

Commissioner Reardon: On behalf of Governor Andrew Cuomo and the Labor Department, I want to welcome you to today's hearing on the subminimum wage in New York State. The Department of Labor works on behalf of both workers and businesses. We provide income support to workers who lose their jobs, and we ensure that employees receive proper pay and work in safe conditions. We help businesses find and maintain a skilled workforce and we provide them with no-cost service designed to help them thrive in New York's growing economy. One of Governor Cuomo's 2018 State of the State proposals directed me to evaluate through a series of hearings the possibility of ending minimum wage tip credits in New York State. In some work places, such as carwashes and restaurants, where wages and tips are generally both low, a worker's income can rely entirely on tips. These tips, meant as a reward for good service, instead serve as a critical wage subsidy that brings workers' wages up to just the legally-mandated minimum wage. This system disproportionately impacts women and minorities and prevents some workers from coming forward to voice concerns, fearing retaliation. Governor Cuomo has directed this agency to ensure that no workers are more susceptible to exploitation because they rely on tips to survive. This is the fourth of seven hearings to solicit public comment on how best to address potentially eliminating the minimum wage tip credit. Before regulations are formally advanced related to the subminimum wage, we want to hear from workers about how the subminimum wage impacts their ability to earn a fair wage as it relates to tips and to raise a family. We want to hear from businesses and other industry professionals how the subminimum wage impacts how you run your business and interact with your workers. We understand that we are talking about potentially changing rules that have been in place for decades, and that is why we are here, to ensure any actions are fair and well thought out. Through these hearings, we are asking for input about the scope of the problem and the potential scope of our solutions including any hardships created by the subminimum wage, reasons for and ramifications of eliminating the subminimum wage in your industry, and recommendations for the elimination timeline, should we move in that direction and complicating factors. Let me also draw an important distinction. As the sign up here says, this hearing is about eliminating the subminimum wage. This hearing is not about eliminating tipping. We fully support tipping and workers' rights to earn those tips here in New York State. In fact, when the federal government looks to attack workers' tips in New York State, we will continue to protect your tips. Another important point I want to make is that these hearings are not about the number of people in the room. Through these hearings, we are collecting your stories, related data, and the insights that only you can provide. Now, I would like to introduce members of our panel listening today; Mario Musolino, Executive Deputy Commissioner of the Department of Labor; Nathaalie Carey, Deputy Commissioner for Administration and Chief Financial Officer; and James Rogers, Deputy Commissioner of Worker Protection. So, you came in third. Testimony will be strictly limited to three minutes to allow as many people as possible to testify today. In addition, although we value their testimony, we will not allow any substitutions of speaker slots or allow testimony to be read on behalf of another individual who is not present. Please come to the front row when your name is called. If someone was unable to attend or if you have to leave before your name is called, please give us your written testimony. We will collect it from you at the front desk where you checked in. Finally, some ground rules. Please respect the people testifying and the panel by not heckling the speaker, by not using abusive language or threatening behavior and not interrupting anyone's testimony. Everyone

who has signed up to testify will be given the chance to talk today. Please respect the rights of other people to share their stories. For those testifying, you will get a yellow warning light at thirty seconds, and it will show red when your time is up. One last note, we are sitting in the Minnie Gillette Auditorium. This room is named for Minnie Gillette, who was elected as Erie County's first African-American legislator in 1977. She was a well-known community activist and lifelong advocate for every person in the community, and it is in that spirit that I want to thank everyone for taking the time to participate in today's hearing. Thank you for attending. So what we are going to do is we are going to read off the first five people to testify. When you hear your name, please come down and sit in this front row. That is just so we have a flow of people and it doesn't take as long to get people up here. So the first five people are:

Ramona: The first five testifiers are Catherine Barnett, Stacey Carr, Tricia Browne, Terisyajaira Betancourt, and Mayleth Rios. Please make your way down to the front and hand us a copy of your testimony, please.

Commissioner Reardon: And do I have Catherine Barnett here? Yup, there you are.

Catherine Barnett: Good morning. My name is Catherine Barnett, and I am the director of the Restaurant Opportunity Center of New York State, a chapter of the Restaurant Opportunity Center United. For the past 17 years, ROC has advocate for better wages and working conditions for the eleven million plus workers in our nation, more than 400,000 of whom live and work in New York State. Our industry is one of the largest and fastest growing sectors and a powerful engine for the country's economy. Although it is a fast paced, exciting, and diverse industry with a predominately female workforce, these women's employment is concentrated in low-wage, front of the house positions. Sadly, these women are subjected to some of the highest rates of sexual harassment on the job of any sector as reported annually to the Equal Employment Opportunity Commission. Tipped workers are paid a lower minimum wage and are expected to depend on tips to get them to a livable wage. Tips are given for good service, and in trying to fulfill that requirement, these women are often placed into unpleasant and vulnerable situations. This can range from a seemingly innocent policy as requiring a sexy uniform to being expected to put up with unwanted flirtation and advances from customers and managers, with a promise of higher tips and/or better or more frequent shifts. Long before there was a Me-Too moment, ROC has been documenting this situation in the restaurant industry through our research. One fair wage is a simple solution to the rampant exploitation in majority female and immigrant workforces, and today we are here in support of better wages and better tips. In New York, tipped workers in this region make \$7.50 an hour and rely on tips to bring them up to the state's general minimum wage, but we know that seven states already pay tipped workers a basic minimum wage on top of tips. New York must be next. One fair wage is also good for business. Restaurants in states with one fair wage have increased sales, more robust wages, and stronger employment growth than states without it. Restaurant workers work hard and deserve to be compensated fairly. We can have better wages and better tips. I thank the Department of Labor for this opportunity.

Commissioner Reardon: Thank you. Stacey Carr? Stacey Carr? Tricia Browne?

Tricia Browne: Good morning, Department of Labor. Thank you for letting me speak today. My name is Tricia Browne, and my family owns and operates the oldest restaurant in Erie County, opening its doors in 1827. And I imagine the tipping system worked just as good then as it does now. I am the fourth generation in my family to work in the restaurant industry and the fifth generation, my son, I am proud to say is here with me today. I have grown up in this industry, working my way through every position, from dishwashing, cooking, bartending, serving, hosting, and now an owner. As a little girl, I used to go to work with my grandmother, and I watched, and I learned from her. I saw how she and the rest of my family treated the people that work with us. From the highest paid chef to the new busboy to servers and bartenders, she treated them as we do today, with equality, compassion, and respect. This is the way we treat our staff. This is the way our staff treats each other, and this is the way our customers treat our staff. Anything less is not tolerated. This is not a blanket problem; this is problem with select employers, and they need to be addressed individually. Do not punish the rest of our industry because of a few employers who allow the wrong environment to be created. Harassment of any kind is not typical in mine or my staff's daily experiences, and anyone tying this tip credit proposal to these issues is taking away from what is really happening; that this will destroy our industry as we know it. We have been absorbing the minimum wage increases with our staff, and they have been understanding with losing hours and shifts, but we will not be able to absorb the cost of losing the tip credit, and ultimately will be out of business, causing 47 employees to be out of jobs; jobs that we love, and an industry that is like no other, which is evident with the camaraderie and the family that has come together across the state over this topic as one strong voice, to be at all of your hearings, and to make sure that you know why eliminating the tip credit is the wrong decision. It is already the law that the employers of tipped employees must pay the minimum wage if that rate is not achieved when tips and wages are factored together. This system works. I hope you are taking these hearings, Mr. Rogers, as seriously as we are taking them. We have put all of our efforts and voices here to be heard. I hope you are listening to not our words and that you know that our words are coming from our hearts. The ROC does not speak for me. It does not speak for my 47 employees. Please learn from the mistake that Maine made and had to go back and fix. Let's not make that same mistake. Please do not eliminate the tip credit. Thank you for listening to me today.

Commissioner Reardon: Thank you. Terisyajaira Betancourt? Nope. Mayleth Rios? Mayleth Rios? Okay, next five, please.

Ramona: The next five testifiers are Samantha Cyrana, Wendy Davis, Peter Kreinheder, Peter Kazmierczak, and Ellie Grenauer. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Do I have Samantha Cyrana? Samantha? Nope. Wendy Davis? Wendy? Peter Kreinheder? Peter?

Peter Kreinheder: Good morning. My name is Peter Kreinheder. I operate three restaurant breweries. We employ 167 people, and I understand the approach, and I understand some of the ROC's, you know, their approach to this minimum wage. I just feel that it is going to make our state very uncompetitive. I operate primarily in the Southern Tier, which is very close to

Pennsylvania. Our customers, about half our customers come up from Pennsylvania, and we are already pretty expensive, and if you instill this new minimum wage, our pricing mechanism becomes just really uncompetitive. Furthermore, when you say we are not exploring eliminating tipping, but I think a lot of places would have to explore being non tipping to be competitive on their menu prices, so when our servers are actually making \$25.00 to \$36.00 an hour, I really can't ask our guests, especially in Upstate New York, maybe not in Manhattan, to have a \$20.00 hamburger. I run our businesses by percentages, and the percentages basically tell me it would cost one of our stores in Elickaville \$377,000.00 in additional wages. If I break that down, the number of menu items that we do in a year, it is almost four dollars per menu item that we would have to do just to recoup that, and then on top of it, which I really wish you would understand, is we have the Affordable Care Act, which we have also had to instill, and also the Family Medical Leave Act, which I know it is not funded by, it is funded through the employers, employees; however, we have to, it's another management thing we have to deal with. All these things all at once in a short time is kind of hard. The tip wage going from 2015 to 2020 from \$5.00 to \$12.50 is a 150 percent increase over five years, and I just think that maybe that has to be stretched out a little further, and that is it. I am looking more from a customer's perspective and just kind of like trying to ride it a little softer. I understand the concerns of the ROC, and everyone has to work together. Also, I don't think the wage increase is going to fix the harassment problem, I don't think it is going to fix humans' approach to managing other people. Thank you.

James Rogers: Just one quick question. You said that you are fairly expensive for the Southern Tier; could you explain? What does a hamburger cost?

Peter Kreinheder: We have customers that come up from Pennsylvania, and their service wages, if you compare Erie's menu pricing to ours, it is drastically different. So we have customers that come into New York for tourism and things, and also even from Toronto now, Burlington area? They already see this as crazy, our cost structure as it is. Because we are over 100 employees, we have a lot of already mandated programing. Compared to other smaller operations, we have a lot more fixed costs. So this just becomes really drastic, and I think the only way that we can look at it back and forth is we would just become like a Danny Meyer. Then those people even lose out way more.

Commissioner Reardon: Thank you. The two women sitting over here; are either of you Samantha or Wendy? No, okay. Peter Kazmierczak?

Peter Kazmierczak: I am an advisor I cashier at Delta Sonic, a very unique industry in what we do; car washes with tipping at the exit because we wipe off cars, hand wipe cars for over 50 years. I worked for the location, Delta Sonic, on Trans Road and Clearance. I started there April 4th, last year on 2017. I have loved it ever since. I, here is a little odd thing, I made a name for myself on location be becoming the first employee to power wash while dancing while power washing. It's a little odd, but it just happened naturally. It brought a lot of joy to the customers when they came through. That same dancing spirit carried over in my early days onto the exit, when I was wiping down cars, and as regular customers came through, they began to notice and recognized me by my name and my appearance. In this way, I do not fear for myself necessarily for tipping, but I fear for my fellow employees because if the tipping wage is raised to meet the

actual minimum wage right now, I feel that the likelihood of getting tips regularly will decrease dramatically for those around me, and not just at the exit, but in our detail shops, as well, where the employees that hand off the cars to the customers after they finish the interior service, those employees get tipped as well, maybe not as much as us at the exit sometimes, but they still rely on the tips, as well. At Delta Sonic, we employ a lot of people who work hard for those tips. For some, they consider it their motivation. It is a huge draw in terms of new hiring, as well. I fear that if the tips go away, the application flow that we see, and we get a lot of applications regularly, will see a major drop off, as well as current employees deciding to move on, which has been a major discussion on location. Surely, this would decimate our workforce. Going beyond that, a wage increase will force some jobs to be consolidated, resulting in layoffs perhaps, and I would even go as far as saying that we might have to raise the price of our car washes, which customers would not appreciate. An increase in the tipping wage goes beyond the aspect of the employee-customer transactions. It affects the company as a whole. Even Ron Benderson, our founder, who regularly visits our location, has said that Delta Sonic is about the people we employ, but if we lose the people, then what is it going to be about? I admit that even I was once drawn in by the prospect of making a lot of tips at the exit, and it just happened that I turned out to love the job more than I anticipated. At my location, not to brag, but they consider me one of their top employees, a diamond in the rough, if you will, and another one of my fellow co-workers who couldn't make it here today to testify has the same love for the job, but I fear that if we get rid of the tipping wages, rather raise it, that we won't have the same applications coming through, and we won't find those same diamonds in the rough to be able to move forward with the company and keep us going ahead in the future as a strong company. Thank you.

Commissioner Reardon: Thank you very much. Ellie Grenauer? And before you start, Ellie, could you read the next five names, please?

Ramona: The next five testifiers will be Angie Kleeh, Maria MacPeek, Sean Gavigan, Nancy Abramo, and Nicole Hallett. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Okay, thank you.

Ellie Grenauer: Hello. My name is Ellie Grenauer. I have been in the restaurant business for forty years as a server, bartender, manager, and now an owner. Please seriously consider how you will change the lives of so many people. Restaurants will close, jobs will be lost; don't let this affect the amount of food that we can put on our tables, the roof over our heads, the future of our children. I am wondering why we are changing something that is not broke, when everybody says don't. Everybody says don't, everybody says don't, everybody says don't make this a fight. Don't put aside what's right. Everybody says don't, everybody says don't, everybody says don't make this a test, don't destroy the peace, don't be so uptight. Well we say do, we deserve an honest deal. We say just listen to how we feel and we won't fail, we won't fail. Sometimes you have to start small, but each day we give it our all. Often we feel we might fall, but it is better than us starving at home. Everybody says stop, everybody says wait, everybody says don't fight New York State, can't upset the law. Everybody says can't, everybody says won't, everybody says please we know what is best, just move right along, but we say no. We say why do you

want to destroy our jobs? We say hail, you need to listen to our voice and make the fairest choice. Everybody says don't, everybody says can't, everybody says stop making so much noise, that's the way the laws are made. We insist on making noise to get our side out, making noise, it is not a buyout. You know this, we are not afraid. And just to let everyone know, that is Mary Kate O'Connell from O'Connell and Company. Please go see her shows.

Commissioner Reardon: Thank you very much. Angie Kleeh? Are you singing, Angie?

Angie Kleeh: No! Now this is going to be a tough act to follow, I hope you know. My name is Angie Kleeh. I founded Triple Track HR4Restaurants because I am passionate about the hospitality industry. As the daughter of Greek immigrant restaurateurs who came to America with nothing but a dream and a hard work ethic, it is in my blood. So I am credible. I have been there, I have done it my entire life since I was fourteen, every aspect of the business. The bottom line, the majority of this workforce do not want this change because it will negatively affect their income. We work with numerous restaurants, and I bring you that message loud and clear from all of them. To clear up the first misconception, no one in this industry is taking home less than minimum wage now. We all know there is a law on the books that obligates restaurants to make up any discrepancy when taking the tip credit, and they follow it, but tip money will stop coming when menu prices increase to compensate for higher payroll costs if the tip credit is eliminated. Just how much can people pay for a dinner for two or burgers for a family of five? And then leave a good tip on top of that? It is not going to happen. Today, American families spend more on restaurants than they do in grocery stores, but that will change when they no longer can afford menu prices, and none of us will thank our legislators or Governor Cuomo for that. Many restaurants will ultimately go out of business. Hardworking restaurant employees will lose their jobs. Our wonderful selection of diverse restaurants in Western New York, for which our region is well known, will crumble. I guarantee you that you will hear this ugly scenario repeatedly throughout the day. This is not a win, win. Not now, not in the future. Another misconception is that sexual harassment from customers will decrease with the elimination of the tip credit. Really, in restaurants, nearly all the cases of sexual harassment, honestly, as we see it from an HR perspective are among the workforce. Elimination of the tip credit will do nothing like the today's Me Too and Time Up movements are accomplishing. There are new laws on the books now to help correct that situation thankfully, with mandated sexual harassment training and penalties for noncompliance. So let me ask you this; if I ask you to pick five states in the US that were most similar to Upstate New York in attitude, cost of living, opportunities, lifestyles, culture, what would they be? Why do I think California would not be on your list? Or Alaska, Montana, Minnesota, Nevada? Not so much, Oregon, Washington; probably not, so why would those states serve as a role model for our state? What is the logic? There are only seven states that have adopted one for all. I came in following that singer.

Commissioner Reardon: No, she had her time, as well. Thank you. Maria MacPeek? Maria MacPeek? Sean Gavigan? Nancy Abramo? Nicole Hallett? And before you start,

Ramona: The next five testifiers are Sarah Wooton, Brian Brown Cash Dollar, Karen King, Shanita Thomas, and Joseph Stanley. Please make your way down to the front and hand us a copy of your testimony. Thank you.

Nicole Hallett: Good morning. I testify today in support of the proposal to eliminate the tip credit and require that employers pay tipped workers the full minimum wage. I am a professor at the University of Buffalo, School of Law, and I am also a practicing workers' right attorney. The legal clinic that I direct, the Community Justice Clinic, represents low-wage workers, including tipped workers, who have been victims of wage theft, retaliation, and sexual harassment by their employers. I also conduct research on working conditions faced by low-wage workers in Buffalo and nationwide. In 2017, I conducted a survey with Open Buffalo that turned into a report. The report paints a disturbing picture of employer exploitation of workers in the restaurant industry and contains some important lessons for the Department of Labor to consider as it weighs the elimination of the tip credit. I surveyed 213 workers for the report, including 36, who reported working in the food service industry and 30 who reported earning tips. Of these workers, admittedly a small sample size, 24 percent reported that their employer took some or all of their tips at their current job. Twenty percent reported making below the tipped minimum wage, which is currently \$7.50 an hour. Sixty percent reported an overtime violation. Twenty percent reported that they were required to work off the clock for no pay, and 30 percent reported that their employer had failed to pay them on time at least once. Importantly, only one tipped worker in the survey reported that they had filed a complaint about these issues, meaning that for the most part, these violations went unnoticed by government agencies. Overall in the study, workers in the food service industry reported higher rates of violations than any other industry. Moreover, not all low-wage workers were equally vulnerable to wage theft. The survey found that women, people of color, and noncitizens reported higher rates of legal violations across the board. So how does this survey inform how we should think about the tip credit? The idea behind the tip credit is that employers should get to account for the fact that their tipped employees make more money than other minimum wage employees because they earn tips. This seems reasonable in theory. But in practice, the tip credit allows unscrupulous employers to pay their tipped workers even less, while stealing their wages and tips. My survey shows that this is not an isolated problem of a few employers, like you have already heard today. Instead, it is an industry-wide problem. The Department of Labor should not give these employers an extra benefit that other employers do not enjoy. Instead, they should protect workers through fair rules and increased enforcement. You will undoubtedly hear today, and you already have, from workers that like the current system and have not been exploited by their employers and want things to stay the same. I have heard them invoke the old adage, if it ain't broke, don't fix it. I do not mean to delegitimize these individual experiences, they are no doubt genuine, but the plural of anecdote is not data. Here we have the data, and it tells us that the current tip credit system is broken. Eliminating the tip credit is one measure that will mitigate many of the problems in the restaurant industry today. Thank you.

Commissioner Reardon: Sarah Wooten? Sarah Wooten. Try to control yourselves.

Sarah Wooten: Hi. My name is Sarah Wooten. I am the policy analyst at the Partnership for the Public Good or PPG. We are a community-based think tank that provides research and advocacy support to our more than 280 partners across Western New York. Commissioner, the Partnership for the Public Good believes that the subminimum wage should be raised to the regular minimum wage for tipped workers. Tipped workers in our region, like much of the state, suffer

from shockingly low wages. In 2014, PPG found that among the four most common tipped occupations in Western New York, all of them had a median wage of under \$20,000.00 per year. More than half of Western New York's tipped workers are waiters and waitresses. A national study by the Economic Policy Institute found that restaurant workers were two and a half times more likely to live below the poverty level than workers outside the industry. Families living in poverty suffer from lower graduation rates, more chronic diseases, and more criminal violence than families earning living wages. It is imperative that we raise the wages of our tipped workers. Low wages are particularly a problem for restaurant workers of color. The restaurant industry is highly segregated. According to the Restaurant Opportunities Center, minority workers earn 56 percent less than similarly situated white workers. This is mainly because they tend to be confined to the lower earning jobs and denied entry into the supervisory and fine-dining jobs. Therefore, the subminimum wage disproportionately impacts workers of color compared to white workers. The current two-tiered system that has been mentioned is highly complex, giving rise to waste and theft. Under current rules, employers must monitor tip flows over the work week and then top up if the employee does not end up making the minimum wage for that week. This complicated system is burdensome and often results in intentional or unintentional wage theft, with the workers getting paid less than minimum wage. Over ten percent of tipped workers report getting paid less than the minimum wage, compared to just four percent of all workers. Eliminating the subminimum wage will reduce poverty without reducing employment in New York State. We know this because we have seen it happen in seven other states. Even in our own state, we see evidence of the positive impacts that a tipped minimum wage increase will have. After the 2015 increase in tip minimum wage, researchers compared changes between border counties in New York and Pennsylvania. Not only did salaries go up in New York State counties by 7.4 percent compared to 2.2 percent in Pennsylvania counties, but employment increased in New York State counties by 1.3 percent, while employment decreased in Pennsylvania counties by 0.2 percent. Thank you for hearing me, Commissioner, and we hope that you will eliminate the subminimum wage.

Commissioner Reardon: Thank you. Brian Brown Cash Dollar?

Brian Brown Cash Dollar: Yes, hi. I am with the Western New York Council on Occupational Safety and Health. We are worker advocates that have been assisting workers to ensure their workplaces are safer and fairer since 1979. This summer, we are actually going to be conducting a survey of tipped workers across Western New York. We hope to survey 400 workers in various industries by the end of August. The purpose of the survey is to gauge the working conditions of tipped workers, their ability to provide for their families, and their familiarity with the Governor's proposal to eliminate the tip credit to create unified minimum wage across the regions of the state. Although it is too early to draw conclusions, there seems to be significant confusion among tip workers that the proposal will eliminate tipping or reduce the amount of tips that they receive from customers. There were similar concerns raised in 2015 when the tipped minimum wage was increased from \$4.90 and \$5.00 an hour, depending on industry, to \$7.50 an hour Upstate. There were actually newspaper articles that suggested that that increase would mean the end of tipping in New York State. Of course, that did not occur. Restaurant revenue in New York State since then has actually increased, and tipping, of course, has continued. When the tipped minimum wage increased by \$2.50 in December of 2015, tipped employees did not

see an increase in tips, but instead saw an increase in their overall earnings. The current annual mean wage for waiters and waitresses in Western New York is \$22,130.00. Eliminating the tipped credit will mean an increase in their base earnings between 13.6 and 27 percent overall. In states where the tipped minimum wage was eliminated, there has been no significant decrease in tipped revenue earned by workers. Another important factor to consider is that tipped workers, the majority of whom are women, are subjected to higher rates of sexual harassment than women in other occupations. In states that have eliminated the tipped minimum wage, incidences of sexual harassment have fallen for workers in these occupations. Now to be clear, whenever there is a proposal to increase the minimum wage, there are always pronouncements that the increase is going to hurt workers by eliminating jobs, decreasing wages, and driving employers out of business. In the aggregate, this has never happened. Elimination of the tipped credit will not mean an earning ceiling for tipped workers, but it will raise the floor, making it easier for tipped workers to provide for their families.

