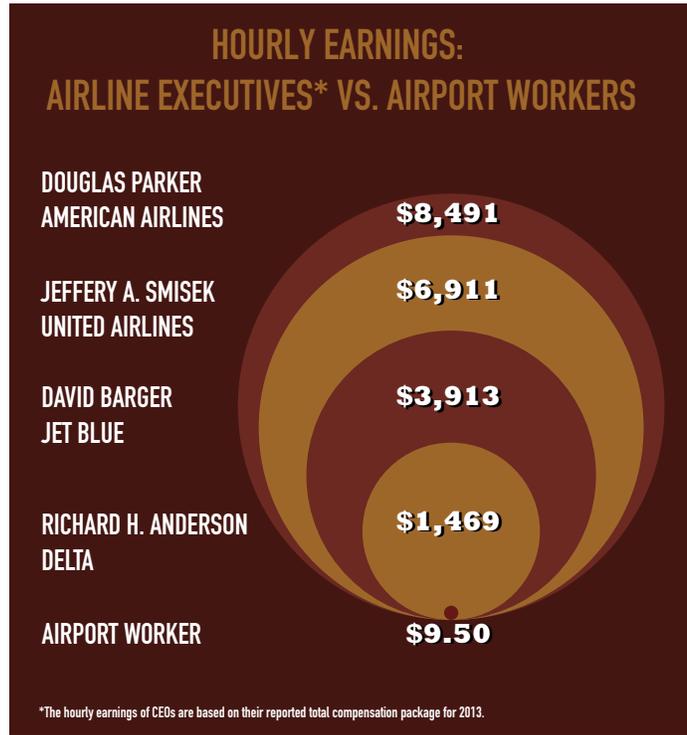
- In 2009, Prospect Airport Services agreed to pay \$355,000 in settlement of a class action wage and hour lawsuit filed by skycaps at airports across the country.³⁶ The plaintiff skycaps, who were working at airports in Nashville, TN; Tampa and Orlando in Florida; Chicago-O’Hare; Tucson, Arizona; and Detroit, Michigan, alleged that Prospect failed to pay skycaps the federal minimum wage because it was not entitled to take the “tip credit” against the minimum wage under the Fair Labor Standards Act and under the Illinois Minimum Wage Law.³⁷ When airlines began assessing a fee from customers for curbside check-ins, Prospect skycaps were required to collect these fees. The plaintiffs alleged that Prospect had a policy making skycaps strictly liable for the collection and accountability of the curbside check-in-fees; skycaps were required to reimburse Prospect for shortages in the amount of curbside check-in fees collected.³⁸
- In 2009, Huntleigh agreed to pay \$60,000 in settlement of a wage and hour class action lawsuit brought by Huntleigh skycaps at several airports across the country including Boston Logan International Airport and Louis Armstrong New Orleans International Airport.³⁹ The plaintiffs alleged that Huntleigh paid tipped skycaps less than the federal minimum wage, although the company was ineligible for the “tip credit” which allows employers to pay less than the federal minimum wage to tipped employees.⁴⁰ After major airlines initiated a curbside check-in fee, Huntleigh retained portions of the skycaps’ tips to cover any shortages in collected service fees, making the company ineligible for the tip credit.⁴¹
- In 2008, PrimeFlight and US Airways were subject to a class action lawsuit brought in federal court in Massachusetts on behalf of PrimeFlight skycaps providing services to US Airways. The plaintiffs alleged that PrimeFlight improperly took a tip credit on the skycaps’ wages instead of paying them the federal minimum wage. PrimeFlight allegedly required skycaps to make up the difference out of their tips between the bag fees assessed and the bag fees they actually collected. In 2009, PrimeFlight agreed to a \$750,000 settlement that provided back wages and attorneys’ fees to a class of over 400 employees.⁴²

