

**Koreatown Immigrant Workers Alliance
Worker Empowerment Clinic**

**Annual Report
2005**

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Chapter 1. Executive Summary

This report was created based on the information gathered through the Worker Empowerment Clinic at the Koreatown Immigrant Workers Alliance (KIWA) during the year of 2005. As the system of gathering information was solely intended for the purpose of resolving workplace disputes, the information gathered and disclosed herein is not intended to be a precise research study, but rather an important glimpse into the state of immigrant workers in Koreatown.

In the year of 2005, KIWA handled a total of 127 cases of workplace disputes, composed of 50 Koreans and 77 Latinos. Within the figures of the Koreans and the Latinos, there were a small number of workers who identified else wise.

Due to some missing intake files, some parts of the analysis in this report are based on 91 of 127 intake files remaining at KIWA.

Characteristics of Workers

Among the 91 intake files, 59% of the workers were married, 37% were single. Sixty-eight percent were male and 31% were female, with the majority of the workers falling in the ages of 21 to 50 years old. The year of immigration varied over a span of 30 years, with a high number of immigrant workers seeking assistance immigrating during the years of 1991-2000. Among the workers who answered the questions of immigration status, most of the workers indicated that they were undocumented, with the least amount of workers in the “citizen” category. As expected, more than half of the workers were incapable of communicating in English.

Types of Employment

Similar to the previous year’s Annual Report, the largest number of disputes arose from the restaurant industry. A simple explanation for the high number of restaurant cases maybe the high number of restaurants in the Koreatown vicinity, nature of the industry requiring long working hours, and their low profit margin as a result of the competitiveness of the industry.

Workers facing workplace disputes came from a large geographical region. Workers seeking assistance from KIWA were employed in more than 21 different cities, with a large number of businesses located in the Los Angeles area.

For the past 10 or more years KIWA has been providing assistance to workers to resolve worker place disputes, the number of Latino worker continues to surpass the number of cases involving the Korean workers.

Among the cases with verified information regarding business’ type of ownership, 36 businesses operated under a corporation, while 33 were sole ownership.

Employment Records and Conditions

Based on the data gathered from 127 cases, many of the workers (44%) were paid on a semi-monthly basis. Weekly payment followed with 19%, with bi-weekly payments close behind at 18%. There was a small percentage of workers who were paid on a monthly basis, which is likely to have been a violation of the California labor codes.

The following information is based on 91 intake files. Record keeping and conditions of employment include method of payment, rate of payment, hourly rate compared to salary, itemized deductions, time records, and benefits. Of the cases, 45% of workers were paid in cash, while 45% were paid by both cash and check, regular checks, and payroll checks.

According to the data gathered, 40% of workers were paid on an hourly basis, while another 55% were paid on a salary. All non-exempt employees are entitled to overtime wages by law for any and all hours of work beyond 8 hours per day or 40 hours per week. Such misclassifications oftentimes lead to inaccurate calculations of wages.

Itemized deductions are legally required to include federal and state withholding of all wages earned by the employee. According to data gathered, only 28 employees, or 31%, received itemized deduction slips from their employers.

Time records are record keeping systems to keep track of all employees' work hours. Such records must reflect the time when an employee begins work, ends work, starts a meal period, and ends a meal period. Time records, along with all other employee records, must be kept for a period of three years. Unfortunately, the overwhelming number of employers, at 62%, failed to keep time records.

Benefits include health insurance, and vacations, among others, and 78% of workers had no benefits of any kind.

Consultation Results

Consultations often vary depending on the type of issues. The most common issue was wage and hour disputes. Of all the 127 cases, 88% were wage and hour disputes. Among the wage and hour disputes, 80% of the workers collected some monetary compensation.

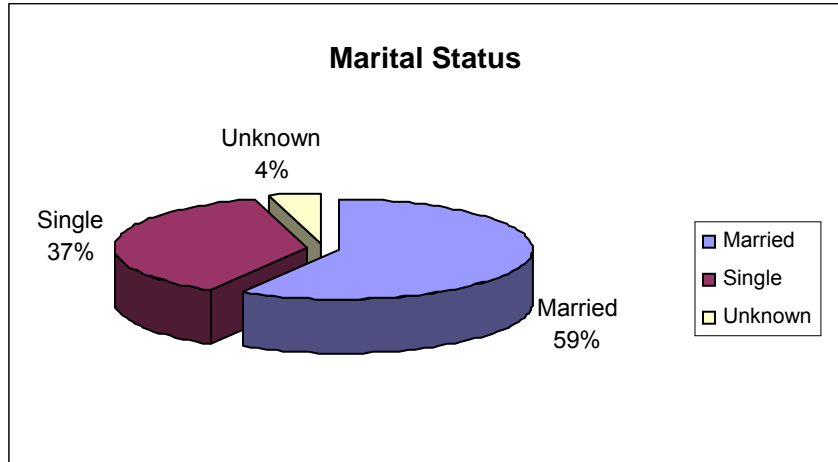
Analysis

The economy in Koreatown is typical of those that operate in ethnic enclaves. While both employers and workers may be unaware of or unmoved by state labor laws and its application to all employees, regardless of immigration status, state enforcement agencies continue to be underfunded and understaffed, lacking the resources to conduct the necessary number of investigations to enforce labor laws. In addition, due to the lack of sufficient funds, investigations are not always conducted in a culturally and linguistically sensitive manner. Consequently, workers bring their cases to KIWA without first involving the state labor agency.

Chapter 2. Characteristics of Workers

The following information, with the exception of Ethnic Groups, is based on 91 case intake files.

1. Marital Status



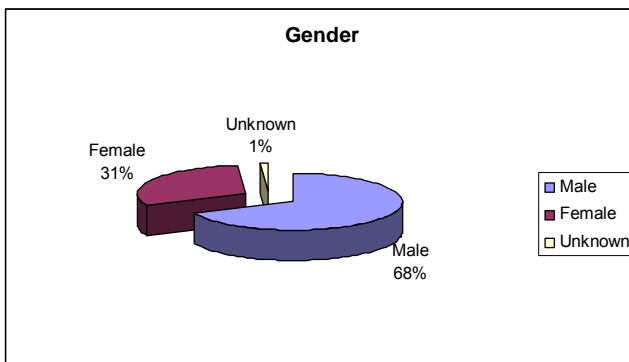
Marital Status	Cases
Married	53
Single	34
Unknown	4
Total	91

Table 2.1

From the data gathered, 53 (59%) workers were married and 34 (37%) were single. Four clients left this item unanswered. The data shows that married people were slightly more likely to seek assistance to resolve workplace disputes. That reason may have a direct relationship to a married person's greater need to resolve the dispute in order to support his/her family.

