

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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September 19, 2022
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HELD AT: 250 Broadway-Committee Room 16th Fl.

B E F O R E: Marjorie Velázquez
Chairperson

COUNCIL MEMBERS:

Shaun Abreu
Erik D. Bottcher
Gale A. Brewer
Amanda Farías
Shekar Krishnan
Julie Menin
Chi A. Ossé
Julie Won

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

Elizabeth Wagoner
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Carlos Ortiz
Senior Advisor for Policy and Intergovernmental
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A P P E A R A N C E S (CONTINUED)

Lucia Pacheco
Chipotle Employee

1 COMMITTEE ON CONSUMER AND WORKER PROTECTION 4

2 SERGEANT AT ARMS: Good morning everyone.

3 Welcome to today's hybrid New York City Council
4 hearing of the Committee on Consumer and Worker
5 Protection. Everyone, please place all electronic
6 devices to vibrate or silent mode. If you wish to
7 submit testimony, you may send it to
8 testimony@council.nyc.gov. Again, that's
9 testimony@council.gov-- sorry, excuse me-- .nyc.gov.
10 Thank you for your cooperation. Chairs, we're ready
11 to begin.

12 CHAIRPERSON VELÁZQUEZ: Good morning. My
13 name is Marjorie Velázquez, and I'm a Chair of the
14 Committee on Consumer and Worker Protection. I'd like
15 to thank everyone for joining us today on proposed
16 Intro. 613 and proposed Intro. 640. Research
17 indicates a widespread problem with work schedule
18 instability in the fast-food industry which can
19 threaten the wellbeing of workers. Schedule
20 unpredictability is not without its consequences, and
21 it's linked to negative impacts on workers' health
22 and wellbeing, including more reports of
23 psychological distress, poor sleep quality, and
24 higher rates of unhappiness, more employee turnover,
25 and less household and economic security. Workers of

2 color, especially women of color shoulder this burden
3 the most, as do the children of these workers. The
4 legislation we are hearing today is a means to help
5 remedy these issues. Today, we are hearing proposed
6 Intro 613 sponsored by Council Member De La Rosa
7 which if passed would increase civil penalties and
8 prohibit an issuance of the food service
9 establishment permit for outstanding penalties for
10 violations of the Fair Work Week Law. We are also
11 hearing Intro. 640 which requires the Department of
12 Consumer and Worker Protection to provide workers
13 protected by the Fair Work Week Law with a training
14 on city employment laws. Knowledge truly is power,
15 and I believe that arming workers with the knowledge
16 of their rights will not only empower them, but also
17 help keep employers accountable. As a prime sponsor
18 of this bill I look forward to the feedback we will
19 receive today on how it could impact the lives of
20 fast-food workers across the City. And I'd like to
21 thank the Legislation Division staff for their hard
22 work on this hearing, as well as my own staff. I'd
23 also like to thank my colleagues, Council Member Chi
24 Ossé, Council Member Menin, that have joined us hear
25 this important legislation and testimony. I'll turn

2 it now over to Council Member De La Rosa for some
3 opening remarks on her bill.

4 COUNCIL MEMBER DE LA ROSA: Thank you so
5 much. Good morning and thank you Chair Velázquez for
6 engaging in this vital discussion around worker
7 protection. I would like to also express my
8 solidarity with fast-food workers and organized
9 labor, especially 32BJ for their leadership in
10 bringing the issues we will listen to today to the
11 forefront. As the Chair of the Civil Service and
12 Labor Committee and the Councilwoman for Washington
13 Heights, Inwood, and Marble Hill, I am committed to
14 standing up for working families. As we approach the
15 10th anniversary of New York's first fast food
16 strike, workers are determined more than ever to
17 transform fast-food jobs into well-paying, stable,
18 family sustaining jobs. With today's hearing and
19 legislation-- with today's hearing and legislation,
20 Council Member Velázquez and I are introducing, these
21 bills will further strengthen the rights of fast-food
22 works. Intro 613, in summary, will increase the
23 civil penalties and prohibit the issuance of food
24 service establish permit for outstanding penalties
25 and evaluations to the Fair Work Week, because

1 employers who violate the Fair Work Week Law should
2 not continue to act with impunity in exploiting our
3 workers. The increased penalties are a statement
4 that the City of New York does not take worker
5 protections lightly while serving as an opportunity
6 to correct the harm from repeat offenders to workers
7 through compensation. We have already seen the
8 positive impacts of increased worker protections with
9 this law applied. We say that in the 20 million
10 Chipotle settlement affecting 13,000 workers earlier
11 this year, which is a demonstration that with
12 enforcement and workers' rights education, we are
13 able to curb, if not correct, violations under this
14 law. The basis of the Fair Work Week and Earned Safe
15 and Sick Time Law acts as the ability for workers to
16 take charge of their lives again, instead of being
17 take advantage of by employers. The unpredictability
18 of worker schedules, as we heard Chair Velázquez
19 mention in her statement, and the desire to seek
20 medical attention without fear of losing your
21 livelihood should not dictate your lives as workers,
22 especially with the understanding that workers most
23 impacted by these violations are the one deemed
24 essential and were deemed essential during the height
25

2 of this pandemic. We need to stand behind our
3 workers and ensure them the proper justice can be
4 sought for employers who continually and egregiously
5 violate the Fair Work Week Laws. Thank you so much
6 for having me, and I'm looking forward to seeing the
7 passage of this legislation in the near future.
8 Thank you.

9 CHAIRPERSON VELÁZQUEZ: I'll now turn it
10 over to Wiam Diory [sp?] who will moderate today's
11 hearing.

12 COMMITTEE COUNSEL: Before we begin
13 testimony, I will administer the oath to all members
14 of the Administration who will be offering testimony
15 or will be available for questions, please raise your
16 right hands. Do you swear or affirm to tell the
17 truth, the whole truth, and nothing but the truth
18 before this committee and respond honestly to Council
19 Member questions?

20 : I do

21 : I do.

22 COMMITTEE COUNSEL: Alright. You may
23 begin.

24 DEPUTY COMMISSIONER WAGONER: Good
25 morning, Chair Velázquez and members of the

2 Committee. My name is Elizabeth Wagoner. I'm Acting
3 Deputy Commissioner with the Office of Labor Policy
4 and Standards in the Department of Consumer and
5 Worker protection. I'm joined here today by Carlos
6 Ortiz, Senior Advisor for Policy and
7 Intergovernmental Affairs. Thank you for the
8 opportunity to testify today on Introduction 613 and
9 640 relating to penalties for violations of the Fair
10 Work Week Law and trainings for fast-food workers.
11 I'll start today with some background. In 2017,
12 Council passed the first of its kind legislation to
13 provide fair scheduling protections to workers in the
14 retail and fast-food industries. In 2020, Council
15 passed legislation to amend and strengthen the Fair
16 Work Week Law adding protections to provide greater
17 job stability for fast-food workers. For today's
18 discussion, I'm going to be focusing primarily on
19 fast-food provisions in the Fair Work Week Law, since
20 that's the industry that's the subject of these
21 introductions. The Fair Work Week Law give fast-food
22 workers scheduling stability and an opportunity to
23 move into fulltime work. These rights include a
24 stable, regular scheduled that does not change
25 significantly from week to week, 14 days advance

2 notice of each weekly work scheduled, the opportunity
3 to say no to working extra time, premium pay for
4 schedule changes, premium pay and an opportunity to
5 say no to clopening [sic] shifts, the opportunity to
6 work more regular hours before new employees are
7 hired, and protections against arbitrary termination
8 of loss of hours. In New York City there are more
9 than 67,000 workers who are employed in the fast-food
10 industry. In our enforcement work we've heard from
11 thousands of these workers about their need for the
12 regular predictable schedules that the Fair Work Week
13 Law provides. Many of the New Yorkers covered by
14 this law are parents with young children to take to
15 school in the morning and pick up in the evening.
16 Some fast-food workers are working towards high
17 school or college degrees and need to be able to
18 leave work on time to get to class or to get a good
19 night's sleep. Some are active in religious
20 organizations and need predictable scheduling to
21 attend their community services. Since the Fair Work
22 Week Law went into effect, in the fast-food industry
23 alone, DCWP has received over 300 complaints, has
24 launched more than 150 investigations, has recovered
25 approximately 22 million dollars in restitution for

2 over 16,000 workers, and has recovered almost 1.3
3 million dollars in civil penalties. We're very proud
4 of these recoveries, not only because they put money
5 back in workers' pockets, but also because they
6 create a real deterrent effect that increasingly is
7 making companies take a hard look at their compliance
8 practices to ensure they're doing right by their
9 workers and complying with the law. I'd like to give
10 you a picture of what the enforcement process behind
11 those numbers look like. When we receive complaint
12 about a violation of the Fair Work Week Law, the
13 first thing we do is make a determination about the
14 appropriate scope of an investigation. Our
15 investigators conduct detailed interviews with
16 complaints to make that assessment, and tailor the
17 investigation to the scope of the violations the
18 complainant is reporting. For example, a worker may
19 report that their employer usually posts work
20 scheduled one week in advance, not 14 days in
21 advance, and does not post or email available open
22 shifts at all. These are violations that would
23 typically effect all workers in that workplace and
24 not just that complainant. So with a complaint like
25 that, we'd open an investigation covering all workers

