

COMMITTEE ON CONSUMER AND WORKER PROTECTION
CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AND WORKER
PROTECTION

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April 17, 2024
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HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Julie Menin, Chairperson

COUNCIL MEMBERS:

Shaun Abreu
Gale A. Brewer
Amanda Farías
Chi A. Ossé

A P P E A R A N C E S (CONTINUED)

Vilda Vera Mayuga, Commissioner of the New York City Department of Consumer and Worker Protection

Elizabeth Wagoner, Deputy Commissioner of the Office of Labor Policy and Standards at the New York City Department of Consumer and Worker Protection

Carlos Ortiz, Assistant Commissioner of External Affairs at the New York City Department of Consumer and Worker Protection

Autumn Weintraub, Fast Food Director at 32BJ SEIU

Max Pilcher, Starbucks worker

Autumn Segarra, former Chipotle worker

Lee Lambert, Starbucks worker

Peter Fugiel, postdoctoral research fellow at the Rutgers School of Management and Labor Relations

Gabriel Simonario, former Starbucks worker

Christopher Leon Johnson, self

2 SERGEANT-AT-ARMS: This is a microphone
3 check for the Committee on Consumer and Worker
4 Protection on April 17, 2024, by Layla Lynch in the
5 Council Chambers.

6 SERGEANT-AT-ARMS: Good morning and
7 welcome to today's New York City Council hearing for
8 the Committee on Consumer and Worker Protection.

9 At this time, we ask that you silence all
10 cell phones and electronic devices to minimize
11 disruptions throughout the hearing.

12 If you have testimony you wish to submit
13 for the record, you may do so via email at
14 testimony@Council.nyc.gov. Once again, that is
15 testimony@Council.nyc.gov.

16 At any time throughout the hearing,
17 please do not approach the dais.

18 We thank you for your kind cooperation.

19 Chair, we are ready to begin.

20 CHAIRPERSON MENIN: [GAVEL] Thank you for
21 joining our legislative hearing today before the
22 Council's Committee on Consumer and Worker
23 Protection. Good morning. I am Julie Menin, Chair of
24 the Committee on Consumer and Worker Protection.

Research has found that inconsistent and unpredictable work schedules are linked to negative impact on workers' health and well-being, including psychological distress, poorer sleep quality, higher rates of unhappiness, and less household economic security. This burden falls disproportionately on workers of color, particularly women of color, as they are more likely to have jobs with unpredictable work schedules, and they are more likely to have responsibility for child care and elder care, and it is not just the workers themselves who bear the impacts. When a parent has inconsistent and unpredictable work schedules, it can lead to behavioral and sleep problems, school absences, and even poorer health outcomes for their children. In 2017, the Council enacted a package of legislation that ended unfair and inconsistent scheduling practices in the fast food and retail industries, also known as the Fair Workweek Law, the subject of the hearing. In 2021, coverage was expanded to include utility safety employees or people who inspect gas pipes or work in underground facilities, for example. Under the Fair Workweek law, fast food employers in New York City must give workers regular

work schedules 14 days in advance that are consistent with their regular schedule, premium pay for schedule changes, the opportunity to decline to work additional time, and the opportunity to work newly available shifts before hiring new workers. Fast food employers also cannot schedule a clopening shift or when employees both work a closing and opening shift unless the worker consents in writing and receives a 100-dollar premium to work that shift. Furthermore, fast food employers cannot fire or reduce the hours of a worker by more than 15 percent without just cause. Under the retail and utility safety worker provisions of the law, employers must also give workers 72 hours of advance notice of work schedules and may not schedule workers for on-call shifts or change workers' schedules with less than 72 hours of notice. Since the Fair Workweek Law went into effect in November of 2017, DCWP has received more than 500 Fair Workweek complaints, opened more than 250 investigations, and obtained resolutions requiring over 25 million in combined fines and restitution for more than 17,000 workers. As one of the most comprehensive fair scheduling laws of its kind, New

2 York City's Fair Workweek Law now serves as a model
3 for local government leaders across the country.

4 These are obviously incredibly important
5 metrics that I just mentioned, but we must also
6 remain vigilant to ensure workers and employers are
7 aware of their rights and obligations under the law
8 and that DCWP is conducting investigations in a
9 timely manner, and that's going to be one of the
10 topics of today's hearing.

11 The average number of days it has taken
12 DCWP to resolve Fair Workweek complaints has
13 increased from 64 days in 2018 to 345 days in 2022.
14 One example reported in the New York Times back in
15 February found that there were Starbucks workers who
16 had reported violations of the Fair Workweek Law with
17 reduced shift and irregular schedules, and that will
18 also be a subject of some of the questioning because
19 we found that there were workers, 76 different
20 complainants at over 56 different Starbucks stores,
21 so we will obviously be talking about that.

22 In addition to taking longer for the
23 agency to resolve complaints in 2022, fewer Fair
24 Workweek complaints came to DCWP than prior to the
25 pandemic, and the agency opened fewer investigations

2 than they did before the pandemic. In addition, as of
3 2022, DCWP had received no utility safety employee
4 complaints related to Fair Workweek and opened no
5 investigations of such employers under the law.
6 Committee looks forward to hearing from DCWP and
7 other stakeholders about the City's enforcement of
8 the Fair Workweek Law and its efforts to hold
9 employers accountable and help ensure fairness and
10 justice for working families across our city.

11 I now call on the Committee Counsel to
12 swear in the Administration's witnesses.

13 COMMITTEE COUNSEL: Panelists, please
14 raise your right hands.

15 Do you affirm to tell the truth, the
16 whole truth, and nothing but the truth before this
17 Committee and to respond honestly to Council Member
18 questions?

19 COMMISSIONER VERA MAYUGA: I do.

20 ASSISTANT COMMISSIONER ORTIZ: I do.

21 DEPUTY COMMISSIONER WAGONER: I do.

22 COMMITTEE COUNSEL: Thank you. You may
23 begin your testimony.

24 COMMISSIONER VERA MAYUGA: Thank you. Good
25 morning. Good morning, Chair Menin and Members of the

2 committee. I am Vilda Vera Mayuga, Commissioner of
3 the Department of Consumer and Worker Protection,
4 DCWP. I am joined today by my Deputy Commissioner of
5 our Office of Labor Policy and Standards, Elizabeth
6 Wagoner, and my Assistant Commissioner of External
7 Affairs, Carlos Ortiz. Thank you for the opportunity
8 to testify today on one of our cornerstone
9 protections for workers across the city, the New York
10 City Fair Workweek Law.

11 DCWP enforces key protections and offers
12 financial empowerment resources that improve critical
13 aspects of New Yorkers daily economic lives. We
14 ensure that consumers who have been deceived or
15 exploited have recourse, that workers have a
16 passionate defender of their rights, and that all New
17 Yorkers have the support they need to improve their
18 financial health. Since the start of the Adams
19 Administration, DCWP has helped deliver approximately
20 320 million dollars into the pockets of New Yorkers
21 through debt relief, restitution, and financial
22 empowerment programming. Today, I am excited to share
23 more on how our agency has been a nationwide leader
24 in protecting workers.

1 The laws that we enforce in the workplace
2
3 ensure that workers benefit from minimum labor
4 standards that provide greater stability in their
5 schedules, income and, employment. We strive to
6 guarantee that any worker that experiences a
7 violation of their rights has recourse to relief and,
8 as you mentioned earlier, Chair Menin, in 2017, New
9 York City implemented the Fair Workweek Law in
10 response to a crisis of irregular and unpredictable
11 scheduling practices in the fast food and retail
12 industries. The law is designed to disincentivize or
13 prohibit once common practices, such as keeping
14 workers involuntarily in part-time status, giving
15 workers their schedules with little advance notice,
16 assigning shifts that vary from day to day and week
17 to week, and assigning clopening shifts that do not
18 give workers enough time to sleep at night between
19 shifts. This practice has caused income instability
20 and leave workers unable to reliably, schedule other
21 commitments outside of work, like second jobs,
22 childcare, or school. In 2020, the law was
23 strengthened through added just cause protections
24 providing greater job stability for fast food
25 workers. Under the Fair Workweek Law, retail

2 employers must give their workers their schedule at
3 least 72 hours before the first shift on the
4 schedule, and retail employers are also prohibited
5 from scheduling employees for on-call shifts,
6 canceling scheduled shifts with less than 72 hours'
7 notice, and requiring an employee to work with less
8 than 72 hours' notice without the employee's written
9 notice.

10 Similarly, the Fair Workweek Law
11 addresses scheduling instability for fast food
12 workers in several ways. First, it mandates that fast
13 food employers give workers a stable, regular
14 schedule that does not change significantly from week
15 to week. Second, it requires employers to provide
16 workers each weekly schedule 14 days in advance.
17 Third, it requires that employers provide fast food
18 workers premium pay for schedule changes and
19 clopening in shifts as well as the opportunity to say
20 no to closing in shifts or working extra time.
21 Finally, to address involuntary part-time work, fast
22 food employers must offer current workers the
23 opportunity to work more than regular hours before
24 hiring new employees and cannot reduce a worker's
25 hours by more than 15 percent without just cause.

