THE EMPLOYER-DAY LABORER RELATIONSHIP IN THE DENVER CONSTRUCTION INDUSTRY

The Employers’ Perspectives

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Abstract

The Denver Metro Area is in a state of substantial expansion. In 2014, Denver’s population grew by 1.7%, making Denver one of the top ten fastest growing cities in the United States. In order to accommodate this substantial growth, the construction industry has seen a significant increase in activity. This growth signifies tremendous economic opportunity for Denver, but with growth comes a number of challenges. One of these challenges is the augmented threat of exploitation in the construction industry, which includes wage theft, ambiguous employment classification, and institutionalized discrimination of the day laborer population, particularly immigrant day laborers.

In this study, the relationships- or lack thereof- between employers, subcontractors, and day laborers were explored to better understand not only the prevalence of wage theft in the Denver area, but in what conditions it occurs. Employers are some of the most important stakeholders and actors for change in combating wage theft, making their perspectives crucial to understanding the motivations and rationale for how wage theft works and how to best remedy it. However, in the majority of previous research conducted on wage theft, employer perspectives are often overlooked. This represents a clear and detrimental knowledge gap. For this reason, we have decided to focus our study on the employers and employment practices of day laborers.

Over the course of this ethnographic study, a number of interviews were conducted to gather data on the employer’s perspectives of day laborers, the general hiring structure in the construction industry, the demands of the construction industry, and wage theft in the Denver area. The relationship between day laborers and employers are highly complex and convoluted, thus involving a myriad of vulnerabilities to which both laborers and employers are exposed. Through our research, it has been concluded that due to the complexity of hiring practices in the construction industry, legal gaps, and the use of multiple hiring levels, i.e. subcontractors, these vulnerabilities impinge on the employer-laborer relationship.

Conditions in the Denver construction industry directly impact the prevalence of wage theft. Our research has shown that the 2008 recession had a direct impact on employment practices of construction companies, forcing companies to operate in a market with high demand but low profits. The 2008 economic recession constituted a major event that led to a shortage of skilled labor, the decline of the use of unionized labor, and created an environment for wage theft of day laborers to thrive in the Denver area. These issues are further compounded by the industry practice of contracting and subcontracting, which obscures how money is spent and who actually pays laborer wages. Avoidance of responsibility when it comes to benefits, liability, workers compensation, and other employment standards result from this obscurity. It ultimately creates a system with little accountability, transparency, and a lack of awareness about wage theft in the industry.

On the part of employers, a lack of accountability, transparency, and awareness in relation to wage theft represents a substantial challenge for policymakers. Our research has highlighted the need for greater accountability from the top down in the industry, with increased cooperation and incentive to combat wage theft, particularly between development companies,
contractors and subcontractors. Government and legal actors, and the organizations that support the effort to ensure fair wage practices for day laborers.

**Introduction**

“*Give me your tired, your poor, your huddled masses yearning to breathe free.*”

This infamous line of the poem *The New Colossus* by Emma Lazarus exemplifies the idea of North America being a haven for those seeking a better life. Many come to the United States with hopes and dreams for a better life, but for some immigrants that dream can become a nightmare. This is the case for many of the men from Mexico and Central America who have found work doing unskilled labor in the booming construction industry in Denver, Colorado. These men—known as “day laborers” —are part of an informal system of employment that has many perils, including inadequate or non-payment for their work or not being given the required level of care from employers when they are injured. That issue—broadly known as wage theft—is something which occurs consistently in the construction industry.

In the study of wage theft, the focus has usually been on the victims who have experienced wage theft. Up to this point, little research has been done to understand the issue from the perspective of the employers who employ day laborers. Employers represent key stakeholders in the issue of wage theft, and have a tremendous ability to influence and change the way industries, like construction, handle the problem. Being able to understand the factors that shape construction, the structure of the industry, and the ways in which all these factors interact to allow wage theft to occur is something which could yield important insights to why wage theft occurs.
The impetus for our study was a new law- Colorado Senate Bill 5- that went into effect at the beginning of 2015. The bill gives those who have experienced wage theft better tools to seek remuneration from their employers. As well, at the Colorado Department of Labor and Employment (CDLE) better tools for adjudicating claims and enforcing penalties on those who commit wage theft. Hoping to understand the impact of this law, as well as the wider issue of wage theft in Denver, actors are now attempting to study the issue more in depth. As part of a larger study by the University of Denver, and in partnership with the day laborer work and advocacy organization El Centro Humanitario, our research group went out into the field to engage using an ethnographic approach to understand employer’s perspective around wage theft. Using a triangulation of qualitative methodologies, our results showed that the economic conditions of the Denver construction market seem to be directly influencing the practices of construction employers, and the culture and structure of the industry itself leads to a lack of transparency and accountability between the different levels of employment. These factors create an environment for wage theft to occur, and complicates the long process of attempting to hold employers accountable for the fair treatment of their employees.

**Methodology**

To understand the relationship between employers and day laborers in the construction industry in Denver, it is necessary to get perspectives of all groups involved. An ethnography, or study of individuals or customs in a certain culture, was chosen as a means to learn more about the role and influence of employers in the prevalence of wage theft.

Often during such studies, individuals of power, like employers, are excluded from research. They are seen as the perpetrators, who readily exploit a situation for their own benefit. Yet individuals in power, in this case the employers, can provide insight and valuable
perspective on the study of wage theft. They can be allies, because fair employers will want to compete with employers who commit wage theft retain an unfair advantage. They also have the ability to shape the employment context and relationships. However, they face a variety of economic vulnerabilities that may contribute to the rampancy of wage theft. Consequently, employers can also be viewed as victims of societal or competitive obligations.

Due to the common perceptions of employers, there is a level of sensitivity surrounding the research of the employers’ roles in wage theft. Because of such perceptions, there is a level of vulnerability surrounding employers, such as personal biases and the framework of the construction industry. The perspectives of employers might be disregarded and/or associated with corporate entities, but they are human and are reacting to human needs. The perspectives of employers are crucial to beginning a discourse on how wage theft occurs and what steps are needed to ensure that it does not occur.

How the research was implemented is necessary not only to know how the data were collected but how it can be interpreted. For instance according to James Beebe, the author of “Rapid Assessment Process,” the research was completed in a “rapid” manner. This does not mean that the research was rushed but rather it was completed in a six-week period and with multiple researchers who had to keep a relatively flexible schedule to conduct the research.¹ The purpose of the rapid approach is to obtain as much information as possible in a short period of time.

“Sensitivity to cultural differences is essential and team diversity improves cultural sensitivity and helps establish credibility with local communities.”² The group that conducted the research is made up of five students, one male and four female, from the Josef Korbel School

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² Ibid
of International Studies at the University of Denver, who were enrolled in Qualitative Research Methodologies during the spring quarter. Each of the students were in their early to mid-twenties and would be considered middle class, with mostly academic experience, some work experience, such as international, non-profit, and research. Throughout the course of their graduate degree, each student chose a different concentrations within the Josef Korbel School of International Studies, such as international development, international finance, and international studies, which provides different perspectives. A description of the demographic of the group is necessary due to the fact that “most attention has focused on the issue of gender, but other females of identity can affect research practice, such as age, social class, race, and ethnicity and religion...The myth that ethnographers are people without personal identity, historical location and personality, and would all produce the same findings in the same setting is a mistake of naive reality”\(^3\) Each student’s background has an influence on the data and the research.

