

Koreatown Immigrant Workers Alliance Worker Empowerment Clinic

Annual Report
2006

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CHAPTER 1: Executive Summary

This annual report was created based on information gathered through the Worker Empowerment Clinic at the Koreatown Immigrant Workers Alliance (KIWA) in the year 2006. 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 and around Koreatown.

In the year 2006, KIWA handled a total of 115 cases of workplace disputes. The ethnic makeup of the workers involved in these cases was composed of 66 Koreans and 47 Latinos. There were a small number of workers who ethnically identified otherwise.

Characteristics of Workers

Among the 115 workers for whom intake files were completed, 51% were single and 46% were married, while 64% were male and 27% were female. The majority of workers were between the ages of 21 and 50. The year in which these workers immigrated varied over a span of 30 years, with a high number of workers who sought assistance immigrating anytime from 1991 to 2000. Among the workers who answered the question regarding their immigration status, most indicated that they were undocumented, while the fewest had work permits (2 workers) or only visas (0 workers). Almost 70% of the workers were incapable of communicating in English, while only 9% were fluent in English.

66 of the workers were Korean, 47 were Latino, and 2 were Chinese—the last of which were categorized as “Korean,” since for strictly practical reasons KIWA categorizes intake files as “Korean” or “Latino,” based respectively on whether individuals primarily speak Korean or Spanish.

Types of Employment

As in previous years, the largest number of disputes that KIWA handled in 2006 arose from the restaurant industry—62 out of 115 cases (or 54%). The high proportion of attention given to restaurant workers, relative to those in other sectors, may be due to KIWA’s education and outreach efforts during the Restaurant Workers Justice Campaign. Having begun in 1996, this campaign focused on wage and hour compliance and increased KIWA’s visibility among immigrants residing in and around Koreatown, especially workers in the restaurant industry.

Case Study #1 Korean Male

Mr. Y worked for a San Diego Korean supermarket for one year. He worked ten hours a day, five days a week, and made a salary of \$2,500 a month. Half of Mr. Y’s pay was made in cash while the other half was in the form of a paycheck, with tax and other deductions. Since he was off on Wednesdays and Thursdays, Mr. Y would return home to Los Angeles, where his family lived. On Fridays, on his way back to work, he would stop by the early morning wholesale fish market in Los Angeles to pick up seafood products for the San Diego supermarket. One Friday morning, his car broke down due to battery and alternator troubles, so he could not report to work that day. The next day, after his car was fixed, he reported to work only to find out that he was fired from his job.

With KIWA’s help, Mr. Y made an unpaid overtime claim at the San Diego Labor Commissioner. After a conference and hearing, the commissioner decided in favor of Mr. Y and ordered the San Diego Korean supermarket to pay him \$9,000. When the employers did not pay, the case went to the courts and the judgment was again rendered in favor of Mr. Y, concluding with an order for the supermarket to pay Mr. Y the said amount. When the supermarket still did not pay, the San Diego Sheriff stepped in and, through a writ of execution, obtained restitution to Mr. Y from the Korean supermarket’s cash register, plus sheriff’s fees.

39% of the restaurant workers whom KIWA assisted were cooks or sushi chefs, while 34% were kitchen helpers. These constituted the two largest segments within this particular set of workers, while individual cases from a bus person and a manager constituted the smallest segments.

Workers from a large geographical region sought KIWA for assistance. Workers were employed in 29 different cities, with a large number of businesses located in the city of Los Angeles.

Case Study #2
Korean Female

Mrs. H and her husband worked, for six months, at a Central Californian Korean Japanese restaurant that was owned by her husband's friend. Mrs. H waited on tables and cooked Korean food, while her husband worked as a sushi man. After the couple quit, the owner would not give Mrs. H and her husband their last pay, claiming that since the owner paid for the couple's first month's rent and security deposit, totaling \$1000, that was enough. The couple claimed however that when the owner's wife came to work at the restaurant, the couple completely paid their first month's rent and security deposit, so their debt was paid.

Mrs. H and her husband got angry and contacted KIWA to file a claim for unpaid overtime and for issues regarding break time. During conference, the owner lied and claimed that Mrs. H was not a full employee. Because he paid her in cash instead of by paycheck like her husband, the owner thought that he could get away with the lie. Mrs. H, though, produced the restaurant's business card, on which her name was printed, along with the uniform she wore at the restaurant, as proof of her employment. She recalled in detail, moreover, a fire that happened some time earlier across the street from the restaurant, which she claimed she saw while working at the restaurant. Mrs. H also claimed that one of the firemen putting out the fire was a regular at the restaurant and requested that he be called as a witness. Because Mrs. H proved the owner's lies to be false, the Labor Commissioner awarded all that Mrs. H and her husband claimed: \$12,000.

In 2006, the number of Korean workers who sought KIWA's assistance surpassed the number of Latino workers. In past years, the number of cases involving Latino workers surpassed the number of cases involving Korean workers.

Among the businesses involved in these cases for which information regarding their type of ownership has been verified, the majority (60%) operated under sole ownership, while 25% operated under a corporation.

Employment Records and Conditions

Conditions of employment considered in this study include method of payment, hourly rate vs. salary, itemized deductions, time records, benefits, and rate of payment. Based on data collected from the 115 intake files, workers were paid by various methods (cash, check, payroll check). 35% of the workers were paid in cash, while 18% were paid a payroll check. 25% were paid both in cash and by check (regular and payroll).

The proportion of workers paid on an hourly basis (42%) was similar to that

of workers paid a salary (43%). A small percentage of workers were paid on commission. Many employers are under the impression that overtime wages are not required for salary employees. However, 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. Therefore, the ideal method of calculating wages is the hourly rate.

Itemized deduction slips, showing federal and state withholding from all wages earned by employees, are legally required. According to the data, only 26 employees (or 23%) were able to provide proof of 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, in 80 out of 115 cases, employers failed to keep proper time records.

Benefits include health insurance, vacations, severance, and sick leave. Almost all of the employees (103 out of 115) had no benefits of any kind.

Many of the workers (44%) were paid on a semi-monthly basis. Workers paid on a weekly basis followed at 21%. Those paid on a bi-weekly basis amounted to the next largest group, at 17%. There were a small percentage of workers who were paid on a monthly basis, which is likely to have been a violation of California labor codes.

Consultation Results

Consultations often vary depending on the type of issue. Almost all of the disputes handled by KIWA in 2006 were wage and hour disputes (95%). Among these, 34% 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 employees may be unaware of or unmoved by state labor laws and their application to all employees regardless of their immigration status, state enforcement agencies continue to be under-funded 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.

Case Study #3

Latino Female

Mrs. R, a South American, worked for two Korean-owned Monterey Park coin laundries for one year and six months. She worked for five hours in the morning (from 7 a.m. to noon) in one coin laundry and, three hours later, for another five hours (from 3 p.m. to 8 p.m.) at the second laundry mat, seven days a week. The two laundries were located fifteen minutes away, by foot, and were owned by the same person. She was paid minimum wage, which was \$6.75 per hour at the time. Mrs. R worked at the laundries alone, so she had no time to take any breaks at both places.

