

The Immigrant's Journal

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FREE

Protecting God's Children From Distant Lands

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26 Court Street, Suite 701, Brooklyn, NY 11242 Tel: 718-243-9431 Fax: 718-222-3153 Email: immjournal@aol.com

IJLEF Joins Fight With Domestic Workers

BY RHADAMES A. ULLOA, ESQ

On February 9, 2010, members of the Domestic Workers United (DWU) and their supporters including the Immigrant's Journal Legal & Educational Fund, Inc. (IJLEF) packed four buses and departed for Albany, New York, to encourage lawmakers who were on the fence about supporting the Domestic Workers Bill of Rights to support the bill.

Domestic Workers United is an organization of Caribbean, Latina and African nannies, housekeepers, and elderly caregivers in New York providing a voice and support for a group of workers that are often exploited and oppressed.

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End Labor Apartheid! Emancipate Domestic Workers

Write President Obama



Four million farmworkers and domestic workers are officially excluded from any protections of national labor law — all other workers in our nation have had the protection of law since 1935. Farmworkers and domestic workers live lives of involuntary servitude.

Now is the time to reverse 74 years of government-sanctioned racial and economic discrimination — if not now, when?

President Obama in 2008 spoke these words: "Highly paid lobbyists get access, the rest of us have to write a letter."

We are not highly paid lobbyists so we have no access, but as advocates of labor justice who have pledged to speak up for farmworkers and domestic workers, we can write a letter to the President of the

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Special Seminars to Assist Domestic Workers in Protecting Their Rights

The Law Firm of Figeroux & Associates has partnered with the non-profit organization, the Immigrant's Journal Legal & Educational Fund, Inc. (IJLEF) to offer free seminars to assist domestic workers and home health aides in protecting and maintaining their rights. The seminars will be held on Thursday, February 25 and March 25 respectively at 6:00pm at 26 Court Street, Suite 701, downtown Brooklyn.

At these seminars, domestic workers and home health aides will be informed about their rights on the job, prevailing wages and be provided with sample contracts.

The Law Firm of Figeroux & Associates understand your business, and can help you grow and protect yourself by:

- Reviewing and revising contracts, employment applications and employee

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Legal Advisor to the Immigrant's Legal & Educational Fund Inc., Brian Figeroux, Esq.

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LEGAL ISSUES

NY Domestic Workers Bill of Rights

Domestic workers are a cornerstone of the New York economy. Over 200,000 nannies, caregivers, and housekeepers in the New York Metropolitan area keep New York families functioning and make all other work possible. But New York domestic workers are a workforce in crisis. We need a Bill of Rights. Now.

The Crisis

- Historic exclusion from legal protections.
- A workplace without standards. Anything goes.
- Long hours, low pay, no benefits.
- Physical and sexual abuse. Dehumanizing treatment.
- Extreme vulnerability to abuse, mistreatment, and labor violations.

Domestic workers bear the brunt of the current financial crisis. Even in a healthy economy, domestic workers are uniquely vulnerable to abuse and exploitation. We are excluded from basic legal protections guaranteed to other workers. We work alone, isolated in our employers' houses. We often get no time off, even to deal with medical emergencies. Domestic workers keep New York families healthy and functioning, but the precarious nature of our employment keeps our own families in constant crisis. With the economic downturn, that crisis has deepened.

The Solution

■ The Domestic Workers Bill of Rights: urgently needed protections for the workers who make all other work possible. The Domestic Workers Bill of Rights (A01470, S2311A) amends New York State labor law to guarantee basic work standards and protections: time-and-a-half for every hour over 40 hours per week; one day off per 7-day calendar week; a limited number of paid vacation days, holidays, and sick days; protection from employment discrimination; and advance notice of termination. The bill provides a means of enforcing these standards in court.

The Domestic Workers Bill of Rights applies to all domestic workers in New York State.

Domestic Workers Bill of Rights

We have a dream that one day, all work will be valued equally. The Domestic Workers Bill of Rights will reform New York State law to guarantee basic work standards and protections for the nannies, caregivers, and housekeepers who keep New York families functioning and make all other work possible. The Bill of Rights is a comprehensive response to domestic workers' vulnerability to abuse and mistreatment, and works to counter domestic workers' exclusion from most labor protections.

The provisions in the Bill of Rights were generated by Domestic Workers Union (DWU) members, who gathered together in 2004 to envision what fair labor standards for domestic workers in New York would look like. Domestic workers often confront a lawless working environment where low pay, long hours, no health care or sick leave, and arbitrary treatment are the norm.