A GREAT DIVIDE: GROWING PROFITABILITY OF THE AIRLINE INDUSTRY SUPPORTED BY WORKERS SADDLED WITH FINANCIAL HARDSHIPS

Airlines, in general, have recently seen improved profitability, with some even reporting record-breaking profits. In 2013, net post-tax profit for airline companies internationally was \$10.6 billion. This was the fourth successive year of profitability and it builds on the \$6.1 billion profit in 2012.⁴³ Airlines in North America accounted for approximately 70% of this profit, gaining \$7 billion in net post-tax profits in 2013.⁴⁴ In fact, of all the regions in the world, North America delivered the strongest financial performance. Airlines in North America are currently having their best net profit margins since the late 1990s.⁴⁵ For the second quarter of 2014, the American Airlines Group reported a record net profit of \$864 million.⁴⁶

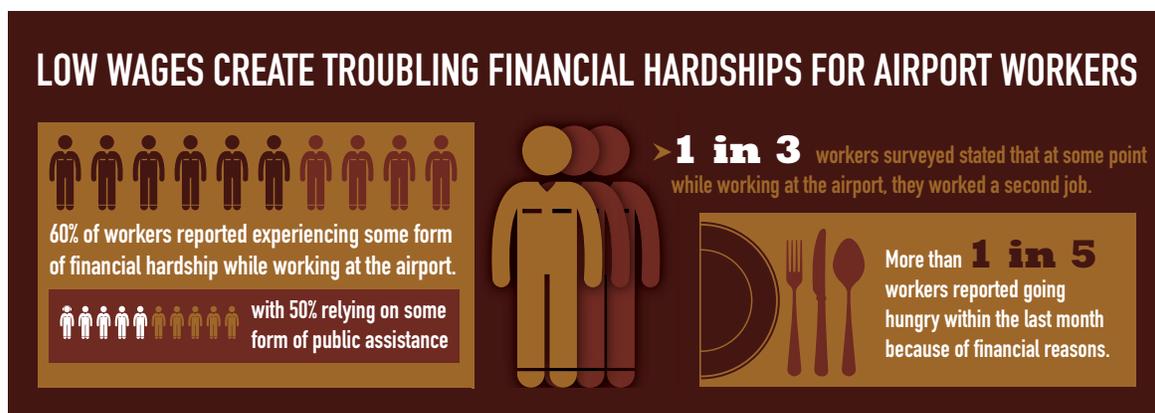


Source: Delta Air Lines Inc. Form 10-K/A, Amended Annual Report for Period Ending December 31, 2013, filed April 30, 2014, at p. 9. American Airlines Form 10-K, Annual Report for Period Ending December 31, 2013, filed February 28, 2014, at p. 49. JetBlue Form 10-K, Annual Report for Period Ending December 31, 2013, filed February 18, 2014, at p. 26. United Continental Holdings Form 10-K, Amended Annual Report for Period Ending December 31, 2013, filed February 20, 2014, at p. 27.

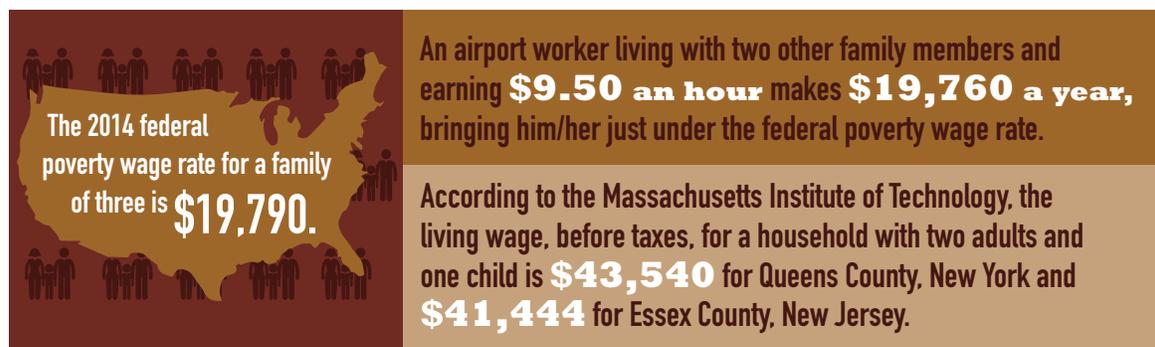


Source: Delta Air Lines Inc. Form 10-K/A, Amended Annual Report for Period Ending December 31, 2013, filed April 30, 2014, at p. 29. American Airlines Schedule 14A, Definitive Proxy Statement, filed April 25, 2014, at p. 63. JetBlue Schedule 14A, Definitive Proxy Statement, filed April 8, 2014, at p. 33. United Continental Holdings Schedule 14A, Definitive Proxy Statement, filed April 25, 2014, at p. 52.