With KIWA's help, Mrs. R filed a claim that addressed unpaid overtime, break time, and her split shift. The amount that was initially calculated came out to be \$19,000. We sent a demand letter and spoke to the owner; the owner offered to settle the matter out of court for \$9,500. Mrs. R accepted the offer and the case was closed at the KIWA office.

Case Study #4

Latino Male

Mr. M, a Mexican, worked at a Santa Monica Korean Chinese restaurant for one year and two months. He worked ten hours a day (from 10 a.m. to 9 p.m., with a meal break from 3 p.m. to 4 p.m.)—which, since he worked six days a week, amounted to sixty hours a week. He was paid \$1,400 in cash per month for the first four months, \$1,500 per month for the next four months, and \$1,600 per month for the final six months. The owner used to provide him with transportation to work from Koreatown, but Mr. M had to take public transportation on his way back home, which would take two hours or more.

Mr. M filed for unpaid overtime with KIWA's help. During conference, the owner lied and claimed that Mr. M worked only six-and-a-half to seven hours a day and no more than forty hours a week, and that Mr. M was paid \$1,200 per month. No agreement was reached at this point, and the date for the hearing with KIWA was set to three to four months later. At the hearing, Mr. M brought all the envelopes in which he received his pay. On the envelopes was written, in the owner's own handwriting, the dates when Mr. M worked and the amount he was paid. The owner was shown these envelopes at the hearing. Of the \$12,500 that Mr. M claimed, the owner offered to pay \$9,000, settling the matter out of court. Mr. M accepted and the case was thus settled.

CHAPTER 2: Characteristics of Workers

The following information is based on data gathered from the 115 intake files completed in the year 2006.

1. Marital Status

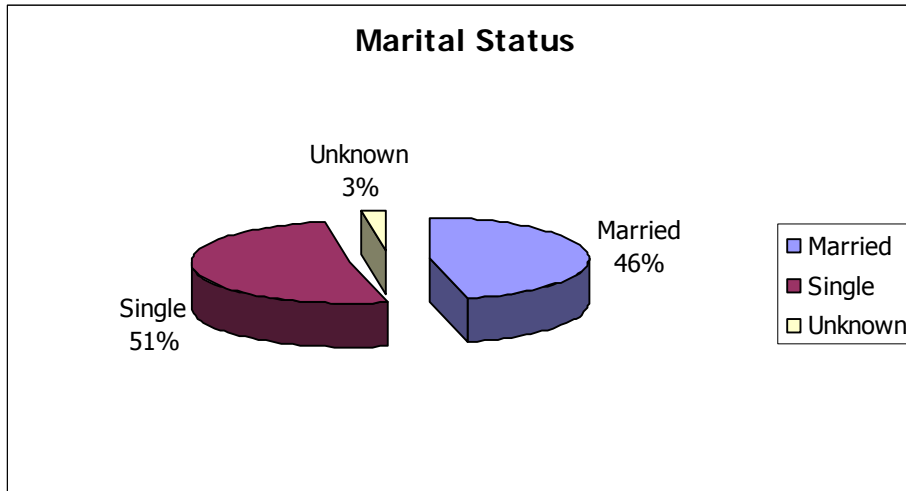
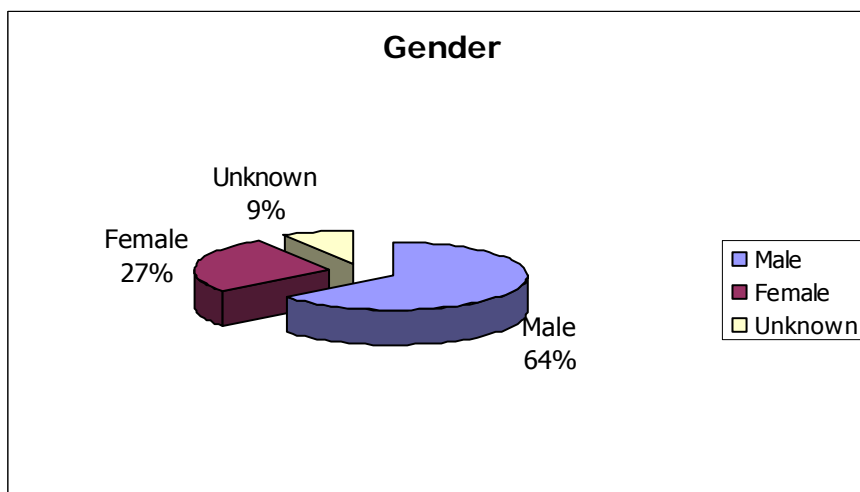


Table 2.1

59 of the workers (or 51%) were single and 53 (or 46%) were married. Three clients left this information blank on their form.

2. Gender

Comparable to trends evident in fourteen years worth of data gathered through KIWA's Worker Empowerment Clinic, the ratio between men and women in this set was about 2 to 1. Of the workers who sought KIWA's assistance, 64% reported they were male, while 27% reported they were female. However, it is not clear whether, in actuality, twice as many men have been employed than women. The reason why the data shows such a disparity between men and women in the workforce may be certain immigration patterns, the nature of KIWA's outreach efforts, or how knowledge about KIWA's Worker Empowerment Clinic has been disseminated. Another factor may be the tendency for men to immigrate before the rest of their families do, or immigrate alone.

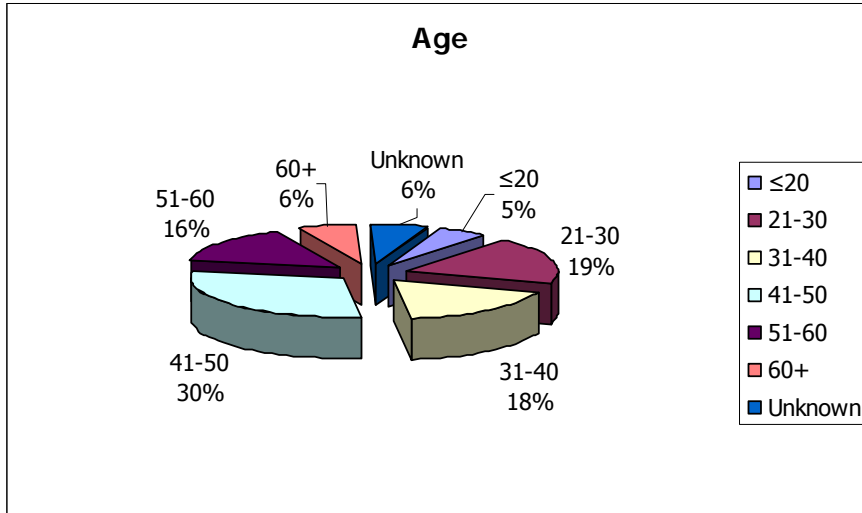


Gender	Cases
Male	74
Female	31
Unknown	10
Total	115

3. Age

Table 2.2

The majority of workers who sought KIWA for assistance fell within the range of 21 to 60 years old. More specifically, 19% of the workers were 21 to 30 years old, 18% were 31 to 40, 30% were 41 to 50, and 16% were 51 to 60. Only 6% of the workers were over the age of 60, which may be due to the likelihood for people of this age to be retired and/or operate businesses as owners or employers.



