

Temp Work and Poverty in Buffalo

What is Temp Work?

There are many kinds of temp work, but this report focuses on the most common type, in which a worker is employed by a temporary service agency and placed at one or more work sites. The temp agency typically charges its client business roughly twice the worker's hourly wages. Temp agencies create a triangular relationship in which the worker works *at* the host business but *for* the temp agency. In other words, it is the temp agency that typically recruits, screens, hires, pays, and fires the worker – not the host business. Temp workers earn an average of 25% less than permanent workers.¹

Temp work is an important part of the new constellation of “contingent” or “non-standard jobs” that stand in contrast to the classic full time job with regular hours, decent pay, and benefits. Roughly four out of five temps work full time – only slightly below the rate of traditional workers. Of those working part-time, roughly one half would prefer full time work (a much higher rate than among traditional, part-time workers).² But though they tend to work full time, most temp workers lack the basic benefits of full time work, such as paid vacations, sick days, and pensions. For example, only 9% receive pension benefits, compared to 53% of workers in traditional jobs.³

Full Time Work without Full Time Benefits

Most temp workers lack the basic benefits of full time work, such as paid vacations, sick days and pensions.

Only 9% of temp workers receive pension benefits, compared to 53% of workers in traditional jobs.

*-Harris Freeman and George Gonos,
“The Challenge of Temporary Work in
Twenty-First Century Labor Markets”*

A temp agency is different than an employment service agency. Employment service agencies do not employ the workers themselves; rather they help to place the workers with employers.



A Brief History of Temp Work

Temp work was once a very small niche in the economy. In recent years, however, temp agencies have employed as many as 3.4 million workers,⁴ and in 2013 it was reported that, after Wal-Mart, the largest employer in the nation was a temp agency: Kelly Services.⁵ From June 2009 through June 2011, 91 percent of non-farm job growth in the U.S. was in temp jobs.⁶

The Bureau of Labor Standards predicts that temping will continue to be one of the fastest growing industries, adding more than 637,000 jobs over the next six years.⁷ In a 2011 survey of business executives asking how their workforce would change over the next five years, the overwhelming answer was, “more part-time, temporary, and contract workers.”⁸

The Temp Worker Revolution

In 2011, more than 40 million workers were part time or temporary – 17 percent of the nation’s workers.

-David Van Arsdale, “The Temporary Worker Revolution”

Temp agencies grew for many reasons, including the following:

- As health and other fringe benefits became more expensive, employers became more interested in having workers who received no benefits from them;
- The triangular structure of temp work, and the relative powerlessness of temp workers, have created a gray zone in which it is easy for both the temp agency and the host business to disclaim responsibility and it is hard to enforce workplace safety, discrimination, and other laws;
- Business models that favored rapid expansion and contraction of the workforce gained more popularity;
- As union strength declined, three things happened:
 - Employers gained more power over issues like the use of temps instead of permanent workers;
 - Union hiring halls, which served some of the same purposes as temp agencies, declined; and
 - Employers became more likely to use temp workers as strikebreakers.
- Temp agencies did a masterful job marketing themselves and promoting a vision of permanent workers as expensive liabilities rather than assets.⁹

For all of these reasons, companies increasingly came to use temps as part of their permanent business model, rather than for unusual, truly temporary situations. A whole new category of “permatemps” arose, working the same jobs as permanent employees, and often for just as long, but with lower wages and few if any benefits. The biggest area of growth in temping is “blue collar” temping in manufacturing, construction, logistics, janitorial, and other low wage jobs. While in 1985, blue collar jobs were only 6% of temp work, by 1997, they were 35%, and Labor Ready, a temp agency that specialized in industrial temp work, had expanded from less than 20 offices in 1993 to about 800 in 2005.¹⁰ In some cases, the temp agency plays virtually no role other than that of a “front” employer that relieves the host business of what would otherwise be its obligations. For example, in a case from Massachusetts, an organic food processor kept over 70 of its workers on the payroll of a temp agency that did nothing but drop paychecks off at the factory – an extreme case of a common practice called “payrolling.”¹¹

An Example of “Permatemping”

Guadalupe Rangel worked as a temp at a Walmart warehouse for eight and a half years. Technically, his employer was not Walmart but Impact Logistics, which paid him piece-rate for the trucks he unloaded, with no health insurance, sick days, vacations, pensions, or other benefits. Over time, instead of getting a raise, his piece rate was cut, so that he made between \$100 and \$300 per week. Rangel showed up at the site seven days a week to see if he was needed; if he was not, he went home without pay.

