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Contact: Anna Deknatel, NELP, 646-200-5311
Contact: Jose Javier Rodriguez, FLS, 305-573-0092 ext. 203

MINIMUM WAGE EARNERS FILE SUIT CHALLENGING FLORIDA'S FAILURE TO ABIDE BY CONSTITUTION'S MINIMUM WAGE REQUIREMENT

State denying 188,000 Workers the Minimum Wage Rate Required by Florida Constitution

FLORIDA – On behalf of thousands of minimum wage earners across Florida, low-wage workers represented by the National Employment Law Project and Florida Legal Services filed suit today over the State's refusal to raise Florida's minimum wage to keep pace with the rising cost of living, as required by state law. Since January 1st, approximately 188,000 minimum wage workers have been denied a six-cent raise to \$7.31 an hour, in violation of Florida's Constitution, which requires Florida's Agency for Workforce Innovation (AWI) to increase the minimum wage each year for inflation.

"In 2004, Floridians voted 72% to 28% to amend the state's constitution to make the minimum wage increase each year to keep pace with the rising cost of living. Despite this near three-to-one voter mandate, Florida's AWI has inexplicably ignored the requirement this year, violating the Constitution and shortchanging thousands of working Floridians who are struggling to get by in this tough economy," said **Paul Sonn of the National Employment Law Project, co-counsel for the plaintiffs.**

On January 1st, seven states with laws like Florida's -- Arizona, Colorado, Ohio, Montana, Oregon, Vermont and Washington -- increased their state minimum wages to keep pace with inflation. Florida should have done the same but did not.

"Unlike higher wage-earners, those at the lowest end of the scale tend to spend rather than put away additional earnings, meaning that any added income goes directly into Florida's economy," said **Jose Javier Rodriguez of Florida Legal Services, co-counsel for the plaintiffs.** "As Governor Rick Scott's Administration conducts its review of agencies and departments, a top priority should be to correct AWI's continued refusal to follow a constitutional mandate created with the overwhelming support of Floridians. This is not a partisan or political issue. When it comes to our prosperity, it's a 'no-brainer.'"

When the minimum wage was passed in 2004, the Florida Supreme Court explained that it "clearly does not provide for decreases in the minimum wage in times of deflation." However, internal documents obtained by the plaintiffs reveal that AWI reduced the state minimum wage in 2010 to \$7.06 per hour from 2009's rate of \$7.21 per hour because of deflation that occurred in 2008-2009. The rate should instead have remained at \$7.21 for 2010. AWI reduced the rate in spite of internal AWI memos acknowledging the Supreme Court ruling and expressing concern that a decrease was not permitted under state law. Moreover, AWI failed to publicly announce its calculations as required by state law. Florida's workers were spared from the erroneous wage cut only because Congress at the same time increased the federal minimum wage to \$7.25.

This year the problem was aggravated by these errors in calculation, as shown in the same internal documents obtained by plaintiffs' counsel. Because AWI's calculation for 2010 was artificially low, the agency

miscalculated the 2011 rate as \$7.16 per hour, which is still below the federal minimum wage rate. In fact, the correct 2011 rate is \$7.31 -- six cents more than the federal rate. AWI has so far refused plaintiffs' request to correct the error.

Consumer spending makes up 70% of our economy and restoring it is key for promoting growth, the National Employment Law Project said today. Minimum wage increases are one of the most direct means of boosting consumer demand since low-income workers spend higher wages immediately on necessities at local businesses. For example, the 70 cent increase in the federal minimum wage in 2009 generated \$5.5 billion in new consumer spending, according to the Economic Policy Institute.

The lawsuit directed at AWI was filed in Circuit Court in Leon County by the National Employment Law Project and Florida Legal Services on behalf of four minimum wage workers and three organizations whose members are low-wage workers: the Restaurant Opportunities Center of Miami, WeCount! (Homestead, FL) and the Farmworker Association of Florida (Apopka, FL).

For further background on Florida's minimum wage, view today's court filing here:

<http://bit.ly/eu9Z9e>

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