

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL AND HUMAN RIGHTS

----- X

June 18, 2018
Start: 1:15 p.m.
Recess: 3:09 p.m.

HELD AT: 250 Broadway - Committee Rm.
14th Fl.

B E F O R E: MATHIEU EUGENE
Chairperson

COUNCIL MEMBERS: Daniel Dromm
Ben Kallos
Brad S. Lander
Bill Perkins
Ydanis A. Rodriguez
Helen K. Rosenthal

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

Damien Stabila, General Counsel
New York City Commission on Human Rights

Zoey Chenitz, Policy Counsel
New York City Commission on Human Rights

Karen Cacase, Director, Employment Law Unit
New York City Legal Aid Society

Elissa Devins, Senior Staff Attorney
New York City Legal Assistance Group, NYLAG

Nicole Salk, Attorney, Workers' Rights & Benefits
Unit, Brooklyn Legal Services

Sarah Brafman, Attorney, Better Balance

Jeff Hanscom, International Franchise Association

Julian Darwall, Senior Staff Attorney, Sikh Coalition

Margaret Macintyre, Chair, Legislative Committee of
New York Affiliate of the National Employment Lawyers
Association, NELA/NY

Sarah Ziff, Model, Founder and Executive Director of
the Model Alliance

Jessica Perez, Fashion Model

Caitlyn Pearce, Executive Director, Freelancers Union

Nina Irizarry, Performer, Writer & Director

Joanne Richardson, Freelance Writer

2 [sound check] [pause] [gavel]

3 CHAIRPERSON EUGENE: Good afternoon. My
4 name is Mathieu Eugene, and I'm the Chair of the
5 Civil and Human Rights Committee. Today, the
6 Committee will be hearing testimony on two bills.
7 Proposed Intro No. 136-A sponsored by Council Member
8 Lander and Intro No. 799 sponsored by Council Member
9 Williams. Both bill aim to strengthen and expand the
10 protections for workers under the City's Human Rights
11 Law. Twenty business with four or more employees are
12 employees are required to comply with Human Rights
13 Laws that prohibit discrimination and retaliation in
14 the workplace. However, the law is unclear and where
15 there are volunteers and different contractors and
16 other employee arrangements that considers employees
17 for the purpose of this provision. In September 2014
18 the Law Enforcement Bureau of the City of New York of
19 the New York City Commission on Human Rights filed a
20 complaint against the friends of the restaurant
21 manager who had a agreed to place an advertisement
22 for multiple width (sic) and buy stuff on the website
23 different places, the advertising as a favor to the
24 restaurant manager. The ad stated that the
25 restaurant looked to hire two Eastern European-

1 European waitresses. While it appeared to violate the
2 city's Human Rights Laws, the Commission has been
3 able to establish the four employees requirement of
4 the restaurants given that the staff were hired after
5 the discrimination to place and the relationship
6 between the friends and the restaurant manager was
7 that of an unpaid volunteer. To mitigate against
8 future similar cases and lend to the stability to the
9 four employee requirement, Proposed Intro 136-A
10 expands the definition of employee by adding the time
11 frame of six months before they start up an alleged
12 unlawful discriminatory practice, and continuing
13 through and including six months after the end of
14 such alleged unlawful discriminatory practice, and
15 different contractors and also current throughout the
16 four employees requirements even if they are
17 employers themselves. Proposed Intro 136-A would
18 also explain that person who volunteered paid or
19 unpaid, and an employee's parents, spouses, domestic
20 partners or child who is employed by the employer all
21 qualify as employees for the purpose of the four
22 employee requirement. Similarly, existent in the
23 prospective directors, officers, members and partners
24 of the business organization may also be liable for
25

2 certain discriminatory acts that they commit.

3 Finally, franchises and parent entities may be liable
4 for certain unlawful discriminatory act carried out
5 by different franchises and also designed companies.

6 The second bill Intro 799 also extends worker's
7 protection and offers clarification. This bill would
8 affirm that employees are indeed protected from
9 retaliation when they request reasonable

10 accommodation. Countered in New York City Human
11 Rights Law forbids retaliation by employers against
12 an employee when they partake in a protected activity
13 such as proposing that enough of discriminatory

14 practice filing a complaint with the Commission are
15 helping the Commission corporation counsel

16 investigate the complaint. Unfortunately, a recent
17 ruling by the Appellate Division of the New York
18 Supreme Court have excluded requests for reasonable
19 accommodation from the least protected activities.

20 The Council wishes to ensure that an individual who
21 requests reasonable accommodation will not face

22 retaliation by their employers, landlords or other
23 covered entities. We look forward today to hearing

24 from the Commission of Human Rights, advocates and

25 stakeholders to learn more about the recommendation

2 and guiding Proposed Intro 136-A and one and 799.

3 Before it begins, I'd like to acknowledge the members
4 of the Committee who have joined us today. We have
5 Council-Council Member Dromm. Thank you very much,
6 Council Member, who is also the Chairman or the Chair
7 or the Finance in the City Council. You did a
8 wonderful job this-this year. I'd like also to thank
9 the-the committee staff Bikini (sic) Rade, Counsel to
10 the committee, Lee Skopic, Policy Analyst and Eisha
11 Wright Unit Head of the Finance Division, as well as
12 my staff David Torres, William Jovine (sic) and Adler
13 Williams. (sic) Now, let me as the Counsel to
14 administer the oath.

15 LEGAL COUNSEL: Please raise your right
16 hand for the oath. Do you affirm to tell the truth,
17 the whole truth and nothing but the truth before this
18 committee, and to answer Council Member Questions
19 honestly?

20 DAMIEN STABILA: I do.

21 LEGAL COUNSEL: Thank you.

22 ZOEY CHENITZ: I do.

23 LEGAL COUNSEL: Thank you.

24 CHAIRPERSON EUGENE: Thank you very much.

25 Let me take the opportunity also to thank the team

2 from the Commission of Human Rights. Thank you so
3 very much and give my regards to the commissioner,
4 and to each one, all of you here thank you so very
5 much for being here for this so very important, very
6 important hearing because we know in New York City
7 human rights, city rights they're to very important
8 issues, and we in New York City we are on the
9 forefront of the fight, you know, for the respect of
10 human rights of people who has this full to be.
11 Forty percent, you know, were born and raised without
12 this retaliation, you know, of belief or religion. I
13 think as human beings we have to do that together,
14 the society. We have to crate a society where
15 everybody can feel comfortable to live and in the
16 ways that want. To each one of you, thank you so
17 very much for being here. Thank you. So, please,
18 you may start any time.

19 DAMIEN STABILA: Good afternoon,
20 Chairperson Eugene and Council Member Dromm and
21 Committee Counsel. My name is Damien Stabila. I'm
22 the General Counsel at the New York City Commission
23 on Human Rights. I'm joined by Policy Counsel Zoey
24 Chenitz. On behalf of the Commission, we thank you
25 for convening this afternoon's hearing and are

1 grateful for the opportunity to speak today in
2 support of Intros 799 and 136-A. Under the
3 leadership of Commissioner and Chair Carmelyn
4 Malalis, the New York City Commission on Human Rights
5 works to enforce the city Human Rights Law one of the
6 most protected anti-discrimination laws in the
7 country. During her tenure, the Commission has
8 consistently championed legislation like the two
9 bills being considered today and other mechanisms
10 that afford the laws protections to more New Yorkers,
11 clarify the agency's expansive interpretation of the
12 law consistent with its construction portion
13 [coughing] and restoration acts, and generally
14 further the goals of combatting discrimination and
15 harassment in key areas of city living. The two
16 bills being considered today expand protections for
17 people who seek reasonable accommodations by
18 protecting them from retaliation by employers,
19 housing providers and providers of public
20 accommodations, and clarify the broad reach of
21 employment protections to independent contractors.
22 These bills touch on important areas of the
23 Commission's work. Under the City Human Rights Law,
24 individuals are entitled to reasonable accommodations
25

2 and employment based on their religious beliefs,
3 disability, child birth or related medical condition
4 and status as a victim of domestic violence, sex
5 offenses or stalking. Individuals with disabilities
6 are also entitled to reasonable accommodations and
7 housing and public accommodations. These rights
8 foster inclusion and help make our work places, our
9 homes and our public spaces open, accessible and
10 productive environments for all New Yorkers. Beyond
11 accommodations, employment discrimination as a whole
12 constitutes a significant portion of the Commission's
13 work representing approximately 51% of all complaints
14 filed at the Commission in Calendar Year 2017. With
15 recent amendments to the City's Human Rights Law
16 regarding sexual harassment, the Commission is poised
17 to address an even broader range of workplace
18 discrimination. The bills that we are discussing
19 today will further ensure that New York City home to
20 the largest economy in the country continues to lead
21 the way in protecting the rights of workers. The
22 Commission believes that Intro 799 closes a clear
23 loophole in the New York City Human Rights Law and
24 fully supports its introduction. The Commission
25 strongly supports 799, which would make it an

unlawful discriminatory practice to retaliate against a person for requesting a reasonable accommodation based on religious beliefs, disability, pregnancy, childbirth or related medical condition, and status as a victim of domestic violence, sex offenses or stalking. Stat courts interpreting the City Human Rights Law existing retaliation provisions have held that a request for reasonable accommodation is not a protected activity, which can give rise to a retaliation claim. As a result an individual who request and receives an accommodation, but is also targeted for negative treatment because of that request, for example by being assigned less desirable work or negative treatment because of the request losing special privileges from their housing provider, may be unable to establish a retaliation claim under the current text of the City Human Rights Law. This admission in coverage makes the City Human Rights Law less protective in this respect than federal law, and indeed the daylight between the City Human Rights Law and federal law, and this is oddly out of place given the city law's history, its policy and liberal rule of construction provided under the restoration acts. By making clear that requesting

reasonable accommodations is a protected activity, Intro 799 will allow people to come forward and communicate with their employers, their landlords and other covered entities about their needs with the knowledge and confidence that they cannot be punished merely for asking. For this reason, the Commission fully supports Intro 799. Intro 136-A would clarify and identify the list of workers who are protected under the City Human Rights Law. The Commission already interprets the City Human Rights Law to cover independent contractors and all interns. Such coverage is broader than federal law, which often excludes these workers from coverage and broader than state law, which covers interns but not independent contractors. However, during a public hearing that the Commission held on sexual harassment in the workplace in December 2017, the Commission heard from many individuals, many New Yorkers who are unaware of existing protections for independent contractors under the City Human Rights Law. Therefore, this Amendment would provide additional clarity around these protections, which is particularly necessary given the changing nature of employment in New York City including alternative work arrangements and

1 increased outsourcing. In this regard, the
2 Commission expresses its gratitude to Council Member
3 Lander for his September 2016 report, Raising the
4 Floor for Workers in the gig economy, which
5 underscored some of the challenges of freelancers,
6 and independent contractors face and raise awareness
7 about the ever changing nature of New York's
8 workforce, and the need for the law to evolve in
9 order to protect these workers. The Commission looks
10 forward to working with the Council to further refine
11 the language of Intro 136-A to define the relevant
12 time period for assessing whether an employer meets
13 the jurisdictional requirements to fall within the
14 coverage of the City Human Rights Law, and to provide
15 clear protections for independent contractors and
16 other categories of workers who are often vulnerable
17 to discrimination and harassment yet excluded from
18 coverage under Civil and Human Rights Law. The
19 Commission supports an approach that does not rely on
20 the categorical rejection of workers based on their
21 job title, or on a corporate form of their employer,
22 and instead aims to meaningfully address
23 discrimination as it is experienced and expand
24 accountability for discriminatory acts to those
25

2 entities and individuals with the power and resources
3 to effect change. The spirit of these changes
4 reflects this philosophical shift, which we support.
5 The proposed amendments raise potential legal
6 questions that the Commission will need to research
7 further, and we look forward to the opportunity to
8 provide feedback once we have completed that review.
9 Overall, I wish to reinforce the Commission's support
10 for legislation that provides greater protection
11 against discriminatory acts in all spaces throughout
12 the city, and our appreciation for City Council's
13 ongoing attention to and efforts to strengthen
14 employment protections. The Commission thanks Chair
15 Eugene and the members of the committee for calling
16 this hearing. We look forward to working with the
17 Council on these bills. We thank you each for your
18 partnership in strengthening and advocating for human
19 rights in the city. I look forward to any questions
20 that the Committee members have.

