

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL AND HUMAN RIGHTS

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Monday, June 26, 2023

Start: 2:23 P.M.

Recess: 4:29 P.M.

HELD AT: Committee Room - City Hall

B E F O R E: Hon. Nantasha Williams, Chair

COUNCIL MEMBERS:

Public Advocate Jumaane Williams

Rita C. Joseph

Christopher Marte

Kristin Richardson Jordan

Rafael Salamanca

Other Council Members Attending:

Gennaro, Restler, and Public Advocate Williams

COMMITTEE ON CIVIL AND HUMAN RIGHTS

A P P E A R A N C E S

JoAnn Kamuf Ward,
Deputy Commissioner of Policy and External
Affairs of the New York City Commission on Human
Rights

Hillary Scrivani
Senior Policy Counsel
New York City Commission on Human Rights

Gabriela Rendón
Staff Attorney and Community Outreach Coordinator
at the Gender Equality Law Center

Nina Shields
Legal Intern at the Gender Equality Law Center

Eric Vladimer
Co-Founder of the Sexual Harassment Working Group

Dana Bolger
Staff Attorney for A Better Balance

Miriam Clark
Partner at Ritz Clark & Ben-Asher;
Former President of NELA/NY and Chair of NELA/
NY's Legislative Committee

Dorea Kyra Batté,
Staff Attorney at Legal Momentum, The Women's
Legal Defense and Education Fund

Anne L. Clark
Managing Partner of Vladek, Raskin, & Clark;
Member of Legislative Committee of National
Employment Lawyers Association, New York
Affiliate

Towaki Komatsu
Representing Himself

COMMITTEE ON CIVIL AND HUMAN RIGHTS
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2 SERGEANT WONG: This is the soundcheck for The
3 Committee on Civil Rights. Today's date is June 26,
4 2023 being recorded by Danny Wong in the Committee
5 Room.

6 SERGEANT AT ARMS: Good afternoon, and welcome to
7 the New York City Committee on Civil and Human
8 Rights.

9 At this time, please place all electronic devices
10 to vibrate or silent mode.

11 If you wish to submit testimony, you may do so
12 via email to testimony@council.nyc.gov, once again
13 that is testimony@council.nyc.gov.

14 Do not approach the dais at any time during this
15 hearing.

16 Thank you for your cooperation. Chair, we are
17 ready to begin.

18 CHAIRPERSON WILLIAMS:

19 [GAVELING IN] [GAVEL SOUND]

20 Thank you, good afternoon everyone. My name is
21 Nantasha Williams, and I serve as Chair for The
22 Committee on Civil and Human Rights.

23 Today, we will be discussing the Expanding New
24 York City Human Rights Law, or NYCHRL, with regard to

1
2 Employment Protections Against Workforce
3 Discrimination.

4 Since 2021, there have been several notable
5 changes to the City's Human Rights Law, including the
6 passing of Local Law 4 of 2021, which prohibits
7 discrimination based on a person's arrest record,
8 pending criminal accusations, or criminal
9 convictions; Local Law 88 of 2021 extends employment
10 protections to domestic workers; Local Law 32 of
11 2022, enacted on January 15, 2022, prohibits
12 employers from posting job listings without minimum
13 and maximum salary information, making it an unlawful
14 discriminatory practice to post job listings that do
15 not include the minimum and maximum salary offered
16 for any position located within New York City; and
17 Local Law 31 of 2023 expands the definition of victim
18 of domestic violence to include economic abuse thus
19 extending protections for domestic violence victims
20 to those who have experienced economic abuse,
21 including behavior that controls, obstructs, or
22 interferes with a person's ability to use or maintain
23 economic resources to which they are entitled or to
24 acquire economic resources, including coercion,
25 deception, fraud, or manipulation, thereby also

1
2 extending the employment protections within the
3 NYCHRL to these victims.

4 While it is important for us to work toward
5 increasing protections for New Yorkers where we can,
6 it is just as important to discuss the impacts of
7 these new laws after they have taken effect.

8 We will also be hearing several bills today that
9 further expand protections against workforce
10 discrimination:

11 Introduction Number 84, sponsored by Public
12 Advocate Williams, in relation to requiring employers
13 to hold an onboarding meeting to discuss an
14 employee's reintegration back into the workplace
15 after parental leave.

16 Introduction Number 422, sponsored by Council
17 Member Rivera, in relation to requiring covered
18 entities to maintain a record of requests from
19 persons requesting a reasonable accommodation.

20 Introduction Number 811, sponsored by Council
21 Member Gennaro, would void no rehire provisions in
22 settlement agreements for persons aggrieved by
23 unlawful discriminatory practices.

24 Introduction Number 812, also sponsored by
25 Council Member Gennaro, in relation to extending the

1 statute of limitations for commencing a private cause
2 of action under the city Human Rights Law.

3 Lastly, Int. No. 864, sponsored by Council
4 Member Restler, in relation to forbidding agreements
5 to shorten the period in which claims and complaints
6 of unlawful discriminatory practices, harassment, or
7 violence may be filed and in which civil actions may
8 be commenced.

9 Before we begin, I would like to thank everyone
10 who has joined us today. And I look forward to
11 hearing any testimony on recent expansions of the New
12 York City Human Rights Law or bills being heard
13 today.

14 I will now turn it over to Council Member Gennaro
15 for remarks on his bill.

16 And I also want to acknowledge that we are also
17 joined by Council Member Rafael Salamanca.

18 COUNCIL MEMBER GENNARO: Thank you, Madam Chair,
19 thanks for holding this hearing. Thanks for hearing
20 these bills.

21 I am proud to be the sponsor of two bills being
22 heard today: Introductions 811 and 812 fill important
23 gaps in our City's policies particularly aimed at
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2 safeguarding workers against discrimination and
3 employer retaliation.

4 Introduction 811 would prevent any future no-
5 rehire provisions and sets an expiration timeline of
6 five years for current no-rehire provisions.

7 Too often no-hire provisions are used to
8 automatically disqualify persons from future
9 employment for coming forward with complaints about
10 workplace harassment. By getting rid of this
11 practice, we empower employees to voice legitimate
12 concerns without the fear of being unjustly
13 blacklisted within their chosen professions.

14 Introduction 812, would extend the statute of
15 limitations from three years to six years for civil
16 actions by persons who are discriminated against.

17 Victims of abuse are often afraid to come forward
18 or are not aware that their rights have been
19 violated. By moving forward the statute of
20 limitations, by pushing it out further, we provide
21 victims with greater opportunity to report instances
22 of discrimination and uphold the fundamental
23 principles of human rights.

2 And, once again, I thank you, Madam Chair, for
3 bringing these bills forward. I look forward to the
4 administration's good testimony on these items.

5 CHAIRPERSON WILLIAMS: Thank you, Council Member
6 Gennaro.

7 I want to acknowledge that Council Member Rita
8 Joseph has just joined us.

9 And I want to turn it over to Council Member
10 Restler for remarks on his bill.

11 COUNCIL MEMBER RESTLER: Thank you so much, Chair
12 Williams. We are incredibly fortunate to have you
13 leading this committee and to serving in the Council
14 altogether. So, thank you, it is always good to see
15 you. And thank you to CCHR for joining us.

16 And I really want to just express gratitude again
17 to the Chair for the opportunity for a hearing on our
18 bill, Introduction 864.

19 No one should ever have to deal with harassment
20 or discrimination at work. But, when these
21 unfortunate incidents occur, New York City workers
22 should be able to rely on a strong City Human Rights
23 Law that protects them in court. But, what many large
24 employers are doing is forcing those employees to
25 sign contracts that undermine and limit their rights.

1 Under City Rights Law, employees currently have
2 three years to file claims for discrimination,
3 harassment, and violence. Too many employees have
4 been unknowingly signing contracts, sometimes even
5 during the application process, that shorten the
6 statute of limitations to a matter of months. Some
7 of the largest employers in New York have done this.
8 Northwell Health, Fed-Ex, and Raymour & Flanigan just
9 to name a few. And I want to compliment my friend,
10 Council Member Gennaro, for his legislation that it
11 would extend that statute of limitations from three
12 to six years, which is the right thing to do.

14 These contracts are unreasonable and contrary to
15 public policy. Six months is just not enough time for
16 aggrieved workers to recover, find a lawyer, and file
17 a claim -- especially given the high likelihood of
18 the threat of retaliation, which discourages many
19 employees from immediately filing claims.

20 Introduction 864 will restore the intent of our
21 strong Human Rights Law, and ensure that no private
22 employers can create their own loopholes. Every
23 employee should have a full three years or six years
24 to file a claim.

1
2 Some state courts have already take this step
3 including our friends across the river in New Jersey
4 -- that's the first time I've ever said something
5 nice about New Jersey -- we need to catch up.

6 I especially want to thank a constituent of my
7 mine, Anne Clark, who is a brilliant Employment Law
8 Attorney, who reached out to us to suggest that we
9 introduce this legislation. I want to thank her for
10 her guidance on this matter and each of our co-
11 sponsors, including our chair, and just to say this,
12 I am really proud, as I know CCHR is, of our landmark
13 Human Rights Law. It is a model for the country.
14 Yet, if we allow private employers to undermine this
15 law and find loopholes in it, we do ourselves a
16 tremendous disservice in protecting the people of New
17 York City. And I hope that we can get Introduction
18 864 passed as quickly as possible to ensure that New
19 Yorkers have the protections that they deserve, thank
20 you.

21 CHAIRPERSON WILLIAMS: Thank you, and now I will
22 turn it over to Committee Counsel.

23 COMMITTEE COUNSEL: Thank you, Chair Williams.
24 Good afternoon, everyone, and welcome. My name is
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2 Jayasri Ganapathy, and I am counsel to the Committee
3 on Civil and Human Rights.

4 Before we begin testimony today, I would like
5 remind everyone who is joining us via Zoom that you
6 will be on mute until you are called on to testify.
7 I will be calling on public witnesses to testify
8 after the administration's testimony and council
9 member questions. So, please listen carefully for
10 your name at that time.

11 Council Members, you will be called on for
12 questions after the full panel has completed their
13 testimony, and you will be called on in the order
14 that you let us know that you have questions. Please
15 note that for the purpose of this hearing, we will be
16 allowing for a second round of questions.

17 For public witnesses, once your name is called,
18 if you are joining via Zoom, a member of our staff
19 will unmute you and the Sergeant At Arms will give
20 you the que to begin.

21 If you attending in person, please listen
22 carefully for your name, and when it is called you
23 can come up to the table and begin testimony once
24 everyone is situated.

1
2 We are now going to proceed with Administration
3 testimony. We will be hearing from the Commission on
4 Human Rights.

5 At this time I will administer the affirmation.

6 Panelists, can you please raise right hand?

7 Do you affirm to tell the truth, the whole truth,
8 and nothing but the truth, before this committee, and
9 to respond honestly to council member questions?

10 DEPUTY COMMISSIONER WARD: I do.

11 MS: HILLARY SCRIVANI: I do.

12 COMMITTEE COUNSEL: Thank you. At this time I
13 would like to invite Deputy Commissioner Deputy
14 Commissioner Kamuf Ward to present your testimony.

15 DEPUTY COMMISSIONER KAMUF WARD: Thank you, and
16 good afternoon, Chair Williams, council members,
17 committee staff, and members of the public.

18 I am JoAnn Kamuf Ward, Deputy Commissioner of
19 Policy and External Affairs at the New York City
20 Commission on Human Rights. Joining me today for
21 questions is Hillary Scrivani, Senior Policy Counsel.
22 Thank you for convening today's hearing on employment
23 discrimination. I will share a brief overview of the
24 New York City Human Rights Law, and then turn to the
25 five amendments to law that are on today's agenda.

1 Our agency, the Commission on Human Rights,
2 enforces the New York City Human Rights Law, which
3 prohibits discrimination in the areas of employment,
4 housing, and places of public accommodation. Today
5 the Law includes twenty-seven protected categories,
6 including age, gender, sexual orientation, gender
7 identity, religion, disability, race, and national
8 origin. That number will grow this fall, with the
9 addition of height and weight as protected
10 categories.
11

12 As the Chair mentioned, since the start of Fiscal
13 Year 2022, five amendments to the Human Rights Law
14 expanding employment protections have either taken
15 effect or have been signed into law. The Chair went
16 over those, so I am not going to repeat the list here
17 again, but they are in our written testimony.

18 To fulfill the Commission's dual mandate of
19 enforcement and fostering intergroup relations, the
20 Commission's two largest units are the Community
21 Relations and Law Enforcement bureaus. The work of
22 these units is detailed in our written testimony.
23 And since we have discussed it with the council on a
24 number of occasions, recently at our budget hearing,
25 we are not going to go through that in details.

1 But, I think just as a refresher, Community
2 Relations Bureau sits at the center of our prevention
3 efforts and is responsible for education, outreach,
4 and training.

5 The Law enforcement Bureau conducts testing,
6 initiates complaints, and engages in litigation.

7 Individuals in New York who believe they have
8 experienced discrimination or harassment in violation
9 of the Human Rights Law, and want to seek remedies
10 have two paths. One: They can report discrimination
11 directly to CCHR's Law Enforcement Bureau and seek
12 resolution at the Commission and Two: They can file a
13 complaint in court.