2 affected by unlawful conduct and not just the
3 complainant. If the restaurant employing that
4 complainant has other locations, we'll also look into
5 an appropriate geographic scope. Sometimes a
6 complainant has worked at multiple locations under
7 the same corporate umbrella or knows workers in other
8 locations, or has other information indicating that
9 the alleged unlawful conduct is company-wide and
10 limited to a single location. When that happens, our
11 investigation will cover multiple business locations
12 under the same corporate umbrella. During our
13 investigations we obtain records from the company
14 about their compliance practices which are teams of
15 investigators, data scientists, and attorneys work
16 together to analyze. We also reach out to workers
17 broadly across the workforce by text message and
18 email using survey tools to gather information from
19 them about their experiences with predictable
20 scheduling. Putting all this information together, we
21 identify violations and the workers affected, and we
22 present our findings to the company. Under the law,
23 violations are counted on a per-worker and per-
24 instance basis. Worker relief for most violations is
25 either 200 or 300 dollars per instance of a

2 violation. Civil penalties are 500 dollars per
3 instance of a violation. For companies with poor
4 levels of compliance, there can be multiple
5 violations per worker, per work week, and the totals
6 in relief and penalties can go into the millions of
7 dollars. We generally give companies an opportunity
8 to resolve our investigation through settlement
9 negotiation, and if that's successful it results in a
10 consent order with us that requires the company to
11 come into compliance, pay monetary relief to workers
12 in specific amounts, and pay civil penalties to the
13 City. Most of our cases are resolved in this way.
14 We settle cases because our enforcement priorities
15 are swift monetary relief for affected workers and
16 compliance going forward. If a company does not want
17 to enter into a consent order to resolve an
18 investigation, then we'll file a petition at the
19 Office of Administrative Trials and Hearings and try
20 the case. DCWP does not have adjudicatory power to
21 find violations on its own. To provide a recent
22 example of the effectiveness of this process, I'd
23 like to highlight our settlement last month with
24 Chipotle for violations of the Fair Work Week and
25 Paid Safe and sick Leave Laws. This agreement will

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2 deliver up to 20 million dollars in compensation to
3 approximately 13,000 workers. It is the largest
4 worker protection settlement in New York City history
5 and the largest Fair Work Week settlement in the
6 Country. DCWP also pairs its strong enforcement with
7 proactive outreach. In partnership with community-
8 based organizations, workers' rights groups, and
9 restaurant trade associations, our outreach team
10 seeks to ensure that both workers and employers
11 understand the details of the Fair Work Week Law.
12 Since 2020, DCWP has conducted 60 events highlighting
13 the Fair Work Week Law connecting with more 4,000
14 workers. Today's hearing concerns legislation that
15 seeks to amend the Fair Work Week Law. Introduction
16 613 would double civil penalties for second and
17 subsequent violations of the law and double the
18 allowable civil penalty from 15,000 to 30,000 dollars
19 for a pattern of practice violations. Also, certain
20 businesses that violate the Fair Work Week or Paid
21 Safe and Sick Leave Laws could have their Food
22 Service Establishment permit suspended or revoked by
23 the Health Department at DCWP's discretion.
24 Introduction 640 would require DCWP to develop a
25 training on municipal workplace laws for fast-food

1 workers. DCWP would have discretion over when to
2 require an employer to make their employees available
3 for training. DCWP could also designate an outside
4 organization to conduct the training. We are always
5 happy to work with the Council on legislation that
6 promotes a culture of compliance of municipal
7 workplace laws. To that end, we are encouraged that
8 these bills can work in concert to further that goal.
9 Education is a cornerstone of compliance so that
10 workers know when a violation is occurring and how to
11 report that violation to us. We look forward to
12 working with Council to ensure that any training
13 program is accessible, accurately provides
14 information to worker, and effectively accomplishes
15 the goal of the legislation. However, with respect
16 to civil penalties in the Fair Work Week Law, we do
17 feel that the current civil penalty amounts are
18 appropriate and effective tools already to deter non-
19 compliance. Increasing civil penalty amounts payable
20 to the City would not be in line with our enforcement
21 priorities which are to ensure that workers are
22 getting monetary relief over payment of civil
23 penalties to the City. To wrap up, I'd like to thank
24 the Council for today's hearing and its commitment to
25

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2 addressing problems impacting workers in the fast-
3 food industry. DCWP is proud of its work enforcing
4 the Fair Work Week Law and other municipal workplace
5 protections, and we welcome continued collaboration
6 with industry stakeholders, worker advocates, and the
7 Council to create stronger protections for New York
8 City's workers and ensure that workers know their
9 rights and are made whole for violations of the law.
10 I look forward to our discussion today and any
11 questions that you may have. Thank you.

12 CHAIRPERSON VELÁZQUEZ: Hi, and good
13 morning. Thank you for that. Couple of quick
14 questions for you. How many violations has DCWP
15 issued for Fair Work Week violations and to how many
16 different food service establishments?

17 DEPUTY COMMISSIONER WAGONER: So, I've
18 got-- what I have are yearly totals. Yeah, what I
19 have are investigations opened and investigations
20 closed. We don't typically-- or at least I don't
21 have it in front of me, the number of violations each
22 year, but what I can tell you is that we've gotten a
23 total of 312 complaints, opened over 150
24 investigations, and closed over 118 investigations.

25

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2 CHAIRPERSON VELÁZQUEZ: So, just to go
3 over that, you had 312 open, 150 closed,--

4 SENIOR ADVISOR ORTIZ: 150 opened
5 investigations.

6 CHAIRPERSON VELÁZQUEZ: Open
7 investigations.

8 SENIOR ADVISOR ORTIZ: And about 120
9 closed. And those resulted in over 22 million
10 dollars in restitution, and about close to 1.4 in
11 civil penalties.

12 DEPUTY COMMISSIONER WAGONER: And to
13 clarify the complaints, sometimes we'll get a
14 complaint, multiple complaints about the same
15 business, right? So you wouldn't expect to a
16 complaint number matching investigations opened for
17 that reason.

18 CHAIRPERSON VELÁZQUEZ: When did
19 enforcement of Fair Work Week begin?

20 DEPUTY COMMISSIONER WAGONER: It began in
21 late 2017 when the law passed, or when the law became
22 effective, rather.

23 CHAIRPERSON VELÁZQUEZ: Does DCWP keep
24 track of employers with multiple violations?

25

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2 DEPUTY COMMISSIONER WAGONER: We do, yes,
3 it is part of our standard investigations protocol to
4 look to see when we get a new complaint whether we
5 have previously investigated that company.

6 CHAIRPERSON VELÁZQUEZ: How do you-- how
7 do violations typically come to the Department's
8 attention, and are most actions taken based on
9 employee complaints?

10 DEPUTY COMMISSIONER WAGONER: Most of the
11 time it is through employee complaints, and that is
12 the most effective way to ensure we're targeting our
13 resources to companies where there may be problems.

14 CHAIRPERSON VELÁZQUEZ: So, how is-- just
15 the first question, how does it come to you, phone?
16 [inaudible]

17 DEPUTY COMMISSIONER WAGONER: Yeah, we
18 try to make it very easy for workers to file
19 complaints with us. So many of our complaints come
20 in by phone though 311. We also get many complaints
21 by email to our email address, and then we also get
22 them through our outreach.

23 CHAIRPERSON VELÁZQUEZ: Can you provide
24 us with that email address just for folks?

25

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2 DEPUTY COMMISSIONER WAGONER: Yes. It's
3 OLPS@dcwp.nyc.gov.

4 CHAIRPERSON VELÁZQUEZ: Thank you. What
5 type of outreach and education has DCWP done to help
6 businesses with compliance?

7 DEPUTY COMMISSIONER WAGONER: I'll turn
8 that over to Carlos who handles that aspect of our
9 work.

10 SENIOR ADVISOR ORTIZ: Thank you. So,
11 that typically, our outreach both works with workers
12 and worker advocates and industry associations and
13 employer's as well. Typically, we can set up
14 presentations with them. We can come in and do one-
15 on-one trainings with managers, or one-on-one
16 outreach with managers, I should say. Something that
17 we've leveraged in the past is our business education
18 day model, which is where we visit a dense business
19 corridor and go into each business and just speak
20 with the manager and local staff one-on-one to let
21 them know about the protections or about the
22 responsibilities under the Fair Work Week Law. I
23 should also mention that we've recently put up a paid
24 media campaign as well to help educate New Yorkers on
25 Fair Work Week. You might see that in some of the

2 neighborhoods across the City, on bus shelters, and
3 high-visibility street furniture [sic]. So we really
4 try and take a comprehensive approach to outreach
5 whether that's in-person, online, or with paid
6 campaigns.

7 CHAIRPERSON VELÁZQUEZ: So, how often do
8 you provide these trainings, and how many have you
9 had so far since the introduction of Fair Work Week?

10 SENIOR ADVISOR ORTIZ: Since 2017, we've
11 had about 1,700 events focused on our workplace laws.
12 Those have-- you know, those facilitated tens of
13 thousands of New Yorkers to receive education on not
14 just Fair Work Week, but also Paid Safe and Sick
15 Leave and other responsibilities under the law.

16 CHAIRPERSON VELÁZQUEZ: And the paid
17 media, how is it targeted?

18 SENIOR ADVISOR ORTIZ: So, we work-- I
19 would say we work with Liz's team and we work with
20 other folks in our Communications Department to
21 address those zip codes sometimes where the paid
22 campaign would do the most bang for its buck, so to
23 speak, and make sure that the folks who need it get
24 that information-- have visibility on it.