“U.S. Lags Behind World in Temp Worker Protections,” www.propublica.org

How Temp Work Relates to Poverty

Another reason for the growth of temp agencies was the growth of several pools of workers who faced barriers to gaining permanent jobs and thus offered a cheap labor supply to temp agencies. Temp agencies capitalized on the expanding populations of immigrants, refugees, ex-offenders, and segregated urban minorities with an urgent need for work, any work. A 2000 report from the Bureau of Labor Statistics found that temp workers were disproportionately young, black or Hispanic, and female.¹² Compared with traditional workers, temps were more than twice as likely to be black.¹³ Fifteen percent of temps were high school drop outs, and only 21 percent were college graduates (the rate for traditional workers was 31%).¹⁴ Over two thirds of female temps had children, compared to roughly half of women doing traditional work.¹⁵ Most temp workers (57%) would have preferred a traditional job.¹⁶ About one third stated that they were temping



because it was the only job they could find, compared to only 12% who said they were temping in hopes that it would lead to a permanent position.¹⁷

On the plus side, temping can offer disadvantaged workers an entry point or re-entry point into the labor market and a fast way to make ends meet. On the negative side, temping pays lower wages and offers few if any benefits, when compared to the identical work done by a permanent employee, so temp work can prolong poverty rather than alleviating it. In fact, researchers have concluded that, rather than providing a pathway to better jobs, working as a temp may actually lower future earnings and worsen employment outcomes.¹⁸ In addition, there are numerous problems with temp work, explored in more detail below, that tend to keep people in poverty or drive them into it. Moreover, the expanding temp industry exerts downward pressure on the wages and work conditions of permanent workers by supplying employers with a low-cost, low-road alternative to good jobs.

Temping Because You Have To

Most temp workers (57%) report that they would prefer a permanent job. Working as a temp may actually lower your future wages and employment outcomes, rather than improving them.

Buffalo Context: Vulnerable Labor Pools

Buffalo has proven a fertile ground for temp agencies. A quick and very incomplete scan finds at least 21 agencies advertising their services, ranging from international and national powerhouses such as Adecco, Labor Ready, Kelly Services, and Manpower to local family-owned businesses such as EGW Personnel Staffing. On the demand side, the Buffalo region's shrinking population and limited job creation pose problems for temp agencies. But on the supply side, Buffalo offers large pools of disadvantaged workers willing to temp for low wages, especially urban minorities, youth, refugees, ex-offenders, and dislocated workers who have lost jobs in manufacturing.

Buffalo's segregation further limits workers' access to higher quality jobs. Buffalo is seventh most segregated large metro by income – with poor people highly concentrated in high poverty neighborhoods.¹⁹ In addition, studies of racial segregation have ranked Buffalo between sixth and fifteenth worst in the nation.²⁰ Disadvantaged populations are heavily concentrated in the cities of Buffalo and Niagara Falls, and a high percentage lack cars, making it difficult to access jobs that are mostly located in the suburbs. As a result, many groups have trouble cracking into the permanent job market and rely on



temp work instead. The more vulnerable the population, the more likely they are to temp; people experiencing homelessness, for example, very often do temp work.

Each year, roughly 1,000 ex-offenders return to Buffalo from jail or prison.²¹ Although under state and federal law, employers may consider criminal history only to the extent it is relevant to the particular job, in reality very few employers will hire ex-offenders, particularly those with felony records. On the positive side, temping offers lower barriers to entry; on the negative side, it generally does not produce enough steady income for ex-offenders – who typically have no assets and significant debts – to become self-sufficient without resorting to the underground economy.

Vulnerable Populations

- Each year, roughly 1,000 ex-offenders return to Buffalo from jail or prison.
- Erie County receives over 1,361 refugees per year.
- Buffalo ranks in top ten of major metros for segregation by race and income.

Buffalo has also become one of the top destinations in the country for refugees: people fleeing persecution in their native lands. In the 2012-2013 fiscal year, for example, Erie County received 1,361 refugees²² (and this does not count secondary migrants; refugees who settle first somewhere else and then move to Buffalo, who may number roughly 500 per year).²³ The make-up of the refugees changes dramatically from year to year, but in 2012-2013 the largest groups came from Burman, Bhutan, Iraq, and Somalia. One refugee agency alone resettled speakers of at least 46 native languages.

In Buffalo the four refugee resettlement agencies (Catholic Charities, International Institute, Jewish Family Services, and Journey's End) provide employment services to each refugee that they resettle. Given their language and cultural barriers, most refugees start with low wage jobs such as dishwashing, packaging, and production, and many of them begin as temps.