Commissioner Reardon: Thank you. Karen King. Karen?

Karen King: Good morning. Thank you for the opportunity to testify about the minimum wage for tipped workers and more specifically how that relates to economic instability and sexual harassment in the workplace. I am Karen King, executive director of the Erie County Commission on the Status of Women. The Commission's role is to ensure that all women in Erie County have access to resources, education, opportunities to develop the skills and networks needed in obtaining and maintaining an economically robust and stable life for themselves and their families. Working with a broad-based coalition of organizations across Erie County, we are committed to share the agenda, which includes workplace fairness, the gender wage gap, gender-based violence, sexual harassment, reproductive rights, childcare, immigrant rights, and more. Today, we focus on all of these issues affecting women's economic wellbeing. A subminimum wage for a predominately female workforce is linked to a sustained economic instability and high rates of sexual harassment in the restaurant industry that prevents thousands of working women from achieving economic security. We urge the department in this historic Me Too moment to implement one fair wage for all workers in order to combat these intersected issues. Women in New York earn less per dollar than men, while 77 percent of single-parent families in New York are headed by women, and these single-mother families represent the largest number of families living in poverty in every region of New York. One in six girls and women live at or below the poverty line in Erie County. Seventy percent of restaurant servers are women whose base pay is near 66 percent of the regular minimum wage. Here in Erie County, women comprise 52 percent of the total population, 49.5 percent of its labor force, and represent 47 percent of the food-preparation and serving related occupations. Although New York State has the smallest overall wage gap in the nation, eighty-nine cents, it is seventy-nine cents here in Erie County, African-American women make sixty-six cents, and Latinos make fifty-six cents. New York has one of the largest populations of full-time working women of color. This disparity is deeply disturbing. The tipped minimum wage gap has no place in the modern economy. With nearly 13 million employees, the restaurant industry is the single largest source of sexual harassment charges filed by women with the EEOC, with a rate twice that of the general female workforce. These are women who experience a disproportionate amount of sexual harassment as a result of a broken two-tiered wage system. Research has repeatedly shown how relying on tips

creates a more permissive work environment, where customers feel entitled to abuse women in exchange for service. We deserve, women deserve to earn a fair wage, so that tips they still collect don't come at a personal cost. The recent focus on sexual harassment in the workplace has ushered in a reckoning that cannot be ignored.

Commissioner Reardon: Thank you. Shanita Thomas. Let me just point out to everybody sitting in this room who has signed up to testify; you will have your moment of three minutes in front of the microphone. If you insist on disrupting, you will be asked to leave. Thank you.

Shanita Thomas: Good morning, everyone. My name is Shanita Thomas, and I am from

Commissioner Reardon: Closer to the mike.

Shanita Thomas: I currently live in Brooklyn, New York. I lived also in Buffalo. I went to Buffalo State College, and here I was a waitress, and I worked at a couple of restaurants here. Working in Buffalo, I was making \$2.65 an hour, whereas when I moved to New York City, I was making \$7.50, but I first started making \$5.75, which went up to \$7.50. How does that make sense from 2005 to 2007, 2008, where I am not only making a couple of dollars more? Being a, working in the restaurant, customers, we are dependent on customer tips, which means I can't count on a steady paycheck. The flexibility in wages is drastic. My earnings go up and down, depending on which of my shifts, which shift I am assigned, the busy nights, and the mood of the customers. My weekly earnings go up, and my bills don't go up every month. I can't count on earning enough to pay bills every month because of my tips fluctuating. Some days I make money; some days I don't. The tipping practices are often influenced by a server's gender, race, and looks, and I have no control over how the customers tip me. One of the experiences I have had is sexual harassment experience in the workplace. I was working a morning shift, and a customer came in. He was a regular customer, so he said, can I have a cup of coffee? I said okay, sure, a black coffee, so I gave him his black coffee. As I was walking away, I go to greet the next customer, mind you, I greet every customer with my name, and he goes, "Hey, big tittie black girl, you got enough milk in those jugs for my coffee?" So I goes to my boss and I says, "This is what this man just to me." He says, "Oh, don't worry about it, that's just Joe, he's just joking." That's not just joking for me. I am not here to sell myself just to make money. That is something that needs to have something done about it. He was like don't worry about it. Next time I complain about any type of sexual harassment that I have experienced on the job, I started to lose shifts, and I got fewer and fewer shifts, and I couldn't pay my bills. The train in New York City is \$2.75. Sometimes, I would leave home with \$2.00 from working. Tips are not a set income for me, and we need a steady pay, so that we would not have to rely on these customers to give us tips, so we wouldn't have to worry about getting two, three, or four jobs. When I was here in college, I was working as a waitress, and I also worked with children. Now I moved to New York City, and I still have to work two to three jobs just to be a waitress? That is not fair. We need a fair wage, so everybody can live comfortably. You wouldn't pay a doctor in Buffalo less than you would pay a doctor in New York City. They are still going to get the same pay. Restaurant workers is a career. We server people every day, so we need to be treated fairly and we need to have a fair wage.

Commissioner Reardon: Thank you. Joseph Stanley. And before you start, can I have the next five names please?

Ramona: The next five testifiers are Jordan Romanus, Michael Kunizaki, Bobbi Linskens, Nadine Morsch and Lauren Bestram. Please make your way down to the front and hand us a copy of your testimony.

Joseph Stanley: Good morning and thank you to Commissioner Reardon and the New York State Department of Labor for giving me this opportunity

Commissioner Reardon: Can you get a little closer to the mike, please? Just pull it towards you.

Joseph Stanley: Sure. So good morning and thank you to Commissioner Reardon and the New York State Department of Labor for giving me this opportunity to share my comments about Governor Cuomo's proposal to examine the base wage paid to tipped workers to the regular minimum wage. So my name is Joseph Stanley, and I am a restaurant manager, and I have worked in the restaurant industry for over twenty years. I am in favor of raising the tipped minimum wage to the regular minimum wage. Having worked for over 15 years as a server and in Florida, I found I had to work many more hours in New York to put food on the table to support my family. I found to inclement weather, having to come in and set up, the 80/20 rule is many times violated. At the end of the week, if there is a heavy storm, there is no money, I made minimum wage, but yet my employer got the same amount of work that I did. Having been a manager, I have witnessed servers sacrificing, putting up with sexual abuse because they got a big tip. At the end of the day, I asked them if they wanted me to remove the person, and they said no, I need that tip. So while it may not be an employer that is sexually harassing you, it could be a customer, and are you going to go to Community Resources every time a customer sexually harasses you? We heard testimony from someone that outsources human resources. Are they there on the floor every day when you have an issue to take testimony? Another issue that was brought up was the Affordable Care Act and how that was hard to manage by a restaurant owner. Well look at those benefits; how much is the employee paying? If they are making minimum wage at the end of the week, can they afford those premiums? Can they afford to take their children to the doctor and pay copays? Do they have a mental health and substance abuse benefit? These are things that we have to look at. They are subsidizing the employer's budget. Yeah, your margins will go down. It is a business. Someone mentioned Danny Meyer. It is a very flourishing business, and he works off this model, so why is that a bad thing? Why can't we afford to pay our employees health benefits, give them a healthy wage, and feel comfortable in a work environment that we don't have to put up with sexual harassment? And I look around today, and I see the testimonies of these people, and I wonder, well where are the people of color? Where are they represented? Where are their voices? You know where they are at? They are at work. They can't show up. They have to make tomorrow's rent. They have to be able to take their kids to appointments. Thank you very much.

Commissioner Reardon: Thank you. Jordan Romanus?

Jordan Romanus: Let me get my notes out. Should I start? Cool. Good morning. Thank you for hosting this subminimum wage hearing. I actually want to thank everyone for coming out. I used to work in the industry in the back of the house, in the front of the house, and I have worked for the Restaurant Opportunity Center for the past five years. It has been the best five years of my life. We do political stuff all the time. We rarely see this kind of turnout. So there were a lot of us on different sides. It is like good to see restaurant workers be political just in general. So as I said before, I come from both working in the back of the house and the front of the house, and now I work for the Restaurant Opportunity Center. In looking at this current proposal, I support it today more than ever before because people really deserve a paycheck. You know one thing that really sticks with me, I have heard a lot of people talk about statistics and facts, and those are necessary. Our industry, you know, we don't get the respect we deserve. I don't know how many times I could tell you people have asked me, when are you going to get a real job? What is your real job? That kind of stuff, and we are not going to see that day of having quote, unquote a real job until we get a real paycheck with tips on top. This is like, we have got to put up with so much stuff. I was at the TGI Fridays on Walton Avenue last night, and my server, Sara, the next table over, they almost dined and dashed on her. She had to stop them from running out, and you can imagine what tip she got. And it is just really difficult to get by in this industry. So I think raising the wages to a fair base wage with tips on top is the way we need to go, and I applaud you for taking a step forward, and I expect New York to be one of the first states in a long period of time to pass one fair wage. Later this year, we are going to see Michigan and Washington DC pass one fair wage. Next year, we are going to see New Mexico, we are going to see Ohio, we are going to see New Hampshire pass one fair wage, and one fair wage is the future of our industry. That is how it is. Thank you.

Commissioner Reardon: Michael Kunizaki?

Michael Kunizaki: Good morning. Thank you to Commissioner Reardon and the New York State Department of Labor for giving me this opportunity to share my comments about Governor Cuomo's proposal to examine raising the base wage paid to tipped workers to the regular minimum wage. My name is Michael Kunizaki, and I live in Sunnyside, Queens. I am a worker advocate, and I have supporting other people in improving their working and living conditions since graduating from the University of Michigan in Ann Arbor in 2004, the entirety of my professional career. I am in favor of raising the tipped minimum wage to the regular minimum wage. My mother is from Ecuador, and she worked as a hair stylist and relied on tips to provide for my family. I remember how reliant she was because she would comment about clients being stingy or not tipping at all. She worked in Midtown Manhattan and the Upper East Side. Some people tipped better than others, some people don't tip at all. My father is from Japan, and the labor relations that occurs there are much less adversarial, much more collaborative and cooperative. Maybe that would explain why tipping does not exist there. It is not part of the culture because people are paid an adequate living wage, and the cost of living there is reasonable. Unfortunately, tipped workers here have to rely on the whim of the customer to survive. It is unacceptable and a shame that restaurant and salon owners here use customers and clients to justify paying inadequate wages. This is wrong. We need one fair wage now.

Commissioner Reardon: Thank you. Bobbi Linskens?

Bobbi Linskens: I want to thank you for giving me the opportunity to speak. My name is Bobbi Linskens. I have worked as a server in the restaurant industry for over six years. Working for tips and depending on tips means that I can't count on a steady paycheck. My earnings go up and down based on how busy the night is, what shift I am assigned to, what section I am assigned to, and even the mood of the customers. It does not matter how good of a job you do. Sometimes the customers just don't tip. I have had customers tell me that I was the best waitress they ever had, and then not leave me a penny. I also have had, been unable to take care of myself medically. I tore my ACL and needed to have reconstructive surgery, but I could not afford to take the time off of work to do so. Even if I had had the money saved to be able to pay my bills, I wouldn't have been able to pay my bills. I wouldn't have been able to pay my medical costs. Because of my injury, when I went to my manager and let them know that my doctor was recommending that I not work for more than four hours without having at least 30 minutes to put my leg up and be off of my feet, my manager's response to that was to cut me down to eight hours a week, two days a week, two four hour shifts. But they continued to schedule me just as much side work as they had when I was working a regular shift. So they stole from me by violating the 80/20 rule. I would wait tables for four hours, and then I would be expected to do two hours of cleaning afterwards. I brought this to my manager's attention over and over again, and they just said, oh well. I asked them if they were aware of the 80/20 rule, and they said yes, but there was nothing that they could do about it. Because my employer controls the way tips are shared and accounted for, I am at an increased risk for wage theft like I just talked about, and bringing these things to the attention of my employer, he also, their response to that was to assign me more side work and to put me in sections where I would make less money. They retaliated against me for trying to make them follow the law. We need a better wage. It is the only way that we can support our families and ourselves. We cannot depend on tips.

Commissioner Reardon: Thank you. Nadine Morsch?

Nadine Morsch: Thank you to the Commissioner Reardon and the panel for being here. My name is Nadine Morsch, and I live in Rochester, New York. I have been working in the restaurant industry for eight years, both back of house and front house. I currently work at the Dutch Mill in Greece, New York as a waitress. I have been active in organizing my industry for the past year, and I am standing up for one fair wage because I believe that one fair wage will help the workers and the owners in the restaurant industry that need it most. As a tipped worker, I have had literally countless experiences of being sexually harassed. I have had my appearance commented on in both insulting and aggressively sexual terms. I have been stroked, grabbed, called at my private number, and followed to my car without my consent and at my extreme discomfort. I have been the target of this behavior from customers and co-workers alike. When I had these experiences, I tried to speak up. Sometimes I talked to a co-worker; sometimes I talked to management. Time after time, I was told to suck it up, and that it was my own fault for looking some kind of way, and there were plenty of other people that would take it as a compliment and might appreciate my job more than I did. This was more than victim blaming and abuse; it is emotional terrorism. What a demoralizing and inhumane answer to give anyone who is living tip night to tip night. I didn't have the option to walk out, which would have been

the only thing I could have done to satisfy my personal dignity because I needed that money to keep a roof over my head and the electricity on. I needed that money more than I needed that dignity, but I shouldn't have had to choose. With one fair wage, tipped workers like me would have the financial freedom to truly safeguard our own dignity and boundaries. I can tell you from my personal experiences working at restaurants and organizing workers, that for every person that has come to these hearings to tell you about their experiences of what they have endured to make ends meet, twice that many or more have not transcended the internalized shame of that experience or escaped their toxic working environment. Some of them are my friends. They wanted to be here, but they are too tired from working two jobs and caring for their children. They wanted to be here, but they were afraid that their boss will cut their hours if they express outright support for one fair wage, even though that is illegal. For people who are already struggling financially and working multiple physically and emotionally demanding jobs, taking the time out to come to hearings like this isn't a hardship; it is a pipedream. People who are afraid for their continued survival are also much more susceptible to the message that change will make things worse and it is dangerous and therefore it should be avoided. One of the very immediate realities of working in the restaurant industry is that we can't afford to have things get any worse, and that is one of the biggest reasons why I support one fair wage. The best way for our industry and our communities to grow is to put more money in the hands of ordinary, working Americans. Local economies need consumers, customers are workers too. The opposition's misleading quote about restaurant closures doesn't stand up when it is held against the fact that we have had nearly 200,000 jobs increase over ten years of wage increases also. Raising wages isn't a job killer; jobs don't come from business owners, they come from an economy where customers have resources to spend on goods and services, and without workers who make enough money to have all the bills and disposable income, we don't have an economy that can support industry period. Workers are customers; customers need enough money to support industry.

Commissioner Reardon: Thank you. Lauren Bestram. Lauren Bestram?

Ramona: The next five testifiers are Jennifer Pearce, Semone Scurry, Myrna Goodrich, Angela Tona, and Ian Layton. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Jennifer? Do I have Jennifer Pearce here? Semone Scurry?

Semone Scurry: My name is Semone Scurry. I live in Rochester, New York, and I have been working as a part-time server at the Owl House for two years. I want one fair wage in New York State, so that I and anyone else that wants to can work as a full-time and part-time server and still live comfortably and healthily. I have a nine-to-five job that has benefits, and that is the reason why I am here today. Otherwise, I would not be able to. I work in my restaurant one day a week. I rely on this extra income because I have never been able to afford all my bills with just one job. I use these expenses to pay my car bill, my car insurance, and to help my mother with her bills, as well. I truly enjoy being a server at my restaurant, and I have a lot of fun there. I have the opportunity to go full time, but at this moment would not choose a full-time at a restaurant because I would not be able to rely on a consistent wage. I work at one of the most

popular restaurants in the city, and if I was full time, I still would not be able to rely on my wage. By introducing the one fair wage, restaurants are asking that they be treated fairly and given the chance to live their lives with the same benefits and resources given to other professions. Restaurant work is often physically and emotionally exhausting in a way that is unique to the hospitality industry. No more should there be days that a server puts in their best effort, going above and beyond for their customers, only to receive little or no money for their time and emotional labor. Every server has days, weeks, or months when they can't turn enough tables to make rent because there are not enough tables or the people that do sit and eat don't feel that they owe you the twenty percent tip that you are deserving of. The wages in the restaurant industry are notoriously fickle, but the workers' bills stay the same, month after month, and sometimes go up in the winter, like they always do, and that happens to be my slowest season at the restaurant. A good Saturday shift in the summer can mean as much as \$150.00 of tips plus hourly wage; a bad shift in the winter can mean as little as \$50.00 or \$60.00 in tips. The Owl House does follow the standard, and they make up the difference of minimum wage, but a lot of people do not do that. A lot of restaurant workers, owners do not do that. If we introduce the one fair wage bill, they will not be given that choice to overlook that. I have heard some people from the opposition tell workers who support OFW that if you can't make reliable money that they should just work at a different restaurant or that they must not be good at their job. That kind of victim blaming is not just callous, it is also making it economically impossible argument that deflects from the real problem. The bottom 25 percent of tipped workers make less than a living wage, and they can't all just be bad at their jobs. This is the majority of the industry. Also, what other restaurant jobs should they go to? There are not always openings, as the industry is competitive. Being able to get a different job in a different location isn't always possible. Thank you.

Commissioner Reardon: Thank you. Myrna Goodrich? Angela Tona?

Angela Tona: Hello. My name is Angela Tona. I live in Rochester, New York. I support one fair wage because everyone deserves a fair wage, free from insecurity and exploitation. I got involved with this campaign as a former fast food worker, who fought for the fight for 15 minimum wage in New York State. By taking action together, we were able to win an annual raise for thousands of workers. Once we won the fair wage, we were able to win scheduling rights too. It seems as though possibilities for our dignity are endless. I am here to tell you that it is possible for all service workers to make a secure living wage, including tipped workers. While I worked in fast food, I have also endured many low-wage jobs. I have met far too many of my co-workers that were struggling to support their families, their student loans, or even just themselves. One of these co-worker's names was Amy. Amy worked between 12 and 39 hours below minimum wage per week to support her husband, who suffered from a severely debilitating traumatic brain injury. She received an unsteady schedule, no benefits, and had no voice to advocate for herself. It was then that I realized that Amy wasn't struggling because her customers were not tipping well; Amy was struggling because she was not being paid enough for her and her husband to live comfortably. It has always astonished me that it is completely legal to pay workers a poverty wage with the expectation that customers would subsidize the greed of the bosses. Workers should not have to rely on the chance that their customers will tip them for the dignity and security of being able to pay their rent, feed their children, and tend to their

responsibilities. It is deeply saddening that in a state that claims to regard such high standards for its working class citizens, that there are tens of thousands of people that are but one paycheck away from under the poverty line. As a resident in this state with high taxes, I often wonder how much of my hard-earned money goes towards the welfare of people living in poverty. In my current position as a case manager for individuals experiencing homelessness, I have learned that the plethora of people that are living in poverty were once working in unstable, unreliable jobs for under minimum wage and relying on tips to make ends meet. I came to the conclusion that my tax dollars were then funding the basic needs of those individuals solely because their bosses were too greedy to pay them a living wage in the first place. Aside from this, I have witnessed some hardships restaurant workers face to receive tips. As a woman, I am more attuned to notice some of these harassments. I have watched servers be grabbed, I have heard staff be snapped at, and I have witnessed a waitress jokingly be propositioned by a man in front of his wife and children. I have also watched each one of those servers shrug it off with a smile. No workers should ever have to deal with being degraded for a living. Even as a low-wage-earning millennial, I will always pay a large tip for any meal for the sole reason that restaurant workers deserve to be treated with respect. I enjoy spending money at restaurants who pay their workers justly and will continue to support local restaurants that do so. Thank you.

Commissioner Reardon: Thank you. Ian Layton? Next five please?

Ramona: The next five testifiers are Tom English, Ethan Cox, Olivia Moni, Kevin Dugan, and Diego Palaguachi. Please make your way down to the front and hand us a copy of your testimony.

Ian Layton: Hello. My name is Ian. I live in Rochester, New York, and I am a counselor at a federally-qualified health center. I took the day off to be here today. I support one fair wage in New York State. Tipped minimum workers in New York State deserve the full minimum wage, as well as the tips on top. I say this both as a customer, as well as a former restaurant worker myself. I grew up in Washington State in the Seattle area. I spent four years working in a restaurant setting. I worked closely with servers. If one thing sticks with me, it is the fast paced speed that servers and bartenders must maintain in order to keep a restaurant functioning. I have vivid memories of my co-workers rushing from table to kitchen, carrying five plates at once, reciting eight orders off the top of their head, and treating customers with care, respect, and patience. Serving and bartending are not easy jobs. Many of my co-workers dedicated their lives to the art and craft of serving and bartending. It is a career. Their jobs at the restaurant were careers. They took pride in the environment they created, and when the customer was not satisfied, they took it to heart and did all in their power to make sure the customer had a wonderful experience, even when they were degraded. The servers and bartenders at San Carlos Restaurant were teachers to me, and I will never forget those formative experiences grinding in the restaurant. As beautiful as it was to be part of the restaurant, there were many dark aspects. Many of my co-workers were mothers, and in the hundreds of conversations that we had throughout those years, I distinctly remember there was always a sense of stress and fatigue. Even though my co-workers were regular and dedicated members of our restaurant, many of them held second or even third jobs to be able to pay their bills and support their families. The term penny pinching comes to mind when I recall those conversations. As a young and critical

mind, I remember thinking, why is it that restaurant servers make so much less than professionals in other businesses? Recalling the images of corporate workers in cubicles, I wondered how is that those workers can make twice, sometimes three times as much as my co-workers, who sweat and stress and hustle to bring joy to our community? It didn't seem right then, and I am positive it is wrong now. You can imagine that I am thrilled to say that my home state finally got rid of the tip credit. Servers in Washington State now make a guaranteed \$11.50 per hour for their hard work with tips on top. One concern I hear is that increased wages for servers will mean that prices will be raised on the menus. I have heard that customers will stop going to restaurants and servers will lose jobs. A study by the Restaurant Opportunities Center found that in seven states that have already done the right thing and done away with tip credits and tip minimums, prices have gone up by a matter of dimes. Furthermore, a study by the corporate lobby group, named National Restaurants Association, a survey found that seven out of ten Americans would rather pay slightly higher prices if they knew servers were making a higher wage. I am one of those customers. I recently spoke to three friends of mine who work in the restaurant industry in Seattle. None of them or anyone they knew reported a drop in the amount of business that the restaurants have received. None of them or anyone they knew has heard a complaint from customers about prices. None of them or anyone they knew reported a drop in tips, but they are all happy to have extra in their paychecks. Thank you.