While airlines are profiting off the backs of subcontracted passenger services workers at John F. Kennedy International, LaGuardia, and Newark Liberty International Airports, these workers are simply not making enough to make ends meet. The majority of subcontracted passenger services workers at New York City Area airports that we surveyed, working for some of the most recognized and profitable corporations in the world, report that they had earned minimum wage at some point while they were employed at the airport (61%). Approximately 71% of all subcontracted passenger services workers surveyed reported earning \$9.50 or less per hour. Approximately 18% reported earning less than \$9/hour. About 1 in 5 of all workers surveyed also stated that they never received a raise while working at the airport.



These low wages create troubling financial hardships for airport workers. 60% of workers reported experiencing some form of financial hardship while working at the airport with 50% relying on some form of public assistance.⁴⁷ 1 in 3 workers surveyed stated that at some point while working at the airport, they worked a second job. More than 1 in 5 workers reported going hungry within the last month because of financial reasons.



The 2014 federal poverty wage rate for a family of three is \$19,790.⁴⁸ An airport worker living with two other family members and earning \$9.50 an hour makes \$19,760 a year, bringing him/her just under the federal poverty wage rate.⁴⁹ According to the Living Wage Calculator from the Massachusetts Institute of Technology, the required annual income before taxes for a household with two adults and one child in Queens County, New York, the county in which LaGuardia and John F. Kennedy International Airports are located, is \$43,540.⁵⁰ For Essex County, New Jersey, the county in which Newark Liberty International Airport is located, this figure is \$41,444.⁵¹

Port Authority of New York and New Jersey Takes Initial Steps to Address the Great Divide

The Port Authority of New York and New Jersey has recognized that subcontracted passenger services workers' wages are low. In January 2014, the Port Authority sent a letter to airline officials stating that "earning good wages and providing proper training increases job loyalty, reduces turnover, and improves customer satisfaction" and that the Port Authority and the airlines "must provide a wage and benefits system that lays the foundation for a world class passenger experience". In an effort to alleviate this disparity, the Authority's board members passed a resolution in April 2014 to raise the wages of all contract employees at LaGuardia, John F. Kennedy International, and Newark Liberty International Airports. The new policy calls on employers to:

- Give a \$1 raise to all workers earning below \$9 by September 2014;
- Set \$10.10/hour to be the minimum wage in 2015;
- Establish appropriate cost of living increases;
- Plan a development of enhanced wages and benefits; and
- Make Martin Luther King, Jr. Day a paid holiday.

Some contractors have failed to comply, denying their workers the required wage increase and paid Martin Luther King, Jr. Day holiday. Even of those that complied, many contractors continue to commit wage abuse. These contractors go against the mission laid out by the Port Authority's policy. The Port Authority should take steps to ensure that subcontractors comply and that wage abuse practices against subcontracted passenger services workers are brought to a halt.

CONCLUSIONS & RECOMMENDATIONS

As the Anzalone Liszt Grove Research survey demonstrates, subcontracted passenger services workers at John F. Kennedy International, LaGuardia, and Newark Liberty International Airports experience high levels of wage abuse. For these low-wage workers who are already experiencing financial hardships, wage theft makes it even harder for them to make ends meet. Much more needs to be done to lift workers out of poverty and protect them from unscrupulous employers who steal their wages and violate other wage and hour laws. With more than 40 different subcontractors operating at New York area airports, enforcing wage and hour laws and preventing wage theft is a daunting task for state and federal regulatory agencies. These law-breaking subcontractors undercut law-abiding companies and prevent responsible companies from operating at the airports.