21 CHAIRPERSON EUGENE: Thank you very much.
22 Do you have any statement also? Thank you so very
23 much, Mr. Stabila.

24 DAMIEN STABILA: That's correct.

25 CHAIRPERSON EUGENE: Is that correct?

2 DAMIEN STABILA: Yes.

3 CHAIRPERSON EUGENE: Oh, I made progress.

4 [laughs] Thank you so very much. As we all know

5 that harassment and discrimination and also

6 protection, especially the protection of human

7 rights, you know, those are topics that are very

8 important to all of us, and we have the moral

9 obligation to do everything that we can do. As I

10 said, we just need to protect everyone, but by the

11 same token also, we have another obligation. Let me

12 to make my point, let me read from your statement.

13 [pause] You say that somewhere during a public

14 hearing that that Commissioner held on sexual

15 harassment and the workplace in December 2017. The

16 Commission heard from many individuals who were—were

17 aware of existent protections, and for different

18 contractors und the City Human Rights Law. So that

19 means what I want to say is that it is good for us to

20 take the decision to protect the rights of the

21 people, and we all should do that. We have to do

22 that together as a society, as New Yorkers as a city,

23 but my question is: What the Commission will do

24 number one to inform the people these type of

25 protections, extended protection and the enforcement

2 of the protection, and also to make the employers
3 know also the existence of those protections.
4 Because I believe that there are two sides. The
5 victim should know their rights, what they have to
6 do, and when they are discriminated, but we have to
7 be proactive and also preventive. People should know
8 exactly this is not acceptable. This is, you know,
9 this type of behavior or attitude is against the
10 human Rights. You know, our civic right in New York
11 City. So, can the commissioner will do to inform, to
12 educate both sides?

13 DAMIEN STABILA: Thank you for your
14 question Chair Eugene. In connection with the
15 hearing we had at the end of 2016, the Commission has
16 been very proactive in addressing this issue, in part
17 by the public campaign, sexual harassment campaign
18 that our Communications and Marketing Unit deployed
19 in the city, which was widely seen, reviewed and
20 called attention to this issues to-to all New
21 Yorkers, and following that, also I referred to the
22 commission's robust report released on April 25, 2018
23 that addressed what we learned from the hearing in
24 order to better inform of employers and the public
25 that the Commission does currently consider

2 independent contractors covered by the law. In those
3 two respects trying to reach the public directly, you
4 know, a very prominent ad campaign, and also by
5 reiterating our understanding of how we enforce the
6 law in the report, which also had a significant
7 section devoted to employers about how to address
8 that issues. We've already undertaken significant
9 action in that area, and obviously we'll continue to
10 do so. [pause]

11 CHAIRPERSON EUGENE: Thank you very much.
12 Basically I see that you have been preventive—
13 preventive also, but if the law, these two laws pass,
14 and voted, what will the Commissioner do differently
15 from what, you know, the Commissioner has been doing
16 before to ensure that, you know, those real laws are—
17 are known by the good team, the people probably get
18 it, you know, because it is—and also the people who
19 probably would have, you know, an unacceptable
20 behavior to violate those laws? What the
21 Commissioner will do differently to inform, to
22 educate everybody to make sure that we can get the
23 best results that the are looking for?

24 DAMIEN STABILA: I think this, the
25 Commission under this Administration, under the

2 leadership of Chairperson Malalis has taken the
3 public training and public information role very
4 seriously and—and again by pointing to the various
5 media campaigns or aggressive media campaigns that we
6 have engaged in over that time to inform all New
7 Yorkers of their obligations that is an ongoing role
8 that the Commission has mandated by statute to do,
9 and that we continue to do. In addition the recent
10 trainings on sexual harassment is again something
11 else that the commission is addressing, and working
12 on training specifically targeted on sexual
13 harassment, and again, in making sure that we inform
14 the public of their rights to come forward to the
15 Commission.

16 CHAIRPERSON EUGENE: Thank you very much.
17 We have been joined also by Council Member Lander who
18 is the sponsor or Intro 136-A. I want to give him
19 the opportunity to present his statement. Will you
20 please, Council Member.

21 COUNCIL MEMBER LANDER: Thank you very
22 much, Mr. Chairman and thank you for convening and
23 chairing this important hearing. I really appreciate
24 your—your doing it. Thanks to all of the advocates
25 who are here, and to the Commission, which has been

1 such a great partner in working together to
2 strengthen the Human Rights Law, and I'm sorry to be
3 late but I just glanced through your testimony, and I
4 appreciate the work that we've done together to
5 strengthen and expand the law, and I appreciate your
6 support of most of the elements of 136-A in
7 particular expanding protections to cover freelancers
8 and independent workers. I want to shout out to the
9 Freelancers' Union and a lot of other folks who have
10 been fighting discrimination who are in the audience
11 today. I appreciate that you have looked to use your
12 power expansively to prevent discrimination where we
13 would not want it to be, but also your support for
14 this clarification to make clear that, you know, as
15 more and more people are employed that work and
16 independent contractors and freelancers, we have to
17 make sure that they have the full protection of our
18 Human Rights Law against employment discrimination
19 and in other ways as well, and this law also takes
20 some other interesting steps forward to help
21 strengthen and expand the Human Rights Law
22 protections. It would apply more of its provision to
23 franchisers. You know, for example we recently saw
24 Starbucks step up in Pennsylvania and Philadelphia,
25

2 and recognize that there's a corporate responsibility
3 for the actions of—of their folks. If that had ben
4 in Dunkin' Donuts, would there have been the same
5 level? So, our goal of making sure that franchises
6 provide to their franchisees some of the same kind of
7 public education and information and make sure that
8 people are following the Human Rights Law and some
9 other issues that are in the law as well. So, I
10 think this is a great step forward for New York City
11 especially in protecting our independent workers and
12 freelancers, but also in continuing to make sure we
13 have the strongest Human Rights Law in the country,
14 and we're doing everything we can for that to protect
15 New Yorkers from discrimination based on who they
16 are. So, thank you, Mr. Chair for that opportunity.
17 I'll ask you a few questions when you're—when you're
18 done.

19 CHAIRPERSON EUGENE: Thank you very much,
20 Council Member Lander. Thank you. Mr. Stabila,
21 right, can you tell us what some of the problems the
22 Commission has identified with the current for
23 operating provision? Can you estimate how many
24 complaints the commission was not able to follow up
25

2 on because of the definition of operating there under
3 the current Human Rights Law

4 DAMIEN STABILA: Thank you, Chair Eugene.
5 So, we—as I said when someone walks into the
6 Commission with a complaint we don't keep statistics
7 on their job titles in part because we investigate
8 the facts as they lead us to potential coverage under
9 the City Human Rights Law. We take a broad
10 interpretation to that law and, therefore at the
11 outset to not have statistics that segregate out for
12 example in the employment—on the employment docket,
13 which is a large part of our docket, who is coming in
14 as an independent contractor or otherwise. However,
15 we're not turning people away based merely on job
16 title, which I think reflects the testimony that
17 we've provided today that a categorical rejection of
18 coverage based on job title or corporate form is
19 something we would not want to see. That—so I can't
20 give you specific statistics. What I can say is
21 based on the process that we would take a complaint,
22 investigate the facts in order to see where that
23 investigation takes us, and that is the reason why we
24 don't have full statistics on these issues. Second
25 of all, we don't always bubble up in these cases in

2 that way. Not every single case involving an
3 independent contractor necessary presents a contested
4 issue about whether that person is an independent
5 contractor. Second and third given that we recognize
6 again in part thanks to Council Member Lander's
7 report on the Gig economy from 2016, is that this
8 area does concern some of the city's most vulnerable
9 workers. So, we take a very broad approach and want
10 to make sure that we investigate the facts that may
11 lead us to provide coverage under the City's Human
12 Rights Laws.

13 CHAIRPERSON EUGENE: I think the purpose
14 of the two bills is to improve the work of the
15 Commission to ensure that the Commission, you know,
16 do a better job in terms of protecting the rights of
17 the people, but could you tell us how those two bills
18 will improve the work of the Commission.

19 DAMIEN STABILA: Well, I think in the
20 first instance I think we're looking forward to sort
21 of again working with Council about the exact
22 language particularly about the look back period,
23 particularly about the language proposed for the
24 additional Subparagraph G and Subsection 23-102.23,
25 but the Commission again always takes a broad

2 interpretation to the claims that come before it. Has
3 always considered independent contractors to be
4 covered and we take those claims and we'll
5 investigate them and try to find out through that
6 investigation process how the working relationship is
7 actually operating in fact.

8 CHAIRPERSON EUGENE: We believe that one
9 of the obstacles to protect the right of workers, the
10 right of people who have been victimized or, you
11 know, facing a discrimination situation is
12 retaliation. They're afraid. They don't want to
13 speak up. You know, they don't want to—to raise the
14 issue because they don't want to—to—to face other
15 complicated situations in their job or whatever. But
16 can you tell us how many complaints in terms of you,
17 now, related to retaliation, how many complaints that
18 you receive during the past two years?

19 DAMIEN STABILA: I'm more--I don't have
20 that number off the top of my head. I'm more that
21 happy to provide that number to make sure that I give
22 you an accurate number for what this is. In
23 connection with the bill's proposal to add
24 retaliation based on just making a request for
25 reasonable accommodation. We do feel that that

2 support—we support that change. Again, it closes a
3 loophole that removes the daylight between the
4 federal standard and the City's Human Rights Law
5 standard. We don't, again from a process perspective
6 someone coming to the commission, we wouldn't have
7 kept statistics on turning someone away because we
8 would have looked again at the facts of that
9 particular case in order to see whether or not under
10 the current language of the law we would be able to
11 enforce that action. So, I don't have current
12 statistics for you, but I will make sure to get that
13 back to you very promptly.

14 CHAIRPERSON EUGENE: Thank you very much.
15 I would appreciate it if you sent—if you can send,
16 you know, those information to the committee. Could
17 you tell us also what are the barriers on the
18 Commissioner to follow up, you know, in terms of
19 complaints related to retaliation? Any values that
20 you believe that the—the Commission has been facing
21 that prevent the Commission to move on to investigate
22 or to—to fulfill the—the—the goal of protecting
23 people's rights?

24 DAMIEN STABILA: Well, we—we—I think as
25 any government agency would say, I mean there's

2 always resources. We try to do the best we can with
3 the resources we've got and address everything we
4 can. With unlimited resources that would be a great
5 addition, but again, from the perspective of our law
6 enforcement function, when complainants come in the
7 door to the Commission, we—we have not turned away
8 based again on—on labels or we try to investigate the
9 facts that have been alleged because we're an
10 investigative agency and have that ability to sort of
11 look exactly at the precise details of every case
12 because we reach a conclusion.

13 CHAIRPERSON EUGENE: Okay, but you
14 mentioned resources. Of course, any agency, you
15 know, makes these issues or challenges in terms of,
16 you know, having enough resources to do the job, but
17 in addition to the resources, I'm talking about, you
18 know, with respect to the definition of certain—that
19 for some employers and employees who—who call it by
20 the definition. Why not call it by the definition.
21 Would you be—did the commission face, you know,
22 barriers in terms of, you know, their interpretation
23 or definition and meaning of employers and employees
24 before, you know, this legislation?

2 DAMIEN STABILA: Well, as I—as I
3 mentioned before, Chair Eugene, I think, you know,
4 in—when the Commission is faced with employees that
5 come with us with a claim, we take a very broad
6 interpretation of the law. Again, recognizing that
7 the City Human Rights Law is the most expansive and—
8 and protective law of its kind in the country. So,
9 when we are faced with a complaint that comes in the
10 door, we like to investigate the facts of each case.
11 We do not reject people merely based on job title or
12 the corporate form, and we take those cases and
13 investigate them where the facts lead us. We support
14 the language proposed in 799 again because it clearly
15 closes a loophole to the extent that that addresses a
16 specific interpretation by a number of New York State
17 courts as to the viability of a potential claim for
18 denial of reasonable accommodation and whether that—
19 making that—Sorry. In connection with the making of
20 a reasonable accommodation, and whether that
21 constitutes protected activity. We welcome and
22 support that clarification. Clarification is
23 something that the commission generally supports, and
24 in connection with 136-A, again we look forward to
25 having conversations to further clarify the best

2 language in order to achieve the stated mission and
3 goals of the City Human Rights Law.

4 CHAIRPERSON EUGENE: We are joined by
5 Council Member Williams, who is the sponsor of Intro
6 799. I want to call him for his presentation.