2 Since the Fair Workweek Law went into effect in 2017,
3 DCWP has received over 800 complaints, launched more
4 than 400 investigations, and recovered approximately
5 27 million dollars in restitution for workers and 2
6 million dollars in civil penalties. This includes our
7 settlement with Chipotle for violations of the Fair
8 Workweek and Paid Safe and Sick Leave Laws, which
9 delivered 20 million to approximately 13,000 workers.
10 It was the largest worker protection settlement in
11 New York City history and, just last year, we secured
12 more than 7 million dollars in worker restitution
13 from Au Bon Pain, Paris Baguette, and Panda Express
14 for nearly 4,000 workers under the Fair Workweek Law.
15 We're very proud of these successes, not only because
16 they put money back into the workers' pockets for
17 harms they experienced, but also because they ensure
18 that companies operating in our city understand the
19 importance of following the law.

20 DCWP also pairs a strong enforcement with
21 proactive outreach. In partnership with community-
22 based organizations, workers' rights groups, and
23 trade associations, our outreach team seeks to ensure
24 that both workers and employers understand the
25 details of the Fair Workweek Law. Since 2018, we've

1 held close to 1,400 events focused on our workplace
2 laws, including the Fair Workweek Law, serving tens
3 of thousands of New Yorkers.
4

5 Under Mayor Adams, we have been able to
6 secure 37 million dollars in monetary relief for
7 28,000 workers through our enforcement of critical
8 workplace laws, and I am immensely proud of these
9 accomplishments. Protecting workers in our city will
10 always be a top priority of this agency. We welcome
11 continued collaboration and partnership with all
12 stakeholders, workers advocates, and the Council to
13 strengthen protections for New York City's workers.
14 This includes ensuring that workers know about the
15 rights and are made whole for violations of the law
16 and that employers are educated and aware of their
17 responsibilities. I look forward to our discussion
18 and any questions you may have.

19 CHAIRPERSON MENIN: Thank you very much,
20 Commissioner, for your testimony today.

21 A number of questions, and then when my
22 Colleagues join, I'm sure they'll have questions as
23 well. Let's just start off with how many workers are
24 covered under the Fair Workweek Law?
25

2 COMMISSIONER VERA MAYUGA: We have
3 approximately 57,000 workers, we believe, to be
4 covered.

5 CHAIRPERSON MENIN: And how many of them
6 are fast food workers, how many are retail workers,
7 and how many are utility safety workers?

8 COMMISSIONER VERA MAYUGA: Let me get that
9 for you, so it's 57,000 fast food, which is the
10 number I gave you originally, and then 203,000 for
11 retail. We don't have the number for utility.

12 CHAIRPERSON MENIN: Okay. Can you please
13 provide, because I'm concerned with utility safety
14 that there haven't been complaints, and so I want to
15 better understand the utility safety workers. How
16 many...

17 ASSISTANT COMMISSIONER ORTIZ: Chair, I'm
18 sorry. Chair, I think with respect to utility safety
19 workers, I've been in touch often with the union that
20 represents these workers, and I think subsequent to
21 those updates being passed a few years ago in many
22 cases they were able to negotiate CBAs that provided
23 analogous or better protections to our Fair Workweek
24 Laws. That said, I've been in touch with them to say
25 if you have complaints, please bring them to us, and

2 certainly if we hear of utility safety workers or if
3 your office does or anyone in the Council, we would
4 love to work with them to look into and investigate
5 those complaints.

6 CHAIRPERSON MENIN: Okay, but in terms of
7 why there are no, I have a whole bunch of questions,
8 but let me since you're bringing up utility safety
9 workers What is the reason why there are no
10 complaints so far?

11 ASSISTANT COMMISSIONER ORTIZ: I would say
12 in my discussions with the labor organizations
13 representing those workers that they've been able to
14 achieve compliance with those employers through their
15 collective bargaining agreements, and we haven't on
16 our end received complaints although I'd say we've
17 been receiving more and more complaints every day
18 since we've updated our systems but, with that said,
19 I want to make sure that those workers understand
20 that we are a resource for them, no matter what
21 worker rights, consumer rights, financial empowerment
22 so we are open to any complaints they might have.

23 CHAIRPERSON MENIN: Okay. How many
24 complaints did DCWP receive related to violations of
25 Fair Workweek in 2023?

2 COMMISSIONER VERA MAYUGA: 200.

3 CHAIRPERSON MENIN: And how does that
4 compare to 2022?

5 COMMISSIONER VERA MAYUGA: In 2022, we
6 received 100 so it doubled.

7 CHAIRPERSON MENIN: And what about in
8 2021?

9 COMMISSIONER VERA MAYUGA: 53, so it
10 quadrupled.

11 CHAIRPERSON MENIN: And in 2020?

12 COMMISSIONER VERA MAYUGA: 53 as well.

13 CHAIRPERSON MENIN: Okay and, in 2022, our
14 information indicates that you received fewer
15 complaints than in 2018 despite the addition of
16 utility safety workers, so going back to 2018, what
17 were the number of complaints?

18 COMMISSIONER VERA MAYUGA: In 2018, we
19 received 181 for all of Fair Workweek.

20 CHAIRPERSON MENIN: So in terms of the
21 most common allegations articulated in complaints, is
22 it no written schedule, is it having to work an
23 opening and a closing without additional pay? What
24 are the majority of the complaints centered around?

25

2 COMMISSIONER VERA MAYUGA: Let me have
3 Deputy Commissioner Wagoner give you those details.

4 DEPUTY COMMISSIONER WAGONER: There are a
5 number of different allegations that we'll receive
6 for those. Some of the common ones are not giving
7 workers access to additional work hours, not posting
8 the schedule on time, not paying premium pay and,
9 more recently, wrongful reductions in hours just to
10 name a few, but they really do span the breadth of
11 the law.

12 CHAIRPERSON MENIN: And are you keeping
13 track of the number of complaints by allegation for
14 various violations?

15 DEPUTY COMMISSIONER WAGONER: Yes.

16 CHAIRPERSON MENIN: Okay. So then which
17 allegation has the highest number of complaints in
18 2023?

19 DEPUTY COMMISSIONER WAGONER: In 2023,
20 it's failed to post and provide the schedule.

21 CHAIRPERSON MENIN: I'm sorry.

22 DEPUTY COMMISSIONER WAGONER: Failure to
23 post and provide the work schedule.

24 CHAIRPERSON MENIN: Okay. I want to talk a
25 little bit about Starbucks because there was, as we

2 all know, an article in the New York Times that
3 reported and this is, again, using data from back in
4 February, I believe it was 56 stores, 76 different
5 complainants back in February. Some of those
6 complainants had filed their initial complaints in
7 February of the year before. It's my understanding
8 that none of those complaints have been closed out.
9 Can you talk about why that is so.

10 COMMISSIONER VERA MAYUGA: Thank you,
11 Chair, for the question. We don't really comment or
12 give details on pending investigations, open
13 investigations. Certainly, Starbucks has been shared
14 in the media with some information about it. We are
15 actively looking into the issues that were raised,
16 all of the complaints. We have resources dedicated to
17 that investigation and, as things develop, we
18 continue to be in touch with workers, with Starbucks,
19 getting documents, and we're confident that we will
20 have the right resolution at the right time.

21 CHAIRPERSON MENIN: It's also my
22 understanding that Starbucks was not notified of the
23 complaints for approximately four months. What is the
24 agency's procedure to notify companies of complaints?

2 COMMISSIONER VERA MAYUGA: When we get,
3 just generally in Fair Workweek, our cases, as soon
4 as we get a complaint from a worker and it's assigned
5 to an investigator, they are going to be contacting
6 the worker and making sure that we're going over the
7 complaint, the information they provided, find out if
8 we have any questions for them that can provide
9 additional information, identify what is the scope of
10 the investigation, what are the issues that are being
11 presented, is this something that appears to be
12 localized to a store or is it something that would
13 spread across a number of stores or all of the
14 stores. Is there a just cause component into it that
15 we are going to also expedite, especially if the
16 worker wants to return to the workplace. Once we do
17 that, yes, we do reach out to the company and ask for
18 records so that we can obviously verify the
19 information. We have a team of, not just attorneys,
20 but data scientists who are going to be looking at
21 the data and make sure that we can do the
22 calculations based on the allegations and what the
23 documents from both the workers and the company are
24 showing that there are any violations. We will reach

2 out then to the company with our findings and engage
3 in a process to hopefully resolve the case.

4 CHAIRPERSON MENIN: Is there anything
5 required either by the statute or via rulemaking that
6 specifies a specific time upon which the agency must
7 let a company know that a complaint has been filed?