Commissioner Reardon: Thank you. Tom English? Tom? Ethan Cox?

Ethan Cox: Hi. So I have a prepared statement, but I am going to add to it, as I walked in here not knowing exactly how this was going to go down. This is kind of interesting to me. So, let me just start with this. I am here on behalf of my own business, Community Beer Works in Buffalo. Additionally, I am a board member of New York State Brewers Association. I am also representing many of the 400 or so operating breweries here in the state. The board has taken an official opposition on this issue, and we are against any reduction or elimination of the tipped tax credit. In the past five years, there has been a surge of breweries in the state. It is one of the larger economic success stories; fast growth in a very high-profile industry. In many respects, the same administration in Albany that wishes to eliminate this credit has also supported the success of craft beer and brewing in New York. What puts these two positions at odds is that without tipped employees, the New York State brewing industry would not have enjoyed this rapid expansion. You might ask why. It is true that at the core of it, a brewery is of course a manufacturing facility with skilled labor running the brew house, dealing with the logistics of packaging and so forth. But, many of New York's breweries are just starting off, and brewing equipment at any scale is very expensive, so the revenue source that fuels early brewery sustainability is decidedly the brewery's taproom. To brewery taprooms, do a brewery enthusiast go, tourists and locals alike certainly are coming in ever greater numbers to experience their favorite beers in the freshest state possible and in an atmosphere that is typically very family friendly and inviting. Enthusiasts especially enjoy being able to sample beer by flights and often to talk directly with owners and brewing staff. And brewery taprooms, while they can vary and literally be nothing more than some drafts and some to-go growlers, to being full restaurants, very much depend on the restaurant and bar model of employing tipped labor for the front of the house. So put very plainly, elimination of the taxed credit will hurt the businesses of the vast majority of New York's new and small and growing breweries. I don't think anyone in

the state wants to see that happen. Who doesn't like New York State craft beer, sincerely? Having said that, Community Beer Works is a pretty progressive company, and a lot of the things that people are talking about that are problematic in this industry are real problems, and we hope that you guys find ways to solve them. I don't know that this is the way, but I very much applaud the attempt to address those issues because they are real. The pain that you hear people testifying to is real. So, you know, we get out ahead of that as a company. There are ways that you can do that as a company; it is possible. That said, you know, I don't think this is really necessarily going to solve it. There you go.

Commissioner Reardon: Thank you very much. Olivia Moni? Olivia Moni? Kevin Dugan?

Kevin Dugan: Good morning. I am Kevin Dugan, Governor's Affairs Director of the New York State Restaurant Association. I would like to again thank Commissioner Reardon and her staff for hosting today's hearing and allowing testimony on this very important topic. The first time I spoke to you folks in Watertown, I mentioned that to my surprise, there was a need for these hearings at all, seeing as 2016 legislation was passed that locked in the food service wage at two-thirds of the full minimum wage. Today I would like to testify on another topic that has been consistently part of these hearings. For weeks, we have heard many proponents of this proposal cite the fact that seven other states do not have the tip credit, and New York will be just fine if it follows suit. This is seriously flawed and dangerous reasoning, and if followed could mean the extinction of many restaurants across the state. While it is true that seven states do not have a tipped credit, the fact of the matter is that they haven't had the tipped credit for a long time, and certainly weren't thinking about eliminating the tipped credit, while at the same time phasing in a minimum wage increase. Furthermore, once phased in, the fully tipped wage in New York will be higher than the majority of these states full minimum wage. Like I said in my previous testimony, comparing other states to ours is not apples to apples, and we need to be wary of trying to replicate another one when the economic conditions in these two locations are vastly different. New York State restaurants have been crushed by endless wage increases in recent years. In 2015, the tipped wage for food service workers increased fifty percent overnight. In 2016, the state embarked on a path to a \$15.00 minimum wage. The industry can't keep up with the never-ending labor cost increases, and we have seen through these increases that restaurants will close, some will increase the use of technology like with tablets, staff will be eliminated, and hours will be cut. These are not predictions; all of these things are happening right now. Eliminating the tipped credit will exacerbate every one of these problems. New York is already lagging far behind other states when it comes to restaurant growth. While we like to envision ourselves at the top of the heap when it comes to projected job growth in the industry, the reality is very different. According to a 2017 national study, the projected job growth for New York in the restaurant industry is 0.6 percent for 2017 to 2027. That number is significantly below the projected numbers of compatible states and ranks us in the bottom ten percent. We are closer to Alaska, North Dakota, and Montana than we are to California. We have heard from a number of national chains that have told us that they are simply done opening stores in New York. The cost of doing business here is just too high, and they would rather allocate resources where their other operations can be more profitable. This is a significant problem that will only be made worse with the elimination of the tip credit. Eliminating this tool pushes more owners and operators into making drastic employment decisions, which benefit nobody. Again, I would like to thank

the Department of Labor for hosting this important hearing today. It is an important issue, and issues like this, it is important that issues like this are part of a public discourse. Thank you.

Commissioner Reardon: Thank you. Diego Palaguachi?

Ramona: The next five testifiers after Diego are David Jimenez, Shelbi Mcllroy, Tammy Cowan, Colin O'Malley, and Nicole Blarr. Please make your way down to the front and hand us a copy of your testimony.

Diego Palaguachi: Good morning. My name is Diego Palaguachi, from the Retail, Wholesale Department Store Union. We represent car wash workers in New York City, who are immigrant workers. Car wash workers deserve to earn one fair wage plus tips because the tasks they perform require a high level of skill that they are currently not properly compensated for, especially considering the hazardous nature of the work. Why hazardous? Workers are exposed to the same hazards that industry workers face. Amputations are prevalent due to the exposure of moving pieces, such as moving chains and unguarded machinery. When an organizing event occurred, we met workers exposed to these dangers. We met one worker whose legs hit into a moving chain, and his leg got caught and pulled away from his body by this machine. Now this worker has to live with the trauma of losing a limb while doing his job through no fault of his own. I am going to do a side comment; I wonder if this worker can dance. Now car wash workers are also supposed daily to hazardous corrosive chemicals used to remove debris from the metal frames. These chemicals come into contact with workers' hands, arms, and respiratory systems. Red eyes, itchy skin, or difficulty breathing are common symptoms for workers. The tasks of vacuuming and drying, something you think wouldn't be hazardous, actually requires the strain of repetitive movement of shoulders in an awkward motion. Those exposed workers have a higher risk of developing musculoskeletal disorders, such as rotator cuff syndrome, a painful injury that occurs when tendons of the shoulder are worn out causing disabling pain when you lift or move your shoulder backward. Finally, working on asphalt and unshaded lots, workers face extreme temperatures. In cold winters, workers find themselves wearing layers and layers of clothing, so they perform their tasks outside with limited access to heating for more than ten hours per day. In the summer, the burning sun heats their backs, exposing them to extreme temperatures, which can damage limbs and cause frostbite and heatstroke. Our experience has also demonstrated that there is underreporting of injuries and illnesses due to employer intimidation and lack of information of proper OSHA processes in the car washes. The occupational professional safety and health administration requires employers to record injuries and illnesses under OSHA 300 law when they are beyond first aid measures. Finally, there is a prevalent negligence from employers on meeting OSHA's standards to control hazards. For example, we have witnessed the lack of training for workers on health hazards produced by chemicals, failure to provide in a timely manner safety sheets, and document a list of hazards and substances that workers handle. The absence of providing hand, face, and respiratory protection, which is mandated by OSHA, has a communication standard. To end on a good note, we represent workers in one of the biggest car washes in New York City, and through collective bargaining, the union successfully negotiated and workers earned minimum wage plus tips. Now, we have seen this business run successfully, and it continues growing. Thank you.

Commissioner Reardon: Thank you. David Jimenez?

David Jimenez: Good morning. Good morning, Commissioner Reardon and members of the Department of Labor. I want to thank you for giving us the opportunity to testify on why car wash workers need to have one fair wage plus tips. My name is David Jimenez, and I am lead organizer for the Retail Wholesale Department Union for car wash companies. For the past six years, my union has been part of a coalition with NYCC with the goal of improving working conditions for those in the car wash industry. As you can see, there has been a change in policy for wages for car wash workers. I think it is important for you to hear our experience in negotiating contracts to see what is possible. Over two years ago, the car wash company organized a major player in the car wash industry. The name of the employer is SOS Carwash, located on Bushwick Avenue in Brooklyn, New York. When workers come in together to organize themselves into a union, there were similar arguments that we were hearing from employers on how changing the tipped wage will actually hurt and be harmful for workers during the campaign. Our workers were told that they would not be able to work for the same hours, and the employer would no longer be able to maintain the same staffing levels or even have the same access to their managers. Workers were told by management that their business was going to fail, but workers stuck together and did not believe the lies. Car wash workers from Honduras, Mexico, and Mali came together regardless of their different religion and languages and won a contract that finally treated them with respect. More importantly, the contract now guarantees them through a legal binding agreement that they will be paid one fair wage plus their tips. Two years into the contract, the car wash is thriving. The business operates even in rainy days, which is rare in the industry. Workers have not lost income, staffing levels remain the same, and more importantly, workers don't want to go back to the tipped credit system. Finally, SOS Car Wash is not the only car wash that operates well without the tip credit. We know from other workers in the Bronx and Brooklyn that car washes also operate without them. I would like to urge, on behalf of car wash workers, to amend the wage barriers. Let's bring workers to one fair wage plus tips. Thank you again for giving us this space to testify. Car wash workers are grateful to you and Governor Cuomo for opening the door for this to happen. Thank you.

Commissioner Reardon: Thank you.

Female: So you are saying in New York City, some of the car wash operators have voluntarily gone to the one fair wage plus tips? Do you have any idea what the breakout or percentage of those who did and who didn't?

David Jimenez: I would have brought like a full story of the other car wash locations. We know one location in the Bronx for sure. The owner, we call him Alino, I believe, is the name of the owner. He is a Portuguese owner, as far as we know, in the Bronx.

Female: Just quickly; are those the larger employers who have been able to do that?

David Jimenez: I mean New York City tends to have a concentration of employers. Like a lot of the employers tend to own several car washes. They are of course single employers.

Female: Thank you.

Commissioner Reardon: Shelbi Mclroy? Tammy Cohen? Colin O'Malley? Oh, Tammy! I am sorry. I didn't see you over there.

Tammy Cohen: I just want to say thank you. My name is Tammy Cohen. I am from this area. I serve for many reasons. I love people, I love interacting with people. I have been doing it for probably 35 years. It is a big difference from back then to now, and I just want to let you know the flexibility that it gives families to allow them to spend time with their kids, to allow college kids to go to school, and so forth, but it takes two incomes basically to live in New York State. Everybody knows all the increases in the cost of living and so forth. I love New York City, but New York City is totally different from everywhere else cost wise to living wise. Don't compare us to them. Don't change it. Businesses will close due to costly labor and the food prices. We will see less families eating out. Quality will go downhill because the staff will be limited. More work will be demanded of the people that are remaining. People will move out of state, even. Take a look at how many have moved out of Buffalo due to the costly increase of everything. If we continue to increase everything, places will close. Take a look at the malls, the vacant stores. Take a look at the steel industry we once were number one in. Let's build our business, not destroy them. Leave wages alone. As for harassment, my employer does not tolerate or put up with any type of harassment. We have rules strictly enforced. It is up to the management and business owners to enforce that. Don't leave it up to the good ones when the bad ones that are accountable for it. Thank you.

Commissioner Reardon: Colin O'Malley?

Colin O'Malley: Hi there. I'd like to welcome you all to my home town of Buffalo. I have been a server in Buffalo for about ten years. I now live in Rochester doing other work, but I was a server, a busser, a dishwasher, a food runner at Forest View, a diner out in Lancaster, at Amy's Place up on Main Street, at Shanghai Reds, right around the corner that used to be on the waterfront, where we had yacht parking, so I think that probably qualifies it as fine dining. At no point along the line of those employers could I say that I was stably making enough to live. And in fact I loved food service, so I would have stayed if I could have. The process of making sure that someone who may or may not have had a stressful day or is coming in with their family and is looking for service provision and the possibility to just relax, right? Making sure that that goes well for them is something I very much appreciated and liked. It is a type of work that I absolutely would have stayed in had there been any potential for even a slightly middle class livelihood. Even in fine dining, I found that in Buffalo, it meant in winters, keeping my furnace at about 55 degrees. Now I now some folks in the room are from New York City, so just remember, Buffalo at 55 degrees, right? That's, it is not the warmest place here. I think it is unfortunate that in the midst of this conversation, we have to hear the sort of traveling road show of fear mongering that follows every advancement that workers have ever asked for, right? This has been true of every wage increase that New York State has ever had. We have been told that industry will utterly collapse at any moment if wages go up, and they have gone up repeatedly, and the industry hasn't collapsed. In fact, these same industry bodies told us years ago, decades ago, that if social security was implemented, all industry would collapse. Only a few years later,

we were told that if the affordable care went through, all industry would collapse. We are told in this room right now that we have got apparently really good bosses, and you know, maybe that is great, maybe there are some really great bosses in here, but what I have witnessed over the course of this conversation are bosses actively engaging in threats, and people don't seem to notice some of those threats. One of them just came up here and said that he would replace all of his waiters with tablets. That is a threat to your workers. He is threatening his employees right there with a loss of jobs. We are being told that job cuts across the board will happen if wages go up to even a miniscule amount. So at the end of the day, you know, that sort of fear mongering, that sort of intimidation of the restaurant industry, of restaurant industry owners, you know, I think that they should really look at themselves in the mirror for a second and say, are you really progressive when you are threatening your workforce that way. Thank you.

Commissioner Reardon: Thank you. Nicole Blarr?

Ramona: After Nicole, the next five testifiers are Matthew Ott, Zoi Christanis, Leslie Verstringhe, John Albert , and Marilyn Tascione. Please make your way down to the front and hand us a copy of your testimony.

Nicole Blarr: Good morning. Bear with me, I am a tad nervous. My name is Nicole. I am a single mom to two young daughters. I do not receive any child support for my children. I am the sole provider. I am a server. I am educated, I have a degree, and I choose to be a server. Why? Because my position, my industry is unique. My income generation is based on my performance. The more professional, courteous, and focused I am, the more money I earn. This advantage has allowed me to provide a comfortable lifestyle for me and my kids. Eliminating the lower tip minimum wage will change my life. This action will provide swift and undue harm upon all of us in this industry. The idea that this will reduce or eliminate sexual harassment is absurd. I have read the stories and now heard of servers being mistreated. I empathize for those in that position; however, that is not the norm. I work for the original Pancake House, a privately owned and operated restaurant. I work for a family. I work with a family. My employer would never allow any of us to be harassed or mistreated. The responsibility to ensure proper behavior does now exist should fall upon the shoulders of the owners of the establishment. My employer established a zero tolerance factor. He has done his job. I can somewhat understand your belief that this action could be positive. On paper, anything can be drawn out to appear like a great idea. The fact is, many great plans on paper often fail when reality is brought into the equation. In 2016, Maine adopted a similar ballot measure. The result, it was overturned a year later when it was proven that the industry workers suffered a twenty percent lost to their income. Twenty percent. I am aware that my statements today are painfully redundant, and I am certain that you have heard this all before, but there is a reason why we are all here today. We are pleading with you to really hear us. Forcing my employer to pay me a higher hourly wage will not assist my life. The reality is that the end result will be the implosion of my restaurants. This action will impact the customers, as well. Obviously prices will absolutely increase and decrease the number of people who dine out. Let's also mention the impact upon the level of customer service. Are our servers going to care less about their performance? Sure. I choose to be a server because I can dictate and control my income generation. When a customer leaves a tip for me, it means I have accomplished my goal. My

patrons had a great experience, which is exactly what I seek when I dine out. The moral is two options for me if this is passed; I either have to find a new state, leave my home state, or I become a statistic, and I am in the future on public assistance. That's it. Thank you.

Commissioner Reardon: Matthew Ott? Matthew Ott? Zoi Christanis?

Zoi Christanis: I am Zoi Christanis, owner of Panorama Restaurant and Lounge. I would like to state that I am not a greedy, abusive, dishonest, or uncaring owner. I treat my employees with respect and admiration. You will hear please and thank you all day long in our kitchen and dining room. That starts with me. Many of my servers and bartenders make as much or more money than I do. I am fine with that. I want everyone in my employ to prosper. Anyone with an issue can come to me to find resolution. This is what adults do; communicate constructively. My people don't want or need a union to do this for them or to take any of their hard-earned money. When the people you are helping say they don't want it; who are you helping? An opportunistic labor union? You must understand the cost of keeping one's doors open is quite high. Food and beverage inventory, payroll, insurance, taxes, linen service, pest control, phone, Internet, utilities, and on and on. When you are done paying everything, there is not much left. Understand how important this tip credit is to us owners. It can be the difference between staying open or going out of business. How does anyone gain from that. I don't have a PhD or do research. What I do have is 30 years of real life business experience, common sense, and the ability to pinch a penny until there is nothing left. This is how I conclude the disastrous effects this will have on our industry. My employees understand this. When I informed them of this proposal, they were immediately alarmed and upset. They know I will need to make many adjustments to deal with such a large, added expense. We are all concerned that our place of work, our second home, is in jeopardy. This proposal is a threat to our livelihoods, our family, and our homes. I am not the one instilling fear in my workers; the government is. We are here defending the tip credit. We are also defending our industry that we have chosen and love. This is our passion and our life. Please listen to us, the majority. Thank you.

Commissioner Reardon: Thank you. Leslie Verstringhe. Leslie? Leslie Vestringhe? John Albert?

John Albert: Good morning. I am John Albert, and I am the owner and manager of McArdles Restaurant in Fairport, New York. I am not going to talk about how my servers last year averaged \$28.00 an hour because you are going to hear from a lot of servers with similar numbers, and I am not going to talk about how two years ago, when the wage board increased server wages by fifty percent, to survive at McArdles, we did implement tablets. We did reduce our server hours by 23 percent, which was the elimination of one full-time position, but I looked at it as the saving of 30 other positions. And I am not going to talk about the fact that we do have a minimum wage in New York, and the tipped credit makes sure that we compensate employees if for whatever reason they don't make minimum wage. We just need to enforce that law. It is on the books. I do want to take a minute to tell you that all restaurant owners are not greedy, rich people with money to burn. Most of us work 60 or 70, or 80 hours a week to make sure our businesses work. We put our livelihoods, our financial livelihoods at risk to try and build something, to try and be something bigger than we are. We care for our communities. We

support our communities, and we support our people. We want to make sure that they are successful. I tell you what keeps me and a lot of restaurant owners up at night, it is making sure we open the doors tomorrow at our restaurants, and making sure we are here for the 30 people that count on us for their livelihoods. I have got a minute and a half left, and I want to tell you a little about my restaurant. We are a small restaurant in our little village. We are kind of the Cheers of Fairport. We know our customers, they know us. We will see them pull into the parking lot, and we will put their drink on the table before they come in. We know their families. Their kids grew up in our restaurant, and they know our families. We grieve with them when their loved ones are ill. We celebrate with them when their kids get married. They know my kids. I have three kids. They learned the lessons of hard work in my restaurant. They have grown up in my restaurant. My son, Ryan, is finishing his second year at the university. He started at the restaurant when he was a kid, 14, with permit. My daughter, Prea, worked at the restaurant. My little one, Alisa, she will be starting this summer. She will learn some hard lessons and hard work. Customers often come in and they say, how are the kids doing? How is Ryan? How is college? Is he studying restaurant management? Does he want to take over the family business? Unfortunately, the answer is a simple no. It is too difficult, it is too hard in this environment to make a living in this business. Lastly, I just want to say I see a lot of folks up here that aren't even in our industry, trying to dictate or influence the laws that affect our industry. Please don't let them do that. We are still reeling from the last wage board increase. What industry can handle the increases that we have been given in the last couple of years? Thank you.

Commissioner Reardon: Thank you. Marilyn Tascione? Marilyn Tascione? Okay next five, please.

Ramona: The next five testifiers are Elaine Tascione, Ursula Voges, Sandi White, Jessica Rich, and Molly Babigian. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Elaine Tascione? Ursula Voges? If you are one of the people coming down, just let me know. Sandi White? Jessica Rich?

Jessica Rich: Thank you for having us here today. My name is Jessica Rich, and I am representing Upstate New York. I am in favor of the tipped credit. I have been in this industry for 14 years now. I have occasionally strayed to other occupations, such as the medical field, but I have always found my way back. I am a single mother of two children, and this industry has allowed me to both support my family and raise them. I think it is appalling that my occupation is being sexualized. I make a substantial amount of money, and it is not because of my looks. It is because I excel at what I do. I go above and beyond as a waitress and a bartender. I know my customers. I know their families. I know what they like and what they don't. All of those perks of having such a waitress or a bartender will no longer exist. This industry will not survive. This position will become an entry-level position that will not allow adults to support themselves or their families. Cuomo is proposing a 32 percent increase in wages paid to the front of the house staff. The employer will then have to figure out where to acquire that 32 percent. He is looking to raise wages by 102 percent in the long run. My hours will be cut, I will lose co-

workers, and I will lose customers for many reasons; one reason, the menu prices will be so high that they will not be able to frequent, as they do now. Many employees will then have to seek government assistance because they will fail to make ends meet. That is if my employer survives this massive hike in wages. While this career has provided me with so much, the most recent and life-changing moment for me is that I not only pay income taxes, I now pay property taxes. I bought my first home this year, and I would not be able to do so if I was not in this industry with the tip credit. This threatens everything I have worked so very hard for, and I refuse to lose what I have earned. We do not want your help, and we do not need your help. You know who needs your help? Our first responders need a raise, our teachers need a raise, the car wash employees need a raise. So many families will be negatively affected if this passes. Please focus on the people that need your help, and that is not us. Thank you.

Commissioner Reardon: Thank you. Molly Babigian?

Ramona: After Molly, the next five testifiers are Hillary Scott, Colleen Varga, Matthew Coughlin, Grant Fiegl, and Dennis DiPaolo. Please make your way down to the front and hand us a copy of your testimony.