7 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
8 Chair. Thank you to the Commissioner for being here.
9 My bill Intro 799 amends the Human Rights Law to
10 prohibit retaliation against individuals who request
11 a reasonable accommodation in the city's current
12 Human Rights Law. Ground to request something but
13 all really just observing pregnancy, childbirth,
14 status of survival of domestic violence, and medical
15 condition. While the HRL protects against
16 retaliation for filing a discrimination complaint
17 opposing discriminatory behavior and other actions,
18 there was no explicit protection against retaliation
19 for requesting an accommodation under the law.
20 Recent court rulings interpret that HRL narrowly
21 dismissing retaliation claims because requests for-
22 because "Requests for reasonable accommodations was
23 not included in the HRL retaliation prohibit-
24 prohibitions. Despite our instructions that the HRL
25 be interpreted literally, we're here to try and fix

2 that. I was actually disturbed to hear that that
3 request is not protected because it seems to make
4 sense to go along with other protected statuses. I
5 myself having Tourette Syndrome and ADHD had to have
6 some accommodations in high school and college or it
7 would have been kind of tough if I was discriminated
8 against because of that. So, I'm very honored to have
9 this bill and close this loophole. This is kind of
10 when the government is at its best, trying our best
11 to correct cracks where the vulnerable population
12 will fall through. I read over some of the testimony.
13 So I appreciate the support of this bill, and
14 hopefully the support of this committee. Let's help
15 some people out. Thank you very much.

16 CHAIRPERSON EUGENE: Thank you very much
17 Council Member Williams. Let me go back to one of
18 the questions that I asked you before. You said that
19 you don't have the record of the number of complaints
20 that the Commissioner received or you don't have them
21 with you? You don't keep them on record, or you
22 don't have--?

23 DAMIEN STABILA: I-I don't have the
24 number of exact complaints that we've received for
25

2 example for Calendar 2017 off the top of my head, but
3 I'm more than happy to provide that number.

4 CHAIRPERSON EUGENE: But you can find the
5 documentation?

6 DAMIEN STABILA: Yes.

7 CHAIRPERSON EUGENE: You have the
8 tracking record on that?

9 DAMIEN STABILA: For general in place
10 yes, absolutely.

11 CHAIRPERSON EUGENE: Thank you very much.
12 Council Member Lander please.

13 COUNCIL MEMBER LANDER: Great. Thank you
14 very much. So, thank you for your testimony and—and
15 I-I appreciate your broad support. I'm must curious.
16 You—you reflect this question about potential legal
17 questions and I mean I agree we've got to get this
18 right and do it in a thoughtful way. So, I'm
19 certainly open to doing that. I just wonder if you
20 might say a little more about what you think the
21 issues are that are presented that we need to drill
22 down on together ?

23 DAMIEN STABILA: Well, I think it's an
24 expansive question as part of the problem. I think
25 in light of the time to consider the language part of

2 the—the fact that we've got other jurisdictions,
3 other courts sort of interpreting language, we need
4 to take all of that into account to make sure that we
5 have language that, you know is—is the most effective
6 to achieve this stated goal of the Human Rights Law.
7 In addition, you know, we're also interested in
8 hearing what constituents, advocates, workers
9 experience in order to make sure that we tailor—
10 tailor the language to the best possible way to
11 achieve—achieve the—the mission and—and intent of the
12 Human Rights Law.

13 COUNCIL MEMBER LANDER: And is that in
14 particular on this question of how we're thinking
15 about defining anyone who performs work for an
16 employer or more about this, because this, you know,
17 the 136-A does a few different things. You know, and
18 some of this comes in part from the very particular
19 way this Council last term looked to cover interns,
20 which was very specific, and I think at that time,
21 you know, one of the bits of feedback from the
22 Commission was we want to be careful that we don't
23 look by defining very specific categories to be
24 excluding others. So, we tried to take this broader
25 approach. Anybody who performs work for an employer

2 regardless of, you know, do, you know, that is
3 different from obviously the way that State
4 Employment Law or Federal Labor Law consider who is
5 eligible, but I think we all agree we have the power
6 to cover people in that broader way, and that for the
7 protections from discrimination, you know, it doesn't
8 matter if you're an Uber driver. It doesn't matter
9 if you're an intern or a volunteer, you should not be
10 discriminated against if you're a member of a
11 protected category. So, anyway, we're—we're open to
12 other feedback. We also obviously looked in this
13 case in the law to expand who some of the
14 responsibility for discrimination could attach to a
15 broader set of people affiliated with an employer
16 organization as well. So, are there, and if you're
17 not ready to say, that's okay. We can follow up with
18 you afterwards. I'm glad that you support the spirit
19 but as we both listen and drill down is it on one
20 side or the other of those? Do you think there are
21 more issues, or how should we--?

22 DAMIEN STABILA: I wouldn't want to
23 qualify whether there's more issues or not on one
24 side or another. Obviously, if the goal of providing
25 the broadest protection possible in light of the

2 economic reality that workers in New York face is-is
3 important. Getting the language right is-is part of
4 the-the issue and we look forward to working with the
5 Council on that both in terms of the-the expanding
6 the rights and responsibilities, and also as we said
7 in our testimony to ensure that those with the
8 ability to make those changes are the ones charged
9 with those kind of obligations. In addition to also
10 working with the language on the look-back period to
11 ensure that that, too, reflects the best possible
12 solution to addressing that-that issue.

13 COUNCIL MEMBER LANDER: Okay. One thing
14 I think we're looking at in relationship to
15 independent contractors, on first thought we're
16 thinking about protecting independent contractors
17 from discrimination. Then there's the issue that in
18 some cases independent contractors are themselves
19 acting as supervisors on behalf of the company that's
20 employing them, and they need to be, you know, given
21 clarity by that employer of their responsibilities to
22 protect the human rights of people for whom they
23 might be in a supervisory role, and I'll describe
24 that as something where I think we need to do some
25 work together to make sure that we get that right

2 And then you didn't respond specifically—your
3 testimony speaks to the protections for independent
4 contractors, which I think is great. It doesn't
5 speak to this question of franchisers and I—I wonder
6 if you have any particular thoughts on that. Again,
7 that the idea being here that we want corporations to
8 have responsibility for making sure that the
9 provisions of the Human Rights Law are honored in
10 their workplaces. And so, in—as the law currently
11 exists, even where—where a supervisor or a store
12 manager or someone engages in a discriminatory act,
13 their business can be held liable and their business
14 can make an affirmative defense that we have a set
15 of policies in place that make sure that all
16 employees know their rights and responsibilities
17 under the Human Rights Law, and this is an individual
18 aberration and not a corporate and active—essentially
19 corporate discrimination or—willful blindness to
20 discrimination. So, that's already all in the law,
21 but as I said before, would, you know, that covers a
22 corporate employer, you know, like Starbucks, but not
23 a franchise employer like Dunkin' Donuts, and the
24 idea here was to give the franchiser just like
25 they're able to say exactly how fit the Big Mac is

2 or, you know, exactly what color the chocolate donuts
3 are. We expect you to cover and follow the New York
4 City Human Rights Law, and we have some
5 responsibilities if you don't, but obviously the
6 franchise relationship is-is different from the
7 straight corporate employer relationship. So, do you
8 have a position on that yet?

9 DAMIEN STABILA: So, we-we would still
10 like to be able to examine that in more depth. I
11 think the Commission echoes Council Member Lander
12 your-your concern about it Labels are not helpful.
13 So, reject-a group of-a framework that would reject
14 coverage, but surely based on job title on a
15 corporate form is-is again sort of an approach that
16 we-we believe in principle works well, and I think
17 given that the language is-is-is important to make
18 sure that we get that-get that done right. The
19 Commission has-takes its-the breadth of the City's
20 Human Rights Law very seriously, and has done so and
21 enforced those provisions broadly to cover
22 independent contractors even when that explicit
23 coverage I s not necessarily written there in black
24 and white. The Commission obviously supports efforts
25 to clarify where possible the language of coverage so

2 that everyone understand both what their rights are,
3 and that the potential respondents understand what
4 their obligations are.

5 COUNCIL MEMBER LANDER: Okay. Going just
6 a little further on this question of what employers,
7 if this bill passes, franchisers, Board of Directors
8 can do, do you currently provide some guidance for
9 how an employer can put themselves in the best
10 position to exercise the affirmative defenses that
11 the law provides in terms of what kinds of training?
12 You know, the way the law reads now, you know, if
13 you're accused as an employer more broadly for an act
14 of discrimination and discriminatory harassment by an
15 employee, you can put forward evidence that says look
16 at all the things that we do to make sure that we
17 have the most company that respects the Human Rights
18 Laws as strongly as possible. Do you give guidance
19 to employers on what that looks like so they'll be
20 best able to both first and foremost make sure that
21 their businesses are places where the Human Rights
22 Law is respected, but I guess second, defend
23 themselves in those—in those cases?

24 DAMIEN STABILA: Well, as an initial
25 matter, I think the Commission is very interested in

2 ensuring that we broadcast to the public and all
3 employers not to discriminate, and—and that we are
4 trying to hold trainings in public areas to explain
5 what the protections are under the law not
6 necessarily as guidance to how to avoid its
7 protections. So, I'm not aware of any guidance on
8 that.

9 COUNCIL MEMBER LANDER: [interposing]

10 Well, the goal of encouraging people to have good
11 corporate culture and good corporate policy and
12 provide trainings and provide a pathway to complaint
13 to make sure you will be heard is like to prevent,
14 you know, is to get compliance with the law not to
15 provide people with a safe harbor, obviously. On the
16 other hand, if the reason that those employers work
17 hard to approve their corporate cultures and policies
18 is because our law provides consequence if they don't
19 and—and some safe harbor if they do, so be it, but we
20 don't currently, we don't currently have a—because,
21 you know, and we'll obviously when this Council
22 passed the sexual harassment legislation recently, we
23 looked to specifically say here's what we want
24 employers to do, but beyond that, you guys don't
25 currently have a practice of providing some kind of

2 guidance to employers on how they should proceed on
3 that?

4 DAMIEN STABILA: In terms of the Safe
5 Harbor, I'm not aware of that—that guidance existing.

6 COUNCIL MEMBER LANDER: Okay, thank you,
7 Mr. Chair.

8 CHAIRPERSON EUGENE: Thank you very much,
9 Council Member Lander. We know that there's nothing
10 perfect in life. We have nothing perfect. We do not
11 pretend that anything that we're doing is perfect and
12 that's the reason why we single the—we make changes.
13 We try to improve what we are doing and because every
14 time we—there's something that we didn't see. We
15 didn't, you know, imagine that should be corrected,
16 but do you anticipate any issues with this law, those
17 two laws?

18 DAMIEN STABILA: I'm certainly not. I
19 think we've said that the closing of the loopholes
20 are a good change. We support that. On 136-A, I
21 think as I—as I've mentioned before, we want to make
22 sure that we have further discussions to be able to
23 get the exact language for the proposed changes right
24 in order to achieve the stated goals, but that—the
25 spirit of the changes is—is something that the

2 commission supports because it broadens again
3 protections to make clear that New Yorkers in non-
4 traditional employment relationships like those who
5 are independent contractor and don't fit neatly at
6 least into the traditional way at present has been
7 applied are indeed covered. And we've made—we've made
8 it clear particularly in the—through the—in the
9 context of the hearing we held at the end of last
10 year that independent contractors are covered, and
11 that we take cases when they come in, and make sure
12 that we investigate the facts and details of the
13 working relationship to see where that goes to ensure
14 the broadest protections available to—to New Yorkers.

15 CHAIRPERSON EUGENE: Thank you very much.
16 Before I ask you my next question, which will be I
17 believe the last one or so unless it slip my mind,
18 but I said nothing is perfect, and also my mind. So,
19 let me acknowledge that we have been joined by
20 Council Member Rosenthal. Thank you, Council Member
21 for being here. Thank you. We all know that New
22 York City is home to so many immigrant people, people
23 coming from everywhere, and when people come to New
24 York City, they come with the tradition, their
25 culture and among the cultures additions especially

2 some immigrants for people who came from the part of
3 the world where I came from are very afraid of
4 government. They are afraid to speak, and also
5 there's another challenge of value for immigrants is
6 languages, their language, but many immigrant people
7 and they don't speak—English is not their first
8 language for them. That creates another barrier for
9 them. That's when it's very difficult for them to
10 number one to navigate through the system and to make
11 their living to try to provide for them family. This
12 alone is a big challenge. So, in addition to that,
13 there are so many laws, so many principles, so many
14 in the New York City. My question to you: How are
15 you going to reach out to those people, the immigrant
16 people, the people who are facing a language barrier,
17 a cultural barrier, a tradition barrier to make them—
18 them aware of those legislations, of those
19 protections? What is your plan to reach out to those
20 people and to help them also be protected by—by those
21 rules?