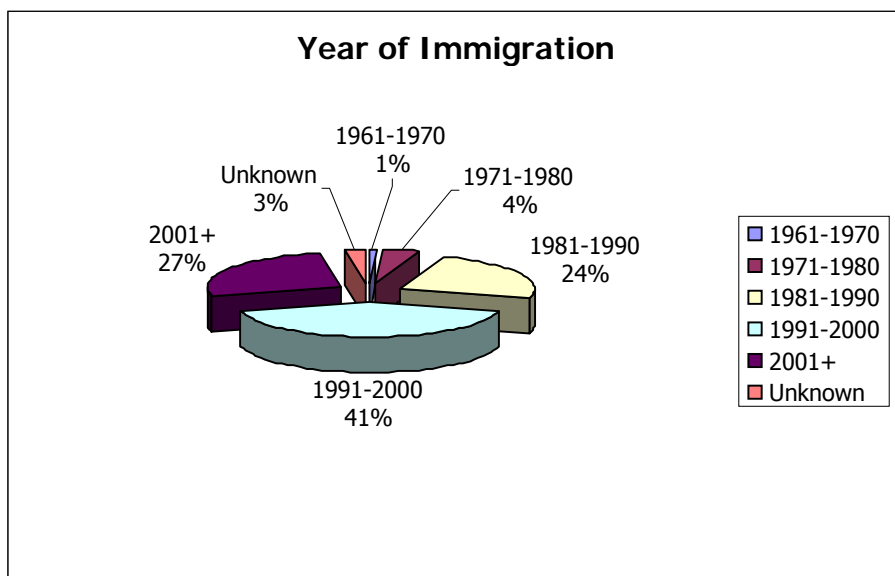
Age	Cases
<=20	6
21-30	22
31-40	21
41-50	34
51-60	18
60+	7
Unknown	7
Total	115

Table 2.3

4. Year of Immigration

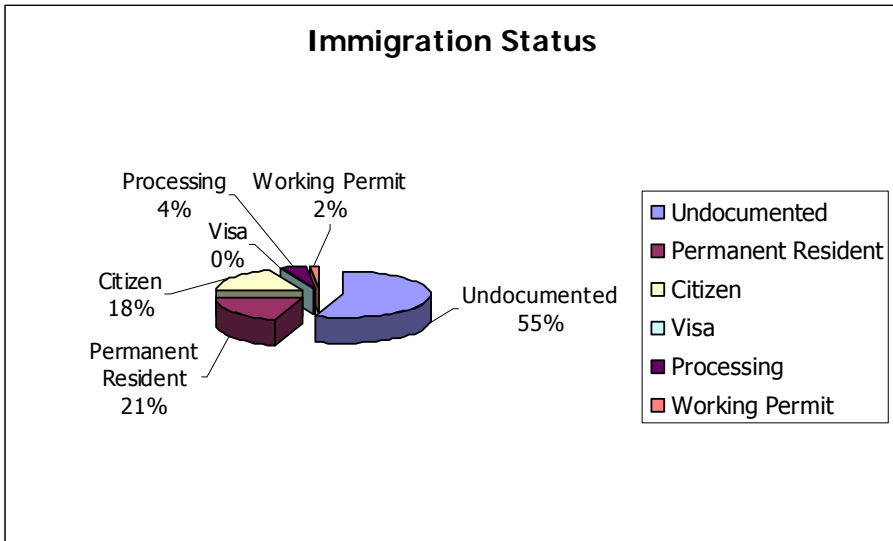
According to the data in Table 2.4, the largest number of workers who sought assistance from KIWA (47 workers, or 41%) immigrated to the United States anytime from 1991 to 2000. There were also a substantial number who immigrated from 1981 to 1990 (28 workers) and from 2001 to 2006 (31 workers).

The high proportion of workers in this set, who immigrated within the most recent range of six years (2001-2006), may suggest that a significant portion of KIWA's efforts are devoted to recent immigrants, relative to the proportion of assistance provided to those who immigrated within earlier ranges of ten years.



Year of Immigration	Cases
1961-1970	1
1971-1980	5
1981-1990	28
1991-2000	47
2001+	31
Unknown	3
Total	115

Table 2.4



Immigration Status	Cases
Undocumented	62
Permanent Resident	23
Citizen	20
Visa	0
Processing	5
Working Permit	2
Unknown	3
Total	115

Table 2.5

The data regarding immigration status carries the highest margin of error in this report due to the sensitive nature of the question. Many employees may have felt uncomfortable disclosing factual information about their immigration status.

This question was left unanswered in 3 cases. A large majority of workers were undocumented. There were 23 workers who indicated they were permanent residents, 20 who were citizens, 5 whose applications were in process, and only 2 who had work permits for employment in the United States. This information could be highly inaccurate because there are no verification measures and there is a high incentive for immigrant workers to provide false information in order to protect themselves.

6. English Ability

As shown in Table 2.6, 69% of the workers indicated they had little to no English ability. Only 10 workers indicated they could speak English well and 21 workers had only some proficiency. Workers who do not speak the language are often taken advantage of by their employers. Ironically, the majority of workers who are poor in English work for employers who are also poor in English. Regardless, the inability to communicate in this language makes many workers susceptible to exploitative working conditions because there is a dramatic difference in the availability of quality workplaces to those who are able to communicate in English and to those who are not.

Since stronger English skills means more employment options, those proficient in the language are not limited to jobs in such ethnic enclaves as Koreatown. Koreatown is a gateway community for immigrants entering the U.S.; the residents of this community are generally not proficient in English (cf. the United States Census 2000). These factors may account for the high number of cases involving workers with limited English proficiency.