2 CHAIRPERSON VELÁZQUEZ: Also, with this
3 paid media, is it available in different languages?

4 SENIOR ADVISOR ORTIZ: Yes, I would say
5 paid-- I mean, all outreach, whether that's in-person
6 with our outreach team or whether that's paid media
7 or social media. Language compliance is a
8 [inaudible] concern for us to ensure that we're
9 reaching every type of workers' language bank, so to
10 speak.

11 CHAIRPERSON VELÁZQUEZ: Does DCWP
12 anticipate any need for additional resources to
13 enforce Intro. 613 and/or Intro. 640?

14 SENIOR ADVISOR ORTIZ: I think, you know,
15 with any new mandate we always-- there could be new
16 resource needs. For that reason we work closely with
17 our partners at OMB to identify those needs and how
18 we can address them, but certainly resources can
19 always contribute to more enforcement for us.

20 CHAIRPERSON VELÁZQUEZ: Do you have an
21 idea of about how much would it be?

22 SENIOR ADVISOR ORTIZ: I don't have a-- I
23 don't have a specific number right now, but I think,
24 you know, as the legislation moves in the process
25 we'll be putting together those numbers to ensure

2 that we present those to our partners at OMB and make
3 sure that the needs can be discussed and addressed.

4 CHAIRPERSON VELÁZQUEZ: So, what channels
5 of interagency communication exist between DCWP and
6 the Department of Health and Mental Hygiene regarding
7 the activities of food service establishments or
8 other businesses where there's dual regulation?

9 DEPUTY COMMISSIONER WAGONER: We are in
10 regular touch with them on this introduction
11 specifically, and we'll be working with them through
12 the process to ensure that we can come up with
13 something workable.

14 CHAIRPERSON VELÁZQUEZ: Does--

15 SENIOR ADVISOR ORTIZ: [interposing] I
16 would just add to that point, you know, I think we do
17 see-- we understand the policy goals behind a
18 possible permit revocation or prohibiting issuance of
19 a permit. I think, you know, as an agency that
20 licenses its own categories of businesses we
21 understand how that can be an effective deterrent.
22 So in particular while we see necessarily that
23 increase in penalties is not-- we consider the
24 penalties right now to be appropriate. We can see
25 that, you know, we like to explore with the Council

2 about permit revocation and how that could help deter
3 businesses from violating these laws that are
4 significant for our New York City workers.

5 CHAIRPERSON VELÁZQUEZ: Does DCWP produce
6 training materials for businesses to support
7 compliance with other Local Laws the Department
8 enforces?

9 DEPUTY COMMISSIONER WAGONER: We produce
10 a number of materials to ensure that employers are
11 aware of their obligations. That includes the
12 training that Carlos described. It also includes
13 things like FAQ's with detailed questions and
14 answers, detailed scenarios about compliance,
15 scenarios that commonly come up in the fast-food
16 context. We recently did rule-making to clarify
17 employer obligations under the law and try to put as
18 much information, as much detail out there as we can
19 to ensure that employers know exactly what to do and
20 how to do it.

21 SENIOR ADVISOR ORTIZ: And I would also
22 add that employers do have requirements as well to
23 place posters in their workplaces that are visible to
24 managers, that are visible to workers, so that these
25 rights are properly disclosed.

2 CHAIRPERSON VELÁZQUEZ: What possible
3 challenges, if any, does DCWP anticipate with regards
4 to the enforcement of 613 and 640?

5 DEPUTY COMMISSIONER WAGONER: I don't
6 know that there are necessarily enforcement
7 challenges. I think we think that training is
8 critical for workers and are looking forward to
9 crafting a program that will give workers the
10 information they need and ensure they know their
11 rights. I think we do, though, think that the
12 penalty structure is currently adequate, and don't
13 see a need in terms of deterrence to increase it.

14 CHAIRPERSON VELÁZQUEZ: This is my final
15 question before I pass it on to Chair De La Rosa. Do
16 you agree that despite all your honest efforts,
17 there's still many workers who need to learn about
18 the law?

19 DEPUTY COMMISSIONER WAGONER: I think
20 that's right. I think that there are workers who are
21 unfamiliar with the protections of these laws. I
22 think we're doing a lot of work to expand knowledge
23 and reach those workers in the different ways that
24 workers can be reached. But, you know, we do hear

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2 from workers who don't about their rights under this
3 law.

4 CHAIRPERSON VELÁZQUEZ: Thank you. I want
5 to recognize Council Member Brewer for joining us.
6 Carmen?

7 COUNCIL MEMBER DE LA ROSA: Thank you so
8 much. Thank you for being here and for answering our
9 questions. We're certainly excited about the
10 possibility of strengthening these laws, and so we
11 look forward to working with you. One of the
12 questions that I had was around the tracking. So,
13 when complaints are coming in, is the agency also
14 tracking like if there's multiple complaints in one?
15 So if it's the Fair Work Week violation versus the
16 Paid Sick Time and Sick Leave, is that being tracked?

17 DEPUTY COMMISSIONER WAGONER: Yes, we do.
18 we record that information, both what the worker is
19 reporting, and then later after there's a full
20 interview with the worker, we issue spot-- often, you
21 know, workers don't know all of the issues, right?
22 So we may identify other issues, and then we record
23 that information as well.

24 COUNCIL MEMBER DE LA ROSA: And once the
25 investigations are finalized, is the agency back in

2 touch with the workers to say this was the outcome of
3 the investigation?

4 DEPUTY COMMISSIONER WAGONER: Yes, we do
5 do that, yes.

6 COUNCIL MEMBER DE LA ROSA: Okay, great.

7 DEPUTY COMMISSIONER WAGONER: We always--
8 it's part of our protocols to tell workers what the
9 result of the investigation was. Often, there's
10 monetary relief to the worker and we want to make
11 sure the worker is acutely receiving that money, you
12 know, the correct address, that kind of thing. And
13 then we also survey workers after our investigations
14 about their experiences working with us.

15 COUNCIL MEMBER DE LA ROSA: Great. And
16 then for the repeat offenders, the employers who
17 continue to violate the law, what does that system
18 look like as far as your first outreach to them to
19 say, you know, is it the-- is it after the
20 investigation that the outreach happens or before the
21 investigation where you say we've received a number
22 of complaints, please fix your practices-- what-- can
23 you paint us a picture of what that looks like?

24 DEPUTY COMMISSIONER WAGONER: Sure. It's
25 different in every case, but you know, we would do an

2 investigation to understand what's going on. And so
3 we would do detailed interviews with the workers to
4 understand the issues. You know, if the workers are
5 reporting workplace wide-- ongoing workplace-wide
6 violations, we would send the company a document
7 request. Under most of our consent orders there is
8 an abbreviated time period to respond to that, and so
9 that part is a little bit different because they've
10 already agreed to produce-- maintain and produce
11 information in a certain format and get that to us
12 quickly, and then we would investigate to determine
13 what's going on.

14 COUNCIL MEMBER DE LA ROSA: And you know,
15 not all businesses are created equally, right? We
16 have the smaller businesses, mom and pop businesses,
17 and we have some corporate giants. Is the treatment
18 different, or is there a different process if the--
19 it's a smaller businesses that maybe needs some
20 guidance on like the new laws versus someone who's
21 repeatedly created a culture of violating the law?

22 DEPUTY COMMISSIONER WAGONER: I would say
23 every investigation, you know, is a little bit
24 different. I wouldn't say that there is a particular
25 protocol around sort of big versus small, you know,

2 but we are-- our goal in every case is to ensure that
3 the resolution is bringing the company into
4 compliance and tailored to that goal.

5 COUNCIL MEMBER DE LA ROSA: Great. And
6 then my final question is-- you mentioned that the
7 agency is more interesting in getting money directly
8 to the workers rather than the civil penalty model.
9 Can you explain what the difference is in the
10 agency's point of view?

11 DEPUTY COMMISSIONER WAGONER: sure. I
12 mean, the workers are the ones who are most affected
13 by violations. The works are the ones who couldn't
14 pick up their kids in the evening. You know, the
15 workers who aren't getting fulltime work. You know,
16 they're the ones who are really suffering when a
17 company is not complying with the Fair Work Week Law.
18 And so in our resolutions, it is most important to us
19 to ensure that workers are compensated. And in our
20 settlement negotiations and our sort of settlement
21 frameworks that is what we're prioritizing, is
22 ensuring that workers are getting that compensation
23 at adequate levels to make them whole for what they
24 experienced.

2 CHAIRPERSON VELÁZQUEZ: Council Member
3 Menin?

4 COUNCIL MEMBER MENIN: Great, thank you.
5 First of all, I really want to thank the Chairs,
6 Chair Velázquez and Chair De La Rosa for these two
7 pieces of legislation. I think they're fantastic. I
8 strongly support them, and I think they're really
9 needed to bring teeth to this issue. I have two
10 concerns with the testimony that I heard today.
11 First, I was frankly-- and I served as DCWP
12 Commissioner starting in 2014 when we launched the
13 Paid Sick Leave Law. I was surprised in your
14 testimony that you're silent on the permit
15 revocation. I know you made comments on it, but I
16 hope we can get you here on the record supporting
17 that, because this is an existing power the
18 Commissioner has to revoke or suspend a record. So
19 what this legislation basically does is codifies it,
20 which is incredibly important. So I hope that we can
21 get your confirmation that you are in favor of that.