14 When a case is filed directly in court, the
15 Commission is not involved and the case moves forward
16 in the judicial system.

17 Cases that are investigated by the Law
18 Enforcement Bureau can be resolved in several ways. A
19 conciliation agreement is a settlement agreement made
20 between the Commission and a covered entity to
21 resolve claims under the City's Human Rights Law is
22 one way. Settlements can include damages, civil
23 penalties, and affirmative relief, such as policy
24 changes. Matters which are not settled or mediated
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2 may be referred to trial at the Office of
3 Administrative Trials and Hearings. For cases that
4 are filed in courts, resolution falls outside the
5 purview of the Commission, but judicial orders or
6 settlements are potential outcomes in those court
7 cases.

8 n Fiscal Year 2022, the largest number of
9 inquiries received were in the areas of employment. I
10 will briefly note the current protections in
11 employment before turning to the bills.

12 Under the City Human Rights Law, employees in New
13 York City have the right to a workplace free from
14 discrimination and harassment, including gender-based
15 harassment. Notable for today's bills, the Human
16 Rights Law also requires employers to provide
17 reasonable accommodations based on four protected
18 classes (1) disability, (2) pregnancy, childbirth,
19 and related medical conditions (including lactation);
20 (3) religion; and (4) status as a victim of domestic
21 violence, sexual assault, or stalking. Each of these
22 categories are defined in the Human Rights Law.

23 The Commission has long been committed to equity
24 in the workplace. I will turn now to the proposed
25 bills:

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2 Introduction 422 requires covered employers to
3 maintain records of reasonable accommodation requests
4 that are made in writing by employees. Currently, the
5 Human Rights Law requires that if an employer learns,
6 either directly or indirectly, that an individual
7 requires a reasonable accommodation, the entity has
8 an affirmative obligation to engage in a "cooperative
9 dialogue" and provide a determination in writing.
10 This bill would apply to all requests for workplace
11 reasonable accommodations covered by the Human Rights
12 Law -- again which are received in writing. The
13 Administration supports the intent of the bill to
14 preserve documentation regarding requests and
15 resolution -- of reasonable accommodation requests--
16 consistent with the Americans with Disabilities Act
17 and other relevant laws.

18 Introduction 812 would extend the time period
19 that employees have to file complaints in court
20 alleging discrimination to six years. Currently, the
21 statute of limitations for a private right of action
22 is three years. The Administration looks forward to
23 discussions with the Council about how to balance the
24 interests of redressing discrimination and the
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2 interests represented in the current limitation
3 period.

4 Introduction 811 would prohibit and void "no
5 rehire" provisions in mediation and conciliation
6 agreements between employers and the Commission, and
7 in settlement agreements between private parties in
8 state or federal court. The Administration supports
9 the goal of protecting New Yorkers from unfair or
10 retaliatory agreements that limit their future
11 opportunities, and looks forward to discussions with
12 Council about how to balance this goal with
13 legitimate interests that may lead to "no rehire"
14 provisions to resolve workplace disputes.

15 Introduction 864 would render unenforceable and
16 void any and all agreements that shorten the statute
17 of limitations for filing a case with the Commission
18 or filing a complaint in court. The Administration
19 supports the intent of this bill to prevent covered
20 entities from using coercive contract terms that
21 limit the timeframe in which potential aggrieved
22 parties can seek redress for violations of the Human
23 Rights Law consistent with contract law principles

24 Lastly, Introduction 84 would require employers
25 to hold an "onboarding meeting" for employees

1
2 returning from parental leave to discuss the
3 conditions and expectations of employment following
4 the employee's return to work. Employers would be
5 required to keep records of each meeting for 5 years.

6 Introduction 84 charges the Commission with
7 issuing guidelines for such meetings, including the
8 timeline, topic, relevant rights and
9 responsibilities, goals, and duration.

10 The Administration supports the aim of ensuring
11 that employees returning to work from leave know what
12 rights and protections they have, and the Law
13 Department is reviewing the structure contemplated in
14 this bill.

15 Consistent with the Human Rights Law, CCHR has
16 previously crafted guidance about legal protections
17 for pregnant workers, and has developed a model
18 lactation policy that support these aims for
19 individuals seeking accommodations. CCHR also has a
20 fact sheet on anti-discrimination protections for
21 individuals with caregiver responsibilities which
22 explains that individuals with caregiving
23 responsibilities cannot be treated differently than
24 others in the workplace.
25

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2 Individuals may take leave for a variety of
3 reasons, and workplaces may have different
4 obligations relating to the basis of the leave, as
5 well as depending on their size and internal leave
6 policies, among other factors.

7 The Commission does not administer any parental
8 or other leave laws or enforce employer application
9 of parental leave. Generally, provisions of parental
10 leave in New York City workplaces stem from federal
11 and state laws, as well as voluntary employer
12 policies.

13 We look forward to learning more about the
14 intended impact of these bills, and to working with
15 Council, the Public Advocate, and sibling agencies to
16 achieve the goal of ensuring all employees have
17 awareness of workplace rights.

18 In closing, the Commission is committed to
19 preventing and combating employment discrimination in
20 New York City, and ensuring that individuals who
21 experience discrimination and harassment have venues
22 for redress. We appreciate the Council's attention
23 and commitment to addressing this issue, and we
24 welcome your questions.
25

1
2 CHAIRPERSON WILLIAMS: Thank you. I will start
3 with some questions around laws that are currently
4 active -- have been enacted.

5 Local Law 4 of 2021, enacted on January 10, 2021,
6 prohibits discrimination based on one's arrest
7 record, pending criminal accusations, or criminal
8 convictions. Prior to the enactment of this law, how
9 often was CCHR receiving complaints or inquiries
10 about the discrimination that this law targeted?

11 DEPUTY COMMISSIONER KAMUF WARD: Thank you for the
12 question.

13 Prior to the enactment of Local Law 4, there were
14 already Fair Chance protections that were expanded
15 through Local Law 4 as well as a preceding change to
16 state executive law. I think we have seen very
17 consistent numbers of complaints over time before the
18 passage of Local Law 4 as well as following.

19 What has changed? I would say in the wake of
20 amendment to the Fair Chance Act, that our testing
21 went up significantly, and the number of inquiries we
22 received has also gone up. I think the changes are
23 nuanced and require a knowledge of criminal law as
24 well as your own background, which is not always...
25 You know, the conviction histories are convoluted and

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2 it is not always clear what posture criminal history
3 might be in. But, I would say even before the change
4 in Local Law 2, this has been a significant priority
5 for our agency. Prior to Local Law 4, we had done a
6 campaign, *Criminal History? You Can Work With That*.

7 In the wake of Local Law 4, uh, we have upped our
8 trainings with employers, so this is included in our
9 general Human Rights Law training, but we also have a
10 specific Fair Chance training; we have legal guidance
11 in this area, which was significantly updated after
12 the passage of Local Law 4, along with FAQs for
13 employees and employers that really attempt to break
14 down the coverage of the Fair Chance Act; and annual
15 symposium with legal service providers and impacted
16 individuals on Fair Chance -- the last one being in
17 October.

18 CHAIRPERSON WILLIAMS: Are you able to provide a
19 number of inquiries since the law went into effect?

20 DEPUTY COMMISSIONER KAMUF WARD: I have the
21 inquiries for the past few years. It is around 800
22 inquiries on this topic. That is actually 2020
23 through 2022. We don't have our Fiscal Year 2023
24 numbers, but they are forthcoming soon.

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2 CHAIRPERSON WILLIAMS: Okay, and in terms of
3 formal investigations or complaints in relation to
4 these inquiries, have any been launched, and have any
5 of these cases been resolved thus far?

6 DEPUTY COMMISSIONER KAMUF WARD: Yes, so, we have
7 had individual claims in this area as well as
8 commission-initiated complaints in this area, and we
9 also have a number of settlements -- recent
10 settlements, and some going back a little bit to 2021
11 - 2022.

12 And a lot of the cases that we see around Fair
13 Chance, even though the law has been in place for
14 quite some time, it's actually... The violations are
15 still at the job advertisement and application phase.
16 But, we also have a number of settlements with
17 permanent New York City employers where we have
18 identified either illegal questions during an
19 interview process or illegal application questions,
20 and when we are able to settle those cases, we
21 include not only training on the Human Rights Law for
22 leadership, but also for people that engage in
23 interviews. Uhm, we have in at least two to three
24 cases that I know of also as terms of settlement had
25 the employers work directly with reentry

1 organizations to create an employment pipeline for
2 individuals that are returning to their communities.
3 And I think... That's what I was going to say..
4 changing their policies, obviously, and changing their
5 applications. And some entities report back to us on
6 compliance and what they are seeing in terms of
7 numbers.
8

9 CHAIRPERSON WILLIAMS: Okay, last question on
10 Local Law 4: What challenges has your agency faced
11 when enforcing this law?

12 DEPUTY COMMISSIONER KAMUF WARD: So, I think... I
13 would like to say that is actually a success story,
14 because we have done a ton of outreach and training.
15 We have had a fair number of very successful
16 settlements in this area, and I am happy to send them
17 to you all after the hearing. I think the challenges
18 with their chance are what I foreshadowed a moment
19 ago, it is an extremely complex area of law. We get
20 not only a high number of inquiries, but also just a
21 lot of calls from HR departments, employers, and
22 individuals asking sometimes very nuanced questions
23 about their rights and obligations, and often we
24 refer those individuals to legal service providers.
25 I should also flag that we are updating our rules in

1 this area, and there will be a chance for all
2 interested stakeholders then to provide comments to
3 CCHR, so that we can clarify our own rules and help
4 all the stakeholders understand this area of law.
5

6 CHAIRPERSON WILLIAMS: Okay, now I will turn to
7 Local Law 88, which extended employment protections
8 to domestic workers. Prior to the enactment of the
9 law, how often was CCHR receiving complaints on
10 inquires about discrimination that this law targeted.
11 And it will be repetitive with the same lines of
12 questions, which I just also wanted to know, uh, if
13 you received any inquiries regarding compliance of
14 the protections extended to domestic workers? If so,
15 how many inquiries were received? And same question,
16 have you launched any formal investigations or
17 complaints in relation to these inquiries? And the
18 same question goes for training, and outreach, and
19 challenges you have faced with the law.

20 DEPUTY COMMISSIONER KAMUF WARD: Thank you.

21 Okay, so I will try to answer all of them in see
22 how... (CROSS-TALK)

23 CHAIRPERSON WILLIAMS: I can ask them again
24 [INAUDIBLE]... (CROSS-TALK)

1 DEPUTY COMMISSIONER KAMUF WARD: See how I do
2
3 [LAUGHING] [INAUDIBLE]... [CROSS-TALK]

4 CHAIRPERSON WILLIAMS: [INAUDIBLE] [LAUGHING]
5 Because we want to do the same thing for Local Law
6 32, and Local Law 31, and then, I'll stop and let
7 colleagues ask questions about legislation. I know
8 that those sponsors are here.

9 DEPUTY COMMISSIONER KAMUF WARD: Okay, great.

10 So, I think as folks in this room know, and
11 certainly counsel, that domestic workers protections
12 were really started by and pushed by advocates --
13 National Domestic Workers Alliance, Hand in Hand,
14 Adhikaar, and others across New York City. And we
15 worked very closely with advocates and the lead up to
16 the implementation date to develop materials, like a
17 brochure, that explain and are accessible to
18 individuals who may not be sitting at a computer all
19 the time, uh, to understand their workplace rights.
20 We did a citywide campaign on domestic worker
21 protections, and we definitely saw education and
22 awareness raising as pivotal in this particular
23 spaces. I think we see it for all of the areas of
24 our law, but for domestic workers, you are often
25 working in someone's home. It may be a very personal

1 relationship, and we understood that we needed to get
2 to employers. And, so we did a lot of outreach in
3 particular to employer groups -- and I hear that I
4 also mean, like, parent groups -- to find individuals
5 who are most prevalently hiring domestic workers
6 covered by our law. So, here as well we have a
7 specific training that is in English and Spanish,
8 that we have delivered, I think in Fiscal Year 2022
9 to around 800 people. It is also part of our general
10 Human Rights Law training, which reaches thousands of
11 people every year. And that training is in English,
12 Spanish, Mandarin, Bengali, and Urdu.

14 I think on the question of complaints and
15 inquiries, we had a few complaints, I think around
16 two, prior to the enactment of this law. I don't
17 have the number of inquiries with me from prior to
18 March 2022, but I can get that to you in followup.
19 We, to my knowledge, have had no inquiries or
20 complaints in this area to date. I would also add to
21 that that we are not hugely surprised by that
22 outcome, and maybe that is a segue in to question
23 about challenges. I think we all knew in the lead up
24 to implementation of this law that domestic workers
25 are often in a sensitive workplace environment. You

1
2 might rely on your employer for word of mouth for
3 your next job. It is often individuals who may be in
4 a financially precarious situation or not wanting to
5 discuss immigration status. And while we don't ask
6 anyone about their immigration status, it is a
7 concern of people when they are coming to any
8 government agency for any service.

9 So, that said, outreach and partnership with some
10 of the organizations that I mentioned at the top has
11 been critical, and we have in our Community Relations
12 Bureau a lead advisor on domestic and low wage
13 workers, who is really building and maintaining the
14 partnerships with some of these advocates.