Working in the isolation of private homes, behind closed doors, an epidemic of physical and mental abuse plagues the domestic work industry. The Bill will ensure domestic workers are provided a limited number of paid sick days, personal days, and vacation days; notice and severance pay; yearly raises tied to inflation; full overtime pay for any work over 40 hours per week; one day of rest per week; protection from employment discrimination; and health benefits.

Domestic workers are the bedrock of a functioning society, yet they are a workforce in crisis. The Domestic Workers Bill of Rights takes on a new urgency in the wake of the current financial crisis. Among New York's least protected workers, domestic workers are among the first and hardest hit by any economic downturn. In these times, domestic workers are even more vulnerable to abuse and exploitation. Now more than ever, New York must act to protect the basic rights and human dignity of domestic workers!

Domestic workers call on the New York legislature to pass the Bill of Rights and:

■ **End the epidemic of workplace abuse**
Working behind closed doors, in their employers' homes, domestic workers are uniquely vulnerable to abuse. The extreme vulnerability of domestic workers has led to a physical and mental health crisis. New York must take action to end this crisis now!

■ **Give caregivers the ability to care for themselves**

Nannies and caregivers work long hours yet these workers can't afford to look after their own health and the health of their families. The vast majority receive no health benefits from their employers, and with no legal entitlement to paid sick days, many workers cannot take time off to deal with illness or medical emergencies. Some are denied sick leave entirely — paid or unpaid.

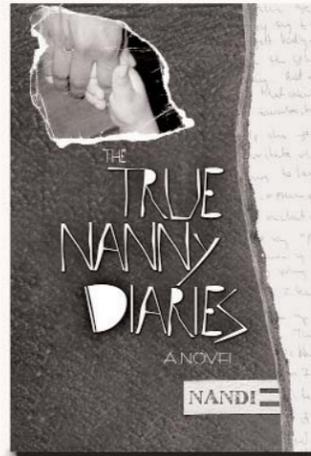
For others, losing even a day or two of pay to see a doctor may mean not being able to afford both food and rent for that month.

■ **Standardize an industry that leaves Too Much to Chance**

Without established and enforceable standards, both workers and employers are left to make them up. In the worst cases, this means employers can do what they please — withholding pay, renegeing on promises, restricting a worker's basic freedom of movement. In the best cases, well-meaning employers simply don't have the information to guide them in setting terms of employment, and they may never draw up a formal contract or clearly establish the rights and obligations each party owes to the other. As a result, domestic workers never know what to expect from their employers, and the treatment they receive is largely a matter of luck. This lawless existence leaves too much to chance. Domestic workers must be able to rely on basic standards that they can expect from each and every employer. ♦

Source: www.domesticworkersunited.org

The True Nanny Diaries



Valdi West left the Caribbean to study at the prestigious Columbia University but becomes hopelessly entangled in life as a New York City babysitter. Twenty years later, she can no longer face her derailed dreams. Instead, she focuses her razor sharp attention and cutting wit on the affairs of her fellow babysitters: Senior citizen Madam Lucian, who is supplementing her meager wages by selling bread from her apartment; Monica, who is anxiously stirring "perks" into her Green Card marriage and Ava, whose success at attaining the American dream has Valdi unnerved. Set further and further adrift from her dreams of becoming an award winning writer, Valdi has two choices: sink or swim.

ISBN: 978-0-615-22069-4

Nandi does a stunning job of bringing her characters to life, and keeps us alternately laughing and cringing. ~~~ Cathy Calderon

I thoroughly enjoyed The True Nanny Diaries, exclaiming audibly at times, and at other times laughing like a madwoman. My only complaint is that I'm done. ~~~ Dr. Heidi Duncan

Poetic and literary. ~~~ Olayea Massentunji

I couldn't stop reading. ~~~ Kimberly Glaud

Overall, it's a true life reality check. ~~~ Elsworth James

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STANDING UP FOR DOMESTIC WORKERS



Photos from press conference in Albany urging the Senate passage of Domestic Workers Bill of Rights





VOICES OF DOMESTIC WORKERS

Bad Samaritans: True Stories of Nanny Abuse in NYC

MARINA'S STORY

I found work in a house caring for a disabled youth. I ended up doing everything — the housecleaning, the ironing, the food. I had to carry him and help him in the bathroom. I had to bathe him and even brush his teeth. And for all of this, I was paid \$2.00 per hour.

I slept in the basement, where the sewage overflowed. I had to find cardboard in order to walk around and get out of the basement to go and perform my daily housework. I also had to pick up wood in addition to the cardboard in order to pass through and also to open the backdoor so I could step outside to the sun and for the stench to leave.