22 COUNCIL MEMBER LANDER: [interposing] And
23 could I just add to this question a little Mr. Chair?

24 CHAIRPERSON EUGENE: Yes, uh-hm.

2 COUNCIL MEMBER LANDER: Because I do
3 think when people hear the word freelancer as they
4 sometimes imagine a certain set of independent
5 contractors who are less likely to be immigrants and
6 people of color but a very large—you know, the
7 independent contractor category is a very large
8 category, and it definitely includes writers and
9 editors and graphic designers and it includes for-
10 hire vehicle drivers and folks sometimes doing home
11 repair or construction, day labor and sometimes
12 people who are taking care of others. So, your point
13 that we need to make sure that we think about who
14 else is covered and the breadth of outreach is really
15 important. So, I just—I want to underline the
16 importance of your question.

17 CHAIRPERSON EUGENE: Thank you very much,
18 Council Member. Please answer.

19 DAMIEN STABILA: Thank—thank you, Chair
20 Eugene and—and Council Member Lander. We—the
21 Commission absolutely understands the critical role
22 that being—providing to—to enhance the credibility
23 that we have both in enforcing our law to reach in
24 the communities language is hugely important and it's
25 been a very important priority that Chair Malalis has

1 engaged in. So, even since she last testified before
2 this committee, I believe that the—at the end of
3 March, the number of languages spoken Commission in
4 place has increased. So right now we have—and this
5 is just one indicator of our diversity, but our staff
6 currently speak 38 languages up from the last time
7 that Commission appeared before this committee. We
8 also—our Communications and Marketing Unit as well is
9 critically aware of this and does an excellent job
10 trying to address the needs of all the New Yorkers
11 and all the languages they speak. As a result, 100%
12 of our media buy-in occurs in—in ethnic media
13 communities in New York. So those are just but two
14 examples of a lot of—of the work that the Commission
15 has placed and to reaching out to New York City in
16 the language that they understand. In addition, a
17 lot of the forms, especially recognizing that legal
18 language and law are sometimes difficult in their
19 terminology and can sometimes be difficult to explain
20 to non-lawyers. We've translated documents into I
21 believe 10 or 11 languages. I can confirm the exact
22 number of some of our core documents into those
23 languages to ensure that we reach out to those in a
24 language that they understand, and want to
25

2 communicate in, and that we've made efforts to also
3 speak in plain language as well. It's been another
4 priority of the Commission in order to ensure that
5 people are not turned away merely by lack of
6 knowledge of perhaps the legal text of our law or the
7 process that occurs. In the enforcement function of
8 the agency.

9 CHAIRPERSON EUGENE: Thank you very much
10 Mr. Stabila. Did I pronounce it correctly?

11 DAMIEN STABILA: You-you did. Thank you.

12 CHAIRPERSON EUGENE: Thank you very much,
13 and I just want to thank both of you and also Ms.
14 Zoey Chenitz, right.

15 ZOEY CHENITZ: [off mic] Yes.

16 CHAIRPERSON EUGENE: Thank you very much
17 for that testimony, and we are going to continue to
18 work together. I think this is something that we,
19 all of us should be part of in the City Council and
20 the Commission and other entities in New York City
21 even the operators also the landlords, all of us we
22 have to be part of the team because this is not
23 something that we are going to be successful in doing
24 when we work alone. The City Council alone cannot do
25 it. The Commission alone cannot do it. I think it

2 will take, you know, all of us to work as a team to
3 ensure we have in New York City the rights of people
4 are respected. Thank you very much.

5 ZOEY CHENITZ: [off mic] Thank you.

6 CHAIRPERSON EUGENE: Thank you.

7 DAMIEN STABILA: Thank you, Chair Eugene.

8 CHAIRPERSON EUGENE: Thank you.

9 [background comments] Now, let me call the members
10 of the next panel. You will forgive me if I
11 mispronounce your names. Karen

12 KAREN CACACE: Cacace.

13 CHAIRPERSON EUGENE: Cacace. Thank you.

14 I was trying to--thank you, Cacace, alright, thank
15 you. Elissa Devins from NYLAG. Saks is easy, this
16 is Saks but Ni--

17 NICOLE: Nicole.

18 CHAIRPERSON EUGENE: Nicole. Okay,
19 Nicole Saks. Thank you. Sarah Brockman. Thank you
20 very much. [background comments, pause] Thank you
21 very much. You may start any time please.

22 KAREN CACACE: [off mic] Hi. I'm Karen
23 Cacace. [on mic] Oh, can you hear me? Is that good?
24 Hi. Thank you so much. I'm Karen Cacase. I'm the
25 Director of the Employment Law Unit at the Legal Aid

2 Society. Our testimony is being handed up there. It
3 is missing a page so we have emailed it. I'm very
4 sorry about that. I want to thank Chair Eugene for-
5 for convening this and Council Member Lander and
6 Council Member Williams for sponsoring these-these
7 provisions. The Legal Aid Society's Employment Law
8 Unit represents low-wage workers in the city with
9 all-almost all types of employment claims, many
10 discrimination claims under the City Human Rights
11 Law. We are extremely fortunate to have the City
12 Human Rights Law because as-as the-we have already
13 heard, it is intended to be the broadest law in the
14 nation, and-and that is a wonderful thing for the
15 workers of the city. We are in full support of 136-A,
16 particularly its expansion of protections to
17 volunteers, to interns, independent contractors, and
18 the protections that will allow-that will require
19 franchisors to be liable for any discrimination
20 that's going on in the-in the-either the retail
21 establishment or the restaurant, whatever it is of
22 the franchisee. We see a lot of that, and that is a-
23 it is-it's very difficult to often obtain a remedy
24 for workers who work in a franchisee location because
25 the franchises may not have the assets that the

2 franchisor has. They just may not respond. To have
3 the franchisor have the responsibility for the
4 discrimination is going to be extremely important,
5 and it's perfectly appropriate because as—as you said
6 Council Member Lander they—they control so much
7 that's going on: How fast your pizza is delivered,
8 what exactly is put on your pizza. They certainly
9 can have the ability to control how they're—how the
10 franchisee employees are acting toward the workers.
11 So, we are in full support, but we don't think that
12 the bill goes far enough, and so, our concern is that
13 although the city law protects many categories that
14 other laws don't, and although it's—the remedies are
15 uncapped in terms of the emotional distress and
16 punitive damages that you can get, and although it
17 is—it say right in the statute how expansively it's
18 supposed to be interpreted. It does not apply to most
19 small employers. And so this is something that we
20 have talked about several times. There have been
21 bills in the past to eliminate the four employee
22 requirement, and the Legal Aid Society absolutely
23 thinks that should be done that this is a very good
24 first step, but that the next really is to just to
25 take out the four-person—four-employee requirement.

2 There are 14 states that have already done that. So
3 this is—this is not even an area where New York City
4 would have to be leading. It's—it's something where
5 we really need to catch up with other states, and it
6 is a problem that we see often. There are small
7 doctor's office, small lawyer's office, even small
8 restaurants where it is okay to discriminate against
9 someone based on their sex or their race or their
10 religion or any of the other categories protected by
11 the Human Rights Law. As long as it's—as long as
12 it's a small employer, there is no legal remedy under
13 the phase (sic) law, and so that is something that we
14 hope we can continue to talk about, and will be the
15 next step. As for Intro 799, we are—we are in full
16 support, and—and—and absolutely it should be clear
17 that anybody who requests a reasonable accommodation
18 should not be retaliated against because they're
19 making that request, and if they are doing so the
20 employer should be liable for a separate claim.
21 Thank you very much.

22 CHAIRPERSON EUGENE: And thank you very
23 much.

24 ELISSA DEVINS: Oh, okay.

25 CHAIRPERSON EUGENE: Hit it. Uh-hm.

2 ELISSA DEVINS: Oh. Hi. My name is
3 Elissa. Thank you for this opportunity to talk to
4 you--

5 CHAIRPERSON EUGENE: [interposing] You're
6 welcome.

7 ELISSA DEVINS: --in support of Intro
8 136. My name is Elissa Devins, and I'm a Senior
9 Staff Attorney at the New York Legal Assistance
10 Group. We have an employment law project. Today,
11 I'd like to focus on the franchisor or franchisee
12 component of the proposed--of Intro 136-A. We have a
13 lot of cases that involve franchisors and
14 franchisees, and it's been really frustrating
15 sometimes. I have a current case against a well
16 known fast food company. It's really sympathetic
17 facts. I have a young 17-year-old guy who was
18 looking for a part-time job, a recent cancer
19 survivor, amputee, really up in great physical
20 condition. He went to apply for a position, and got
21 the job. He was told to return. He came to the
22 office or came to the site and the manager saw his
23 leg and said, you know, I don't--with that you can't
24 work here. He sent him home. We filed his complaint
25 at the EOC and the franchisor, of course, just says,

2 you know, we're not liable and the individual
3 franchisee, which is a small employer has just
4 ignored—ignored us completely, and so this great kid
5 who has been discriminated against might not have
6 recourse unless eh goes through litigation, and then
7 we don't know because to go after the small employer
8 who doesn't respond or probably just end up in a
9 default judgment, and who knows what will happen. So,
10 we're so grateful for this proposed legislation, and
11 I think it could be really helpful for people like my
12 client.

13 CHAIRPERSON EUGENE: Thank you very much.
14 Next one.

15 NICOLE SALK: Okay. I think it's on.
16 Hi. I'm Nicole Salk from Brooklyn Legal Services,
17 part of Legal Services NYC from the Workers' Rights
18 and Benefits Unit. Thank you very much to Council
19 Member Eugene--

20 CHAIRPERSON EUGENE: [interposing] You're
21 welcome.

22 NICOLE SALK: --and Council Member Lander.
23 Thank you for holding this hearing. Thank you for
24 proposing this legislation. It is excellent
25 legislation, proposed legislation as has already been

put out by I think everyone who has testified today.

In particular, we liked the expansion to make it

clear that franchisors could be held liable if

they're—if—if, you know, anybody in the franchisee

company is—is discriminating. That's how extremely

important they are. It's an incentive to encourage

those companies as you have talked about Starbucks.

It's encourages—it encourages those larger companies

to put out, you know, training and to—and to really

discourage any kind of discrimination. That's

particularly an issue around sexual harassment. We

just recently had just in one of our offices two

separate potential clients coming in and complaining

about sexual harassment. It's a huge issue

especially in the retail world. The other thing that

I wanted to just briefly talk about also just the

other expansions to make it clear that family members

can be included in that four number, which is very

important that independent contractors actually and

volunteers can be included potentially in that four

number, which is really important because potentially

that employer could be one person who has, you know,

three other so-called probably misclassified

independent contractors, and it—the legislation needs

2 to be—the law needs to be clear not just for the
3 commission but for the law because this is a law that
4 is enforced sometimes in court. So, I think that's
5 really important. This isn't just an issue for the
6 Commission, this is—this is an issue potentially for
7 bringing a case in court where the Commission as
8 great and as wonderful as they are, and as expansive
9 as they look at these definitions, the courts don't
10 always do that. That's why this is really important,
11 and then the Commission may not always be as
12 progressive as they are right now. So, that's really
13 important for future—for future commissions. I also
14 just really wanted to say quickly that it is my
15 understanding that the Commission has lost about \$1.5
16 million in their current budget, which makes it
17 harder for them to enforce the law, and it's not
18 relevant specifically to this proposed legislation,
19 but it is relevant to the question that I think that
20 you asked Council Member Eugene about what can the
21 Commission do. It's harder for them if they have
22 less funds and less resources to do their work but we
23 thank you for all your support that you have given to
24 them, and also just in—in creating the best—some of
25 the best anti-discrimination law in the country. And

2 also for most recently putting out \$2.5 million for
3 employment legal services, which is really going to
4 help our community do the work that we need to do to
5 help low-wage workers. Thank you.