15 And then the last thing I will say, just on this
16 front, is that DCWP, our sibling agency, also has
17 jurisdiction of domestic workers' wage and hour
18 claims. And they launched, uh, I think earlier this
19 year, a mediation program. And, so we are in
20 conversation with DCWP to make sure that if any
21 discrimination claims arise in the cases that they
22 are seeing, we have a pathway for our Law Enforcement
23 Bureaus to be in touch with the... each other.

24 CHAIRPERSON WILLIAMS: Thank you.

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Have you spoken to the advocates that you worked with originally in passing the law to see what they are seeing on the ground?

DEPUTY COMMISSIONER KAMUF WARD: Yes, I think a lot... I have not been personally talking to all of the advocates, but our lead advisor has been. I think a lot of the push, and we have seen this with other changes to our law, is about changing a workplace culture, and also putting employers on notice of the rights of employees. I am imagine that this is an area where there might be more comfort over time on reporting instances of discrimination in domestic workplaces. And, so, we will be watching that, and we will be staying in touch with the advocates who are also usually invested in a lot of other areas of our law as well.

CHAIRPERSON WILLIAMS: Thank you.

Okay, now Local Law 32, the salary transparency law that we enacted last year, prohibits employers from posting job listings without minimum and maximum salary information. We have seen a lot of interesting news articles. In fact, someone sent me a news article this morning, a New York Times article talking about Netflix, I think that had very, very

1 large ranges, which undermined the intent of the law.

2 And, so, same similar question, have you received
3 more inquiries regarding job listings without the
4 salary information since Local Law 32 took effect?
5

6 MS. HILLARY SCRIVANI: Thank you, Chair Williams.

7 I would like to echo Deputy Commissioner Kamuf Ward
8 in saying thank you for having us here today.

9 So, I will also ,you know, take a crack at
10 hitting on all of the questions. And please let me
11 know if I have missed anything.

12 So, as the CCHR stated in our testimony,
13 education outreach is a key priority and function of
14 the commission. And we have been very active in pay
15 transparency areas since it too effect in November of
16 2022.

17 The Law Enforcement Bureau has conducted testing.
18 The Policy and Communications team, uh, through
19 communications, we have launched the Display the Pay
20 campaign, which was a multifaceted digital campaign.
21 And we have led multiple trainings on pay
22 transparency. It is now included in all of the
23 Commission's employment discrimination trainings. In
24 addition, we released a fact sheet that is translated
25 into multiple languages, including the breakdown of

1
2 pay transparency, so that covered employers and
3 members of the public can be aware of their rights
4 and obligations.

5 As far as enforcement, we have received hundreds
6 of inquiries since this law took effect. And
7 currently we expect to be filing formal complaints
8 within the coming months.

9 CHAIRPERSON WILLIAMS: Thank you.

10 This kind of just touches on what I just
11 mentioned about the overbroad salary ranges. Have
12 you received any inquiries around that?

13 MS. HILLARY SCRIVANI: I don't have the specific
14 breakdown of the nature of the inquiries. I mean, I
15 will say that the Good Faith pay range requirement is
16 a key part of the law. And certainly in my
17 experience of trainings, we receive a lot of
18 questions on that issue. But, I don't have the ,you
19 know, that underlying data of what the nature of the
20 inquiries are. But, I also invite Deputy
21 Commissioner Ward to weigh in if she has anything
22 additional add.

23 CHAIRPERSON WILLIAMS: Yes, and just if you have
24 like a number of complaints that you have received
25 since the law was enacted?

1
2 DEPUTY COMMISSIONER KAMUF WARD: Yeah, so we don't
3 have the Fiscal Year 2023 numbers yet, because
4 they're finalized soon, and then in our annual report
5 in September, but I think as Ms. Scrivani mentioned,
6 we understand that the Law Enforcement Bureau, which
7 is not us, will be filing complaints based on
8 inquiries and tips.

9 CHAIRPERSON WILLIAMS: Are you able to give a
10 rough estimate? Are people reaching out to you about
11 this? Because, for instance, with the domestic
12 worker protections, pretty much no one has really
13 inquired at all. So, I know you are waiting for
14 official numbers, but do you have a sense... Like,
15 are people actually reaching out to you when they are
16 seeing things?

17 MS. HILLARY SCRIVANI: Absolutely, yes. So, we
18 have received hundreds and hundreds of inquiries on
19 this law.

20 CHAIRPERSON WILLIAMS: Great, I look forward to
21 receiving the official numbers when they come out.

22 Last, but certainly not least, I know we recently
23 enacted this, I'm pretty sure you may not have as
24 much information on Local Law 31, which expanded the
25 definition of victims of domestic violence to include

1 economic abuse. Prior to the enactment of this law,
2 uh, did your agency receive complaints and inquiries
3 around this type of discrimination?
4

5 MS. HILLARY SCRIVANI: Prior to the enactment of
6 this law, uh, since this law was not effect, our
7 numbers would not reflect the specific nature of the
8 domestic violence, uh, just whether somebody was
9 making a complaint in that area. Uh, I can say with
10 this law, uh, taking effect next week, we have been
11 ramping up our outreach and education efforts.

12 Making sure the public and covered entities know
13 about their new rights and obligations. Our
14 Communications team is preparing a social media
15 campaign. We are also collaborating with our sibling
16 agency, ENDGBV. We have a weekly video that we put
17 out on social media called The Human Rights Minute,
18 where we cover different areas of our law --and this
19 has been covered recently. We are also prepare...
20 we are updating our facts sheets, educational
21 materials, and preparing to have that available in
22 translations. And, then, we are also speaking with
23 advocates and stakeholders in the preparation of
24 these materials. And we also have... And these
25

1 out, uh, just that individuals are only able to file
2 complaints if they... or the law would only come
3 into play if they are experiencing discrimination in
4 employment and in housing on the basis of economic
5 abuse. So, there are challenges by how the law is
6 written and when it can come into play. Obviously,
7 people dealing with these issues have a wide variety
8 of concerns and needs. So, just when this law can
9 actually... When their rights are violated under the
10 law is going to be in very limited circumstances.

12 DEPUTY COMMISSIONER KAMUF WARD: And I think, I
13 mean, that is one of the reasons that having service
14 providers, and the justice centers, and ENDGBV, and
15 others who are really frontline interfacing with
16 survivors of those who are experiencing intimate
17 partner violence know and counsel individuals ,you
18 know, if it makes sense to file a complaint. As I
19 was saying earlier, that is one metric of how we
20 measure our success. But because it takes a lot for
21 individuals to come forward and file a complaint,
22 even though we endeavor to make it as easy possible,
23 it is not always reflecting the actual trend in
24 communities.

25 CHAIRPERSON WILLIAMS: Thanks.

1 One last question, just to go back to Local Law
2 32, are you having any challenges with enforcing that
3 law?
4

5 MS. HILLARY SCRIVANI: So, for pay transparency,
6 I would say, one challenge is that... just that it
7 applies to employers of all different sizes. It
8 applies to your corner bodega, it applies to Google,
9 so, uh, making sure that all employers who are
10 covered by the law are aware of these. And one way
11 the Commission has been approaching this potential
12 issue is by doing trainings that specialize for
13 different sized employer groups. For example, we did
14 a training with the Small Business Services
15 Association, and we have also done trainings with
16 smaller employer groups to just make sure the word is
17 out there, and everybody knows ,you know, even if you
18 are posting a handwritten sign in your shop, uh,
19 advertising a job, you're covered by this law.

20 DEPUTY COMMISSIONER KAMUF WARD: And just one
21 thing I will add to that, is that I think we will
22 have a better sense of what the trends are over more
23 time. Right? Right now we are going through the
24 inquiries to evacuate. There is also a similar state
25 law going into effect in not too long, and, so, we

1 will see how that impacts... I think we are reading
2 the same articles as you, and we will have more to
3 say from our Law Enforcement Bureau maybe next year.

4 CHAIRPERSON WILLIAMS: Thank you. And, with that,
5 I will hold off on the rest of my questions to let
6 some of the bill sponsors ask questions.

7 And, with that, I will turn it over Council
8 Member Gennaro for questions.

9 COUNCIL MEMBER GENNARO: Thank you, thank you.
10 Madam Chair.

11 This is not going to be very pleasant. We have
12 two bills here, 811 and 812, and this is supposed to
13 be a public hearing where the Administration is
14 supposed to come forward and indicate what their
15 position is on a bill, and you have not done that.
16 We've got the members here, we've got the chair here,
17 we have people here, we have people on television --
18 this is being streamed. And you have the audacity to
19 come in and give me one sentence on each bill that
20 doesn't even say anything? So, I have to spend my
21 five minutes asking you what your one sentence means.

22 And, so ,you know, you indicate for 812, "...
23 the Administration looks forward to discussions with
24 council about how to balance the interest of
25

1 redressing discrimination and the interests
2 represented in the current limitation period.”

3
4 Okay, so you mentioned the interests represented.
5 So, you know, ordinarily if this were not... This is
6 completely nonresponsive in my opinion. This is lazy
7 testimony in my opinion. No one knows what the
8 Administration thinks about these bills. This is why
9 we have these hearings. You're the Commission on
10 Human Rights. We have a right to know what the
11 Administration thinks about these bills, and we
12 called you here today, and you didn't give that to
13 us. And, so, I want to register... Who ever is here
14 from The Mayor's Office, I want to talk afterwards,
15 because this is not the way this is supposed to work.
16 I have been a council member for 12 years, or 14
17 years, a staff member for 12 years before that, and I
18 have never seen such nonresponsive testimony.

19 And, so, I don't even know where to go here.
20 And, so, in both 812 and 811, you talk about so-
21 called legitimate interests that are represented with
22 the status quo. Why don't you talk about that?

23 DEPUTY COMMISSIONER KAMUF WARD: So, I will start
24 with 812. And just to begin with the fact that we
25 are committed to ensuring the ability of individuals

1
2 to seek and receive adequate redress when they face
3 discrimination.

4 There are a whole host of state and federal laws
5 that set out statute of limitations for
6 discrimination, and we are... [CROSS-TALK]

7 COUNCIL MEMBER GENNARO: Which you could have
8 talked about in your testimony, but you chose not to
9 do that. That's what your testimony is for. We
10 should have read that. Instead you just said,
11 "interests represented", and now I have to go through
12 my time ,you know, having you... to pull out of you
13 that which should not have been in your statement.
14 But, go ahead...

15 DEPUTY COMMISSIONER KAMUF WARD: I hear what you
16 are saying.

17 COUNCIL MEMBER GENNARO: I don't... Oh, please,
18 yes, please proceed.

19 DEPUTY COMMISSIONER KAMUF WARD: I think generally
20 speaking, the ability to effectively investigate and
21 document allegations of discrimination dissipate over
22 time. That is part of the reason statute of
23 limitations have been set where they are. We, like
24 you, are interested in hearing from stakeholders. We
25 are not experts on all of the statute of limitations

1 that exist for bringing discrimination claims. We
2 are experts on the Human Rights Law, but we want to
3 ensure, as we always do, that the Human Rights Law
4 changes are clear and they allow for the redress that
5 people are seeking. If employers or even individuals
6 experiencing discrimination have one statute of
7 limitations under the Human Rights Law and others
8 under other laws, that could be confusing. We also
9 want to hear from the members of the public before we
10 develop a final position on this bill.

11
12 COUNCIL MEMBER GENNARO: [INAUDIBLE]

13 DEPUTY COMMISSIONER KAMUF WARD: So, I will turn
14 to 811, which would prohibit and void no rehire
15 provisions in mediation and conciliation agreements
16 between employers and the Commission and in
17 settlement agreements between private parties in
18 state of federal courts.

19 So, this is both a forward looking bill, but also
20 has retroactive provisions. We with the Law
21 Department are still reviewing the bill. And as I
22 said in the testimony, we want to protect New Yorkers
23 from unfair or retaliatory agreements that limit
24 their future opportunities. We understand that there
25 are instances where it may be appropriate for

1 employers to have no rehire provisions. We
2 understand that may be the case in disciplinary
3 proceedings or where there is workplace misconduct.
4 I think those are separate and apart from no rehire
5 provisions in a discrimination settlement, which I
6 will note is something that we as the Commission, we
7 do not have provisions like that. So, this law
8 covers a lot of agreements including by private
9 parties. We want to make sure that we are balancing
10 state, federal law, contract law, constitutional
11 protections as we [TIMER CHIMES] determine the
12 Administration position.
13

14 COUNCIL MEMBER GENNARO: Thank you, and I... It
15 is my position that everything you just said ,you
16 know, could have been included in the testimony that
17 you put forward. This is what people are supposed to
18 do when they get ready for hearings. They're
19 supposed to... All of that you just went through
20 could have been part of your statement. But, instead
21 you just chose to say, we'll talk about it. And, so,
22 ,you know, I didn't have any of the backstory. That
23 is what you prepare testimonies for. I am finished
24 with these witnesses, thank you, Madam Chair.
25

1 CHAIRPERSON WILLIAMS: Thank you, Council Member
2
3 Gennaro.

4 I will turn it over to Council Member Restler for
5 questions.

6 COUNCIL MEMBER RESTLER: Great, thank you so much,
7 Chair.

8 Similarly to my friend, Council Member Gennaro, I
9 couldn't understand what CCHR's position was on
10 Introduction 864.