2. Gender

Similar to the past 13 years of data gathered through KIWA's worker empowerment clinic, the gender ratio between men and women is 2 to 1. However, it is not clear whether the number of men employed is twice the number of women employed. Such a disparity between men and women in the workforce may be the result of immigration patterns, KIWA's outreach, or knowledge about KIWA's clinic. In addition, often men immigrate before the rest of the family, or come alone.



Gender	Cases
Male	62
Female	28
Unknown	1
Total	91

Table 2.2

3. Age

The majority of workers (80%) who sought assistance fell in the age groups between 21 and 50. More specifically, 26% were in the age group composed of 21 to 30 years old, with 24% in the age group from 31 to 40 years old and 30% in the age group of 41 to 50 years old. The people that fall within the age group over 60 are likely to have retired and/or operate a business as owners and employers, while the transient nature of workers under 21 could account for the low numbers representing those specific age groups.

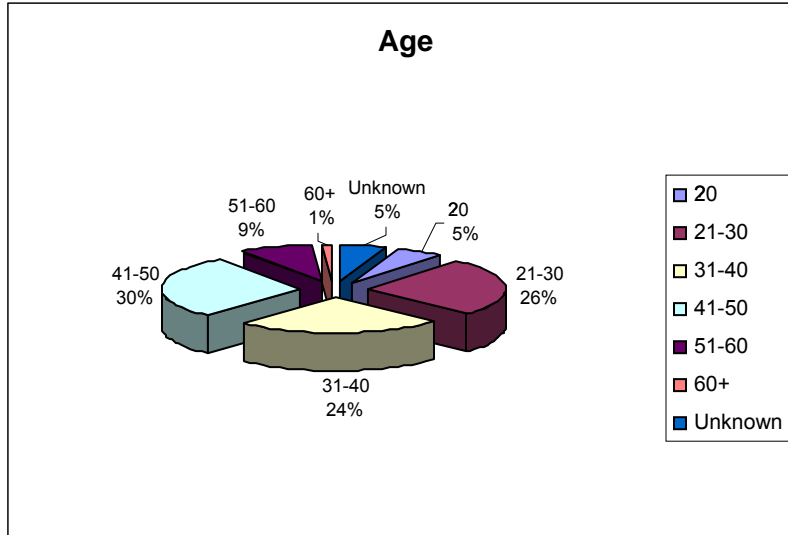


Table 2.3

Age	Cases
≤20	5
21-30	24
31-40	22
41-50	26
51-60	8
60+	1
Unknown	5
Total	91

4. Year of Immigration

According to the data, as shown in Table 2.4, the largest number of workers seeking assistance from KIWA in 2005 immigrated between the years of 1991 and 2000, with 40 workers in this category (44%). Significantly, from the year 2001 to 2005, there were 25 workers and only 16 workers from 1981 to 1990. The disparity in numbers may be due to KIWA's education and outreach efforts during the Restaurant Workers Justice Campaign, which began in 1996 and focused on wage and hour compliance and increased KIWA's visibility among this group of immigrants. Moreover, more recent immigrants may not have formed the social networks to know about available services, particularly those who are undocumented.

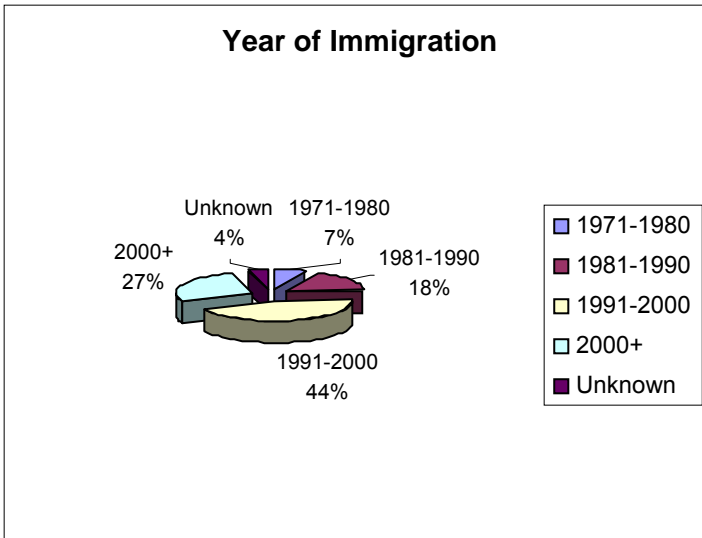


Table 2.4

Year of Immigration	Cases
1971-1980	6
1981-1990	16
1991-2000	40
2001+	25
Unknown	4
Total	91

5. Immigration Status

This data most likely carries the highest margin of error in this report. Many workers may have felt uncomfortable disclosing their immigration status.

Nevertheless, because immigration status is both insignificant to the calculation of unpaid wages, and because it is also a highly sensitive question, this question was left unanswered in 6 cases. As shown in Table 2.5, there were 19 workers that were permanent residents and 39 workers that were undocumented. Only one worker had a permit to work in the United States. Workers with a visa numbered at five while seven workers had applications pending. Such information may be inaccurate because there are no verification measures and there is a high incentive for undocumented workers to provide inaccurate information in order to protect themselves.

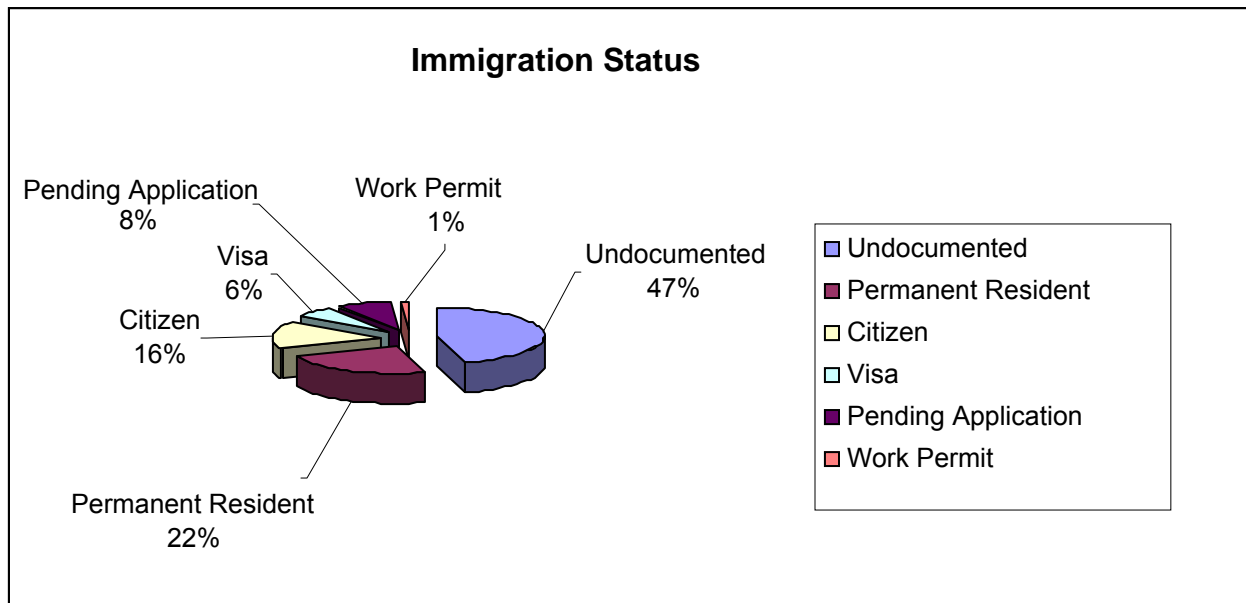


Table 2.5

Immigration Status	Cases
Undocumented	39
Permanent Resident	19
Citizen	14
Visa	5
Processing Application	7
Work Permit	1
Total	85