Due to the fact that there were multiple students conducting the research and participating in the study relates to Beebe’s idea of triangulation. This is “used as a metaphor by social scientists for the use of data from different sources, the use of several different researchers, the use of multiple perspectives to interpret a single set of data, and the use of multiple methods to study a single problem.”\(^4\) Triangulation was used in a variety of ways during the research project, which will be explained throughout this section.

During the initial phases of this study, the group decided on how to approach the targeted participants. The group felt that it was necessary to look at how employers and subcontractors use day laborers during projects, and how and why wage theft occurs. Employers are the key in changing the wage theft problem. While interviewing day laborers is important, interacting with

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employers is essential in raising awareness in the industry and causing real change in employment practices.

Additionally, there were a number of risks that must be considered when working with human participants. Due to the topic of the research, it affects both the employers and their employees. Because the topic of wage theft can be threatening and intrusive when talking to employers, the group had to consider how to approach the topic when making the contacts but then also prepare diplomatic responses if they were asked about what they were studying and who they were working for.⁵

Interacting with employers directly is essential in understanding the humanity involved among corporate entities in the construction industry. The process of drafting the questions was a critical part of the project, because of the sensitivity of the topic and the participants, but also because being transparent about the study was important. The questions asked in the ethnographic study are critical not only to getting results, but also in making sure the participants are willing to answer the questions. Additionally, the interviews were conducted in a semi structured manner, based on the questions the group created but with the flexibility to ask follow up questions.

At the beginning of the project, there was a limited number of contacts, making it difficult to reach out to employers. As a result, the group had to use personal and professional connections in order to contact the employers.⁶ Some of the potential contacts were provided by Professor Rebecca Galemba, the principal researcher on the larger project, along with the list of approved employers from El Centro Humanitario. Interviews that came from these lists were

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beneficial as they provided a great deal of insight into the project, but also provided additional contacts. One of the group members did research online through the Denver Business Journal and was able to conduct a number of interviews this way. Additionally, knowledgeable individuals were also interviewed, such as journalists, lawyers, nonprofits, and day laborers, despite the fact that they were not employers.

As previously mentioned, there are a number of risks involved when working with human subjects. In order to protect the participants, the research group used RedCap to generate identification numbers to be used if the participants wished to remain anonymous. Additionally, an informed consent form was created as a means to tell the participants about the project, to make them aware of how the data will be used, and they had the option of remaining anonymous.

Under the guidance of Professor Galemba, the interviews did not begin until the fourth week of the ten-week quarter, due to the fact that many of the group members did not have experience in this type of research. Once the interviews began, it was preferable to conduct them face to face, as a means to note body language and facial expressions. Yet, these were often difficult to coordinate, due to the schedules of the participants and the researchers, and the limited amount of time to conduct the study, which often lead to phone interviews. Phone interviews were not ideal because the difficulty of taking notes while using the phone. Also, the group developed a questionnaire for future researchers on this project as a means to reach out to participants who would prefer a survey.

Additionally, two participant observations were conducted. It gave the group insights as to how pick-ups are conducted, how the negotiations take place, and the hierarchy of the liebres.

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For the employer group, this demonstrated how the culture of the liebre could impact interactions with potential employers.

During the interview process, fifteen interviews were conducted over a five-week period, which included day laborers, employers, and non-employers. Because of the varying perspectives on the same topic, this gave the employer group a great deal of insight coming from a variety of insights. Additionally, the group has a difficult time contacting subcontractors, so this had an effect on the data.

Once the interviews were completed, the students had a number of tasks to complete in order to ensure that the interviews were accurately and safely recorded. For instance, hours after the interview, the students who conducted the interviews were to complete field notes, which included nonverbal observations and environmental factors. Also, each interview was recorded and transcribed to be used later in the final paper. And because the research involved human participants, each student kept a diary or reflections as a means to record their emotional state and personal opinions. For instance, the majority of the researchers on this project were female, which could impact the data received as many of those interviewed were men working in a predominately male industry. Lastly, there was a coding aspect to the project, which was to make note of patterns that arose during the interview process. This was a learning process due to the short amount of time to conduct research and code, and many times new patterns arose.

Given the amount of work that was involved in this project, each team member took on different responsibilities to balance the workload. “Rapid assessment depends on teamwork and cannot be done by one person. All team members should be involved in data collection and data analysis, including the preparation of the report. Teamwork by a multidisciplinary team increases
sensitivity to the insiders’ categories and definitions. Because of the importance of team interaction, the RAP team should be together most of the time.\textsuperscript{8}

**Ethics and Positionality**

Our group was in a unique position for this research as we focused primarily on the employer side of the wage theft issue. When we pursue primary research, we have to protect our interviewee, who in our case was usually an employer. By raising awareness specifically of wage theft, we had to be careful about protecting their employees and subcontractors as well. Therefore, especially if the employer was not a member of El Centro (and many interviewees were not), we had to address wage theft as a sensitive issue. On the other hand, if the employer was a member of El Centro, we had to be mindful not to damage the relationship between El Centro and this employer. This included being especially aware of vocabulary like "wage theft" and a more thorough understanding of construction industry jargon. By addressing wage theft in our consent form, we were able to simultaneously protect employers and employees while being open about our research.

All interviewees signed this form with the understanding that their names would be kept confidential in our research. Even then, however, we had to be careful in the phrasing of our questions about wage theft and hiring practices. If we were too insensitive about our phrasing, interviewees could retreat and provide less information about their hiring practices, and refuse to continue to be resources for future research. This would defeat the purpose of raising awareness of the wage theft issue among these employers and could reduce incentive for them to be more aware of their temporary worker and day laborer employment and payment practices.

Not only did we have to protect the individual interviewee, we also had to protect their company, as any effect on the company would subsequently affect all of the company's employees. Just as the interviewees' names were kept confidential in our research, so were the companies' names. Once we input interview notes and transcripts into Dedoose and REDCap, we coded the information without using any names in order to extract conclusions that analyze more general characteristics rather than specific circumstances. While construction companies must contend with this issue of wage theft, they also play major roles in projects that affect entire communities as well as their own employees. In this way, it was essential for us to understand that when we interact with companies and their employees, we affect more than just one individual (our interviewee).

However, even with this in mind, we had to stand our ground in investigating hiring and employment practices among these companies in order to promote incentive for companies not to commit wage theft and to be more aware of their contractors and subcontractors committing wage theft. When employers become more aware and involved, they are more able to prevent wage theft and promote its prevention among other employers. In raising awareness of wage theft among employers, we hoped it would lead to the establishment of good hiring and employment practices as part of corporate social responsibility in the construction industry. Then employers that do commit wage theft or neglect to inquire as to whether wage theft is happening among their subcontractors would face consequences, rather than be rewarded by saving money from not paying workers enough or at all. On the other hand, employers that ensure day laborers and temporary workers are paid appropriately would be rewarded with more business.
This was where positionality came into play. Positionality was especially precarious for us as we interviewed employers. It was easy for us to fall into the trap of automatically considering employers the bad guys in this situation. On the other hand, if we overcompensated for that assumption, we might have ended up taking our interviewees at their word and not investigating enough to find the cause of the wage theft problem. We risked losing the ability to investigate further if we came off as overly critical of their responses to our questions, forcing them to shut down in interviews. I noticed even the acts of recording and taking notes have caused some interviewees to become uncomfortable. I tried to make interviewees more comfortable by easing into the interview with background questions about their interest in the construction industry. However, this could also lead to problems in using too much time on background information and not enough time on hiring practices, and it seemed to affect different interviewees in different ways. Some interviewees reacted well to starting with background information, but others seemed to want to get right to the point. It seemed in my experience that starting with background questions worked the best with the two women that I interviewed, and not as well with the men.