Two and a half years later, my employer — on my day off — called to tell me she needed me early. I arrived and told her, "I am here as you asked me." And, it was to tell me that I no longer had work. Well you can imagine how one would feel — after a shock like that — without telling me why. She offered no explanation.

I asked her for permission to stay in the house that night so I could go out and find another place to live — I could not even sleep thinking about where I would go next. No one knows what I went through that night.

Marina later sued her employees. It took her four years, but just recently, she finally won a settlement.

LOU'S STORY

The beginning of my experience as a nanny/housekeeper for my employer was a good one. She treated me well, complimented my work and my dedication. She knew that I took care of her son and she trusted me. Back then we had a good relationship.

However, my employer did not pay me on a regular basis from the beginning. Therefore, I started to write down the days that I worked and the amount she paid me, to keep track of the amount she owed me.

When the amount she owed me accumulated, she started to humiliate me.

After awhile, she would say that I did not speak English, and that I did not deserve the salary that she was supposed to pay me. She had one friend who would come over purposely to scream at me and insult me.

Many times around 11:00 at night, my employer would wake me up and she would ask me to clean the floor with Clorox Bleach, saying that the house was dirty and that I had to clean it. I had to buy food for me, for her son, and for the dog because she would not give me any money for the groceries. With the little money that she randomly paid me, I was able to do that.

What started with a good relationship ended as a sad story. I had to take my employer to court in order for her to pay the salary she owed me. She always asked me to wait, that she did not have the money and that she would eventually pay me. But that day never came.

CAROLYN'S STORY

I worked all day and into the night. Most nights I would get three to four hours of sleep. I was never given holidays because my employers said I was not an American, so the holidays were not for me.

When I had breast surgery, my employer said she would only allow my cousin to work four days for me and I would have to come back to work or I would not be paid. My employer called me two days after my surgery and demanded that I come back to work right away. I went back to work 4 days after my surgery with stitches in my right breast and a bandage over my chest.

My job ended the day my employer beat me and pushed me down from her porch, injuring my back. While she was beating and kicking me, she was saying I was nothing but a nigger and she wanted me off her property. She kicked me, she punched me, I fell down and hit my head on the sidewalk. I don't know how long I passed out, but she was cursing and saying that she had wanted to call me a nigger for three years. And her words — because I was a nigger, no one would lis-

ten to me because she was an upstanding citizen of Massaoeque Park and she pays taxes. That's how my job ended.

WINDY'S STORY

I worked for a family from April 2001 to January 2004. They have three children and a dog. I also looked after my employer's brother who has a mental disability. My job included housecleaning, taking care of the dog, cooking and maintaining a vegetable garden. Also, when they had visitors, I had to make sure they were taken care of. I also had to wash and iron clothes.

My job began as early as 5:45 am, bathing and feeding the brother and preparing him for adult daycare. Then it was time for me to clean the whole house. I lived with the family and worked Monday to Sunday, seven days a week. My contract said I was supposed to be paid \$400/week for 40 hours of work. Instead, I was paid \$200, and worked more than 100 hours a week, with no days off.

One day, after three months of working every day, I asked for time off to visit friends. At first my employer said she would give me some time off, but then she kept making excuses for why I had to keep working. Then one day, the family had visitors. I was so tired from working such long hours, I put the salad fork on the wrong side. The next day, my boss was so mad. She said I embarrassed them in front of their friends and that I didn't do my job right. From that point on, she began to treat me worse and worse. I couldn't sleep at night and had nightmares about them scolding me.

In January 2004, my lady boss asked me for my working permit. She said it belonged to them. I said, No. It's under my name and I want to keep it." She got really angry and told her husband. Her husband came to me and said, "You should just go home. Go home to your country." Then he told me I had to leave right away. He was pushing me to leave so quickly, I went out into minus 9 degree weather without enough clothes.♦

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Internship positions available throughout the year.

The Immigrant's Journal Legal & Educational Fund, Inc. is an organization dedicated to the educational and economic empowerment of all immigrants and immigrant organizations here in the United States. We at the Journal recognize the enormous contribution of immigrants to this country economically, socially and politically. Since September 11, 2001, however, immigrants have increasingly been discriminated against and Congress has passed legislation curtailing the rights of immigrants here in the US., broadly claiming that immigrants are a threat to "National Security." We at the Journal believe that these charges are unfounded, unsubstantiated and exaggerated.

The Immigrant's Journal Volunteer Intern Program was introduced to give our volunteers the opportunity to work in an immigrant friendly environment while developing the necessary skills for college or law school. They assist our staff in resolving immigration and other legal concerns through personal interviews, radio, email and telephone contact. They also assist the public with citizenship applications and in researching whether or not children of naturalized US citizens have derived citizenship from their parents. Some of our volunteers assist our legal staff by engaging in legal research and writing letters on other legal issues. Volunteer interns are also assigned various other jobs in our Youth Programs.

