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Testimony of D. Michael Dale
Before the House Committee on Business and Labor
March 8, 2017
HB 3008 – Forcing Workers to Submit False Time Records

I am the Executive Director of the Northwest Workers' Justice Project. I have been a lawyer since 1975, and have spent most of that time representing migrant and seasonal workers. The Northwest Workers' Justice Project provides legal representation to low wage contingent workers throughout the economy in sectors such as construction, building maintenance, landscaping, hotel and restaurant industry, food processing, agriculture and reforestation. I am here to support of HB 3008.

In most wage and hour cases, the key facts in dispute are the hours worked by the plaintiff. In theory, it is the obligation of employers to make, keep and share accurate wage records. If this were routinely done, there would be little to dispute in court. Unfortunately, employers who want to cheat as to what they pay workers will often either not keep records or maintain false records justifying what they choose to pay. Then the case turns on the credibility of the workers, themselves, in showing that the employers' records aren't accurate and how many hours they worked. Since workers aren't expected or required to keep their own wage records, at best, this is a daunting challenge.

However, all too often we see a particularly pernicious practice. The employer, as a condition of employment or payment of wages, sometimes forces the workers to submit, sign or attest to wage records that misrepresent the hours they have worked. In this situation, workers are put at a terrific disadvantage in that they not only have to dispute the employer's records, they must contest documents that may be in their own hand.

And, of course, this practice completely undermines other statutes that require the submission of certified payroll records such as the Oregon Contractor Registration Act and prevailing wage statutes.

This practice represents a grievous affront to workers' right to be paid, and, indeed, their dignity in the work place. This represents a wrong above and beyond the loss of wages. At its core is a manifest intent to defraud. Why else would an employer require a worker to report hours falsely? Because it is particularly venal, requiring employees to misreport hours deserves a special remedy. That remedy is provided by HB 3008.

We recommend that this bill be approved with a do pass recommendation.