Agencies charged with labor inspections have limited budgets and stretched staffing levels.⁵² Through reduction in the size and role of the federal and state workplace agencies, the likelihood that an employer or industry sector will face an investigation in a given year is greatly reduced.⁵³ For example, in 2013 the New York State Department of Labor truncated its look back period for investigations into wage violations from six years to three years for most cases in order to reduce their backlog of cases.⁵⁴ Reduced enforcement lowers the pressure for regulatory compliance and, as a result, contributes to the growth of vulnerable workers in the economy.⁵⁵

In addition to continued efforts by regulatory agencies to monitor airline subcontractors and enforce wage and hour laws at airports in the New York City area, the Port Authority of New York and New Jersey needs to take more steps to ensure wage abuse practices against subcontracted passenger services workers are brought to a halt. Doing so is an important step towards the Port Authority's goal of providing improvements in wages and benefits for the thousands of hardworking subcontracted workers and enhancing safety, security, and quality of service at its airports.

Revoking Privilege Permits of Subcontracted Companies Violating Workers' Rights

One such step would be for the Port Authority to enforce the terms of its privilege permits with contractors operating at our airports. For example, privilege permits contain a "law compliance" clause that requires permittees to "observe, comply

with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Airport."⁵⁶ Furthermore, the privilege permit also requires that the Permittee "shall not employ any persons or use any labor...which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the airport."⁵⁷ The Port Authority has the authority to revoke the privilege permits of subcontracted companies that do not adhere to the terms and conditions of the permits.⁵⁸ We recommend that the Port Authority exercise this right for any subcontracted passenger services company that is found to have violated labor laws, including wage and hour laws, at its airports.

Require Airlines to Penalize Subcontractors for Wage and Labor Violations

We recommend that the Port Authority require airlines to penalize any of their subcontractors that violate wage and hour laws and other labor laws at the airports. If these subcontractors continue to be in non-compliance, their services with the airline should be terminated.



In May 2014, thousands of workers chose SEIU 32BJ as their union. To this day, thousands of workers are still working without a contract.

Strong Union Presence at the Airports

A strong union presence is required to further protect subcontracted passenger services workers from wage theft and other forms of wage abuses at John F. Kennedy International, LaGuardia, and Newark Liberty International Airports.

Union workers generally receive pay according to their negotiated contract, and any wage theft would be challenged by the union. Unions protect workers from any threat of retaliation for reporting wage abuse and provide a good source of information for workers of their rights. Without unions, workers may not even be aware of what they are entitled to under state and federal wage and hour laws.

I did not learn that [my employer] was breaking the law until I talked to an organizer from SEIU 32BJ earlier this year who told me that \$4.15 (an hour) is actually against the law. ...My co-workers and I often talk about going to some sort of government authority to complain. But many of us were afraid of retaliation. ...I decided to complain to a government agency but I did not know where to turn. ...The search process was very confusing. After Googling for a while I thought that the Better Business Bureau was the place to submit my complaint. ...I submitted a complaint online but I never heard back from them. –Transcript of David Harrison, skycap at John F. Kennedy International Airport, from the November 21, 2013 Public Hearing to Examine the Implementation of the Wage Theft Prevention Act, New York State Assembly Standing Committee on Labor.