Hours are flexible. Email your cover letter and resume or any questions to immjournal@aol.com

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My people are destroyed for lack of knowledge. — Hosea 4: 6

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TAX & FINANCIAL ISSUES

My Nanny (Housekeeper) Is Not A Legal Resident. What Should I Do About Employment Taxes?

The Internal Revenue Code maintains that the immigration status of your nanny or other employee has no bearing on your obligation for employment taxes. Immigration enforcement in the Obama Administration is focused on penalizing the employers — especially prosecution for employment tax fraud.

The IRS requires that workers ineligible for Social Security Numbers file form W-7 to request an Individual Taxpayer Identification Number (ITIN). This number will be used on all tax reports and returns, including Form W-2. The IRS is currently prohibited from sharing this information with Immigration and Customs Enforcement (ICE) (formerly Immigration and Naturalization Service [INS]) by law — see THE PRIVACY ACT OF 1974 5 U.S.C. § 552a).

What the ITIN Does

- Enables employers to report wages paid to the domestic employee without fear that the tax returns will be rejected due to missing or inaccurate SSNs.
- Enables employers to issue Form W-2 to workers ineligible for a SSN.
- Enables employers to claim the Child



Care Credit or the Child and Dependent Care Account.

- Enables individuals ineligible for a SSN to file US Income Tax returns.
- Enables individuals ineligible for a SSN to receive a cash refund of income taxes.
- Assist individuals in applying for legal immigration status if the proposed immigration reform is enacted.
- Enables individuals ineligible for a SSN to open bank accounts and credit accounts with certain banks.
- Enables individuals ineligible for a SSN to apply for mortgage loans.

What the ITIN Does NOT Do

- Confer eligibility for employment.
- Confer legal immigrant status.

- Make the worker eligible for Social Security or Medicare benefits.
- Confer eligibility for the Earned Income Tax Credit.

The valid range of ITINs is 900-70-0000 through 999-88-9999, all numeric values. These numbers are issued to the taxpayer on a letter from the IRS — there is no "ITIN card."

Non-payment of taxes is a leading reason for denial of an alien's immigration petition. Immigration and Customs Enforcement can consider the failure to file an income tax return, if a person earned enough to be required to file, as proof that the noncitizen doesn't have the "good moral character" required of applicants for U.S. citizenship. Failure to file income tax returns or an improperly prepared tax return can cause problems when the permanent resident files for U.S. citizenship or when a U.S. citizen or permanent resident tries to help family members immigrate.

Nannies filing and paying their income taxes using an ITIN are ineligible for the 2008 Economic Stimulus checks.

If you are a nanny and would like a tax consultation, please call 718-363-7788 to schedule an appointment. ♦

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Special Seminar for Domestic Workers

agreements.

- Advising you about proper interview questions, wage and hour issues, intellectual property protection, and household employment legal and tax issues.

- Defending and resolving disputes, investigations, audits, wage claims, administrative charges or litigation stemming from household employment situations.

- Provide legal and tax advice to nannies, elder care providers, and other household employees.

Labor law, tax law, and the penal code, both at a Federal and state level, provide basic workplace protections and rights to all nannies and domestic workers. It does not matter if you are a U.S. citizen, an alien with a work permit, or an alien who does not have the legal right to work in the United States — these laws cover everyone.

Don't be a victim anymore. Come and know your rights. Attend this empowering seminar on Thursday, February 25 and Thursday, March 25 at 6:00pm. Don't miss it. ♦

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If you have concerns, be aware that your conversations with non-lawyers are not privileged, should the government decide to investigate you.

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OBAMA ADMINISTRATION

continued from page 1

Write President Obama

United States.

Write your letter to President Obama now. Here are some tips:

1. Keep your letter straightforward and to the point —3 or 4 short paragraphs are perfect.
2. Tell President Obama how strongly you feel about the need to emancipate farmworkers and domestic workers. Speak from your heart.
3. Request a response. (Sample: "please tell me what you plan to do" or similar)
4. Conclude with your name INSIDE the body of the message.

The goal of Labor Justice is 600 letters. Do your part. Visit their website at www.laborjustice.us for more information. ♦

About Labor Justice

In 2009 – former general counsel to Cesar Chavez and the United Farm Workers, Jerry Cohen – and LeRoy Chatfield, a close personal friend and colleague of Cesar Chavez, teamed up to found a national volunteer organization: LABOR JUSTICE, which is dedicated to securing national labor rights for farmworkers and domestic workers.