22 DEPUTY COMMISSIONER WAGONER: We are
23 looking forward to working with Council on ideas for
24 boosting deterrence for noncompliance and to the
25 extent a possible revocation could accomplish that

2 goal, we're happy to explore that further. You know,
3 we do want to be able to coordinate with the Law
4 Department and the Health Department to ensure that
5 the framework is workable. We think it's a very
6 interesting idea and are looking forward to working
7 on it.

8 COUNCIL MEMBER MENIN: Okay, so I take
9 that as a positive, only because that's an existing
10 power the Commissioner has, it's one of the biggest
11 powers the commissioner has to suspend or revoke. So
12 this codification is incredibly important. So, just
13 hope we're going to get more details from you soon.
14 So, that was the first point. Secondly on the
15 penalties. So I want to build upon what my colleague
16 Chair De La Rosa said, so when you speak about
17 obviously prioritizing restitution for the workers,
18 it's not mutual exclusive from the civil penalties.
19 So, I don't understand why the agency wouldn't look
20 at that. You talk about how you think it won't have
21 a deterrent effect. You have 300 complaints already,
22 on Fair Work Week, so I would argue the civil penalty
23 structure isn't enough, and it's not mutually
24 exclusive, it's not taking away from the very

2 important restitution to the workers. It seems like
3 it should be something that the agencies support.

4 DEPUTY COMMISSIONER WAGONER: We do think
5 it's adequate based on how strong the law is already.
6 The law already provides for 500 dollars per employee
7 per instance of a violation. And for the reasons I
8 described in my testimony, we will often see multiple
9 violations per employee per work week, and you know,
10 that can add up to a great deal of money. We do have
11 concerns about broadening the gulf between the worker
12 relief number and the civil penalty number. So, you
13 know, situation where a worker might be entitled to
14 200 dollars for a violation, but then the City is
15 entitled to 750 per violation. And so our-- you
16 know, would be more in support of a framework that
17 was increasing work relief since the workers are the
18 ones who are experiencing violations.

19 COUNCIL MEMBER MENIN: Okay. And then
20 last question. How low is it taking the agency to
21 quote-- you mentioned you have 300 complaints. I
22 believe it was a 150 investigations. So for those
23 150 investigation, how-- what is the average time
24 it's taking the agency to close the investigation.

2 DEPUTY COMMISSIONER WAGONER: So, I don't
3 have that average number in front of me, but what I
4 can say is that, you know, it's going to depend on
5 the scope. You know, some of these are Just Cause
6 investigations where there's an individual worker who
7 was terminated, and we try to rocket through those as
8 quickly as we can to get that person back to work.
9 In contrast, where we're looking at a workplace-wide
10 potentially multiple location Fair Work Week
11 investigation covering a number of different types of
12 violations of the Fair Work Week Law, you know, to
13 work that case up with the breadth of it is going to
14 take a little bit longer. So, I think you'll see kind
15 of a wide span in terms of how long it takes.

16 COUNCIL MEMBER MENIN: Okay, if we could
17 get that information--

18 SENIOR ADVISOR ORTIZ: [interposing] Yes,
19 Council Member.

20 COUNCIL MEMBER MENIN: to the committee
21 would be great.

22 SENIOR ADVISOR ORTIZ: We're happy to
23 provide you the average median numbers as well to
24 make sure that the committee has all that data.

2 COUNCIL MEMBER MENIN: Great. Thank you
3 so much. Thank you.

4 CHAIRPERSON VELÁZQUEZ: Now, to-- you're
5 good with questions? Now to Council Member Brewer.

6 COUNCIL MEMBER BREWER: Thank you very
7 much. And certainly I have to give not only you, but
8 also 32 BJ credit for the work that they did on
9 Chipotle, because I think I went to more
10 demonstrations than I can remember. But one if the
11 issues is, if you don't have 32 BJ, you don't have
12 that kind of organization, because I do believe as
13 hard as you work have worked without them, might not
14 have been able to document some of the challenges, be
15 I was there when I saw challenges personally. So, my
16 question is, is there something else we can do with
17 some of these national chains so that people don't
18 have experience of not picking up their kids,
19 etcetera, etcetera. In other words, how more
20 proactive can you be with some of these national
21 chains. Chipotle is a national chain.

22 DEPUTY COMMISSIONER WAGONER: I think,
23 you know, we are finding that as we publicize the
24 results of our investigations, you know, when media
25 reports on these things we do tend to get workers

2 filing new complaints and maybe hearing about it for
3 the first time. I think our paid media campaign is
4 really important in that regard, I think this
5 training bill is important in that regard.

6 COUNCIL MEMBER BREWER: Okay, so it
7 doesn't make sense literally do-- you know, look at
8 the list of the chains that are here, go meet with
9 the corporate folks and say, listen, these are the
10 laws, and just in case you think that they're not
11 going to be enforced, they are. Is there-- is that
12 not proactive in some way, shape, or form?

13 DEPUTY COMMISSIONER WAGONER: I think we
14 certainly are having those conversations with the
15 companies as well.

16 COUNCIL MEMBER BREWER: You're doing it
17 on a regular basis? Their companies that come to New
18 York, you're having those kinds of conversations?

19 DEPUTY COMMISSIONER WAGONER: We have
20 been, yes.

21 COUNCIL MEMBER BREWER: Can we get a list
22 of who you met with in terms of those companies?

23 DEPUTY COMMISSIONER WAGONER: I think we
24 could look into that and try to provide that to
25 Council.

2 COUNCIL MEMBER BREWER: Also, my
3 understanding is there are state laws. How do you
4 coordinate with the state laws? There's some new
5 state laws that also support fast-food workers. How
6 do you coordinate with those, if at all?

7 DEPUTY COMMISSIONER WAGONER: I think I'd
8 need to know more specifics about the laws you're
9 referring to. The Fair Work Week Law is a City law
10 only. There isn't--

11 COUNCIL MEMBER BREWER: [interposing] Oh,
12 I know.

13 DEPUTY COMMISSIONER WAGONER: a state law
14 corollary.

15 SENIOR ADVISOR ORTIZ: There is a state
16 law because I was there when it was tested at the
17 Chipotle on 72nd Broadway.

18 SENIOR ADVISOR ORTIZ: Council Member, I
19 think if we could have more details on that
20 particular law, we can write some more, maybe more
21 detailed answer for you. But I can say generally we
22 do coordinate with the state, Office of Attorney
23 General, Department of Labor. For example, in the
24 past we've had investigations in the homecare
25 industry where we are able to partner on

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2 investigations after we identified through our Paid
3 Safe and Sick Leave investigation. We identified
4 wage and hour issues, and by coordinating with the
5 state, we were able to also be able to recover and
6 secure restitution for workers in those situations,
7 too. I think generally as a city agency, we want to
8 be a central hub or resource for worker rights. So,
9 even if it's a particular law that we don't enforce,
10 we want to make sure that he workers are getting
11 connected appropriately.

12 COUNCIL MEMBER BREWER: Alright, thank
13 you. I will get you the name of the State Law. 32 BJ
14 is sitting right there. They know exactly what I'm
15 talking about. Thank you.

16 SENIOR ADVISOR ORTIZ: Thank you. And I
17 do want to echo you're point, Council Member, that 32
18 BJ and other worker advocacy organizations are key
19 partners for our agency. You know, as you can see in
20 the room today, all these worker here who are
21 committed to workplace protections and rights, and
22 it's very encouraging for the City.

23 COUNCIL MEMBER BREWER: Thank you.

24

25

2 CHAIRPERSON VELÁZQUEZ: Thank you,
3 Council Member Brewer. Now over to Council Member
4 Ossé.

5 COUNCIL MEMBER OSSÉ: Thank you so much,
6 Chair Velázquez and De La Rosa. A question that I
7 have pertains to youth. There's a lot of young fast-
8 food worker, obviously here in New York City, a lot
9 of them, you know, working there while also being
10 students here in New York. And the question that I
11 had is what does outreach look like for that specific
12 demographic of people? Is there a social media
13 campaign, things of that nature that engage the young
14 workers that may not be aware of the legal ease or
15 the bill as it exists?

16 SENIOR ADVISOR ORTIZ: Yes, thank you,
17 Council Member. Social media is definitely an
18 essential component for our outreach and definitely a
19 way that we can reach more New Yorkers, particularly
20 youth who might access social media more often,
21 whether that's the various platforms that we're all
22 familiar with. Our commissioner now, Commissioner
23 Mayuga, I know she has had a particular dedication to
24 ensuring that we're reaching you and that means
25 working with local community dev-- sorry, local youth

2 organizations or local-- is it cornerstone? Yeah,
3 it's cornerstone. Thank you. Like for exam-- and
4 also agencies like DYCD to ensure we're reaching
5 youth with our information.

6 COUNCIL MEMBER OSSÉ: Thank you.

7 CHAIRPERSON VELÁZQUEZ: Alright, so I
8 have one more question for you all. Does DCWP oppose
9 an increase to both penalties for individual
10 violations and increased pattern-- penalties for
11 patterns and practice?

12 DEPUTY COMMISSIONER WAGONER: I think our
13 concern is primarily with the per instance.
14 Increasing the pattern of practice piece is not
15 something that we oppose.