11 You support the intent of the bill?

12 MS. HILLARY SCRIVANI: Thank you Council Member
13 Restler. So, this bill, which would render
14 unenforceable and void any and all agreements that
15 shorten the statute of limitations for filing a case
16 with the Commission or filing a complaint in court.
17 We absolutely support the intent to prevent covered
18 entities from using coercive contract terms that
19 limit the timeframe in which agreed parties can come
20 forward for redress.

21 And one thing... [CROSS-TALK]

22 COUNCIL MEMBER RESTLER: Yes, we're just trying to
23 understand your position on it... [CROSS-TALK]

24 MS. HILLARY SCRIVANI: Yes, sure. So, one thing
25 that stood out, uhm, to us, uhm, about this bill is

1
2 the potential legal hurdle of the retroactivity
3 provision. So, that is something that the
4 Administration is currently reviewing with the law
5 department to understand its relationship in the
6 context of state, federal law, constitutional law,
7 uh, contract law -- so, just noting the retroactivity
8 piece.

9 And, if I may, I would also like to, uhm,
10 highlight a settlement that the Commission had with,
11 uh, Fox News in June of 2020, which involved an
12 agreement that had forced arbitration provisions that
13 in effect limited the ability of workers to come
14 forward and seek redress for violations. And as part
15 of the settlement, uh, excuse me, they cannot include
16 these provisions in employment agreements.

17 COUNCIL MEMBER RESTLER: Okay, so, the point of
18 raising the Fox News settlement... It hasn't
19 prevented any other employer from doing exactly that
20 at some significant scale all across the City. So, I
21 think you would; therefore, agree that this law is
22 urgent and necessary, correct?

23 MS. HILLARY SCRIVANI: We support the intent of
24 the bill. [INAUDIBLE]... [CROSS-TALK]

1
2 COUNCIL MEMBER RESTLER: [INAUDIBLE] the part from
3 the retroactivity piece...

4 MS. HILLARY SCRIVANI: Mm-hmm?

5 COUNCIL MEMBER RESTLER: Do you support everything
6 else in the legislation? Just yes or no, if you
7 don't mind?

8 MS. HILLARY SCRIVANI: Again, you know, we can't
9 commit without... commit to saying yes or no without
10 seeing the complete language of the bill. But, we
11 absolutely acknowledge and recognize... [CROSS-TALK]

12 COUNCIL MEMBER RESTLER: [INAUDIBLE] language of
13 the bill... [CROSS-TALK]

14 MS. HILLARY SCRIVANI: the concern... [CROSS-
15 TALK]

16 COUNCIL MEMBER RESTLER: I... I have to say,
17 I'm... I'm... I'm a pretty nice guy most of the
18 time, despite what some people might say. Uhm, but,
19 it is really darn frustrating for us to organize this
20 hearing, the day before the primary, we have a lot of
21 things going on -- four days before the budget. This
22 is a very busy time for the City Council, and it is
23 disrespectful to not be able to provide more direct
24 answers to your positions on legislation. The point
25 of these hearings is for the agencies to come before

1
2 us and provide clear positions on where you stand on
3 these bills. I am asking questions very directly, and
4 I am not getting direct answers. So, I don't see a
5 babysitter from the Mayor's Office here, forgive me
6 if I missed, but I am disappointed by the
7 presentation today.

8 I just want to state, so that it's clear, this
9 legislation should absolutely apply to existing
10 claims and existing contracts. Because the purpose
11 of this bill is to declare these agreements to be
12 against public policy. They directly undermine the
13 City's Human Rights Law. When the New Jersey Supreme
14 Court declared these contracts... reviewed this same
15 issue, they declared these types of contracts to be
16 against public policy, and that they applied to
17 current contracts, and that they could apply
18 retroactively.

19 I don't understand how CCHR could come before us
20 to testify a position that basically undermines the
21 landmark law that you all care about.

22 You say you support the intent of the law. Okay,
23 so you support the... If we take out the
24 retroactivity piece and just put it aside -- which I
25 strongly insist upon -- but we put it aside for a

1 second, do you support the remainder of the bill as
2 drafted today?
3

4 DEPUTY COMMISSIONER KAMUF WARD: I think we have
5 said what we are prepared to say today. "Any and all
6 agreements" is quite a broad scope for a law to
7 cover. And we do spend a lot of time preparing for
8 these hearings, and I'm sorry that we don't have a
9 response that is satisfactory to you.

10 COUNCIL MEMBER RESTLER: It appears to me if you
11 have been spending a lot of time preparing for these
12 hearings, you prepared a long time to say very
13 little. And there is an art to that; I've prepped
14 people for these hearings over many years, but it is
15 disappointing. And I hope you hear the frustration
16 from multiple members of the Committee today
17 expressing our dissatisfaction with the lack of
18 clarity on the Administration's position. This isn't
19 for fun. This is to understand where you stand on
20 the legislation, [TIMER CHIMES] so that we can chart
21 a path forward.

22 So, I am sorry to be frustrated. But, I, just in
23 the future, hope that we can get more direct answers
24 from you all and other agencies, because this is not
25 just a CCHR problem. This is an across-the-board

1
2 problem where agencies come and testify and don't
3 provide the information that we are requesting, so,
4 thank you.

5 CHAIRPERSON WILLIAMS: We have been joined by
6 Public Advocate, Jumaane Williams. Would you like to
7 do your opening remarks now?

8 Council Member Joseph?

9 Great, so we will have the Public Advocate do his
10 remarks on his bill.

11 PUBLIC ADVOCATE WILLIAMS: Thank you so much, I
12 appreciate it, thank you, Chair Williams, thank you,
13 Council Members for allowing me to go in.

14 From my understanding, it has been an interesting
15 hearing so far. I just want to actually give an
16 opening statement, which I appreciate you giving me
17 an opportunity to do now.

18 Good afternoon, my name is Jumaane Williams, and
19 I am the Public Advocate for the city of New York. I
20 would like to thank Chair Williams and the members of
21 the Committee on Civil and Human Rights for holding
22 this very important hearing.

23 Introduction 84 would require employers to hold
24 an onboarding meeting to discuss an employee's
25

1
2 reintegration back into the workplace after parental
3 leave.

4 Having spoken to many of my staff who have
5 welcomed children during their tenure in my office,
6 and as a parent myself, I know the challenges of
7 returning to the workplace. It is an adjustment, not
8 only for employees and their families, but for
9 employers as well. Things shift quickly in the
10 workplace, policies can change and lapse; public
11 health emergencies necessitate rapid response as we
12 saw with the pandemic and the recent air quality
13 issues.

14 With this bill, we want to ensure that employees
15 and employers can come together and facilitate an
16 easy integration back into the workforce.

17 It is customary for employees to write exit memos
18 in anticipation of parental leave for work to be
19 reassigned, but the same is not always true for
20 their reintegration back into the workplace. The
21 policy this bill sets forth would ensure that
22 employers are prepared to reassign previous or new
23 workloads to the employee upon their return. It also
24 gives employees a space to discuss expectations, as
25

1 well as restraints and limitations throughout the
2 transition period.

3
4 Creating an inclusive and supportive workplace
5 requires open lines of communication, and this bill
6 formalizes this one such instance when that kind of
7 communication is most needed.

8 This was originally a part of our Black Maternal
9 Health Package, but we know it has many further
10 implications, so I am hoping we can get support from
11 the Committee and, of course, the Administration.

12 Thank you so much, I appreciate it.

13 CHAIRPERSON WILLIAMS: Thank you, Public Advocate.

14 Do you have any questions?

15 PUBLIC ADVOCATE WILLIAMS: I don't if it... I am
16 hearing that the Administration might not be very
17 supportive of many of the bills.

18 So, I can I just find... Is the Administration
19 supportive of this bill? I have not been able to
20 read testimony... [CROSS-TALK]

21 CHAIRPERSON WILLIAMS: Well, the Administration
22 supports all intent of the bills. I think the weeds
23 of, like, how they feel about the bill is what is
24 coming into question.

1 PUBLIC ADVOCATE WILLIAMS: Oh, okay. Is that the
2 correct asses... [CROSS-TALK]

3 DEPUTY COMMISSIONER KAMUF WARD: I agree with that
4 sentiment.

5 PUBLIC ADVOCATE WILLIAMS: So, what is the issue
6 with the weeds of this particular bill?

7 MS. HILLARY SCRIVANI: Thank you, Public Advocate
8 Williams.

9 So, to start, I would say there is an equity
10 concern. This bill would provide a unique set of
11 rights for parents returning from leave, uh, that
12 would not be required for other uses of leave, uh,
13 some of which are covered by the New York City Human
14 Rights Law -- such as leave related to disability and
15 pregnancy. So, again, just how this fits in the
16 context of other sorts of protected leave, uh, that
17 happen in the workplace... I will also, uh, just
18 highlight the Commission's role here. We do not
19 administer any parental leave laws or enforce the
20 application of parental leave in the workplace.
21 Generally the provision of parental leave in New York
22 City workplaces stem from federal law, state law, uh,
23 voluntary employer polices. So, that is a concern as
24 well. But, we, of course, look forward to speaking
25

1 with your office and working with City Council, you
2 know, for the best way to ensure that employees are
3 made aware of their rights in the workplace.
4

5 PUBLIC ADVOCATE WILLIAMS: So, just so I'm clear,
6 are you saying that we should expand it, so it will
7 cover more people... only?

8 MS. HILLARY SCRIVANI: We are still in the
9 process of reviewing the bill. And I will also point
10 out that the Commission on Human Rights -- educating
11 employees about their rights is included in our
12 mission, so we already have notice of employee rights
13 available for download on our website. We partake in
14 multifaceted campaigns; have legal guidance
15 available; we have Frequently Asked Questions on our
16 website... [CROSS-TALK]

17 PUBLIC ADVOCATE WILLIAMS: So, this is on a
18 different... So, I appreciate all of those that are
19 there, but this is specifically... It came up, and I
20 just want to shoutout particularly, uh, the Black
21 women in my office who brought Black maternal health
22 up as an issue, so this stemmed from that. But,
23 obviously I think it is far reaching for people who
24 are going away who have children in any form. But, I
25 do know that there was an issue in partially with

1 women who had children and came back. Their time
2 spent... The work that they put in for their
3 career... sometimes it's a step back, because there
4 is no proper reintegration. So, I understand that
5 there are rights there already, but what I am
6 talking about is very specific to reintegration. The
7 same way there are exit memos when they leave,
8 something similar should be put in place when they
9 come back. So, I understand the rights that are
10 already there. I am talking about this in
11 particular. Is this something we should expand to
12 include other folks, because you have mentioned
13 something which is valid. People who may go out on
14 disability may have some similar issues. So, I just
15 want to make sure, is this something that we should
16 expand?
17

18 DEPUTY COMMISSIONER KAMUF WARD: So, just on that,
19 I think one piece would be to ensure that anyone
20 returning from leave have the same rights as people
21 who are returning from parental leave. So, I think
22 that is one piece. I think the other maybe piece of
23 the puzzle is thinking about what the mechanics for
24 an agency are, and in particular for CCHR. So, in
25 the current draft of the bill, I think we are charged

1 with sort of setting out the agenda for a meeting
2 that employers should have with staff. And I think
3 one of the things we were talking about with
4 enforcement earlier was ,you know, we cover the
5 corner bodega and Google -- the capacity of employers
6 to be able to comply with some pieces of this.
7 depending on their circumstances. But, also, all of
8 those companies are going to offer different things
9 for their employees, and, so, I think there's a
10 question -- and this goes to sort of where leave laws
11 stem from -- we don't enforce any leave or administer
12 any leave. So, thinking about what the right place
13 for this to live, I think is an open question that we
14 would probably like to discuss further with you and
15 hear your thoughts on as well as to share some of
16 ours. Because for ,you know, the City is covered by
17 our law, and we have a massive agency who does some
18 of this stuff for the City workforce. DCAS just
19 issued a leave primer, for example, for City
20 employees. For the private sector, it is way more
21 amorphous, and what leave people are offering is a
22 choice for them... [CROSS-TALK]

24

25

1 PUBLIC ADVOCATE WILLIAMS: And, I will wrap up,
2 and I appreciate the time. But, so... What is your
3 agency's connection to the leave laws that exist?
4

5 DEPUTY COMMISSIONER KAMUF WARD: Just to make sure
6 that if an employer is providing a certain type of
7 leave, that all employees have access to that. So,
8 or a reasonable accommodation... [CROSS-TALK]

9 PUBLIC ADVOCATE WILLIAMS: You can... If this law
10 passes, you can have a similar connection to a
11 reintegration law.

12 DEPUTY COMMISSIONER KAMUF WARD: Say that again?
13 [CROSS-TALK]

14 PUBLIC ADVOCATE WILLIAMS: You can have a similar
15 connection to a reintegration law that is associated
16 with leave.

17 DEPUTY COMMISSIONER KAMUF WARD: But, those laws
18 are not in our jurisdiction, so we are not the
19 experts on those laws.

20 PUBLIC ADVOCATE WILLIAMS: Okay, thank you very
21 much. And I have another bill that I am co-
22 sponsoring with Council Member Gennaro. And I am not
23 sure what happened, but I am sure that I would like
24 to align myself with the questions that he asked and
25

1
2 the concerns that he put forth with that bill. Thank
3 you so much, I appreciate it.

