

Grand Jury Indictment

The East Baton Rouge Parish Grand Jury indicted Manuel A. Reyes on multiple charges after the Louisiana Workforce Commission (LWC) accused him of engaging in unlawful practices under the Louisiana Workers' Compensation Law.

Reyes was charged with the nine (9) separate counts of committing the following offense, to wit:

He knowingly made false, fraudulent, or misleading oral or written statements, and knowingly omitted or concealed material information for the purpose of obtaining workers' compensation coverage, or for the purpose of avoiding, delaying, or diminishing the amount of payment of any workers' compensation premiums, and knowingly misrepresented or concealed payroll, classification of workers, or information regarding any employer's loss history which would be material to the computation and application of an experience rating modification factor for the purpose of avoiding or diminishing the amount of payment of any workers' compensation premiums.

Reyes, a sheet rock contractor located in Metairie, Louisiana is alleged to have committed fraud in that he allegedly misclassified employees as independent contractors, instead of as employees, underreported the number of employees he carried on his payroll, and ultimately underpaid his workers' compensation premiums by approximately \$794,000. Fraudulent misclassification of employees as independent contractors cost the state and federal government substantial losses in the form of lower tax revenues, and negatively impacts the state unemployment insurance and workers' compensation funds. It also gives unscrupulous employers a competitive advantage against compliant employers who pay their fair share. It is estimated that employers who underreport payroll or misclassify employees as independent contractors shave as much as forty (40%) percent off their labor cost. Furthermore, misclassified employees are often denied access to critical benefits and protections they are legally entitled to like minimum wage, overtime compensation, family and medical leave, unemployment insurance and safe workplaces.

The indictment, filed on November 21, 2019, was secured through the joint effort of LWC and the East Baton Rouge Parish District Attorney's Office. Earlier this year, Hillar C. Moore, III, East Baton Rouge Parish District Attorney, commissioned the LWC Fraud Manager, Darrick M. Lee, a special assistant district attorney for the specific purpose of combating employee misclassification. Based on the most recent audit report from the Unemployment Section of the LWC, one (1%) percent of Louisiana employers misclassified nearly 3,888 employees, representing \$55,930,843 in unreported wages and an unbeknownst amount in unpaid workers' compensation premiums.

The collaboration between LWC and the District Attorney's office is the first of its kind in the state and this is its first indictment. This collaborative effort was the brainchild of LWC Assistant Secretary, Sheral C. Kellar, OWCA, who recognized an interruption in the investigative efforts of the office and the prosecutions it sought. Kellar envisioned a new format for the Fraud Section of the OWCA where its own attorneys would prosecute the fraud cases it generated through both internal and external tips and subsequently investigate and file formal charges. The newly formatted Fraud Section

has tripled the number of fraud cases generated and investigated. Although, Reyes is the first case to have a True Bill returned, many others are waiting to come before a grand jury. Moreover, two additional attorneys, not including Lee were added to the section to pursue both employee and employer fraud. The prosecution of fraud cases on the civil side has also doubled since the new format occurred.

Workers' compensation fraud is pervasive in our state on both sides of the equation – employee and employer. Fraud is not a victimless crime. It affects everyone. LWC Secretary Ava Dejoie and Governor John Bel Edwards have made fraud a focus of the administration. A deliberate misrepresentation for the purpose of cheating on either side of the equation will no longer be tolerated. Hopefully, the Reyes indictment will serve as a warning and a deterrent to others. LWC will no longer turn a blind eye to such behavior.

Recently, Reyes surrendered to authorities, was arraigned and pled not guilty to all counts. Motion hearings have been set for March 2020. If convicted, Reyes could face up to \$200,000 in criminal fines, imprisonment at hard labor for up to ten (10) years and restitution to the carrier of unpaid premiums.