16 CHAIRPERSON VELÁZQUEZ: Thank you for
17 that. Okay, thank you for showing up today.

18 DEPUTY COMMISSIONER WAGONER: Thank you.

19 CHAIRPERSON VELÁZQUEZ: Next panel up
20 we're going to call up Charles Du, John Tritt, and
21 Teofila Guadalupe, and Jeremy Espinal who will
22 interpret. Charles, would you like to begin?

23 CHARLES DU: Thank you. Thank you Chair
24 Velázquez and members of the committee. My name is
25 Charles Du I'm an Associate General Counsel at SEIU

2 Local 32 BJ. Our union has 175,000 members across
3 the east coast and many other states. We're proud to
4 have been a leader in the fight for \$15 movement
5 since it started 10 years ago. Fast-food worker have
6 been at the forefront of struggles for economic and
7 racial justice, and we've archived so many success in
8 partnership with this City Council. We're here today
9 to keep pushing this fight forward and toe ensure
10 that New York City continues to support its essential
11 workers. New York City's 3,000 fast-food locations
12 employ more than 67,000 people, two-thirds of whom
13 are women, two-thirds immigrants, 88 percent of
14 people of color. The Fair Work Week and Just Cause
15 laws which apply only to chain restaurants with 30 or
16 establishments nationally, are meant to create
17 stability for fast-food workers by requiring large
18 chains to provide stable, regular schedules, and to
19 offer open shifts to current workers before hiring
20 new workers. They also require restaurants to engage
21 in a progressive discipline process before firing
22 someone. Together, these laws envision an industry
23 that schedules its workers for constituent fulltime
24 work that allows them to plan their lives and to make
25 enough to live in the City. Unfortunately, in the

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2 years since the laws' passage, we've seen employers
3 ignore and violate them systematically. DCWP recently
4 settled a complaint against Chipotle in which the
5 company agreed to pay 21 million dollars to workers,
6 and yet throughout this time, even after the case was
7 brought against it, Chipotle continued to
8 systematically violate the law. We recently filed
9 complaints on behalf of workers at over a dozen
10 Chipotle locations, alleging unlawful reductions in
11 their work schedule. Chipotle and other fast-food
12 employers flout labor standard law because they may
13 calculate that the benefit of continuing their
14 current labor practices outweighs the chance and the
15 severity of enforcement. Most violations go
16 undetected because the burden of reporting violations
17 falls on fast-food workers themselves, and workers
18 may not know what their rights are or how to report
19 violations, and they may face retaliation including
20 hours cuts and fired for reporting violations.
21 DCWP's limited resources may constrict its ability to
22 conduct broad outreach throughout the City,
23 proactively investigate worksites in the absence of a
24 pending complaint, and promptly respond to every
25 complaint field. So we're here today to tell the

2 industry that we won't let this behavior slide. The
3 biggest, most-profitable corporations in the fast-
4 food industry must follow the rules, and the rules
5 are very simple: provide regular schedules and offer
6 open shifts to current workers. These are no
7 unreasonable demands. The two bills before us today
8 address this problem in two ways, through enhanced
9 penalties and through worker training. Intro 613
10 gives DCWP the ability to seek the suspension,
11 revocation, or denial of a fast-food employer's Food
12 Service Establishment Permit in three specific
13 circumstances. First, if the employer fails to pay
14 outstanding fines or penalties for violations.
15 Second, if a court finds that the employer has
16 engaged in a pattern or practice of violations. And
17 third, if the employer has been ordered to pay
18 500,000 dollars in penalties and fines in the last
19 three years. This gives the City the ability to take
20 enhanced enforcement action against the worst
21 offending employers, the ones that have engaged in
22 systematic violations of the law. We believe that
23 this will have a deterrent effect and will help to
24 ensure compliance with Fair Work Week and Just Cause.
25 Incorporating a mechanism to suspend or revoke

2 licenses for labor violations is a common sense
3 policy with longstanding precedent. Laws
4 conditioning business licenses on compliance with the
5 labor standards has precedent in other jurisdictions
6 including Seattle, Chicago, Somerville,
7 Massachusetts, New Brunswick, Princeton, New Jersey,
8 Westchester County. These are just of the
9 jurisdictions that have passed local laws that take
10 action on permits of businesses with a history of
11 wage theft violations. Intro 640 gives DCWP the
12 ability to conduct trainings on city employment laws,
13 including Fair Work Week and Just Cause, and would
14 require the employer to pay employees for the time
15 sent in these trainings. The bill would also allow
16 DCWP to work with the workers' rights organization to
17 provide trainings. In our experience, speaking with
18 hundreds of fast-food workers throughout the city,
19 most-- you know, almost all are not aware of their
20 rights. Usually we're the first ones to inform them
21 that in fact, they have the right to the regular
22 schedule, and they have a right to be offered shifts
23 before the restaurant hires new workers. Most
24 workers do not know about these rights. And while
25 DCWP has taken a robust public education outreach

2 effort, workers just lack in-- many workers lack
3 accurate information on the rights and how to enforce
4 them. And even when they do know what their rights
5 are and have identified a violation, they may be
6 reluctant to report it because they fear retaliation.
7 Trainings and workshops conducted by well-trained
8 agency staff or community partners, can go a long way
9 towards getting key information to workers and giving
10 them some assurance that they can safely report
11 violations. New York already partners closely with
12 community organizations to play this role. The City
13 contracts with several worker centers and legal
14 service providers to conduct outreach and education,
15 and to reprints low wage and immigrant workers in
16 wage theft and other cases. These efforts reach
17 thousands of workers per year and have returned
18 millions of dollars in unpaid wages to working
19 families. Continuing to engage in similar
20 partnerships to train faceted workers about Fair Work
21 Week and other productions would be an enormously
22 helpful tool in preventing and combatting violations.
23 Thank you for the opportunity to testify today.

24 CHAIRPERSON VELÁZQUEZ: Thank you. John?

2 Hello and good morning, Chair Velázquez
3 and Council Members De La Rosa and the members of the
4 committee. I'm actually hopping up here to testify
5 because one of the workers, fast-food workers, who
6 very much wanted their story to be told was unable to
7 come at the last moment, which is often the case with
8 folks in the industry. The reason that, you know, 32
9 BJ has fought hard for the legislation that regulates
10 scheduling and regulates Just Cause is because of the
11 fact that it's very difficult, if not impossible in
12 some cases, to play your life around your job, and
13 that's frankly unacceptable and one of the reasons
14 why we continue after 10 years of the first fast-food
15 workers strike to continue to advocate for our city's
16 workers. Just very briefly on a personal, you know,
17 note, before I started doing political work I did
18 organizing with non-union workers and was at the
19 first fast-food strike 10 years ago. And you know, a
20 lot of folks in labor movement love to fight, but we
21 do ultimately want to get to a point where workers
22 are treated fairly and not just continue the fight
23 into perpetuity. So we're very much here to say that
24 the industry should be basically following the law
25 and that's what these laws are designed to do, to

2 actually ensure that the laws that are already on the
3 books that are good and fair workers are actually
4 enforced. So we appreciate the time. But juts in
5 brief, this is on behalf of Alyssa Roman [sp?], a
6 current Chipotle worker, "Hello, good morning, Chair
7 Velázquez and committee members. My name is Alyssa
8 Roman and I'm a Chipotle worker and soon to be
9 mother. I started working at Chipotle as a means of
10 asserting my independence as a young person. I work
11 hard and want to do everything in my power to provide
12 for my baby. Recently, I had to pick up another job
13 in order to make enough money to save up for an
14 apartment. I believe that fast-food jobs can be the
15 kind of the jobs that I can raise on a family on in
16 the city if they have the will to enforce the laws
17 that have already been passed, but it is difficult
18 when my manager repeatedly cuts my hours or assigns
19 me tasks that endanger my pregnancy. I'm here today
20 to ask the members of the committee to help protect
21 fast-food workers like me. My story is not uncommon
22 as you will hear from many of my coworkers testify
23 this morning. Our employers need to know that we are
24 worthy of dignity, respect, and safety on the job,
25 and if they break the law, they will have to suffer

2 the consequences. I urge the committee to support
3 Intro 613 and Intro 640 to help regulate an industry
4 that treats their workers as disposable. I ask that
5 you support this legislation and stand with us as we
6 ask the Council to pass these laws. Thank you.”

7 CHAIRPERSON VELÁZQUEZ: Thank you for
8 sharing. Teofila and Jeremy. Thank you.

9 TEOFILA GUADALUPE: [speaking Spanish]

10 JEREMY: Good morning. Good morning
11 Chair Velázquez and committee members. My name is
12 Teofila Guadalupe, and I’ve worked at Chipotle for
13 about five years.

14 TEOFILA GUADALUPE: [speaking Spanish]

15 JEREMY: My store is located in 774
16 Broadway. I like working there because it is close to
17 my children’s school. I am proud to work and support
18 my family, but Chipotle’s scheduling practices have
19 and continue to be a problem for me.

20 TEOFILA GUADALUPE: [speaking Spanish]

21 JEREMY: I know that the Council has
22 previously passed legislation to help bring stability
23 to fast-food workers’ schedules. For that, I am
24 grateful. It is good to know that fast-food workers
25 have allies in the City Council.

2 TEOFILA GUADALUPE: [speaking Spanish]

3 JEREMY: Despite there being laws in
4 place to protect workers like me, I have experienced
5 issues with scheduling my hours. My manager has not
6 always scheduled me for the hours that I'm supposed
7 to get according to my regular schedule. If they do
8 not follow the regular schedule, then what's the
9 point of the law? I need stability to plan my life
10 and raise my family. I filed a complaint with DCWP in
11 July to get the money I'm owed, but I would prefer
12 if the laws were followed in the first place.