4 DEPUTY COMMISSIONER KAMUF WARD: Thank you.

5 CHAIRPERSON WILLIAMS: Thank you.

6 Council Member Joseph, thank you for your
7 patience.

8 COUNCIL MEMBER JOSEPH: No worries, no worries.
9 Thank you so much.

10 My question is around Introduction 422, requiring
11 that covered entities retain a written record of an
12 employee's initial written request for a reasonable
13 accommodation. This bill would ensure that when
14 employees receive a written request for a reasonable
15 accommodation, they keep a record of that request and
16 make the record available to CCHR on request.

17 So, when enforcing HRL related to reasonable
18 accommodations, has CCHR observed inaccurate records
19 of requests for reasonable accommodations?

20 MS. HILLARY SCRIVANI: Thank you for your
21 question. I think reasonable accommodations, when
22 that comes up in a case, it can take place in a
23 variety of ways. Also depending on the
24 sophistication of employers, so I would say short
25 answer, uh, yes, there can be challenges depending

1 on... I mean, you have some employers who have a
2 very ,you know, kind of regimented process. Then you
3 have some where this will happen by, uh, word, you
4 know, a request might happen by word of mouth. Maybe
5 the employer doesn't even know that what's happening
6 is a reasonable accommodation request. Maybe the
7 employee doesn't know that. So, I think your
8 question ,you know, went to how this works in
9 investigations and if there are any challenges. And,
10 uh, yes, it can come up in a variety of ways in a
11 variety of cases depending on the circumstances...

12 [CROSS-TALK]

13 COUNCIL MEMBER JOSEPH: So, how do you handle
14 those cases? What do you do in these cases when it
15 does arise? It depends, because all needs are
16 different, so what do you do?

17 MS. HILLARY SCRIVANI: I can't speak to any
18 specific case examples, but or at least from specific
19 investigations, but I do know that when the Law
20 Enforcement Bureau is evaluating a complaint, a whole
21 host factors are taken into account. I mean, the
22 more records available the better of course, but if
23 there is no written record of the reasonable
24 accommodation request, that doesn't mean that it is
25

1 not actionable. And sometimes if there is a lack of
2 records, it will come down to credibility of
3 witnesses. But the Law Enforcement Bureau, you know,
4 handles it as the cases come.
5

6 DEPUTY COMMISSIONER KAMUF WARD: Yes, I think I
7 will just add to that sort of similar to some of the
8 conversations we were just having with the Public
9 Advocate. And we want to make sure that we
10 understand if this is meant to apply to all
11 reasonable accommodation requests, and I know, uh,
12 there are processes again for the City workforce
13 where you document that a request was made and the
14 topic area and the outcome, and that is one potential
15 model. I think there is some concern for all the
16 reasons Ms. Scrivani mentioned around differential
17 employers, some which have HR, some which don't,
18 about the handling of sensitive information --
19 medical records and others that we are working
20 through with the Law Department, but I think in
21 general we support the documentation of reasonable
22 accommodation requests and the outcome. It is not
23 clear to us as to why the drafted would have it only
24 for requests in writing, because, again, that is
25 usually... there might be a lot things that happened

1 orally in many, many workplaces, and, so, we would
2 love some insight in to that to make sure that we are
3 also treating employees and employers equitably.

4 COUNCIL MEMBER JOSEPH: Thank you.

5 MS. HILLARY SCRIVANI: And may I just also add
6 that we do have in our law currently that employers,
7 when they issue a determination on a reasonable
8 accommodation request, first when the employee is
9 making the request, they are required to engage in a
10 cooperative dialogue with the employee about the
11 request. And, then, when the employer issues their
12 determination that is required to be in writing.

13 COUNCIL MEMBER JOSEPH: Okay, thank you. This
14 bill would require that employees make records
15 available to you -- the request. Does CCHR currently
16 have any problems accessing such records?

17 DEPUTY COMMISSIONER KAMUF WARD: I think generally
18 where they exist, the circumstances where our Law
19 Enforcement Bureau would seek those is in the context
20 of an investigation. And we have the ability to
21 request documents and even to subpoena documents, so
22 the record keeping is helpful. I think we feel we
23 have in our Law Enforcement mandate a fair leeway to
24 access such records if they exist.
25

1
2 COUNCIL MEMBER JOSEPH: In the past, for refusal,
3 you have gone as far as getting a subpoena, is that
4 correct?

5 DEPUTY COMMISSIONER KAMUF WARD: In some cases. I
6 can't say if those are reasonable accommodation
7 cases, but I can definitely look into that and get
8 back to you.

9 COUNCIL MEMBER JOSEPH: Thank you. How does it
10 impact a case... I will rephrase that question: Are
11 there some types of requests that are more likely to
12 be documented compared to others?

13 DEPUTY COMMISSIONER KAMUF WARD: Yes, also because
14 the types of things that employers are permitted to
15 seek are different depending on the basis for the
16 request. So, [TIMER CHIMES] I think it's much less
17 likely that we would have documentation in a request
18 that relates to either domestic violence or sexual
19 assault or stalking or religion, where there is not
20 really a documentation requirement. With disability,
21 there is a higher likelihood that there will be
22 documentation, but is not always required. And, then
23 with pregnancy and childbirth and related medical
24 conditions, there are limited circumstances for when

1
2 an employer can ask for documentation. So, that is
3 sort of a more gray area than the other three.

4 COUNCIL MEMBER JOSEPH: Thank youth programs
5 Chair, can I ask two more?

6 CHAIRPERSON WILLIAMS: Sure.

7 COUNCIL MEMBER JOSEPH: Thank you.

8 So, what kind of impact would the proposed
9 legislation have on employers and employees?

10 DEPUTY COMMISSIONER KAMUF WARD: I am hoping there
11 are employers and employees who are going to help us
12 understand that landscape. I think ,you know, it
13 puts a little bit of a burden on both sides.

14 Because, if you are a potential covered employee, you
15 are going to want to everything in writing, and maybe
16 you don't like to do that -- and maybe you do. Uh,
17 for employees, obviously there is a record keeping
18 requirement, so I think it will lead to more files
19 and more paper. One thing I can say from CCHR's
20 perspective is I think it will increase the cases
21 where there is documentation of the request for a
22 reasonable accommodation -- going to what my
23 colleague was saying.

24 COUNCIL MEMBER JOSEPH: What changes, if any,
25 would CCHR recommend to the proposed legislation?

1
2 DEPUTY COMMISSIONER KAMUF WARD: So, I think
3 similar to the sort of the comments we were making, I
4 don't know if this is a required change, but one
5 thing that we are exploring with the Law Department
6 is what the ADA and Privacy Law have to say about
7 information can be both sort of maintained and then
8 shared, and then just thinking through what this law
9 might require in those arenas. I think the other
10 comment that I already made was trying to understand
11 and potentially think about the scope of a written
12 request versus another type of request -- if it would
13 make sense for that to be covered. And, then just
14 thinking through, uh, and some of this is, like,
15 pounding the pavement to talk to different sized
16 employers and employees to understand how they
17 understand this law. Reasonable accommodations is
18 already confusing concept -- just a very legal
19 concept. So, it is about making sure that we ensure
20 that everyone knows that this obligation would now be
21 on them.

22 COUNCIL MEMBER JOSEPH: And what enforcement
23 challenges does CCHR foresee if the bill were passed?

24 DEPUTY COMMISSIONER KAMUF WARD: I think as we
25 read it, it wouldn't be like a discriminatory

1 practice under our law to not have the documentation.

2 But, I think that is an open question. Reasonable

3 accommodations are some of the most frequent cases we

4 see. So, I feel like this is an extension of our

5 work and wouldn't lead to any per se enforcement

6 challenges other than identifying ,you know, what the

7 penalty is for an employer if they don't do this --

8 And, then, also thinking through what it looks like

9 to actually receive potentially thousands of pages of

10 employer documentation of reason accommodations.

11 But, otherwise, I think it is squarely something that

12 would align with work we are already doing.

13 COUNCIL MEMBER JOSEPH: Thank you, and thank you,

14 Chair.

15 CHAIRPERSON WILLIAMS: You're welcome.

16 I guess I will attempt to ask some questions on

17 the bills.

18 So, for Introduction 84, this is on the Public

19 Advocate's bill, has CCHR ever received any

20 complaints from employees alleging that they were not

21 reintegrated into the workplace after a parental

22 leave?

23 MS. HILLARY SCRIVANI: Thank you for that

24 question, Chair.

1 Since provision of parental leave is not a
2 protected category under the law, we wouldn't have...
3 a complaint like that wouldn't, but... An inquiry
4 wouldn't be tracked, but what the City Human Rights
5 Law does have is caregiver discrimination that is a
6 protected category under the law. So, we did have a
7 case where an employee was using maternal leave, and
8 while they were on leave they were part of a kind of
9 mass layoff in the workplace, but their position...
10 they were the only one in their position who was laid
11 off. And the allegation was for discrimination on
12 the bases of pregnancy and as status of a caregiver.
13 So, when discrimination of a protected category is
14 related... parental leave polices related to that,
15 then, yes, it would be tracked, and, uh, that case
16 settled.

17 DEPUTY COMMISSIONER KAMUF WARD: I am also just
18 going to amend my response to Council Member Joseph,
19 because I think I misstated that holding the records
20 would not be an unlawful discriminatory practice -- I
21 think it would be under the law, thanks.

22 CHAIRPERSON WILLIAMS: Thanks.

23 The next question that I will ask has to do with
24 Introduction 811, voiding no-rehire provisions in
25

1
2 settlement agreements for persons aggrieved by
3 unlawful discriminatory practices. Does CCHR come
4 across cases where no-rehire provisions are included
5 in settlement agreements?

6 DEPUTY COMMISSIONER KAMUF WARD: Not that we are
7 aware of from our conversations with our Law
8 Enforcement Bureau, but I can circle back and confirm
9 that.

10 CHAIRPERSON WILLIAMS: Okay, thank you.

11 DEPUTY COMMISSIONER KAMUF WARD: Oh, yes, but as
12 Hillary is telling me, settlements don't often come
13 to through our office, so likely not.

14 CHAIRPERSON WILLIAMS: Okay, if not, why do you
15 think that is the case? Is it common practice to
16 include such provisions in settlement agreements?

17 DEPUTY COMMISSIONER KAMUF WARD: I don't have an
18 answer to that question.

19 CHAIRPERSON WILLIAMS: Okay. This is general
20 trying to gain understanding, because you guys do
21 implement various aspects of workplace Human Rights
22 Laws. And, so, in your expert observations or
23 experiences, do you know why such provisions might be
24 included in settlement agreements?

1
2 DEPUTY COMMISSIONER KAMUF WARD: Yes, I think we
3 likely -- similar to some of the council members who
4 have spoken already, uh, understand that no-rehire
5 provisions would exclude someone in perpetuity from a
6 position or ever applying for a job again. I mean,
7 the council member referenced blacklisting. We are
8 aware of that practice generally, but we don't have
9 any specific knowledge for more than that.

10 CHAIRPERSON WILLIAMS: Okay. On Introduction 812,
11 do you have any sense of what the impact of that law
12 might be on New Yorkers? This is in relation to
13 extending the statute of limitations for commencing a
14 private cause of action under the City Human Rights
15 Law for commencing a private cause of action.

16 DEPUTY COMMISSIONER KAMUF WARD: Yeah, I can
17 imagine many potential outcomes. I am hoping that
18 members of the public who bring these claims will
19 also opine on the impact. I think there is a chance
20 it could lead to more complaints and court cases
21 being filed. But, I think the open question that
22 sort of alluded to earlier is, will those cases lead
23 to meaningful resolution for individuals who have
24 experienced discrimination? And this is where the
25 balancing of interest come into play. We know that

1
2 there are barriers to reporting, but we also know
3 that there are barriers to effective investigations
4 and trying to think of how those things can co-exist.

5 CHAIRPERSON WILLIAMS: Okay, on Into 864, which is
6 the forbidding agreements to shorten the period in
7 which claims and complaints of unlawful
8 discriminatory practices, harassment or violence may
9 be filed and in which civil actions may be commenced,
10 has CCHR encountered cases where such contracts of
11 adhesion were incorporated from an application into
12 an employment contract?

13 MS. HILLARY SCRIVANI: I'm not aware from the Law
14 Enforcement Bureau of any cases that fit those exact
15 factual circumstances. But, I will mention again,
16 uhm, that I think a similar... related to this
17 conversation are agreements out the outset of
18 employment that require forced arbitration for
19 violations under certain employment discrimination
20 laws, and as part of the settlement with Fox News,
21 which I will mention was a sexual harassment and
22 retaliation case, Fox News could no longer include in
23 its agreements, uh, these forced arbitration clauses
24 for the New York City Human Rights Law for a period
25 of four years.

1
2 CHAIRPERSON WILLIAMS: Do you know how common it
3 is for an employment contract to include such
4 language? Are you aware of this being commonplace,
5 or you don't know if it common or not?

6 MS. HILLARY SCRIVANI: Yes, it's the last one.
7 We don't really have any information on how common it
8 is.

9 CHAIRPERSON WILLIAMS: Okay. Do my colleagues have
10 any more questions?

11 Thank you so much for your testimony and
12 answering the questions. And we will call up the
13 next panel of people, thank you so much. And we look
14 forward to getting this information back and working
15 with you all to negotiate the bills, so that they can
16 get passed.