Molly Babigian: Hello Commissioner and members of the Department of Labor. Thank you for being here today to hear what we, the service community, have to say. I am coming to you from Menden, which is a small community just south of Rochester. I have been working in the service industry for my entire life, starting behind the pizza counter at my local pizzeria when I was just 15 years old. Directly through my learned skills there, I started working as a server at our local tavern, where I honed my ability to give efficient, knowledgeable service to the members of my community. I now manage a local fine-dining restaurant, which I one day hope to own. I emphasize local in all of these places. These small businesses, owned by residents of my community, will have to fundamentally change the way that they do business if you eliminate the tip credit. Employers will be forced to lay off good employees, prices of food will go up, and businesses will close. Neither the tipped employees or customers will benefit, and neither will the owners. Changing a tipped employee's rate to \$10.40 will inevitably decrease their tips and force owners to downsize. We at our restaurant employ six career servers and bartenders who have built their lives and families around this business. They have worked hard in this career for over 30 years each and are currently making an average of around \$31.00 an hour, which is more than I do as a salaried employee. Where will they go to maintain this income when restaurants close due to eliminating the subminimum wage? I speak for them when I tell you; none of them want you to raise their minimum wage. In fact, not a single server or bartender that I have personally spoken to desires for you to. Listen to the people in these positions. Let us own our careers. Why are you fixing something that is not broken? We all entered this career knowing what we would make as a base rate and knowing that we would make more than minimum wage based on our hard work, intense practice, and drive and passion. Let us keep doing what we do best. I have bought a house with this income. My husband has put himself through college with this income, all while raising two little boys. These are opportunities not available in any other career. Please don't take that away from us. Thank you.

Commissioner Reardon: Thank you. Hillary Scott?

Hillary Scott: Thank your time this afternoon. As you said, my name is Hillary Scott. I own three small restaurants in the Rochester area, two in Menden. Let's see, I employ around 100 people with the three restaurants collectively, two of whom you have heard speak here today. It is with great urgency that I plead with the board to leave the tip credit and tip minimum wage alone. The service industry is the last American industry where employees have unlimited earning potential from the moment they hit the floor. With generous tipping encouraged as a culture, servers and bartenders are encouraged to perfect their skills, work smarter, and build relationships in our sales force. By allowing unlimited earning potential, young families have the opportunity for flexible hours, making more per hour through tips. While employees may work harder on holidays and weekends than other industries, this waging schedule allows availability for the important things like softball games, doctor appointments, homeschooling. If these servers went to minimum wage with smaller tips, they would be working much longer hours to earn the same per week. I would like to address the sexual harassment issue next. As a woman, I am truly offended that anyone would think that I or my employees would earn more tips simply based on looks. If anyone has ever worked in a restaurant, you would know how insulting this premise is. The multitasking, care and diligence that goes into providing good service is a specific skillset that must be learned and practiced, and providing those skills does not happen while preparing yourself in the mirror. Please know that by putting pay increments into the hands of a manager versus the servers' own skills will only put servers in a more vulnerable position. It is very easy to walk away from a table with inappropriate behavior than it is from a boss, and every woman in this room knows I am right when I say that. In summary, know that increased minimum wage and no tip credit will result in less sales tax for New York State, as restaurants cannot absorb anymore extra costs. We are stretched as thin as we can go after the last increase. Also know that your unemployment costs will increase, as there are no jobs for these people to transfer into, as we downsize in our small businesses. Thank you.

Commissioner Reardon: Colleen Varga?

Colleen Varga: Hello. My name is Colleen Varga. I have been a professional server in this industry for nearly 40 years. I am proud that I have this profession my career choice. I am here today representing the 48 employees who receive tips that my employer provides jobs for in order to help them and our community, many of who wish that they were here today, but there apparently wasn't enough room for everybody. I am not a minimum wage worker. I work hard because I work for tips as my incentive. I earn more than minimum wage because of my work ethic. Also, the more money I earn, the more taxes I pay to New York State. My employer gives me and every other server a clean and attractive environment that serves quality food at reasonable prices. My four-to-five table station is my own business. I am the salesperson. The more money, the more I sell, the more money I earn. Customers are happy to tip for quality service. Without the tip credit, employers will not be able to employ as many servers and other tipped staff. This will definitely affect the quality of service. To imply that paying me and every other professional in this industry merely minimum wage is an insult, and it would hurt all of our lives. Many of the servers that I work with now earning real money and paying taxes will be forced to go on welfare. You heard someone testify to that earlier. Since the governor can unilaterally decide to take the tip credit away, this shows us that our government is willing to

take away jobs and force the closure of businesses. My career as a server continues to help me pay for raising my family, my college education, my home, and my vehicles. My children worked in this industry for many years. Now they are successful employees in New York State, and they put themselves through college with this industry. We in this industry are all dedicated, hardworking individuals who deserve what we earn from tips. Taking the tip credit away would feel as though we are being punished for being hard workers. Paying us minimum wage is not going to help us at all. Everybody has been saying don't fix something that is not broken. My daughter, a medical student, says why change something that is working. The removal of the top credit will cause there to be more New York State residents on the unemployment line. There will be less corporate taxes paid, and many of the hospitalities will have to close their doors. Thank you for listening and for your careful consideration affecting the lives of New Yorkers, like me, who still chose to live in New York by the way, that will be directly impacted by your informed decision. In short, please listen to us and do not take the tip credit away.

Commissioner Reardon: Thank you. Matthew Coughlin?

Matthew Coughlin: Good morning and thank you for allowing me to speak. Thank you, Colleen, that was really good. Hello. My name is Matt Coughlin. I have worked in the service industry for almost 11 years, and all of those years have been at Ilio DePaolo's Restaurant in Blazon, New York. I started off as a dishwasher in high school and was lucky enough to work my way up to the front of the house, where I currently bartend. As we gather here today to protest the elimination of the New York State tip credit, I am here to plead my personal case, as to how tipping has so greatly benefited my life and the negative consequences that would have if that benefit was taken away. As I mentioned before, I have been in the industry for over a decade. During most of that decade, I was going to school. Bartending was the only job I could find that allowed me to be a student during the day and work at night where I could make enough money to support my needs without having to ask my parents for a handout. This is something I am extremely proud of. I can also say that I know dozens of other young men and women that would gladly stand here today and state that fact, as well. In recent years, I have started a new career that consumes most of my time, but I am still lucky enough that I can pick up bartending shifts on nights and weekends. I can assure you that I am not money hungry, but just blessed with a hard work ethic, as most of the people are in this room. I must honestly say that I live a good life and that at the current moment, I want for nothing; maybe only a couple days off, which isn't a bad thing to have. I don't live in a mansion, I don't drive a Mercedes Benz, and I don't live in excess; however, I do own my own vehicle, I live in a modest apartment, and I am able to pay my bills on time without worry. All of this is made possible with the supplement income I receive from bartending, which I work my butt off for. I almost find it comedic that I have to stand here today and pretty much verify my worth because that is what I am doing. I am here explaining why I think I deserve my tips. Well I know I deserve my tips, and you know what? The customers that gave me my tips know I deserve them as well. I have never asked for a tip, never once, because frankly, it is not in the way of our profession. I have, however, shown up for work, busted my butt, pulled long shifts, worked through tough times, all with the knowledge that if I do my job to the best of my abilities, I might get something extra, and man, sometimes it is pretty sweet. Bartending and working in a restaurant has taught me lessons that carry over into my everyday life, and I truly believe that they have made me excel in other areas

where I would not have otherwise. With this proposal of the elimination of the tip credit, I believe you will not only rob my way of life, but many young men and women to follow. Not only them, but people are working for a handout, but just want the opportunity to work and not have someone tell them their worth. With that being said, I ask the powers that be here today, please do not eliminate this tip credit, and please don't take our tips. Thank you.

Commissioner Reardon: Thank you. Grant Fiegl?

Grant Fiegl: Hello, my name is Grant Fiegl, and I have been in the service industry for over 12 years now. It has helped me pay for college. It has helped me buy my first house. It has helped me pay for my home, and I plead today that we don't get rid of it because it will affect so many different people. And on another note, being a minority in the service industry, I have never been affected personally, where I haven't made as much or if not more than my co-workers, and I don't know where people are coming up with this at all. It just bothers my brain, but pretty much that's it.

Commissioner Reardon: Thank you. Dennis DiPaolo?

Ramona: After Dennis, the next five testifiers are Melissa Schebell, Brandon Sterner, Tina Kubant, Kirk Laubenstein, and Joe Wessley. Please make your way down to the front and hand us a copy of your testimony.

Dennis DiPaolo: Thank you very much for having me here today. I want to speak on behalf of my community and my customers. We have a, over the past 53 years, my father came to this country, couldn't speak English, and with his staff that he hired for the restaurant and through the family and community, he learned English to be a successful restaurateur. We are now in our third generation. My son couldn't be here now since somebody has to take care of the restaurant. But at this time, you know, over 53 years, you meet a lot of people and a lot of families. We have close to 4,000 frequent diners in our family, and for the past few months, since these hearings came out, we have been distributing flyers and informational packs to our customers, and as you can hear from my staff and everyone say, here is what is going to happen, they all say we are going to dine out less because we know prices are going to go up, and we are going to tip less since they are already making more money per hour, so we really don't need to help supplement them. So we all know that; our servers know that, our staff knows that, our industry knows that, and now our customers and our community. So what does that do to us owners? It hinders our ability to help our community through donations to the fire department, to the schools, to the scholarships; everything we do in our community. I am very passionate about where we live because we are blessed in Buffalo, New York to be here. We don't like the rest of the world coming in here and telling us how to run our business. We are not New York, we have never been, we are Buffalo, New York and very proud of it, and with what we do and what we accomplish in our community. My wife, two quick points here, my wife has served 13 years at a sex-offense squad here in Buffalo. She has had zero investigative reports in our restaurant industry. Number two, I contacted my friends out in California and Washington, and you do have the minimum wage with that. Here are their responses, they were like Dennis, here is what is going to happen. They did theirs; California was close to 30 years ago, Washington was 15

years ago; raise your prices, embrace technology, eliminate, cut your jobs and do anything you have to do to survive. Don't worry about it, Dennis. They will get used to it, paying higher prices. When I go to my senior citizen groups, and I tell them the responses, they go, you know what? This community is now starting to turn against us people on fixed incomes because we only have so much to survive on, which we will all be there someday, and we must be aware of that situation because we can't just keep going on and continue to raise prices, raise prices. That is not the answer, but it is the only way to survive, and I have a family to feed, I have a community to feed, we have close to 100 employees, and I am very proud that they are my family. They do an outstanding job in our community, so thank you very much for that, and as I tell my son, only two things will affect your business, my son, mother nature, which you can't defeat, and the government, which you can't defeat. Thank you.

Commissioner Reardon: Thank you. Melissa Schebell? Melissa? Melissa Schebell? That's you, okay, thanks.

Melissa Schebell: Good morning ladies and gentlemen. My name is Melissa Schebell. I am here today to testify in support of keeping the tip credit. In the last few weeks, I have spent most of my waking moments worrying about all the ramifications ending the tip credit will have on my co-workers, my owners, my customers, and of course, myself and my loved ones. Working in this amazing industry over the past 17 years, I have been able to do the following: I have put myself through college. Ms. Carey, do you know how much a Bachelor's and a Master's Degree cost me? \$80,000.00, and I still can't find a teaching job. I have actually searched for other occupations, trust me. I have found none where I can make close to what I do right now as a server and a bartender. Good thing I love what I do. This profession has provided so much for my small family. We can even persevere in tough economic times. When my husband was injured last year and couldn't work for four months, Mr. Musolino, do you know how we survived? I picked up extra shifts, something you can't do with a lot of professions. Last week, I traveled around to educate 35 establishments about this proposal. The scariest thing I found was the sheer number of people that didn't know about this. When I asked them, what do you think will happen when your employer is forced to give you a 100 percent pay increase, they all stated their owners will have to raise prices drastically, that less customers will be able to dine out, and people will tip less because they will have to pay so much more for their food and drinks. I was able to speak with seven owners directly, Ms. Reardon, do you know what six out of seven said? That this proposal would ruin their businesses, and they would shut their doors. That is a lot of tipped employees, and I hope you have a plan on amending the current requirements for unemployment benefits because if this passes, we are going to need it. I was asked why this was even being considered, and when I told fellow industry members that a group called the ROC says we are constantly harassed because of our working for tips, do you know what every single owner's response was, Mr. Rogers? They laughed. They laughed because the ROC's questionable so-called research is wrong. Please advise Governor Cuomo that personally, I have never felt, in 17 years, more violated than I do right now, and I want to know why this isn't up for a public vote. In conclusion, I implore all of you to listen to us. We are the professions here. We know what will happen, we do not need to be saved. My name is Melissa Schebell, and the ROC does not represent me.

Commissioner Reardon: Brandon Sterner? Brandon Sterner? Brendon, no. Tina Kubant? Tina?

Tina Kubant: Thank you for giving me this opportunity to speak today. My name is Tina Kubant, and I am a server and bartender at Mason's Grill 52 and Hamburg. Mason's is a small family-owned bar and restaurant that not just serves food, but that has hosted literally thousands of celebrations over the 15 years that they have been in business; birthdays, anniversaries, graduations, etc., not to mention all the holiday celebrations. From intimate dinners to loud live music with an entire bar singing along, to our very own New Year's Eve ball drop. So many memories for so many people have been made here, and what a shame it would be if this small gem of a restaurant in the Village of Hamburg was to close. What an even bigger shame it would be if half of all the small family-owned restaurants in New York State were to close, and I believe that this is a very real consequence if the elimination of the tip credit occurs. In June, the New York Post reported that 1,000 restaurants in New York State have closed due to the server wage increase in 2015, and many other restaurants are barely scraping by. Since that wage increase, my restaurant has had to decrease staff and server hours. Our profit margin is minimal. If you take away the tip credit, our payroll will increase by more than \$50,000.00 a year. Some staff will have to be let go, other employees will lose shifts, and prices will be raised at least 20 percent, which will cause customers to not dine out as often, and when they do dine out, they will not be leaving the tips we receive now. With a decrease in sales and the huge increase in payroll, there is a very real possibility that our restaurant, as well as many other small restaurants will be forced to close their doors. I am educated. I have worked as a medical secretary, an executive assistant, and a human resource manager, but being a server and bartender is what I enjoy most. I have spent 26 years in the restaurant industry, and I love it. I love the social atmosphere, my regular customers, my co-workers. I love the flexibility of my schedule, and most of all, I love the money that I earn, which is most often \$19.00 to \$26.00 an hour. Restaurant Opportunities Center or ROC claims to represent us. I would like to assure you that they most definitely do not represent me, my co-workers, or the dozens of other servers that I have spoken with over the past few weeks. ROC has stated that on average, we make less than \$10.00 an hour with our tips. This is false. As you know, with the tip credit, all servers are already guaranteed the minimum wage with the opportunity to earn more with tips. Since I was 16, I have worked in nine different restaurants from small diners to fine dining and banquet halls. I have never had an employer not pay me the tip credit on the very rare occasion that I didn't make minimum wage. That being said, apparently this may be a concern, maybe in salons and car washes, but those are labor law issues, not tip credit issues. Please, please do not eliminate the tip credit. It will hurt many more than it will help. Thank you.

Commissioner Reardon: Thank you. Kirk Laubenstein?

Kirk Laubenstein: My name is Reverend Kirk Laubenstein, and the Reverend is really important to me, and I think from what I have heard in the last 60 or so speakers that God often speaks in silence, so I am actually going to use the first minute of my time to let us contemplate, to let us think about the poor people that live in our community, and will come back when we have one minute and 30 seconds left. So, thanks for bearing with me in that. The truth that I have seen is that we have heard from management, we have heard from owners that the sky will fall,

everything will go to tablets, we will have to fire all our workforce. We were a leader at the Coalition for Economic Justice and the Fight for 15. The sky hasn't fallen. And here is the truth that I see. The truth that I see is that we need a moral revival in this country. We need a moral revival that actually cares for poor people, and that is why the poor peoples' campaign is coming to Albany. I am thankful to Governor Cuomo for doing this, for holding these subminimum wage hearings. It is the beginning. It is not the end. The truth that I understand is that

Commissioner Reardon: Thank you. Joe Wesley?

Ramona: After Joe, the next five testifiers are Mark Frantz, Latanya Jacob, Marcie Emrich, Tom Beiter, and Kimberly Zuppeili. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Marck?

Mark Frantz: Hello again. I attended the meetings in both Watertown and Syracuse. This is my hometown, Buffalo, so I thought I would have to come here. Thank you. First and foremost, what you have heard here today and what I heard at the other two meetings, are industry, the hospitality industry is going well. It is vibrant. I heard a lot of information from people are making a very good livelihood at doing what they want to do. Please don't throw a bucket of water on it. In Watertown and Syracuse, I explained to you that our company represents 200 employees that are currently making \$17.00 to \$26.00 an hour in 2017, and they also have full benefits. I also mentioned the phrase in both meetings, unintended consequences. That is the definition of this proposal. There are so many unintended consequences that are going to happen here. I went through and did a quick study, and we right now are at the highest wage, tip wage, in any of the states that surround us. So any company that is looking to look to expand or build a new property in this state, they are going to look at that. Those are the, that is the information that they look at before they decide what state to look in. My company has eight properties here. We are breaking ground on a new one in Olean. We have a lot of future plans for New York. We love New York. We love doing business here. I think this is just a bad idea. If this is an issue with downstate, if this is an issue with the car wash industry, then separate it from the rest of the state is that is what needs to be done. From what I am hearing, other than some union organizers, from what I am hearing from the people that are actually in those jobs is that this is not an issue. And my closing point, I went and took this comment off your website, and it is on all your collateral material; "Change is not expected to impact tipping practices in New York State." That is false. It will change, it will absolutely change. It changed the last time, and this is much more aggressive. It will change. I have never been called a fear monger in my life until today, and I don't necessarily like it. We provide good jobs, we provide a safe environment for people to work in, and I think I represent a lot of people in this state who are saying we will change how we operate, we absolutely will change. We have to. So please, the last word I am going to leave you with is hope. A lot of people in this room hope you make the right decision. We hope you go back to committee with all of this information that you gathered and truly digest it, and we hope you don't turn our business upside down. Thank you.

Commissioner Reardon: Thank you. Latanya Jacob? Latanya Jacob? Marcie Emrich? Tom Beiter? Kimberly Zuppeili?

Ramona: After Kimberly, the next five testifiers are Mark Cupolo, Tony Lunetta, Maggie Raczynski, Christopher Hanley, and James Farrance. Please make your way down to the front and hand us a copy of your testimony.

Kimberly Zuppeili: Okay, thank you for allowing me the time to voice my opinion on eliminating the tip credit. I probably, like most people here today, hate public speaking. For myself, I mean, I want to vomit now. I hate it, so for me to be up here, there is only one reason that could get me here and face ridicule, possible embarrassment, and that is to protect my family. And that is what my job at Curry's Restaurant in Buffalo is, it is my family. It is a small Irish pub owned by an impressive thirty-something, hardworking, fierce woman. We are what most people in our industry will understand; a loving, caring, dysfunctional family. We work hard, love our jobs, love the restaurant, and love our boss. I make a darn good living doing so. I am a little emotional. We did not ask for this raise. We don't want it. We don't need it. I have yet to talk to anyone in our industry who supports this nonsensical proposal. Some of the rhetoric I have heard to justify this intrusion into our livelihood has been sexual harassment. I believe in an attempt to go online to the Me-Too movement. I can tell you this is ridiculous. Well of course there are true victims of sexual harassment in any field; but I have yet to see it at our establishment, and if it did happen, I can promise you, we can all take care of ourselves, and we would have the full support of our employer to do so. This is just a distraction and a talking point. This wage increase will only hurt businesses, especially small businesses. It will force owners to raise prices, passing this on to consumers, who in turn will go out to dine less or not tip according to service because one, they can't afford it, or two, they think we make enough. I do believe in a higher minimum wage but not for tip employees. Do you know who deserves a raise in my opinion, the hardworking nursing home aides who do backbreaking work, but can't make a living wage. They would benefit from something like this. We didn't ask for it, we don't want it. The scariest words to me in this English language are, "We are the government. We are here to help." Thank you.

Commissioner Reardon: Thank you. Mark Cupolo? Mark? Tony Lunetta? Maggie Raczynski?

Maggie Raczynski: Good afternoon, esteemed members of the Department of Labor. One fair wage; a clever name, catchy if you will. The public thinks, yeah, that sounds right. Everything should be fair. Truth is, it is not that easy. If it was, we wouldn't be here right now. So let's talk about fairness. Who is it fair for? Is it fair for servers? No, we don't want it. In essence, it will reduce our earning potential because there are consequences to raising the wage; job loss, shift reduction, and increased prices, driving guests away. These are all things that can be easily avoided by not giving us a raise we do not want. Is it fair to the back of the house employees? No! If a restaurant is forced to give the highest paid in the building a raise, there will not be any money left over to pay these cooks a decent wage. There will also be less shifts for these employees. When it comes to payroll cuts, both front and back of the house will see a loss of hours and positions starting at the entry level. Is it fair for our guests? No! They are going to see an increase in price and a decrease in service. Believe me, they may say, oh, we are willing

to pay more, but they do not understand what it is going to be like. Patrons already complain regularly about the service they receive. This is only going to make it worse. It is fair for the business owners? No. And I already know what they are going to say, who cares about the business owner? Our opposition hates ownership, so it is completely predictable that this is their thought process. They think all restaurant owners are sitting on their yachts somewhere, driving around in their expensive cars. For most restaurant owners, this isn't the truth. Most owners are present in their restaurants more hours a week than they would like to admit. So you know who cares about the owners? I do! We do! The owners need to stay in business for us to have jobs. It is really just that simple. But in case, I have come prepared with a math equation, so we can be very clear as to what this would cost the business. My restaurant uses 700 hours of server payroll a week; 700 hours times \$2.90 is \$2,030.00 times 52 weeks in the year is \$105,560.00 a year. A restaurant working on a great profit margin, might make five percent, which is \$50,000.00 on every one million dollars in sales. So for this business to make up the difference for the raise, they must increase their sales by two million dollars. A \$2.90 raise is not a small raise, it is a big deal, and the industry already sustained a similar blow two years ago. This proposal is too much, too fast. We haven't finished phasing in the last rise in the minimum wage decided two years ago. The workers want the tip credit, the business wants the tip credit, the activists just want to get their way. There is nothing fair about it. Thank you.

Commissioner Reardon: Thank you. Christopher Hanley?