6. English Ability

As shown in Table 2.6, forty-nine workers indicated that their English language ability was poor. Workers who do not speak English are often taken advantage of by their bosses. Ironically, the majority of workers who have poor English skills are employed by employers who also have poor English skills. Regardless, the inability to communicate in English makes many workers susceptible to exploitative employment conditions because the availability of quality workplaces dramatically decreases corresponding to their inability to communicate in English.

Furthermore, those workers who are capable of communicating in English have more employment options and are therefore not limited to jobs in ethnic enclaves. Finally, Koreatown is a gateway community for immigrants entering the U.S., where, according to the 2000 Census, most residents do not speak English well. This would account for the high number of cases involving workers with limited English proficiency.

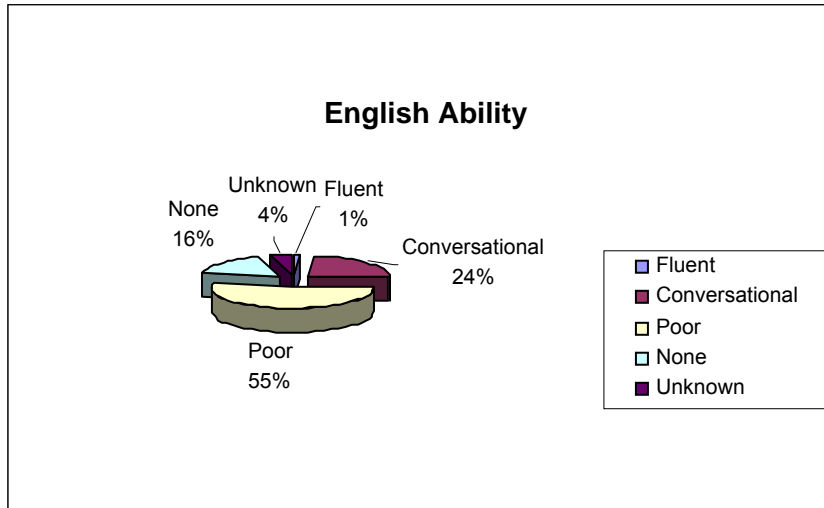


Table 2.6

7. Ethnic Groups

Currently, KIWA has a system of categorizing cases into two ethnic groups composed of Korean and Latino cases due to the language barrier. Hence, Spanish speaking workers were categorized as Latino cases while Korean speaking workers, including ethnic Koreans from China, were categorized as Korean cases.

Among the 127 cases, 50 cases involved Korean workers, while 77 cases were Latino cases. This could be due to the demographic makeup of Koreatown, where approximately 50% are Latino, while 25% are Korean.

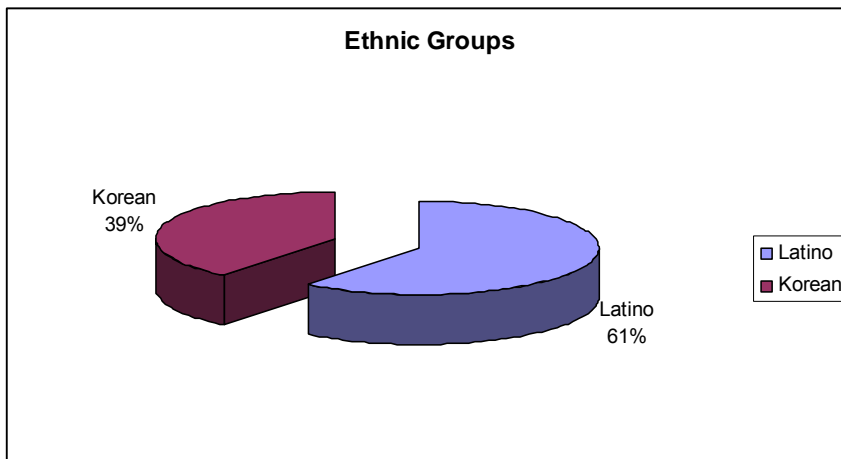


Table 2.7

Chapter 3. Type of Employment

1. Type of Employment

Workers from many industries, including garment, transportation, sales, and market, among other industries, came to KIWA seeking assistance. However, restaurant cases were the most common workplace disputes brought to KIWA. The high number of restaurant cases may be the result of KIWA’s Restaurant Workers Justice Campaign, during which time there was concentrated outreach and education within the industry. In addition, the restaurant industry is the largest in Koreatown, where there are over 500 restaurants employing close to 6,000 workers. In an ethnic enclave, such a high concentration of small businesses makes it difficult to regulate. It also makes the industry extremely competitive, which often leads to understaffing and underpayment of wages. Finally, because of the gentrification of Koreatown that makes rent costly, owners often cut corners, including underpaying wages, for higher profits.

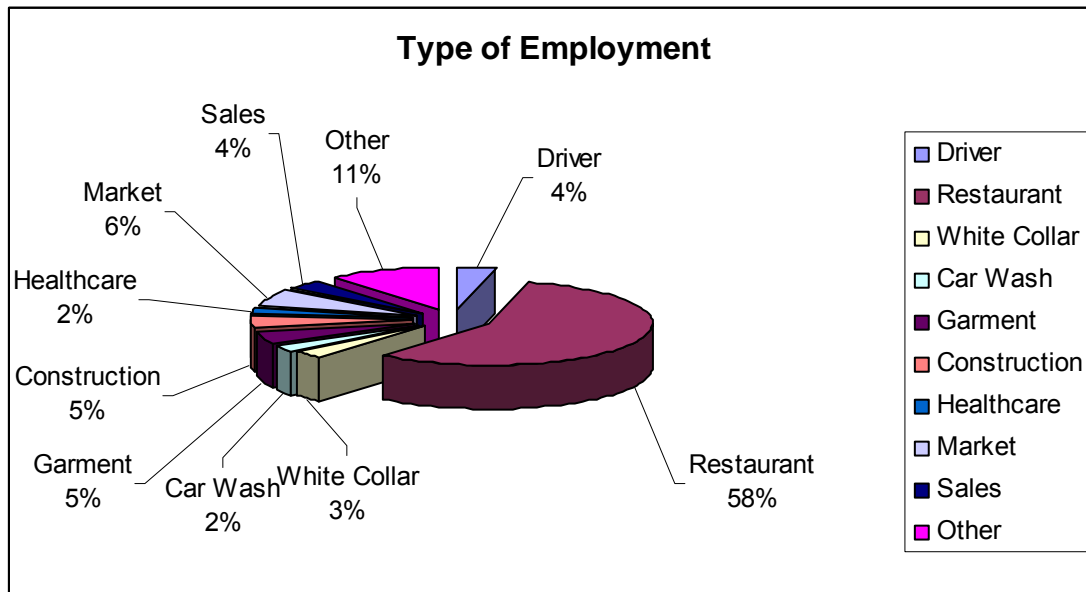


Table 3.1

Type of Employment	Cases
Driver	5
Restaurant	73
White Collar	4
Car Wash	3
Garment	6
Construction	6
Healthcare	3
Market	8
Sales	5
Other	14
Total	127