Health and Safety Concerns

Temp work tends to be dangerous, especially as it has become more common in factories, warehouses, and construction sites. Four factors tend to make temp work more dangerous than permanent work. First, temp workers tend to have less experience and training in the jobs that they are doing, and are less likely to own proper safety equipment and clothing. Second, host businesses often view their temp workers as less important



and more disposable than permanent workers and hence use them for dangerous jobs – without proper training and equipment. Moreover, host businesses are not responsible for the workman compensation payments for injured employees; hence, they lose an important financial incentive to keep their workers safe.

Third, due to their precarious employment situation, temp workers are less likely to enforce their rights, to take sick days, and to notify employers or regulators about unsafe conditions. One food production company contacted for this report has a simple rule regarding temps: if you get hurt in your first thirty days on the job, you are fired. Employees are well aware of rules like this, and so they tend not to report injuries. Fourth, the triangular nature of temp employment makes health and safety laws harder to enforce. Temp agencies must carry workers compensation insurance, but temp agencies in the low wage sector are notorious for obscuring this fact and failing to inform temp workers about how to file claims.²⁴

Temping in Dangerous Jobs

In 2012, a temp agency sent Day Davis, age 21, to work at a Bacardi bottling factory in Jacksonville.

On his very first day, he was killed when a conveyor belt jammed and sent bottles of rum to the floor, where they shattered. Davis was sent to sweep up the glass from underneath a giant machine. When his coworkers turned the machine back on, not realizing he was underneath it, he was crushed. Safety investigators discovered that Bacardi did not train its temps because they did not want to spend time and money on non-permanent workers.

“U.S. Lags Behind World in Temp Worker Protections,” www.propublica.org

This constellation of factors creates a curious anomaly. Temp workers report fewer injuries than permanent workers, and yet, while temps account for only 2% of the nation’s work force, they account for over 11% of workplace deaths.²⁵ In other words, temp work is much more dangerous than permanent work, but temp worker injuries are grossly under-reported.

The federal Occupational Safety and Health Administration (OSHA) has responded by trying to make both the temp agency and the host business responsible for safety concerns.²⁶ OSHA’s definition of “employer” is a broad, multi-factor test that goes well beyond the question of who signs the paycheck. However, as the grim statistics cited above prove, the nature of temping continues to frustrate effective safety regulation and



enforcement. Given the fact that many temps are already in or near poverty, and that most temps lack health insurance (in 1999, only 41% of temps had health insurance, and only 9% had it through their employer), the dangerous nature of temp work is particularly likely to exacerbate poverty.²⁷

Discrimination

As in the case of health and safety, it has proven difficult to enforce anti-discrimination laws on behalf of temps, due to their precarious employment, fear of retaliation, and ambiguity as to who is responsible for the discrimination – the host business or the temp agency. The U.S. Equal Employment Opportunity Commission (EEOC) has attempted to deal with this last barrier by using a broad definition of “employer,” under which both the temp agency and the host business may be found liable. This strategy bore fruit in a Buffalo case involving SPS

Temporaries, a locally owned company that specializes in both clerical and industrial work. In 2005, SPS and two of its clients, Jamestown Container and Whiting Door Manufacturing Corporation, settled a class action suit initiated by the EEOC, agreeing to pay up to \$580,000 to compensate victims and take significant steps to eliminate discriminatory practices in the future.²⁸ According to Robert D. Rose, the EEOC's lead attorney on the case, the SPS discriminatory practices affected hundreds, if not thousands, of temporary workers.²⁹

EEOC Allegations against SPS Temporaries

- Discrimination against people with potential disabilities by failing to hire or refer them based on information from a medical questionnaire;
- Termination of an employee because she was pregnant;
- Termination of an employee because she questioned the agency's discriminatory practices;
- Discriminatory hiring upon requests by clients; and
- Altering and destroying evidence during the EEOC's investigation.