8 DEPUTY COMMISSIONER WAGONER: No, there's
9 no specific time frame.

10 CHAIRPERSON MENIN: The reason for this
11 line of questioning is I am concerned it's taking the
12 agency a very long time to close out these complaints
13 and, certainly, to the extent that companies are not
14 being notified, that can lengthen the time at which
15 it will take to resolve a complaint so if a company
16 is not being notified for four months, it's only
17 going to drag out the time that we can get the worker
18 the relief. That's the reason why I'm very focused on
19 this, and I would really urge that the agency
20 establish procedures to let companies know once, in a
21 very expeditious fashion, as soon as a complaint has
22 been filed. We need to shorten the timeframe it's
23 taking the agency to close out these complaints so
24 the workers get the relief.

2 COMMISSIONER VERA MAYUGA: I appreciate
3 the concern and really just thank you for caring so
4 much about the work. As you said, obviously our
5 priority is to make sure that these laws are being
6 followed, there's compliance, and that the workers
7 get the restitution and that their rights are upheld.
8 We have followed a process that has really yielded
9 tremendous success for not just a large number of
10 workers, but, like we've said, in the tens of
11 millions of dollars in worker restitution. Some cases
12 are resolved very quickly. Some might take a little
13 bit longer. We want to make sure that we're doing a
14 comprehensive review so that sometimes a worker may
15 come with an issue and, in looking at the whole
16 complaint and the cases, the documents that the
17 company will provide to us, we want to make sure that
18 we're addressing any noncompliance, any violations
19 all at once. We don't want to have to go back, and
20 we've been successful in our work in the way we're
21 doing the investigations, staying in touch with the
22 parties to make sure we can move things along as fast
23 as possible, but it varies per case.

24

25

2 CHAIRPERSON MENIN: I also want to mention
3 we've been joined by my Colleague, Council Member
4 Brewer.

5 In 2022, the number of days it took to
6 resolve a Fair Workweek complaint was the highest it
7 has ever been at 345 days. That is more than five
8 times the time it took in 2018 where it was 64 days.
9 Why is it taking the agency so long to resolve these
10 complaints?

11 COMMISSIONER VERA MAYUGA: Thank you,
12 Chair. Our numbers actually show that for Calendar
13 Year 2023, it did take 156 days to resolve
14 investigations. Having said that, it really just
15 varies in the type of case that we get.

16 CHAIRPERSON MENIN: Just to be clear,
17 we're using 2022 data because that is the data that
18 has been made public to us.

19 ASSISTANT COMMISSIONER ORTIZ: I would
20 note that this data is available, 2023 is available
21 on our website as well. We do report it out every
22 year, I think around this time of year or, sorry,
23 earlier.

24 CHAIRPERSON MENIN: We're going from the
25 MMR.

2 ASSISTANT COMMISSIONER ORTIZ: Okay, so
3 not Calendar Year?

4 CHAIRPERSON MENIN: If we could focus on
5 2022, because, again, the data from 2022 is showing
6 345 days. Again, it's five times more than it took in
7 2018. I'm trying to understand why that is so.

8 ASSISTANT COMMISSIONER ORTIZ: I think
9 what the Commissioner was mentioning, and I think why
10 maybe 2023, the spread of the years is a good
11 comparison, that we have trended downwards in the
12 past year, albeit realistically that these complaints
13 are a varying complexity in length, and so in one
14 year, based on the number of cases we're taking in,
15 you could have a longer length and then, depending on
16 the cases you have for another year, they shorten
17 down. For us, regardless, we are prioritizing this
18 casework as the Commissioner mentioned with our
19 process to make sure we're expeditiously working
20 through them.

21 CHAIRPERSON MENIN: So let's talk about
22 the process of a typical investigation. How many
23 staff are being assigned, and I understand each case
24 is different, but if you could walk us through a
25

1 typical investigation and how the agency is assigning
2 staff and resources.

3
4 COMMISSIONER VERA MAYUGA: Thank you,
5 Chair Menin. Chairmen. The OLPS has 44 staff members.
6 The amount of the individuals, the resources that are
7 put, they do vary, there's not a specific number that
8 we set per staff, it's going to depend on the
9 complexity of the cases and the size of the cases,
10 but they all work in cases one way or another between
11 attorneys, data scientists, investigators. There's a
12 variety of them that are going to be assigned at
13 cases, and we may reassign and move strategically
14 them around so that we can be sure we address the
15 cases and we can move them along as fast as possible.
16 It's not a set number per case or per investigator.

17 CHAIRPERSON MENIN: I want to mention
18 we've been joined by my Colleague, Council Member
19 Abreu.

20 In terms of the number of days it takes
21 to resolve a fast food complaint and, again, I'm
22 using the 2022 data because that is the data that we
23 have, it's 440 days to resolve the complaint in 2022,
24 and that is significantly higher than the time for
25 the retail complaint, which is 302, and I do just

2 want to mention, 440 days, 302, to me, these numbers
3 are too high. By way of comparison, in 2014, when we
4 launched the City's Paid Sick Leave Law, which was
5 obviously an incredibly comprehensive law, it took us
6 in the first year 33 days to close out the complaint
7 so I am very concerned that these numbers are getting
8 unacceptably high so I want to understand even the
9 difference between the time is taking for the fast
10 food complaint versus a retail complaint.

11 DEPUTY COMMISSIONER WAGONER: I just want
12 to ask about the source of the numbers. Are we
13 talking about the PMMR or are we talking about...

14 CHAIRPERSON MENIN: Yeah, we're going on
15 the Worker Protection Enforcement Report.

16 DEPUTY COMMISSIONER WAGONER: So our
17 annual reports? Okay, so that would be our Calendar
18 Year numbers from 2022. There, what we have reported
19 is in terms of time to close complaints, we have 400
20 days in 2022 and 156 days in 2023 and so definitely
21 trending downwards in 2023. Those numbers will be on
22 our website shortly, but that is what we are
23 reporting for 2023.

2 CHAIRPERSON MENIN: For 2023, and what do
3 you attribute that improved metric to? What is the
4 agency doing differently?

5 DEPUTY COMMISSIONER WAGONER: So I would
6 say in around 2020 to 2021, we began really
7 developing our team of data scientists who had the
8 ability to move our process for analyzing employer
9 records from a largely analog system that required an
10 investigator to go through paper records to being
11 able to evaluate records using data analytics much
12 more quickly and efficiently, and that has improved
13 our times to be able to resolve cases, in particular
14 our workplace wide cases.

15 CHAIRPERSON MENIN: How are you accounting
16 for the Starbucks complaints in this data because,
17 again, we know that you have a minimum of 76, if not
18 probably significantly higher number of complaints,
19 none of which have been closed out, and those first
20 complaints were filed on February 14th of last year
21 so how is that going to affect the agency's response
22 time?

23 COMMISSIONER VERA MAYUGA: I think one of
24 the things that we'll want to look at is that the
25 number of complaints that are filed are not

1 necessarily going to be one-to-one to investigations.
2 We have a number of complaints that will come about
3 the same business, and those are going to be grouped
4 together. Having said that, there's a number of
5 complaints that will come that refer to just cause
6 cases and, in the Starbuck situation, there were four
7 at least last year that we did resolve because they
8 were specific to just cause allegations, and we do
9 try to expedite those, especially, like I said, if
10 the worker wants their job back. It's not going to be
11 matching and, again, I'll just point back to our
12 successes because it has been record numbers that we
13 have been recovering for workers. More people are
14 coming, we're improving our systems, and we are
15 confident that all of the numbers are going to
16 continue showing our successes and improving our
17 systems on the back end.

19 ASSISTANT COMMISSIONER ORTIZ: And I think
20 something I'd like to add to that as well, especially
21 comparing I think past strategies for looking into
22 complaints, the proactive nature of these
23 investigations so, if we did receive a complaint and
24 part of that I think reviewing of the complaint with
25 the worker, are we identifying that this is not just

2 something impacting a single worker, is it perhaps
3 identifying the entire workplace and, in that case,
4 that does take additional time, but that does lead to
5 greater successes in terms of the amount of workers
6 we're going to be able to bring relief to. For
7 example, I think when comparing that additional time,
8 it's because we are processing a case that is adding
9 many, many more workers than just one worker and
10 resolving the case within 30 days or something like
11 that.

12 CHAIRPERSON MENIN: How much restitution
13 was recovered last year in terms of workers?

14 DEPUTY COMMISSIONER WAGONER: In 2023, we
15 recovered 12 million in worker relief.

16 CHAIRPERSON MENIN: And for how many
17 workers?

18 DEPUTY COMMISSIONER WAGONER: 9,580.

19 CHAIRPERSON MENIN: And how big is the
20 staff at the Office of Labor and Policy Standards
21 now, currently?

22 COMMISSIONER VERA MAYUGA: 44.

23 CHAIRPERSON MENIN: 44. How many vacancies
24 are there, if any.

25 COMMISSIONER VERA MAYUGA: None.

2 CHAIRPERSON MENIN: None. Okay, and how
3 many investigators of that 44? How many of the staff
4 are investigators?

5 DEPUTY COMMISSIONER WAGONER: We have 19
6 on our investigations team.

7 CHAIRPERSON MENIN: Okay. I have many more
8 questions, but I want to now turn it over to my
9 Colleagues to see if they have questions. Council
10 Member Brewer.