2. Positions in Restaurants

The highest number of restaurant cases brought to KIWA in 2005 came from kitchen helpers, at 57%. Due to the volume of restaurant cases brought to KIWA, we were able to provide a breakdown of positions held by restaurant workers who had claims.

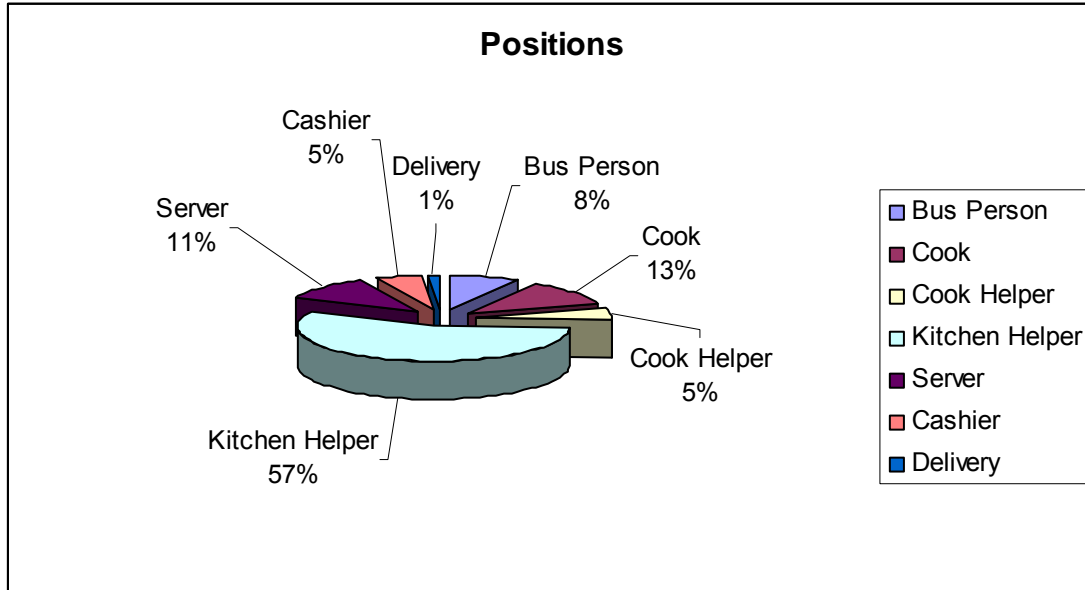


Table 3.2

Position in Restaurant	Cases
Bus Person	6
Cook	9
Cook Helper	4
Kitchen Helper	41
Server	8
Cashier	4
Delivery	1
Total	73

3. Geographical Locations

As shown in Table 3.3, workers who seek KIWA's assistance are not limited to those who live and/or work in Koreatown. Although the majority of the employment disputes KIWA provides support for arise within Los Angeles, workers employed in many nearby cities request KIWA's assistance. While most cases are concentrated in Koreatown, workers move around within industries and throughout Los Angeles, and will share information about KIWA's services by word-of-mouth.