Wages and Wage Theft

One basic problem with temping is the number of hours workers spend on-call, waiting, or in transit: hours for which they are typically not paid – sometimes legally, and sometimes in violation of the Fair Labor Standards Act.³⁰ A related problem is wage theft, which includes legal violations such as (1) non-payment of overtime; (2) refusing a worker his or her last paycheck after finishing a job; (3) refusing to pay a worker for the amount of hours worked; (4) paying a worker lower than minimum wage; (5) taking



illegal deductions; (6) misclassifying workers; and (7) not compensating a worker for finished work.³¹ Temp workers are particularly vulnerable to wage theft because of their weak bargaining position, the limited loyalty they command from employers, and the confusing nature of their employment relationship and terms. To offer just one example, in Massachusetts, to avoid paying workers overtime when they worked 70 hour weeks, two temp agencies did “check splitting” and each paid them for less than 40 hour weeks.³²

New York State expanded its legal protections in 2011 with the Wage Theft Prevention Act, which requires employers to disclose basic wage information in writing on the first day of employment, mandates the issuance of pay stubs, expands anti-retaliation provisions, and toughens penalties.³³ The New York State Department of Labor (NYDOL) has established a set of wage theft prevention guidelines specifically for temporary staffing agencies.³⁴ According to these guidelines, the temporary firm must notify temporary workers *in writing* in both English and their native language of: (1) the range of hourly wages; (2) the designated pay; and (3) the employee’s rights.³⁵ Moreover, the temporary work firm must obtain the applicant-employee’s signature to acknowledge receipt and understanding of the information and give him or her a copy, while keeping the original for the period of six years.³⁶ Finally, these guidelines ensure that temporary work firms notify the employee of: (1) specific paydays; (2) the actual hourly rate; and (3) the overtime rate of pay.³⁷ Laws and guidelines such as these are very welcome; unfortunately, given the nature of temping, they are hard to enforce.

Fees and Charges

One common complaint about temp agencies nationwide has been the fees that they charge their workers for things like transportation, equipment, and check cashing. A case from Buffalo furnishes a good example. In 2005, the NYDOL initiated proceedings against Labor Ready for impermissibly deducting fees from employees who opted to be paid by cash vouchers instead of by check. At the time Labor Ready had 7,000 customers in New York State and employed approximately 18,000 unskilled and semiskilled laborers whose average salary was \$6.41 per hour.³⁸ Many workers chose to be paid with cash vouchers because they did not have bank accounts or lived in rooming facilities that charged by the day.³⁹

Labor Ready Found Guilty

In a Buffalo case from 2005, Labor Ready was found to charge illegal voucher fees to its employees.



The NYDOL began investigating Labor Ready’s voucher system in 1999 – along with its wage deductions for transportation and equipment costs.⁴⁰ During the investigation, Labor Ready settled the issue of transportation and equipment costs and agreed to pay over \$38,000 in restitution.⁴¹ However, the issue of CDM fees remained unresolved until the courts found that the “direct deduction of a fee for the service of providing cash wages is a violation of Labor Law § 193.”⁴²

Unemployment Insurance

Temp employees have a particularly hard time collecting unemployment. In at least 17 states, temp industries have won legislation that denies a worker’s claim for benefits if he or she failed to contact the temp agency before applying for unemployment insurance benefits – forcing a worker to accept any job at any pay before being considered unemployed.⁴³ Put another way, in many states, the law assumes that whenever a temp worker completes an assignment, he or she has voluntarily quit the job, making the worker ineligible for unemployment insurance unless they prove that they sought and were denied a reassignment.

Difficulties in Claiming Unemployment

Thomas worked for a temp agency, delivering sheet rock to construction sites. Initially, the work was steady, but then it slowed down. Thomas called in every day, but many days there was no work. Eventually, he started looking elsewhere for jobs and filed for unemployment. The temp agency contested his eligibility and claimed that he had not asked for more work. The law then put the burden on Thomas to reverse the denial and prove that he had asked for work, which meant going weeks with no income. Luckily, he was able to produce cell phone records to prove his claim, but it took a lawyer and a huge waste of time and effort.

Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets”

Legislative Responses

Historical Context

Modern economies have always included a range of “labor market intermediaries” that connect workers to employers. In the early decades of the twentieth century, a flood of immigrants and an unregulated market gave rise to a host of highly exploitative employment agencies, often called *padrones*, that charged workers fees to place them with employers. Employment agencies took advantage of vulnerable workers such as



recent immigrants and black southerners moving north by sending workers to phony jobs, collecting excessive fees from them, and even physically abusing them.⁴⁴ By the 1950s, the states had cracked down on these abuses with detailed regulations that limited fees, required employment agencies to be licensed and post bonds, and banned the use of employment agency workers as strikebreakers.⁴⁵

As employment agencies were hemmed in, two other types of labor market intermediaries arose to fill the void: union hiring halls and temp agencies. Union hiring halls soon found themselves subject to extensive regulations and restrictions, starting with the Taft-Hartley Act, and then also suffered from the overall decline in unionization rates. Many regulators originally viewed temp agencies as just another form of employment agency, but in the 1950s and 1960s, the temp agencies won a series of judicial and legislative battles distinguishing themselves from employment agencies, because temp agencies, unlike employment agencies, serve as the employer of the workers. In doing so, temp agencies gained the best of both worlds – evading the regulations on employment agencies by portraying themselves as employers, and yet evading enforcement of many of the laws governing employers by portraying themselves as “just the temp agencies.”⁴⁶