11 COUNCIL MEMBER BREWER: Thank you. First
12 of all, without any qualms, I want to thank the
13 agency for being the Zaza Waza heroes for closing
14 that forever and ever, and I want to thank you
15 because nobody else has been able to do it so I'm a
16 big fan of your agency.

17 COMMISSIONER VERA MAYUGA: Thank you.

18 COUNCIL MEMBER BREWER: One of the
19 questions is how does the agency engage in
20 investigations work for worker protection cases? Just
21 a little bit more specific than what the great
22 questions of the Chair and how much money has been
23 secured for workers through that process, a little
24 bit more detail maybe than what was asked earlier.

2 COMMISSIONER VERA MAYUGA: Thank you,
3 Council Member, and thank you, yes, we are very
4 delighted when we are successful in our enforcement
5 of the various laws that we enforce.

6 In terms of the process, Deputy
7 Commissioner Wagoner shared earlier how we've
8 improved a lot in our process to receive complaints
9 online, and so that's really helped workers come
10 directly to us, make it easier whether it's a
11 computer, on their phone, answer specific questions
12 that are helpful for us to expedite the back and
13 forth and shorten the back and forth that we will
14 have with the worker, but the first thing that
15 happens is that it will come to our intake team, it
16 will be assigned to an investigator, they will engage
17 with the worker, answer any questions, ask for any
18 documents that be helpful, and then we're going to
19 contact the company and get records from them so that
20 we can ask them, these are the issues that we're
21 seeing, please provide the documents depending on the
22 violations that have been identified.

23 Our team of data scientists and
24 attorneys, investigators will review those documents
25 to come up with findings, and then those findings are

2 presented in a letter to the employer. Sometimes we
3 just schedule a time to pick up the phone and go over
4 any questions, there may be some back and forth about
5 it, they may provide additional information, and we
6 look to resolve the case ideally through a settlement
7 process so that we don't have to file a case but, if
8 there is no agreement, we would then go to OATH and
9 file a case to continue the process and do any
10 limited discovery if we need to, additional
11 documents, and have a trial date, and then a decision
12 is issued.

13 COUNCIL MEMBER BREWER: Okay.

14 ASSISTANT COMMISSIONER ORTIZ: And I think
15 I would add to that piece on your question about the
16 results for workers, under the Administration, we've
17 been able to secure I believe it was 37 million in
18 primarily restitution for workers so for us it's
19 definitely a core piece of our work and something
20 we're very proud of.

21 COUNCIL MEMBER BREWER: When you mention
22 OATH, has the money been able to be secured because I
23 sometimes I know OATH, when I try to understand when
24 you have this huge number of uncollected dollars, not
25 necessarily from you, property taxes, etc., in your

2 case, you feel like you've been able to secure the
3 funding because, I know, some agencies are not.

4 DEPUTY COMMISSIONER WAGONER: Yes. When it
5 comes to worker restitution, we have been highly
6 successful in actually giving that money to the
7 workers and not just claiming that we resolved the
8 case.

9 COUNCIL MEMBER BREWER: Okay, and then
10 just quickly because I feel strongly about paid sick
11 days. With all due respect to de Blasio, it was my
12 bill, I passed it, just point that out every time.
13 Are those cases seemingly getting more prevalent?
14 We're trying to have more information about publicity
15 so people know that pay sick days exist so I just
16 would love to get, I know the Chair referenced it,
17 but I just want to get a little bit more information.

18 COMMISSIONER VERA MAYUGA: Yeah, no, thank
19 you again, and again, thank you for your making sure
20 that this law was in the books. It's incredible
21 protections. We do a lot of outreach to make sure
22 that the individuals that are covered, every single
23 worker in New York City, knows about their rights so
24 that is something that we focus on to get the word
25 out. They do come in at a pretty steady pace I like

1 to say. In terms of, I know the last additions that
2 were made to the law, for example, so right now we're
3 engaging with the private bar educating them and make
4 sure that if there is that additional action, the
5 additional opportunity for individuals to file their
6 private right of action and exercise a private right
7 of action, they can also do that and that the private
8 bar has the right information to do that. We haven't
9 been notified as of yet of any of those. It just went
10 into effect, right, not that long ago, but it is a
11 constant topic for us in all of our outreach work and
12 sometimes very focused depending on the industry that
13 we're talking to.
14

15 COUNCIL MEMBER BREWER: Okay, and I don't
16 know this, but domestic workers, do they fall under
17 this category that we're talking about today?

18 COMMISSIONER VERA MAYUGA: Not for Fair
19 Workweek unless they also happen to engage in that
20 work.

21 COUNCIL MEMBER BREWER: Okay. Thank you
22 very much, Madam Chair.

23 CHAIRPERSON MENIN: Thank you. I also want
24 to note we've been joined by Majority Leader Farías.

25 Council Member Abreu has some questions.

2 COUNCIL MEMBER ABREU: Thank you, Chair
3 Menin, and thank you, Commissioner Mayuga.

4 I have two to three questions. What
5 resources does OLPS need to improve enforcement of
6 the Fair Workweek Law?

7 COMMISSIONER VERA MAYUGA: Currently,
8 we're fully staffed in OLPS to conduct the work that
9 we do. We've have incredible success. Certainly, more
10 resources, always you get to do more. We haven't
11 quantified how much more of what would take us to a
12 certain level, but we certainly would want to have
13 those conversations and, should our mandate increase,
14 then we would definitely want to have conversations
15 so that we can keep the pace or, if there's anything
16 new, we can be sure to have the conversations also
17 with OMB and ensure that we are doing our job.

18 COUNCIL MEMBER ABREU: How many outreach
19 and education events were conducted in 2023 and in
20 2024, and how much of that outreach is targeted
21 towards specific employers or employees who may not
22 understand their rights and obligations under the
23 law?

24 ASSISTANT COMMISSIONER ORTIZ: Thank you
25 for the question, Council Member. I think our

2 outreach team does amazing work. I like to say that
3 they're probably one of the hardest working outreach
4 teams in the city but, overall, since the start of
5 the Administration, we've completed close to 1,500
6 events, on average I think about 620 to 650 events
7 per year. About a third of those are geared towards
8 worker rights and business compliance.

9 COUNCIL MEMBER ABREU: Fun fact, I used to
10 be an outreach employee under Julie Menin when she
11 was Commissioner so excited to be here today and
12 hearing the work continuing. Thank you so much. It's
13 all coming full circle for sure.

14 CHAIRPERSON MENIN: And I just want to
15 have on the record he did an amazing job.

16 COUNCIL MEMBER ABREU: Thank you, Julie.

17 CHAIRPERSON MENIN: Okay, I'm going to
18 continue with a few questions.

19 So how do you track the investigations?
20 What kind of tracking system is the agency using, and
21 is that data public?

22 DEPUTY COMMISSIONER WAGONER: The results
23 from the data are public. What we use is a system
24 called METS. It's a database where we track all of
25

2 our intakes and then separately all of our
3 investigations opened.

4 CHAIRPERSON MENIN: And how many
5 investigations have been opened in 2024 to date?

6 COMMISSIONER VERA MAYUGA: For all of our
7 worker protection enforcement, it's 134.

8 CHAIRPERSON MENIN: I'm sorry, what?

9 COMMISSIONER VERA MAYUGA: 134 the first
10 quarter of 2024.

11 CHAIRPERSON MENIN: Okay. How often does
12 the agency open independent investigations that do
13 not have a precipitating complaint?

14 COMMISSIONER VERA MAYUGA: That do not
15 have a what? I'm sorry.

16 CHAIRPERSON MENIN: Precipitating
17 complaint.

18 COMMISSIONER VERA MAYUGA: Thank you.
19 They're telling me because some of the terms are
20 different in my head. In terms of proactive, it's
21 across all of the, we don't track it that way so I
22 don't have a number or like a percentage to share. I
23 will say though that when a complaint comes in, our
24 way of taking proactive action is doing some of the
25 stuff that I was mentioning earlier in terms of

2 checking, not just for that individual, but for the
3 entire workforce at a place based on what the
4 individual is saying, right, making sure that is it
5 just one issue with the law or is it multiple issues
6 within the law or is there another law? For example,
7 if somebody's coming with Fair Workweek, but we're
8 going to ask them about Paid Save and Sick Leave and
9 make sure that's addressed as well and vice versa,
10 and so it comes together to make sure that we are not
11 missing anything.

12 CHAIRPERSON MENIN: In terms of the
13 outreach events that Council Member Abreu was asking
14 about, you mentioned there's 650 a year. How many are
15 done in multiple languages, and can you talk about
16 language access?