With that disclaimer about positionality aside, we have a range of positionalities both communally as a group and as individuals within the group. As individuals within our group, we each have various perspectives on employers’ roles in wage theft. At one end of the spectrum, employers are viewed as the ultimate culprits, looking out for their own needs alone. On the other end, employers are innocent, not realizing what is happening or aware of the effects of their policies or actions on day laborers.

As a group, we agree for the most part on the employers not always being completely aware of the hiring processes of their subcontractors, often choosing to turn a blind eye to those
situations. We also understand that employers have a lot on their plates, and must be kept accountable to senior management, or as senior management to the financial bottom line. All employers that I interviewed identified themselves as good and their companies as ethical and that they are trying to do the best they can to support themselves and their companies' success.

Lastly, it was important for us to understand how our interviewees viewed us, and how we could ensure that their perspectives were positive so that we could establish a relationship for future classes to continue. By using consent forms and being clear on the subject of our research, but not condemning or assuming anything about our interviewees, we hoped we have set a precedent as young professionals that want to ensure rights for all people in the Denver community. In doing this, we hope to create allies in construction industry employers as major members of this community.

RESULTS:

Employer Context of Wage Theft

Wage theft is often looked at primarily from the viewpoint of the victim, but in order to gain a more comprehensive understanding of the issue, other perspectives must be investigated, as well. Wage theft or the withholding of wages may occur for various reasons, not all of which are the fault of the employer. Employers face various demands that may cause them to commit wage theft, and while these demands do not excuse the act, they must be explored if the issue is to be improved.

The construction industry as seen through the eye of the employer is high in competition and lacking in skilled labor and adequate resources.9 Resources are in high-demand and since

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profit margins have decreased from 6-8% of a contract to closer to 2% since the recession, budgets are tighter.\textsuperscript{10} Companies have even been constructing parts of a job off-site and later transporting and installing them in order to cut back on the resources and labor necessary.\textsuperscript{11} The lack of skilled labor also puts a strain on resources. Temporary agencies often provide laborers that do not have the skills requested, or laborers may sometimes exaggerate their skills and do a poor job.\textsuperscript{12} This necessitates that companies provide more supervision for the laborers that lack the adequate skills needed, straining their resources further.\textsuperscript{13}

The construction industry, particularly in Denver, is a volatile and competitive one. One employer who was interviewed noted that even managers struggle to keep their jobs.\textsuperscript{14} Subcontractors in particular are in high demand. It is not uncommon for 80-90% of the work on building projects to be completed by subcontractors.\textsuperscript{15} On many projects, multiple subcontractors are hired to perform different tasks based on their trade. With the lack of skilled labor after the recession, there have even been instances of contractors visiting other sites and offering the subcontractors there more money to work for them instead. As one employer stated:

\begin{quote}
"Last summer I kept hearing... from contractors in the Highlands and other areas, that literally contractors will come into their job sites and steal their subcontractors from their sites offering them more money. I mean we’ll see the same thing again this summer because the market has not turned down at all. If anything its gone the other direction."
\end{quote}

\textsuperscript{10} Anonymous, interview with Rebecca Hostetler and Patrick Garrett, May 13, 2015
\textsuperscript{11} Anonymous, interview with Caitlin Trent, April 27, 2015
\textsuperscript{12} Ibid.; Anonymous, email correspondence, May 12, 2015.
\textsuperscript{14} Anonymous, interview with Rebecca Hostetler, April 29, 2015
\textsuperscript{16} Anonymous, interview with Caitlin Trent, April 27, 2015
The issue of wage theft, then, puts a strain on good employers because they are outbid by competitors who are underpaying – or not paying – their workers.\(^{17}\)

Employers in the construction industry are also prone to external risks and pressures. These include fluctuations in the economy and inflation which affect project costs.\(^{18}\) Projects may be affected by political or social pressures. Larger projects are more likely to face scrutiny by the US Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA).\(^{19}\) Projects on people’s homes can be sensitive in nature, particularly when partially furnished. Notes one employer: “It's just such a touchy thing. People are trusting you with their possessions”.\(^{20}\) Delays due to weather or failed technology, design errors, and management errors affect the efficiency at which a project can be completed. Additionally, schedules for completion are determined more and more by the customer rather than the contractor, and jobs are expected to be finished more quickly than in the past: “[the] traditional schedule for this type of building would be ‘this’ length of time and now they’re coming and saying we want you to do it in ‘this’ length of time, and they get shorter and shorter and shorter.”\(^{21}\) Therefore, finishing a project in time is often an issue.\(^{22}\)

Working with day laborers in particular has its own specific challenges, as well. According to employers, finding skilled, honest, reliable workers is difficult.\(^{23}\) Day laborers have been accused of not actually working, of drunkenness, or even of thievery, which would

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\(^{17}\) Anonymous, interview with Laura Scharmer and Caitlin Trent, April 24, 2015.
\(^{19}\) Anonymous, interview with Caitlin Trent, April 27, 2015
\(^{20}\) Ibid.
\(^{21}\) Anonymous, interview with Rebecca Hostetler, April 30, 2015.
\(^{22}\) Ibid; Anonymous, interview with Rebecca Hostetler, April 29, 2015
prompt employers to withhold paying wages. Notes one employer, “We’ve had day labors we’ve caught stealing, you know had to send away because not in the condition they needed to be when they came to the job site.” When there is a language barrier, communication can also be difficult, making it hard to relay expectations or negotiate pay. Struggles with timeliness, hygiene, and good work quality were also noted by employers as a difficulty that arises when employing day laborers.

This information is helpful in understanding the perspective of employers as well as the larger context in which wage theft occurs. The culture and demands of the industry increase the pressure on employers, particularly as the levels of contracting move down. Each of these aspects discussed can impact the probability of wage theft occurring on the day laborer level. External and internal factors play a role and should be addressed at an industry level in order to help induce change.

**Lack of Labor in the Denver Market**

A consistent theme that emerged in our research was that there is a serious lack of labor in the construction industry in Denver. A vast majority of our informants expressed that it is more difficult to find both general and skilled labor than in the past. When we probed further into this issue, two key points emerged: 1) that the 2008 recession had a direct and detrimental impact on the industry, leading many to flee to other states or professions, and 2) a lack of labor has made it more difficult for employers to use traditional means of hiring (unions, direct hiring, etc), expanding the use of temporary work agencies and other forms of informal day labor. These

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25 Anonymous, interview with Caitlin Trent and Nicky Mades, April 13, 2015.  
observations and opinions seem to corroborate with available data about the construction industry in Denver and Colorado.

For some context on the 2008 Economic Recession and its effects on the construction industry, it is important to go back and look at the construction workforce over time. As is apparent in Figure 1, the 2008 Recession had a tremendous impact on the number of employees working in the industry.\(^{28}\) Between January of 2008 and January of 2011, the number of construction workers plummeted from around 165,000 workers to only around 110,000 workers.\(^{29}\) It would not be until 2012 that the workforce would begin to recover. Even as of January 2015, the industry has still not reached pre-recession levels.