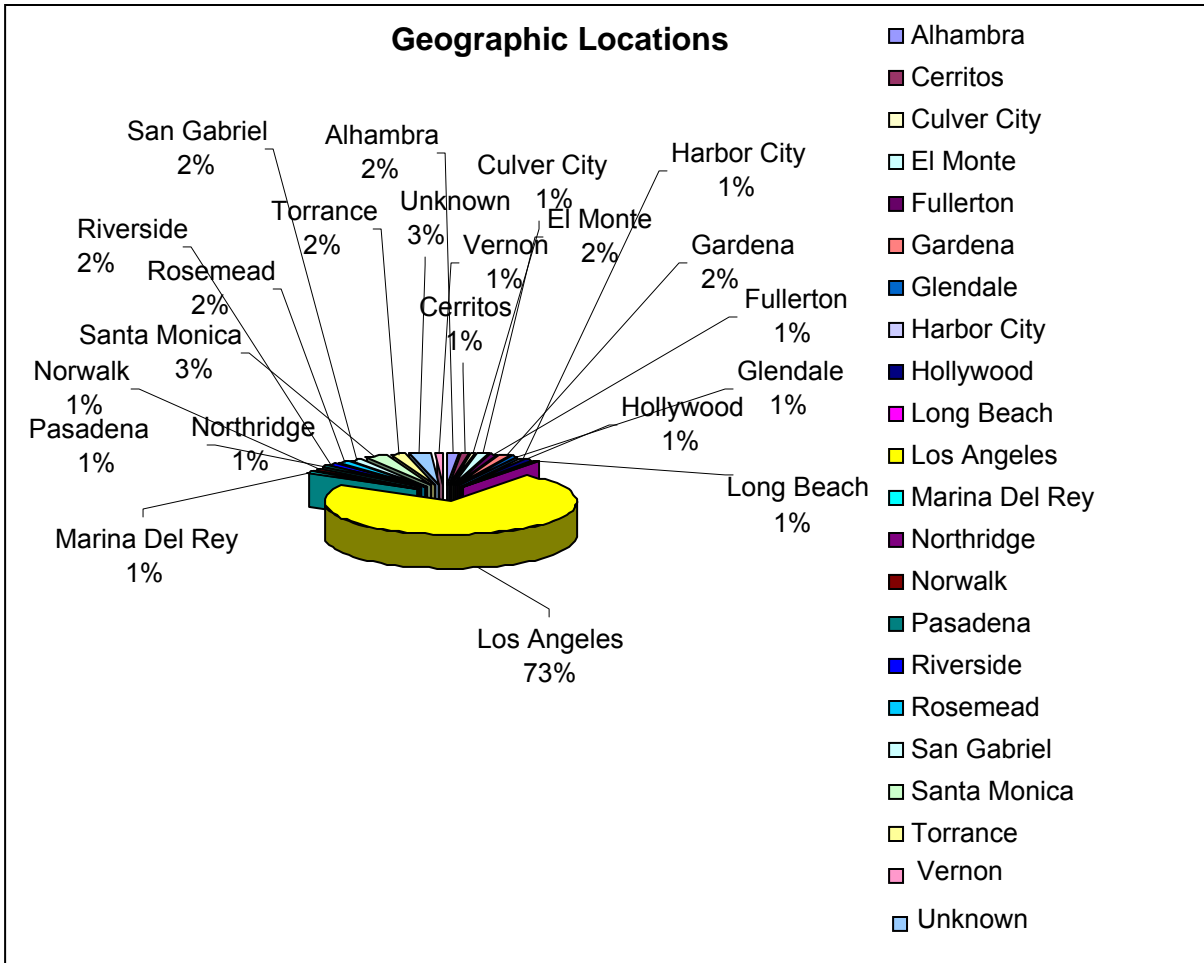


Table 3.3

Geographic Location	Cases
Alhambra	2
Cerritos	1
Culver City	1
El Monte	2
Fullerton	1
Gardena	2
Glendale	1
Harbor City	1
Hollywood	1
Long Beach	1
Los Angeles	93
Marina Del Rey	1

Northridge	1
Norwalk	1
Pasadena	1
Riverside	2
Rosemead	2
San Gabriel	2
Santa Monica	4
Torrance	2
Vernon	1
Unknown	4
Total	127

5. Type of Ownership

Out of the 91 intake files, 36 cases were disputes against employers operating under a corporation, while 33 were operating under a sole ownership.

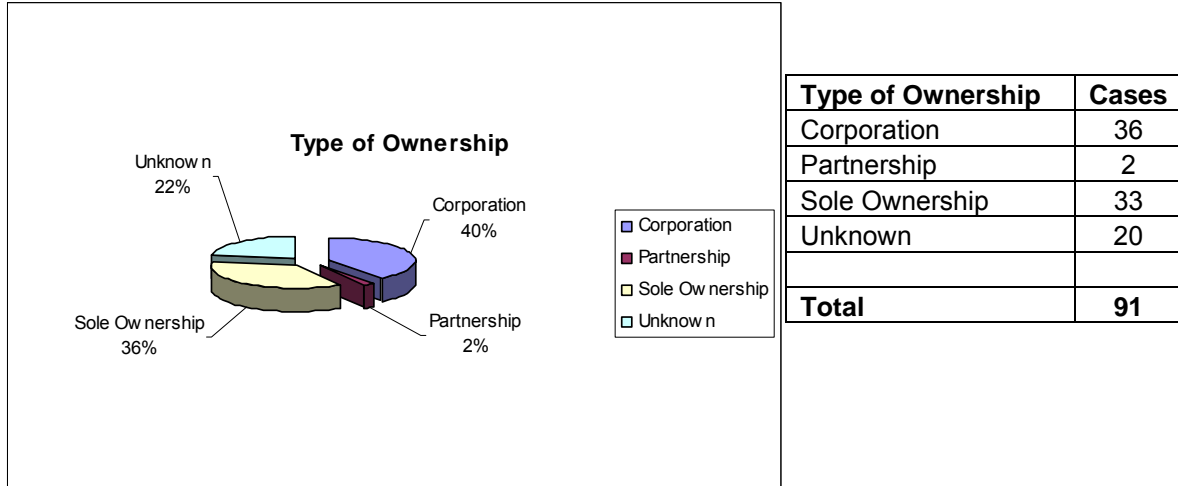


Table 3.4

Such information can help to determine the liability of the employer as an individual or as a corporation, depending on who controlled the daily operations of the business.

Chapter 4. Employment Records and Conditions

The following information, with the exception of Rate of Payment, is based on 91 case intake files.

1. Method of Payment

Of the 91 workers, 41 workers were paid in cash, including 13 workers more who were paid with both cash and check.

Employers who pay by cash generally do so to avoid paying overtime wage, employee taxes, and/or workers compensation premiums. Systems of cash pay can be a significant issue when a dispute, audit, and/or a workplace injury arises. However, among the workers that requested assistance from KIWA, only 21% of employers paid workers with payroll checks.

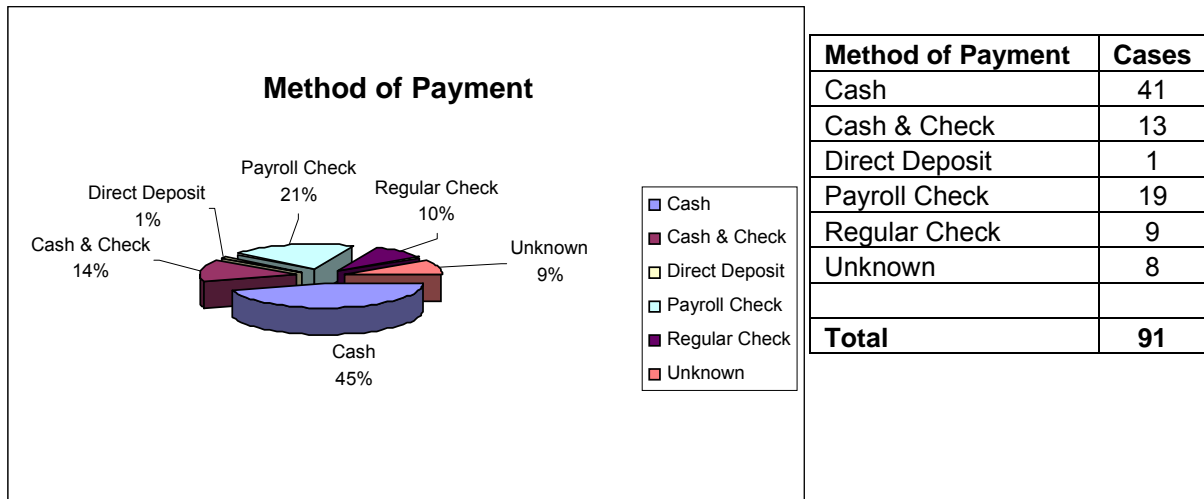


Table 4.1

2. Hourly vs. Salary

The calculation of wages is a critical part in resolving a wage and hour dispute. According to the data collected in 2005 (Table 4.2), 40% of workers were paid hourly rates and 55% were paid salary rates. Since a majority of disputes in 2005 involved wage and hours issues, the assumption can be made that the hourly paid workers were either not paid due to some dispute or were not paid properly, such as regular rate of pay for hours of overtime.

Workplace disputes involving wage and hour issues where wages were paid at a salary rate are often unpaid wages or unpaid overtime. Often employers claim that when an employee is paid a salary, they are not entitled to overtime, a misunderstanding that will more often than not lead to a dispute.

