

Payday

Manual labor is tough. Not getting paid for it is tougher.

By Luke Turf

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Bosses pick up Juan Lopez Gutierrez for quick jobs. He landscapes or builds houses. He paints walls and lays floors. Different men pick him up in different trucks for different gigs every week. He tries to avoid getting stiffed his pay. He looks for the company's name, the business address. He arranges his fee before work. He tries to get it in writing. Still, he knows getting ripped off is likely.

Gutierrez has no papers. He's here from Mexico, and he knows that fraud is just how it goes for undocumented workers.

It happened to him last July. Nathaniel Estes picked him up for a landscaping job, offering the Mexican national \$400 to split between himself and two other men who were fresh over the border. Gutierrez took Estes up on the offer, which had come through a friend.

Normally, Gutierrez finds work through Denver's Centro Humanitario Para los Trabajadores, a non-profit day-laborer organization and advocacy center created for immigrant workers in 2002 mostly through the efforts of the American Friends Service Committee. At El Centro, laborers meet every Friday to discuss the direction in which the center is headed and how best to organize. They demand \$8 an hour from employers, and most of those affiliated with El Centro can be trusted to pay. Employers are not charged a fee, and they pay workers directly.

Gutierrez knew he was taking a risk working with someone outside of El Centro's network. And when Estes gave the men just \$200 and promised to pay the rest plus \$9 an hour for another job, Gutierrez was skeptical. But the other men agreed, and, against his better judgment, Gutierrez went to work. In the end, he says, they weren't paid *un centavo*.

"He robs people," Gutierrez says in Spanish.

Gutierrez turned to El Centro's Colleen Breslin, a 27-year-old law student whom Gutierrez calls *la muchacha* and who fights employers on laborers' behalf, free of charge. Breslin worked at a community law center in San Francisco, where she became versed in wage-claim representation, before moving on to law school at the University of Denver. A classmate introduced her to El Centro.

James Glader



La muchacha: Colleen Breslin assists wronged workers.

On a recent Monday morning, Breslin sits at a table in El Centro's makeshift legal clinic at 2260 California Street. She pushes her glasses back on her nose as she speaks in Spanish with her clients, three women from an avocado-packing plant who've got a beef with their boss. She bangs her fist on the table as the women share their tale of alleged injustice. Breslin slips "so" and "I mean" into her Spanish, articulating what she can and can't do for them. She and El Centro represent a thread of hope for undocumented aliens. They're here illegally; they doubt their rights. They're used to getting ripped off.

When Gutierrez told Breslin his story, his allegations were forwarded to the Colorado Department of Labor & Employment. But the best the department's staff could do for Gutierrez was send him a letter of regret. They couldn't get Estes to respond to the allegations, so they dropped the case and suggested that Gutierrez might have better luck in the courts. The letter was signed by Larry Gallegos, a monitor advocate with the CDLE.

Gallegos came to the department about two years ago, at a time when most non-English-speakers who walked in were referred out; the only person fluent in Spanish was a front-desk clerk. As part of a community-outreach program, Gallegos went on Spanish radio stations and reached out to the Mexican Consul and community organizations, such as El Centro Humanitario, to help facilitate workers' claims of non-payment. The radio spots and outreach were effective, and the office went from having almost no access to the Spanish-speaking population to being overwhelmed with complaints.

To handle the influx, two Spanish-speaking compliance officers were hired, and the department began translating all of its documents and posting them online. "We're dealing with a very unique population that is disenfranchised, maybe undocumented; some don't speak English," says Gallegos. "I think we're ahead of the game. It's incredible, the amount we've accomplished with the resources we have."

But Breslin doesn't think that's enough. Since July, she says, El Centro has referred about forty complaints to the labor department, none of which have been resolved or even gone to mediation. "It's hard to dispute the claim that they don't have resources -- all state agencies are underfunded," she acknowledges. "But what they're doing now is completely ineffective; it's a waste of state money."

Labor officials say it's difficult to comment on specific cases cited by Breslin because they categorize cases by individual complainants, not by the referring agency or organization; their office handles an average of 60,000 phone calls and 6,000 written complaints in a year. Gallegos estimates that for Spanish-speakers, his office is successful more than half the time in recovering wages -- about the same rate as for English-speakers.

That's not a terrible ratio considering the department's limited enforcement power. Like Breslin, labor-department investigators can't force employers to pay up; in limited cases, however, they're able to levy a fine of \$50 per day until a dispute is resolved. But such

action is both time- and resource-consuming; the last time a fine was levied was in 1998, and the process took a year to complete.

If an employer says he doesn't owe, or refuses to pay, or simply doesn't respond -- like Estes -- the department will refer a plaintiff to the courts. (While Estes didn't respond to the labor office, he told *Westword*, "That's a lie -- I paid the man," and then hung up.)

Breslin took her concerns about the department's lack of enforcement ability to the attention of state senator Jennifer Veiga, who says she is looking into the issue, though she would rather give the department more muscle within existing statutory guidelines than through new legislation. "We're meeting to see if we can beef up enforcement or find a way to address the problem," Veiga says. "They have some enforcement ability, and I think part of it is whether they're using it."

But while she and Breslin meet with the department about enforcement, Senator Doug Lamborn and Representative Dave Schultheis are sponsoring a bill that would bar illegal immigrants from using any of the state's labor resources, among other things. "We don't have enough money; we have to draw the line somewhere," Lamborn says. "Also, I'm concerned that if we're overly generous with people who are not here lawfully, we encourage more people to come here unlawfully. Especially in these tight budget times, where we can't do everything that we would like for the people that are here lawfully, it seems like the wrong time to be expanding programs for those who are not here lawfully."

While that proposal is being fought out in the legislature, El Centro Humanitario is left as the primary resource for helping people recover their wages. El Centro volunteers helped Gutierrez fill out small-claims court forms and walked him through the legal process; Estes ultimately paid him \$657, plus about \$300 in penalties.

El Centro's limited resources make it difficult to do that for every client; for most, it can only refer their claims to the labor office. As part of the Immigrant Workers' Rights Taskforce, a collaborative statewide effort, Breslin and El Centro are trying to educate workers so they don't get ripped off in the first place. They also want to train more non-lawyer advocates to assist people like Gutierrez through the legal process.

"I felt so bad; I didn't feel like I could trust anyone in the street," Gutierrez says. "I don't have papers. It's easy to fall. But it's different with the center. Sometimes, in the United States, I feel bad around the people, like they don't want me, but not at the center."