\(\text{Figure 1: Number of Employees in the Colorado Construction Industry, 2005-2015}\)


\(^{29}\) Ibid
A recent report by Denver Metro Economic Development Corporation and the Denver Metro Chamber of Commerce shows quite clearly the impact that the recession had on the construction market. Figure 2 is the number of new residential units built over time. It is evident to see a significant drop in new residential units in 2007-2011, correlating to the economic recession that was occurring during that time.

Concurrently, consumer confidence in retail construction operations also fell during the recession. Figure 3 is from the same report, showing that consumer confidence fell dramatically between 2008 to 2011, effectively reducing the investment available for construction on retail projects. The key takeaway from this is that both residential and retail construction operations suffered significantly during the recession.

Today, while the Denver construction industry has come racing back in terms of demand for new construction, the chronic lack of labor continues to be a significant problem. According

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31 Ibid
to a recent survey by the American Association of General Contractors, nearly 96% of all general contractors in Colorado are experiencing “at least a little difficulty” in finding skilled labor.\(^{32}\)

All of these data line up with what our informants had expressed to us in a more qualitative manner. When we queried our informants, they not only confirmed the labor shortage, but helped us understand why there is such a shortage. A common answer was that either, a) workers migrated to other markets during the recession, or b) workers migrated to the oil and gas industry, as that industry was still highly profitable during the recession and their skillsets lend themselves well to oil and gas.\(^{33}\) We were told that all of this was further compounded by a broader problem of youth not being interested in the kind of “blue collar” jobs that make up the majority of the construction industry.\(^{34}\)

The lack of available labor has also seemed to have changed the industry hiring practices considerably. Multiple informants expressed that their companies used to either exclusively use unions for labor, or relied more heavily on unions in the past. Today, there is a greater emphasis on either subcontracting work to smaller companies, or an increased use of temporary agencies to fill labor gaps. When asked why this is the case, one informant from a large general contracting firm expressed that there are simply “cost savings” to being non-union, and in a time when construction companies are operating with reduced profit margins, the use of non-union labor is preferable.\(^{35}\)

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\(^{34}\) Anonymous, interview with Rebecca Hostetler and Patrick Garrett, April 29, 2015.

There is also an important distinction between skilled and non-skilled labor needs. While there is a general shortage of labor, there is a particularly pressing lack of skilled labor. Skilled labor in this context means labor in what the industry calls “the trades,” and includes things like masonry, concrete work, carpentry, plumbing, etc. Since most of our key informants were from large general contractors, they expressed that they do not “self-perform” much of those trades type work. They heavily depend on these trades people in order to effectively complete their projects, and the lack of their availability has made it difficult for them to do so.

General labor, in the context of how our study understands “day laborers,” are most often used for things like snow removal, construction cleanup or demolition. This is because such work requires a tremendous expansion in need for workers while the work itself is only temporary or short-term. Multiple informants also expressed that it is cost prohibitive to hire labor on a long-term basis for such work, as uncertainty with weather and labor needs change throughout the year. This too has likely fueled the increased reliance on temporary agencies by many in the industry.

A curious issue here is that many of the immigrant day laborers that other groups in our study have looked at, do in fact have the trade skills that employers are looking for, or at the very least are willing to learn them. However, there are significant barriers that prevent those day laborers from being able to connect with general employers. These barriers are the kind of problems that worker centers like El Centro are trying to overcome. While these barriers are not an issue that our group was able to examine, it should be something to be considered in the broader context of our study.

37 Ibid
The 2008 recession, and the resulting in a lack of labor in the Denver market, certainly have had a direct impact on wage theft in the construction industry. A small pool of talented workers, compounded by decreased profits, forces employers into searching for labor indirectly. The increased reliance on temporary agencies and subcontracting decreases transparency and accountability of employers, making conditions for more wage theft possible. This is something that will be explored in greater depth in the following section.

**The Hiring Context: A Lack of Transparency and Accountability**

Despite the current desperate need for labor in the construction industry, the hiring practices within the industry are unclear and convoluted. Conversely, at polar ends of the employment spectrum, day laborers and construction employers have clearly defined needs and demands. However, the employment layers that exist in between construction employers and day laborers, typically enabled by the use of subcontractors, is where employment becomes undefined and blurry. These layers are rife with a lack of transparency, accountability and awareness that cause a disconnect between the construction companies and the day laborers on the street. How then does employment between day laborers and construction employers occur?

Subcontractors are used on a regular basis for construction companies due to the specific skill sets that they provide in construction projects. The general contractor, or general construction employer, perform the general labor but consistently hire subcontractors for specific skills such as masonry, framing, and tile setting. However, in addition to their skilled labor set, the act of subcontracting can have adverse side effects in the hiring context for day laborers. The relationship between legitimate construction companies and their subcontractors require they meet basic employment standards and coverage such as liability, workman’s compensation, safe

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40 Jonas, interview with Caitlin Trent, April 27, 2015.
working standards and records of everyone that they employ.\textsuperscript{41} When talking to employers, drug testing and background checks were as cited as the main priorities for subcontractor employees by several construction employers.\textsuperscript{42}

On the other hand, a large portion of day laborers, especially those who are looking for work at \textit{liebres} (street corners) in Denver, are seeking temporary jobs that pay cash at the end of the day without the required documentation or paperwork.\textsuperscript{43} This directly contradicts many of the hiring requirements of general contractors, which illuminates a gap within the employment structure. What we have found is that to cover this gap, the sub-contracting layers and temporary employment agencies make the employment structure function. The consequence, however, of these additional sub-contracted employment levels is an increase in employment ambiguity, a lack of transparency, awareness, and accountability.

It is within these sub-contracting layers where, based off of our research and supporting articles, it appears that most day labor hiring happens in the construction industry. At the top, employers have cited the inability or inhibitions to using day labor directly without the necessary documentation and long term commitments saying that “it’s just not worth the risk…Again it would really only put ourselves at risk.”\textsuperscript{44}

Instead, when subcontractors are used, the subcontractors sign affidavits for their laborers in order to protect the general contractor.\textsuperscript{45} At that point any documentation, liability or workman’s compensation discrepancies “fall under them [sub-contractors], they have to meet

\textsuperscript{41} Raja Raghunath email, with Caitlin Trent, May 15, 2015.
\textsuperscript{42} Jopy, interview with Caitlin Trent and Nicky Mades, May 13, 2015; Anonymous interview with Rebecca Hostetler and Patrick Garrett, May 13, 2015; and Jonas interview with Caitlin Trent, April 27, 2015.
\textsuperscript{43} RedCap ID 7, interview with Caitlin Trent and Nicky Mades, April 15, 2015.
\textsuperscript{44} Jonas interview with Caitlin Trent, 4/27/15
\textsuperscript{45} Issues of subcontracting, 871.
that requirement for that to happen”\textsuperscript{46} and they take “100\% of liability for their workers.”\textsuperscript{47} The general contractor, who are more scrutinized than subcontractors,\textsuperscript{48} is then able to obtain the necessary labor, while maintaining accountability from the subcontractors.\textsuperscript{49} Adversely, the circuitous process can create an atmosphere where transgressions, such as wage theft not only can occur, but are also facilitated. In these middle layers of employment, lines between legitimate and illegitimate, acceptable and unacceptable working conditions and hiring practices become blurred.