6 CHAIRPERSON EUGENE: Thank you very much.

7 SARAH BRAFMAN: Hi, good afternoon. My
8 name is--

9 CHAIRPERSON EUGENE: [interposing] Good
10 afternoon.

11 SARAH BRAFMAN: --my name is Sarah
12 Brafman. I'm an attorney with a Better Balance. We
13 are a non-profit legal advocacy organization that
14 works to ensure that working families don't need to
15 compromise their economic security when they have
16 caregiving responsibilities, and we are here like our
17 colleagues in full support of Intros 799 and 136.
18 The written testimony goes into both 136 and Intro
19 799, but I want to focus more on 799, and the anti-
20 retaliation provision, and I just want to paint a
21 picture of what that can really look like for someone
22 when they're retaliated against. So, we run a free
23 legal hotline where anyone can call us with questions
24 they have around workplace discrimination issues, and
25 we received a call from a worker. I'm going to call

1 her Star. She became our client. She was going back
2 to work. She had just had a baby, and she—before she
3 went back to work she said I'm going to need break
4 time to express milk. So, like was spoken about by
5 the Commission, pregnancy and lactation
6 accommodations are part of the Human Rights Law, and
7 she requested break time, and her supervisor the day
8 she came back, she found a written document that said
9 I explicitly do not want to follow this law, and I
10 don't want to give her break time to pump. And a few
11 days after she came back from maternity leave, they
12 fired her. So, she requested to make the
13 accommodation. She requested accommodations. She's
14 comes back and then they retaliate by firing her, and
15 this happens to people all the time, right? People
16 call. We specifically hear from a lot of people
17 requesting disability, pregnancy and lactation
18 accommodation, but this happens to so many people we
19 hear from who request accommodation, and it's not
20 just important to have clarity in the law for
21 enforcement—for enforcement agencies or for lawyers,
22 but it's important also for workers because before
23 they even need to get to an enforcement agency, they
24 can call us and if we can point them explicitly in
25

2 the law where they can go, and tell an employer no
3 you can't retaliate against me, then they can resolve
4 problems on their own. They don't necessarily have
5 need to come to, you know, the Commission on Human
6 Rights, or they don't need to necessarily then go to
7 court. They can actually resolve the problem on
8 their own, and when it's in the plain text of the law
9 that we can point them to that, then it makes it a
10 lot easier for them to advocate for themselves. So,
11 we really thank you for putting the clarity in the
12 law that not only lawyers and agencies need, but the
13 workers themselves need, and I want to thank you for
14 doing that both for the retaliation provision and for
15 independent contractors.

16 CHAIRPERSON EUGENE: Thank you very much.
17 Okay, thank you very much. Have a wonderful day.

18 SARAH BRAFMAN: Thank you.

19 CHAIRPERSON EUGENE: The next speaker
20 from the next panel is Jeff Hanscom from
21 International Franchise Association. Thank you very
22 much. [background comments, pause]

23 JEFF HANSCOM: Thank you, Chairman
24 Eugene. Thanks for having me, Council Member Lander.

25 CHAIRPERSON EUGENE: Welcome, sir. Uh-hm.

2 JEFF HANSCOM: Good to be with you all
3 this afternoon. I appreciate the time. My name is
4 Jeff Hanscom. I'm with the International Franchise
5 Association. We represent the franchise industry,
6 franchisors, franchisees, and a number of groups that
7 provide services to the franchise industry, marketing
8 firms, attorneys, things of that nature. We have
9 some pretty serious concerns with the language in
10 Intro 136-A specifically the franchise language as
11 our name would entail. We've heard—I've heard
12 sitting in the audience this afternoon. I've heard a
13 number of references to Starbucks and the
14 relationship that they have with their employees and
15 some of the things that they did last month in
16 relation to the anti-discrimination training and
17 things of that nature. All well and good. The key
18 difference Starbucks is the employer of all of the
19 baristas and folks who work in every Starbucks around
20 the country. Starbucks is not a franchise. The
21 franchise brands have no employment relationship with
22 the folks who work in the franchisee establishment.
23 There is no employment relationship there. The
24 employment relationship exists between franchisee
25 employee and franchisee. It does not exist between

2 franchisee employee and franchisor. The franchise
3 brand has no say over the hiring practices, the
4 firing practices, the wages, the benefits, things of
5 that nature. The franchisee provides to his or her
6 employees. Also, there is no control exerted by the
7 franchisor over day-to-day operations in the
8 franchises. Now, sure there are definitely
9 prescriptions what the food looks like, what the
10 décor looks like and things of that nature. The
11 point there being obviously one of the pillars of
12 franchises—franchising is to ensure it consists in
13 experience in franchise establishment here in New
14 York City to where I live in Virginia to Florida,
15 California. So, things of that nature. Obviously,
16 there has to be prescriptions in order to ensure that
17 my—your experience, my experience, or anyone's
18 experience is the same from franchise to franchise.
19 However, franchisor does not exert and does not have
20 any employment relation with the folks who work in
21 those establishments. Each one is locally owned and
22 operated. Here in New York or within New York City,
23 I should say approximately there are over 9,000
24 franchise establishments operating across the city
25 employing around 110,000 New Yorkers in one way,

1 shape or form, and we've heard throughout the morning
2 or I should say the afternoon, it seems to be very
3 focused on one segment of that industry thus far.
4 However, it's important to remember that right here
5 in New York there are over 700 brands operating in
6 the franchise model. There are brands in pet care,
7 home care, car care, gyms, childcare. Obviously,
8 your hotels, restaurants, 700 different brands, 700
9 plus different brands operating. Just under the
10 International Franchise Association, we have upwards
11 of 1,400 brands operating across 300 plus lines of
12 business all of which are impacted by the language in
13 136-A. It is a per se determination of liability
14 when there is no employment-employer relationship
15 between a franchise brand and a franchisee employee.
16 Some of the language that's inserted just-just prior
17 to the franchise language I believe it's Section B as
18 opposed to C as the franchise language, goes through
19 a test of employment. You have to direct it in
20 immediate control or some sort of control over the
21 employment conditions of an employee in order to be
22 considered an employer under 136 or the Human Rights
23 Law. And then it goes on to say but for the franchise
24 industry it's a per se determination of liability.
25

2 Why would we—why we not and—and use the same test
3 that—that is being inserted for all employers? Why
4 single out one segment of the economy, and dispense
5 with any sort of facts by facts or case by case or
6 fact finding analysis in any employment relationship.
7 We're happy to work with you all on it. We do think
8 that obviously protecting the civil and human rights
9 of every New York employee is of paramount
10 importance, and we think that that should be a
11 liability for any violations thereof would best be
12 served by enforcing them against the responsible
13 party, which in this case would be the ultimate
14 employer, and in our instances the franchisee, and
15 with that I'd be happy to have a conversation or take
16 any questions.

17 CHAIRPERSON EUGENE: Thank you. Thank
18 you very much.

19 COUNCIL MEMBER LANDER: I have some
20 questions.

21 CHAIRPERSON EUGENE: Okay. [laughter]
22 Council member Lander, please.

23 COUNCIL MEMBER LANDER: Thank you, Mr.
24 Chair. I know we want to move through the hearing,
25 and I won't spend too long as much as I'm tempted,

2 and obviously we can follow up, and obviously we have
3 a different point of view.

4 JEFF HANSCOM: Sure.

5 COUNCIL MEMBER LANDER: But your point--
6 your--your--so we'll just and I was trying to use the
7 Starbuck's and Dunkin' Donuts example to explore--to
8 exactly explore this question, what we would expect
9 from a corporate employer who does, in fact, employ
10 directly all the employees--

11 JEFF HANSCOM: Uh-hm.

12 COUNCIL MEMBER LANDER: --and a franchise
13 employer. So, Dunkin' Donuts is looking to have the
14 same level of control over how the latte is presented
15 to their customers that Starbucks is, I assume. Yes?

16 JEFF HANSCOM: I would assume Dunkin'
17 Donuts has the same interest in presenting a
18 consistent experience across any Dunkin' Donuts.
19 Yes.

20 COUNCIL MEMBER LANDER: But it's okay for
21 them not to care about whether there's a consistent
22 application of the New York City Human Rights Law
23 against discrimination. That's your--that's your
24 legal position here?

25 JEFF HANSCOM: [laughs] No, I--

2 COUNCIL MEMBER LANDER: [interposing] I
3 mean I don't mean it as a root. I think it is. I
4 don't mean it to be obnoxious. Like I think you're
5 saying that they can be held to the same, you know,
6 standards of how to make the latte or how to present
7 the store, but not how to protect-

8 JEFF HANSCOM: [interposing] The key-

9 COUNCIL MEMBER LANDER: --the New York
10 City Human Rights Law.

11 JEFF HANSCOM: The key difference in your
12 example Starbucks has an employment relationship with
13 the folks who work in each Starbucks--

14 COUNCIL MEMBER LANDER: [interposing] But
15 that doesn't make them less able to guarantee that
16 the latte is presented in the--in precisely the way
17 that they want it presented. So, why should it
18 prevent them from making sure that the employer--the
19 manager of that store--

20 JEFF HANSCOM: [interposing] Sure.

21 COUNCIL MEMBER LANDER: --follows the
22 Human Rights Law?

23 JEFF HANSCOM: Apples and oranges.
24 Starbucks makes a conscious decision to a corporate
25 entity and have corporate stores. Dunkin' Donuts

2 made a conscious decision to go into the franchise
3 model. The franchisee is the person who is the
4 employer. Dunkin' Donuts--

5 COUNCIL MEMBER LANDER: [interposing] I
6 got it,

7 JEFF HANSCOM: Okay.

8 COUNCIL MEMBER LANDER: --but the
9 employee at the Dunkin' Donuts makes the latte,
10 right?

11 JEFF HANSCOM: Sure. COUNCIL MEMBER
12 LANDER:

13 COUNCIL MEMBER LANDER: Sure, and--and
14 Dunkin' Donuts is able to exercise a level of control
15 through its franchise agreement that determines how
16 that employee is going to make the latte.

17 JEFF HANSCOM: Okay.

18 COUNCIL MEMBER LANDER: So, if they
19 provided a set of trainings for the manager if they
20 insisted that just like you've got to have a training
21 to make that latte, you've go to have a training to
22 make sure you follow the Human Rights Law. Why would
23 they be less able to ensure that their franchisees
24 and their employees are complying with the Human

2 Rights Law than they would complying with the
3 guidance on how to make the latte?

4 JEFF HANSCOM: I'm not sure I'm following
5 your logic. However, simply by providing a best
6 practices manual that it would—talks about how to
7 make a latte, how to treat an employee, how to treat
8 a customer. That in and of itself does not create a
9 per se liability.

10 COUNCIL MEMBER LANDER: It does create an
11 affirmative defense, though if you look at 8107 under
12 the Human Rights Law, there is a guidance that when
13 you seek to enforce against an employer an
14 affirmative defense that the employer can bring is
15 that they—and that's the whole point of covering
16 employers. Starbucks Corporate is obviously also not
17 on the ground in each Starbucks here to make sure
18 that every employee follows the New York City Human
19 Rights Law.

20 JEFF HANSCOM: Uh-hm.

21 COUNCIL MEMBER LANDER: The way the law
22 is written relating to broader corporate and employer
23 liability provides an encouragement for companies to
24 provide a corporate culture and practice and set of
25 policies that complies with the New York City Human

2 Rights Law and that's what we are looking to have
3 done in the franchises.

4 JEFF HANSCOM: Sure, and we are more than
5 supportive of having everybody comply with the New
6 York Human Rights Law. Franchisees are the ultimate-
7 -the business owners. They operate under the
8 national brand. The national brand is just that. It
9 is a brand. It is not an employer. It has no
10 employment relationship with the folks in that
11 establishment. So, if there is an issue, there is a
12 discrimination issue among employer and employee, the
13 issue is with employee or employer I should say, and
14 in this instance the employer is the franchisee.

15 COUNCIL MEMBER LANDER: What if there was
16 a franchise where there was a case of systemic
17 discrimination where-I won't name one here because I
18 don't want to accuse anybody, but what if there was a
19 franchise where it-it turned out that across the
20 franchise operation there was a systemic situation of
21 discrimination?

22 JEFF HANSCOM: So, in that instance--

23 COUNCIL MEMBER LANDER: [interposing]

24 That would just--

2 JEFF HANSCOM:--[interposing] What
3 exactly 136-A does away with is a case-by-case
4 analysis, but there is no case-by-case.

5 COUNCIL MEMBER LANDER: There's always a
6 case-by-case analysis of every act of discrimination
7 know, and so--

8 JEFF HANSCOM: [interposing] The language
9 in 136-A does not allow for a case-by-case analysis
10 with regards to franchising. It is a per se
11 liability that franchisors are automatically liable
12 for the actions of their franchisees.

13 COUNCIL MEMBER LANDER: Okay. I mean but
14 we didn't look at 8107, which then goes through all
15 the ways in which an employer in one of these
16 situations is looked at. It's not only covered in
17 136-A. The existing Human Rights Law speaks to the
18 responsibilities an employer has. I may not be
19 referring to the section correctly.

20 JEFF HANSCOM: [interposing] No, again--

21 COUNCIL MEMBER LANDER: So, I know of
22 where we're talking. (sic) You know, I won't go on
23 here. The Chair is--we'll be glad to have this
24 conversation afterwards and if-if you think there is
25 a better way to achieve what you hear the goal is--

2 JEFF HANSCOM: Uh-hm.

3 COUNCIL MEMBER LANDER: --because the goal
4 of covering them is partly to create a situation of
5 liability, but in my mind, the value of that
6 situation of liability is to give—I don't think
7 people will be able at the level of the individual
8 franchisee, I don't believe they will be able to
9 develop the training practices and materials. Think
10 about how to put together a corporate culture. Think
11 about how to do employment in the ways that root out
12 discrimination any more than they would be able to
13 make exactly the kinds of products that their
14 franchisers expect them to make--

15 JEFF HANSCOM: [interposing] Sure.

16 COUNCIL MEMBER LANDER: --without their
17 resources being spent by the franchise company to
18 help them do so. So, the goal here is to make sure
19 that franchise companies have just as much incentive
20 to make sure that corporate policies and corporate
21 practices and corporate resources are spent ensuring
22 compliance with the Human Rights Law just like they
23 do in all these other areas, and just like
24 increasingly corporate employers recognize that they
25 have to do.