17 DEPUTY COMMISSIONER KAMUF WARD: Thank you.

18 COMMITTEE COUNSEL: Thank you. We are going to
19 give the Administration a few minutes to wrap up, and
20 we will be moving over to public testimony shortly.

21 Thank you, we will now turn to public testimony.
22 I would like remind everyone that we will be calling
23 individuals who are on Zoom one by one to testify.
24 And you can begin when the sergeant has called the
25 timer.

1
2 Council Members, if you have questions for a
3 particular online panelist, please let me know, and
4 we will call you after the panel has completed their
5 testimony.

6 For panelists who are here in person, once your
7 name is called, please come up to the dais, and you
8 can begin once everyone is situated. Just make sure
9 you hit the microphone... the button so that the red
10 lights are on.

11 We would like to now welcome our first panel. We
12 have Erica Vladimer, Gabriela Rendón, and Nina
13 Shields. If they have stepped out, they can come up
14 when they are ready. You all can get started
15 whenever you are ready.

16 MS. GABRIELA RENDÓN: Good afternoon, members of
17 the New York City Council Committee on Civil and
18 Human Rights. Thank you for the opportunity to
19 provide our testimony today.

20 My name is Gabriela Rendón. I am a Staff Attorney
21 and Community Outreach Coordinator at the Gender
22 Equality Law Center. Here with me is my colleague,
23 Nina Shields, Legal Intern at the Gender Equality Law
24 Center.

The Gender Equality Law Center's Endorsement For
Passage of Introduction 84:

We believe the workplace onboarding meeting mandated by this bill will supply an efficient reintegration process for employees returning from parental leave. By discussing the goals, conditions, and expectations of employment, employers and employees can address any changes or updates that occurred during the employee's leave. This would help employees understand their roles, responsibilities, and any modifications to work processes, enabling them to transition back to work in a more seamless and effective way. This onboarding meeting can also be a check-in process for the returning employee to learn about rights related to being a working parent, including providing information about a parent's right to pump breast milk at work and a renewal and check-in about potential need for family leave in the future.

For instance, it would be preferable for the employer to explain when any unused parental leave under the New York State Paid Leave Law or the Family Medical Leave Act can be taken and when such leaves of absence renew.

1
2 Finally, at this meeting, assurances should be
3 given to the employee that their leave will not be
4 used against them in any adverse fashion going
5 forward and since returning to work.

6 For the aforementioned reasons, we endorse this
7 legislation; however, [TIMER CHIMES] we have some
8 concerns about the execution of the onboarding
9 meetings and whether they would be actually effective
10 or more of a formality which employers are required
11 to follow with no real impact. We have heard the many
12 stories of our clients who have struggled to
13 reintegrate into the workplace after parental leave.
14 Many of them did not have any information about
15 lactation accommodations, New York City's 's Paid
16 Safe and Sick Leave - to use accrued safe and sick
17 leave for the care and treatment of themselves or a
18 family member, or about reasonable accommodations for
19 childbirth-related medical needs. Others had no idea
20 that they would be eligible for additional leave time
21 after the passage of additional time, or that their
22 jobs duties could not change or that they could not
23 be evaluated on their job performance based on their
24 absence from the workplace while on parental leave.

1
2 Finally, many returning parents were unaware that
3 they were still eligible for accrued vacation time
4 even after taking New York State Paid Family Leave.

5 Because of this lack of knowledge, returning
6 employees did not make requests to which they were
7 entitled because they were unaware of them, or
8 because they were afraid of making a request,
9 thinking that they may be fired or seen as a
10 difficult employee. Consequently, their return to
11 work was overwhelming, difficult, and stressful.

12 For such reasons, we strongly urge the City
13 Council and the Commission on Human Rights to
14 consider the following recommendations, especially
15 while drafting the guidelines regarding the specifics
16 of the proposed onboarding meetings. The onboarding
17 meeting should include:

18 1. Know-your-rights information about time and
19 location for pumping under Local Law 185 and
20 Local Law 186 as well as the federal PUMP
21 Act.

22 2. Know-your-rights information about
23 reasonable accommodations for childbirth-
24 related medical needs such as postpartum
25 depression or mastitis.

3. Know-your-rights information about job protection under the New York State Paid Family Leave policy.
4. A discussion of possible telework and flexible work hours, and planning for work travel if needed.
5. A discussion about the employee's accrued Personal Time Off ("PTO") and overall benefits.
6. A discussion of both the employer's and employee's general expectations relating to the return from parental leave.
7. A clear statement made by the employer that the employee will not be penalized in evaluations, bonuses, advancement, etc. because they took parental leave.
8. Provide a copy to the employee of the subjects/topics discussed in the meeting.
9. A discussion about a "follow-up" meeting to address or decide some of the requests or issues raised during the first onboarding meeting.

The Gender Equality Law Center's Endorsement for
Passage of Introduction 422:

1 This bill requires covered entities to keep a
2 record of written requests for reasonable
3 accommodations for at least three years. Ideally,
4 this would help prevent misunderstandings or disputes
5 regarding the nature of the accommodation requested
6 and provide a level of protection for employees
7 against potential discrimination or failure to
8 provide reasonable accommodations.
9

10 If an employer denies an accommodation request,
11 or fails to provide an appropriate accommodation, the
12 employee can use the documented record as evidence to
13 support their claim in potential legal proceedings.

14 CHAIRPERSON WILLIAMS: Gabriela, you have very
15 lengthy testimony, and so if you can just sum it up
16 in 30 seconds, that would be great.

17 MS. GABRIELA RENDÓN: So, in regards to this
18 Intro, the 422, we support it. We think it is
19 beneficial for not just the Commission to have the
20 information about the written request for reasonable
21 accommodation, but we also suggest that it is also
22 available to the employee who made the request.

23 Then in regards to Introduction 811, no-rehire
24 provisions, we support this bill, too. We just have
25 a suggestion in regards to small employers; we see it

1
2 as maybe an impediment for some settle negotiations
3 or settlement agreements to occur, so if there is a
4 possibility to carve out some ability for small
5 employers to apply the no-rehire provision as an
6 option in settlement negotiations.

7 And, would you like to comment on the last two?

8 MS. NINA SHIELDS: Sure I can just sum quickly
9 for the last two.

10 For Introduction 812, we do support extending the
11 statute of limitations to six years. We have had
12 experience with employees, especially undocumented
13 and non-English speaking workers, who don't know
14 their rights until it is too late to bring an action
15 under the current law -- and also with individuals
16 who experienced trauma as a result of discrimination
17 and harassment -- have long-lasting effects, and it
18 can take longer for the impact of that harm to become
19 apparent to them and to recognize the extent of the
20 damage that they have experienced. And so we support
21 extending the statute of limitations.

22 And, along with that, for Introduction 864, we
23 support this bill as well. We think that, especially
24 if extended to six years, this statute of limitations
25 provides an important protection from employers

1 imposing arbitrary restrictions that limit the
2 ability of workers to seek redress for unlawful
3 practices. And we have seen these kinds of
4 provisions happen, especially related to forced
5 arbitration clauses. And employers have required
6 employees to file a complaint in a time periods which
7 are significantly shorter than the city laws as well
8 as Title VII and state laws, uh, and these can be
9 inconspicuously included in lengthy and complicated
10 employment applications. And employees often don't
11 even see them or understand what they mean until they
12 have already agreed to them. So, we support the
13 passage of Introduction 864 forbidding those
14 agreements as well. And, thank you, Council, for
15 your time.

17 MS. ERICA VLADIMER: Good afternoon, Chair
18 Williams and Council Member Gennaro, my name is Erica
19 Vladimer, and on behalf of the Sexual-Harassment
20 Working Group, I urge you to move for Intros 811 and
21 812, out of Committee, so they can be considered for
22 a full vote on the Council floor.

23 By quick way of background, The Sexual-Harassment
24 Working Group is a workers collective of former city
25 and state legislative staffers who have experienced

1 harassment, discrimination, abuse, and retaliation at
2 the hands of elected and appointed officials. We have
3 been working together and are unpaid volunteer time
4 since 2018, particularly on the state level, to enact
5 stronger workplace protections against harassment and
6 discrimination and stronger protections for those who
7 are seeking justice after experiencing harm.
8

9 You have my written testimony. I am going to
10 update that, because of some of the things that I
11 have heard here from the Commission on Human Rights.
12 But, I do just want to take my next minute to sort of
13 address some of the things that they said
14 specifically around Introduction 811: They talked
15 about balancing private interest. Well, I am glad
16 they consider private interest such of those of the
17 employees who have actually experienced harm. All of
18 the bills that the Sexual Harassment Working Group
19 advocates for come from lived experience, and that is
20 exactly where Introduction 811 comes from. Two of
21 our co-founders were in a position where they had to
22 go through settlement negotiations with an elected
23 official who harassed and assaulted both of them
24 during their worktime with him. Their settlement
25 agreement had no-rehire clauses in them -- not just

1 for that specific office, but for the *entire*
2 legislative body. These are people who commit
3 themselves to public service -- most often a life of
4 public service. And, so, to ban someone from an
5 entire legislature -- and if you think about it from
6 the private sector, it take someone who works in
7 Finance, if you say [TIMER CHIMES] they are having
8 settlement agreement with, let's say, Chase Bank,
9 Chase is an international company. You are
10 essentially banning them from an entire industry.
11 And that highly goes against public policy.

12 Just quickly on 812, extending the statute of
13 limitations: As someone who has firsthand experienced
14 sexual harassment by my employer, I can promise you
15 that ten years later, I knew every single detail as
16 to what happened to me. So, sure, the ability to
17 maybe document it from other witnesses, perhaps the
18 abuser -- or alleged abuser-- themselves forget, but
19 it is not that hard to document. Similar to what my
20 colleagues here have said as well, it can take time
21 to process trauma. This is why we have The Child
22 Victim's Act, The Adult Survivor's Act, we need to
23 give humans that ability to process what happened to
24 them, to understand that what they went through
25

1
2 actually was illegal. And other people might be
3 fearful of retaliation, and not realize that they
4 have a claim or an opportunity to seek justice until,
5 unfortunately, other victims come forward publicly,
6 but we should allow that time.

7 One other nuanced argument that I have also heard
8 is that ,you know, harassment and discrimination at
9 the hands of your employer is a violation of your
10 work contract. And to bring a suit against a
11 violation of a contract is six years statute of
12 limitations.

13 So, I will just stop there, and thank you very
14 much.

15 CHAIRPERSON WILLIAMS: You're welcome.

16 Council Member Gennaro?

17 COUNCIL MEMBER GENNARO: Yes, I want to thank you,
18 Ms. Vladimer. It has been great to work with you and
19 the Sexual Harassment Working Group, to craft
20 Introductions 811 and 812. And certainly they should
21 have gotten more attention from the Human Rights
22 Commission, but we will work on that.

23 You covered most of the points, but with regard
24 to the statute of limitations from three to six
25 years, can we expand on that just a little bit more,

1 because I think people are going to get a little hung
2 on that. And even though you said a little bit about
3 it, I think that ,you know, the more on the record
4 the better, so if you could speak to that?
5

6 MS. ERICA VLADIMER: Sure, thank you, Council
7 Member.

8 I will speak, again, from my personal experience.
9 I was sexually harassed by my employer in 2013. And
10 after speaking privately to a few people, the
11 ultimate decision was either suck it up and not tell
12 anybody or to move on and leave. And, so, I chose to
13 leave and to really just keep my mouth shut and not
14 share it with anyone. And I thought that I had moved
15 on. It took three years for me to realize how much
16 it actually had an impact on me, and what it meant to
17 stay quiet, and the potential harm I might have put
18 future employees in. And that is when I chose to
19 speak out publicly. Now, I have chosen not to move
20 forward with a civil claim, but I know many people in
21 my position, who it took them a few years to come
22 forward -- and from there to realize that have a
23 right to justice that was taken away from them.
24 Sometimes it looks like the ability to sue and have
25 funds to go to therapy. We know therapy is really

1
2 expensive and most often not covered by health
3 insurance -- or for lost wages. Someone who has a
4 gap in their work experience, because they left, they
5 might have economic damages, lost wages, that they
6 are not able to recoup. Even if they take... You
7 know, let's say they chose to change industries, they
8 deserve that type of justice, and it takes a long
9 time to process. Choosing to go forward with a
10 lawsuit is a very big decision. It puts a victim in
11 an entirely new, but re-traumatizing, vulnerable
12 position. And it is not a type of decision that can
13 be made just overnight. It is not something you just
14 sleep on one night. Finding an attorney who will be
15 willing to take your case, that can also take a lot
16 of time, because these can be difficult cases. And,
17 then, these cases can drag for years. I am in the
18 middle of a state ethics agency complaint process,
19 and that has been taking over five years. So,
20 imagine just going to ,you know, New York Supreme
21 Court and having to go through that. Victims are
22 human beings, and human beings don't process things
23 like computers. And, so, we have to give them the
24 time, and it is good public policy to expand the
25 statute of limitations.