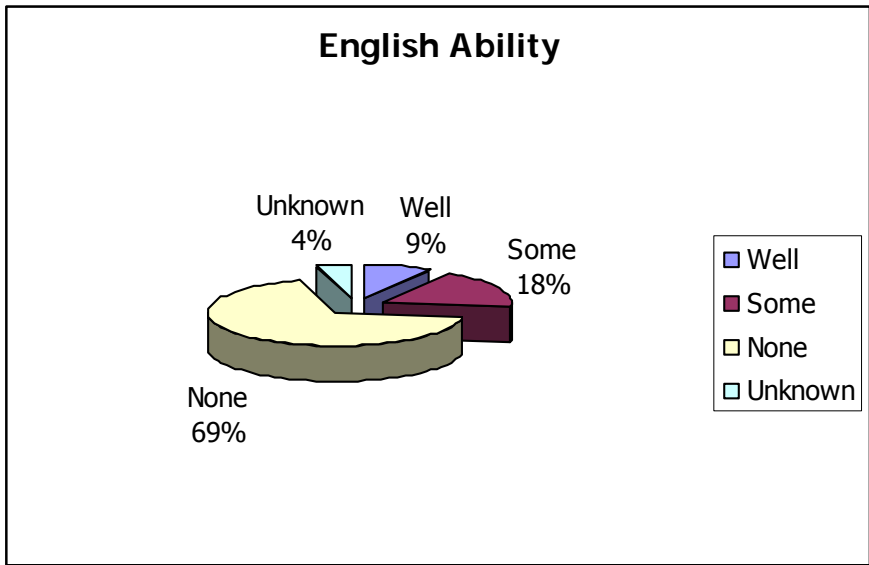


Table 2.6

7. Ethnic Groups

KIWA currently uses a system of categorizing intake cases into two ethnic groups, consisting of Korean- and Spanish-speaking individuals. Spanish-speaking workers were categorized in the “Latino” ethnic group and Korean-speaking workers, including Chinese workers, were categorized in the “Korean” group.

Out of the 115 cases, 66 were of Korean workers, 47 were of Latino workers, and 2 were of Chinese workers (which, again, were categorized as “Korean”).

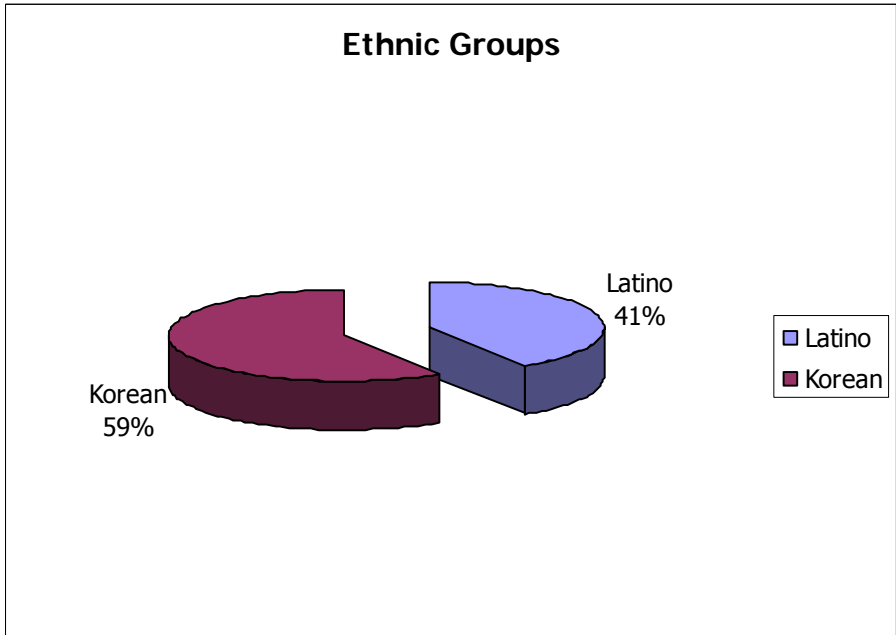


Table 2.7

CHAPTER 3: Type of Employment

1. Type of Employment

In 2006, workers from many various industries such as security, sales, market, etc. came to KIWA seeking assistance. However, restaurant cases constituted the most common workplace disputes brought to KIWA. The higher number of restaurant cases may be the result of KIWA's Restaurant Workers Justice Campaign, during which time KIWA's outreach and education efforts were concentrated in the restaurant industry. The restaurant industry is the largest industry in Koreatown, where there are over 500 restaurants employing over 6,000 employees. In an ethnic enclave like Koreatown, such a high concentration of small businesses makes regulation of labor laws difficult. It also makes the industry extremely competitive, which often leads to understaffing and underpayment of wages. Moreover, due to the gentrification of Koreatown, costly rent causes owners often to cut corners—for instance, by underpaying wages—for higher profits in the business.

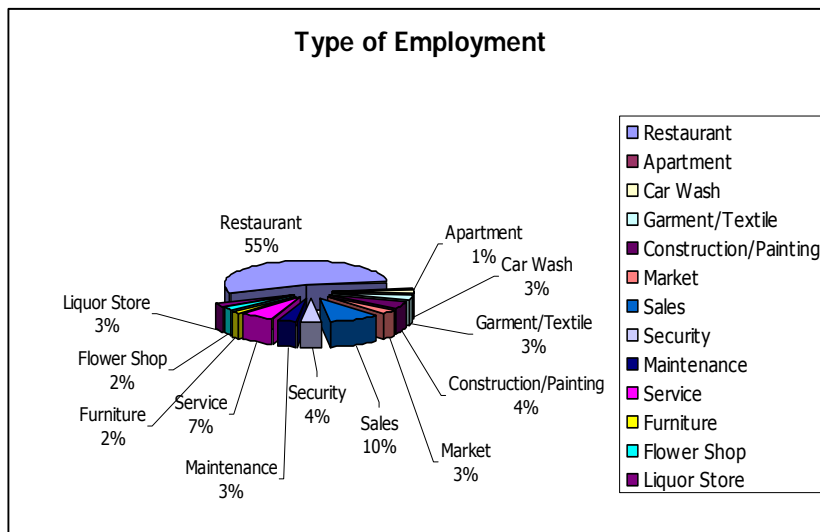
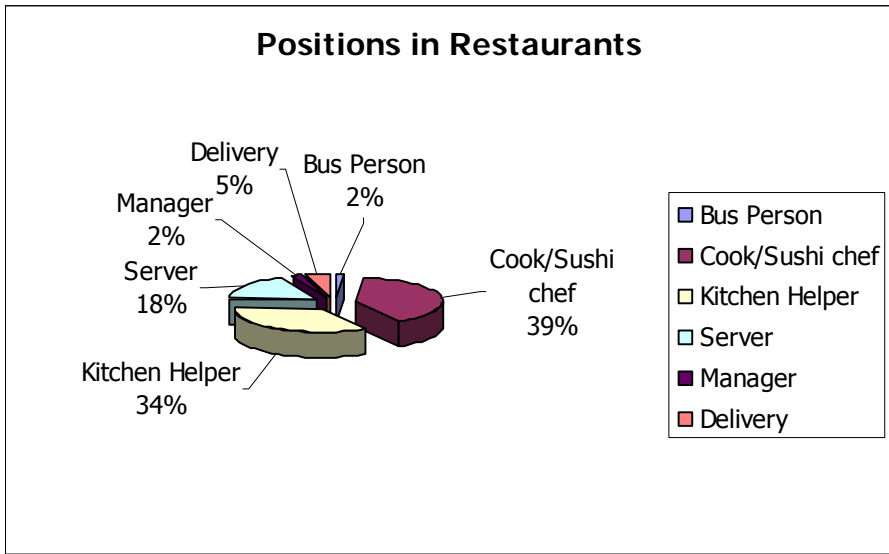