2 JEFF HANSCOM: Uh-hm.

3 COUNCIL MEMBER LANDER: If you've got
4 other thoughts on how we could ensure that happened
5 and adjustments to the legislation of the law that
6 will help us achieve that, we'd be glad to look at
7 them--

8 JEFF HANSCOM: Okay.

9 COUNCIL MEMBER LANDER: --but that is our
10 goal and we'd be--if you share that broader goal--

11 JEFF HANSCOM: [interposing] Yes.

12 COUNCIL MEMBER LANDER: --then perhaps we
13 could find some appropriate ways to address that.

14 JEFF HANSCOM: Happy to do it. As I
15 mentioned we as an industry and fully supportive of
16 having New York City Human Rights Laws apply as
17 appropriate and protections be as robust as possible
18 and we'd be happy to work with you--with you all on
19 it. Again, just reiterating our concern would be with
20 the language in 136-A. As currently authored, it is
21 unprecedented. There is no law like it anywhere in
22 the country.

23 COUNCIL MEMBER LANDER: That makes us
24 happy so if that is a counter argument then it won't
25 be that effective.

2 JEFF HANSCOM: Yes.

3 COUNCIL MEMBER LANDER: We're thrilled to
4 have that. (sic)

5 JEFF HANSCOM: Pointing out the facts,
6 someone mentioned in testimony previous that New York
7 wouldn't be leading on this. In this instance, this
8 is unprecedented at any city, state or federal level
9 and offers, again very serious concerns for us, but
10 with that being said, we are more than happy to work
11 with you on how to achieve the overarching goal, and
12 we think that there are certainly ways to do so. So,
13 I appreciate your time. Thank you.

14 COUNCIL MEMBER LANDER: And I have no
15 more questions, Mr. Chair.

16 CHAIRPERSON EUGENE: Thank you very much
17 Council Member Lander and Mr. Jeff, thank you. Thank
18 you very much. Thank you for your testimony.

19 JEFF HANSCOM: Thank you very much.
20 Appreciate it.

21 CHAIRPERSON EUGENE: Thank you very much.
22 Let us call the next panel. Please when I pronounce
23 your name if I'm very close or if you don't
24 understand what I'm saying, please come. Because it
25 is very difficult to read the writing of certain

2 people even this is very artistic. We will call
3 Jillian Barron. I believe this is correct, right?

4 JILLIAN BARRON: [off mic] Yes.

5 CHAIRPERSON EUGENE: Very good. We got
6 this right. Margaret McIntyre. Thank you very much.
7 Ziff I believe. Is that correct? Alright. Jessica
8 Perez. Thank you so very much. [background comments,
9 pause] You can start any one of you. Please state
10 your name for the record. [pause]

11 JULIAN DARWALL: I'm Julian Darwall. I'm
12 the Senior Staff Attorney at the Sikh Coalition, and
13 I'm going to be speaking with respect to Intro No.
14 799. Thank you, Chair Eugene and Council Member
15 Lander for having me. The Sikh Coalition is a non-
16 profit and non-partisan national community based
17 organization, and our goal is to work toward a world
18 where Sikh and other religious minorities in America
19 will be able to practice their faith freely without
20 bias and discrimination. Our legal program addresses
21 issues of bias and discrimination on a daily basis.
22 The Sikh has worked to secure safer schools, counter
23 hate and discrimination, create equal employment
24 opportunities and empower the Sikh community. We
25 strongly support the proposed amendment because it

2 would strengthen crucial protections for religious
3 minority groups by prohibiting retaliation by
4 employers and landlords and others against those who
5 ask for reasonable accommodations. As we know from
6 our work, protections against retaliation give teeth
7 to the important legal protections that exist.
8 Sikhism is the world's fifth largest religion and
9 there are more than 20 million Sikhs around the world
10 with over half a million Sikhs in New York. Sikhs
11 have a physical identity that makes them stand out in
12 public including turbans and five articles of faith:
13 Case (sp?), unshorn hair; conga (sp?), a small comb;
14 cotta (sp?), a steel bracelet; kerpon (sp?) a
15 religious article and kachara (sp?) underpants. In
16 order for Sikhs to abide by their sincerely held
17 beliefs, they must maintain the articles of faith and
18 often must secure uniform accommodations from
19 employers. For example, headwear and beards are
20 prohibited by many employers and an accommodation
21 must be negotiated for a Sikh to practice the faith
22 an carry out workplace duties. Employers are often
23 unwilling to provide these religious accommodations,
24 and many have take adverse actions against—when Sikhs
25 assert their right to an accommodation. Sometimes

2 the retaliatory act is overt as for example when an
3 employee is fired. In other cases, an employee may be
4 subject to more subtle adverse actions such as a
5 change in job roles, being singled out for pre-
6 textual sanctions, facing segregation in the
7 workplace or being made the subject of hostile
8 treatment. Therefore, prohibitions on retaliations
9 are fundamental to the proper functioning of rules
10 that require accommodations. We believe that any
11 request for religious accommodation including an
12 informal verbal request should fall under the
13 protection provided by the proposed amendment. The
14 Sikh Coalition has served numerous clients and
15 employment disputes involving religious
16 accommodations often addressing issues of
17 retaliation. In 2004, we represented Mr. Hari
18 Sinculsa (sp?) formerly known as Kevin Harrington, a
19 practicing Sikh employee of the MTA. Mr. Sinculsa
20 heroically served New Yorkers during 9/11 when he
21 carefully reversed a train away from Lower Manhattan
22 saving lives. In the aftermath of 9/11, the MTA
23 sought to remove him from his post because he wore a
24 turban. Mr. Sinculsa wished to continue operating
25 trains while wearing his turban, which would require

1 a uniform accommodation, but the MTA plans to
2 relegate him to a lesser position in the train yard
3 if he did not get off his request. Without
4 intervention by the Sikh Coalition the MTA would have
5 demoted a heroic veteran train operator in adverse
6 acts taken in response to his desire for a uniform
7 accommodation. The proposed protection for
8 employers—for employees is crucial for people like
9 Mr. Sinculsa because it prevents employers from
10 adding insult to injury. They cannot be allowed to
11 enforce discriminatory denials of religious
12 accommodations with additional wrongful actions.
13 During the same period, the Sikh Coalition
14 successfully represented Frank Mahoney Burrows a
15 practicing Sikh and senior sales associate with Auto
16 Zone after he was mistreated and then terminated
17 after a religious accommodation request. Mr. Burrows
18 adopted the Sikh faith and asked to wear his turban
19 at work. His manager threatened to grab and throw
20 him out of the store, and later forced him to either
21 take his turban off, or go home. Mr. Burrows also
22 suffered verbal humiliation by both colleagues and
23 customers after his request for an accommodation and
24 without the proposed amendment, employees like Mr.
25

Burrows would be unprotected under the Human Rights Law for retaliatory actions such as those taken by Auto Zone in response to the request. In 2015, the Sikh Coalition represented a practicing Sikh mail carrier who was told by Disney World that because his turban and beard had to be hidden from guests that he would be relegated to a single mail route. Our client requested to continue his regular mail routes where he would be seen by customers with his religiously mandated turban and beard. In negotiating a settlement, the Sikh Coalition was able to convince Disney not only that they should accept this accommodation, but also that any adverse action taken in response would be subject to the protections against retaliation applying under Title 7 of the Civil Rights Act of 1964. Employees who seek to assert their rights under the Human Rights Law deserve the same protections against retaliation as those asserting rights under federal law. Forcing a person to choose between their religion and their profession deprives them of their right to free religious exercise. As we have seen too often, retaliation is a common step by some employers—that some employers take in response to requests for

2 religious accommodations. Retaliation can range from
3 overt actions like termination to more subtle ones,
4 and in order for the accommodation rights provided
5 under the Human Rights Law to have their desired
6 effect, it must be prepared with corresponding
7 protections against retaliation. Thank you.

8 CHAIRPERSON EUGENE: Thank you very much,
9 sir. Next speaker, please.

10 MARGARET MCINTYRE: Thank you Chair
11 Eugene, and Council Member Lander. My name is
12 Margaret Macintyre. I'm chair of the Legislative
13 Committee of NELA New York, which is the New York
14 Affiliate of the National Employment Lawyers
15 Association. NELA New York has about 350 members and
16 across the state mostly in New York City and we are
17 on the frontlines of working to enforce this great
18 law that we have here and NELA New York deeply
19 appreciates the willingness of the City Council to
20 continue to seek to improve the city Human Rights Law
21 and to ensure that it is effectively enforced. I'm
22 just going to speak in favor of both Intro 136-A and
23 also 799. I'll start with 136-A. We support this
24 bill in its entirety, and think that it will serve to
25 make it clear who is responsible and who is not.

2 The—one of the common problems is when an employer
3 has four employees and one gets fired and they're
4 down to three, are they off the hook [laughs] and
5 this bill will stop that little loophole. I also
6 think that—that Section 3, which makes—makes clear
7 that the law protects directors, officers, members
8 and partners is extremely important in terms of, you
9 know, getting at this—this concept that we want to
10 stop discrimination in New York City not just figure
11 out ways that some people are protected and some
12 people aren't. Again, and it's extremely important
13 that volunteers, interns and independent contractors
14 are covered. I think it's important that in terms of
15 covering the—I just want to say something about this
16 franchise situation. I mean we see again and again
17 that franchisors do exercise a lot of control over
18 the workplace. It seems to be kind of a lot of very,
19 very strict requirements, and I think that what—the—
20 the point that is important about this is that what
21 matters is that the—the person or entity that has
22 control whether it's in the form of being involved in
23 the workplace or whether it's—it is involved in
24 setting all of the rules and regulations that the
25 franchisee must control—must abide by. That's what

2 matters is who has control over it. Who can stop
3 this and I think that this bill as it is does make it
4 clear that having one particular model for, you know,
5 the corporate structure of—of an agency or a work
6 place is—should not be a way of evading
7 responsibility for the law. And then, with respect
8 to Intro 799, I can tell you this is—from personal
9 experience, this is a very important loophole being
10 closed. I had a client who went to the EEOC on his
11 own to complain about disability discrimination, and
12 it never even occurred to him to check the
13 retaliation box, and then when we had to go to court,
14 and I said—and I added retaliation under State and
15 City Law even though he hadn't thought—he hadn't
16 checked it at the EEOC, the lawyer for the employer
17 said oh, no. That's not covered. Requesting a
18 reasonable accommodation is not protected activity
19 under State and City Law, and I looked it up and
20 yeah, that's the case and our testimony mentions
21 these cases and so NELA New York feels very strongly
22 that 799 closes an important loophole, and we urge
23 the Council to pass both of these laws. Thanks.

24 CHAIRPERSON EUGENE: Thank you very much.
25 The next speaker please, and Sarah.

2 SARAH ZIFF: [off mic] Hello. Thank you
3 so much for the opportunity to—oh, is this.

4 SERGEANT-AT-ARMS: Hit the button.

5 SARAH ZIFF: [on mic] Oh. Is that
6 better?

7 CHAIRPERSON EUGENE: Yes.

8 SARAH ZIFF: Alright, thank you for the
9 opportunity to testify today. My name is Sarah Ziff
10 and I am a model and founder and Executive Director
11 of the Model Alliance. Too often models are treated
12 as objects, and not as legitimate members of the
13 workforce who deserve to be treated with the same
14 dignity and respect as anyone else who works for a
15 living. As a model who started working at the age of
16 14, I've had a good career. That said, my peers and
17 I have experienced inappropriate demands including
18 routinely being put on the spot to pose nude, and
19 provide sexual favors. In some cases, models are
20 being treated more like escorts with their agency
21 sending them to know predators, and putting them in
22 compromising situations that no child, no person
23 should have to deal with. Essentially, all working
24 models operate under fixed term exclusive contracts
25 to their modeling agencies who exert a great deal of

2 control over their working lives. The agencies then
3 contract with a client whether that's a fashion brand
4 or publishing company for the model's work. Because
5 the primary purpose and activity of modeling agencies
6 is to obtain employment for their models, they should
7 be treated as employment agencies under the law,
8 which would subject them to necessary licensing and
9 regulation. Instead, though, these agencies call
10 themselves management companies creating a huge
11 loophole through which they evade this closer look by
12 the government. Further, modeling agencies in New
13 York argue that models are independent contractors,
14 and although the New York City law protects
15 independent contractors against sexual harassment,
16 because of the multi-level structure of hiring in the
17 modeling industry, between the model, her agency and
18 the client, we're concerned that the city law
19 generally does not apply to models either. So, when
20 a company directly hires an independent contractor,
21 the company can be sued for violating the New York
22 City Human Rights Law. However, when a client
23 contracts a modeling agency to hire a model and the
24 modeling agency sends the model to the client, we're
25 worried that the multi-level structure of contracting

2 is going to bar the model from bringing a claim. And
3 Council Member Lander, thank you very much for
4 introducing this important bill. I understand that
5 it would make explicit that all persons who perform
6 work for an employer including independent
7 contractors, whether they're paid or unpaid are
8 considered employees and I wonder what—what does
9 perform work for an employer mean or include? You
10 know, models don't typically work for their agencies.
11 Rather, they're working for the client, and so does
12 that still count? That's really my main question
13 here. I guess I'm supposed to be testifying not
14 asking you questions, but essentially the modeling
15 industry really deserves a closer look from the New
16 York City Council, and the perceived glamour of the
17 industry and gaps in the law should no longer be used
18 to deny models a safe workplace or a appropriate
19 recourse if abuse occurs. We really deserve no less
20 than any other segment of New York City's workforce.
21 Thank you.