Christopher Hanley: How are we doing? My name is Chris Hanley. I didn't show up with a group of people. I am just a humble server who came to voice his opinion. I am a veteran in this field. I have accumulated 22 years of experience across a vast number of restaurants, bars, banquet facilities, you name it; dishwasher, cook, host, bartender, manager, busboy, server; barring owning my own building, I have done everything that there is to do. I have run all of the gamut from fine dining to takeout, and where I sit now is the cumulative sum of that experience, and I am super grateful for it. I have seen the ebbs and flows of this industry. It is a tough game to play on some days, though. I am sure I could assume the same of your own jobs. Although no job is perfect, we do the best we can, and we build a better foundation for tomorrow. The argument that tipped front-of-the-house employees cannot earn a living wage is an absurd blanket statement. Many people all across this nation raise families, get through schooling, and make careers in this industry. We have heard it. Speaking from experience, I would not lead the life I do, have the amount of time I have to spend with my children, whom I have had custody of for almost a decade now, or be able to afford to create such a stable environment for us were it not for this industry and the tips I make weekly. I just took my daughter to Iceland for her sixteenth birthday two weeks ago, only because of this. This is an industry where hard work not only pays off, but it pays off directly in the amount of money I take home daily. Of course, I have seen others struggling in this field, but it isn't because they don't have the opportunity for a better hourly rate. It stems from their work ethic and their diligence to excel, and I don't think this is the only industry where we are seeing that. Any bell curve has its outliers, but beyond the extreme highs and extreme lows of it, the cluster of data in the center, where the majority of us are lying right now, is probably a fairly reliable piece of information. Beyond the individual facets of this argument that touch me individually, I can see from a business perspective how this is going to negatively affect the entire industry in New York State. In 2016, when you raised the

minimum wage from five bucks to seven-fifty, we saw an increase in restaurant prices, a series of closings from long-standing businesses. A fifty percent increase in labor costs affected business owners, employees since many positions were cut, and ultimately the customers, since prices went up to accommodate this. This new expense will more than likely follow the same trend of reduction of positions, businesses closing, and higher prices. Someone has to pay for this, and my guess is more people are going to pay than you think. I would hate to see this industry automated. We have enough computers around us; iPads, iPhones, everything; I don't need an iPad to send my order and swipe my card at the table. There is something uniquely special about someone who is truly good at this, who generates an experience for the guest and brings joy to the life of others. Many of us are reliant on this industry the way it stands. We are raising families with these jobs, buying cars, buying homes, I am shopping as we speak, and traveling the world, I am doing it. It is the one industry that I have found that affords me time to pursue other endeavors because the timetable I work in allots for more than just an eight to five workday with hope for a weekend. The options for scheduling are endless, and although there are positives and negatives to it, the overall consensus among so many of us is we love this life. Don't change it.

Commissioner Reardon: Thank you. James Farrance. James Farrance? Okay, the next five.

Ramona: The next five testifiers are Stacey Panzella, Lisa Vitello, Becky Morgan, Deanna Boynton, and Sara Kow-Falcone. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Stacey Panzella? Are any of those five here? Okay, next five, please.

Ramona: The next five testifiers are Julie Marlow, Kacie Grubb, Aletea DeCuffa-Morales, Denise Cuiffo, and Christopher Tripp. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Julie Marlow? Julie Marlow, are you here? Kacie Grubb?

Kacie Grubb: Hello, my name is Kacie Grubb, and I am here to testify in hopes that you will reconsider the elimination of the tipped credit. I have been working in the restaurant industry for 15 years. I started as a hostess, right out of high in 2003. My plan was to work at the restaurant while I went to college. I quickly moved from hostess to server and continued to work at the restaurant while I was at the local community college. The restaurant worked with my school schedule, so I was able to balance both. By the time I graduated, I had already paid off my student loans. I continued working at the restaurant as a server, bartender, and assistant manager for a few years while I decided what I wanted to do. It was in that time that I realized the opportunities that were available in the restaurant industry; the opportunities for people from all walks of life to come together for a common purpose, the opportunity for growth, development and advancement, the opportunity for a flexible schedule that you can basically write yourself, the opportunity to work part-time hours and make a full-time wage, the opportunity to network and meet people from all over. I have met some amazing people over the years that have helped me to get to where I am today. I am now the owner of the restaurant that I started at as a hostess

fifteen years ago. Over the years, I have seen so many people come and go; people who want to work through college, single parents who need the flexibility, people who want to supplement their day job, and people just finding their way in life. I love this industry and what it can offer, and I would hate to have to cut my staff, run short due to strict labor constraints, reduce back-of-the-house wages, or even worse, resort to technology, so I am asking that you please leave the tip credit intact and allow me to continue to provide all of these opportunities to my staff. The 66 people that I employ are like a family. I would do anything for any one of them. There is a law that says that if they don't make enough tips to bring them to the \$10.40, that I am responsible to cover that and make that up to them. There is a law that also says that if I require them to come in, I have to give them at least three hours of work or pay them for that time. I follow all the laws, and I strongly believe that if there are businesses or industries that are not, they should be penalized, not us. We did not ask for this. Please leave us out of it. Thank you.

Commissioner Reardon: Thank you. Aletea DeCuffa-Morales? Aletea? Denise Cuiffo?
Denise Cuiffo? Christopher Tripp?

Ramona: After Christopher, the next five testifiers are Nicole Tortatice, Jim Wilson, Danielle DiLorenzo, Marie Medina, and Rhonda Myers. Please make your way down to the front and hand us a copy of your testimony.

Christopher Tripp: Hello, my name is Christopher Tripp. I am a 25 year old server/captain at The Olde Bryan Inn in Saratoga Springs. This is only part of my story. I grew up in Virginia. I started my restaurant career at the Melting Pot in Fredericksburg, Virginia at 15 years old. I left there when I was 18 years old to wait tables at an Italian eatery called Castia's. There was no training program, so I had to teach myself everything I know today by trial and error. The owner was a greedy and dishonest man. I worked 60 to 70 hours a week, and only got paid for 40. I would also get discriminated against for being a homosexual. Although I personally never struggled financially because I made tips, a few co-workers and I got in touch with the Department of Labor in Virginia to let them know about this lack of compensation of the employees. They did a full investigation and sued the owner. A few weeks later, these co-workers and I received a settlement check for the back pay. I am asking that we do the same thing here in New York. Fast forward a few years. I live in Glen Falls, New York. I work for a man that would never not pay me for the work that I do. My management team is the best I have had the pleasure to work with so far. They have helped me to get the time off work, so I may travel to New York and fight for what I believe in strongly. If you are a hard worker, they recognize it immediately and reward you accordingly. We have all sorts of incentive programs, as well as benefits. It is an honor to work for a business that is understanding and realizes the wellbeing of its workers are its priority. Happy employees equal happy customers. So I beg, don't change the lives of an entire industry for a few bad eggs. Make those employers and business owners pay for what they have put these human beings through. Please follow the lead of my home town. Not every restaurant employee has been through this. We all have our own stories. Eliminating the tip credit, though, is not the answer, and it is not going to stop employers from stealing wages from their employees. Thank you, I will see you in Albany.

Commissioner Reardon: Thank you. Nicole Tortatice?

Nicole Tortatice: Good afternoon. My name is Nicole Toratice, and I have been in this industry for about 23 years. I started off bussing tables and hostessing. Now I have been serving for about 20 years on and off. I have gone to community college, and I have my real estate license. I work at the University of Rochester, overseeing housing for graduate students. All the while, I have always kept a part-time job waiting tables. I have raised two boys on my own with barely any help. I never had to rely on the state for public assistance, and I have instilled in my children that hard work and determination do pay off. Right now, I work about 20 hours a week at Bella Pasta in Rochester, and I make as much there as I do at my real job. For the people that are saying that we need one fair wage, I would like to ask what their definition of fair is. I believe in receiving what I deserve. If I give exceptional service and I make their experience great, I deserve to be compensated. I think in this industry, you are an independent contractor. We are all working for ourselves. Those of us that go above and beyond for a customer generally make great money. Those that come in and do a mediocre job and don't want to give 110 percent most likely will make below average money, and that is fair. What I don't think is fair is having restaurant owners pay us minimum wage, when we already make more than that. I don't think it is fair to have the back of the house suffer because we get a raise that we didn't ask for and don't want. So now there is no money left for them to get a well-deserved raise. I don't think it is fair that a sixteen-year-old busser that loves her first job most likely won't have one anymore because we have to cut hours from somewhere, and I don't think it is fair that on a busy Friday and Saturday night, we will most likely have to cut our wait staff from seven servers to five to reduce payroll. Instead of having five customers, we will have three or four. I don't think customers are going to be happy that our prices went up, and their level of service went down. We won't have that extra time to chitchat with the old man eating alone or wish happy birthdays or express condolences to family members dining after a wake. We will all be on autopilot trying to pick up the slack. This is not what we want, and this is not fair. I understand that the people that work at car washes and nail salons are in favor of one fair wage, and I have nothing ill to say about them. I am just asking you to please look at it as separate industries that deserve separate laws. I wish them the best and hope for their sake that they get better working environments with better bosses and a better wage. And for the people saying restaurant owners are greedy or money hungry and just don't want to pay their staff more, I cannot disagree more. The owners of Bella Pasta do not drive Ferraris or own yachts. They are hardworking guys that bust their butts alongside of us every day. They help behind the line when needed, they lend a hand to bartender when they are in need, and you will most likely find them clearing tables on Friday nights. If we ever have a problem with a patron, they are right there to solve it. There will be no getting away with sexually harassing anyone in our establishment; a patron or an employee. I am lucky to work with and for these men. I consider each and every person in the restaurant part of my family.

Commissioner Reardon: Thank you. Jim Wilson?

Jim Wilson: Hi. My name is Jim Wilson. I own a small restaurant and bar in Henrietta, New York. I first would like to start by thanking each of you for allowing me the opportunity to speak on this subject. Yes, I too have heard the accusations that your minds have already been made up, that Governor Cuomo has put this process in place because he knew he couldn't get it

through the normal legislative process. I sit here, and I choose not to believe that. It is my sincere hope that you both hear and listen to what the restaurant industry has to say. I cannot speak about car washes. I cannot speak about nail salons. I don't know their conditions, I don't know their work environment. I do, however, consider myself an expert in the restaurant industry. For the past 15 years, I have owned three different successful restaurants. And in that time, either personally or as a conduit to the public, have literally paid millions of dollars in taxes to New York State. In fact, I think our industry is a vibrant industry and one that has allowed all of us a very healthy living throughout the years. As a college student, as I worked my way through college as a server, and in that time, I made more money than in my full-time employed friends. So I don't understand necessarily why we are looking at raising the wages of servers, bartenders, and people in the restaurant industry that are making, from my personal 15 years of experience, \$20.00 to \$25.00 to \$30.00 an hour or more. You have heard it testified here today. So it confuses me to see a proposal to increase pay of a group that if it was based on a forty hour work week, makes \$40,000.00 to \$60,000.00 per year. I have heard the ridiculous claim that \$2.90 per hour will end the supposed harassment a tipped worker endures. Come on, does anyone believe that \$2.90 would end that harassment, if it exists, or is it the goal here, the only goal here that would make this proposal make sense would be ultimately ending tipping altogether. I beg that that is not true. That aside, as an owner, this proposal will be devastating to our industry. Let me give you a quick, real-life example. Again, I have a very small bar in a neighborhood community. On average, for the hours that we are open, I have one tipped worker working during the entire time. So what I did is I went to my payroll company. I said, one, the new wage, that it would be at the end of the year, to be fair. When it goes to \$11.10, so it is not just the \$10.40, but at the end of the year, we go to \$11.10. They ran those rates. The additional thing was \$23,000.00 for one tipped worker on during that time. If you count holidays, it would cost me about \$30,000.00.

Commissioner Reardon: Thank you. Danielle DeLorenzo? Marie Medina? Rhonda Myers? Next five, please.

Ramona: The next five testifiers are Marcene Fornatarao, Justin Pitts, Susan Mezera, Amanda Broderick, and Kim Gioia. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Marcene Fornataro? Is that you? Okay, you are up. Marcene Fornataro, right? You didn't hear your name called.

Marcene Fornataro: Hello, you already know my name is Marcene Fornataro. I am a third generation of independent family-owned restaurants from Rochester, New York. My daughter and nephew will be the fourth generation, but with this proposal to eliminate the tip credit, I fear there will not be a fourth generation. I grew up in the industry, which my grandmother started over 50 years ago. I started as a busser, bartender, waitress, and hostess, and now manage along with my sister. We have been at the current location since 1984, which my parents started and are still actively involved. They have put in countless hours to achieve the reputation we have with good quality food and reasonable prices. With the elimination of the tip credit, we will have to raise prices by 20 to 35 percent, people will most likely tip less, we will have to cut

servers, and less people will want to dine out. We employ the high school kids with their first jobs, the single mom, the college students, the line cooks, the executive chefs. By eliminating the tip credit, this will affect every person who works for us, and we do business with; the loyal customer, who no longer can afford to eat out, our liquor salesman, whose commission will go down, our local farmers who we get produce from, the local bakery, where we get our bread from, and the list goes on and on. How many people will this affect? And don't forget the employees who this is supposed to help and will only hurt. Restaurants will be forced to a no tipping policy after raising the prices to cover the costs the servers are making. Right now, they are making \$25.00 plus an hour. If we go to this, when it reaches the full \$15.00, we will have to go and implement some kind of a policy, either no tipping included in the prices, and this is not a one-size solution fits all. I know about the nail industries and the car washes. I have heard about them, but they are not in the same category as we are. And for sexual harassment, I get my nails done. Do I sexually harass another woman? This whole thing just doesn't all make sense. We go to get our nails done, we are there, we go. We don't sexually harass other women. If people have no morals, it does not matter if someone makes a dollar of fifty dollars an hour. A jerk is a jerk, and we have all encountered them, no matter what your profession is. The customer is not always right. Most of the time, the customer is probably wrong. We stand up for our staff and do not tolerate any rude behavior or harassment. We ask them to go, and I have done it personally if someone has gotten out of hand with anybody. I am kind of shaking, and I never shake. Oh, I have got to hurry up, I am almost out of time. After all this time, and we have been in this business for over 34 years, and I can't sleep at night because I am really, really sickened that this could happen. My employees, my parents worked so hard to achieve; I watched them, what they went through, just to get this reputation. I mean, we have a good reputation, we have been there, we are a staple. If we raise prices, people are not going to come out to eat. We have to compensate, and we are not rich. I drive a fucking Nissan. I wish I was rich and had all this money. We just make a living. We make a living, and we do the best we can. We have employees, and I don't have a turnover on employees.

Commissioner Reardon: Thank you. Danielle DeLorenzo?

Danielle DeLorenzo: My name is Danielle DeLorenzo, and I am from Rochester. I have worked at Agatino's since I was 15. This originally started as a bussing job or me while I was in high school. When I turned 18, I took one day behind the bar and looked elsewhere for a typical big-girl job. I sat miserably behind a desk for more than \$15.00 an hour and hated my nine to five. I thought my college was my way out. I did a semester, and I did not like it. I then asked my boss if I could serve tables, and she let me train and pick up days immediately, and I never loved anything as much as going in to work and waiting on people. This job is not for \$15.00 an hour. We are not fast-food workers that are protesting for a raise. We all love our tips and are very content with how it is now. I understand that tips will not fully go away, but I do know that people will tip less because their menu prices will skyrocket to cover the cost of paying employees this unrealistic amount. Where I work is family owned and ran. Most family owned establishments will not make it with this wage raise. As wages raise asking for money, businesses will close, leaving us without jobs and our unemployment rate going through the roof. The people that are for this, car wash workers and nail salon employees, do not categorize with us restaurant workers. That is a complete different field of work, and I feel that their wages and

tips should be handled separately than ours. As for the people speaking out for us and trying to raise the minimum wage, they have never worked a day in this industry and do not understand the importance of the tip credit. If this goes through, us employees will be taking a giant pay cut and not benefiting from it and will be losing jobs. Please leave our industry alone. Thank you.

Commissioner Reardon: Thank you. Justin Pitts? Justin? Susan Mezera? Amanda Broderick?

Amanda Broderick: Hello again. Nice to see you all. Have you heard? I am a career server, and I support the tip credit. This business runs in my blood. My mother was server, my brother was a busser, and my father, well he was just tired of listening to everything we had to say at the end of our shifts. The people behind me, are all part of our industry family. We have taken the time to be here and fight for our job security. The families I have built in my own town and the life lessons I have learned are irreplaceable. The social skills I have obtained and my overall attitude and positivity have made me the person I am today. By eliminating the tip credit, you eliminate the chance for kids all over New York State to obtain a starting position that teaches them eye contact, clear diction, upselling, teamwork, and the value of a dollar. It is hard enough getting these generations to look up from their tablets and cellphones and to want to be a part of their surroundings. My industry has created a sense of community, not only with the people that I work with, but with the customers, as well. Our business model revolves around the harder you work, the more money you take home. This system works, so leave it alone. We don't want this unfair wage. I have witnessed hostesses, bussers, and food runners all on their very first days of work enter shy and timid, sometimes overwhelmed by the fast-paced environments that make up my everyday work life. It does not take long for the atmosphere to absorb into these kids and allow them to be themselves and come out of their shells. Parents know their children are safe because our restaurant family is as strong as it is at home. We all look out for one another. Many of our staff at the Olde Bryan Inn have been working there for 20 years. They have known us since we were born, watched us grow, and then apply for a position. My job teaches the lost art of communication. Customer service is becoming extinct in so many other industries. These are real people in real jobs that are being replaced by computers. By eliminating the tip credit, you are forcing owners to cut staff due to costs and replace them with tablets. The future of dining out will change forever, and we are here to protect it. We are here to save the tip credit. If you eliminate the tip credit, you eliminate one more opportunity for a young person to become a hardworking person. They are the future, the future of our industry. Please save the tip credit. I will see you in Albany.

Commissioner Reardon: Kim Gioia? Kim Gioia? Okay, next five please.

Ramona: The next five testifiers are Carlos Morales, Kay Clifton, Pam Winberry, Drew Dietterick, and Ryan Brennan. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Carlos? Do I have Carlos Morales? No. Kay Clifton?

Kay Clifton: Hello again, and thank you for listening to me speak again. My name is Kay Clifton, and I have traveled from Long Island to speak today. I am missing another day of work

fighting for our cause because missing a few shifts now is better than losing my livelihood. This is my third hearing where I have testified. I have told you my story as to why I have chosen this industry. Then I talked about the effects this new law will have on employers, employees, guests, and all of our communities, the trickle-down effect it will have on the economy, and the rise in unemployment. Because of cutbacks in the restaurants, there will be more unemployment, communities will suffer where restaurants are their main job industry, and most people will be on food stamps, Medicare, and whatever else they can get from the government agencies. I heard ROC testify that they have a server that is 55 years old and can only work lunches. I think that this equals a violation of rights in the discrimination law. I am 58 years old, and I work six days a week with three of these days being doubles. I have two night bar shifts, and I close the floor every other night. I rock my bar shifts all by myself, and I run circles around the other younger employees, so don't tell me that age matters. It doesn't make a difference. You are only as old as you feel. I love my job, and this keeps me young. Now, I want everyone in this room to do me a favor, please, and close your eyes and imagine this, please close your eyes. You are going out for whatever reason, a simple dinner, not having to cook and clean up for a special occasion, an anniversary, a birthday, or just to get away from the kids. You make your reservation or just simply show up. You get dressed and are ready to be pampered for the night out and having all your expectations taken care of. Instead, you show up, your service is minimum, you have to use a tablet to do half the work yourself to even get your meal, you rarely see your server because they are so busy because they have twice the amount of tables to take care of. You will have very little interaction with the server if this law is passed, whereas now, that same server could make your dining experience a special occasion, no matter why you went out. Now open your eyes. If this bill is passed, this is what will happen. No matter how hard your server tries to make your experience special, they will not be able to give you that magical evening. Eliminating tip credit helps no one. Leave the tip credit alone. We do not want one wage for all. We do not need it. Don't shatter my vision of what guest service should be. It will hurt everyone in New York State. Thank you for listening, and I will see you in Albany.

Commissioner Reardon: Thank you. Pam Winberry? Pam Winberry? Drew Dietterick?

Drew Dietterick: Good afternoon. I live in Rochester, New York. I have been in this business for 22 years now, and I am going to go off scrip because I don't want to bore you and repeat the same things that other people are saying. I have two different jobs. I work for the largest restaurant corporation in the world, and I also work for small, single-unit, privately-owned bar and grill basically. I definitely want to support the owners, and I definitely want to support, the smaller business, I know because I have a business degree, I have a restaurant business degree, I am a manager for her too, I help her out, I have seen her paperwork, I know how things go, and she will have to raise prices to do this, as will others. I know that there is actually one restaurant chain in Western New York that has already purchased new POS systems that will eliminate jobs. They will be able to do the same jobs with half the amount of servers, even more. As for as the corporate side of things, sure, they are bigger, they can absorb it better, but they are the ones, you are not, it is not like having an owner. It is, you are a number. You are not a face in the crowd. You are not somebody that they know personally. They don't care as much. They are the ones that hit harder and cut back hours. A few years ago, you made it a law that if I work

more than ten hours a day, they had to pay me one hour at minimum wage, which at the time was \$5.00 a day, so I worked two shifts a week longer than ten hours, and that means they had to pay me only \$10.00 more. I had both of my doubles cut because they didn't want to pay me those ten dollars. Because you guys thought it would be better for me to have ten dollars more, I lost \$200.00 each week basically because of that. We don't need this, we don't want this. There are many people sitting behind me. I feel bad for the salon attendants and the car wash guys, but they are a different industry. They should not even be in the room with us right now. They should have their own day in court, and I am sorry. This is supposed to be a government for the people, and it seems to me like there are a lot of people sitting directly behind me right now that are begging and pleading with you to not do this to us, and I stand by them, I beg of you as well, please do not take away the tip credit.

Commissioner Reardon: Thank you. Ryan Brennan? Ryan? Okay, next five please.

Ramona: The next five testifiers are Denise Scherer, Susan Sadkowski, Elizabeth Hammels, Joseph Gaieri, and Eric Lukash. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Denise Scherer? Susan Sadkowski? Elizabeth Hammels? Joseph Gaieri? Eric Lukash? Next five.

Ramona: The next five testifiers are Elizabeth Clifton, Christopher Clifton, Joseph Gallo, Jo Phinney, and Lee Nolting. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Elizabeth Clifton? Christopher Clifton? Joseph Gallo? Jo Phinney? Lee Nolting? Okay, next five.

Ramona: The next five testifiers are Melissa Laidman, Patti Nolietti, Michael Bailey, Nicole Toney, and Kaylie Ives. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Melissa Laidman? Did somebody say yes? No? Patti Nolietti?