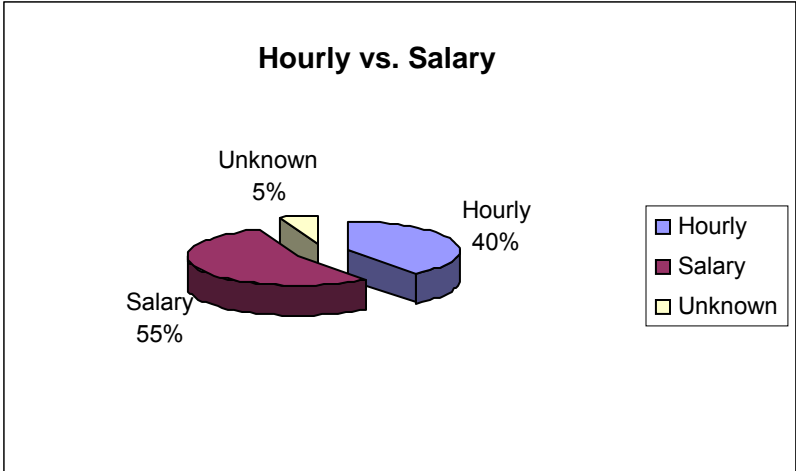


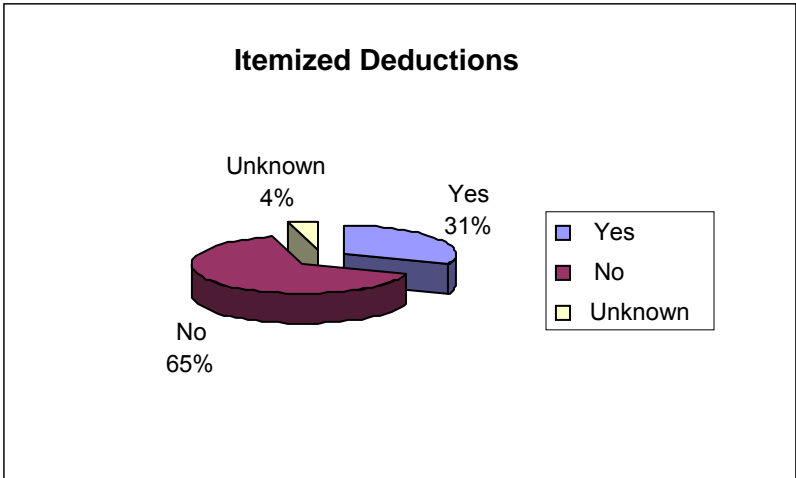
Table 4.2

Hourly vs. Salary	Cases
Hourly	36
Salary	50
Unknown	5
Total	91

3. Itemized Deductions

California labor codes require each and every employer to provide itemized deduction statements for all wages paid. Employers must provide accurate information of how much money was withheld and for what reasons such withholdings were made.

According to the data collected, only 31% of cases received deduction statements, while 65% of employers failed to provide legally required deduction statements.



Itemized Deductions	Cases
Yes	28
No	59
Unknown	4
Total	91

Table 4.3

4. Time Records

Employers are required to keep time records of all employees' work hours as a matter of law. Time records indicate how many hours each employee worked and, combined with the rate of pay, determine how much each employee should be paid. According to the data collected, only 33% of 91 employers kept time records. However, the collected data does not indicate whether or not the time records kept were accurate or not. Not all time records kept were intended to keep accurate records of the employees' work hours. Significant portions of the 33% were fraudulent and were intended to avoid legal liabilities.

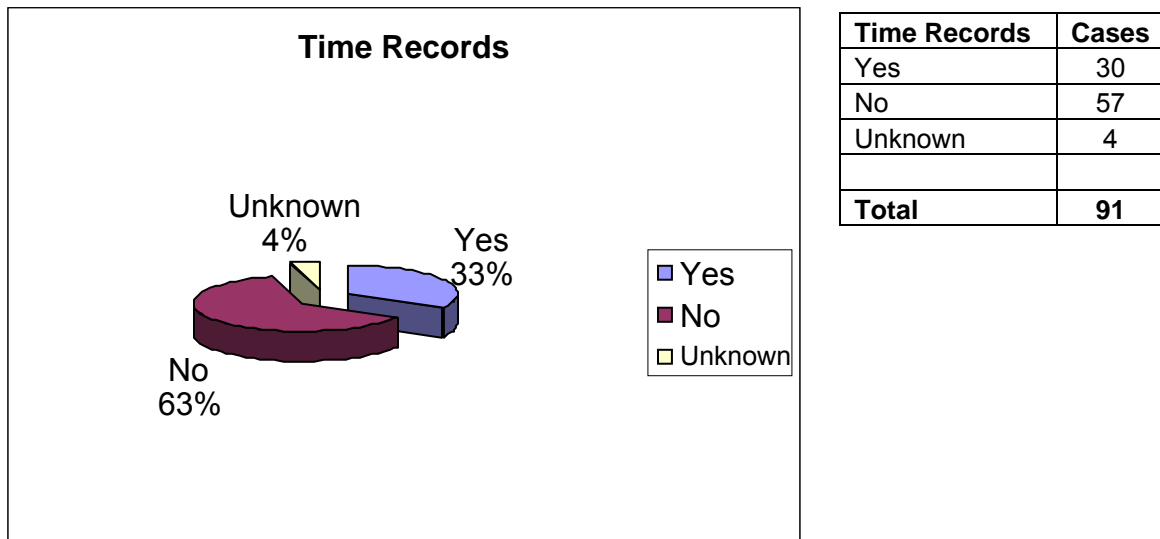


Table 4.4

5. Benefits

As shown in Table 4.5, most low-wage workers, including the vast majority, or 84%, of those that seek assistance from KIWA, do not receive health insurance, paid vacations, and/or sick leave, because there is no legislation requiring employers to provide such benefits to their employees. When a workday is missed due to illness, wages are deducted or their employment is terminated. In fear of termination, many of these workers are unable to adequately recover when an illness occurs.