Denver does not seem to be alone in these themes. A study done in Tokyo and Los Angeles on the construction industry and day labor substantiates this. According to the study, subcontractors are generally not held accountable to the day laborers they hired by the general contractor. There is also little transparency of the middleman's' employment practices for the construction companies that hire them.\textsuperscript{50} Although correlations between Tokyo and Denver would require further examination, the study claimed that, “overwhelmingly in construction and day laborers only cater to sub-contractors or middlemen,” which signifies the power dynamic between the two groups.\textsuperscript{51} Our interviews found the same to be true here in Denver, where once subcontractors sign an affidavit, acting as a barrier between day labor and general contractors, employers have no further due diligence in finding out if laborers beneath them are paid or if they are treated fairly.

\textsuperscript{46} Jopy, interview with Caitlin Trent and Nicky Mades, May 13, 2015.
\textsuperscript{47} Jonas interview with Caitlin Trent, April 27, 2015.
\textsuperscript{48} Jopy, interview with Caitlin Trent and Nicky Mades, May 13, 2015.
\textsuperscript{49} Jonas interview with Caitlin Trent, April 27, 2015.
\textsuperscript{51} Ibid.
None of the employers we interviewed claimed to know how and if subcontractors’ day laborers on their work sites were paid. One employer who hires day labor directly and has openly defended day labor rights at his own expense, when asked about subcontractors’ day laborers stated, “I can't think of too much about subcontractors and their day laborers that they usually they come in with...”\(^{52}\) Basically, it is out of employer’s hands once the money and job is given to the subcontractor, anything that happens between a day labor and a subcontractor is no longer the employer’s responsibility.

Based on this anecdotal evidence, more levels of hiring provides subcontractors the obscurcation that is needed to hire day laborers without the need of documentation, liability, workman’s compensation or even pay. Although it is a known practice, one interviewee saying that “it is a dead giveaway” when subcontractors do not have workman’s compensation listed yet are contracted to do a job that requires multiple people, it is something that tends to be a “don’t ask don’t tell” kind of policy in the industry.\(^{53}\)

The article on day labor in Japan and Los Angeles reinforces this idea that, “a sophisticated system of guilds and private employment ‘go-betweens’ arose to provide construction firms with organized channels through which they could access casual manual labor.”\(^{54}\) Whether these systems could be considered “guilds” or “sophisticated” in Denver is unknown, but the fact that a, somewhat subversive, network of subcontractors as middlemen in the construction industry is apparent. The employment structure, with subcontracting middlemen as a crux in the configuration, then allows for diminished transparency, accountability and therefore illegal and dishonest practices such as wage theft to proliferate.

\(^{52}\) Chuck, interview with Caitlin Trent and Becky Hostetler, May 1, 2015.  
\(^{53}\) Jonas interview with Caitlin Trent, April 27, 2015.  
\(^{54}\) Valenzuela et al, 198.
The issue of transparency and accountability in the United States has become so apparent that last year President Obama signed Executive Order 13665 “to encourage greater pay transparency by prohibiting federal contractors and subcontractors from discharging or otherwise discriminating against their employees and job applicants for discussing, disclosing or inquiring about compensation.”\(^\text{55}\) So the facts are there, that transparency and accountability of subcontractors is an issue. However, what is being done about it, or can be done about it, is another matter.

The fact that this is little accountability and transparency between the levels of hiring, also promotes a lack of awareness on either end of the hiring spectrum. When asked about *liebres*, one employer had no idea that such things were occurring.\(^\text{56}\) If employers are unaware of the illegitimate and immoral hiring and employment practices that are occurring beneath them, there is no way for them to remedy or prevent the problem, adding to the cycle of wage theft and unsafe working conditions for day laborers in Denver.

**Conclusions and Analysis**

Through our ethnography, we were able to develop the following broad conclusion:

*The structure, culture, and constraints on the construction industry in Denver allows wage theft to occur: primarily through the process of subcontracting, a lack of transparency and accountability, as well as a lack of incentives for employers to prevent wage theft. These issues are further compounded by economic vulnerabilities- both in a lack of labor and in the increased cost of doing construction- and creates an environment for wage theft to flourish in Denver.*

While all of the issues discussed in our sections above are important to understand on their own, it is the fact that they are all occurring simultaneously and in conjunction with one another. This subsequently creates an environment that allows wage theft to occur.


\(^{56}\) Jonas interview with Caitlin Trent, 4/27/15
In our research, we came to see that employers are not necessarily the villains that some advocates for day laborers make them out to be. Almost all of the people and companies we spoke to understood and sympathized with the situation that day laborers are in, and many companies we talked to had strict policies of being ethical in their own hiring practices. Most of our informants were from large general contractors, and they themselves had excellent ethical hiring practices. But when probed about the hiring practices of their subcontractors- who control up to 90% of the money on any given project- none of our informants had any policies that held those subcontractors accountable. The fact that general contractors turn a blind eye to the hiring practices of their subcontractors has serious implications for the prevalence of wage theft, because the larger companies are able to plead ignorance on the issue, and are exempt from any responsibility for the misdeeds of their subcontractors.

This environment- lacking transparency and accountability- does not exist in a vacuum. There are very real and understandable economic vulnerabilities that employers in the construction industry face which may encourage turning a blind eye to day laborer employment issues. The lack of labor in the market after 2008, the decreased profits due to owners fees, the increasing cost of construction, and all of the other economic influences discussed in our paper push employers to try to be as budget-aware as possible. If a subcontractor is able to put in the cheapest bid to a general contractor because they exploit their day laborers, it makes economic sense that the general contractor would choose the subcontractor with the lowest price. Since the general contractor does not hold their subcontractors accountable, nor do they usually ask where they are getting their labor from, which perpetuates a system of ignorance and irresponsibility in which we know wage theft does occur.
While we are able to come to this broad conclusion, our research has also exposed the need for greater and more in-depth research in the future. Our research started from a place of little previous study, and should only be viewed as the first step in understanding the employer perspective on wage theft. Our small sample pool and significant time constraints limited what we were able to explore in-depth. Understanding this, we would like to posit some important areas we feel should be researched further, and ways to further target research to areas we were not able to explore as much.

**Direction of Future Research**

First and foremost, we feel that any future researchers should really seek out and talk directly with construction subcontractors. Our research group found it extremely difficult to actually be able to find and talk to this group of employers- something which we feel is indicative of the transparency issues mentioned above. Our research has led us to the belief that most of the wage theft that occurs in the construction industry is by subcontractors, and being able to get to talk to the subcontractors themselves would be a vital piece in understanding why wage theft occurs.

Another important direction we feel that the research should take is to talk directly with more temporary employment agencies. Many of the companies we spoke with use temporary agencies to get day labor, and understanding the perspectives of those agencies could yield important insights into the larger day labor process.

A third area we feel that future research should take is to try and understand the role that trade unions play in the industry. Many of our informants described decreasing reliance on unions for labor, which may be having an impact on the hiring practices of day laborers. A comparative analysis to wage theft of day laborers in other states where unions may be stronger
might also yield important insights as to whether the strength of unions has any bearing on the prevalence of wage theft.

And finally, a last direction we feel research should take would be to do more on-site observation of the construction process. Our research focused mostly on collecting data through interviews and talking to the upper management of companies, so we would suggest that future groups studying this issue actually go to construction projects to talk with the people there. In addition, any observation or research into the development of contracts between construction companies and their subcontractors/temporary agencies could potentially be illuminating.