Table 3.1

Type of Employment	Cases
Restaurant	62
Apartment	1
Car Wash	3
Garment/Textile	4
Construction/Painting	5
Market	4
Sales	11
Security	5
Maintenance	4
Service	8
Furniture	2
Flower Shop	2
Liquor Store	4
Total	115

2. Positions in Restaurants

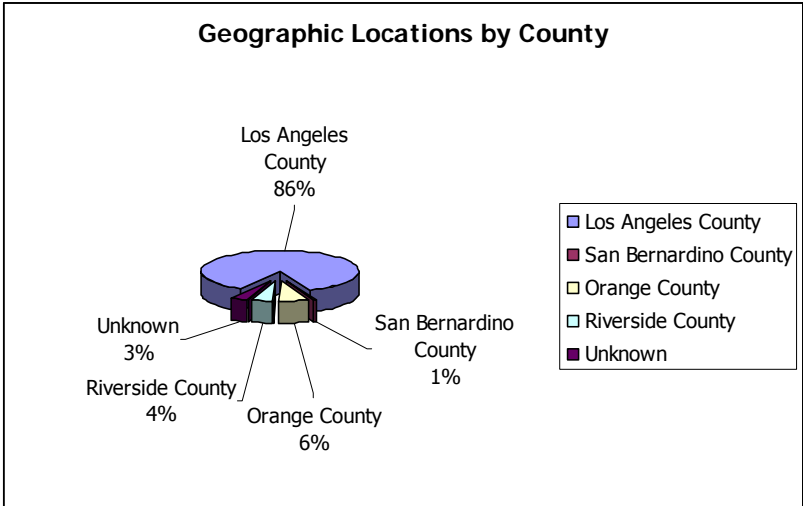
Due to the large number of restaurant cases brought to KIWA in 2006, a separate table (Table 3.2) is presented here to show the breakdown of worker's positions in the restaurant industry. The largest number of cases involved cooks/sushi chefs at 39%, followed by kitchen helpers at 34%.



Position in Restaurant	Cases
Bus Person	1
Cook/Sushi chef	25
Kitchen Helper	21
Server	11
Manager	1
Delivery	3
Total	62

Table 3.2

3. Geographic Locations

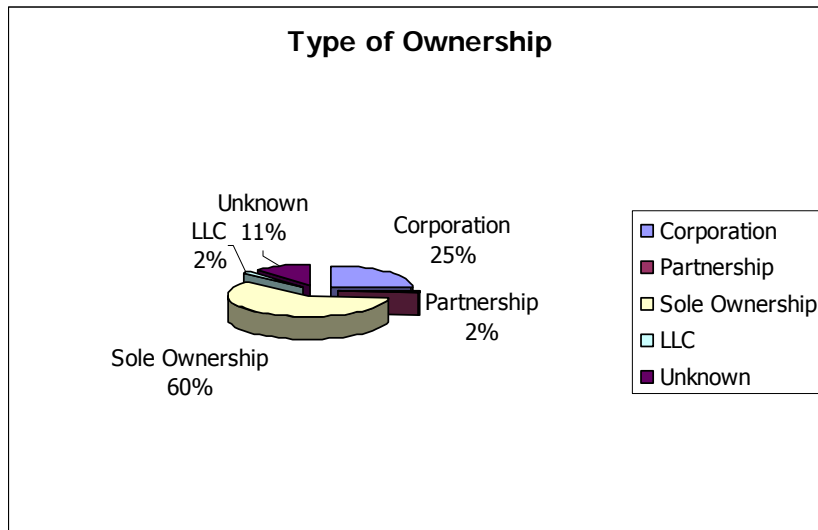


Geographic Locations by County	Cases
Los Angeles County	98
San Bernardino County	1
Orange County	7
Riverside County	5
Unknown	4
Total	115

Table 3.3

Table 3.3 suggests that workers who live and work outside of Koreatown, in various cities, seek KIWA for assistance. Table 3.3 shows the division of workers by county. Although 86% of the disputes KIWA provided services for occurred in Los Angeles County, by no means did all of these occur in the city of Los Angeles. KIWA handled cases from the cities of Alhambra, Baldwin Park, Cerritos, Commerce, Gardena, Hollywood, La Mirada, Los Angeles, Marina Del Rey, Monterey Park, Norwalk, Palmdale, Pasadena, Pomona, Santa Fe Springs, Santa Monica, Sherman Oaks, Torrance, Vernon, and Wilmington. There were also cases from Orange County, Riverside County, and San Bernardino County. The cities in Orange County from which cases were brought include Anaheim, Cypress, Fountain Valley, Garden Grove, and Santa Ana. The cities in Riverside County include Desert Hot Springs, San Jacinto, and Temecula. The case from San Bernardino County was from the city of San Bernardino. The accuracy of this data is grounded on the importance of knowing the location of employment when attempting to resolve any employment disputes.

4. Type of Ownership



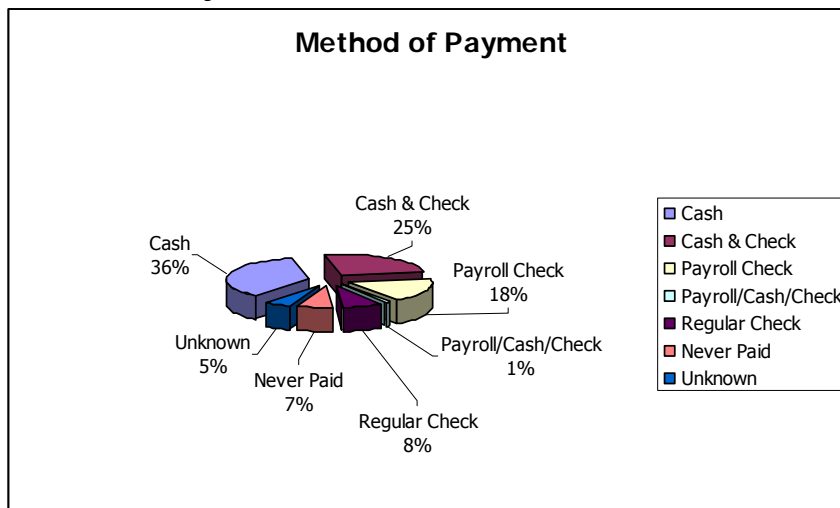
Type of Ownership	Cases
Corporation	29
Partnership	2
Sole Ownership	69
LLC	2
Unknown	13
Total	115

Table 3.4

As shown in Table 3.4, 69 out of 115 cases (or 60%) were disputes against employers operating under sole ownership and 29 cases (or 25%) were against employers operating under a corporation. This information is helpful in determining the liability of the employer as an individual or as a corporation, which depends on who controlled the daily operation of the business. A few of the cases involved businesses owned by partnerships or by LLCs.