17 ASSISTANT COMMISSIONER ORTIZ: I do have
18 the numbers for events done in other languages, I
19 just don't have them with me, but I will get that to
20 you. I think across the agency, let's say on the
21 outreach team itself, we have I think seven languages
22 spoken. Across the agency, I think half of our staff
23 speaks a language other than English covering about
24 44 languages so we're certainly able to leverage
25 those folks strategically to bring them to situations

2 where we need more language access. On top of that,
3 we do have our vendors that we will bring out too to
4 bring in-person interpretation and, certainly, when
5 we want to develop complaints in the field we have
6 access to Language Line too, but typically our
7 partnerships with community-based organizations are
8 very important in this circumstance as well. We are
9 working with organizations in the community that
10 speak those languages too and they also help us
11 facilitate education and complaints.

12 CHAIRPERSON MENIN: And can you just
13 repeat the total number of events the agency has done
14 since the law's inception?

15 ASSISTANT COMMISSIONER ORTIZ: Okay. Since
16 the law's inception, we have done 1,400 events on
17 workers' rights, and those events we're talking
18 about, Fair Workweek, Paid Safe and Sick Leave.

19 CHAIRPERSON MENIN: So just a
20 clarification, if it's 1,400 events since the law's
21 inception, I don't understand the figure of 650
22 events per year.

23 ASSISTANT COMMISSIONER ORTIZ: That
24 figure, 650 events per year, is referring to this
25 Administration so from 2022, 2023, and we're on pace

2 for that in 2024. The law taking effect in 2018, we
3 were able to, that's where those numbers come from.
4 I'm sorry.

5 CHAIRPERSON MENIN: Understood. In terms
6 of, again, getting back to the crux of why I was very
7 interested in having this hearing, which is the
8 amount of time it's taking to close the cases, what
9 can the agency do to reduce that timeframe? What
10 proactive steps is the agency considering doing to
11 shorten the overall timeframe it's taking?

12 COMMISSIONER VERA MAYUGA: We're always
13 looking at any ways that we can shorten that and just
14 get better and more efficient. I mean we try to look
15 at technology. Deputy Commissioner Wagoner was
16 mentioning how, especially in the last couple years,
17 looking at a data scientist and their expertise and
18 their skill to be able to go quicker through data and
19 not so much paper, that does take longer. Those are
20 some of the ways in which we try to address the
21 different situations. Even just receiving the
22 complaints with the information on a computer that
23 you're not dealing with handwritten information that
24 sometimes is hard to understand. You have it all
25 typed up. We've been able to ask very specific

2 questions in our complaint form online to make sure
3 that we get all of the information in one shot and
4 minimize the back and forth. Those are some of the
5 ways in which we are continually looking.

6 CHAIRPERSON MENIN: Did the agency submit
7 to OMB anything regarding new needs in terms of Fair
8 Workweek enforcement?

9 COMMISSIONER VERA MAYUGA: We're
10 constantly in conversations with OMB. We'll have to
11 give you specifics later on any specific request that
12 was made during this budget process.

13 CHAIRPERSON MENIN: Sorry, I couldn't hear
14 the answer. Sorry. The sound system is not great
15 here.

16 COMMISSIONER VERA MAYUGA: That's okay.
17 The conversations with OMB are constant with them,
18 primarily focusing if we have any new mandates and
19 make sure that we are getting those needs met and
20 funded, but I don't have any numbers right now to
21 share on any specific.

22 CHAIRPERSON MENIN: Okay. Again, I would
23 urge, I am deeply concerned about the length of time
24 it's taking to close these investigations, the open
25 Starbucks complaints. It just strikes me that the

2 agency is being asked to do a lot with somewhat
3 limited resources. Very important to get new needs in
4 there to make sure that the agency is properly
5 resourced and staffed.

6 I know the Majority Leader has some
7 questions.

8 MAJORITY LEADER FARIAS: Thank you so
9 much, Chair, and thank you folks for being here today
10 and testifying.

11 I'm a former server and bartender. Shout
12 out to all the restaurants and the Applebee's I used
13 to work for, but just some questions around
14 compliance and like the relationship with getting
15 employers information or data. What's our
16 communications like with, other than outside of these
17 outreach events and these events to employees and
18 letting them know what their actual right are and the
19 tools that we have as a City for them to make any
20 complaints? What is our relationship with businesses
21 and how do we make sure if there's an open line of
22 communication around their compliance or not.

23 COMMISSIONER VERA MAYUGA: Thank you for
24 that question. We engage definitely with the
25 employers as well. Our goal is always going to be

2 compliance. We want them to know how to comply with
3 the law so we do a number of things. At least during
4 my tenure, I know I've had round tables with major
5 companies and their leaders or executives to make
6 sure that line of communication is always open and,
7 if there's any confusion or questions about the law,
8 they can reach out immediately and we can answer
9 them. We do webinars. We have a YouTube video, for
10 example, also on our website that we've sent to
11 employers, the industry so that they know how to
12 comply with certain aspects of the law. We have
13 forms, Google Sheets, spreadsheets with formulas
14 embedded in them that will help them comply with the
15 law as well. If they have questions about it and
16 support them that way. We have a very extensive FAQ
17 document available to them and that we can
18 continually updating and communicating with them so
19 that they can have all the information, has real life
20 examples, especially as we do investigations and find
21 issues that may be new ones or maybe we see them a
22 lot and we want to make sure that they have specific
23 answers to those specific situations that we see.

24 MAJORITY LEADER FARIAS: Okay.

ASSISTANT COMMISSIONER ORTIZ: I think two pieces I'd like to add to that. One is we've recently updated our Worker Bill of Rights booklet, which is probably one of our most popular outreach devices we've ever had. It's comprehensive in terms of all the worker rights, not just that we enforce but that belong to workers at the state and federal level in a booklet that folks can use, and then just historically social media as well is a big tool and paid advertising on high visibility street furniture is something we have also utilized in the past.

MAJORITY LEADER FARIAS: Ok, I guess for me, in terms of like compliance or tracking, as someone that was in a former industry that I really relied heavily on management to know, especially I wouldn't know what I didn't know as a young team member that had odd hours, that was getting paid a lower minimum wage because I was a tipped wage worker, I'm wondering, is there any DCP tracking compliance software approved by the agency or that maybe we utilize? I'm hearing spreadsheets and like formulas that we've set up to maybe support businesses efforts in maintaining documentation, but

2 do we have anything that's approved by DCWP to help
3 employers comply and keep track of that compliance?

4 DEPUTY COMMISSIONER WAGONER: We are
5 actually working on a project with a number of
6 scheduling software providers to ensure that the
7 rules and processes they're coding into their systems
8 that they that they sell to employers are supporting
9 compliance, and we don't endorse any particular
10 software, but what we want to do is just make sure
11 that they have the sort of very detailed analytics
12 within their systems that are compliant, and so we're
13 continuing to be in touch with them to give them what
14 they need and hear their feedback about what they
15 need from us.

16 MAJORITY LEADER FARIÁS: Okay, so it
17 sounds like we are trying to have at least New York
18 City's rules, regulations, compliance measures be put
19 into software that might be utilized by businesses.

20 DEPUTY COMMISSIONER WAGONER: That's
21 right.

22 MAJORITY LEADER FARIÁS: Okay, and are we
23 trying to aggregate any of that data for analysis or
24 for violations or to help maybe match complaints to
25 any of the software?

2 DEPUTY COMMISSIONER WAGONER: We wouldn't
3 get the data from the software companies in that way.
4 However, if we get a complaint that we're then
5 investigating, part of what this would ensure is that
6 all of the data points that we're looking for to show
7 compliance or noncompliance in our analytics are in
8 the software systems that employers are using, which
9 will facilitate us being able to see whether things
10 went wrong or not. That said, part of what we want to
11 do with this is ensure that there are no victims in
12 the first place, there are no violations in the first
13 place and using software to help achieve that.

14 MAJORITY LEADER FARIÁS: Just in this
15 dialogue alone, my gut is to say like forward
16 thinking, we should look towards having a municipally
17 run system maybe that's free or lower costs that
18 people can opt into. That could definitely be a
19 future budget ask as our Chair has mentioned of
20 making sure we have these budget asks that go in from
21 the agency. I think most of us know, even for
22 something simple, that's top of mind right now from
23 what we recently did with filing taxes, the free
24 option that's maybe has a few more notches that you
25 have to fill out is more cost efficient and reaches

2 more people than maybe some of the larger options
3 that maybe don't necessarily always connect for folks
4 so I would encourage you folks to think about that in
5 the future. Thank you for answering my questions, and
6 thank you, Chair.

7 CHAIRPERSON MENIN: Thank you. In terms of
8 the Workers Bill of Rights, how are you disseminating
9 that information to workers?

10 ASSISTANT COMMISSIONER ORTIZ: I guess
11 we're working on two different tracks in terms of
12 disseminating the information. One, there is a
13 requirement for employers to post the Worker Bill of
14 Rights at the place of business as well so we have,
15 for example, I've been sending communications out to
16 our licensees, to health permittees, and that's on
17 the business side, we've been sending it to our
18 entire business association list which is over 600
19 groups. Then on the worker side, we've been thinking
20 about how we can ensure that it is accessible in many
21 different places for workers. Something we recently
22 did is be in touch with our colleagues at DSS and
23 ensuring that the Worker Bill of Rights will be
24 presented at all shelters and posted at all shelters.
25 We're also sending it out to our list of 1,200-plus

2 community organizations. I think on the ground
3 outreach, we really plan to start around May 1st and
4 throughout the whole summer, again working closely
5 with our community partners. I'm really looking
6 forward to that in terms of getting back out in the
7 field. Not just presentations, but we also do
8 canvassings to make sure that we're engaging with
9 folks at different points.

