

## WAGE AND HOUR

The New Mexico Department of Workforce Solutions (NMDWS) Wage and Hour offices enforce minimum wage, payment of wages, and overtime laws under the Minimum Wage Act.

### WHAT IS A WAGE CLAIM?

A wage claim is a request filed by an individual to attempt to recover unpaid wages or other compensation from their current or former employer.

### WHO CAN FILE A CLAIM?

Any employee who has not been paid their earned wages may file a wage claim.

- Before a claim can be accepted, the employee must have made a recent demand for payment from the employer.
- If the employer denies payment or does not pay as promised, the employee may then file a claim.
- Claims for workers under bargaining agreements may be accepted if the union has exhausted all grievance procedures and the Wage and Hour Office receives a letter from the union requesting assistance.

## CONTACT INFORMATION

Labor Relations Division

Wage & Hour Offices

Offices are open Monday-Friday, 8am-5pm

#### Albuquerque Office

121 Tijeras NE, Suite 3000

Albuquerque, NM 87102

**Phone: (505) 841-4400**

**Fax: (505) 841-4424**

#### Las Cruces Office

226 S. Alameda Blvd

Las Cruces, NM 88005

**Phone: (575) 524-6195**

**Fax: (575) 524-6194**

#### Santa Fe Office

1596 Pacheco Street, Suite 103

Santa Fe, NM 87505

**Phone: (505) 827-6817**

**Fax: (505) 827-9676**

[www.dws.state.nm.us/Wage-and-Hour](http://www.dws.state.nm.us/Wage-and-Hour)

### CONNECT WITH US!



**Twitter:** [www.twitter.com/nmdws](http://www.twitter.com/nmdws)



**YouTube:** [www.youtube.com/nmdws](http://www.youtube.com/nmdws)



**Instagram:** [www.instagram.com/nmdws](http://www.instagram.com/nmdws)

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## Didn't Get Paid?



[WWW.DWS.STATE.NM.US/WAGE-AND-HOUR](http://WWW.DWS.STATE.NM.US/WAGE-AND-HOUR)

## HOW DO I FILE A WAGE CLAIM?

- To file a claim, download the form from the NMDWS website at [www.dws.state.nm.us/Wage-and-Hour](http://www.dws.state.nm.us/Wage-and-Hour), or ask for a form at any NMDWS office.

The form is titled 'NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS STATEMENT OF WAGE CLAIM'. It includes sections for 'FOR OFFICE USE ONLY' (Case Number, County), 'INSTRUCTIONS' (1. Please print clearly in black ink and in English. 2. Please attach to this form a copy of your check stub or other evidence. 3. Do not fill out this form if you have worked as an independent contractor. 4. This office will not accept Statement of Wage Claims over \$10,000.00, and no less than \$25.00), 'PLEASE NOTE THE FOLLOWING' (This form must be completed by you if it is incomplete or unavailable. This document pertains to the Wage and Hour Act, N.M.S. 51-2-1. We cannot accept you as claiming payment for time not worked (holiday pay, vacation, PTO, severance pay, bonuses only) or for expenses, late fees, or premium pay rates), and a 'TYPE OF WAGES CLAIMED (Please check)' section with checkboxes for Commission, Tip, Piecework, Flat Rate Schedule, Overtime wages (over and over paid), Not paid for all hours worked, and Unpaid vacation/deferred wages.

- Once you have completed the form, submit it by: emailing it to [wage.claimssubmiss@state.nm.us](mailto:wage.claimssubmiss@state.nm.us); delivering it in-person; or mailing or faxing it to a Wage and Hour office (contact information on back).
- If you are unable to complete a wage claim form, please contact one of the Wage and Hour offices for assistance (contact information on back).
- A claim should include any information regarding hours worked and rate of pay promised to you. Incomplete information will delay the processing of the claim.
- Please note: If you are under 18 years of age, a parent or legal guardian must also sign the wage claim documentation.

Translation services are available at no cost at any of the Wage and Hour offices.

## STATUS OF A CLAIM

- We will make every reasonable effort to contact you in a timely manner to inform you of the progress of your claim.
- If you have been paid in the meantime, please be sure to contact us as soon as possible.
- If you do not hear from us within 15 days from the date you filed your claim, please contact us to check on the status of your wage claim.
- It is your responsibility to keep us informed of any changes in your address and telephone number.
- If we cannot locate you, we may have to close your wage claim.
- If the wage claim form is not complete, the Wage and Hour office will contact you for more information.

## WILL I HAVE A HEARING?

- If an initial resolution can't be achieved, an administrative hearing may be held.
- You will be requested to appear in person or telephonically on the date and time set.
- You must contact us prior to the day of the hearing to confirm your participation.
- Explanations from both you and your employer will be examined, compared, and evaluated in terms of the law and will result in a decision.
- If you fail to appear, the claim will be decided on the basis of available evidence, including that presented by your employer at the hearing.

## CAN I TAKE LEGAL ACTION?

- You have the option to take legal action against an employer who refuses to pay your earned wages.
- In that event, your case may be filed in the Magistrate Court or Metropolitan Court for the county where you worked.
- You will then be notified of the court date, and you will be asked to testify on your behalf.

## WHAT HAPPENS AFTER LEGAL ACTION?

- If the court decides in your favor, a judgment will be entered against your employer.
- If you receive a judgment in your favor and your employer refuses to pay, then a Writ of Execution is obtained and the sheriff's department will attempt to collect on the Writ.

A judgment is a court specific document that says the employer owes you a specific amount of wages.

## HOW LONG WILL IT TAKE?

- If the employer refuses to pay and is still in business or has assets, the department will use every means available under the law to try to collect your wages.
- However, if the employer cannot be located, has moved out of the state, is a defunct corporation, or if for other reasons your claim is uncollectible, you will be informed.