International Comparison

A recent ProPublica report, citing data from the Organization for Economic Cooperation and Development (OECD) makes it clear that the United States is an anomaly in its failure to regulate the temp industry, ranking 41st out of 43 developed and emerging economies in protecting temp workers.⁴⁷ Common protections include the following:

The United States Lags Behind

The United States ranks 41st out of 43 developed countries in protecting temp workers.

- The European Union and many countries require that temps receive equal pay and working conditions to permanent workers;
- Almost half of the 43 OECD countries limit the length of temp assignments to prevent “permatemping;”
- Some countries, such as France, limit the use of temps to truly “temporary” situations such as filling in for absent workers or dealing with sudden increases at work;
- At least 12 countries ban the use of temps in dangerous jobs;

- Three fourths of the 43 OECD countries require temp agencies to be licensed or registered;
- At least 20 countries call for financial guarantees to protect the workers' wages if the company goes bankrupt.

Licensing

Licensing is one basic step to bring temp agencies under supervision. In most states, including New York, employment agencies must be licensed, but temp agencies need not be.⁴⁸ As Harris Freeman and George Gonos explain, “A cell phone, even without a formal business location is ‘capital’ enough to run a fly-by-night temp agency in poor immigrant communities, turning a profit by farming out temporary employees to unscrupulous employers in a wide array of service, manufacturing, and construction jobs.”⁴⁹ In Illinois, the Day and Temporary Labor Services Act, passed in 2005, requires agencies to register with the Illinois Department of Labor and comply with numerous record keeping requirements.⁵⁰ Massachusetts and New Jersey also require temp agencies to register with the state.⁵¹

Disclosure

Illinois, Massachusetts, and Rhode Island all have laws that require temp agencies to provide certain information to their workers, covering issues such as where they will be working, how much they will be paid, what fees may be deducted, what workplace hazards they may encounter, etc.⁵²

Legislative Reform

Illinois, Massachusetts, and Rhode Island have all passed state laws to protect temp workers.

Massachusetts requires temp agencies to post a one page sheet titled, “Your Rights Under the Massachusetts Temporary Workers Right to Know Law.”⁵³ As mentioned above, New York has some specific requirements for temp agencies in its Wage Theft Protection Act, including upfront notice to employees of regular and overtime wage amounts.⁵⁴

Limits on Fees and Charges

Massachusetts forbids temp agencies from charging for:

- registering with the agency;
- getting an assignment;
- criminal background checks;
- drug tests, bank cards, vouchers, debit cards, or money orders beyond the staffing agency's actual costs; and/or



- any item or service, including transportation, that would cause your wage to fall below minimum wage (and transportation fees must be refunded if you are sent to a job that does not exist).⁵⁵

Past Efforts at Broader Reforms

In 2003, legislation was proposed in the New York State Assembly to enact a “Temporary Workers’ Bill of Rights,” which would have provided the most expansive protections in the nation.⁵⁶ In addition to notice requirements and fee and deduction protections, the bill sought to ensure temporary workers would receive substantially equivalent compensation and benefits to that of permanent employees. The legislation died in committee and has since not been proposed again. Efforts to require employers to provide temporary workers equal wages and benefits have also failed in Massachusetts, Illinois, New Jersey, Rhode Island, and Tennessee.⁵⁷

In 2006, the New Jersey State Senate proposed legislation that would require worksite employers who employed a specific number of permanent employees to contribute to the health benefits of temporary workers. The “Responsible Employer Act” remained idle in committee.⁵⁸ Legislators in New Mexico and Rhode Island also met resistance in trying to define business owners as the legal co-employers of temporary workers for worker protection purposes.⁵⁹ At the federal level, the “Employee Benefits Act,” which would have prevented worksite employers from treating temporary workers as employees solely of the temporary agency in providing equal pension benefits, died in committee on several occasions.⁶⁰

Most recently, California successfully passed Assembly Bill 1897 which holds host companies responsible when their subcontracted temp agencies endanger or underpay workers. Host companies can even face fines if their temp agency or subcontractor fails to pay the employee wages or provide worker compensation insurance.⁶¹ The bill also “prohibit[s] a client employer from shifting to the labor contractor legal duties or liabilities” when it comes to workplace safety.⁶²

New Law in California

California’s new law requires the client employer to share with the temp agency all civil legal responsibility, including liability for paying wages and obtaining workers’ compensation coverage.

