



# Biden called on to protect immigrant wage theft whistleblowers

Unforgettable Coatings memorable for wrong reasons, activists say

By **Dana Gentry** - April 6, 2021

*"We want these people to have rights, be able to stand up and get their overtime and not be threatened with firing or deportation," said Clark County Commissioner Tick Segerblom. (Photo: Dana Gentry)*

The painters atop the scaffolds dangling down the high rise office building at One Hughes Center seemed oblivious to the commotion below — the union workers, immigration activists, and public officials on the sidewalk rallying on the painters' behalf.

"We want these people to have rights, be able to stand up and get their overtime and not be threatened with firing or deportation," Clark County Commissioner Tick Segerblom, an employment attorney by trade, told the crowd.

"It's discouraging that there's a commissioner that shows up to this news conference and says such things about our company," Unforgettable Coatings' owner Cory Summerhays told the *Current*.

The company is alleged to be a two-time wage theft offender, according to a federal judge, who wrote in an injunction that Summerhays failed to pay overtime from September of 2019 when the Department of Labor began its investigation, until March of 2020 when the government filed its complaint. The first DOL complaint against the company was upheld in 2013.

Unforgettable Coatings is appealing the injunction and awaiting adjudication of the wage and hour case, which Summerhays says he's confident he will win.



"I am a competitor and in my opinion they don't want me around," Summerhays said of the painters' union. He says he's been the target of incessant bullying and maintains he pays his employees legally for the piece work they perform on projects that last months at a time.

The company operates in Nevada, Arizona, Idaho and Utah.

Last year, federal Judge Kent Dawson [wrote in his order](#) that Unforgettable Coatings tried "not only to silence their workers, but also to actively manipulate them to provide false information to the government's investigators."

"When workers are first hired, Defendants advise them that they will not be paid overtime premiums, but they will make a flat \$12 to \$25 per hour — not minimum wage," Dawson wrote. "DOL investigators showed Defendants' pay stubs demonstrating how an individual worker's gross pay, when divided by the number of hours worked, always showed the worker being paid the worker's straight time regular rate for all his hours worked — regardless of the number of overtime hours worked."

Payroll records reviewed by the *Current* last year indicate entry-level painters were being underpaid by approximately \$1,900 a year.

Former and current employees who spoke to the *Current* last year say the company has two work crews — one with documented workers who report to projects where their identification is checked in accordance with prevailing wage rules — and another made up of undocumented employees, who earn a fraction of their colleagues' wage.

Summerhays denies the allegation and says he has very little turnover among his employees, who earn between \$15 and \$25 an hour, he says.

The company employed union workers at \$50 an hour when it worked on Allegiant Stadium, which was funded in part with \$750 million in room tax revenue.

Unforgettable Coatings came to the attention of union officials on that job, according to Bill Stanley of the Southern Nevada Building Trades.

"We had numerous problems with them on the job site. We had numerous grievances filed," said Stanley.

Summerhays says last week he settled the stadium dispute with the union, agreeing to pay three employees \$1,000 each on original demands of \$15,000 to \$20,000. He says he also agreed to donate \$20,000 to charity.

"The bigger story is how far will they go to disparage and completely attempt to ruin my company?" Summerhays asked rhetorically.

Segeberblom and the activists from Arriba, a workers' rights organization, want President Joe Biden to provide deferred action status and work authorization for whistleblowers who report their employers for wage theft.

"Wage theft is a rampant problem in the non-union construction industry and it drives down standards for all workers," says a statement from the Laborers International Union of North America.

Between 2010 and 2020, the DOL recovered more than \$19 million in back wages from more than 1,600 employers in Nevada.



Some experts say the penalties and fines assessed by regulators for wage theft [are factored into the cost of doing business](#). They say criminal penalties may be more valuable in deterring the theft.

But criminal prosecutions, which may be recommended by the state labor commissioner, are non-existent.

A “handful of cases” have been referred by the Nevada Labor Commissioner to Clark County District Attorney “for their review”, Department of Business and Industry spokeswoman Teri Williams said last year.

“We’re not aware of any criminal prosecutions of NRS 608 in recent history,” Williams said last year.

Wolfson and Attorney General Aaron Ford did not respond to questions about wage theft prosecutions.

Segeberblom said he’s unaware of wage theft prosecutions, as is Stanley.

“I believe when you steal an individual’s wages, what’s the difference between that and putting a gun to their head?” asks Stanley. “You’re taking from their family. It’s egregious. I robbed you of wages you legitimately earn. It’s theft and we prosecute thieves in this society.”

Wage theft is said to burden taxpayers because workers rely on social services to offset the pay stolen by their employer.

The cost to taxpayers of providing Medicaid to Unforgettable Coatings’ eligible employees and family members in Nevada was \$93,703 in fiscal year 2018, \$56,272 in 2019, and \$24,011 in 2020, according to annual reports required by the Legislature.

“Just because they are a business owner doesn’t relieve them of the damage they do to this community when they steal people’s wages,” Stanley said.

### Dana Gentry

**Senior Reporter** | Dana Gentry is a native Las Vegas and award-winning investigative journalist. She is a graduate of Bishop Gorman High School and holds a Bachelor's degree in Communications from the University of Nevada, Las Vegas. Gentry began her career in broadcasting as an intern at Channel 8, KLAS-TV. She later became a reporter at Channel 8, working with Las Vegas TV news legends Bob Stoldal and the late Ned Day. Gentry left her reporting job in 1985 to focus on motherhood. She returned to TV news in 2001 to launch "Face to Face with Jon Ralston" and the weekly business programs In Business Las Vegas and Vegas Inc, which she co-anchored with Jeff Gillan. Dana has four adult children, a grandson, three dogs, three cats and a cockatoo named Casper.