1
2 COUNCIL MEMBER GENNARO: Thank you very much, Ms.
3 Vladimer, for your very compelling testimony, you
4 bearing personal witness, coming out the way you have
5 and working with me and my office and with the
6 Council in order to bring redress for those who have
7 suffered and to prevent other people from going
8 through what you and many others have. So, I thank
9 you for your very compelling testimony. And that
10 concludes my questions, thank you, Madam Chair.

11 COUNCIL MEMBER RESTLER: Thank you so much, uh,
12 Chair Williams, and thank you, Erica, for your
13 leadership and work in the Sexual Harassment Working
14 Group. You know, I just really want to say thank you
15 to each of the people who have been involved in it
16 over the years, many friends, people who have
17 experienced just totally unacceptable workplace
18 dynamics in city and state government. And I am
19 deeply appreciative of the sustained advocacy over an
20 extended period of time.

21 Did... And, I appreciate you working so closely
22 with Council Member Gennaro on Introductions 811 and
23 812, which are great bills. I was wondering if you
24 all had a position on the legislation that we
25 sponsored today, 864?

1
2 MS. ERICA VLADIMER: Thank you, Council Member
3 Restler, and thank you for your support of the Sexual
4 Harassment Working Group, uh, basically since our
5 inception.

6 I will say we formally have not taken a position
7 on any other bills. Uh, but, I will say that in my
8 personal capacity that I do support that bill and
9 think it compliments nicely, Intro 812.

10 CHAIRPERSON WILLIAMS: Thank you so much for your
11 testimony.

12 COMMITTEE COUNSEL: The next panel we will be
13 calling will be via Zoom. We have Dana Bolger,
14 followed by Miriam Clark.

15 Dana, you can go ahead when the sergeants call
16 time.

17 SERGEANT AT ARMS: Starting time.

18 MS. DANA BOLGER: Good afternoon, and thank you
19 for the opportunity to testify. My name is Dana
20 Bolger, and I am a staff attorney at a Better
21 Balance.

22 ABB is a national legal services and advocacy
23 organization, headquartered in New York City, that
24 has championed efforts to pass key provisions of the
25 City's Human Rights Law (HRL), including the right to

1
2 reasonable accommodations for pregnant workers and
3 the non-discrimination protections for caregivers.

4 Through our free and confidential legal helpline,
5 through which we have heard from thousands of New
6 Yorkers, especially low-wage workers, who rely on
7 these new protections.

8 But, rights on paper are only as good as their
9 enforcement. Many of the workers we hear from depend
10 on public enforcement by the Commission, because they
11 cannot afford to hire private attorneys.

12 Over the last several years, the Commission's
13 funding and staffing levels have fallen to
14 unconscionable levels with dire impacts for workers.

15 In Fiscal Year 2022, workers had to wait an
16 average of nearly two years for the Commission to
17 complete its initial investigation, and often far
18 longer for their case to be conciliated or
19 prosecuted. Under these conditions, we cannot in
20 good conscience recommend that workers file with the
21 Commission. So, we urge the Council to increase
22 funding significantly and without delay.

23 We strongly support Introduction 422, which
24 require employers to maintain a written record of
25

1 accommodations requested under the Human Rights Law's
2 cooperative dialogue process.

3
4 On our helpline, we have seen what a huge impact
5 a robust, cooperative dialogue can make. It can
6 literally be the difference between a worker being
7 able to get the accommodations they need to remain in
8 the workplace and losing their livelihood, health
9 insurance, and even housing at the moment they needs
10 those things most.

11 Our written testimony outlines several changes
12 that we strongly recommend the Council make to
13 further clarify and strengthen the bill, which,
14 again, we support.

15 We also strongly support Introduction 811, which
16 would void no-rehire provisions in settlement
17 agreements for workers who have experienced by
18 unlawful discrimination. [TIMER CHIMES] Employers
19 often use these no-rehire terms... [CROSS-TALK]

20 SERGEANT AT ARMS: Time has expired.

21 MS. DANA BOLGER: in concentrated industries
22 heavily dominated by only a small handful of
23 employers forcing low-wage workers to abandon
24 professions that they have worked in for decades. For
25 example, a low-wage worker who contacted our

1
2 helpline after experiencing egregious sexual
3 harassment and pregnancy discrimination, was forced
4 to sign a no-hire settlement clause, leaving her no
5 option but to leave the industry that she had trained
6 and worked in for many years.

7 We also strongly support Introduction 864, which
8 would void private agreements to shorten workers'
9 statute of limitations to file claims under the Human
10 Rights Law. Like the no-rehire provision, these
11 agreements are a way that employers weaponize
12 contract law to circumvent the Council's democratic
13 enactment of anti-discrimination laws.

14 And, finally, we urge passage of Introduction
15 812, which would extend the statute of limitations
16 under the Human Rights Law to allow workers the time
17 that they need to pursue their claims.

18 The low-wage workers we hear from on our helpline
19 often do not realize immediately that their rights
20 have been violated or they fear retaliation for
21 asserting their rights.

22 So, again, we urge the bills' swift passage.
23 Thank you for the opportunity to testify today.

24 CHAIRPERSON WILLIAMS: Thank you.
25

1 Have you seen those provisions and settlements on
2 your end?
3

4 MS. DANA BOLGER: Thank you for unmuting me. We
5 have absolutely have. Just recently had a worker who
6 was forced to sign a no-rehire provision, and as a
7 result, likely will have to leave the industry that
8 she has worked, because it is dominated by only a
9 couple employers in the city.

10 CHAIRPERSON WILLIAMS: Are you able to estimate
11 how many of these cases take place? Like, how many
12 of these... There is no way to tell? Or, from your
13 experience, how many times have you encountered this?

14 MS. DANA BOLGER: It is certainly something that
15 we see. And, I would be happy to look into getting
16 you a number after the hearing.

17 CHAIRPERSON WILLIAMS: Okay, thank you for your
18 testimony.

19 COMMITTEE COUNSEL: Thank you.

20 Next we have Miriam Clark. You may go ahead when
21 the sergeants call time.

22 SERGEANT AT ARMS: Time starts now.

23 MS. MIRIAM CLARK: Thank you. Thank you very
24 much for the opportunity to testify here today.
25

1 My name is Miriam Clark. I'm a partner in the law
2 firm of Ritz Clark & Ben-Asher, LLP where I have been
3 representing employees for more than 35 years. I am
4 also a former president of NELA/NY and Chair of NELA/
5 NY's Legislative Committee.
6

7 The National Employment Lawyers Association
8 (NELA) is a national organization of attorneys
9 dedicated to the vindication of employees' rights.
10 And NELA/NY is New York State's affiliate, and we
11 have about 350 members statewide.

12 I am testifying in support of Introduction 811,
13 banning employers from forcing survivors of
14 employment discrimination to enter into what we call
15 "do not darken my door" clauses.

16 As you have heard, these clauses bar employees
17 from ever applying to work for, or work for, their
18 former employers again - or any remotely related
19 entities. As you have also heard, As a result of
20 these clauses, many survivors settle their cases and
21 then find themselves barred from employment in large
22 swaths of the job market. Most of the time, these
23 clauses have no expiration date, so an employee who
24 signs such an agreement early in her career is still
25 bound by it twenty, thirty, forty years later.

1
2 I just want to deviate from my written testimony
3 to say in response to Council Member Williams'
4 question earlier, I see these clauses all of the
5 time, including in cases that I settle in front of
6 the City Commission of Human Rights.

7 So, if you have a mediation at the City
8 Commission of Human Rights, there is often a private
9 settlement agreement that the Commission is not aware
10 of. And I have had *do not darken my door* clauses
11 forced upon my clients in those cases. I would say
12 that at least half the time, employers try to put
13 these clauses in agreements, and often my clients
14 really don't have the leverage to reject them.

15 So, as an example, as Erica testified earlier, I
16 had an employee who settled a claim with a large New
17 York City bank. The *do not darken my door* clause
18 applied not only to that... [CROSS-TALK]

19 SERGEANT AT ARMS: Time expired.

20 MS. MIRIAM CLARK: not only to that bank, but its
21 successors and affiliates. Had the client signed the
22 agreement, she would have been locked out of her
23 whole field.

24 So, employers sometimes argue that these clauses
25 are necessary to deter survivors from reapplying and

1 then bringing retaliation claims if their
2 applications are denied. Employers do not need these
3 clauses in order to turn down unqualified applicants.
4

5 We also heard that the City Commission has some
6 concerns about whether these clauses would be
7 necessary was disciplinary and misconduct for
8 example. But, again, an employer can always turn
9 someone down for legitimate reasons such as
10 documented misconduct.

11 As a matter of public policy, we often hear that
12 we want to encourage settlement of these claims.
13 But, employers who demand do not re-hire clauses are
14 engaging the opposite behavior. They're discouraging
15 settlement and encouraging litigation. No-rehire
16 clauses are unlawful in Vermont, in Oregon, and in
17 California. They are disfavored by federal courts
18 who evaluate settlements under the Fair Labor
19 Standards Act, who reject them as highly restrictive
20 and in strong tension with the remedial purposes of
21 the Fair Labor Standards Act. Uh, we urge the New
22 York City Council to pass 811, and end the
23 unnecessary punishment... [CROSS-TALK]

24 CHAIRPERSON WILLIAMS: Mariam?

25 MS. MIRIAM CLARK: of those cases.

1
2 Yes?

3 CHAIRPERSON WILLIAMS: Hi, are you almost done?

4 MS. MIRIAM CLARK: I'm done.

5 CHAIRPERSON WILLIAMS: Oh, great, okay, I had a
6 quick question -- and you can quickly respond --
7 around the cases that you mentioned that you settled
8 in front of CCHR. Do you have a little bit more
9 information on that? How many cases did you settle
10 in front of CCHR that included these no-rehire
11 provisions?

12 MS. MIRIAM CLARK: I don't have... I can't tell
13 you quantifiably, but I just looked up a recent case
14 that I settled in front of CCHR and there it was.

15 CHAIRPERSON WILLIAMS: And when was that?

16 MS. MIRIAM CLARK: A year and a half ago.

17 CHAIRPERSON WILLIAMS: Okay, thank you so much.

18 MS. MIRIAM CLARK: Thank you.

19 COMMITTEE COUNSEL: Thank you.

20 Next we will call the next panel. We have Dorea
21 Kyra Batté, Anne L. Clark, and Jessica Walker. You
22 can get started whenever you're ready.

23 MS. DOREA KYRA BATTÉ: Good afternoon and thank
24 you for convening this critical hearing that examines
25 expanding New York City Human Rights Law employment

1
2 protections against workforce discrimination. My name
3 is Dorea Kyra Batté and I am a Staff Attorney at
4 Legal Momentum, The Women's Legal Defense and
5 Education Fund. For over five decades, Legal Momentum
6 has been at the forefront of using the law to advance
7 gender equality for women in the workplace.

8 I am testifying today in support of Int 0811-
9 2022, which would eliminate a longstanding
10 retaliatory practice in settlement agreements used by
11 employers that effectively penalize employees who
12 challenge workplace discrimination.

13 Representing women in gender discrimination
14 actions, we have seen first-hand the leverage that
15 employers hold in settlement agreements, the
16 hardships that women encounter in challenging
17 discrimination, and the re-victimization they face
18 when confronted with punitive settlement terms.

19 For example, we represented a client who
20 challenged workplace sexual harassment and was forced
21 to leave her non-profit job because her employer
22 refused to dismiss the volunteer who was responsible
23 for the harassment. She settled the case and was
24 strong-armed into accepting a no-rehire provision.
25 While we were successful in narrowing the scope of

1 the clause, it nonetheless served to limit her career
2 options going forward, particularly as an employee
3 with unique expertise in a small field with limited
4 opportunities. These kinds of outcomes cannot be
5 allowed to persist.
6

7 Legal Momentum also supports Introductions 422,
8 812, and 864, which collectively advance workplace
9 protections, particularly for women and people of
10 color.

11 I want to close by recognizing New York City's
12 commitment to addressing discrimination in the
13 workplace. These bills would help employees overcome
14 longstanding barriers to workforce discrimination.

15 Thank you for the opportunity to share our
16 thoughts and for your attention on this issue. We
17 hope you will continue to rely on us a resource going
18 forward, thank you.

19 MS. ANNE CLARK: Good afternoon, thank you for
20 the opportunity to testify this afternoon. I am Anne
21 Clark; I am the Managing Partner of Vladek, Raskin, &
22 Clark, where I have represented employees for 30
23 years. I am also a member of Legislative Committee of
24 National Employment Lawyers Association, New York
25 Affiliate.

1
2 I am here to support Introduction 864, an
3 important bill to prevent employers from
4 circumventing New York City's robust laws against
5 discrimination.

6 As part of a carefully constructed law to
7 advance those strong public policies, the New York
8 City Human Rights Law provides aggrieved people three
9 years to file in court, three years to file claims of
10 gender based harassment with the City Commissar on
11 Human Rights, and one year to file all other claims
12 with the City Commission, and I am pleased to see
13 that the Council is currently considering extending
14 that the period to file in court to six years.