Community-Based Responses

Non-Profit Staffing Agencies

One response to problems in the for-profit temp industry has been to create non-profit temp agencies, whose primary goal is to serve the worker, not to make a profit. The Primavera Foundation⁶³ in Tucson, Arizona is an example of a community-based organization that established an alternative staffing service.⁶⁴ Primavera Works was founded in 1996 to connect residents of the foundation's homeless shelter with employment.⁶⁵ Primavera has been successful in helping workers find full-time employment, although it is often at the low end of the pay scale.⁶⁶ Milwaukee Careers Cooperative (MCC) is an alternative staffing agency with faith-based roots, established in 1987 by a collaborative of Milwaukee churches to address high-level unemployment among African-Americans.⁶⁷

FirstSource Staffing

New York City's "only social purpose staffing company," is a freestanding alternative staffing agency owned by Fifth Avenue Committee, a separate non-profit and founded in part by ICA Group, a national non-profit organization that collaborates with community organizations in capacity building projects.¹

There are a few groups or agencies in Buffalo that may be interested in pursuing variants of the non-profit alternative staffing model, including People United for Sustainable Housing (PUSH) Buffalo, which does community organizing and neighborhood redevelopment on the city's west side. PUSH currently has a small work force development program.⁶⁸ This program is primarily for building trades, construction, and other jobs that tie to the larger mission of the organization.⁶⁹

PUSH recently started fulfilling a project-specific temporary staffing role.⁷⁰ PUSH is working with a general contractor on a 5-unit housing rehab and has provided three construction workers for the project. Like any staffing service, PUSH is responsible for the workers' wages and associated costs. As an alternative staffing service, and community-based organization, PUSH has committed to paying workers a living wage.⁷¹ For PUSH, the key to success will be relationship-building with the general contractor, the workers, and the community at large.⁷²

Worker Centers

Another response to problems with temping can be found in the rapid growth of worker centers around the country. Worker Centers come in many forms, but they typically offer services, advocacy, and community organizing to marginalized workers such as immigrants, refugees, domestic workers, day laborers, restaurant workers, and others. In Buffalo, a worker center has been formed by the Western New York Coalition on Occupational Safety and Health (WNYCOSH), collaborating with a group of labor organizations, lawyers, refugee service agencies, and others. The WNY Worker Center conducted a door to door survey of over 300 Buffalo residents, and, through that survey, learned that temp work was very prevalent, especially among refugees, ex-offenders, and minorities, and that there were numerous problems associated with it. The Worker Center has received funding through Open Buffalo, a new initiative funded by Open Society Foundations, to organize temp workers, inform them of their rights, and help them to advocate for better conditions for temp workers and better pathways to permanent employment.⁷³