ENDNOTES

- 1** See David Weil, “Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division,” May 2010, at pps. 18-26; Brady Meixell and Ross Eisenbrey, “An Epidemic of Wage Theft is Costing Workers Hundreds of Millions of Dollars a Year,” Economic Policy Institute, Issue Brief #385, September 11, 2014, available at <http://www.epi.org/publication/epidemic-wage-theft-costing-workers-hundreds/>; Annette Bernhardt et al., “Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities,” New York: Center for Urban Economic Development at UIC, National Employment Law Project and UCLA Institute for Research and Labor and Employment, 2009, available at <http://www.unprotectedworkers.org/brokenlaws>.
- 2** January 28, 2014 Letter from Patrick J. Foye, Executive Director of the Port Authority of New York and New Jersey addressed to the CEOs of Delta Air Lines, JetBlue Airways Corporation, American Airlines, and United Airlines.
- 3** See David Weil, “Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division,” May 2010 at pps. 18-26; Brady Meixell and Ross Eisenbrey, “An Epidemic of Wage Theft is Costing Workers Hundreds of Millions of Dollars a Year,” Economic Policy Institute, Issue Brief #385, September 11, 2014, available at <http://www.epi.org/publication/epidemic-wage-theft-costing-workers-hundreds/>; Annette Bernhardt et al., “Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities,” New York: Center for Urban Economic Development at UIC, National Employment Law Project and UCLA Institute for Research and Labor and Employment, 2009, available at <http://www.unprotectedworkers.org/brokenlaws>.
- 4** Annette Bernhardt, Diana Polson and James DeFilippis, “Working Without Laws: A Survey of Employment and Labor Law Violations in New York City,” National Employment Law Project, 2010, at p. 2 & 44.
- 5** Annette Bernhardt, Diana Polson and James DeFilippis, “Working Without Laws: A Survey of Employment and Labor Law Violations in New York City,” National Employment Law Project, 2010, at p. 44.
- 6** Brady Meixell and Ross Eisenbrey, “An Epidemic of Wage Theft is Costing Workers Hundreds of Millions of Dollars a Year,” Economic Policy Institute, Issue Brief #385, September 11, 2014, at p. 2, available at <http://www.epi.org/publication/epidemic-wage-theft-costing-workers-hundreds/>.
- 7** Wage and Hour Division of the United States Department of Labor, “FY 2015: Congressional Budget Justification,” submitted in 2014, at p. WHD – 17, available at <http://www.dol.gov/dol/budget/2015/PDF/CBJ-2015-V2-09.pdf>.
- 8** Wage and Hour Division of the United States Department of Labor, “FY 2015: Congressional Budget Justification,”

submitted in 2014, at p. WHD – 17, available at <http://www.dol.gov/dol/budget/2015/PDF/CBJ-2015-V2-09.pdf>.

9 David Weil, “Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division,” May 2010, at pps. 1-2.

10 See New York Code of Rules and Regulations 12 NYCRR Part 195.

11 New York State Office of the Attorney General Press Release, “A.G. Schneiderman Announces Settlement with Airport Contractor for Paying J.F.K. Skycaps Far Below Minimum Wage,” September 24, 2014, available at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-settlement-airport-contractor-paying-jfk-skycaps-far-below>.

12 New York State Office of the Attorney General Press Release, “A.G. Schneiderman Announces \$20K Settlement with Airport Contractor for Shortchanging Minimum-Wage Workers in NYC,” May 8, 2014, available at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-20k-settlement-airport-contractor-shortchanging-minimum-wage>.

13 New York State Office of the Attorney General Press Release, “A.G. Schneiderman Announces \$20K Settlement with Airport Contractor for Shortchanging Minimum-Wage Workers in NYC,” May 8, 2014, available at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-20k-settlement-airport-contractor-shortchanging-minimum-wage>.

14 Based on July 2014 badging data provided by the Port Authority of New York and New Jersey. SEIU 32BJ defines contracted out passenger services workers to include security, wheelchair agents, baggage handlers, terminal and airport cleaners, passenger service agents, and skycaps.

15 Fernandez v. PrimeFlight Aviation Services, Inc. et al, Case No. 1:11-cv-04862-KAM-CLP, U.S. District Court, Eastern District of New York, Amended Complaint at pps. 1-3, filed January 19, 2012.

16 Fernandez v. PrimeFlight Aviation Services, Inc. et al, Case No. 1:11-cv-04862-KAM-CLP, U.S. District Court, Eastern District of New York, Order Granting Motion for Settlement at p.12, filed October 9, 2014.

17 Brenda Williams et al v. Air Serv Corp., Index No. 108648-2010. Supreme Court of New York, Class Action Complaint at p. 1, filed June 30, 2010.

18 Brenda Williams et al v. Air Serv Corp., Index No. 108648-2010. Supreme Court of New York, Class Action Complaint at p. 1, filed June 30, 2010.