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IJLEF Joins Fight with Domestic Workers Push for Domestic Workers' Bill of Rights



Historically, domestic workers have been marginalized and excluded from many legal protections. The diverse crowd was a mirror image of New York City and included grandparents, parents and teenagers and even a few toddlers.

Most domestic workers often times work long hours, earning low wages and not receiving overtime pay or the benefits afforded to other employees. The lack of protection under many of the federal labor laws is partly to blame for this harsh reality. For example, domestic workers are excluded from the definition of "employees" under the National Labor Relations Act (NLRA). Under the NLRA, employees have the right to organize and form labor unions that would allow them to organize for better working conditions. Unfortunately, not being recognized as

employees under the NLRA prevents domestic workers from taking advantage of these protections. Equally troublesome for domestic workers is the Fair Labor Standards Act (FLSA). The FLSA sets a federal minimum wage rate, maximum hours and overtime pay for some employees. Here again domestic workers are considered "casual" employees causing them to be excluded from these protections.

But the exploitation of these workers will soon end when the efforts of the DWU for a comprehensive Bill of Rights that gives rights to domestic workers under state law, becomes a reality. The Domestic Workers Bill of Rights seeks to remedy the harsh work environment by amending New York State labor law and providing these workers with the simple standards and protections normally given

to other employees, e.g., overtime pay for hours over 40, vacation days, etc. The bill will also provide an avenue to address these rights in court. When the bill is signed by Governor Paterson, New York State will become the first state to pass legislation granting rights and recognition to domestic workers. Such a bill is long overdue.

Every day, over 200,000 domestic workers make it possible for doctors, lawyers, CEOs, teachers and countless other professionals to reach their offices and carry on with their work responsibilities knowing that their loved ones are being cared for wholeheartedly by a domestic worker. The time is now for Albany lawmakers to enact a comprehensive bill of rights for domestic workers that will provide them with much needed support and protection. ♦

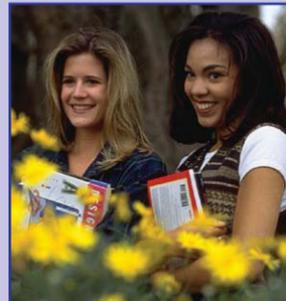
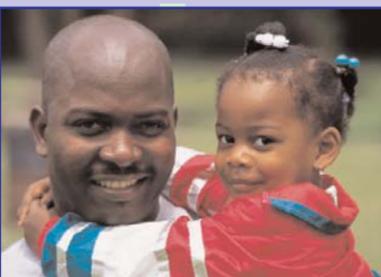
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BUSINESS OPPORTUNITY

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Two-thirds of all children under age are regularly cared for by someone who is not their parent. Professional daycare is needed in every community. According to the National Association of Child Care Resource and Referral Agencies, 65% of all mothers in America with children under five years old are in the workforce. Becoming a daycare owner provides you with the wonderful opportunity of being a successful entrepreneur and that of bringing your children to work every day! You can set up a daycare with children of similar ages to your own.

As a nanny for many years, perhaps it's time for you to consider becoming a daycare owner. If you are considering this career option, then NACC's seminar "Starting a Daycare Business" is right for you. You will benefit from this seminar if you are:

- Thinking about starting a daycare business in your home.
- Considering opening a child care center or preschool.
- Currently own a home daycare and seek to make it more profitable.
- Ready to make a leap from your current baby-sitting service to a full-time child care business.
- Looking for a way to become your own boss and stay home with your children!



The key to having a profitable daycare business is knowing the right success secrets about enrollment, marketing, advertising, writing a business plan, getting grants/loans to start your daycare, and how to properly manage your business.

As a nanny you already know firsthand that working with children is rewarding. As a daycare owner, you will have a challenging career where you'll see the results of your nurturing and creative efforts everyday. You'll enjoy the reward of the joy of children's laughter while watching them grow into independent, special individuals.

In addition to personal rewards, financial rewards may be reaped as well. Remember that as the number of two-income households increase, more and more people are relying on day care centers to look after their children as they go about their daily tasks.

If you are ready to take that step in becoming a daycare owner give us a call at 718-771-0988. ♦

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The Immigrant's Journal Legal & Educational Fund, Inc. in partnership with its legal advisor, Brian Figeroux and associates Frank Castel and Rhadames Ulloa offers free legal consultations during the one hour radio program, Latino ICE (Immigration & Cultural Exposé). The consultations can be on issues such as immigration, family (divorce), real estate, bankruptcy, foreclosures, personal injury, medical malpractice, criminal and civil, wills and estate planning.



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