Patti Nolietti: Hello, my name is Patti Nolietti. I along with my parents, sister, and our children own and operate our family Italian restaurant, Agatina's in Gates, New York. I have been in the food service industry for 40 years. I have done every front of the house and back of the house job. I am against one fair wage. I believe the fact that one fair wage will be detrimental to our industry all around. I for one believe it will hurt ours and many other family-run businesses. Agatina's has been in business for going on 35 years. If the tip credit is eliminated, I don't believe we will be able to last in the industry. We will be raising the pay for twelve plus servers. One option will be we will have cuts made and no longer have a full staff on at one time. We will limit the number of servers in a shift. This will result in a longer wait time for our patrons, servers will not be able to give their customers their full attention that they need and deserve while dining out. With the increased wage cost, we will need to pass it on to our customers. We

will raise the menu prices, and it is going to detour a large majority of our patrons from coming in for dinner. Our servers make \$7.50 an hour plus tips as it stands now. The servers are averaging about \$25.00 an hour on any given night. My staff consists of high school and college students, single mothers and fathers, and teachers. The people depend on this money to support themselves and their families. Raising pay to \$11.50 an hour will eliminate the chance for them to make more money. They will be stuck in one flat rate with no room for increase. My servers work very hard for their customers, and being tipped for their service, their hard work is recognized. If they are making one fair wage, what incentive do they have to go above and beyond for their customers? Customers will be less likely in time to leave tips and will cut back on tips, leaving servers and their families with less money to take home. We are not asking for a change. The system that we have in place now works for us. It works for my staff, and it works for our restaurant. We are not asking for change. Oh, sorry! In conclusion, I leave you with this fact, according to the Restaurant Workers of America, for every dollar that a minimum wage is raised, the chance for a restaurant closing increases by 14 percent. Restaurant workers make up to 81 percent of all tipped employees. That is a lot of jobs to be lost or cut. We are asking you to save our industry and save our tips. Thank you.

Commissioner Reardon: Thank you. Michael Bailey?

Michael Bailey: Hi. My name is Michael Bailey. I am part of the Horseheads Outback family. I would like to start off by saying thank you esteemed hearing committee for taking the time to listen to my testimony. I have been a server for nearly 20 years, which not only has allowed me to provide for my children, but also attend most of their sporting and school events, and that is thanks to the flexibility of the restaurant industry. The other thing that this industry has given to me is immense pride in myself and what I do. I feel like I am working for myself. I feel like I should be renting the section that the restaurant gives me. The provide the food, the atmosphere, and the clientele, and the tables that I turn each hour, those tips, they go in my pocket, that is my business. I feel like I am working for myself, and I feel like if this tip credit thing goes through against us, it is not going to be where I am working for myself; I am just going in and dragging my feet, and just providing the minimum service because I am getting the minimum pay, and I don't have that opportunity to reach endless potential of using my skills to sell myself to my tables. And I just feel like not everyone wants this. Mainly, most people that I know do not want to see this happen. Again, sorry that these other industries where they are having issues, sure they need your help, but I, as a server, I feel like I don't need your help, and I really support the tip credit. And I do thank you for your time. In closing, I am going to kick that dead horse and say, if it is not broken, don't fix it, but I would also like to ask you to please don't just hear our testimonies, but listen to them. And I thank you for your time.

Commissioner Reardon: Thank you. Nicole Toney, Kaylie Ives?

Ramona: The next five testifiers are Caren Paterniti, Calanne Van Laeken, Kuran Van Laeken, Amy Conrad, and Corey Mott. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Caren Paterniti?

Caren Paterniti: Hi. My name is Caren Paterniti. I am a business owner. I own a restaurant. Before that, at the age of 16, I started working in the service industry at McDonald's. I then started working up and found out, wow, if you work in a service restaurant, you get tips and make some money, so I have worked in a plethora of different restaurants. I have also been in the retail industry for 30 plus years. I worked at a wage plus commission based company, Kay Jewelers, so I have always been striving for that extra dangle to carrot, I need more money type thing, and learned how to really work my, work up into perfection that I made enough money to actually buy my own business. So there are so many statistics that have been thrown at you today, I almost want to deviate a little. I hope you don't mind, but just one note, being a woman and owning a restaurant, I don't put up with any harassment, at all. I have actually removed customers because they treated my servers inappropriately, and all my servers know that, and they work even harder for me to do that, to make sure they are doing great customer service. So, I am shaking, I don't shake, man, whoo! As we all know, service industry is based on a job well done. Tipping is one of the oldest forms of payment for a job well done. To subtract tipping from the equation and replace it with a mandatory hourly pay is impossible unless you are looking to increase unemployment and bankruptcies. People still have the right and ability to make decisions for themselves. So, if a server or a waiter wants to look for a job that gets paid a minimum wage, they are welcome to give me their notice. They are welcome to find another job, they are welcome to work at McDonald's. They are still welcome to work for me, though, because these tactics, I have to say, we are not projecting capitalism. We are projecting socialism, and that by definition is a transitional society state between the overthrow of capitalism and the realization of communism. Our country is based on capitalism, which is by definition an economic and political system in which country trade and industry are controlled by private owners for profit rather than the state. Thank you.

Commissioner Reardon: Thank you. Kaylie Ives? Oh, I am sorry, my pen wasn't working. Caalanne Van Laken? Kuran Van Laken? Amy Conrad? Corey Mott?

Ramona: The next five testifiers are Elizabeth Nicholson, Allison Appoloney, Shawn Weber, Sandra Wilkins, and Kimberly Cappiello. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Elizabeth Nicholson? Allison Appoloney? Shawn Weber? Sandra Wilkins? Kimberly Cappiello? Okay, great.

Ramona: After Kimberly, the next five testifiers are Joe Gargano, Keith Neely, Philip Fedele, Deorah Graham, and Stephanie Hall. Please make your way down to the front and hand us a copy of your testimony.

Kimberly Cappiello: Hi. My name is Kimberly Cappiello. I have been a server in New York State for over 26 years now, and I have raised two sons who are now in college as a single parent on a server's wage plus tips. I wouldn't have wanted it any other way. While my boys were growing up, I was able to work without sacrificing the important things in their lives. I was able to volunteer at school and field trips. I never missed a doctor's appointment or snow days

because of the flexibility in a server position allowed me. I also was able to financially support the three of us. I am confident in saying that a 40 hour work week at minimum wage would probably not have allowed me to do this. Serving is not just a job for me. It has been a career. I have not been sexually harassed. I do a job I love, and most all people treat me with kindness and respect, and are appreciative of good service and a great meal. Of course, there are a few difficult customers, but let's be honest, they are everywhere. In the last month, since wearing our tip credit shirts to work, so many people have asked what they stand for. Getting the conversation started has been easy, and I have been overwhelmed by the support from these people, many who are strangers to me, customers who are truly concerned and ask what can I do to help or what do you need us to do to ensure the tip credit stays in place. I work for a family-owned business. Maybe the big chains can withstand this change, but I really don't believe that we can. The restaurants will have no choice but to raise menu prices and cut back server hours in order to make up for the extra money they are paying the servers. Most servers, including myself, wouldn't be able to withstand this and would eventually have to find other jobs doing something else, not the job they love or are good at, a job that allows them to survive. Meanwhile, back to the customer, they are complaining about price increases and lack of service. To who? To the person who dropped off their food, not a server. A person who really doesn't care if the food is hot, prepared correctly, or delivered in a timely fashion because they get paid minimum wage either way. Where is the incentive? Where is the smile? It only stands to reason that small businesses will have to go to a no-tipping policy to keep their doors open. If the tip credit elimination is passed, the only outcome I can see is unhappy, displaced servers and good family-owned businesses closing. As we have all heard, other states have passed the elimination and within months have overturned it because it just didn't work. Please keep our tip credit in place.

Commissioner Reardon: Thank you. Joe Gargano? Keith Neely?

Keith Neely: Good morning. Thanks to this distinguished panel for taking the time to hear our voices. I mean that. I appreciate it. My name is Keith Neely, and I have worked in the food-service industry in one capacity or another for nearly 30 years. I am currently bartending, serving and key manager with TL Cannon at Applebee's in Batavia. I am sure you have all been out to dinner at a nice restaurant on a busy night and had a mixture of good and bad experiences. A good server can make the difference between making a wonderful memory to cherish of a flawless evening with your friends and family into a horror show of slow service, cold food, long waits, and frustration. A good server takes pride in the guest's complete satisfaction. All those substitutions and dietary restrictions are our stock and trade. We interact with the kitchen on your behalf to ensure that you get exactly what you want and need. Extra ranch? No problem! Allergic to soy, gluten, tree nuts, or just plain hate mushrooms; gotcha covered! Celebrating a birthday? I will even do my best to try and sing for you. I will make you laugh, I will suggest a wine that compliments your meal, I might even do a magic trick. If you crave real human interaction with someone who anticipates your needs before you even know you have them, you only get that from a great server. Now imagine the scene with half the servers on the floor and twice as many guests. Glasses will go unfilled, and you may have to order them from a tabletop tablet. You may only have contact with your overburdened server once or twice, and there will be little to no witty banter or pleasantries. In short, your experiences will be horrific. Good luck

with that extra ranch dressing. We take care of you, and in return, you reward our excellent service with a hopefully generous monetary compensation. The better we are at our jobs, the more money we can make to take care of our families. This system has endured for hundreds of years because it works. It ensures that we try as hard as we can to make you happy, and it is in our best interest in a real and immediately measurable way. Eliminating the tip credit will force employers to raise prices, cut staff to untenable levels, and employ tech instead of people with mouths to feed. Many servers are single mothers with no technical skills or viable employment options, and they will be thrust into the unemployment line. Smaller restaurants that are neighborhood landmarks will inevitably shut their doors for good. It is naïve to think that tips will not be affected by this, that lives will be changed by this. We have seen how this works in Maine's failed experiment. Leave well enough alone, I beg you. Please don't kill an industry that I love and that has provided me with a living that has far surpassed anything I might make on minimum wage. Thank you very much.

Commissioner Reardon: Thank you. Philip Fedele? Philip? No, Deborah Graham?

Deborah Graham: Hello, my name is Deborah Graham, and I support the tip credit. I have been working in the restaurant industry for over 25 years. I am a single mother of two beautiful girls, and working as a waitress has helped me be the sole financial supporter for my family. I was able to make enough money with the flexibility of my schedule and still be there for them every step of the way, as a mother should be. Now that my girls are grown, I have stepped into the management position. I see other men and women, just like me, use the restaurant industry to support their families. With minimum wage increased to \$7.50 an hour, I could see how much that affected my staff, not only, but more importantly my employees. I was forced to cut shifts and demand more from my employees. I had to see staff members take on multiple jobs just to make ends meet. I cannot express how much this will change if wage increase to \$11.00 or \$15.00 an hour. Please do not force me to take jobs away from people who choose the restaurant industry, just like I did. Please do not force my staff to work additional jobs or lower their quality of life because I do not have hours or shifts to give them. Please, however, take the time to adjust the hardships that other tipped industries are facing. Please address with the labor board the unfair demand that is placed on individuals, such as the nail salon and the car wash industry. I thank you for taking the time to hear my side of the story, but please leave my restaurant industry alone.

Commissioner Reardon: Thank you. Stephanie Hall? Stephanie? Next five please.

Ramona: The next five testifiers are Erica DiSalvo, Alyssa Burns, Robert Free, Sara Testa, and Kailey Gyorffy. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Erica DiSalvo?

Erica DiSalvo: My name is Erica DiSalvo, and I have been in the food industry for the past 12 years, and I have been employed at Outback Steakhouse for the past seven. My time at Outback has gotten me through college with a flexible schedule and the ability to graduate at the top of my class. After years of trying to work in any New York State county for Child Protective

Services and countless denied letters, I made serving my career. I have had good days, and trust me, I have had bad days. This job is my life, and I wouldn't change it for anything. At the young age of 23, I was able to buy a house on my own, no first-time-home-buyer program, no help from anyone, no type of funding. My career allowed me to make the move that many, even my own family, didn't think was possible on just a server's wage. I make more than enough money to provide for myself without needing any type of government assistance. I am not even eligible for government assistance, and with the proposed tip credit being eliminated, I fear that one day, I will have to rely on the hardworking taxpayers to help me pay for something that could have been avoided from the beginning. Outback has given me more than I could have ever asked for. It has given me friendships that will last a lifetime, an amazing second family, and a bunch of regulars, who at the end of the day make me beyond happy that I chose the profession that I did. They are the ones who look forward to coming to eat and see me. They are the ones that help pay my bills, and they are the ones who come in as an escape from reality, knowing that they have other people to talk to. They are the ones that keep restaurants afloat and also the ones that are devastated to hear about what Cuomo has proposed. Outback has also given me the opportunity to purchase cheaper healthcare, and for that, I could not be happier. Searching for healthcare is a nightmare, and the options that I was given through New York State of Health were outrageous. But once again, Outback was there with affordable healthcare. I beg of you not to eliminate the tip credit. There are thousands of us that are begging you not to eliminate it. No one really has the right to speak against it if they do not work in this industry. They do not know what it is like the way we do. This is our lives being toyed with. We did not ask for this. We are not broken, we don't need help. The system is not broken; it does not need fixing, and how exactly is \$10.40 an hour going to eliminate sexual harassment? It is almost insulting. We work entirely way too hard. Please do not make me have to sell my house and move back in with my mom. Trust me, neither of us want that.

Commissioner Reardon: Alyssa Burns?

Alyssa Burns: Hello, my name is Alyssa Burns, and I support the tip credit. I have been working in the restaurant industry for almost ten years now. During this time, I was able to work two jobs and go to college. The flexible hours gave me a chance to go to college and not put myself in debt while doing so. After I graduated college, I helped open five other Outbacks and decided to become a manager. Over the past ten years, I have seen how the industry has changed with the wage increases. We have had to do more with less, and if the wages keep increasing at the rate that they are, we won't be able to sustain it. Some of my employees rely on this job because we can give them the hours they need at the times that they need it. Some of my employees rely on how many hours a week they work to have health insurance. If the tip credit goes away, I will not be able to guarantee my employees their hours, not only just for themselves, but for their families. I do not want to have to sit down with my hardworking employees to tell them, yes, we are going to pay them more per hour, but I will not be able to schedule the hours that you need to work. Thank you for your time, and I hope you take this into consideration.

Commissioner Reardon: Thank you. Robert Free? Sara Testa? Kailey Gyorffy?

Ramona: Next five after Kailey are Trevor O'Neil, Teofilo Reyes, Kym Loschiavo, Julia Pratt, and Vivian Pratt. Please make your way down to the front and hand us a copy of your testimony.

Kailey Gyorffy: Hi there. My name is Kailey Gyorffy, and I am not from New York City or Rochester, no, I am from right here in Buffalo, New York. I have been a server, a bartender, a hostess, and a manager at several restaurants, but today, I speak for every server who opposes the elimination of tip credit. We are Western New York. We are the city of good neighbors, and we are a united community, a community whose food and beverage industry thrives upon a tipping culture. If tip credit is repealed, higher wages will increase sale prices at restaurants and effectively decrease or even eliminate tips paid to employees. But you don't need me to tell you this, seeing as it is pretty redundant at this point. I do, however, need to tell you that a politician who has only ever stepped foot into a restaurant to enjoy a meal or a cocktail should listen to the people who are directly affected by removing tip credit. Closures of favorite local eateries, reduced pay for non-tipped house staff, increased food and drink prices, and job elimination will become a common trend in the near future if tip credit becomes a thing of the past for Western New Yorkers. Tips are earned by providing exceptional service. Once you expunge any incentive for a server to go above and beyond, what is left? Service standards would slip to a level unworthy of an inevitably locked price for consumers. The once nearly recession-proof food and beverage industry would no longer be immune to its looming demise. Our tipping culture in Western New York is no detriment. In contrast, it helps to empower servers and reflects their hard work, which is deserving of a generous gratuity. Here is a tip for Governor Cuomo, don't mess with the tipped minimum wage laws. These are our jobs, this is our money, and this should be our decision. ROC does not speak for me or for any other server working in Buffalo. Thank you.

Commissioner Reardon: Thank you. Trevor O'Neil?

Trevor O'Neil: Good afternoon. I come today from Salamanca, New York. I am the owner, one of them, of Myer's Steakhouse and Inn, Incorporated. I hope that you all take the time to listen to what has been said here today. Not from the organized, you know, that don't speak for us, but from all the people that are servers and bartenders. My mother is my business partner, and I have been texting with her today, and I told her, and she goes, "Are there are a lot of owners up there?" And I said there are a few, but I said mostly there are the servers and bartenders who are the core of our industry, who really bring a lot to the table every day they come into work and put their heart and soul into it, and if it were not for my three full-time servers, we would not be where we are. And I have gotten texts of encouragement from them all day long, and I really do appreciate them and I appreciate all of you that go to work every day and work hard. Myer's Steakhouse and Inn has been open for about 127 years. We have had it for about twelve. We don't want to be the ones to close the door. In that time, the overall economy in Salamanca has declined. This, combined with the rising costs of goods, as well as the continuous increase in labor costs has put us in a position that already threatens our ability to stay open. We employ on average thirteen people, who rely very heavily on their jobs and work very hard to earn not only their wages, but for our servers and bartenders, their tips as well. With this last staggering increase from five to seven-fifty, we have struggled to keep our prices fair, but also to make enough revenue to make payroll each week. We have seen on average an increase of \$400.00 to

\$600.00 in our payroll over the last two years due to the many increases, not only in tips but the regular minimum wage, but with this new proposal of another 30 percent increase in the wage rate for the tipped employees, we will have no choice but to significantly raise our prices to make up the difference. Once we do that, we will lose business due to people not wishing to spend their hard-earned funds with us. We already struggle to make ends meet, and this blow will effectively put us and many others out of business for good. I am not sure what the reasoning is behind this move you are proposing. Is it because the state cannot stand to find people that make cash tips and you don't get the opportunity to tax them? If that is so, think about the revenue you will lose when many of the smaller establishments close their doors and are no longer collecting sales tax or paying property income tax. I am here on behalf of my business, my business partner, and my entire staff to testify that none of us want to see this happen. My employees make a good living while working in a small town, and they will not be able to do so if you attempt to eliminate tipping in our state. In our case, people will just travel 15 minutes to Pennsylvania to go out to eat and drink, which will cost the state even more in lost tax revenue. Tipping is something that has taken place for a very long time, and why the state thinks they have the right to try and eliminate it is beyond me. People also chose to leave the noble profession of serving if they are making a base wage of \$10.40 and no opportunity of earning tips. These individuals are very skilled at their jobs, and they deserve the opportunity to earn tips while making an extremely fair hourly rate of \$7.50, considering the federal minimum wage for tipped employees is only \$2.13. The rate is quite high enough already. In closing, I implore the state to leave the wage where it is, and for once do something that will benefit the people of the state, both employers and employees. Thank you very much for your time.

Commissioner Reardon: Thank you. Teofilo Reyes?

Teofilo Reyes: Good afternoon. My name is Teofilo Reyes, and I worked as the National Research Director for the Restaurant Opportunities Center United, founded in New York City. I would like to thank Commissioner Reardon and the New York State Department of Labor for giving me this opportunity to share my comments about Governor Cuomo's proposal to examine raising the tip minimum wage. One of the most important steps you can take to immediately improve the lives of hundreds of thousands of tipped workers in New York is to phase out the tipped subminimum wage. There are nearly 129,000 tipped workers in Upstate New York, 62,000 of these tipped workers are servers, and 77 percent of these are women. Thirty percent of these women are mothers, half of them single mothers. Tipped restaurant workers in Upstate New York live in poverty at the same rate as other restaurant workers. Let me repeat, tipped restaurant workers in Upstate New York live in poverty at the same rate as other restaurant workers, 2.4 times the rate of the general workforce. Across Upstate New York, managers at Applebee's, Outback Steakhouse and other restaurants have held captive audience meetings to scare their employees into believing that this proposal will lead to job loss or loss in wages. The facts tell a different story. We examined data from the quarterly census of employment and wages, which provides data on a county by county basis to compare employment and wage patterns in the bordering counties of Pennsylvania and New York. In 2016, the wage for tipped workers in New York was raised to \$7.50. In Pennsylvania, it remained at \$2.83. In the bordering counties of New York, both wages increased and employment grew, faster than in Pennsylvania. One of the reasons is pent-up demand. I know from experience as a server that no

one loves to eat out at restaurants more than restaurant workers. We love the food and the camaraderie, and it is great to eat out at a restaurant without having to worry about your manager looking behind your back. If you look at the number of Applebee's and Outback Steakhouse units in states with a higher wage for tipped workers, they have an equal or greater number of units as New York, controlling for population size. Restaurants have learned how to thrive while paying their workers one fair wage, and chain restaurants already have these business models in place. Across the country, higher wages are correlated with higher restaurant establish growth, higher employment growth in full-service restaurants, and higher or equal rates of tipping. I have yet to meet someone who tips according to the local wage, although such Libertarian basement dwellers might exist. Millions of Americans travel around the country every year, tipping the same everywhere they go. According to data from Square based on millions of credit-card transactions, the rate of tipping in New York is essentially unchanged since 2014. In 2014, we surveyed hundreds of restaurant workers across the country and found that sexual harassment was twice as high for workers who earned the federal subminimum wage. We spent the last week interviewing restaurant workers about sexual harassment. One woman described having to let kitchen staff kiss her hand in order to receive an order or have it prepared properly. If an order is not prepared properly, who is blamed? Service staff. The universal phrase for management when a worker does complain is, "It is nothing. Don't worry about it. Smile and you will get a bigger tip." Women are constantly told that their experiences are no big deal, to smile, wear tighter clothes, or wear red lipstick in order to get a bigger tip. Thank you.

Commissioner Reardon: Thank you. Kym Loschiavo? Kym? Julia Pratt?

Julia Pratt: Hi. My name is Julia, and I have been working in the industry for seven years on college breaks and now full time, saving my money for school. I graduated college with a Bachelor's Degree in Biology, and not finding a job in my field after school, I started serving at Sweet Mimi's Café, a small breakfast place in Saratoga Springs. This allowed me the financial independence and schedule flexibility to shadow different career paths that I was interested in. I decided to pursue dentistry and went back to school part time to fulfill the requirements, all the while continuing to work. I was able to get my own apartment, a vehicle, which I paid cash for, pay for my additional classes and afford the considerable cost of school application, and take the time to interview at schools, all the while not taking out any more loans. Without this industry and the fantastic earning potential it affords, I would have been forced to take a full-time job I was not satisfied with and may have never found my passion. Even though I am reluctantly leaving this industry soon, I know that eliminating the tip credit will negatively affect many people that I love and care about, and I feel so strongly that I had to take a stand, and no one is forcing me to be here. I was even hoping to find some serving shifts during school, right here in Buffalo, but I don't see that happening if this goes through. Right now, at the small breakfast café that I work at, I make well over \$15.00 an hour every single shift. This would not be possible without the tip credit. I fear that without the tip credit, I would not be able to afford to eat at the place that I work at or any other restaurant, given the inevitable price increases to the food and the expected lower tips. In relation to the perceived danger to women due to tipping, just because there may be a correlation between working in the service industry and the amount of sexual harassment someone experiences, it does not mean that it is at all related to tipping. Day one in any science class, you learn that correlation does not equal causation, and is most

likely just due to the number of people a server interacts with on a daily basis. Please blame those people and not tipping. I worked at a golf course restaurant for five summers, where the majority of customers were men, and if I ever had a problem with a customer or co-worker, I was able to speak to my manager and remedy the situation, and it would have happened regardless of tipping. I feel for the people who are not heard by their employers when they had issues, but we need to punish the people who are responsible. If you want to fight sexual harassment, how about empowering women at young ages to speak up when they are uncomfortable and not make them feel ashamed. How about teaching young men and women that people are not sexual objects instead of spending all this time and energy fighting something that is going to drastically hurt thousands of women? Let's get to the root of this problem. I urge you to look at and conduct real data with reliable and credible sources that is not skewed. Please consider all of the thousands of jobs, both front and back of house that are going to be lost over this and all of the millions of dollars that won't be spent by servers that will no longer have disposable incomes. Thank you.