19 Brenda Williams et al v. Air Serv Corp., Index No. 108648-2010. Supreme Court of New York, Class Action Complaint at pps. 3-4, filed June 30, 2010.

20 Brenda Williams et al v. Air Serv Corp., Index No. 108648-2010. Supreme Court of New York, Class Action Complaint at pps. 3-4, filed June 30, 2010.

21 Brenda Williams et al v. Air Serv Corp., Index No. 108648-2010. Supreme Court of

New York, Class Action Complaint at pps. 3-4, filed June 30, 2010.

22 Employees are eligible for spread of hour if the employee's spread of hours' exceeds 10 hours (from the start of the day to the end of the day, including meal and break time) OR when employees work a split shift, which may be the case for cabin cleaners. The employer is obligated to pay one hour of additional pay for each hour in excess of 10 hours and for each split shift. See <http://www.labor.ny.gov/formsdocs/wp/PART142s.pdf>.

23 Brenda Williams et al v. Air Serv Corp., Index No. 108648-2010. Supreme Court of New York, Decision and Order, filed May 23, 2013.

24 Based on July 2014 badging data provided by the Port Authority of New York and New Jersey. SEIU 32BJ defines contracted out passenger services workers to include security, wheelchair agents, baggage handlers, terminal and airport cleaners, passenger service agents and skycaps.

25 Shanettay Burgess et al v. Airway Cleaners LLC, Index No. 158584/2014, Supreme Court of the State of New York County of New York, Complaint at p. 3, filed September 3, 2014.

26 Tasleema Mohamed v. Global Security Associates, Global Elite Group, Inc., Index No. 159835/2014, Supreme Court of the State of New York County of New York, Complaint filed October 7, 2014.

27 Tasleema Mohamed v. Global Security Associates, Global Elite Group, Inc., Index No. 159835/2014, Supreme Court of the State of New York County of New York,

Complaint at pps. 3-4, filed October 7, 2014.

28 Bernard Wofford v. Air Serv Corporation, Case No. 1:13-cv-03348-ode, US District Court for the Northern District of Georgia Atlanta Division, Complaint for Damages, filed October 8, 2013.

29 Bernard Wofford v. Air Serv Corporation, Case No. 1:13-cv-03348-ode, US District Court for the Northern District of Georgia Atlanta Division, Complaint for Damages, filed October 8, 2013.

30 Bernard Wofford v. Air Serv Corporation, Case No. 1:13-cv-03348-ode, US District Court for the Northern District of Georgia Atlanta Division, Order, filed December 13, 2013; Attachment 1, Exhibit A, filed December 12, 2013.

31 Navarro v. Servisair, LLC, Case No. 3:08-cv-02716, US District Court for the Northern District of California, Memorandum & Order, filed April 26, 2010.

32 Navarro v. Servisair, LLC, Case No. 3:08-cv-02716, US District Court for the Northern District of California, Complaint at pps. 10-12, filed April 24, 2008.

33 Navarro v. Servisair, LLC, Case No. 3:08-cv-02716, US District Court for the Northern District of California, Complaint at p. 14, filed April 24, 2008.

34 Navarro v. Servisair, LLC, Case No. 3:08-cv-02716, US District Court for the Northern District of California, Complaint at p. 11, filed April 24, 2008.

35 Navarro v. Servisair, LLC, Case No. 3:08-cv-02716, US District Court for the Northern District of California, Complaint at p. 15, filed April 34, 2008.

36 Barreda v. Prospect Airport Services, Inc., Case No. 1:08-cv-03239, United States District Court Northern District of Illinois Eastern Division, Plaintiff's Supplemental Submission for Final Approval of Class Action Settlement at p. 1, filed September 29, 2009; Final Approval Order, filed October 6, 2009.

37 Barreda v. Prospect Airport Services, Inc., Case No. 1:08-cv-03239, United States District Court Northern District of Illinois Eastern Division, Second Amended Complaint at Law at pps. 1-2, filed August 22, 2008.

38 Barreda v. Prospect Airport Services, Inc., Case No. 1:08-cv-03239, United States District Court Northern District of Illinois Eastern Division, Second Amended Complaint at Law at pps. 4, filed August 22, 2008.