**Corollary Issues to Research Further**

In addition to the broader directions we feel research should take, there were two particularly interesting concepts that came up in the course of our research that may have important corollary impacts on the problem of wage theft. These issues are labor brokering and joint employment.

**Labor Brokering**

In the course of our research, we came across a term that was used by people in the industry called “labor brokering.” Our informants described labor brokers as individuals who find and supply day laborers, acting as an intermediaries between employers and the laborers themselves. Labor brokers are able to quickly provide workers to employers, and have pre-established relationships with those laborers that make it beneficial for laborers to work for that broker. However, we were told that this process is often outside the law and off the books. Agreements may be reached that violate a day laborers rights, or the terms of employment may be unfair to the laborer. Labor brokers may be known by a variety of other names, such as
The Employer/Day Laborer Relationship in the Denver Construction Industry

professional employer organizations (PEOs), labor leasing organizations, employee leasing companies, labor contractors, etc.\textsuperscript{57}

Upon further research of this issue, it is clear that the issue of labor brokering is something which may have a direct impact on wage theft. Employers assume that since the labor being provided is coming through an intermediary - the labor broker - that they are the direct employees of that broker. This creates the assumption by employers that they are not responsible for the laborers, as they do not consider themselves employers of those particular laborers. The judicial consensus is that both the contractor and the labor broker are employers of day laborers, in a relationship described as “joint employment.”\textsuperscript{58}

However, many questions about how this process works remain. We were not able to establish in our research who these labor brokers are, or how they operate. Future groups studying this issue should consider examining the labor brokering process, looking particularly at who controls the process of wage negotiation and compensation. If labor brokers are the ones negotiating wages and compensation, is there an increased possibility of exploitation? These sorts of questions will likely be crucial to understanding wage theft.

**Joint Employment**

Future groups should also consider examining the issue of “joint employment” as well, since it seems to be not well understood by employers. The only official definition of joint employment comes from the 1993 Family and Medical Leave Act, which defines it as:

“Where two or more businesses exercise some control over the work or working conditions of the employee, the businesses may be joint employers under FMLA. Joint employers may be separate and distinct entities with separate owners, managers, and facilities. Where the employee performs work which simultaneously benefits two or more employers, or works for two or more employers at different times


\textsuperscript{58} Ibid
during the workweek, a joint employment relationship generally will be considered to exist in situations such as:
(1) Where there is an arrangement between employers to share an employee's services or to interchange employees;
(2) Where one employer acts directly or indirectly in the interest of the other employer in relation to the employee; or,
(3) Where the employers are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employer controls, is controlled by, or is under common control with the other employer.”

According to this definition, day laborers hired by labor brokers should fall into the category of joint employment. However, as noted above, many employers either do not know about this kind of employment relationship or choose not to carry it out. This is less important for issues of direct wage theft, and much more important for auxiliary issues like non-payment of medical expenses, avoiding liability for workplace safety conditions, etc. Understanding how this works in Colorado will shed light on the issue of ambiguity for liability that exists with day laborers.

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Appendix:

Appendix A: Employer Survey

**Day Laborer-Employer Relations Questionnaire**

Name: ____________________________________
Date: __________
Company: _________________________________
Position at the Company: ____________________

**General Background**

Please describe your position and general responsibilities at your company:
_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

How long have you been working in the construction/construction trades industry (if not a construction employee, please mark N/A): ____________________________

Is your position considered a management position?
Yes____
No____

Are you involved in the hiring process at your company?
Yes____
No____

Is your company considered a general contracting company, a subcontracting company, or other? (If not a construction industry employee, please mark N/A under “other”)
General Contracting: ____
Subcontracting: ____
Other (please specify): ______________________________________________________

Does your company work primarily in the Denver Metro Area?
Yes_____  No_____  If no, please list where else you work:

**Day Labor Employment Practices:**

Do you directly work/hire/manage temporary labor or “day laborers”?
Yes_____
Who is in charge of hiring Temporary/Day Laborers at your company?
Director of Operations: ___
Superintendents: ___
Project Managers: ___
Human Resources: ___
Other (Please specify): ___________________________________

How does your company find and recruit temporary/day labor? Please mark all that apply.
Through temporary agencies: ___
Word of mouth: ___
Current employees/established relationships: ___
Worker Centers: ___
Union Halls: ___
Informal Pickups (Street Corners, Parking Lots, etc): ___
Other (Please specify): ___________________________________

What sort of tasks did you have day laborers perform? Please mark all that apply.
General Labor: ___
Specialized labor (carpentry, plastering, etc): ___
Home repair/upgrade: ___
Yard work/landscaping: ___
Snow removal: ___
Other (Please specify): ___________________________________

What sort of documentation do you require a day laborer to fill out:
W-2 Employee Form: ___
I-9 Independent Contract: ___
Other (Please specify): ________________________________
Prefer not to Answer: ___

How are Day Laborers usually paid?:
Cash: ___
Check: ___
Other (Please specify): ________________________________

On average how much will a day laborer be compensated?
Under $10 per hour: ___
$10-15 per hour: ___
Over $15 per hour (Please specify): __________________________

How often do you or your company hire day laborers?
Weekly: ___
Monthly: ___
Yearly: ___
Irregularly: ___

What do you look for in a good day laborer?
What challenges do you encounter when employing Day Laborers?

Follow Up Questions:
Would you like your personal information to be kept anonymous? Please refer to statement of confidentiality at the bottom of this survey:
Yes ___
No ___

May we contact you in the future if we have any follow-up or further questions?
Yes ___
No ___

To keep your information safe, we will take every effort to keep what you tell us confidential and private unless you indicate that you would like to be identified.
We will be using a secure server to store contact information so we can contact you again to follow up. This will be kept in a separate secure data server from the information you tell us, which will only be identified through a number or fake names. Only the research team will have access to this server through a password. The research team will not reveal anything that you say to others. We will request permission to contact you again for a follow-up interview. You have a right to request and review a copy of anything that we intend to publish.
For any questions comments or concerns, please contact Dr. Rebecca Galemba at (603)-667-5961/Rebecca.Galemba@du.edu or Raja Raghunath: (303) 871-6140/ rraghunath@law.du.edu
Appendix B: Consent Form

Project Title: Perspectives of Employers and Trade Union on Wage Theft and Day Labor
Principal Investigator: Becky Hostetler, Caitlin Trent, Laura Scharmer, Nicky Mades, Patrick Garrett
Faculty Sponsor: Rebecca Galemba
DU IRB Protocol #: 684443-1

Invitation to Participate in a Research Study

You are invited to participate in a study on labor conditions in the Denver construction industry. A member of the research team will describe this study to you and answer all of your questions. Please read the information below and ask questions about anything you don’t understand before deciding whether or not to take part.

Specifically, we are interested studying labor conditions in the construction industry and the impact of a new law that will enact stiffer penalties for wage theft. We are working as part of a research team through the University of Denver under Professor Rebecca Galemba and Professor Raja Raghunath. We are collaborating with El Centro Humanitario as well as Raja Raghunath’s Workplace Rights Project as part of a community-based research project.

We are interested in hearing your experiences and viewpoints since they are critical to understanding the conditions of day labor. We want to ensure that your voice is heard while protecting your identity and confidentiality.

Description of subject involvement

If you agree to be part of the research study, you will be asked to participate in a conversation or interview that will take approximately 10-30 minutes of your time depending on your availability. We can also arrange a time to meet privately in a location of your choosing.