10 CHAIRPERSON MENIN: I know that the
11 Council, we'd be very interested in partnering on
12 that, having Council Members partner, have it in
13 their newsletters, making sure that we are helping to
14 disseminate the information. I also want to suggest a
15 day of action. We did that when we launched the Paid
16 Sick Leave Law. It worked incredibly well at subway
17 stops throughout the city and other places. We also
18 did that around in nail salons, where we did a nail
19 salon day of action where we literally went business
20 to business to talk to workers to let them know about
21 the rights because, even though it's required to be
22 in the place of business, oftentimes workers may feel
23 fearful about filing any kind of complaint. they're
24 worried about retaliation so I think it's so
25 important that we meet workers where they are to let

2 them know that we are there for them in terms of
3 these complaints being filed.

4 COMMISSIONER VERA MAYUGA: Thank you so
5 much. It's very exciting, and I hope you know through
6 social media, for example, I hope every city Council
7 Member is following us because we do put a lot of
8 information to help us get the word out, push out
9 more information, as well as we have a newsletter
10 also with like updates on like cases and recent
11 accomplishments and things like that, if any of our
12 City Council Members are not yet subscribed to it, we
13 would love to have you subscribe to it as well and
14 help us get the word out.

15 ASSISTANT COMMISSIONER ORTIZ: Council
16 Member, I'll certainly ensure that every Council
17 office receives the Worker Bill of Rights, too.

18 CHAIRPERSON MENIN: Great. Thank you.
19 Couple final questions. I want to get back to the
20 utility safety workers. What outreach has been
21 conducted for them?

22 ASSISTANT COMMISSIONER ORTIZ: I think the
23 principal outreach we've done is to work with the
24 representative organizations about these rights and
25 to maintain those channels of dialogue with them.

2 Again, I think after that law was passed a few years
3 ago, those organizations were successful in putting
4 together a new collective bargaining agreement that
5 offered analogous protections or better protections
6 but, again, we always want to be vigilant on that
7 ensuring that employers are complying with the law.

8 CHAIRPERSON MENIN: Is there a difference
9 between a franchise and a corporately owned fast food
10 employer in terms of the length of time it is taking
11 to resolve complaints?

12 DEPUTY COMMISSIONER WAGONER: No, there is
13 not.

14 CHAIRPERSON MENIN: Okay, and how is the
15 agency responding to complaints involving changes to
16 an employee's schedule, and does the response differ
17 if the employee is part-time or full-time?

18 DEPUTY COMMISSIONER WAGONER: It would not
19 matter whether the employee was part-time or full-
20 time and, with any Fair Workweek complaint, we're
21 starting off by doing an interview of the complainant
22 to understand the scope of the violations, issue,
23 spot anything the complainant may not be aware of,
24 and identify whether there are other workers
25 affected.

2 CHAIRPERSON MENIN: Okay. In terms of 2024
3 data, can you give us a sense of the number of days
4 it's taking to resolve complaints so far in 2024?

5 COMMISSIONER VERA MAYUGA: 115.

6 CHAIRPERSON MENIN: Okay. Thank you.

7 That concludes my questions. I just want
8 to once again see if my Colleagues have any
9 additional questions. No?

10 Okay. Thank you very much for your
11 testimony today.

12 COMMISSIONER VERA MAYUGA: Thank you.

13 DEPUTY COMMISSIONER WAGONER: Thank you.

14 ASSISTANT COMMISSIONER ORTIZ: Thank you,
15 Chair, and we'll make sure we have folks looking at
16 worker advocate testimony and business testimony as
17 well.

18 CHAIRPERSON MENIN: Great. Thank you very
19 much.

20 I'm now going to open the hearing for
21 public testimony. I want to remind members of the
22 public that this is a formal government proceeding
23 and that decorum shall be observed at all times. As
24 such, members of the public shall remain silent at
25 all times.

2 The witness table is reserved for people
3 who wish to testify. No video recording or
4 photography is allowed from the witness table.

5 Further, members of the public may not present audio
6 or video recordings as testimony but may submit
7 transcripts of such recordings to the Sergeant-at-
8 Arms for inclusion in the hearing record.

9 If you wish to speak at today's hearing,
10 please fill out an appearance card with the Sergeant-
11 at-Arms and wait to be recognized. When recognized,
12 you'll have two minutes to speak on today's hearing
13 topic, which is, of course, Enforcement of the Fair
14 Workweek Law.

15 If you have a written statement or
16 additional written testimony you wish to submit for
17 the record, please provide a copy of that testimony
18 to the Sergeant-at-Arms. You may also email written
19 testimony to testimony@council.nyc.gov within 72
20 hours of this hearing. Audio and video recordings
21 will not be accepted.

22 I am now going to call the first panel.
23 Autumn Weintraub, Max Pilcher, Lee Lambert, and
24 Autumn Segarra. If you can all please come up. Thank
25 you.

2 Okay. Thank you so much. You may begin,
3 yes.

4 AUTUM WEINTRAUB: (INAUDIBLE)

5 CHAIRPERSON MENIN: Oh, yeah, just press
6 the button until you see the red light.

7 AUTUM WEINTRAUB: Hello, Committee Chair
8 Julie Menin and Members of the Committee on Consumer
9 and Worker Protections. My name is Autumn Weintraub,
10 and I'm the Fast Food Director at 32BJ SEIU. SEIU
11 32BJ is the largest property services union in the
12 nation with 175,000 members across 11 states and
13 Washington, D.C., including more than 85,000 members
14 in New York State. In the past several years, 32BJ
15 has also been organizing fast food workers to fight
16 for fair pay, better working conditions, and respect
17 on the job, including partnering with Starbucks
18 Workers United. Through our work, we have become
19 acutely aware of fast food workers struggle to get
20 sufficient and predictable hours and pay and the
21 challenge of attempting to resolve violations of
22 workplace laws on a case-by-case basis. The
23 Department of Consumer and Worker Protection's
24 critical efforts to implement and enforce the Fair
25 Workweek Law have gone a long way towards improving

1 scheduling standards in the low wage fast food
2 industry and have aided countless low wage workers,
3 but violations do persist. We believe a citywide
4 investigation into Starbucks, a repeat Fair Workweek
5 violator, can help ensure ongoing and sustained
6 compliance within the company and in the broader fast
7 food sector. The fast food sector is rife with
8 workplace violations and characterized by poor labor
9 standards. In 2023, fast food workers saw the lowest
10 median weekly earnings of over 350 industries
11 surveyed by the Bureau of Labor Statistics, a mere
12 610 a week. Fast food corporations, meanwhile,
13 continue to pull in ever-soaring profits. In 2021,
14 the top seven publicly traded fast food companies
15 earned 16 billion dollars in profits and paid out
16 over 12 billion to their shareholders in the form of
17 stock buybacks and dividends, and the industry has
18 grown rapidly over the past two decades, especially
19 in New York City. While employment in the sector fell
20 during the pandemic, it has again been climbing as
21 the City's economy and employment recover.

22
23 CHAIRPERSON MENIN: Okay. I just have to
24 ask because we are required to make sure that every
25 single person has exact same amount of time so if you

2 wouldn't mind wrapping up and if you want to submit
3 your written testimony.

4 AUTUMN WEINTRAUB: Sure. We just wanted to
5 say that DCWP has demonstrated itself to be a strong
6 advocate for workers' rights. It's effectively
7 enforced the Fair Workweek Law, and there's been
8 notable successes and settlements like the Chipotle
9 one for 20 million dollars and, over the past year,
10 83 Starbucks workers have filed Fair Workweek
11 complaints across 63 cafes in New York City. These
12 allegations are widespread across Starbucks, and the
13 company continues to violate the Fair Workweek Law.
14 In light of the announcement that there is a
15 foundational framework with Starbucks United and
16 Starbucks, we still believe, even though it's a
17 promising step forward, that there needs to be a
18 system-wide investigation.