13 TEOFILA GUADALUPE: [speaking Spanish]

14 JEREMY: Fast-food workers who depend on
15 their income to support their families need stable
16 schedules. Our employers need to know they cannot
17 violate our rights or the law. I ask you please to
18 support these bills.

19 CHAIRPERSON VELÁZQUEZ: Thank you for
20 sharing. I'm going to start off asking a question.
21 I'll do it in Spanish and then I'll translate myself.
22 [speaking Spanish]

23 TEOFILA GUADALUPE: [SERGEANT AT ARMS:

24 CHAIRPERSON VELÁZQUEZ: [speaking
25 Spanish] Let me do this all in English, y'all.

2 Chipotle just reached a big 20 million dollar
3 settlement agreement with DCWP and that this
4 agreement covers violations of the Fair Work Week Law
5 up to April 30 of 2022. Are you saying that even
6 after this agreement, Chipotle is still violating the
7 law? [speaking Spanish]

8 TEOFILA GUADALUPE: [speaking Spanish]

9 JEREMY: She says, yes, they are
10 continuing to break the law. They continue to bring
11 in new workers and cut current workers' hours. They
12 cut my hours. They cut my hours-- they cut two days
13 from my regular schedule. I'm now getting 22 hours,
14 and I have a family and kids to take care of. And
15 she's been there for five years.

16 TEOFILA GUADALUPE: [speaking Spanish]

17 CHAIRPERSON VELÁZQUEZ: Sorry, in
18 English. What reasons did they give when they cut
19 your hours?

20 TEOFILA GUADALUPE: [speaking Spanish]

21 JEREMY: In July, my daughter is off of
22 school, so-- and she doesn't-- I don't have a
23 babysitter to cover Monday or Fridays. So I asked my
24 manager to take me off of the schedule for those days
25 for the time.

2 TEOFILA GUADALUPE: [speaking Spanish]

3 JEREMY: So, she asked for this time off
4 for six weeks. So, on September 5th, she knows that
5 her daughter was going back to school, so she wanted
6 to start her schedule back up with Mondays and
7 Fridays included, and on September 5th-- she was
8 promised that day she was given these hours, and when
9 September 5th came by, she asked her general manager
10 to give her these hours and the general manager told
11 her that she could not give her those hours, that she
12 had a lot of people to be giving hours to, and that
13 she could find another store to work at.

14 CHAIRPERSON VELÁZQUEZ: [speaking Spanish]

15 Wait, wait. Now let me translate myself. It's
16 always so funny. Does Chipotle help you secure hours
17 at other stores that they may own?

18 TEOFILA GUADALUPE: [speaking Spanish]

19 JEREMY: Her-- the divisional [sic]
20 manager to tells her to look for another, so she does
21 not offer her-- offer to help looking for the store,
22 and instead offers her hours to work on Sunday, but
23 Teofila cannot work Sunday and lets her know that she
24 can't work because she can't a baby sitter for that
25 day.

2 CHAIRPERSON VELÁZQUEZ: Your managers
3 know that you have a child? [speaking Spanish]

4 TEOFILA GUADALUPE: Si.

5 CHAIRPERSON VELÁZQUEZ: Okay--

6 JEREMY: Her managers do know that she
7 has a child.

8 CHAIRPERSON VELÁZQUEZ: Gracias. Carmen?
9 Okay. Oh, sorry. I wnt to recognizes Council Member
10 Fariás, and I know she also wants to ask a couple of
11 questions.

12 COUNCIL MEMBER FARÍAS: Sure. Good
13 morning everyone. I'll only do this is in English so
14 it's easier for you to just translate next to her.
15 I'm Council Member Amanda Fariás. Thank you Chairs
16 for hosting this today. Just a little background on
17 me, I actually worked in fast-food my entire young
18 adult life. So, I went from being a host to a
19 hostess and a bar tender and a server. I did banquet
20 and a little bit valet, because I know how to drive
21 stick when I was younger and I was one of the few
22 that did. So this is actually really, really
23 important to me. I initially didn't make it here
24 quite in time to ask the agency, but I will make sure
25 I get that offline from them. But it sounds like we

2 obviously have a repeat offender which is Chipotle,
3 and obviously there needs to be more stringent
4 penalties to them, and since they are not following
5 any of the rules and regulations and laws that we put
6 in place. For me, and I'd love to hear just from the
7 worker perspective. I've been in the situation where
8 I've need amendments or changing to my scheduling
9 before the Fair Work Week was available. So I was
10 getting my schedule Sunday in the middle of my shift
11 for the next week, right? Like that's how it used to
12 be. And sometimes I was getting it at one in the
13 morning when I was wrapping my silverware. That
14 happens. But looking at some of these penalties it
15 worries me just quite a bit because they're very
16 high. Maybe not-- maybe the right amount for the
17 repeat offender like we have at Chipotle, but maybe
18 not for other businesses. So, I would love to hear
19 your perspective on-- would workers be-- or even 32
20 BJ itself thinking from the union perspective. Would
21 there be a flexibility around allowing the-- looking
22 at restarting the two-week timeframe if a worker
23 says, actually I need amendments and that clock kind
24 of stops in that moment until the manager actually
25 makes the amendments and then their two week notice.

2 Because the way the law is written seems a little
3 vague to me around-- the clock is still going for
4 them and providing a two-week schedules when
5 amendments are still requested. So, when I read it,
6 I look at it as, okay, well, if I got my schedule for
7 the next two weeks and I saw I needed changes,
8 technically they're not abiding by the law once I
9 request the changes and they give it. Well, would
10 that-- would you folks be amenable to seeing any
11 changes in terms of the time clock for the manager?
12 Because realistically it's not like the head of
13 Chipotle that's making these decisions, right, or the
14 head of Applebee's. It is the bar manager or the
15 floor manager or your back of the house manager
16 that's then having to go back and say, "Oh, okay, you
17 need Tuesdays and Fridays? Great, I have to change
18 that, but like, you know, screaming out back door
19 because you're running out with a plate of food. So,
20 have you thought about this or has there been any
21 dialogue around what does that clock look like, and
22 making sure that we're still in compliance for the
23 businesses?

24 CHARLES DU: I can answer this.

25 COUNCIL MEMBER FARIÁS: Sure.

2 CHARLES DU: I believe that the current
3 law as it is already provides that flexibility,
4 because the structure of the law is really based on
5 worker consent. And so if it's the worker that is
6 initiating the schedule change, if the worker is
7 saying I can't work this shift, can you switch me, or
8 something like that. The employer is not penalized
9 for that kind of thing. As long as the employer
10 actually obtains that consent. What we normally see
11 mist in the industry is that, you know, like you're
12 saying these frontline managers, they're kind of like
13 trying to figure out their schedule. They don't
14 really-- you know. And they will just make changes
15 without asking. That's more of what we see. But if
16 a worker is the one initiating the change that is not
17 a violation of the law as it currently stands.

18 COUNCIL MEMBER FARIÁS: So, in this law
19 right now, the way it's written, I didn't see
20 anything on like written consent or needing a
21 formalized process of saying you need to-- are we
22 just expecting each businesses independently to have
23 their own process of how we want to keep records of
24 when an amendment to a schedule is changed, and
25 what's approved and what's not approved?

2 CHARLES DU: So, these bills themselves,
3 the bills, the current bills don't contain any of
4 that because these two bills do not-- they don't
5 modify the requirements of Fair Work Week at all.

6 COUNCIL MEMBER FARIAS: Right, but they
7 are modifying the penalties.

8 CHARLES DU: Yes, they just modify the
9 penalties, but they don't modify the rules of Fair
10 Work Week. And then in the municipal code as it
11 stands, it lays out and also the municipal code as it
12 stands, it lays out-- and also the agency's rules
13 that they adopted a few months ago, it lays out all
14 the procedures when a business needs to get advanced
15 written consent. You know, what happens if an
16 employee--

17 COUNCIL MEMBER FARIAS: Okay.

18 CHARLES DU: doesn't want to ask for a
19 change.

20 COUNCIL MEMBER FARIAS: So, we should
21 probably look into amending those, because if it's a
22 two-week schedule and advance written request, and
23 you don't get yours. You know, there's like a lot
24 of-- I don't know. For those that have worked in the
25 restaurant I'm sure what I'm saying makes a lot more

2 sense, because like advance in a two-week schedule
3 and making amendments when you got your own kids
4 calendar for the school year. Like all of those
5 things don't actually speak to one another sometimes,
6 so we should look into amending the Fair Work Week
7 package that has the list of issues if we wanted to
8 make sure it's in compliance with this two weeks. I
9 mean, again, we can always talk offline too,
10 obviously. You folks have my number. I'm just
11 speaking from my own personal experience of like a
12 decade in the industry and looking at these
13 penalties, per say, and how they're obviously not--
14 it's still not working for some of our workers.
15 There still probably needs to be some flexibility on
16 the other end. Thank you for answering.