To fill in information from the interview and verify issues relating to work, wage theft, and living conditions, we are also asking permission to access your Centro membership application. We will not access anything related to your medical or criminal information. You can still participate in the interview and decline this access. It will, though, enable us to verify our records and findings. If you give us permission Centro staff will provide us with the information you allow us to access and we will put the information in a secure system so that your identity remains protected.

Possible risks and discomforts

The researchers have taken steps to minimize the risks of this study. Even so, you may still experience some risks related to your participation, even when the researchers are careful to avoid them. These risks may include that you may feel uncomfortable or embarrassed by some questions. In addition, some questions may bring up upsetting experiences or memories. We will take every effort to ensure your privacy.
We do not plan to ask you about your immigration status as a part of this study but it is possible that it will come up in conversation since it may affect your labor experiences. We want to make sure that you understand that by sharing this information with us, you may be exposed to additional risks in the unlikely event that there would be a breach of confidentiality. Because of this very small possibility, we have taken extra steps to make sure that your identity is kept separate from the things you tell us about yourself and your experiences. We will use a password-protected online database only accessible to the research team. Instead of your identity, we will also use fake names and numbers in all of our data notes and reports. We will also try our best to change any details that could potentially be used to identify you. We want to make sure that if a breach occurred that you know the risks.

We respect your right to choose not to answer any question that makes you uncomfortable or to withdraw your participation and data at any time.

**Possible benefits of the study**

This study is designed for the research team to learn more about labor conditions in the commercial construction industry. We also want to assess the impacts of the new Senate Bill 5 on wage claims.

If you agree to take part in this study, you should not expect to benefit from participation. However, we would be happy to provide you with a copy of any completed reports. While we cannot address any workplace problems in this study, we can refer you to a clinic run by Professor Raghunath’s Workplace Rights Project. If you choose to seek out this clinic, a team of law students will interview you separately and determine whether they can provide legal services to you. This is separate from the research. You can access this clinic even if you decline to participate in our research. The legal team will only want to note if you also participated in research to see where you learned about their services. Any specific information you tell the lawyer will be kept private.

More indirect benefits of participation may be learning more about labor rights. The study may also be used to inform labor policies and practices. We would also be happy to provide you with a copy of any completed reports.

**Study compensation**

You will not be compensated for participation in this study. When we can, we will provide snacks to compensate you for your time.

**Study cost**

You will not be expected to pay any costs related to the study. We will work with you to determine a time and place for the interview that does not inconvenience your work schedule.

**Confidentiality, Storage and future use of data**
To keep your information safe, we will take every effort to keep what you tell us confidential and private. We will be using a secure server to store contact information so we can contact you again to follow up. This will be kept in a separate secure data server from the information you tell us, which will only be identified through a number or fake names. Only the research team will have access to this server through a password. The research team will not reveal anything that you say to others. We will request permission to contact you again for a follow-up interview.

You have a right to request and review a copy of anything that I intend to publish.

Only the research team can access any data and audio recordings. Recordings will be erased after being transcribed and de-identified into the researchers’ secure data server.

The results from the research may be shared at a meeting, in academic publications, or in reports made available to the public and policymakers. However, we will ensure that your individual identity will be kept private when information is presented or published in any of these forms.

**Who will see my research information?**

Research information can only be viewed by the research team through a secure password protected data server.

However, if you tell us something that makes us believe that you or others have been or may be physically harmed, we may report that information to the appropriate agencies.

**Voluntary Nature of the Study**

Participating in this study is completely voluntary. Even if you decide to participate now, you may change your mind and stop at any time. If you decide to withdraw early, you may indicate what information may still inform the study and which you would like removed. If there are any new findings during the study that may affect whether you want to continue to take part, you will be told about them.

**Contact Information**

The primary researchers carrying out this study are Rebecca Galemba and Raja Raghunath and some of the their graduate and law students. You may ask any questions you have now. If you have questions later, you may call:

Rebecca Galemba: (603)-667-5961 or Rebecca.Galemba@du.edu

Or

Raja Raghunath: (303) 871-6140 or rraghunath@law.du.edu
Nicky Mades: (314) 807 6939 or nickymades@gmail.com

If the researchers cannot be reached, or if you would like to talk to someone other than the researcher(s) about; (1) questions, concerns or complaints regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects issues, you may contact the Chair of the Institutional Review Board for the Protection of Human Subjects, at 303-871-4015 or by emailing IRBChair@du.edu, or you may contact the Office for Research Compliance by emailing IRBAdmin@du.edu, calling 303-871-4050 or in writing (University of Denver, Office of Research and Sponsored Programs, 2199 S. University Blvd., Denver, CO 80208-2121).

Services

We would also like to inform you about the existence of a Workplace Rights Project (WRP) run by Professor Raghunath. If you would like to be referred for possible pro bono legal representation by the WRP, we will provide you with his contact information. Participation in research is voluntary, as is usage of the services of the WRP.

Please contact: Raja Raghunath: (303) 871-6140 or rraghunath@law.du.edu

You may also contact El Centro Humanitario for any information, questions, or services. I am also happy to provide a list of day laborer support networks and organizations in the Denver area.

Marco Nuñez, director
El Centro Humanitario
2260 California St. Denver.
(303)-292-4115 ext 103
mnunez@centrohumanitario.org
www.centrohumanitario.org

Agreement to be in this study

I have read this paper about the study or it was read to me. I understand the possible risks and benefits of this study. I know that being in this study is voluntary. I choose to be in this study: I will get a copy of this consent form if I wish to keep one.

1) Please verbally consent to participate in this study

2) Please verbally consent if data from this research may be used for future research.

3) Please verbally consent if you agree to be audio recorded. Do not state your name on the recording in order to help protect your confidentiality and identity
4) Please verbally consent if the research team can access your Centro membership application. This will be used to fill in and verify any informational gaps from the interview. We will not have access to anything relating to the application’s questions on medical or criminal issues.

Date: ________

Appendix C: Interview Questions

Sample Interview Questions for Employers:

1. What are the various demands of working in the construction industry?
   a. What are your favorite aspects of working in this industry?
   b. What are the most difficult aspects of working in this industry?

2. What is the employment structure like?
   a. Has it changed at all since the 2008 recession?
   a. Is there generally a surplus or shortage of construction workers?

3. What is the hiring process like?
   a. Are you hiring now?
   a. What types of candidates are you currently looking for?

4. Have you or your company ever used day laborers?

5. Where do you go to pick up day laborers? Why do you go there versus other sites?
   a. Are there any areas that you avoid? Why?

6. When you decide to hire a day laborer, what exactly is the process that you go through?
   Please describe the process step by step.

7. Who is in charge of hiring day laborers?
   a. What is typical pickup like? How do you choose your day laborers?

8. Is the employment process for day laborers done in-house or is it outsourced to a staffing agency or similar entity?
9. What role do sub-contractors and independent contractors play in your company’s employment structure?

10. What do you look for in a good day laborer? Are there characteristics that you look for when hiring one?

11. Is there any way that you can hold day laborers accountable for their work?

12. How do you keep track of employees?
   a. hours?
   b. wage rate?
   c. personal information?

13. Can you describe the typical employer/employee relationship?
   Does this vary depending on if they are a subcontractor, employee or day laborer?