CHAPTER 4: Employment Records and Conditions

1. Method of Payment



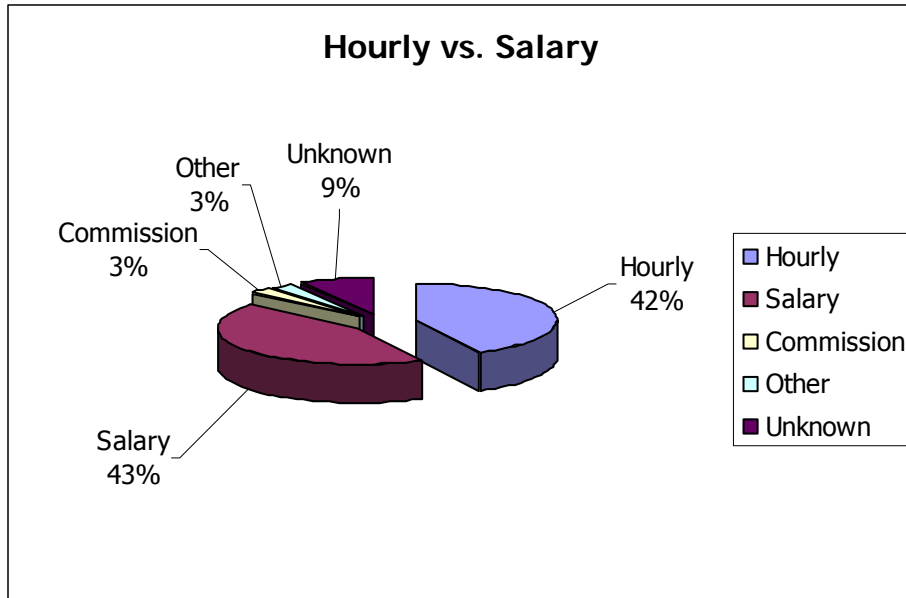
Method of Payment	Cases
Cash	41
Cash & Check	29
Payroll Check	21
Payroll/Cash/Check	1
Regular Check	9
Never Paid	8
Unknown	6
Total	115

Table 4.1

Of the 115 cases, 41 workers were paid their wages in cash, 29 were paid in both cash and payroll checks, and 1 was paid in payroll checks, cash, and regular checks. 9 workers were paid in the form of regular checks.

Employers who pay by cash generally do so to avoid paying overtime wages, employee taxes, and/or workers compensation premiums. Systems of cash pay can be a significant issue when a dispute, audit, and/or workplace injury arises. However, among the workers that sought assistance from KIWA, there were only 21 workers (or 18%) who were paid with payroll checks.

2. Hourly vs. Salary



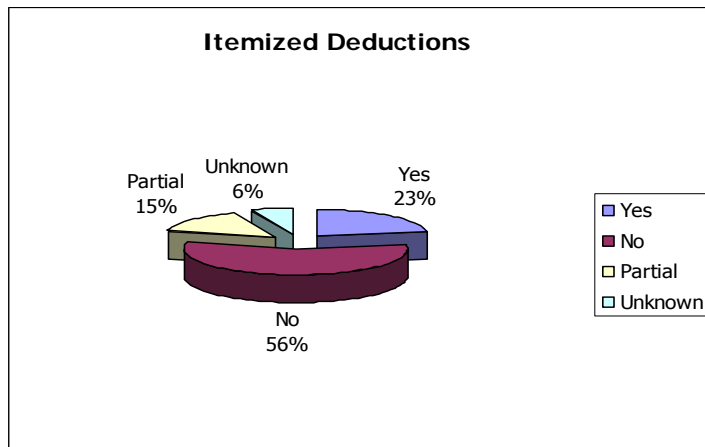
Hourly vs. Salary	Cases
Hourly	49
Salary	50
Commission	3
Other	3
Unknown	10
Total	115

Table 4.2

The calculation of wages is a critical part in resolving a wage and hour dispute. According to Table 4.2, 43% of workers were paid on a salary basis and 42% were paid on an hourly basis. Only 3% were paid through commission. As almost all of the disputes handled by KIWA in 2006 involved issues concerning wages and hours of work, it appears generally to be the case that hourly paid workers were either not paid at all or not paid properly, as in employers' failure to abide by agreements concerning employee's regular rate of pay for hours of overtime work.

Workplace disputes involving wage and hour issues, in which wages were paid at a salary rate, have often concerned unpaid wages or unpaid overtime wages. Employers often claim that when an employee is paid a salary, she or he is not entitled to overtime—a misunderstanding that will more often than not lead to a dispute between the employee and the employer.

3. Itemized Deductions



Itemized Deductions	Cases
Yes	26
No	65
Partial	17
Unknown	7
Total	115

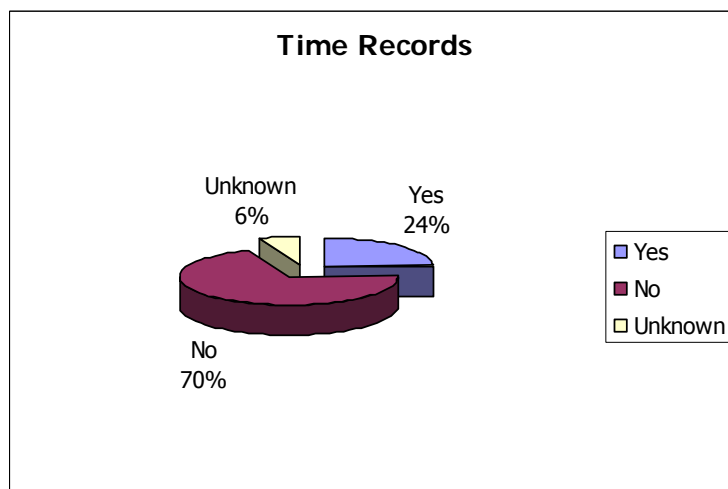
Table 4.3

California labor code requires each and every employer to provide itemized deduction statements for all wages paid to their employees. Employers must provide accurate information of how much money is withheld and for what reasons withholdings are made.

According to the data, only 23% of the workers (26 workers) were provided with itemized deduction statements from their employers. There were 17 cases in which employers provided itemized deduction statements for only part of the employee’s earnings, as when itemized deduction statements are provided for payroll checks, but not for the cash that is also paid to the employee. There were 65 cases (or 56%) in which employers failed to provide itemized deduction statements.

4. Time Records

Employers are required by law to keep time records of all employees’ work hours. Time records indicate how many hours each employee has worked, and, together with the rate of pay, determine how much each employee should be paid. In only 28 of the 115 cases (or 24%) did employers keep time records. However, the data does not indicate whether these few time records were accurate or not. Not all were prepared for the purpose of keeping an accurate record of when employees worked. A significant portion was fraudulent and intended to avoid legal liabilities.



Time Records	Cases
Yes	28
No	80
Unknown	7
Total	115

Table 4.4

5. Benefits

As shown in Table 4.5, most of the low-wage workers (i.e., 91%) who sought assistance from KIWA with workplace disputes do not receive any sorts of benefits, such as health insurance, paid vacations, sick leave, and/or severance pay. Since there is no legislation requiring employers to provide such benefits to their employees, the majority of workers do not receive them. When a workday is missed due to illness, wages are deducted, or one's employment is terminated. In fear of termination or losing wages, many of these workers are unable to recover properly from an illness when one occurs.