-
- ¹ Michael Grabell, “The Expendables,” ProPublica, June 27, 2013, www.propublica.org
- ² Marisa DiNatalie, “Characteristics of and preference for alternative work arrangements, 1999,” *Monthly Labor Review* (March 2001)
- ³ Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets,” Western New England University School of Law Legal Studies Research Paper Series, No. 11-7
- ⁴ David Van Arsdale, “Agencia de Empleos: Three Days in the Life of a Temporary Worker,” *New Harbor Forum* 17(2): 109-117 (Summer, 2008)
- ⁵ Ashe Schowe, “Recovery Woes,” *Washington Examiner*, July 8, 2013
- ⁶ David Van Arsdale, “The Temporary Work Revolution,” *Working USA: the Journal of Labor and Society*, Volume 16, Issue 1, pages 87–112 (March 2013)
- ⁷ David Van Arsdale, “The Temporary Work Revolution,” *Working USA: the Journal of Labor and Society*, Volume 16, Issue 1, pages 87–112 (March 2013)
- ⁸ David Van Arsdale, “The Temporary Work Revolution,” *Working USA: the Journal of Labor and Society*, Volume 16, Issue 1, pages 87–112 (March 2013)
- ⁹ For a brilliant analysis, see Erin Hatton, *The Temp Economy*, Temple University Press (Philadelphia 2011).
- ¹⁰ *Id.*
- ¹¹ Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets,” Western New England University School of Law Legal Studies Research Paper Series, No. 11-7.
- ¹² Marisa DiNatalie, “Characteristics of and preference for alternative work arrangements, 1999,” *Monthly Labor Review* (March 2001).
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ *Id.*
- ¹⁶ *Id.*
- ¹⁷ *Id.*
- ¹⁸ Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets,” Western New England University School of Law Legal Studies Research Paper Series, No. 11-7
- ¹⁹ Richard Florida, “The U.S. Cities Where the Poor Are Most Segregated From Everyone Else,” *The Atlantic Cities* (March 24, 2014).
- ²⁰ “Buffalo-Cheektowaga-Tonawanda, NY Profile: Residential Integration and Neighborhood Characteristics.” *Diversitydata.org*. Harvard School of Public Health, n.d. Web. 03 Dec. 2012.
- ²¹ Conrad, Jeffrey, “*Center for Employment Opportunities Announces Participant Earnings Have Topped \$4 Million in City of Buffalo*,” (Jan 30, 2014).
- ²² WRAPS December 2013, Provided by Journey’s End Refugee Services
- ²³ Personal communication, Christine Lemonda, Journey’s End Refugee Services
- ²⁴ Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets,” Western New England University School of Law Legal Studies Research Paper Series, No. 11-7
- ²⁵ New OSHA Enforcement Initiative Focuses On Temporary Staffing Agency Workers, May 2, 2013. <http://www.bna.com/new-osh-enforcement-n17179873726>.
- ²⁶ See, for example, OSHA’s 1994 interpretation letter, “Employer’s Responsibilities towards Temporary Employees.”
- ²⁷ Marisa DiNatalie, “Characteristics of and preference for alternative work arrangements, 1999,” *Monthly Labor Review* (March 2001)
- ²⁸ *EEOC v. SPS Temporaries, Inc., Professional Personnel Management Corp., Jamestown Container Companies and Whiting Door Manufacturing Corp.*, Case No. 04-CV-0052. 2004 WL 3211893 (W.D.N.Y.)
- ²⁹ <http://www.eeoc.gov/eeoc/newsroom/release/archive/11-17-05b.html>. See also, *Discrimination in the Workplace*. Business First, Aug 31, 2009

<http://www.bizjournals.com/buffalo/stories/2009/08/31/focus4.html>

³⁰ David Van Arsdale, “The Temporary Work Revolution,” *Working USA: the Journal of Labor and Society*, Volume 16, Issue 1, pages 87–112 (March 2013)

³¹ See 29 U.S.C.A. § 206 and “Wage Theft: Why Millions of Americans are Not Getting Paid – And What We Can Do About It,” available at <http://wagetheft.org/wordpress/>.

³² Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets,” Western New England University School of Law Legal Studies Research Paper Series, No. 11-7

³³ Peter Delinger, *New Protections for Paychecks: The Wage Theft Provention Act*, EMPIRE JUSTICE CENTER (Mar. 17, 2011), available at www.empirejustice.org/issue-areas/employment/wage-theft/new-protections-for.html#.UwT77PldXig.

³⁴ N.Y. D.O.L. § 195.1.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Matter of Angello v Labor Ready, Inc.*, 7 N.Y.3d 579, 581, 2006 N.Y. Slip Op. 08282, 2-08282 (NY 2006)

³⁹ Workers who opted for a cash voucher could only redeem it at cash dispensing machines (CDMs) located at Labor Ready branches. The value of the voucher was an employee’s net wage minus a transaction fee. The transaction fee was one dollar plus any remaining change. “If, for example, a worker’s after-tax wages were \$44.85, the voucher would be for \$43, and upon accessing the CDM, the worker would receive \$43 in cash.” *Matter of Angello v Labor Ready, Inc.*, 7 N.Y.3d 579, 582, 2006 N.Y. Slip Op. 08282, 2 (NY 2006).

⁴⁰ *Matter of Angello v Labor Ready, Inc.*, 7 N.Y.3d 579, 583, 2006 N.Y. Slip Op. 08282, 2 (NY 2006)

⁴¹ *Ibid.*

⁴² *Angello v. Labor Ready, Inc.*, 22 A.D.3d 932, 933, 802 N.Y.S.2d 766, 768 (N.Y.A.D. 3 Dept.,2005); *Matter of Angello v Labor Ready, Inc.*, 7 N.Y.3d 579, 584, 2006 N.Y. Slip Op. 08282, 4 (NY,2006)

⁴³ Erin Hatton, *The Temp Economy*, Temple University Press (Philadelphia 2011), p. 12.

⁴⁴ *Id.*, p. 27.

⁴⁵ *Id.*

⁴⁶ Harris Freeman and George Gonos explain this history in “Regulating the Employment Sharks: Reconceptualizing the Legal Status of the Commercial Temp Agency,” *Working USA: the Journal of Labor and Society*, Vol. 8 (March 2005), pp. 293-314.