Commissioner Reardon: Thank you. Vivian Pratt?

Ramona: After Vivian are Kayla Toney, Debra Helms, Nicole Blenski, David Cordaro, and Justin Pfaff. If you are one of those five, please come down to the front.

Vivian Pratt: Good afternoon. My name is Vivian Pratt. I have been in the hospitality industry for almost ten years on and off. I started right out of high school on school breaks, making money to take back with me for the next semester ahead. I left college two years in, feeling unsure about what I wanted to pursue. I came home, and the shifts are always there at restaurants when you want them. I served while figuring out what I wanted to do with my life. Once I decided, I was able to put myself through culinary school while serving part time and graduated having accumulated no additional debt. Once I graduated, I wanted to focus more on my passion of baking and started working full time as a pastry chef. After four years spent in the kitchen, I realized I missed working directly with the public. I didn't know any of the regulars I was baking for, I wasn't making that much money, even though I was working full time, sometimes more, often more. I felt stuck in the kitchen. So when a front of the house position became available at Sweet Mimi's, a small but busy breakfast café in town, I was more than happy to make the switch. I am now able to bake there part time, filling that passion, and I also serve several days a week, getting to interact with the customers and make great money doing it. My dream has always been to one day open my own business. I am not quite there yet, but I am able to put away so much of the money I make from serving to open my future business, while living in an apartment close to the café in town. Without the tip credit, I would have to work so many more hours, probably at multiple jobs and nights, to make the same amount of money and not have time to develop recipes on my own and make plans for my future. There is no guarantee that people will tip as much. They will likely not tip at all if menu prices go up, and if they know that we are making \$15.00 an hour. I love this job I have chosen. I look forward to going to work every day. The hours are ideal, it is flexible, I get to work with my sister, while she saves for dental school, in a fun, positive, supportive environment, and I would hate to see the café close down if this goes through, as well as other local businesses. As far as the harassment issue goes, which deserves its own full attention as a separate issue, I have

experience sexual harassment from a previous business owner and a past co-worker. It had nothing to do with the fact that I was making tips or how I looked. It would have happened regardless and can happen in any working environment in any industry. I stood up for myself and removed myself from the situation, leaving my position immediately. I know every woman I know would do the same. There are always other positions if you look for them. There is no reason for anyone to continuously endure harassment of any kind. I am not a huge fan of saying if it ain't broke, don't fix it because it seems to inhibit progress, and there are many facets of our society that could use altering, even if they aren't completely broken; however, the tip credit is empowering many workers, especially women by allowing them to make excellent pay and work flexible hours doing a satisfying job. Thank you very much.

Commissioner Reardon: Thank you. Kayla Toney?

Kayla Toney: Hello. My name is Kayla. I live Upstate in Saratoga. I have two degrees. I have traveled all over the world on my own dime. I am 30 years old, and the house I have lived in for six years is owned by me. I am a tipped employee. I am not rich. My husband and I work very hard for what we have. We do have student loans and our own hardships, but for the most part, serving has afforded me a life and the ability to pay my bills and the flexibility to pursue my passions. I was here in Long Island, but I had to sit out for Syracuse. I would have loved to be here with you all, but it was opening night for dinner theater that I produced and directed. It was a murder mystery event fundraiser for the local chapter of the Lions Club, which helps people in the community affected by loss of eyesight, hearing, and diabetes. Theater is and always has been an important part of my life, and I grew up with parents who are members and presidents of the Lions Club, so their cause is also close to home. I work for a small business restaurant, and I make minimum wage with tips. My employer offers affordable insurance, a hot meal every day, bonuses for every position in the house, paid vacation, matching 401K contributions, overtime, and an open door policy. My colleagues and I know that at any time, we can go to him for pay advances or a loan, and on top of that, he circumstantially covers the cost of counseling and/or addiction treatments for his employees that struggle with dependency or mental health. Instead of taking advantage of people, he is aggressively devoted to leaving people better than he found them. When I was asked to direct the show for the Lions Club, something I have wanted to do since I was 14, direct, I knew I was able to say yes immediately despite the demanding schedule of committing to a show. My employer cares that I enjoy quality of life, in this case in the form of pursuing my dreams. All due respect to those against the tip credit, but every single testimony I heard in Long Island included horror stories about their employment in tipped position; sexual harassment, dangerous conditions, threats, theft, derogatory supervisors and hours and days without pay. Well I respect their difficulties and agree they are indeed issues, in my opinion those are not tip credit issues; they are instances of business owners breaking the law. I am female, and I am Middle Eastern. One side of this debate is screaming from the rooftops that I should be amongst the most harassed demographics in a restaurant. I have worked in different restaurants and bars in this industry for over 12 years, and in that time, I can tell you, I have uncomfortable in my workplace exactly twice. To be clear, I am not saying that it doesn't happen, but I am proof that it is not the rule. This is not a restaurant tipping issue to me; this is a workplace labor and manipulative employer issue. If the credit is eliminated to stop nail salons, car washes and bad restaurant owners from breaking labor laws, please know it will

simultaneously punish the good people who do the right thing, instead of addressing what ends up being the actual issues. Thank you so much for allowing us to be heard.

Commissioner Reardon: Thank you. Debra Helms? Nicole Blenski? David Cordaro?

David Cordaro: Thank you for hearing me today. I had a whole thing written out here, but I just want to cover something that happened a little earlier. I used to be a math major, and my statistics teacher once said that I can give you numbers and make them say whatever you want me to say. So I know that there were some statistics given way early in this process today, by a very esteemed person who was a professor and a lawyer, and I just want to review those real quickly, that 213 people she interviewed, she only found 30 people working in the tipped industry, that is less than 15 percent. And her statement was that six of those said that they were harassed or working in suboptimal conditions. That is six people out of 213, which is less than three percent of the small population that she heard, so though it sounded great when she said twenty percent, it does not say what she thought it said because the statistics were twisted to say something she wanted to say. So I usually don't speak at things like this because I don't feel that my one voice really matters. You know, the only person that cares about my opinion is my wife, and she is not here, and sometimes she doesn't care. So, but because of the group of people who have come forward, I felt compelled that I wanted my voice to be heard with this group, as well. I was a server 25 years ago, and 25 years ago, I made more than \$30.00 an hour while I was in college, and I made more money working 20 to 25 hours a week than my fellow friends working full time positions. It allowed me to be able to go to college, it allowed me to be able to make good money, it allowed me to be able to pay my bills, buy a car, and do all those things that I wouldn't have been able to do if I was in a full-time position. That is what the industry offers. If you work hard, you make good money, and I know that you said at the beginning, you are not pushing for eliminating tipping. We all understand that, but you have to understand the unintended consequences of what you could be doing, and that would be to eliminate tipping because Western New York, Upstate New York is not downstate, and it is not New York City, and we are not California, and we are not Washington, and people cannot afford to continue to have their meal costs go up and still go out to eat. These owners will find other ways to make up that money to keep their doors open. Understand, they are trying to make a living, as well, and that is all that they are doing is making a living. They are not living in mansions, they are not driving Ferraris. They are supplying jobs for the community and giving back to the community and making a living for themselves and helping everyone else do what they want to do and find their passion. Thank you.

Commissioner Reardon: Thank you. Justin Pfaff?

Ramona: After Justin, our next five will be Nicholas Moon, Jessica Diaz, Samantha Ley, Sara Sivers, and Derk Markham. Please come to the front if you are one of those people.

Justin Pfaff: Good afternoon, everybody, and good afternoon, Department of Labor committee. My name is Justin Pfaff. I sit here today to propose my testimony of the negative impacts that eliminating the tip credit would not only have in our state, but many of our communities. Being brought up in a family-owned restaurant started by my grandparents in the 1950's, with sixteen

years of service in that business, and also working for a corporate-owned restaurant for over nine years, I would be directly on the frontlines to witness the devastation that eliminating the tip credit would have. There are many similar testimonies here today, and I am honored to speak for the thousands of workers in my industry, for the families they support, who rely on providing quality service for the tips we deserve. Many businesses will be forced to close, and those who do survive will have to drastically raise prices and cut back on staff, which would sacrifice the quality of service that is expected from our customers. It confuses me as how so many are blind to see these negative impacts. If they had the perfect birds-eye view that I do of how a family and corporate-owned business operates and functions, I wouldn't be reading my testimony here today. The only thing keeping me in New York is that I am next in line to take over the family restaurant, and if this proposal is passed, the chances of closing will be more than likely, and I am sad to say that we couldn't survive. Thank you for listening to my words. Not only are we pleading, but we are begging for this proposal to be denied. For the sake of fellow New Yorkers who make a living from the tips and the wage that we receive, thank you.

Commissioner Reardon: Thank you. Nicholas Moon?

Nicholas Moon: My name is Nicholas Moon. I am here today to stand up for our industry and all of those that will be affected by the elimination of the tip credit. I work at Longfellow's in Saratoga Springs for Stephen Sullivan. Sully is one of the best people I have ever had the pleasure to meet in my life. He has a heart of pure gold. Sully plays such a massive role in our community, you wouldn't believe it. Always looking out for the next person, whether it is making donations to Skidmore or even feeding the homeless. Every Thanksgiving and every Sunday, Sully makes huge donations of food to local soup kitchens and shelter so that those who can't feed themselves or their families can have a nice meal on his bill. Code Blue is a program ran in Saratoga to help the homeless survive the brutal winters we have here in New York. Sully makes donations of all kinds to help out the homeless. We are fortunate enough to have an annual Christmas party every year; food, booze, and fun all on his dime. All he asks if you want to attend is to bring some socks, gloves, hats, underwear, or something that we can give away to help the needy. The point I am trying to make is that if the tip credit is eliminated, Sully may have to shut down his restaurants, leaving over 100 people without jobs. The whole reason he is able to be such an esteemed member of our community, the power that fuels his warm hearted agenda of helping those in need; how is he going to donate what he no longer has? Some people may still donate, but think, all that money, food, clothing, or whatever other help he can offer to the community and to those that need it; it will vanish. How many other restaurant owners do the same thing? They no longer will be able to. With the elimination of the tip credit, tens of thousands across New York will lose their jobs. People that once lived great lives thanks to working in this fantastic industry that we are here to defend today, won't be able to feed their families. What if they can't get food stamps because they made too much before they were laid off? Homeless shelters and soup kitchens will flood with faces of once successful and happy employees of the restaurant industry that once thrived throughout New York, then destroyed by elimination of the tip credit. Where are the extra food and supplies going to come from for all those newly unemployed? Half the donations will disappear, while demand for the supplied will drastically increase. Even the homeless will suffer. Because you think we are victims? Well I made it here again to sit here and tell you that we are not victims, but we will be if this is allowed

to happen. For four weeks now, I have chased you around the state to fight for my family, my friends, myself, and all these people you see standing up here with me today. For four weeks, I have followed you around the state, saying we don't need your help, but we do. We need your help fighting for the industry. We all grew up in this industry, and we grew to love it. We need your help to save these families that can now afford to live great lives because of people like Stephen Sullivan, who employs hundreds and feeds the poor. We need you to go to bat for us, so we can all continue to live our lives.

Commissioner Reardon: Thank you. Jessica Diaz?

Jessica Diaz: Good afternoon. Is it afternoon at this point, I think? Good afternoon. My name is Jessica Diaz. We meet again. So I feel like you already kind of know my personal story. I am a career server. I have explained to you several times really why I am still here, and now we are going to a different part of the state, so one last tidbit, just about the separation, as I still really want to make sure that it is known that New York City is so different than all of these other places. And we see it every time we go somewhere else; just the overwhelming amount of support we have to protect the tip credit, so our side again stands strong and stands here collectively as a larger group. Each time we do this, we have collected more people that realize, and we are spreading the word to more and more people, making them aware of what is going on, and our movement is getting bigger and bigger. I think that is awesome, and I think that it is showing us and you that this is an issue. One thing I want to touch quickly on is that I feel like if there can be a separated hearing in New York for the restaurant industry and the other industries, then there might be a solution to protecting the serving industry and help the other industries, and I think that might be like really where we need to gear this towards. Everybody needs help. Everybody should be good, and by no means are we putting anybody down. We want everybody to prosper and be happy, and so do we think you do. I actually really believe that everything we say you guys are listening to. I don't think in the beginning I believed that. I know you guys look tired, and sometimes you don't see all that excited to be up there. It is a long day, and I get that. But I really do believe that we are being heard and that you seeing that. And I want to say something. I saw this on Facebook the other day, and it made me think, we all have jobs now, we all have had different careers, different jobs, here, there, whatever, but one thing that I love about my job is this, a sign you have a positive workplace culture is laughter. Just listen to how much laughter there is where you work. Laughter is a very good sign of positivity. You can work hard and still laugh and enjoy your workday more, and I can't tell you how much I laugh at work, and I love going to work. We laugh, it's true! We make fun of each other, we make fun of yes, the guests, we make fun of management, we make fun of everybody, you know, it's life, but it is what gets us through these shifts at work. So I just want you to realize that through this time, we built the family. You keep hearing the word family, you keep hearing the word community. Through this process, we built our own family of supporters for this industry. We really have, right? We have listened to people's stories and testimonies and seen people cry their eyes out to you about their life, and I am standing now up for me today and for all of us; save our industry.

Commissioner Reardon: Samantha Ley? Sara Sivers? Dirk Markham?

Ramona: After Dirk, our next five will be Terah Ramsey, Brandy Weaver, Joedy Hill, Lynzi Alden, and Krystal Kozemko. Please make your way down to the front and hand us a copy of your written testimony. Thank you.

Dirk Markham: Good afternoon. Thank you very much for your diligence in listening to us today; a lot of people, a lot of the same stuff, I understand. I have prepared a statement, and I have listened for hours now, and a lot of what I wanted to say I feel like is directed specifically to some specific incidences of conversations throughout the day. My name is Dirk Markham. I have been doing this for almost 35 years next month in the restaurant business. I am currently, and I wasn't going to say this at first, and my testimony doesn't state what I actually do in the restaurant business, but after hearing all of this, I feel like it is important. I am currently the proprietor and managing partner of Outback Steakhouse in Horseheads, New York, which is in the Southern Tier. I worked my way hard to get to that position; many, many years serving. I owned two or three different houses in different parts of the country that I worked, in Florida, New York State, California, and I bought my house with tips, but today, I feel like it is more important that I just share with you my perspective on a couple of things that I have heard today as a partner, as an operator. The first thing in two points quickly to make today, the first is about money. I am not going to begin to try and speculate as to what will or will not happen; how many restaurants will or will not close at the end of this time. I have no idea. We have no idea. It is all speculation at this point. What we feel strongly about, what I feel in my heart is a definitely that there will be serious damage to this. It is still not the fact of the matter right now, but what is the fact of the matter right now is I am in a unique position as an operator and a managing partner to see numbers every single day in my restaurant, and I understand that Outback Steakhouse is a very large corporation. It is a company of restaurants that is big. We have a lot of money. Some of our other states' tipped wage is not as much. Some restaurants do a lot more in sales than I do, some do less in sales. I am part of a very successful restaurant. In the last year, we have seen double digit increase in sales. I have had to grow my staff because of that; quite a bit actually. I have hired several people in the last year, and I cringe at the thought of thinking that I have to make cuts in labor because I have to cut back whenever I am trying to get more people in my restaurant because I have to give a different type of service, whether it is tablets or whatever. I don't like the sound of that, but whatever it has to be. It is all speculation right now. But here is what I do know. For the last year in Big Flats, New York, where I have been a proprietor, not once have I needed to or had to make the differentiation between if someone made \$10.40 an hour or not. I have not had to meet the minimum wage criteria for any of my team because they have all made more than that. Number two, I had ten people come with me today, who asked to come with me; I didn't ask anyone to come with me today, as a partner, I didn't twist anybody's arm, pay anybody, or anything else. They all wanted to be here, and they asked to come here. As to harassment and other things, absolutely it happens. I have seen it happen many times over the years, but three weeks ago on Saturday, I kicked a guest out of my restroom because they were harassing one of my team members. So it doesn't happen everywhere. It is very specific. And finally, \$102,000.00 a year. That is how much it is going to cost my restaurant if we have to get rid of the tip credit. Thank you.

Commissioner Reardon: Thank you. Terah Ramsey?

Terah Ramsey: Hello. Thank you for listening to all of us. We very much appreciate it. I am a proud team member of an Outback Steakhouse. You have heard stories from single moms and dads, people supporting families in different variations, college students working to pay for their education. I am proud to be one of them. I was able to get my Bachelor's Degree and Master's Degree while paying for it myself because of the high-quality service that I have given to over thousands of customers. It is through their tips, and their tips alone, that I was able to pay for that. I hope you are really listening to all of these stories. They are all true and extremely valuable. How they are supporting their families and lives is through not only their tips, but their tip credit as well. For those who don't or who have never worked in the service industry, don't necessarily realize that even the busiest of restaurants have their slow times. It may be during lunch hours or a lull between holiday seasons. It is during these times that the tip credit allows all of those people you have heard from today and through other hearings to continue to support their lives as well as ensure quality service for all customers. For a mom supporting a family, and because her kids are school age, her availability may not be as great as some other employees, and it may only be lunch. If the tip credit was eliminated, how would she be able to support her children when there are days that are so slow that she would be walking with \$20.00 a day for a week at a time. The tip credit comes in and relieves that stress of the financial burden from being slow. So I am sure with that you are thinking, well wouldn't raising the wage help as well and be more beneficial? But what about those days when we are twelve tables in the last fifteen minutes with only two lunch servers, increasing that \$20.00 daily tip by a significant amount? Or a wait on a Friday or Saturday night, when there is one all night. Once customers know that their server is making over ten dollars an hour, they will be less inclined to leave a reasonable tip. Wouldn't you if they were already making a great amount? So, with that, everyone you have heard from over the last few months will no longer be able to support their children, families, and educational dreams. Restaurants will have to raise menu prices in order to afford the amount of staff needed to run a restaurant. So the next time you take your family out to eat, expect to pay double for the same quality or less for the food or service that may be of less quality as well. So if you don't want to do it for everyone in front of you, do it for your wallet and the quality of the service you expect to receive. This change will affect everyone's wallet, so listen, and please really listen before you make a decision that will affect everyone from servers, managers, and restaurants.

Commissioner Reardon: Thank you. Brandy Weaver?

Brandy Weaver: Hello. I began serving 13 years ago at a small family restaurant named Good Golly's. We are just north of Syracuse. I started with a part-time job with the intentions to pay off some bills and head back to college, but I fell in love with my job, my colleagues, and my customers. It is a pleasure to go to work, and if I am having a bad day, it usually turns around when I get there. My regulars have a way of reminding me that things aren't so bad. I always believe that everything happens for a reason. I am a mother of two. I have a son who is six, and he is on the severe end of the autism spectrum. My daughter, who is three, is also on the spectrum, but higher functioning. I am a special-needs parent, but I am blessed in that I am able to make great money and only work four days a week. I have a set schedule, but accommodating hours that have allowed me to never need a babysitter except for their grandparents. So I have never needed to worry about how they are being treated or if they are having a meltdown in a

foreign place. But most importantly, I get to spend a lot of time with my family and with my children. Speaking of family, our staff is like family. We even act the part. Our college students and graduates often come back and pick up shifts for extra money, and they can't see to get enough of the place. Our customers are also like family. We share our good and bad news, and sometimes just conversation. We have young and old customers. I have watched children grow, and some have come to work for us. We have many seniors who are on fixed budgets. They come in throughout the day, grab their coffee and socialize. Some do not cook much or at all anymore, so they dine with us quite often. We have good meals and good prices, but that won't continue for us and many places if the tip credit is eliminated. When we were raised to \$7.50, I know it hurt our owners. I do not think that we would make it to \$15.00 an hour, between the wage increase for the back and front of the restaurant. Our prices will go up, sales will go down, and eventually ours, and other places like ours, will close. Our customer base will not be able to afford it. Then what happens to our suppliers? It could very well have a domino effect. They may not close, but jobs will be lost. I personally have always made minimum wage and usually more. If I did not, my employers would still have to pay me minimum wage according to New York State law, so I don't understand the problem. We already make a fair wage and more. As for the sexual harassment claims, this is a separate issue that has nothing to do with the tip credit and should not be considered in this matter. It is a management problem. Thank you so much for your time, and please do not eliminate the tip credit. It is not in our best interests. Thank you so much.

Commissioner Reardon: Thank you. Joedy Hill?

Joedy Hill: Good afternoon, we meet again. This is my third hearing. Things haven't really changed except that my availability to be a waitress and still make money is wonderful. I got a notice the other day from my son, who said, mom, our daycare is going to be closing, and we don't have anybody to watch our four-year-old twins. Is there any way that you could do that for me? Having that availability, it is just wonderful. I can still go to work two days a week, maybe three or four, depending, but it is evenings, and I can still watch my grandkids. I have another one who is going to be needing maybe 24 hour care because her mom is very sick. So, this is just, it is crazy to think that our availabilities are being jeopardized because of this tip credit. I think that I for one, would not benefit from this at all. I can't make ten dollars an hour and consider that a living wage. It is not realistic, not now, not ever. Seventeen, twenty, twenty-five dollars an hour; that is more realistic. It is what I want to do, when I took this job, I knew what I was making, and I was very happy with it, and if I get good tips, which normally is, definitely, there is never usually a problem with not making a decent tip. I am sorry, if you are working at a restaurant that is not going to tip you, the people that are there will not tip you about \$3.00 an hour, then maybe you should find a different place to work, sincerely. It is just nowhere, nowhere that you are not going to make minimum wage, I don't care where you live, I am sorry. It just doesn't happen that way. But you have heard everybody's sad stories, you have heard everybody's joyful stories about how we are a family. I have met so many wonderful people in this last month; you have all become family to me, and there isn't anything anyone of them wouldn't do for someone else around here. I mean, we have all just joined forces, and we are going to be heard again; most of us will be in Albany. We will be meeting again, and thank you very much for your time.