Although required by law, many employers do not obtain workers' compensation insurance, which makes the process of obtaining medical attention and monetary compensation difficult for an injured employee.

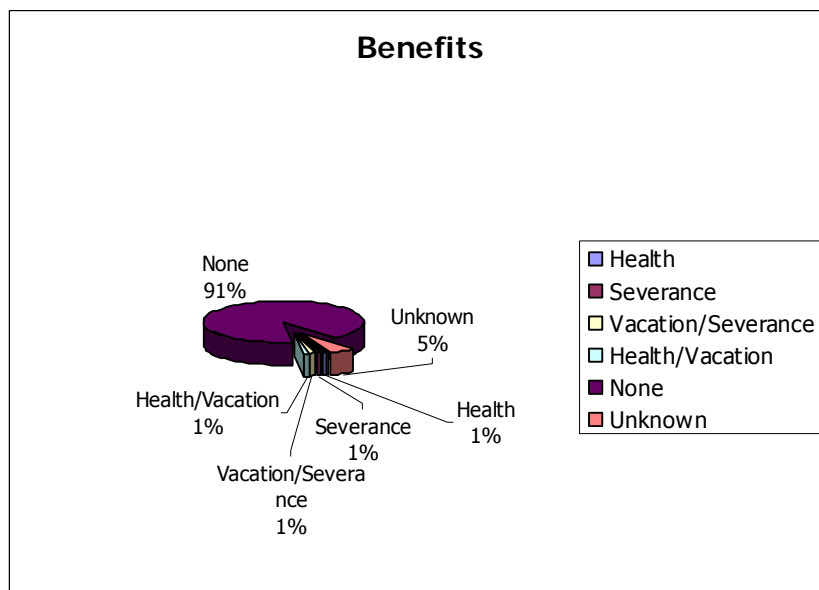
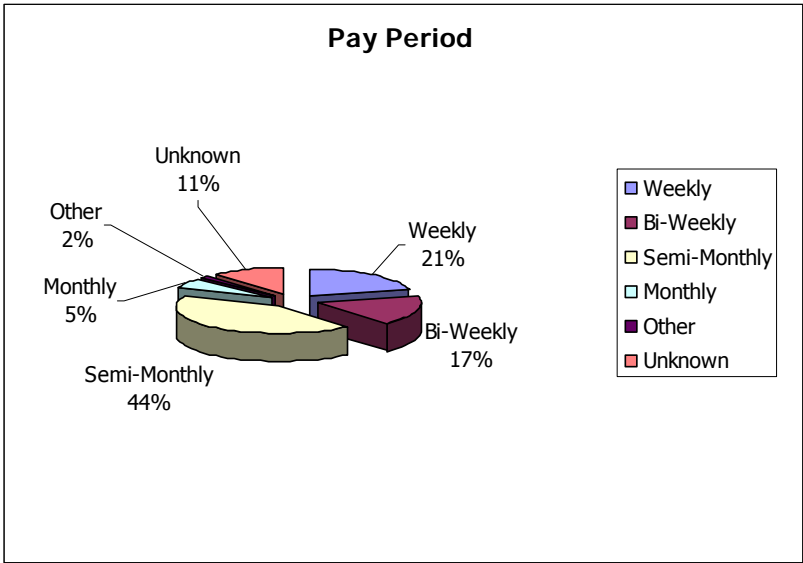


Table 4.5

Benefits	Cases
Vacation	2
Health	1
Severance	1
Vacation/Severance	1
Health/Vacation	1
None	103
Unknown	6
Total	115

6. Rate of Payment

Rate of payment concerns how often employees are paid in terms of certain pay periods. 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-monthly, weekly, or bi-weekly. According to the data, many of the workers were paid semi-monthly (44%). 24 workers (or 21%) were paid at a weekly rate and 20 workers (or 17%) were paid at a bi-weekly rate. There is often confusion regarding the difference between bi-weekly and semi-monthly rates. Bi-weekly is once every two weeks, while semi-monthly is twice per month. Though the two rates are very similar, at the end of the year, a bi-weekly payment system should result in a total of 26 payments, while a semi-monthly system should result in a total of 24 payments. There were 6 cases in which employers paid their employees at a monthly rate, which is against California labor codes.



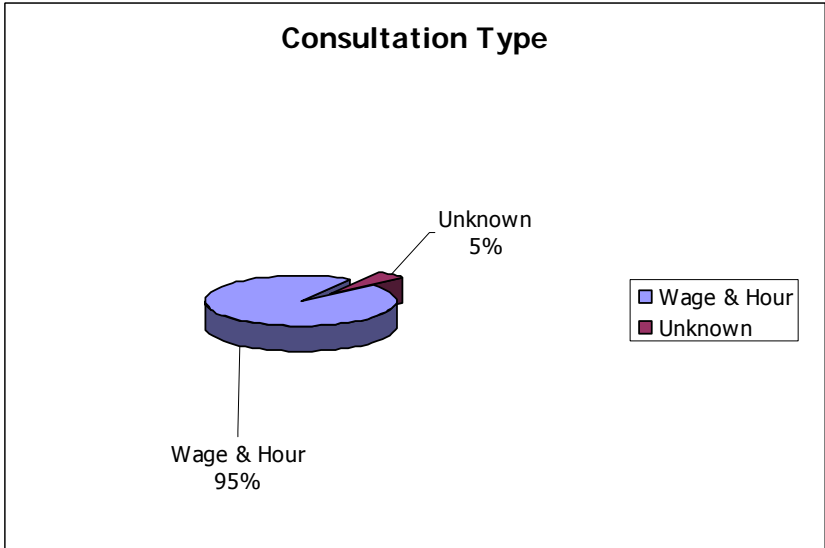
Pay Period	Cases
Weekly	24
Bi-Weekly	20
Semi-Monthly	50
Monthly	6
Other	2
Unknown	13
Total	115

Table 4.6

CHAPTER 5: Consultation Results

1. Type of Consultation

As mentioned in the summary, 95% of the 115 cases in 2006 were wage and hour disputes. The nature of the disputes involved in the other 6 cases was unknown due to an incomplete intake file or closure of the case before full consultation. These wage and hour disputes arose from such issues as the failure of an employer to pay complete wages for overtime, violation of rest and meal periods, unpaid wages, and/or payment of wage under the minimum wage.



Consultation Type	Cases
Wage & Hour	109
Unknown	6
Total	115

Table 5.1

2. Resolution to the Wage and Hour Disputes

When a worker comes to KIWA for assistance, the first step that follows the intake process is to send a letter to the employer. When negotiations are initiated with a letter, a line of communication is often opened between the employer and the employee. Certain mediations may take place or the cases may be filed with the appropriate government agency. Since the only cases handled by KIWA in 2006 were wage and hour disputes, many of the cases were filed with the Division of Labor Standards Enforcement (DLSE).