⁴⁷ Michael Grabell, “U.S. Lags Behind World in Temp Worker Protections,” *ProPublica*, February 24, 2014, www.propublica.org.

⁴⁸ Temp agencies in New York do not have to register for a license or otherwise comply with the New York Employment Agency Law, unless they collect a fee for permanently placing an employee with an outside employer. N.Y. Gen. Bus. Law § 11-171 (2014).

⁴⁹ Harris Freeman and George Gonos, “The Challenge of Temporary Work in Twenty-First Century Labor Markets,” Western New England University School of Law Legal Studies Research Paper Series, No. 11-7

⁵⁰ 820 ILCS, section 175.

⁵¹ Ch. 225 of the Massachusetts Laws of 2012, “Temporary Workers Right to Know Act,” <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter225>. State of New Jersey, Dept. of Law & Public Safety, Office of Consumer Protection, <http://www.njconsumeraffairs.gov/ocp/regulate.htm>;

⁵² Illinois General Laws, Employment, Day and Temporary Labor Services Act, 820 ILCS 175. <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapterID=68> Rhode Island General Laws Title 28, Labor and Labor Relations, Chapter 28-6.10 “The Temporary Employee Protection Act,” (2012) <http://law.justia.com/codes/rhode-island/2012/title-28/chapter-28-6.10>. Ch. 225 of the Massachusetts Laws of 2012, “Temporary Workers Right to Know Act,” <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter225>.



-
- ⁵³ <http://www.mass.gov/lwd/labor-standards/employment-agency/employment-placement-and-staffing-agencies-program/twrk-poster-website.pdf>
- ⁵⁴ N.Y. D.O.L. § 195.1.
- ⁵⁵ Ch. 225 of the Massachusetts Laws of 2012, “Temporary Workers Right to Know Act,” <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter225>
- ⁵⁶ New York State Assembly Bill No. 8219 (2003) http://assembly.state.ny.us/leg/?default_fld=&bn=A08219&term=2003&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y.
- ⁵⁷ Hatton, Erin, “The Temp Economy,” Chapter 4, *Boxing in the Temp Industry “Improving Temporary Work,”* (2011) (Kindle Edition).
- ⁵⁸ New Jersey Legislature S477/A1705, “Responsible Employer Act,” (2006) <http://www.njleg.state.nj.us/bills/BillView.asp>
- ⁵⁹ Hatton, Erin, “The Temp Economy,” Chapter 4, *Boxing in the Temp Industry “Improving Temporary Work,”* (2011) (Kindle Edition).
- ⁶⁰ H.R. 1013 - Nondiscrimination in Employee Benefits Act of 1999, <http://beta.congress.gov/bill/106th-congress/house-bill/1013>
- ⁶¹ Michael Grabell. (2014). California Legislature Passes Bill to Protect Temp Workers. *ProPublica*. <http://www.propublica.org/article/california-legislature-passes-bill-to-protect-temp-workers>
- ⁶² Dave Jamieson. (2014). California Enacts Landmark Law for Temp Workers. *The Huffington Post*. The bill defines “client employer” as a “business entity that obtains or is provided workers to perform labor within the usual course of business from a labor contractor.” Cal. Lab. Code § 2810.3 (2014) http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1897
- ⁶³ *Job Training and Work*, PRIMAVERA FOUNDATION <http://www.primavera.org/html/stability/jobtrainingwork.html> (last visited Feb. 25, 2014).
- ⁶⁴ Erin Hatton, *The Temp Economy: From Kelly Girls to Permatemps in Postwar America* 130 (2011).
- ⁶⁵ *Id.*
- ⁶⁶ *Id.*
- ⁶⁷ *Who We Are*, MILWAUKEE CAREERS COOPERATIVE, <http://www.mccjobs.org/aboutMilwaukeeJobOpportunities.asp> (last visited Mar. 5, 2014).
- ⁶⁸ *Workforce*, PUSH BUFFALO <http://pushbuffalo.org/workforce> (last visited Feb. 25, 2014).
- ⁶⁹ *Id.*
- ⁷⁰ Personal Communication, Clarke Gocker, PUSH Buffalo Director of Workforce Initiatives
- ⁷¹ *Id.*
- ⁷² *Id.*
- ⁷³ See www.openbuffalo.org.
-

Partnership for the Public Good
Open Buffalo Innovation Lab
www.ppgbuffalo.org
www.openbuffalo.org
237 Main St., Suite 1200, Buffalo NY 14203