39 Carreiro et al v. Huntleigh Corporation et al, Case No. 1:08-cv-10819, United States District Court, District of Massachusetts, Plaintiffs' Motion for Approval of FLSA Collective Action Settlement and Settlement of Massachusetts Wage Claims at p. 1, filed December 9, 2010; Final Approval Order, filed December 9, 2010.

40 Carreiro et al v. Huntleigh Corporation et al, Case No. 1:08-cv-10819, United States District Court, District of Massachusetts, Amended Complaint at pps. 4-6, filed March 30, 2009.

41 Carreiro et al v. Huntleigh Corporation et al, Case No. 1:08-cv-10819, United States District Court, District of Massachusetts, Amended Complaint at pps. 4-6, filed March 30, 2009.

42 Mitchell et al v. US Airways, Inc. et al, Case No 1:08-cv-10629-WGY Plaintiff's Motion for Final Approval of Class Action Settlement with Defendant Prime Flight Aviation Services, Inc. at pps. 1-3, filed June 24, 2011.

43 The International Air Transport Association, "Annual Review 2014," released June 2014, at p. 13, available at <http://www.iata.org/publications/Documents/iata-annual-review-2014-en.pdf>.

44 The International Air Transport Association, "Economic Performance of the Airline Industry," Semi-Annual Report released June 2014, at p. 6, available at <http://www.iata.org/whatwedo/Documents/economics/IATA-Economic-Performance-of-the-Industry-mid-year-2014-report.pdf>.

45 The International Air Transport Association, "Economic Performance of the Airline Industry," Semi-Annual Report released June 2014, at p. 6, available at <http://www.iata.org/whatwedo/Documents/economics/IATA-Economic-Performance-of-the-Industry-mid-year-2014-report.pdf>.

46 Press Release of the American Airlines Group, "American Airlines Group Reports Highest Quarterly Profit in Company History," July 24, 2014, available at http://phx.corporate-ir.net/phoenix.zhtml?c=117098&p=irol-newsArticle_print&ID=1950822.

47 We define experiencing financial hardship to mean receiving public or private assistance, and skipping a meal because

of financial reasons. We defined public assistance as participation in a food stamp program, receiving housing assistance such as public housing, energy assistance like the Home Energy Assistance Program, and receiving Medicaid or Medicare.

48 2014 Poverty Guidelines for the 48 Contiguous States and the District of Columbia, Office of the Assistant Secretary for Planning and Evaluation of the U.S. Department of Health and Human Services, available at <http://aspe.hhs.gov/poverty/14poverty.cfm>.

49 This statement assumes that the worker is the sole income earner for a family of three and works full time for 52 weeks out of the year at \$9.50/hour.

50 Information available at the Massachusetts Institute of Technology's Living Wage Calculator, available at <http://livingwage.mit.edu/places/3608151000>.

51 Information available at the Massachusetts Institute of Technology's Living Wage Calculator, available at <http://livingwage.mit.edu/counties/34013>.

52 David Weil, "Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division," May 2010 at p. 1.

53 David Weil, "Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division," May 2010 at p. 5.

54 New York State Department of Labor February 11, 2014 Press Release, "Governor Cuomo Announces More Wage Theft Cases Resolved in 2013 than Ever Before," available at <http://labor.ny.gov/pressreleases/2014/february-11-2014.shtm>.

55 David Weil, "Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division," May 2010 at p. 5.

56 See Privilege Permit No. AYE-029 for Airway Cleaners to operate at John F. Kennedy International Airport, effective date May 1, 2010, at p. 27 of Terms and Conditions.

57 See Privilege Permit No. AYE-029 for Airway Cleaners to operate at John F. Kennedy International Airport, effective date May 1, 2010, at p. 26 of Terms and Conditions.

58 See Privilege Permit No. AYE-029 for Airway Cleaners to operate at John F. Kennedy International Airport, effective date May 1, 2010, at pps. 8-9 of Terms and Conditions.



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povertywagesdontfly.tumblr.com or www.facebook.com/AirportWorkers*



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