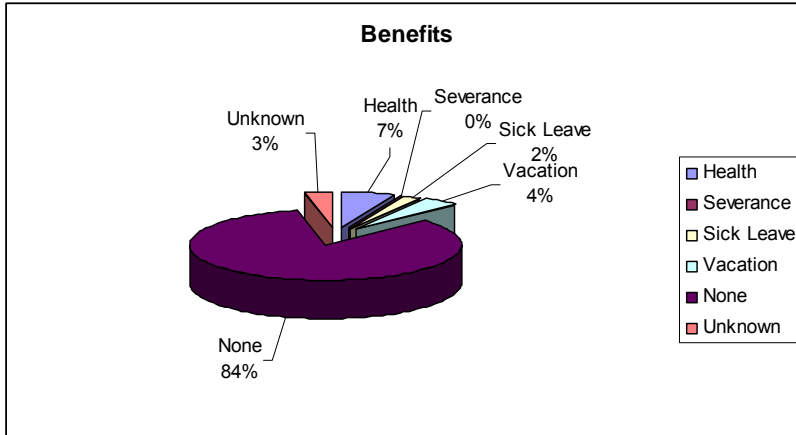


Table 4.5

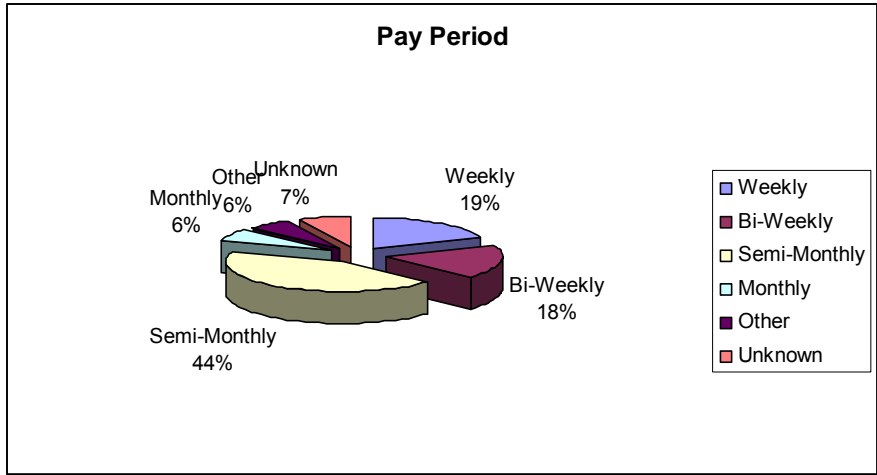
Benefits	Cases
Health	6
Severance	0
Sick Leave	2
Vacation	4
None	77
Unknown	3
Total	92

In addition, although required by law, many employers do not obtain workers' compensation insurance, which makes an injured employee's process of obtaining medical attention and monetary compensation difficult.

6. Rate of Payment

Rate of payment or pay periods concern how often employees are paid. The California labor code requires that all employees, with the exception of executive, administrative, and professional employees, be paid at least semi-monthly. Typically, workers seeking assistance from KIWA do not meet the exemption, and therefore must be paid semi-weekly or more often.

According to the data collected (Table 4.6), many of the workers were paid at a semi-monthly rate. Twenty four workers were paid at a weekly rate, while 23 were paid at a bi-weekly rate. Often there is confusion between bi-weekly and semi-monthly rate. Bi-weekly is once every two weeks, and semi-monthly is twice per month. Though the two may seem very similar, at the end of the year, a bi-weekly payment system should result in 26 payments, while a semi-monthly system should result in 24 payments.



Pay Period	Cases
Weekly	24
Bi-Weekly	23
Semi-Monthly	55
Monthly	8
Other	8
Unknown	9
Total	127

Table 4.6

Chapter 5. Consultation Results

1. Type of Consultation

As mentioned in the summary, 88% of the 127 cases were wage and hour disputes. Many cases, including workers compensation, discrimination, unemployment and state disability, were referred to the appropriate government agencies.

In 2005, KIWA handled one discrimination case. Workplace discrimination can be categorized between discrimination that violates civil rights and discrimination by retaliation. Disputes arising out of violations of civil rights were referred out to either the Equal Employment Opportunity Commission (EEOC) or the Department of Fair Employment and Housing (DFEH). Discrimination by retaliation includes unfair or abusive treatment toward workers as a result of the workers filing a claim or cooperation with a government agent during an audit. These are generally referred to the Division of Labor Standards Enforcement (DLSE).

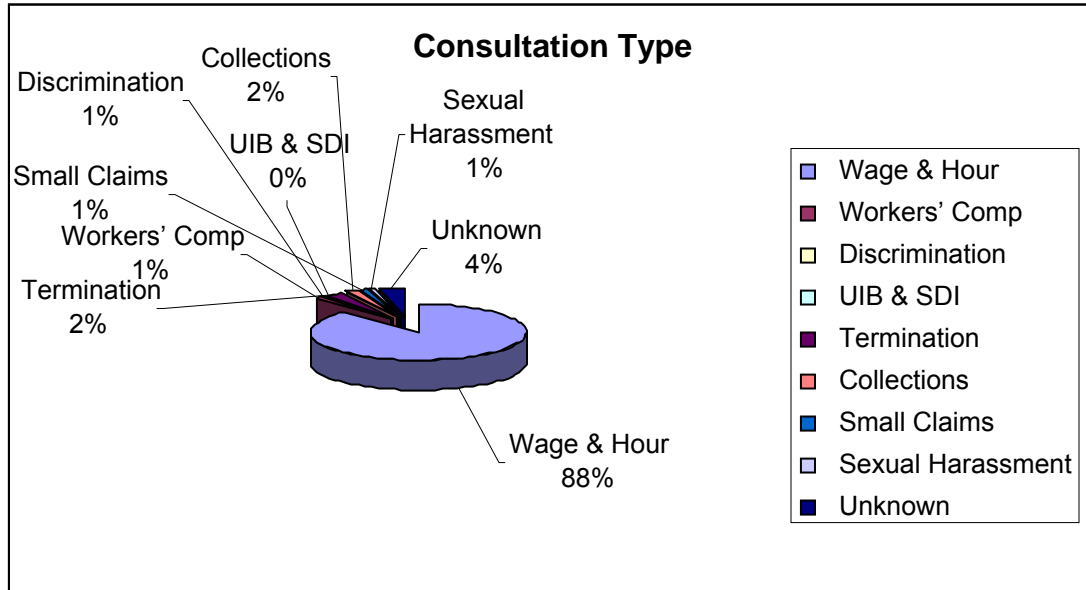


Table 5.1

Consultation Type	Cases
Wage & Hour	112
Workers' Comp	1
Discrimination	1
UIB & SDI	0
Termination	3
Collections	3
Small Claims	1
Sexual Harassment	1
Unknown	5
Total	127

2. Resolution of Wage and Hour Disputes

When a worker comes to KIWA for assistance, the first step taken following the intake process is sending a letter to the employer. By initiating with a letter, a line of communication is often opened. Mediations may take place or the cases may be filed with the appropriate government agency.

Through these steps, cases are often resolved. However, it is unclear what measure was the effective step that was taken that resolved the disputes. The data in this category reflects 122 cases. For cases with clear steps to resolution, these cases reflect the specific step. However, cases that may have resolved as a result of multiple actions are indicated as appropriately.