14. Do you usually visit a construction site? When do you usually visit a site?

15. Who do you have in charge of laborers at the work site?

16. How often do you communicate directly with your workers on the sites?

17. What are the difficulties you have experienced in employing day laborers?
   What are the benefits of hiring day laborers?

18. What is your knowledge of wage theft laws or workman’s compensation violations and liabilities?
   Have you heard of employers using these laws or be subject to theses laws?

El Centro Humanitario Approved Employers Only

19. How did you become involved in el Centro Humanitario?
   a. How did you hear about el Centro?
   b. What was the application process like/involved?
The Employer/Day Laborer Relationship in the Denver Construction Industry

c. Why did you decide to partner with el Centro?

20. How has this relationship benefited you?
   . How has it benefited the day laborers?

21. Have you experienced any difficulties with the day laborers?

22. Have you heard stories of mistreatment or misuse of day laborers by non el Centro approved employers?
   . could you expand on this?

a. Leaving employees at job sites? Not offering assistance for injuries experienced on the job?

b. What do you think are the reasons behind this mistreatment?

**Follow up interview**

1. What is the typical pay rate?

   a. Does that pay rate apply to all day laborers?

   b. How is pay negotiated for day laborers?

2. At the end of the day, how are the day laborers compensated?

3. What type of worker’s comp do you offer for day laborers?
   . How does your company handle an emergency involving a day laborer?

**Sample Interview Questions for Day Laborers:**

1. How do you usually find employers?

   a. Do you normally work the same employer or different people?

2. Do you contact them, do they contact you, or do you wait to see them?
   . How often?

   a. How was this contact style set up?
b. How does this make you feel?

3. How do you identify employers at first, or later on when you are looking for more work?

4. Where did you work last?

Appendix D: Code Book

<table>
<thead>
<tr>
<th>Topic/Grouping</th>
<th>Codes</th>
<th>Sub-Codes</th>
<th>Additional Description/Notes</th>
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</thead>
<tbody>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEX</td>
<td>Anonymous</td>
<td></td>
<td>This code will be based upon the person who is being interviewed. The SEX code will be based upon the gender noms of the United States based on appearance, unless otherwise specified by the person who is being interviewed the outward gender will be coded.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RACE</td>
<td>Caucasian</td>
<td></td>
<td>The RACE code will also be based upon the ethnicity of the person who is being interviewed. Unless specified by the person being interviewed, this will be the decision of the coder. This code will be used to demonstrate the demographic of the individuals who were interviewed.</td>
</tr>
<tr>
<td></td>
<td>Asian</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Caribbean/African American</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hispanic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AGE</td>
<td>Teenage</td>
<td></td>
<td>The AGE code will be based upon personal observations that will be recorded in field notes. This particular code will be used to demonstrate the age range of the individuals who were interviewed during this process.</td>
</tr>
<tr>
<td></td>
<td>Young Adult</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Adult</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Senior Adult</td>
<td></td>
<td></td>
</tr>
<tr>
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<td>Partial high school</td>
<td></td>
<td>The Education code will be based upon the information that is gathered during the interview. The highest level of education that has been achieved will be coded nothing less. This information will be used to demonstrate the educational demographic of the individuals that have been interviewed.</td>
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<tr>
<td></td>
<td>College Grad</td>
<td></td>
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</tr>
</tbody>
</table>
## The Employer/Day Laborer Relationship in the Denver Construction Industry

<table>
<thead>
<tr>
<th>CENTRO EMPLOYER</th>
<th>NON EMPLOYER</th>
<th>OCCUPATION</th>
<th>INDUSTRY</th>
<th>TRADEF/LIGNED LABOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Master's</td>
<td>Researcher/ Journalist</td>
<td>Superintendant</td>
<td>Construction</td>
<td>Welding</td>
</tr>
<tr>
<td>PhD</td>
<td>Day Laborer</td>
<td>Program Manager</td>
<td>Architecture</td>
<td>Clean Up</td>
</tr>
<tr>
<td></td>
<td>Non Profit</td>
<td>Engineer</td>
<td>General Contractor</td>
<td>Real Estate</td>
</tr>
<tr>
<td></td>
<td>Legal</td>
<td>Owner</td>
<td>Subcontractor</td>
<td>Remodeling</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Senior Management</td>
<td></td>
<td>Carpentry</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMPANY INFORMATION</th>
</tr>
</thead>
</table>
| The Centro Employer code will be coded if the person interviewed is on the list of employers who are on El Centro Humanitario contact list.

<table>
<thead>
<tr>
<th>NON EMPLOYER</th>
</tr>
</thead>
</table>
| For this section, code if we are interviewing someone who has knowledge on employer/day laborer relations. We may need to add more details here.

<table>
<thead>
<tr>
<th>OCCUPATION</th>
</tr>
</thead>
</table>
| When the individual mentions their position within the company code for Occupation.

<table>
<thead>
<tr>
<th>INDUSTRY</th>
</tr>
</thead>
</table>
| The Industry code will be based upon information that has been collected from the interview. At some point during the interview, the person who is interviewing will ask a question about what sector of the construction industry the person being interviewed is apart of.

<table>
<thead>
<tr>
<th>TRADE/SKILLED LABOR</th>
</tr>
</thead>
</table>
| The Trade code is similar to the Industry code. During the interview, if a specific trade within the construction is mentioned, then code that information here. This information is based primarily upon the person being interviewed not anyone they are talking about in the interview.

<table>
<thead>
<tr>
<th>COMPANY SIZE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Size will be coded if it is mentioned in association with risk or wage theft.</td>
</tr>
<tr>
<td>COMPANY STRUCTURE</td>
</tr>
<tr>
<td>-------------------</td>
</tr>
<tr>
<td>Upper Management</td>
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<tr>
<td>Layers</td>
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<tr>
<td>SUBCONTRACTORS</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>DAY LABORER</td>
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<td></td>
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<td></td>
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<tr>
<td>TEMPORARY AGENCIES</td>
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<td></td>
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<tr>
<td>TEMPORARY AGENCIES</td>
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<tr>
<td>PAYMENT METHOD</td>
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<tr>
<td>EXPLOITATION</td>
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<tr>
<td>LABOR SHORTAGE</td>
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<tr>
<td>ENFORCEMENT</td>
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<td></td>
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<tr>
<td>POLICY SUGGESTIONS</td>
</tr>
<tr>
<td>HISTORY OF WAGE THEFT</td>
</tr>
<tr>
<td>EMPLOYER HISTORY</td>
</tr>
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<tr>
<td></td>
</tr>
<tr>
<td>EMPLOYER DEMANDS</td>
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<tr>
<td>Work Ethic</td>
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<tr>
<td>---------------------</td>
</tr>
<tr>
<td>Trust</td>
</tr>
<tr>
<td>Competition</td>
</tr>
<tr>
<td>Risk</td>
</tr>
<tr>
<td>Scrutiny</td>
</tr>
<tr>
<td>Communication</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RECESSION</th>
<th>Comments regarding the effect of the 2008 recession on an industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>SYMPATHY</td>
<td>Idle Sympathy</td>
</tr>
<tr>
<td>Reactory Sympathy</td>
<td>The person being interviewed shows empathy for day laborers and or their situation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TRANSPARENCY</th>
<th>Responsibility is mentioned or clearly indicated</th>
</tr>
</thead>
<tbody>
<tr>
<td>LACK OF AWARENESS</td>
<td>Lack of awareness regarding laws, payment processes, or anything that occurs at another level</td>
</tr>
</tbody>
</table>