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## IN-HOUSE COUNSEL

### OAG Brings Criminal Charges Against Company, Owner for Wage Violations

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*Special to the Legal*

Employers in Pennsylvania should stay on their toes as the Pennsylvania attorney general announced charges against a major mechanical contractor engaged in numerous public works projects for crimes arising from a prevailing wage dispute. This marks the first time that the attorney general has brought criminal charges for prevailing wage violations, which was previously enforced only through civil actions.

In September 2019, after a 21-month grand jury investigation, Attorney General Josh Shapiro brought charges against Goodco Mechanical, and its owner, Scott Good, arising from violations of the commonwealth's prevailing wage laws by underpaying their employees and claiming credits



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for benefits not given. The violations occurred in connection with

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Goodco's participation in the construction of a new Pennsylvania

Department of Transportation (PennDOT) district headquarters in Clearfield County. According to the attorney general's criminal complaint, the charges came after the grand jury found that Goodco and Good

had "engaged in a misclassification scheme, whereby journeymen electricians and plumbers were directed to record a portion of the hours they worked each workday as lower-paid laborers, in order to reduce labor costs." The AG alleges that "this misrepresentation of the proper wage classification allowed Good and Goodco to bid projects with lower wage and fringe benefit costs."

The grand jury investigation also found that Goodco's scheme was

not limited to the PennDOT project. On the contrary, the criminal complaint states that the grand jury found that “the same scheme was used by Good and Goodco on all prevailing wage projects dating back to at least 2010.” The attorney general affirms that Goodco’s employees initially were fearful of reporting the company’s wage violations because they believed that they would be fired or face other workplace retaliation from Good, but that upon completion of the PennDOT project, several workers reported that Goodco had wrongly withheld compensation and benefits from them.

Although the new crime called “prevailing wage theft” has not been created in Pennsylvania, the attorney general charges that Good and Goodco violated existing criminal statutes prohibiting deceptive or fraudulent business practices, theft by unlawful taking, theft by deception and other related crimes. While the Office of the Attorney General (OAG) historically has enforced prevailing wage laws through civil action, the charges against Goodco mark the first time that the OAG

has sought to enforce them with criminal penalties. Cases of this nature are being prioritized by the OAG’s recently formed fair labor section. When Shapiro ran for AG in 2016, he pledged to create a unit that would “enforce Pennsylvania’s labor laws in partnership with the Department of Labor & Industry and the Pennsylvania Human Relations Commission,” among other pro-worker actions. Accordingly, the fair labor section has made a mission of fighting wage theft, tip stealing, worker misclassification and workplace discrimination.

This newly stringent enforcement should serve as a warning to any Pennsylvania employer who is not careful with its wage-payment policy. Not only has Goodco been charged with numerous crimes following the 21-month grand jury investigation, but its owner has also been charged with perjury, tampering with public records and false swearing—all of which are felonies that can carry significant penalties. As Pennsylvania has turned to criminal prosecution against employers who violate wage laws (rather than the more

typical civil cases), business owners are obliged to treat prevailing wage disputes with greater seriousness. Even unintentional errors in wage payments may result in criminal charges that can bring on grave consequences for businesses and their owners alike.

It is a vital time for Pennsylvania businesses to undertake a meticulous review of their payment practices in consultation with their attorneys, to eliminate the unnecessary risk of prosecution by ensuring ongoing compliance with labor and wage laws. •



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