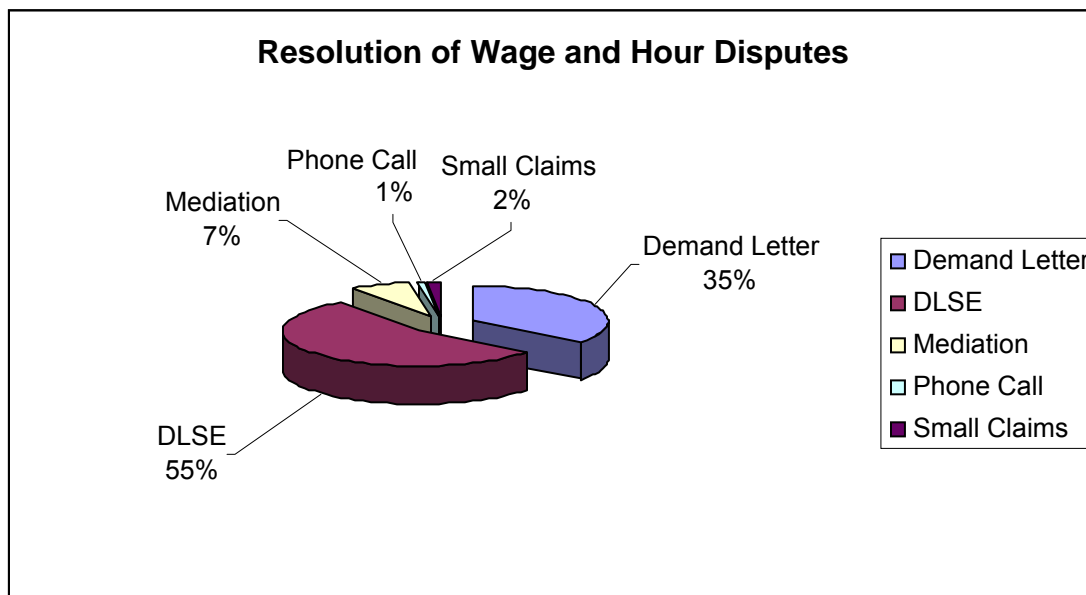


Table 5.2

Resolution	Cases
Demand Letter	43
DLSE	67
Mediation	9
Phone Call	1
Small Claims	2
Total	122

3. Results of Wage and Hour Disputes

Of the 112 workers who requested assistance from KIWA, 90 workers collected some monetary compensation, while 7 workers decided not to pursue their case. Among the cases that were initiated, 13 cases were inactive and 2 cases were unknown. In such

cases, workers may have resolved the dispute on their own following consultation from KIWA, or may have decided not to pursue their case but failed to notify KIWA.

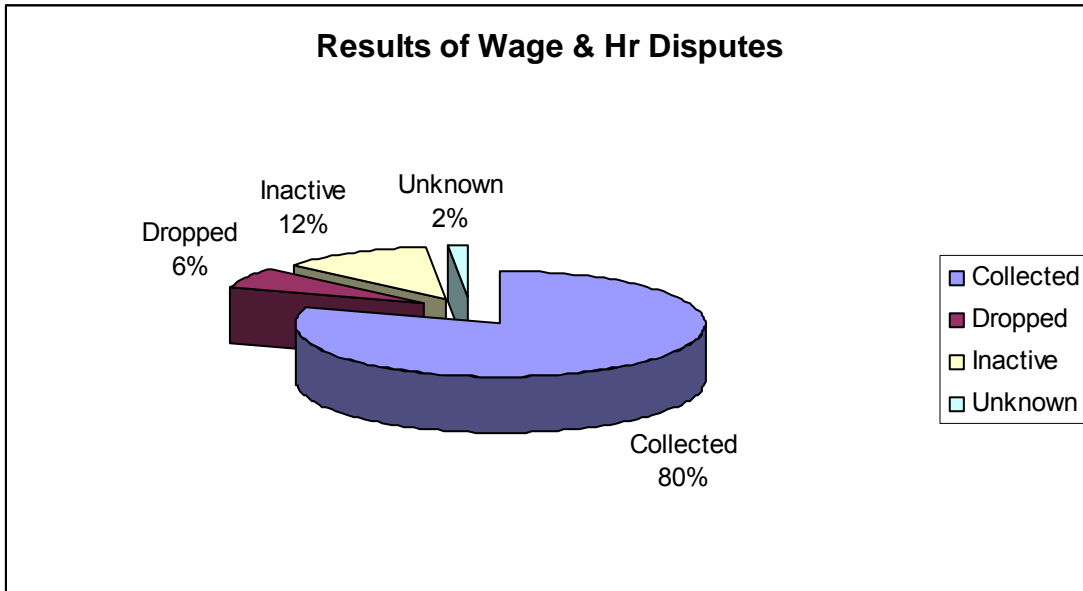


Table 5.3

Results	Cases
Collected	90
Dropped	7
Inactive	13
Unknown	2
Total	112

4. Claimed Amount and Collected Amount

As shown in Table 5.4, the 127 workers that had wage and hour disputes had a total claimed amount of **\$1,825,489.87**

In 2005, only 90 workers received some type of monetary compensation. These workers who pursued their cases had a claimed amount of **\$1,111,067.27**.

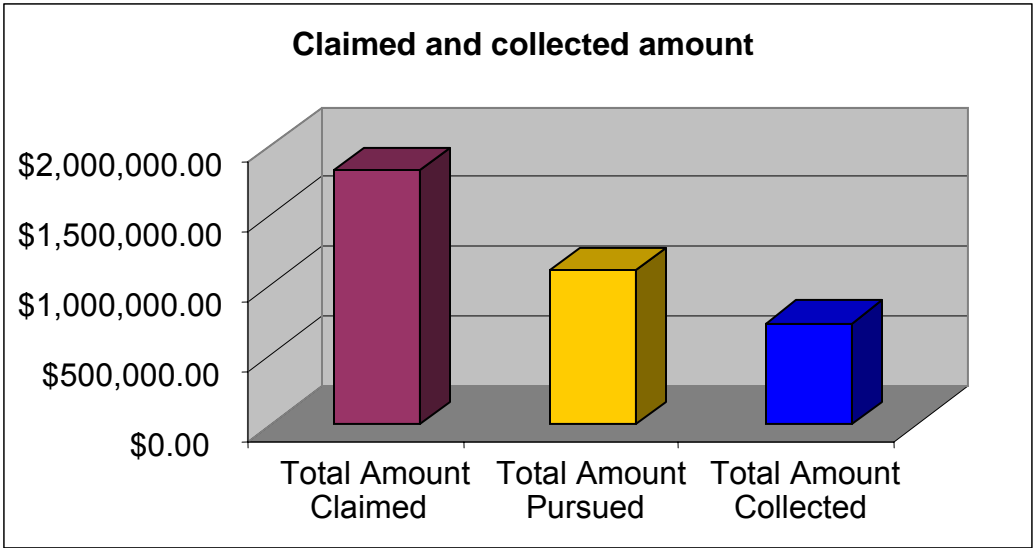


Table 5.4

Total Amount Claimed	Total Amount Pursued	Total Amount Collected
\$1,825,489.87	\$1,111,067.27	\$725,692.50

The total amount collected by the 90 workers was **\$725,692.50**. Since many cases do settle prior to the completion of the wage claim process, the amount collected is much less than the actual amount pursued. (2005)