17 CHAIRPERSON VELÁZQUEZ: Council Member
18 Menin?

19 COUNCIL MEMBER MENIN: Great. Thank you.
20 I have to say, like, I am incredibly troubled by the
21 testimony today, and I cannot believe that the
22 agency, I don't believe that they're here to hear the
23 worker testimony. I mean this is really unfortunate.
24 I-- again, your testimony was incredibly compelling
25 and I think it's even more justification for why we

2 need this permit revocation, so there truly is a
3 deterrent to this behavior. Also, if I could, want to
4 make a suggestion to the Chairs, that I think that
5 the Committee should be writing a letter to the DCWP
6 Commissioner about this testimony to talk about--
7 because to me, it sounds like it's retaliation, which
8 is a flagrant abuse of the law. The fact that your
9 hours were being cut, the fact you're being told to
10 go to a different store, the fact that they're saying
11 that new employees are getting these hours all speak
12 to retaliation, and I think we need to alert the
13 Commissioner to that immediately.

14 CHAIRPERSON VELÁZQUEZ: Thank you, Julie.
15 Council Member Bottcher?

16 COUNCIL MEMBER BOTTCHER: How are the
17 other chains, too, like McDonald's, Wendy's,
18 Popeye's? Are they all adhering to the law?

19 JOHN TRITT: Yeah, I'd say-- I'd say--
20 well, broadly, I can't overstate this. Whenever we
21 have contact with workers at any major chain across
22 the five boroughs, we are constantly running into
23 workers who have this problem. And so, you know, I
24 think to Council Member Brewer's point earlier, you
25 know, we have-- as a union, we have a-- you know,

2 we're a well-resourced union with hardworking
3 dedicated organizers, but we can only go so far and
4 have so many contacts with so many workers, and so we
5 know as we have had-- you know, we've been talking to
6 workers at Chipotle and other establishments. We
7 know this a widespread, rampant problem, and
8 everywhere we turn we run into workers that have
9 these problems, but for me to be able to sit here
10 today and kind of go over like the big picture of
11 what's happened at the other chains, it's a little
12 difficult to do personally, except I can say with,
13 you know, a high degree of confidence that everywhere
14 we turn we are running into workers that are having
15 this problem and don't know about these laws. The
16 agency, you know, give them-- we give them a lot of
17 credit for the hard work they're doing to try to get
18 the word out. They said they've done training to
19 get-- you know, so far they've connected with about
20 4,000 workers in the industry. That's been a couple
21 of years of that effort, and even then I wouldn't
22 call it a drop in the bucket, but I'd say, you know,
23 there's many, many, many thousands of workers to go.
24 So these laws are strong laws. They're good laws,
25 but again, in all the big companies we're running

2 into this when we talk to workers, and you know, so
3 that's why we think this additional deterrence is
4 important.

5 COUNCIL MEMBER BOTTCHEER: To your
6 knowledge, is the-- is the agency following up on the
7 complaints with the other chains as it has with
8 Chipotle? How is the agency been with-- you know,
9 we've seen them be aggressive with Chipotle. How are
10 they with other complaints from other--

11 JOHN TRITT: Well, it's-- yeah, it's a
12 good question. I mean, I think I kind of think of it
13 in two ways. One, we know, you know, there's a lot
14 of hardworking dedicated folks there. They are-- you
15 know, the laws are-- haven't been around for many
16 years, but we know they're trying. I think we
17 personally, I think 32BJ would love to kind of
18 understand and always learn more about their metrics
19 and try to kind of understand how that's all going.
20 Look, as worker advocates, one of the reasons that we
21 know that there's, you know, follow-through with
22 complaints around Chipotle is very much because of
23 the efforts of our organization. But again, we--
24 this is not just about oen sector of the workforce.
25 We understand this is a problem across the city, and

2 we are-- we have limits to how much outreach we can
3 possibly do as an organization. So, I can't-- I
4 don't know for sure, and I'd actually be-- it's too
5 bad they're not here to kind of say a little bit more
6 about that. We know they're working hard on the
7 industry as a whole, but you know, we know that
8 through our advocacy, we can kind of speak to that,
9 but yeah, we know it's a problem across the board.

10 COUNCIL MEMBER DE LA ROSA: Anybody else
11 have any more questions, Council Members?

12 COUNCIL MEMBER BREWER: Yeah.

13 COUNCIL MEMBER DE LA ROSA: Council
14 Member Brewer?

15 COUNCIL MEMBER BREWER: I think just to
16 follow up, it's what I was sort of saying earlier,
17 which is that the agency has to quantify for us what
18 kind of specific outreach they're doing to see if
19 there is some kind of relationship between those
20 companies and complaints. Because we don't know. We
21 don't have any metrics along those lines. So, thank
22 you. And then later on, that State Law. I remember
23 that State Law, 77nd Street. So let me know what it
24 is so that I can bring it to the attention of the
25

2 agency. I'd have to go to the manager in that
3 specific situation. Thank you.

4 COUNCIL MEMBER DE LA ROSA: Thank you all
5 for coming and 32BJ for your leadership and the
6 workers. Gracias por su testimonio. Thank you so
7 much.

8 CHARLES DU: Appreciate it. Thank you.

9 COUNCIL MEMBER DE LA ROSA: Okay, so the
10 next panel is Kevin Dugan, Gabriel Martinez [sp?],
11 and Melanie Kruevelis. And Kevin is remote joining us
12 on Zoom. Kevin, if you could turn on your camera.

13 KEVIN DUGAN: Hey, can you guys see me or
14 hear me okay?

15 COUNCIL MEMBER DE LA ROSA: Yes, yes, we
16 can. You may begin.

17 KEVIN DUGAN: Fantastic, and thanks folks
18 for having me today. Good morning. My name is Kevin
19 Dugan, and I'm the Government Affairs Director for
20 the New York State Restaurant Association. We're a
21 trade association representing food and beverage
22 businesses across the entirety of New York State.
23 We're the largest hospitality trade association in
24 the state, and we have advocated on behalf of our
25 members for over eight years. Our members represent a

2 large and widely regulated constituency in New York
3 City, and our industry continues to be
4 disproportionately hurt by lingering impacts in
5 losses of the COVID-19 pandemic. We recognize the
6 goals of the Fair Work Week legislation the City
7 Council has previously passed and we also understand
8 that publicizing one-off cases of non-compliance may
9 send the wrong message about quick-service
10 restaurants are treating their obligations. The real
11 underlying picture is that the vast majority of our
12 operators are engaged in good faith efforts to comply
13 with the existing Fair Work Week legislation, even
14 though the law poses more compliance challenges than
15 any other similar legislation around the country.
16 We're here today to address both Intro 640 and 613
17 and to make the following suggestions about how to
18 move forward with the strong intention of both
19 protecting workers and being fair and reasonable to
20 operators. I do ask please do not double the fines
21 associated with the Fair Work Week enforcement, and
22 instead help us create a more robust and thorough set
23 of training materials so that operators and staff can
24 abide by the Fair Work Week rules. Intro 613 would
25 double the fines for businesses found in violation of

2 Fair Work Week laws and it would also introduce a
3 threshold after which the Department of Health and
4 Mental Hygiene could revoke, suspend, or fail to
5 renew a permit. Dialing up the penalties for Fair
6 Work Week violations is unnecessarily punitive, and
7 while we understand it has a well-intention response
8 to a publicized case of non-compliance, we feel it
9 misjudges the intention and behavior of the vast
10 majorities of the restaurants in the city. we also
11 want to prevent bad actors, but with the fine
12 schedule as extreme as what has been put forward in
13 Intro 613 and knowing the calculus DCWP has been
14 using to arrive at final penalties already, we
15 foresee locations being hit incredible hard by the
16 fines for the mistakes from individual managers and
17 the consequences quickly escalating to that location
18 being closed up by DOHMH. We urge the City Council
19 not to increase the fine schedule and to instead put
20 more resources behind an education-based approach to
21 the law. We would also note that restaurants
22 continue to be in a perilous economic conditions, a
23 situation that would only --

24 SERGEANT AT ARMS: [interposing] Time
25 expired.

2 KEVIN DUGAN: [inaudible] that would only
3 be exacerbated by harsher fines. To shed more light
4 on the specifics, we recently have a survey data to--
5 we recently released survey data to explain the
6 landscape of restaurants that are facing-- the
7 economic landscape restaurants are facing, and these
8 are some of the key findings that we found: 85
9 percent of operators--

10 COUNCIL MEMBER DE LA ROSA: [interposing]
11 Please wrap up. Please wrap up your comments. Your
12 time has expired, but please wrap up.

13 KEVIN DUGAN: Oh, yeah, will do. I'll
14 just briefly summarize our feelings on 640. Would be
15 required to-- the Intro 640 would require the city to
16 send their employees off-site to train on Fair Work
17 Week Laws at a time and place dictated to them and by
18 an entity outside of their employer. We share the
19 Councils respect for training as an important
20 component to the law, and we take perspective that
21 rather than an inconvenient off-site training, that
22 some of this training could be taken in-house as
23 there's a number of opportunities that employers are
24 constantly being trained in all sorts of things,
25 including food handlers, mandatory sexual harassment

2 prevention training, that this additional training
3 could be very well worked into the law. Be happy to
4 work with DCWP on what this training may or may not
5 look like, but it may make more sense just for
6 everybody's schedule to happen in-house if at all
7 possible. Again, I'll wrap up. We appreciate the
8 Council's intentions to protect workers and prevent
9 bad actors from intentionally breaching the Fair Work
10 Week regulations and we do share those goals. Just
11 hope that we can work forward together on education
12 materials that make sense, and hopefully work towards
13 a more equitable fine structure instead of the one
14 proposed here in the rules. So at that, I will leave
15 it there, and thank you again for allowing me to
16 testify today.