19 CHAIRPERSON MENIN: Great.

20 AUTUMN WEINTRAUB: Thank you.

21 CHAIRPERSON MENIN: Thank you very much.

22 Okay.

23 MAX PILCHER: Hi, and good morning, Chair
24 Menin and Members of the Committee. My name is Max
25 Pilcher. I'm a Starbucks worker at the Starbucks

1 store at West Broadway and Leonard Street. Prior to
2 working at Starbucks in New York, I worked at a store
3 in Iowa, but it wasn't until I came to the city that
4 I started to experience the vast scheduling issues
5 that I've experienced now. It was night and day,
6 frankly. My hours have consistently fluctuated
7 outside the 15 percent allowed by the Fair Workweek
8 Law, where I might have received 30 hours one week,
9 20 hours the next week, outside that 15 percent
10 standard. I also had issues where I was being
11 scheduled outside the availability windows that I had
12 provided to my manager. Eventually, things came to a
13 head last summer, and I filed a Fair Workweek
14 complaint last summer with the Department of Consumer
15 and Worker Protection so it might be hard for those
16 that don't depend on scheduled hours for work to
17 understand how much an impact the scheduling of hours
18 has on people like me, but it impacts everything. It
19 impacts how I plan my time off, my week-to-week
20 finances, what bills I'm able to pay, whether I'm
21 able to pay my rent in a given month, everything
22 depends on my hours so this is why the Fair Workweek
23 Law and the work that the DCWP is doing is so
24 important to workers like me. Currently, my complaint
25

2 has not been resolved yet. I filed it last summer,
3 but I'm hopeful that I will get justice. Yeah, I
4 wanted to thank the Committee for hearing my
5 testimony today.

6 CHAIRPERSON MENIN: Thank you very much.

7 AUTUM SEGARRA: Hi, good morning, Chair.

8 My name is Autumn Segarra. I worked at Chipotle
9 around John Jay and, during my time there, which was
10 about a year, I got sick one day and I told my
11 supervisor about my symptoms, specifically my kitchen
12 manager and, when I came in a couple of days later
13 for my shift, the company told me that I could stay
14 home, and I explained again that my previous shift
15 that I attended to, I had told my supervisor I wasn't
16 feeling good, I had COVID symptoms and I was sent
17 home. During the COVID resolution with Chipotle,
18 you're supposed to talk to your employer and let them
19 know that you're not feeling good during shift and
20 they're supposed to put it into a system so they know
21 that you're sick and they're supposed to give you
22 about three days off and then they're going to make
23 you take another COVID test and they never put that
24 into the system. I was fired April of 2022. They
25 claimed that I never reported any symptoms to the

1 managers and, for Chipotle, that's an automatic
2 termination. Even though it wasn't true, I was
3 terminated. I refused to accept being fired that way,
4 so I filed a just cause complaint. While it took over
5 a year for the DCWP to resolve my complaint,
6 eventually they did within a year and a half. I
7 received 8,500 into my settlement, and 500 dollars
8 went to my lawyers that helped me, thank them, I
9 appreciate it. To be clear here, I didn't want the
10 money, I never wanted the money in the first place,
11 but that's what they offered to me because they, I
12 wanted my job back with Chipotle and they just didn't
13 want to give me my job back. I'm sorry. That's all my
14 time.

16 CHAIRPERSON MENIN: Okay, thank you very
17 much for your testimony.

18 LEE LAMBERT: Good morning, Chair Menin
19 and Members of the Committee. My name is Lee. I've
20 been a Starbucks worker for nearly three years now. I
21 currently work at the location on Church Street in
22 Murray. Previously, when I filed my Fair Workweek
23 complaint, I worked at the store at 100 William
24 Street. I filed a Fair Workweek complaint, I was one
25 of the first complainants in February of last year,

2 actually, I was part of that complaint, because my
3 hours were cut significantly by more than 50 percent
4 which had an enormous impact on my financial
5 situation. I had to completely reorganize my life so
6 that I could meet my expenses. It also threatened my
7 access to benefits via Starbucks. I learned about the
8 Fair Workweek Law, and I was able to file a complaint
9 and, to my knowledge, that complaint has not yet been
10 resolved. As a working New Yorker, I really
11 appreciate what agencies like the DCWP can do and how
12 they work to hold large corporations like Starbucks
13 accountable, and I think it's absolutely essential
14 that they have the resources that they need to
15 continue that work. Yeah, that's all I've got. Thank
16 you for hearing me today.

17 CHAIRPERSON MENIN: Thank you so much. I
18 have a number of questions. So for Max, Autumn and
19 Lee, how did you first find out about Fair Workweek?

20 MAX PILCHER: In my case, it was meeting
21 with union organizers and being told about my rights
22 under the Fair Workweek Law, asking if I wanted to
23 file a complaint. I know there is like postings in my
24 store somewhere in the back, but I hadn't seen those
25 up until that point.

2 LEE LAMBERT: Yes, similarly, it was via
3 work I was doing with 32BJ and Starbucks Workers
4 United that I learned about the Fair Workweek Law for
5 the first time.

6 AUTUMN SEGARRA: I was working within six
7 months of Chipotle when I bumped into a 32BJ worker
8 meeting another coworker of mine out of the job, and
9 I asked a few questions and they informed me that I
10 was under the Fair Workweek Law.

11 MAJORITY LEADER FARIÁS: In any of your
12 workspaces, whether that's you had a lounge or in
13 back-of-house for those of us that have back-of-house
14 where there's supposed to be signage of your rights,
15 schedules, etc., was the Fair Workweek postings ever
16 listed or...

17 AUTUMN SEGARRA: In my store, specifically
18 in John Jay, there were and, after I was done asking
19 questions with the union represent and I came into my
20 next shift, I had to ask them about it and they were
21 trying to tweak and critique some of the writings
22 that was on the wall, saying that, oh, it's not
23 within 72 hours.

24 MAJORITY LEADER FARIÁS: It's different
25 interpretations they were trying to give you.

1
2 AUTUMN SEGARRA: Yeah. Sorry to bring this
3 up, but I worked also in a store called The Little
4 Beat, and that was over in 42nd Street. They also
5 have a Fair Workweek Law poster in the back of the
6 house, but they're saying that they don't fall on
7 their Fair Workweek Laws so they don't have to oblige
8 by it.

9 MAJORITY LEADER FARIÁS: Okay. Thank you
10 for explaining that.

11 CHAIRPERSON MENIN: Okay, for Max and Lee
12 who have open complaints against the agency, what has
13 the contact been with the agency? You filed your
14 complaint and when did you first hear back from the
15 agency? In other words, how long did it take the
16 agency to contact you after you filed the complaint?

17 LEE LAMBERT: I think Autumn can help me
18 answer this question a little bit because I did file
19 through 32BJ, so I was not actually ever personally
20 contacted by the agency. I do know, though, that
21 they've had contact with 32BJ and with Starbucks
22 Workers United throughout the process of
23 investigating our complaint.

2 MAX PILCHER: Yeah, my experience is the
3 same as Lisa. I've not had any personal contact, but
4 they might be able...

5 CHAIRPERSON MENIN: Okay. Autumn, can I
6 ask you how long did it take the agency to contact
7 you or any representative of 32 BJ after the
8 complaints were filed?

9 AUTUMN SEGARRA: After the union, 32 BJ,
10 helped me set a complaint, I think it took a year for
11 them to reach back out.

12 CHAIRPERSON MENIN: A year.

13 AUTUMN SEGARRA: Do you remember?

14 AUTUMN WEINTRAUB: It was probably that
15 long.

16 AUTUMN SEGARRA: Yeah, it took a year and
17 then, after that, it took about six months for me to
18 not even speak to Chipotle. It was a whole debate
19 when it came down to the settlement because the
20 Chipotle, the people who were trying to settle the
21 money lower than what it was, they only wanted me in
22 the room. They didn't want nobody that was
23 representing me in the room with me. They only wanted
24 me, and solely me, to be in a room with Chipotle COOs
25 and discuss a settlement without any worker or

2 lawyer. They were saying it's either the lawyer by
3 themselves or just me.

4 AUTUMN WEINTRAUB: Can I answer the
5 Starbucks?

6 CHAIRPERSON MENIN: Yeah.

7 AUTUMN WEINTRAUB: I think we'll get back
8 to you with specifics on the reach out, but I think
9 it was a few weeks and then a few months.

10 CHAIRPERSON MENIN: Sorry. If you could
11 just speak up? It's a little hard to hear.

12 AUTUMN WEINTRAUB: We'll get back to you
13 on the specifics of the outreach from the agency and
14 the timeline of it.

15 CHAIRPERSON MENIN: Okay. That would be
16 helpful.

17 CHAIRPERSON MENIN: Autumn, I just want to
18 go back to something you just said so you're saying
19 that you were not allowed to bring an attorney with
20 you into the settlement?

21 AUTUMN SEGARRA: That is correct.

22 CHAIRPERSON MENIN: Thank you. Last
23 question that I have, so I guess it's for 32BJ, so
24 could you give a summary of what the experience has
25 been like with these open complaints? Is there a good

1 level of communication? Is there not? What has your
2 experience been?

3
4 AUTUMN WEINTRAUB: The experiences that, I
5 think these are, they're huge corporations and the
6 work of the agency is incredibly important and
7 they're very hardworking. I think in general they do
8 their best to make sure that the companies comply and
9 that the investigations go forward. I think on this
10 particular case, it has been quite a while since
11 there's been resolution, and so we hope that there's
12 some sort of decision, either resolution on some of
13 the complaints or ideally that, because the
14 violations are so systemic, that they'll be a
15 citywide investigation so we're hoping to hear some
16 news on that soon.