22 CHAIRPERSON EUGENE: Thank you very much.
23 Next speaker, please.

24 JESSICA PEREZ: Hello. Can you hear me?
25 Okay. Hi. My name is Jessica Perez. I have worked

2 also as a model in the fashion industry for more than
3 15 years. The fashion industry operates as if the
4 regulation of just common decency doesn't exist in
5 this country. You would be hard pressed to find a
6 mode who hasn't experienced some form of harassment
7 or discrimination while at work. The reason for this
8 is that every fashion industry professional who is
9 represented by an agency is considered a freelancer
10 in the eyes of the law. I can say with confidence
11 that the majority of us have been the victims of
12 highly inappropriate comments, discrimination,
13 threats, and coercion into actions that were against
14 our own wishes. To give you an example, when I was
15 18 years old, I was hired for a magazine shoot and
16 told my agent to let the client know I did not shoot
17 nudes or clothes that were transparent. I got to the
18 site and was instantly pressured by the stylist and
19 everyone around her to agree to shoot a transparent
20 top without a bra underneath. I was told if I didn't
21 do it, I would get nowhere in my career. I said no.
22 This stylist barely looked at me as she threw clothes
23 at me to put on. As soon as I got on the set, she
24 came up behind me, ripped off my skirt and underwear
25 and left me standing there with nothing on the

2 bottom. There, she said to me. You said you didn't
3 want to shoot a sheer top. That's what you get. I
4 could literally be here all day telling you stories
5 like these that I've either experienced or have heard
6 second hand. These stories have happened while other
7 adults were in the same room with us all too afraid
8 to stand up and speak out for the same reason we
9 didn't do so. We were afraid of the consequences.
10 We were afraid to lose our jobs, afraid to lose our
11 income. We were afraid to put our livelihood at
12 risk. The, "She will never work again in this town"
13 talk that is often used in TVs and movies for comedic
14 relief is very much a real threat for a freelancer in
15 the fashion industry. Models, makeup artist, hair
16 stylists, photographers are constantly threatened to
17 be blacklisted by clients for a wider array of what
18 should be illegal reasons. There is nothing in place
19 right now to stop these abuses from taking place, and
20 in the meantime these abusers are laughing at you.
21 They know that freelancers don't have any protections
22 and they are acting accordingly. I implore you to
23 not let them continue laughing at you at our expense.
24 The cost has already been too high. Thank you.

2 CHAIRPERSON EUGENE: Thank you very much.
3 Thank you so very much, and to all of you all four of
4 you thank you very much for your testimony. Thank
5 you.

6 COUNCIL MEMBER LANDER: I'll be very
7 brief.

8 CHAIRPERSON EUGENE: Please. One minute.

9 COUNCIL MEMBER LANDER: Thank you.

10 CHAIRPERSON EUGENE: Very brief, Council
11 Member Lander, please.

12 COUNCIL MEMBER LANDER: Yeah, thanks to
13 all of you--

14 CHAIRPERSON EUGENE: Thank you.

15 COUNCIL MEMBER LANDER: --and I just want
16 to thank Ms. Perez and Ms. Diff especially for being
17 here and for the work you've done with us both to
18 help make sure we try though the Freelancers and Free
19 Act to make things a little better and to prevent
20 models from getting stiffed, and I'd be interested
21 after this hearing if you know how that is going, and
22 whether people have been able to avail themselves of
23 that law, and I'd also be happy to sit down together,
24 and maybe we could do it with Assemblywoman Razak
25 (sp?) who I know you've been working with at the

2 state level. Obviously, protections we could provide
3 at the state level could be even broader and
4 stronger, and if that will happen, wonderful, but if
5 not if there are other things that we can look at in
6 the city law around the exclusive contracts or around
7 some of these other provisions we'd be—we'd be happy
8 to do so. So, thank you.

9 CHAIRPERSON EUGENE: Thank you, Council
10 Member Lander. Thank you very much to all of you.
11 Thank you.

12 JESSICA PEREZ: Thank you. [pause] The
13 next panel is Caitlyn Pearce. Alright, thank you
14 very much. [pause] Lena Evans. Alright, thank you.
15 Carlita Salas. Thank you. Fudien Muchatson (sp?)
16 Karen Bagwell. Thank you very much. [background
17 comments, pause]

18 Hello. Okay.

19 CHAIRPERSON EUGENE: You can start and
20 please remember to state your name for the record.

21 CAITLIN PEARCE: Absolute. I'm Caitlyn
22 Pearce the Executive Director of Freelancers Union.
23 Good afternoon, and on behalf of the 150,000 New York
24 City freelancers that we represent, we want to thank
25 the committee for having this hearing. Thank you,

2 Chair Eugene for chairing and especially thank
3 Council Member Brad Lander for his continued
4 leadership, and being a champion for the freelance
5 workforce. So, freelancers are a huge and important
6 part of the fabric of New York City living and
7 working in every single borough. Nationally, we
8 represent 36% of the workforce and contribute over
9 \$1.4 trillion to the economy every year.
10 Unfortunately, despite our growing numbers,
11 freelancers continue to face harassment and
12 discrimination in the workplace, as we've heard today
13 with very few protections or paths for recourse. The
14 simple truth is that too many freelancers must go to
15 work feeling unsafe. They rarely have a supervisor or
16 HR department where they can safely report
17 violations, rarely have coworkers they can confide
18 in, or an adequate safety net that would allow them
19 to pursue recourse from clients who threaten to
20 retaliate. Even employers with progressive and
21 inclusive policies for the employees rarely to never
22 include any protections or considerations for their
23 freelance contractors. Generally, independent
24 workers are facing these issues alone and for many
25 bringing attention to acts of harassment of

2 discrimination will mean losing the client. Not
3 surprisingly, Freelancers Union's research shows that
4 75% of incidents that freelancers are experiencing go
5 unreported, and I think that's a pretty conservative
6 estimate. I would like to thank the Freelances Union
7 members who are here today. They represent countless
8 freelancers who have had to endure abuse or walk away
9 often at great professional and personal cost. I did
10 want to share the experience briefly of one member,
11 Angela Ivana, a makeup artist from Astoria, Queens,
12 who submitted testimony, but could not be here today
13 because she needed to work. So, from Angela: As the
14 only African-American female beauty professional, I
15 was held to different standards than everyone else in
16 the agency. I was told I could not have a photograph
17 on the agency website because my agent did not want
18 his clients to see that I was black. On one
19 occasion, he told me that a photographer I was booked
20 to work with was also African-American, and that I
21 should "Get along with other black people and make
22 friends on this job, and to keep a smile on my face
23 so they don't think I'm a black (expletive) that I
24 won't repeat here." This discrimination meant that I
25 was excluded from larger paying jobs and campaigns.

2 I was put in a position where I was reliant on
3 pleasing the person discriminating against me to
4 ensure that I could feed, clothe and house myself.
5 My health and wellbeing began deteriorating. When I
6 decided to leave the agency, I lost all of my
7 contacts and had to rebuild my entire career. I had
8 to exhaust my savings to survive, and now I'm still
9 struggling to find work today, a year and a half
10 later. With no repercussions, my agent abuse and
11 harassed over 20 professionals on his roster. As
12 contractors, we didn't know who to report his
13 behavior to. Since we were all freelancers and
14 dependent on the income of a person who facilitated
15 our work, people were hesitant to speak up. Living
16 in New York is expensive, and there's a constant
17 threat of being able-unable to survive here. Last
18 year the New York City Council led by example and was
19 the first in the nation to pass the Freelance Isn't
20 Free Act, which really recognized the challenges that
21 freelancers are facing in this new economy. We all
22 know that more work needs to be done. Independent
23 workers must have a clear path to report workplace
24 issues, and equal protection from retaliation. And
25 just to reiterate the argument that's made by many,

2 is so important to clearly state in the law and
3 clarify this law so that freelancers are protected
4 not just for the workers themselves, but also to
5 really show clients and hiring parties. So, many of
6 them who really believe that if they're hiring a
7 worker as a freelancer then they can do whatever they
8 want because that worker will have no rights and no
9 backing from the city, and—and this is not true, and
10 we need to make that statement. On behalf of
11 Freelancers Union, I urge Council Members to pass
12 this bill, and to clarify Human Rights Law protects
13 millions more of the city's working people. Thank
14 you.

15 CHAIRPERSON EUGENE: Thank you very much.
16 Next speaker please. [background comments, pause]

17 CATALINA SALAS: Sorry. I'm a little
18 challenged when it comes to microphones. I'm going to
19 be testifying on—sorry. I'm going to be testifying
20 on sexual assault in the workplace [coughs] and I had
21 the wonderful folks at the Freelancers Union help be
22 add it down in my testimony, but for the purposes of
23 giving you my full or at least most of my story so
24 you can make an informed decision. I was able to get

2 it to like 5-1/2-5 minutes and 30 seconds. May I
3 have 5 minutes and 30 seconds?

4 CHAIRPERSON EUGENE: [off mic]

5 CATALINA SALAS: Get closer? Okay.

6 CHAIRPERSON EUGENE: [off mic] We would
7 love to hear your story.

8 CATALINA SALAS: Okay.

9 CHAIRPERSON EUGENE: [on mic] We would
10 love to hear your story what you're going to share
11 with us, and we are very, very concerned about it,
12 but for the sake of time and also other people want
13 to testify, please try to shave it a little bit.

14 CATALINA SALAS: Got it.

15 CHAIRPERSON EUGENE: Okay?

16 CATALINA SALAS: Thank you.

17 CHAIRPERSON EUGENE: Thank you very much,
18 but again, we are very concerned about your case.

19 CATALINA SALAS: Thank you.

20 CHAIRPERSON EUGENE: Very. That's the
21 reason this hearing is taking place. Alright.

22 CATALINA SALAS: Thank you.

23 CHAIRPERSON EUGENE: Thank you.

24 CATALINA SALAS: Hello. My name is
25 Catalina Salas. Thank you for the opportunity

2 [coughs] to speak with you today. I'm sorry. I'm not
3 going to be able to look at you as I speak. I'm a
4 freelance marketing expert working in the Financial
5 District in Manhattan, but back then in 2002, I was
6 in college and working in Midtown at Papillon Bistro
7 and Bar at 22 East 54th Street and Madison Avenue.
8 As a restaurant hostess, at first I was an employee,
9 but then was asked Thomas Burke at Papillon Bistro
10 and Bar and one of his business partners to Conrad
11 Gallagher an award winning chef from Ireland to help
12 out for two weeks with the launch of a new restaurant
13 in Boston. They stopped paying me as an employee and
14 converted me to a freelancer for this project. I
15 believe it was with the specific purpose of reducing
16 my rights, and covering their tracks because of what
17 would happen on this trips. After the first long day
18 of work in Boston, we gathered at the local
19 restaurant and bar and go over the biggest work. Mr.
20 Gallagher placed the order and grabbed the drinks for
21 Mr. Burke and for himself and gave me a fruit punch.
22 Since I was under 21 and not of legal drinking age, I
23 would never have imaged that the fruit punch was
24 highly alcoholic. I drank some of the punch and soon
25 after my eyesight became blurry, and I experienced