17 COUNCIL MEMBER DE LA ROSA: Thank you.
18 You may begin, and please identify yourself as well
19 so we can make sure to check you off.

20 MELANIE KRUVELIS: Okay, thank you. Good
21 morning members of the committee on Consumer and
22 Worker Protection. I'm Melanie Kravelis. I'm a
23 Research Associate at the CUNY Urban Food Policy
24 Institute at the School of Public Health and a
25 graduate student at the CUNY School of Flavor and

1 Urban Studies. Today I speak on behalf of the CUNY
2 Urban Food Policy Institute to express our support
3 for Intro 613 and 640 for the purposes of the health
4 and educational benefits of New York City's working-
5 class students. While the passage of these two bills
6 would bring benefits to fast-food workers across the
7 City, our testimony today will focus on their impact
8 on the 40,000 CUNY students who work in the food
9 industry while in college. An April 2021 survey
10 found that 17 percent of CUNY students work in the
11 food sector, making it the largest single employment
12 sector for our students. CUNY also trains more
13 people to work in the food sector than any other
14 university in the country. Our institute is
15 conducting a study of CUNY students who work in the
16 food industry while in school. As part of that
17 project, our team recently interviewed 20 CUNY
18 students who are also food workers. These in-depth
19 interviews identified several ways that working in
20 food and specifically fast-food makes it harder to
21 focus on school, make progress on the degree and
22 graduate. First, violations of the City's Fair Work
23 Week Law, as discussed earlier today in the
24 testimonies, force students to miss class, fall
25

1 behind on assignments or give up on school work
2 entirely. Students we spoke with reported that their
3 employers would change schedules at the last minute
4 either to close the store at the end of the day or
5 replace an absent worker. One student explained how
6 an erratic work schedule led to them dropping to
7 part-time enrollment in school. Research shows that
8 part-time students are much less likely to complete
9 their degree than those enrolled fulltime. Other
10 students told us about the many physical and
11 psychological health challenges they face in their
12 food jobs. These includes requirements for heavy
13 lifting and adequate protection against kitchen
14 injuries or burns, repetitive strain and injuries,
15 sexual harassment and adequate access to PPE, as well
16 as customer harassment in response to COVID-19. Many
17 students noted the lack of safety, education, or any
18 information about their rights as worker, endangering
19 workers, colleagues, and customers. For these
20 reasons we support both bills today in front of the
21 Council. Passing this legislation will ensure that
22 CUNY students who are food workers will be educated
23 about their rights and better able to protect
24 themselves against the threats to healthy they
25

2 encounter in the workplace. In addition to these
3 bills, we also encourage the Committee to fight for
4 things like more funding at DCWP to ensure the agency
5 is equipped to handle additional complaints that may
6 result from increased worker education. Thank you
7 again for the opportunity to testify today about the
8 impact these bills would have on working-class
9 students, and we look forward to working with you on
10 this legislation.

11 COUNCIL MEMBER DE LA ROSA: Thank you so
12 much.

13 GABRIEL MARTINEZ: [speaking Spanish]

14 TRANSLATOR: Good morning, Chair
15 Velázquez and Committee Members. I work at 4009
16 Broadway and I have worked there for many years. My
17 name is Jim [inaudible].

18 GABRIEL MARTINEZ: [speaking Spanish]

19 TRANSLATOR: I'm happy to hear about the
20 recent settlement the City reached with Chipotle,
21 because I have experienced numerous reductions in
22 hours to my schedule which is a violation of the Fair
23 Work Week Law. Many of my co-workers who you've
24 heard speak today shared similar experiences.

25 GABRIEL MARTINEZ: [speaking Spanish]

2 TRANSLATOR: Fast-food workers everywhere
3 are at the mercies of capricious [sic] managers. We
4 know this because despite the City Council passing
5 Fair Work Week and Just Cause protections, companies
6 like Chipotle continue to break the law at our
7 expense.

8 GABRIEL MARTINEZ: [speaking Spanish]

9 TRANSLATOR: I'm here today to ask the
10 members of this committee to take a stand with fast-
11 food workers and increase the penalties for violating
12 Fair Work Week protection. Employers who repeatedly
13 break the law should not be allowed to do business in
14 New York City. I urge you to support Intro 0613 and
15 pass it into law.

16 COUNCIL MEMBER DE LA ROSA: Thank you.
17 Gracias. Do any of the colleagues have questions for
18 this panel? Oh, and I want to recognize Council
19 Member Krishnan has joined us. Questions? No?
20 [speaking Spanish] There's no questions. Thank you
21 so much for testifying. Up next we have Lucia
22 Pacheco [sp?], Ashely Sevallla [sp?], and Paloma Nunez
23 [sp?]. If you're here you can come up. If you're
24 virtual-- all these people are in-person. Lucia
25 Pacheco, Ashley Sevallla, and Paloma Nunez. We can

2 start. When you're comfortable, please begin. Thank
3 you.

4 ASHLEY SEVALLA: Good morning Chair
5 Velázquez and Committee Members. My name is Ashley
6 Sevalla, and I work as a Service Manager at the
7 Chipotle location 404 Broadway.

8 COUNCIL MEMBER BREWER: Pull the mic
9 closer to you.

10 ASHLEY SEVALLA: Oh, sorry. As an
11 expecting mother, I'm depending on my ability to work
12 to provide for my family. Working in the food
13 service can get stressful especially when the store
14 is busy during a lunch or peak rush. Combined with
15 short staffing, it can be easy to make mistakes, and
16 those mistakes can be dangerous, especially since
17 we're preparing hot food. I've personally experienced
18 a lot of injuries while working at Chipotle. I often
19 feel over-worked as a result of understaffing when I
20 work-- sorry. When I talk to my co-workers, some of
21 whom are here today, I feel confused, because a lot
22 of them want to work more hours. I too have expressed
23 that I would like to work more hours in order to
24 prepare for my baby. Staffing and scheduling issues
25 have larger impacts on fast-food workers like me, and

2 until our employers follow the law, we need
3 additional protections that can help regulate harmful
4 practices. It's not fair that Chipotle can keep
5 violating the law and still be allowed to do business
6 in New York City. I ask each of you to please
7 support this legislation and help pass it into law.
8 Thank you.

9 COUNCIL MEMBER DE LA ROSA: Thank you.

10 PALOMA NUNEZ: Good morning, Chair
11 Velázquez and Committee Members. My name is Paloma
12 Nunez and I work at the Chipotle located in 404
13 Broadway. Pretty soon after I started working at
14 Chipotle, I met an organizer from 32BJ. I was really
15 happy we met because I learned a lot about my rights
16 as a worker, which I didn't know before. That's how
17 I became aware my manager was unlawfully reducing my
18 hours repeatedly. I filed a complaint challenging
19 this in July. I want to help organize my coworkers
20 and teach them everything I learned, especially
21 because our managers were breaking the very laws
22 meant to protect us. I've seen many of my workers
23 come and go because they couldn't maintain their
24 lives while responding to unstable scheduling and I
25 don't blame them. It shouldn't be this way. While I

2 was lucky enough to learn from an organizer, many
3 fast-food workers are still ignorant about their
4 rights. Into 0640 expands the City's ability to
5 conduct worker rights training that would ensure that
6 employees are empowered with the knowledge to
7 identify when they're being taken advantage of. It's
8 important to me that this bill passes because I
9 believe every worker should know their rights as
10 granted to them by the law. That's why I'm asking
11 the committee to please support this legislation.

12 Thank you.

13 COUNCIL MEMBER DE LA ROSA: Thank you so
14 much.

15 LUCIA PACHECO: Good morning Chair
16 Velázquez and Commit [sic] members. My name is Lucia
17 Pacheco and I work at Chipotle store located at
18 Riverdale Crossing. I'm here today to ask your
19 support [inaudible] 13 and Intro 640 that will be
20 harder [sic] protect fast-food workers like me from
21 unstable schedule, ensure that every fast-food worker
22 [inaudible] work at Chipotle to support myself and my
23 baby. Inconsistent schedule and reduction in hours
24 make it difficult for me to plan my life outside of
25 work. It also makes it hard to save money or plan

2 for my family future. And I file a complaint with
3 the DCWP because Chipotle cut my hours unlawfully,
4 and I'm already struggling to keep up with my cost of
5 living. I cannot afford to lose the hours I depend
6 on. Chipotle needs to know this is not oaky. It needs
7 to follow the law in New York City. Commit [sic]
8 Members, I ask you to support this legislation [sic]
9 and stand with us as we ask the Council to pass into
10 the law. Thank you.

11 COUNCIL MEMBER DE LA ROSA: Thank you so
12 much. Colleagues, any questions for this panel? No?
13 Thank you so much for coming out and for sharing your
14 experiences and your stories.

15 LUCIA PACHECO: Thank you.

16 COMMITTEE COUNSEL: At the time, if you
17 wish to testify and have not been called on, please
18 stand up and submit a witness slip. Seeing that
19 nobody is looking to testify, [inaudible].

20 COUNCIL MEMBER DE LA ROSA: Well, on
21 behalf of Chair Velázquez, and the entire Committee,
22 thank you all so much for being here. We look forward
23 to seeing this legislation progress and continuing
24 the conversation. Thank you to 32BJ and all the

2 workers that came out today and everyone who
3 testified. So, with that, the hearing is adjourned.

4 [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 September 27, 2022