15 However, we have discovered that some employers
16 require employees to sign contracts of adhesion that
17 significantly shorten those limitation periods.
18 Several large employers mandate limitation periods of
19 only six months. It would be enough if these
20 contracts merely made it more difficult for employees
21 to vindicate their rights, but people often don't
22 realize that they have signed one of these agreements
23 that are often hidden in things like in employment
24 applications. Even a sophisticated employee is
25 unlikely to remember what they have signed or even

1 checked off on a box online. They and their lawyers
2 believe that they have a much longer period of time
3 to file claims, and are likely to miss the shortened
4 deadline entirely. In essence, these employers are
5 trying to write themselves out of the civil rights
6 laws.
7

8 The public policies recognized by the City
9 Council should bar enforcement of these contractual
10 limitations for claims under the New York City Human
11 Rights Law. Unfortunately, in New York, courts have
12 not stepped in to strike down these provisions. The
13 first case in which a New York intermediate appellate
14 court ruled on it, they looked only at breach of
15 contract claims in the business setting, and said it
16 was permissible. They did not address this [TIMER
17 CHIMES] strong public policy... And I will try to
18 summarize the rest of my testimony quickly.

19 In New Jersey, as Council Member Restler
20 mentioned, there are much better results. The New
21 Jersey Supreme Court recognized in Rodriguez versus
22 Raymour's Furniture that these provisions violate the
23 strong public policies underlying the New Jersey law
24 against discrimination, which all apply in equal
25 force to the City Human Rights Law.

1
2 I want to briefly, if I could, just about the
3 practical issues with this. A three-year statute of
4 limitations, and hopefully soon a six-year one, is
5 important for people to be able to vindicate their
6 rights. People don't always realize that they have
7 been discriminated against, and if they do they might
8 not know how to find an attorney or otherwise pursue
9 an action. Employees might be dealing with trying to
10 find a new job, trauma, pregnancy, disability, or
11 domestic violence that is at the heart of their case.

12 In addition, while three years is not sufficient
13 time or is the minimum sufficient time, if someone is
14 going to bring a claim for being dismissed, very
15 often when someone comes to me, they have been fired
16 and finally decided to come to a lawyer, but there
17 have been years of other discriminatory acts that led
18 up to it. Maybe they were passed over for promotions,
19 were demoted, but at the time, they didn't want to
20 put their job at risk by rocking the boat and
21 certainly by filing an action against their employer.
22 If they come to me after they have been fired, we can
23 cover not only the firing, but we can reach back to
24 all of the things that led up to the termination.
25 And even after somebody finds an attorney, having

1 more time to file in court is important, because, of
2 course, it's always better if the parties can work
3 out an informal resolution, and you can't do that if
4 you have to rush into court. It doesn't give
5 employers time to look into issues raised by
6 attorneys that contact them. It doesn't give people
7 like me sufficient time to thoroughly investigate
8 claims before filing in court. But, most
9 importantly, is that most people don't know about
10 these. So, what prompted me to reach out to my
11 council member is that a year ago, uh, I had this
12 issue. In early 2020, a man came to me with an age
13 discrimination claim, and he had already spent a few
14 months trying to resolve in it internally with his
15 employer. He was sophisticated and educated, he had
16 an MBA degree, and he had no recollection that when
17 he filled in his online application that there was a
18 box he had checked that apparently limited his
19 statute of limitations to file in court in six
20 months. I hadn't dealt with this employer before, so
21 I thought we had the usual time period. We filed in
22 court just over a year after he was fired -- after
23 exhausting some requirements for his federal claims.
24 Later, the employer argued that because of this
25

1
2 online application, all of his claims, including his
3 City Human Rights Law claim, should be dismissed.
4 Luckily for us, the court found that that employer
5 waited too late to raise the issue, but could have
6 thrown out very valid claims, because of an
7 application he signed and had ,you know, standard
8 language that he knew nothing about.

9 So, we think that it is essential that the City
10 Council pass Introduction 864, not only to allow
11 people sufficient time to vindicate their rights, but
12 so that employers cannot write themselves out of the
13 civil rights statutes.

14 CHAIRPERSON WILLIAMS: Thank you.

15 COUNCIL MEMBER RESTLER: Thank you very much, Ms.
16 Clark. I really appreciate you reaching out to us
17 and working with my team, especially Molly Haley, who
18 I don't say enough is terrific...

19 MS. ANNE CLARK: She is...

20 COUNCIL MEMBER RESTLER: She is terrific, we can
21 all agree. Uhm, I am very lucky to have just an
22 absolutely brilliant person driving our policy and
23 legislative agenda.

24 But, we really appreciate you bringing this idea
25 to us and calling it to our attention. The issue

1
2 that seems to be the greatest rub is the issue of
3 retroactivity from CCHR and Law Department's
4 perspective.

5 Could you explain why you think it is so
6 important that we ensure that Introduction 864 is
7 passed as drafted to apply to current contracts --
8 and apply retroactively -- and how it has worked in
9 New Jersey?

10 MS. ANNE CLARK: Absolutely. What Introduction
11 864 is doing is not creating some new right that
12 employers now have to make sure that they comply
13 with. You know, if you're adding a different
14 category of protection, employers have to be on
15 notice before they can start altering their behavior.
16 These contracts of adhesion are really attempts to
17 get out from under the existing structure of the City
18 Human Rights Law. So, this is just saying that these
19 violate public policy. These are contrary to what
20 already exists in the City Human Rights Law, which
21 has carefully thought out statute of limitations and
22 really shouldn't be any different than when the New
23 Jersey Supreme Court looked at in the Rodriguez case,
24 and they said, this is unenforceable and throughout
25 an existing contract for the... And it was also an

1 application for Raymour's and Flanigan employee --
2 and said we can't apply it in the future, but also
3 struck down that existing provision. And because they
4 are buried in things like employment applications or
5 the mound of paperwork people get on their first day
6 of employment, someone could sign one of these and
7 not experience discrimination until ten years later.
8 And the employer could still be seeking to use that
9 just to deny somebody their ability to go to court at
10 a much later date. So, this is not creating some new
11 landscape, this is just saying that for these
12 employers who try to get creative, you have to abide
13 by the law as it is written.

15 CHAIRPERSON WILLIAMS: Thank you, similar to the
16 question that I asked the other panels, do you have a
17 sense of, like, the number of cases, even for the
18 situation with people who might be signing these
19 documents while not knowing that they are limiting
20 their ability to file a complaint down the line? Do
21 you have a sense of whether or not it is commonplace?
22 Because I think CCHR, around some of these questions,
23 they couldn't really describe whether or not it is a
24 commonplace issue -- whether or not they are seeing
25 it a lot. So, from your industry experience, do you

1 see that a lot where there is a whole bunch of no
2 hire provisions? Are you seeing where many of your
3 clients unfortunately might have signed something
4 that prohibits them from filing any claims?
5

6 MS. ANNE CLARK: I was lucky to not encounter it
7 until recently. But, based on the cases that are out
8 there, it is something that unless it has stopped
9 recently, Federal Express was doing. Raymour and
10 Flanigan, both the New York case saying that the
11 provision was fine and the New Jersey case striking
12 it down involved Raymour and Flanigan and Northwell
13 Health, which is the largest private employer in the
14 entire state of New York, has this in their
15 applications. And, while I am not here to testify
16 about 811, I will tell you that as somebody who
17 settles cases all the time, I would say, Miriam said
18 more than half, I would say way more than half have a
19 provision saying, you will never apply to work for us
20 again. And we tried to negotiate them out or down,
21 but if somebody really wants or needs that money at
22 that time, they're going to sign it. And ,you know,
23 we have all seen how many hospitals were there when I
24 started and how many are there now in New York.
25 Banks, the first trial I had was somebody who worked

1
2 for Manufactures Hanover, I don't know if anybody
3 here is old enough to even remember that, uh, when it
4 merged with Chemical Bank, he lost his job. And by
5 the time we went to trial, it was Chase Manhattan
6 Bank, which is now JP Morgan Chase. So, if he had
7 signed something that said he wouldn't reapply to
8 Manufactures Hanover, if he had settled instead of
9 going through all of this litigation, he couldn't
10 work for ,you know, JP Morgan Chase, one of the
11 largest financial institutions in New York City.

12 MS. DOREA KYRA BATTÉ: And I agree. And just to
13 add on to that, in our experience in our settlement
14 agreement, this was a huge international
15 organization, and they had told us that they do not
16 settle without a no re-hire clause. So, this is
17 something that they practice.

18 CHAIRPERSON WILLIAMS: So, it is fair to say that
19 it is a common practice around various settlements.

20 MS. ANNE CLARK: Yes. I don't have the luxury of
21 tracking things, but I would say at least 75 percent
22 of settlement agreements have such a provision.

23 CHAIRPERSON WILLIAMS: Okay, thank you so much.

24 And, just reminding, uh, the next panelists and
25 whoever is coming after, to try to stick on the topic

1 of workplace discrimination... Not you, this is for
2 a future... You guys are done, thank you. Just ,you
3 know, to stick on the topic of workplace
4 discrimination and try to respect the decorum of the
5 committee hearing.
6

7 And I will turn it to Jayasri to announce the
8 next panel.

9 COMMITTEE COUNSEL: Thank you, Chair.

10 Next we have Towaki Komatsu, Dontarius, and Alex
11 Stein. You can come up and testify whenever you're
12 ready.

13 MR. TOWAKI KOMATSU: I guess when... uhm, I'm
14 looking at people that are part of this committee,
15 but despite that fact, uh, there are people that were
16 in this room previously, I was the first person in
17 this room at the start of the hearing, and the last
18 person to testify. So, with regards to procedural
19 due process rights, this is a public hearing, but
20 there is an empty seat over there were Mr. Salamanca
21 was, Mr. Gennaro, I don't see them. And, Mr.
22 Restler, I was looking at you playing with your phone
23 for much of the hearing instead of paying proper
24 attention to the people that were testifying. So,
25 with regards to a comment that Mr. Gennaro made

1
2 earlier during the hearing that people who testified
3 prior to me, they were not prepared to provide people
4 like you with the relevant information? If you're
5 staring at your cell phone, why would that be
6 relevant? Meaning if you're not paying attention to
7 their testimony, uhm, you know, what is the basis for
8 that objection?

9 With regards to today's hearing; however, it is
10 about, uhm, bills that you have proposed to try to
11 make it easier for workers to assert their legal
12 rights in litigation. Uhm, but, again, if people
13 like me come to this public hearing, are the first
14 person who walked through the door, and are the last
15 person to testify, while people that are part of your
16 team are not even in the room, how productive is
17 that?

18 Uhm, also, with regards to today's, uh, agenda
19 for today's hearing, yesterday I, uhm, mailed a
20 Petition for Rehearing to the US Supreme Court about
21 one of the matters that is part of today's agenda,
22 meaning if someone discriminates against you, you
23 have a certain time table to pursue litigation. I've
24 done that. The problem is when you get... Well,
25 when you get to the court, some of the judges don't

1 even look at your legal papers. Meaning, at the New
2 York City civil court, two judges issued orders,
3 which lifted the stay in litigation [INAUDIBLE].
4 However, in related litigation, Judge Alexander
5 Tisch, [TIMER CHIMES] he lied, he basically said
6 there is a stay still in effect. So, the point is,
7 uhm, I should also point out that the city of New
8 York, they do business with a company that stole my
9 pay in 2012, so the city of New York actually has
10 [TIMER CHIMES], uh, a level of influence that it
11 could exert on a company that is still subjecting me
12 to wage theft, to basically make a policy decision
13 that ,you know what? We're not going to do business
14 with this company until you pay this worker for wages
15 that he earned ten years ago.

17 So, last point was, uh, in terms of protected
18 classes, some of the protected classes that aren't
19 such include protected first amendment activity
20 meaning that if I file a valid lawsuit, and because
21 of filing that valid lawsuit I can't get a job
22 interview with a city agency, can you modify New York
23 City's Human Rights Law to add a protected class for
24 people who engage in protected first amendment
25 activity, whether it's criticizing a council member,

1
2 CHAIRPERSON WILLIAMS: I think I told other people
3 to wrap up, too, when they went [INAUDIBLE]...

4 [CROSS-TALK]

5 MR. TOWAKI KOMATSU: You didn't with the first
6 person...

7 CHAIRPERSON WILLIAMS: I did.

8 MR. TOWAKI KOMATSU: The first person who
9 testified during today's public hearing...[CROSS-
10 TALK]

11 CHAIRPERSON WILLIAMS: He went over, but the rest
12 of the people, I did tell them to wrap up. So, go
13 ahead, wrap up.

14 MR. TOWAKI KOMATSU: So, last point is this, uhm
15 , US federal judge, Edgardo Ramos, gave me an
16 extension of time to submit a motion to him about why
17 uh, I should... Why he should change his mind about
18 ongoing litigation of mine pertaining to the issue of
19 people coming to a public hearing trying to speak
20 their mind while people in front of them basically
21 are not in the room, don't give them the time of day
22 in regards to what they have to say. So, like I
23 said, Mr. Restler, he was on his phone for much of
24 today's hearing. He talked about how there is a
25 primary tomorrow. But, in terms of a performance

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evaluation, meaning if people come to a public hearing, they're testifying to people who they expect will give them the time of day, proper consideration, but when people in the audience are looking at a council member playing with their cell phone, the natural conclusion is, no, they're not doing that. Anyway, have a good day.

CHAIRPERSON WILLIAMS: Thank you so much for your testimony, have a great day.

All right, do we have anybody else testifying?

Oh, great, well, this committee hearing is closed, thank you so much.

[GAVELING OUT] [GAVEL SOUND]

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 July 12, 2023