17 CHAIRPERSON MENIN: Understood. Okay.
18 Thank you very much to this panel. Thank you for
19 being here.

20 I'm going to call the next panel. Peter
21 Fugiel, Gabriel Simonario (phonetic), I'm sorry, this
22 handwriting is a little hard to read, Edward Nesiclu,
23 apologize if I mispronounce that, Christopher Leon
24 Johnson.

2 I'm just going to go in the order that I
3 called it so Peter.

4 PETER FUGIEL: Hello. Good morning, Chair
5 Menin and Members of the Committee on Consumer and
6 Worker Protections. My name is Peter Fugiel. I'm a
7 postdoctoral research fellow at the Rutgers School of
8 Management and Labor Relations. I'm currently
9 conducting a comparative study of Fair Workweek laws
10 in eight different jurisdictions, including New York
11 City, and this research is supported by an award from
12 the National Science Foundation, although the views
13 I'll be sharing today are my own. I have submitted
14 written testimony, which includes detailed citations
15 to some relevant studies. I just want to highlight a
16 few points. One is that the Office of Labor Policy
17 and Standards is understaffed relative to peer
18 agencies. While the number of staff is the largest of
19 the ones that I've looked at, when you take into
20 account population, they have eight times the
21 caseload, for example, of Seattle and a much larger
22 caseload than San Francisco. Furthermore, the success
23 with settlements has been remarkable, but it's not
24 clear that this is the best measure of success for
25 Fair Workweek enforcement. Even in the banner year of

2 2022, only fewer than 5 percent of workers covered by
3 Fair Workweek received any restitution through a
4 settlement so we have to ask what about the other 95
5 percent of covered workers. Unfortunately, this is
6 difficult to evaluate with publicly available data.
7 OLPS could help shed light by releasing more data
8 including tallies of the types of allegations, such
9 as you asked for earlier and they can also partner
10 with other stakeholders, including researchers to
11 conduct evaluation studies and help share the best
12 practices, for example, around data analytics with
13 peer agencies to deliver on the promise of a Fair
14 Workweek, not only in New York, but across the
15 country.

16 CHAIRPERSON MENIN: Thank you very much.

17 GABRIEL SIMONARIO: Before I start, I just
18 want to point out that Ed is not here so he won't be
19 giving his testimony.

20 CHAIRPERSON MENIN: Okay, thank you.

21 GABRIEL SIMONARIO: Hello and good
22 morning, Julie Menin. My name is Gabriel Simonario. I
23 was a Starbucks partner for three years and,
24 unfortunately last summer, I was terminated around
25 September of 2023. The issues I had raised in my Fair

1 Workweek complaint that I had filed intersected
2 directly with my termination. My manager had
3 repeatedly scheduled me outside of my availability,
4 which I had filled out for him many times, and one of
5 the reasons my company terminated me was related to
6 the day I was scheduled outside of my availability,
7 and I had filed a just cause complaint challenging my
8 termination and, unfortunately, my complaint is still
9 pending. One of the other issues that I had was I had
10 called in sick and I did not have enough sick time.
11 He told me that I was going to be written up as a
12 result of that so I came in while sick, and I had put
13 in a schedule change log. I was ill while working,
14 and he had also tried to penalize me for that as
15 well. After losing my job at Starbucks, my financial
16 situation was precarious. I had many bills that I was
17 struggling to pay, and I had also just turned 26 so I
18 was under my own insurance through the government and
19 I had to pay out of pocket for that, and I had been
20 terminated right before Starbucks was going to give
21 me their insurance so I was struggling financially
22 with that. I did fortunately get a job.
23 Unfortunately, it was also minimum wage so I was not
24 making anywhere near as much as I was making at
25

2 Starbucks, but now I currently work at Whole Foods
3 and making almost as much, so currently my financial
4 situation has almost stabilized itself.

5 CHAIRPERSON MENIN: Thank you for your
6 testimony.

7 CHRISTOPHER LEON JOHNSON: Hey, good
8 morning. My name is Christopher Leon Johnson on the
9 record. Let me make this clear. I used to be a member
10 of 32BJ as a shop steward under the security
11 division. I know the plight of you fast food workers.
12 I used to fight with you guys with the help of my
13 business person, Benita Mercado (phonetic) and Mr.
14 Izzy Melendez. Let me make this clear, right? What's
15 going on is these corporations, they're really
16 greedy, and they're really corrupt, and what they're
17 doing is, what they want to do is try to find ways to
18 save as much money as possible. The problem with the
19 thing about unions is, it's hard to fire people. Once
20 you're part of a union, it's hard to fire people, and
21 the thing that the unions have to make clear is that
22 they have to help the employers get rid of bad
23 employees because, if we don't get rid of bad
24 employees, it gives the businesses the ammunition to
25 be anti-union. This goes on with Amazon, this happens

1 a lot of places with unions like Walmart, and mainly
2 Walmart, but let me make this (INAUDIBLE) for my last
3 one minute. The deliveristas, they're going to have a
4 hub down at, right outside City Hall, very soon. Los
5 Deliveristas ran by Worker Justice Project. What you
6 guys need to do as the City Council is find a way to
7 put these guys in the same category as the fast food
8 workers so they can get the same rights and
9 privileges as the fast food workers under New York
10 City workers fast workers law (INAUDIBLE) 14 days. If
11 you just make them regular, put them in the division
12 of deliveristas, it's not going to do anything. You
13 have to make more bills and more laws instead of just
14 saying, okay, we make these people employees here,
15 put them into the fast food division, and I hope you
16 guys in city Council, you, Miss Chair Menin and
17 Majority Leader Fariás, you need to talk to Izzy
18 Melendez and have him put the deliveristas with the
19 help of Ligia Guallpa and Gustavo and Antonio and
20 Alejandro and, wait, wait, I know, I know, into the
21 fast food division of 32BJ, not a separate
22 deliveristas because 65,000 deliveristas, you add
23 them to the fast food division, it will save a lot of
24
25

2 headache and a lot of paperwork and they'll have a
3 lot of rights, especially with the minimum wage laws.

4 CHAIRPERSON MENIN: Okay. I'm just going
5 to ask you to wrap up.

6 CHRISTOPHER LEON JOHNSON: Okay, yeah.
7 Especially with the minimum wage laws that they
8 implemented, 20 dollars an hour, so I gotta go. I
9 respect you guys. I gotta go. Thank you for the time.

10 CHAIRPERSON MENIN: Okay. Thank you. I do
11 have a few questions.

12 Peter, very interested in this research
13 on other cities so can you talk a little bit more
14 about, you've mentioned that there would be better
15 metrics of success than the amount of restitution
16 that the agencies announce for workers. What would
17 those better metrics be?

18 PETER FUGIEL: We've already discussed
19 some of them here today. Obviously, compliance with
20 the law. Workers receiving schedules in advance or
21 receiving appropriate compensation when there are
22 last-minute schedule changes. Those sorts of outcomes
23 aren't available in Bureau of Labor Statistics or
24 Census Data so additional research is needed. The
25 only jurisdiction I'm aware of that has done a

2 systematic evaluation study is Seattle, and I
3 included links to some of the public reports
4 available through the city auditor's office and what
5 they found, a team of researchers with the Shift
6 Project found that the Secure Scheduling Law in
7 Seattle significantly improved predictability and
8 reduced the occurrence of last-minute shift
9 cancellations, and that resulted in better quality
10 sleep, better mental health and well-being for
11 workers, and lower incidents of material hardship
12 like difficulty paying rent or food insecurity, and
13 we know that it can work but there's just been no
14 study of that kind in New York City and so it's very
15 hard to say systematically how workers are doing
16 under this law.

17 CHAIRPERSON MENIN: Thank you. I also want
18 to mention we've been joined by my Colleague, Council
19 Member Ossé.

20 Gabriel, I did have a question for you.
21 You mentioned your complaint has not been resolved by
22 the agency. When did you file your complaint?

23 GABRIEL SIMONARIO: I had filed my
24 complaint in early October of last year.

2 CHAIRPERSON MENIN: And what has been the
3 communication that you've received from the agency?

4 GABRIEL SIMONARIO: 32BJ has been in
5 contact with me consistently, making sure I keep
6 updated on my case, getting all the documentation,
7 and recently they told me my case was being taken, so
8 I had to restate everything I told you to my lawyers.

9 CHAIRPERSON MENIN: Okay. Thank you. Any
10 questions? Okay.

11 Okay. We're good. Thank you very much for
12 this panel.

13 I'm going to call the next panel. It is a
14 one-person panel. Joe Weinegrad (phonetic).

15 UNIDENTIFIED: He's not here.

16 CHAIRPERSON MENIN: He's not here? Okay.

17 UNIDENTIFIED: He may be on his way, but

18 (INAUDIBLE)

19 CHAIRPERSON MENIN: Okay, thank you. One
20 second.

21 Okay, is there anyone here who did not
22 sign up to testify who wishes to testify?

23 Not seeing anyone, and we have no one, I
24 don't believe, on Zoom, then I am going to close out

2 this hearing and thank everyone so much for being

3 here today. Thank you. [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 18, 2024