Through these steps, cases are often resolved. However, it is unclear which measures have been the most effective for the resolution of the disputes. The data in this section reflects the 109 cases that were wage and hour disputes. There were 6 cases in which only a letter was sent to the employer, 40 cases in which only a form was filed with the DLSE, and 45 cases in which both a letter and a form were used in order to resolve the dispute. There were 24 cases in which there was no known means of resolution. A number of cases in this last set may have reached closure before any means of resolution was fully enacted.

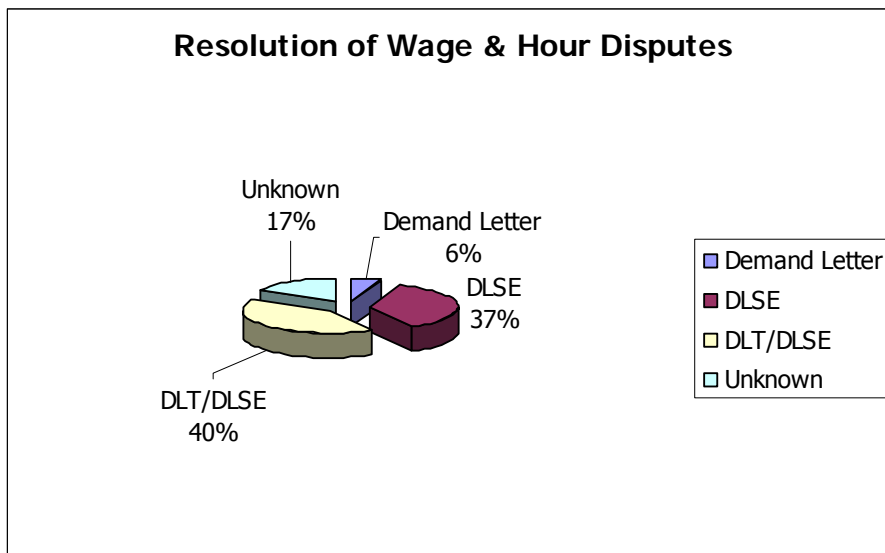


Table 5.2

3. Results to the Wage and Hour Disputes

The information in this section reflects the 109 wage and hour disputes handled by KIWA in 2006. Among the workers involved in these, 35 collected some monetary compensation, while 2 decided not to pursue their cases further. 10 cases were inactive and therefore closed, and 9 cases were closed by KIWA due to false testimonies or inconvenience in pursuing the case. The results of many of the cases (53%) are considered unknown because such cases may have been resolved independently after consultation with KIWA, handled by the DLSE after the relevant forms were filed, and/or aborted because the relevant parties decided not to pursue their cases further and failed to notify KIWA.

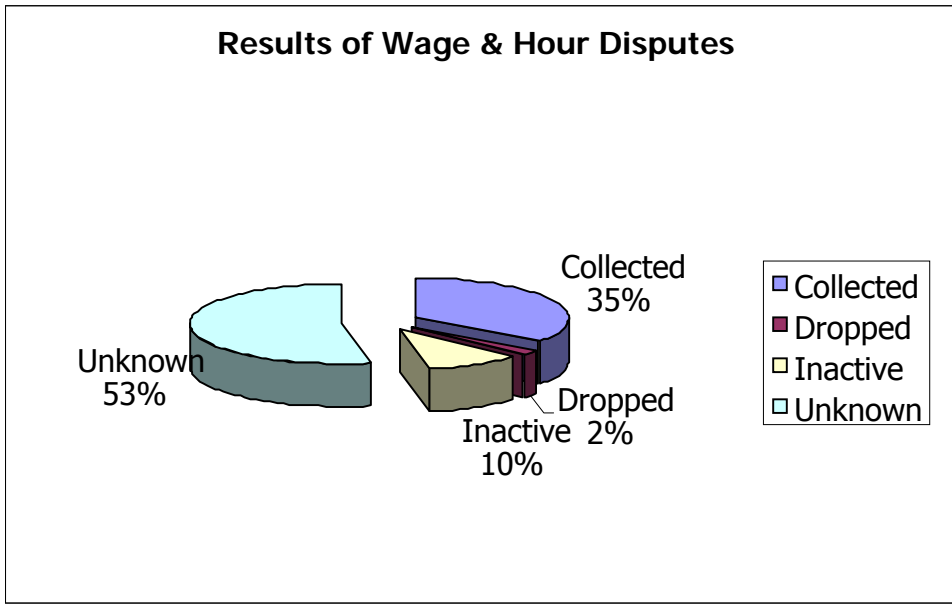


Table 5.3

4. Claimed Amount vs. Collected Amount

The information below is based on the 115 cases handles by KIWA in 2006. There were 93 cases in which a "claimed amount" was calculated for the worker, the total of which was \$725,243.83. This does not mean that all 93 cases were pursued: in 24 of these, the claimed amount was not pursued. These cases were closed due to inactivity, inconvenience, false information provided by the worker, etc. The total amount pursued was \$580,582.89. Of the workers involved in the 69 cases actually initiated, 35 collected some monetary compensation. The total amount collected was \$145,693.61. Since many cases are settled prior to the completion of the wage claim process, the amount collected is much less than the actual amount pursued.

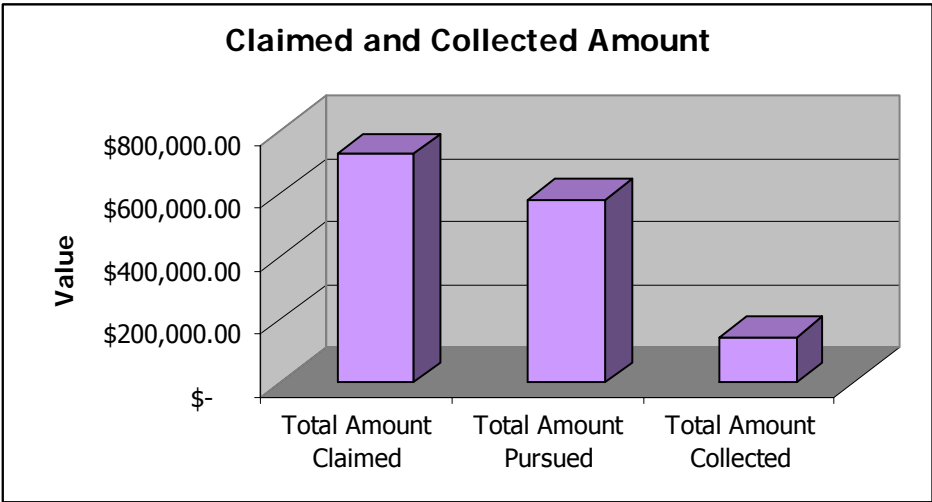


Table 5.4

Total Amount Claimed	Total Amount Pursued	Total Amount Collected
\$725,243.83	\$580,582.89	\$145,693.61