2 difficult walking. Despite feeling sluggish, tired
3 and out of sorts, I made it to my hotel room and was
4 shocked and confuse to find Mr. Gallagher there. I
5 was fading quickly and recall passing out as I was
6 questioning what he was doing in my room. I don't
7 know how much time had passed, but I woke up next to
8 find Mr. Gallagher completely naked and on top of me.
9 I passed out again and woke up the next morning. I
10 quickly gathered by stuff including my luggage as I
11 prepared to head out the door. Mr. Gallagher woke
12 and asked me if I was going to tell anyone about what
13 happened, and I said no but this can't happen again.
14 He insisted on speaking some more, but I couldn't
15 because I was feeling extremely unsafe. At that
16 moment, I felt the only safe option I had was to
17 leave the hotel room. I was 19 or 20 years of age
18 and Mr. Gallagher, my boss on the project, was 31 or
19 32. By not addressing the sexual assault, I ensured
20 I wouldn't fall apart emotionally and I was concerned
21 with keeping my job. I couldn't afford to lose it,
22 but I'm not just here because of what Mr. Gallagher
23 did to me. I'm also here because of what Mr. Burke,
24 my former boss and Mr. Gallagher's business partner
25 did to me. Mr. Burke is the owner of the following

1 four restaurants here in New York City: Papillon
2 Bistro and Bar on 54th Street and Madison Avenue;
3 Oscar Wilde, New York City on 27th Street and 6th
4 Avenue; Lillie's Time Square on 49th Street and 8th
5 Avenue; Lillie's Union Square on 17th Street and
6 Fifth Avenue. Within 24 hours of being sexually
7 assaulted by Mr. Gallagher, Mr. Burke attempted to
8 sexually assault me. After a very long second day of
9 work, Mr. Burked handed me what looked like a glass
10 of water and tasted like water, but upon drinking
11 some of it, I began to feel very dizzy and the room
12 we were in started spinning. Given the intensity of
13 my drowsiness, dizziness, slurred speech, and loss of
14 vision, I felt vulnerable, confused and concerned for
15 my safety. I then told Mr. Burke that I wasn't
16 feeling well, and needed to safely get back to my new
17 hotel room. Mr. Burke kept insisting that he go up
18 to my hotel room with me. I kept pushing his
19 advances away, but he wouldn't take no for an answer.
20 I quickly rushed to my hotel room and away from. At
21 that time, I didn't know what was happening to me,
22 but, yes sir, I came to know with certainty that Mr.
23 Burke had drugged the water he handed me with what I
24 believe is GHB Ketamine mixture due to the symptoms I
25

2 experienced, a common date rape drug. Within a
3 minute of placing the latch on the door, I stumbled
4 over to the bed and suddenly blacked out. I laid
5 unconscious for 12 hours before beginning to realize
6 [crying] that my body was completely paralyzed. Not
7 knowing why I had blacked out, I suspected that Mr.
8 Burke had not just given me water, but all I can
9 think about at the moment was that I was already
10 several hours late to work. I didn't want to lose my
11 job as it was my only source of income, and I didn't
12 have relatives to turn to for financial help. Even
13 though Mr. Gallagher sexually assaulted me and Mr.
14 Burke drugged and attempted to sexually assault me, I
15 didn't know where to turn, how or what happened to me
16 without risking my job. I concluded that my best
17 option was to keep my distance from these two men. I
18 didn't feel safe to work with them, but I was forced
19 to finish out the two weeks in Boston in order to get
20 paid for the job, I was already committed to. In
21 that respect, I suspect that Mr. Burke and Mr.
22 Gallagher were trying to cover their tracks by paying
23 me in cash as a freelance and not as an employee. I
24 had nowhere to turn or anyone to talk with about how
25 to handle the unexpected sexual assaults by my two

2 bosses with them retaliating against me. Being
3 transitioned into an independent worker isolated me
4 even further, and I felt like I lost any protection I
5 would be afforded as an employee. If the bill passes,
6 I will have clear rights of protections I didn't feel
7 like I had before, and as a freelancer, I would have
8 an avenue to pursue justice with clear legal and
9 financial protections and without fear of
10 retaliation. Freelancers should no longer be ignored,
11 dismissed, discarded and disrespected. I urge you to
12 please take into consideration that my experience
13 with sexual violence in the workplace is not unique
14 and it actually happens regularly. By passing this
15 bill, you ensure that freelancers and independent
16 workers know they are afforded the opportunity to
17 stand up for themselves. Thank you very much for
18 considering my testimony.

19 CHAIRPERSON EUGENE: Thank you very much,
20 and I want to thank you for your courage. I want to
21 thank you for your courage. Thank you so much, and I
22 know that you speak on behalf of so many.

23 CATALINA SALAS: Thank you.

24 CHAIRPERSON EUGENE: Thank you very much.
25 Thank you. Next one. [pause]

2 NINA IRIZARRY: Okay. Can you hear?

3 Okay. Hello, my name is Nina Irizarry.. Thank you
4 for the opportunity to speak with you today. I live
5 in Astoria and Queens and work in arts and fashion
6 balancing a full-time position at luxury boutique,
7 and freelancing as a performer, writer and creative
8 director. My journey as a freelancer began when I
9 was 17 working as a performance artist and singing
10 professionally in an all female Sala band. The
11 sexual harassment from my then senior manager started
12 after about a year at a point when I had grown to
13 trust this person. There was a clear power dynamic
14 at play when he made his initial advance at me, but I
15 tried to brush it off as something that did not
16 happen or could not happen and ignore the remarks. He
17 would take me on different outings, requiring me to
18 get all dressed up to meet music industry
19 professionals and gate keepers including a record
20 label executive. He was often bringing wine with him
21 on those outings for both of us to drink even though
22 I was only 18. I feel like the goal—I feel like the
23 goal now was to get me drunk so I would make
24 unethical decisions. Eventually, the advances became
25 more aggressive into things like groping. It was not

2 only him making advances, but it was the other
3 manages, too. One had remarked that the two other
4 managers were attracted to me as well and this was
5 considered normal conversation. The whole situation
6 became unbearable for me to handle, and a constant
7 pressure. I want to have my own agency. I wanted to
8 feel safe. I did not want to be harassed. I wanted
9 to have control over my own voice and image. I
10 became fed up with this situation, and I ended up
11 leaving the band altogether stepping away from a
12 great professional opportunity to avoid the constant
13 harassment from the cost of getting of getting record
14 deal. During—and a television deal. During the
15 time, I wished there was an HR type of department to
16 make a complaint to or there was some court of ethics
17 in freelance work that all parties would agree to
18 follow. As a freelancer, it feels like you don't
19 have same respect and rights at work. Thank you for
20 hearing my testimony, and considering this bill. It
21 would positively impact the industries I have worked
22 in and help prevent the harassment that I and so many
23 others experienced.

24

25

2 CHAIRPERSON EUGENE: Thank you very much,
3 and thank you for your testimony. Thank you. Next
4 speaker, please.

5 JOANNE RICHARDSON: Thank you for
6 considering this update to the City Human Rights Law.
7 My name is Joanne Richardson, and I'm a freelance
8 writer from East Williamsburg in Brooklyn. Recently,
9 I was typing on my laptop on a co-working space when
10 a fellow freelance approached me. "I was worried you
11 weren't going to come into today" he said. "I
12 couldn't find you. You should be sitting by the
13 window. The window is where the pretty people should
14 sit." I didn't say anything, but he kept going as he
15 gestured to my body. "That guys who's sitting at the
16 table right now is fine, but he's no you. I want to
17 be looking at you." After he left I sent the owner
18 of this space an email. I said that I was being
19 harassed, and wanted the man to be told that his
20 actions were not acceptable. A few minutes later,
21 the owner of the space approached me. "Don't worry
22 about it" he said. "He does that to everybody." The
23 owner never said that he was sorry for the incident
24 and to my knowledge, never did anything to address
25 the situation. I sat there for the rest of the day

2 furious and had no idea what else I could do except
3 never return to this space. Later, I went onto the
4 Co-Working Spaces website, and discovered that the
5 company had no official—had no official sexual
6 harassment policy or anything resembling an HR
7 department the community aspect of Co-Working Spaces
8 is often similar to an officer at least when it comes
9 to physical proximity to other people, but these
10 spaces are also without the rules and guidelines that
11 seek to ensure respectful and safe office etiquette.
12 No space to our knowledge requires sexual harassment
13 training of all of its members. Many co-working
14 spaces are small franchises. The company's owners
15 and operators of these spaces need to be responsible
16 for own behavior and for addressing concerns about
17 harassment that are brought to them, and in this era
18 of increasing independent work, freelancers need to
19 know that the law clearly protects them. My
20 experience changed the way that I think about
21 workplace harassment. It's frustrating to know that
22 I may get cat called on my way to work only to walk
23 into a co-working space that makes me feel just as
24 unprotected. Passing this bill to amend the City
25 Human Rights Law would send a clear message to

2 freelancers like me that our rights are protected
3 just as those of any employee, and it would hold more
4 companies responsible for providing workplaces free
5 from harassment and discrimination. Thank you.

6 CHAIRPERSON EUGENE: Thank you very much
7 on behalf of the committee, and I want to thank each
8 one and all of you for your testimony. [background
9 comments] Oh, I'm sorry. One more. [background
10 comments] Thank you. I'm sorry. Go ahead.

11 ANN BAGWELL: No, I'm okay here. Hi. My
12 name is Ann Bagwell. I truly appreciate the
13 opportunity to share my story with you today. I'm a
14 filmmaker from parts of Brooklyn, and I produced and
15 directed *Dream Girl*, which is a documentary about an
16 inspiring ambitious female entrepreneurs [weeping] To
17 fund the film, I raised \$100,000 in 30 days on Kick
18 Starter and was named and we premiered at Obama's
19 White House in 2016. I was asked to be part of
20 Oprah's Supersoul 100, which is a group of 100
21 influencers making social impacts on their
22 industries. However, before I set out to create
23 *Dream Girl*, I was working at an advertising company
24 in Midtown as a permanent freelancer and I was being
25 sexually harassed. When the CEO would walk by, the

2 women in my department would pull their chairs and
3 hoping to avoid [weeping] his unwanted touching. The
4 VP of the company told my colleagues he wished to God
5 it was earlier enough to look up her skirt when she
6 plugged in our digital signage every morning, and my
7 boss told me that he almost broke his neck looking at
8 me one day while I was walking to my desk. I think
9 that comment did it. So, I stopped wearing skirts
10 and dresses to work. I stopped wearing any clothing
11 I deemed flattering. I stopped speaking at the
12 meetings, and I stopped trying to contribute to the
13 growth and success of my team. I stopped mentally
14 showing up for work. Feeling like I had no voice in
15 the workplace, and no clear way to protect myself
16 from harassment as a non-employee, I quite in January
17 of 2014, and I've worked for myself for the past four
18 years. [sniffing] However, three months ago, I go
19 pregnant, and my husband and I decided I should take
20 on more freelance work in order to create more
21 financial stability for our family, and I found
22 myself back on the job where it's looking for
23 freelance work, but honestly, I'm afraid to go back.
24 I want to know this time I'll have legal indisputable
25 rights against the discrimination I might face, and I

2 want to know that I will be able to bring all my
3 talents, experience and ambition to work without the
4 fear of being taken advantage of. [sniffing] And
5 more than anything, I want to know that this time
6 I'll be protected. I urge you all in the committee
7 today to believe in my future and the future of these
8 very great women who have spoken their stories as
9 freelancers of New York and vote yes on Bill 136-A.

10 CHAIRPERSON EUGENE: Thank you very much,
11 and thank you to each and every one of you for your
12 courage and for sharing your story with us. Thank
13 you very much.

14 ANN BAGWELL: Thank you.

15 CHAIRPERSON EUGENE: Could you please
16 wait for one minute. I think Council Member Lander
17 has something to say.

18 CHAIRPERSON LEVINE: Thank you. I just
19 want to add my thanks to all of you for having the
20 courage to show up here today, and to let you know I
21 think the idea here is both to say as freelancers and
22 independent workers, we see you as full employees and
23 professional workers that your work is valued
24 regardless of your tax status, and, of course, the
25 whole idea of the Human Rights Law is that regardless

2 of your gender, you are fully equal and you're
3 entitled to full rights in the workplace and
4 everywhere else. So, thank you for helping remind us
5 of why we're doing this, and for having the courage
6 to testify. It makes a big difference in our ability
7 to push forward with our colleagues [squawking mic]
8 towards passing this bill. Thank you, Mr. Chair.

9 CHAIRPERSON EUGENE: Thank you again and
10 to all of you, and thank you to the members of the
11 committee. Thank you Council Member Brad. The
12 meeting is adjourned. [gavel]

13

14

15

16

17

18

19

20

21

22

23

24

25

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 11, 2018