Commissioner Reardon: Thank you. Lynzi Alden.

Lynzi Alden: I would like to define the word angry. I am Lynzi, and I am angry. You wanted my address for me to attend today; I didn't give you my home, I gave you my second home's address, Applebee's, located at 842 Upper Front Street, Binghamton, New York, and honestly, I am not looking to be evicted. You wanted my testimony to be handed to you so you could what, read along, take notes, hand it to my governor for a later date? No! I drove four hours to speak, so you will listen to me while I talk. I will be the loudest person in this room, and I am angry. I am hurt, and I am so utterly confused as to why we are even in this room. And where is Mr. Cuomo? Did he, hmm, I don't know, make some choices? Maybe when I went to Syracuse, he finally listened to the people. Maybe I wasn't worth three minutes of his time because he took the advice of all the people in that room that last Monday. Maybe he is driving around Upstate New York getting lost on his way to Buffalo because he is looking at the boarded up restaurants, the countless for sale signs or he is literally, maybe he is working a lunch shift right now and taking tables. Is he slinging drinks behind a bar? Or is he trying to find what is broken in the restaurant industry? Or wait, is he at a bank depositing his tips? No! I bet he is counting the times he has been sexually harassed. Lies! But because I left my job last night at twelve a.m., went to bed at two, I woke up on my day off at five a.m. just to be here at ten, no, you will listen. I was born in New York, raised in New York, and I am 26, and I choose to stay in New York, but you are forcing me to feel as though I need to leave because you are choosing to speak for me. I have a voice, thank you. I live in Binghamton, New York, a city that can't even support a mall. I live in a town with less than 1,000 people, and my one go-to restaurant, Aellios, I am not even speaking for them. You would force them to close their doors. Why don't you just erase Binghamton off of the map. Whitney Point would not be there if it wasn't for a diner, an ice-cream store, and Aelios Pizzeria. Let's be real here. I have worked in a town that is right off of 81. I live in a city that has endured life-changing, devastating events from mass shootings to flooding and guess what? Major corporations have left, and my city has still somehow stayed afloat. We have rebuilt, and we have fought, and we have grown, but guess what? We are ready for round two, ding ding. It is over. You will eliminate all of that. I hope you are happy with what you plan to do to our communities. Nobody wants this.

Commissioner Reardon: Thank you. Krystal Kozemko?

Ramona: The next five testifiers are Max Nizialek, Tom Tiffany, Kristen Flores-Fratto, Nectarios Kolidas, and Matt Monesi. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Max? Max Nizialek? Tom Tiffany? Kristen Flores-Fratto?

Kristen Flores-Fratto: Good afternoon. My name is Kristen Flores-Fratto, and I own the Gate House in Rochester. I am a proud liberal, a feminist, and I voted for Governor Cuomo. Overall, I support the Governor's initiatives, and I agree with much that he has done for the state, such as the safe act, the family-paid-leave act, and the ACA. As heartwarming as it is that West Coast lawyers and celebrities are concerned with the working conditions of women in our state, as an

actual female restaurant worker, an employer of 30 women, and a resident of New York, I must insist that Governor Cuomo also allow me to represent the women of our industry, and let me add that they are quite capable of representing themselves, as you can see here today. This business is far from perfect. Our model hinders us from providing adequate health insurance to our full-time employees, and now, with the elimination of the individual mandate by the Trump administration, the percentage of covered workers is bound to decline. As I mentioned in prior testimony, alcoholism and substance abuse plagues many restaurant workers across all departments, and even with the Family-Paid Leave Act, we need to do more for working mothers. But, messing around with the tip credit is not the way to address these issues. ROC United would like you to believe that the servers in this room aren't empowered because they work for tips. Do the women in this room look like they lack power? Metro Justice would have you believe that it is normal for owners, managers, and customers to mistreat and harass women, but are the women here today asking to be saved? This narrative that restaurant women are weakened by tips is a fallacy, and I will tell you, Department of Labor, if I were going into battle, I would want these women behind me. There are bad actors, unethical owners, cheapskates, pervs, and creeps, everywhere, but there is no one more capable of defending themselves than the tough working women in this room. And so, that being said, I strongly recommend that you keep the tip credit in place. These ladies and gentlemen may not all have college degrees, but they are smart, and they know that the elimination of the tip credit will absolutely affect their incomes because we, as owners, will be faced once again with cutting hours, hiring and benefits, raising prices, and adding service charges. We understand that this isn't about eliminating tipping, but in rural New York, in diners, in chains, that is likely what will happen. Are you willing to take that risk with these women's lives? I am leaving a copy of a 2016 study by the US Census Bureau measuring the effects of the tipped minimum wage, and her findings show that when that tipped wage increases, the amount of tipped income decreases. This study debunks much of what these labor organizations claim. Please share it with Governor Cuomo, and I suggest that if you would like to delve further into our aforementioned challenges, I volunteer to help organize a taskforce of ethical restaurant women who want to improve the lives of our workers without putting the industry itself at risk. Thank you very much.

Commissioner Reardon: Thank you. Nectarios Kollidas? Matt Monesi? Next five?

Ramona: The next five testifiers are Frank Testa, Hannah Vail, Frank Testa III, Louis Milazzo, and Samantha Stechyn. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Frank Testa? Hannah Vail? Frank Testa III? Louis Milazo?
Samantha Stechyn?

Ramona: The next five testifiers are Michael Corson, Joshua Tiefel, John Urlaub, Lucia Erwin, and Tim Wojtanik. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Michael Corson? Did I go too fast for you? Sorry. What is your name?

Samantha Stechyn: My name is Samantha Stechyn. I am a server at Good Golly's Family Restaurant in Central Square. I started bussing tables when I was fifteen and started serving when I was sixteen. The restaurant business is where I am happy and would love to be able to remain. If the tip credit is removed, I am scared to see where my future is going to take place. Mind you, when you guys are about to take your, when Cuomo takes his vote, is when I go out on maternity leave. I am scared that I am not going to have a job when I come back, and not because of a legal issue, but because my owner is going to shut their business. Not only are my co-workers family, but many of my customers are as well. The amount of relationships with customers I have gained in this industry is unbelievable. Good Golly's staff, roughly 17 servers and 20 kitchen staff; not only will close to 40 employees potentially lose their jobs, but 27 children will be affected also. I can say that being a young mother, I have not had to live off of the system because of the tip credit. The tip credit is the reason I support my son off of 20-hour work weeks without benefits or child support. I am 21 with no debt and in the process of buying a house. I am able to succeed for my son because of the tip credit. I know minimum wage is not a livable wage. When I was with my son's father, he was working at Taco Bell as an assistant manager. Even getting paid salary, he was working fifty-plus hour workweeks and barely bringing home \$500.00. He was missing holidays, family events, and valuable time with our son. Meanwhile, I was working less than half those hours and bringing home more. He was struggling to pay his half of the bills, even though he was making more than minimum wage. Nowadays, minimum wage is not a livable wage, especially when raising a family. If the tip credit is eliminated, many families will end up needing assistance. This is going to drastically affect our economy. Unemployment rates are going to increase due to restaurants closing, and there is going to be a domino effect between restaurants, distributors, truck drivers, and more. In order to prevent all of this from happening, the tip credit needs to be left alone.

Commissioner Reardon: Thank you. Michael Corson.

Michael Corson: Thank you for taking the time. My name is Michael Corson. Along with my wife, Kristen, I am a co-owner of the Gate House in Rochester, New York. I see the restaurant industry as perfectly represented of the American dream. Educated, undereducated, and uneducated all have incredible opportunities for advancement in my business. Take the dishwasher who becomes an executive chef, the server or bartender who is promoted to general manager, a general manager who opens their own place. My wife and I have grown up in this business, and up until 2016, we saw success stories everywhere we turned in Rochester. Since 2016, the stories are a little different and battled restaurant owners have faced tough decisions with labor, trouble paying their taxes, seizures, and shuttered their doors. It has been most definitely a challenging couple of years for this business. I am that story of advancement, though, in this business. From a busboy, to a valet, to a server, to a general manager, and now own one of the most popular restaurants, one of many most popular restaurants, in Rochester along with John and the Boarbox. Thank you, I am not done, hold your horses! We see every day, people working hard to advance themselves moving up in this world and living this dream. My message here today is about personal responsibility and accountability. You have heard horror stories and some testimonials of stories about abuse, starvation, harassment, dangerous conditions, and poverty. I assure you, this panel, that these experiences are isolated ones and are

not representative of many ethical and responsible restaurant owners and operators in New York State. When an individual experiences abuse or discrimination in any field, they must report it and let the DOL do their job. But the onus is not on the government to fix a system that is not broken, and you can't turn the industry upside down because it is not working for you. It may not be a popular concept, but people need to take some individual responsibility for their parts in life and move on from unacceptable working conditions. Really quick, I was 20 years old and lost a job. I had to find a job as fast as I could, and I took a job as a mason's laborer; demanding, tough, hardworking job; just like the restaurant industry. I hated it, it was a horrible job, and do you know what I did? I found a new job.

Commissioner Reardon: Joshua Tiefel?

Joshua Tiefel: I am a restaurant owner with a wife, child, and store full of workers that I look after and am responsible for. If you increase the pay of my front-of-the-house staff, looking over the hours, that would be around a \$3,000.00 a week increase in payroll between labor, taxes, and so on. This puts us at a cost of over \$150,000.00 a year, just for my store, and I am one store of every store in New York State that will feel that financial crunch. How will restaurants solve this increase? I believe for some it will look like cutting hours, the amount of staff, the hours that they work every year and every day. I run about 24 workers in my front of the house on Saturday, so for every two workers, I would lose about one because of this pay increase, so instead of running 24 workers, I will be running 16, which means eight less people working and making money, more work on those working, and less amazing service for my guests. For some restaurants, it will be an increase in costs on their menus. This will cause the consumers to be more sparing with their access money, which will lead to less spending, a drop in our economy, less chances for the workers making tips, which is already going to be cut by the fact of them making so much more. I feel that some restaurants will close their doors altogether. Why would corporate restaurants with multiple restaurants in a market take that kind of loss? Why would Applebee's need five stores in Rochester, or Olive Garden with two, or Outback with two? So you are looking at less economic growth, we are looking at an increase in unemployment, and a loss of a lot of jobs, less dining options for the consumers, and much more. Lastly, I believe that some restaurants will do a combination of these and/or all of them. So I am asking the board to please not put me in a position to sit down with my staff members and cut hours or terminate people. I ask you not to have my menu prices increase and put more hardship on my guests, or please don't have my restaurant, which has two locations in Rochester, be closed down by corporate because they are trying to cut costs. Lastly, please do not make me go home to my wife, who has MS, and have to tell her that I lost my job, the person that is the primary supporter of this household, and have her disorder cripple her body. Her and my mother are also servers, as well, and would be willing to bet that they would also lose their jobs, putting my entire household in a state of unemployment. The labor board's mission statement is to protect workers, assist the unemployed, and connect job seekers to jobs. Please protect the restaurant workers of the State of New York. We would prefer to not work, I'm sorry, we would prefer to work and not take your unemployment, and it will be harder to connect us with jobs if so many close down because we eliminate the tip credit. Thank you so much.

Commissioner Reardon: Thank you. John Urlaub?

John Urlaub: Good afternoon. Nice to see you all again. I want to take up just a minute of my testimony and just tell you that it is intimidating to sit in this chair, even though I know you are very nice people. But I want to thank all of the food service workers for showing up and being here and putting, not that it is the toughest thing in the world, but I do think they are very passionate, and I do appreciate them being here. From an owner standpoint, I am John Urlaub, and I own the Rohrbach Brewing Company in Rochester. I can't speak for the servers and for the positions that they hold specifically, but I think they shared that very well with you, but what I can tell you is that I believe that the server/bartender position really is a professional level position. There are certain skills that they have that not everyone has. They have to be able to be able to multitask, to work under pressure, to have product knowledge, understand computers, to know when and not to give extra service to customers; it is really a skill that they work on very hard all of the time, and I think they appreciate the fact that they are in control of their success. The better job they do, the harder they work, the more they hone those skills, the more they make. It is much like a sales person would be on commission or possibly a retail manager that would have a sales goal, and if you were to offer them, if they are good at what they do, and you offer them a higher base pay but take away their commission, none of them would sign up for that. It is the same thing, so I feel that eliminating the tip credit in a sense brings that professional level position down to an entry-level position because they will be making minimum wage, and I am not foolish enough to sit here and say all tips will go away, but I think consumers are educated enough to know that if there is one wage, that the servers and bartenders no longer rely on those tips for their income, and the percentage of tips will go down. From a business owner's standpoint, prices will have to go up substantially. There is no way that we can sustain these kinds of increases to labor without increasing prices. If prices go up substantially, our base will go down. Not as many people will dine out in our establishments. I always say that we all have to eat, but we don't have to eat in restaurants. If we can't deliver value, and our prices are too high, that won't happen. So for those tipped employees in New York, two things will happen. Their percentage of tips will go down; they may still get tips, but it will go down, and then the base will also go down because not as many people will be able to afford to go out. So I just wanted to end and ask you for myself, for my family, for my Rohrbach family, for my other brothers and sisters in the industry in New York State, please consider leaving tipped employees as a professional level position and not bringing it down to an entry level. I really do appreciate it, and I hope that you think hard about this decision. It will affect many, many workers in New York State. Thank you.

Commissioner Reardon: Thank you. Lucia Erwin?

Lucia Erwin: Good afternoon. It is nice to see you all again. My name is Lucia Erwin, and I also attended the hearing in Long Island, as well, and I shared my personal story about how I began as a busser and a hostess and have since promoted up to a server position. I now want to respond to what the opposition has to say. First, regarding sexual harassment, it is not acceptable nor should it be tolerated; however, we should work, we choose to work in this industry. Tips do not make sexual harassment. Sleazy people make sexual harassment possible. If your boss is not going to fix sexual harassment, report these problems, and if nothing is fixed, then, and it is that bad, then you need to leave, as we all choose to work in this industry. This is not a problem

of the tip credit, this is a problem of bad management and bad employers. If you do not feel that you are being respected in your position and you feel that it is that bad and that you are paid unfairly and that you can't do the service that is required of you; you need to leave the service industry. We choose to work in these positions. Working in a restaurant, sorry, working in a restaurant works for me and my restaurant family. I make on average about \$25.00 to \$35.00 an hour. Does that wage sound like an unlivable wage to you? Based upon lunch and dinner shifts, the wages do fluctuate, absolutely. However, on a lunch shift four to five hours long, you can make easily \$100.00 to \$150.00 in one lunch shift. On a Saturday night, however, in our restaurant, it is very easy for someone to average over \$300.00. At the end of the week, I still have a positive paycheck on top of whatever I make in tips. Again, it is a livable wage. Many people in the opposition claim that their co-workers couldn't come to this hearing today because they would have been penalized by their employer. Again, this is an employer-specific issue, not an industry-wide one. Steve Sullivan, the owner of Olde Bryan Inn and Long Fellows, has made it possible for all of us who wanted to be here, he made it possible for us to be here, and he helped us to get here. You have heard today, as well, that we all live in poverty, and we do not. We pay our rent on time, we go to college without needing to take out loans, we are able to build our dream homes, we plan vacations, and we even have enough money left over to go out and eat ourselves. I have never been sexually harassed in the workplace at Olde Bryan. I have, however, been sexually harassed during college, at the grocery store, or even pumping gas. Sexual harassment is not a tip credit specific issue; it is a social issue. Our workplace is a safe and comfortable environment. Thank you so much for listening to me, and I will see you all in Albany.

Commissioner Reardon: Thank you. Tim Wojtanik. Tim Wojtanik.

Ramona: The next five testifiers are Donald Seth, Jeannette Liebers, Thomas Rush Jr., Diamarie Domiano, and Mary Beth Sullivan. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Donald Seth? Jeannette Liebers?

Jeannette Liebers: Good afternoon. Thank you for listening. My name is Jeannette Liebers. I am the owner, executive chef, and baker of a very small café in Upstate New York called Sweet Mimi's. At the age of 45, my grandmother, Mary Nicosio, opened her restaurant in Queens, New York. She was an Italian immigrant with an eighth grade education. She opened her restaurant because it is what she could do as a 45 year old woman, uneducated, living in the United States in the 1950's. My grandmother instilled in me the importance of sharing a good meal and bringing people together around the table. This sense of community centered on the meal and inspired me to open my café at the age of 48, after dreaming about it for most of my life. My café is not a big player. It is a small gem of a place with under one million dollars in sales. However, it is exactly the kind of place that makes up the unique communities throughout New York State and exactly the kind of place that will not survive if this mandate passes. I worked as a server during high school and college and again for an independent coffee shop while pursuing my culinary degree after many years in the sales and marketing industry. I know firsthand that fair wage in the hospitality industry is unique in that it allows people from all

backgrounds, all education levels, with different skillsets to live out their dreams or pursue future dreams under one roof. Returning to the industry after being in the private sector, I earned more wages and had the flexibility to pursue a culinary degree, and I was never mistreated. This allowed me to finally pursue my passion and open my café. Now as a business owner, I employ 25 professional staff, both front and the back of the house. They are mothers, paying for their children's college education, they are students saving and achieving their goals of pursuing higher education, and employees seeking their own paths and saving to become our future café owners. We are a tightknit group; most of my employees have been with me since I opened five years ago, and they have become my extended family. I care deeply about their future, as well as mine. Because of these professional servers, Sweet Mimi's has become a gem in our community with customers pouring in, not just for the high-quality cuisine, but because they know they will be well cared for and welcomed into our home. If Governor Cuomo mandates the removal of the tip credit, I will be forced to close my doors, forcing these employees to unemployment. In an industry where the profit margins are so small, I will not survive, which means you will forsake the thousands of dollars I pay to the state quarterly for taxes. In your last round of wage increases, servers enjoyed a fifty percent wage increase mandated overnight, while thousands of restaurants were forced to close, family businesses that had been around for decades.

Commissioner Reardon: Thank you. Thomas Rush Jr.? Thomas? Diamarie Domiano?

Diamarie Domiano: Hi. My name is Diamarie Domiano. I am 29 years old, and I have been in the restaurant industry since the age of fourteen, almost sixteen years. I am here today because I am devastated that Cuomo makes more than enough money, and he is still trying to dip his hands in the pockets of so many hardworking tipped employees in New York State. Not only is this ludicrous? It is irrational thinking. This is how we survive and support our families. What I see here is a desperate cry for help to enforce the laws that are already there to protect us. This is supposed to be something to help us, but you are attempting to fix something that is not broke. Although I would love to make \$15.00 an hour with tips, it is not realistic. I work for a diner that is locally owned and operated. Seventy percent of our customers we see one to two times a day, and if it went to \$15.00 an hour, I am almost positive I would have my hours cut drastically or no longer have a job because the doors would probably close. So how is this helping? By making the rich richer, the poor poorer, by shutting down all of the places? They will have to raise their menu prices to the point many customers would no longer come. If you think there is a dependency on public assistance, such as food stamps, cash assistance, Medicaid and so on, then just wait because the best is yet to come. Many people will be jobless, homeless, and the unemployment rate will skyrocket, so how will this approach help? I have two children, ages five and ten, who have had a great childhood due to my tips and flexibility of my job, and there are so many other people in my position. How many families will be ruined and devastated by this foolish decision. The restaurant where I have been employed for the past 14 years has been a staple in our community. Are we supposed to be replaced by a kiosk and other technology or do I have to then depend solely on public assistance to get by? I love where I am because we feel like a family. Most of all, I love my job. I truly do. I have never witness sexual harassment, and my boss would never tolerate it. A lot of this is wage and tip theft that has laws there already to protect us, but are not being enforced, so to the Governor; fix the real problem, stop victimizing us and trying to steal our jobs.

Commissioner Reardon: Thank you. Mary Beth Sullivan?

Ramona: The next five testifiers are Petros Aronis, Angela Craig, Candi Blakeley, Jody Barnett, and Milton Koutsandreas. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Petros Aronis? Nope. Angela Craig? Candi Blakeley? Jody Barnett?

Jody Barnett: Thank you for taking the time to let us speak today. My name is Jody, and I am currently a manager at Applebee's. Before I accepted this promotion in October, I had spent the last 20 years serving in my local community. Everybody knows my name, ask my kids; they hate it, but everyone knows who we are. I was a single mom for my first two, and they constantly had appointments or school events, anything I had to go to, and that is the one thing. I have stuff, but I am not even reading it. But, you know, financially, emotionally, I never had to rely on anyone else to care for my children. I never had to rely on the government to pay my bills or put food on the table. I never had to simply miss anything. My job is my family. When I took the promotion, I took it to show the servers the knowledge I have learned over the years, to guide them and make them the best they can be. They are buying houses, they are buying cars. They are saving for their kids' futures. I am sending my daughter to college right now. I took a loss, but I took a loss for them, and that is why I am here today. I am here today to stand up for them and to prove to them that I am behind their back 100 percent. They want their tips. They don't want a flat rate. They feel like they would lose a lot of money. I feel like my company would lose a lot of business because people can't afford to come out to eat if our prices were to raise or the expectation of tipping a \$10.40 employee would just not exist. Sorry, I am nervous. People usually say, you are just a server. I made more than my mom did working a professional job for twenty years for half the hours she did. My staff, being a server takes a lot of knowledge. You have to read guests. You have to have tableside confidence. You have to anticipate the needs before they are even there. That is why they make more money than my brother, who has a Master's Degree in teaching. I come from a family that would work hard for what we get. My family is at Applebee's, and my family wants the tips they deserve. Thank you.

Commissioner Reardon: Thank you. Milton Koutsandreas?

Ramona: The next five testifiers after Milton are Gloria Velton, Gavin Neaf, Alyssa Summers, Timothy Karnes, and Diane Munley. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Gloria Velton? Gavin Neaf? Are you Gavin?

Gavin Neaf: Thank you for being here. You have listened to people talk for hours, so welcome to bartending. My name is Gavin Neaf, I have worked in the service industry in every capacity, both front of house and back for almost 18 years, and I plan to stay for the rest of my life. Nowadays I am a bartender and also the bar manager at Lucky Day Whiskey Bar, just a few

blocks from here. Lucky Day is the second business opened in Buffalo by Tim and Morgan Stevens, a husband and wife team of entrepreneurs. I worked alongside them as they built this bar with their own hands, just as they did their previous bar, Ballyhoo, also just a few blocks from here. These businesses are extremely successful by any metric, but the owners aren't millionaires. They are hardworking people like the rest of us and rent their apartment and drive used cars. Their story parallels those of many business owners in this city, people who have taken huge risks to elevate the dining and nightlife scene in a city that has been on the decline for decades. If you have spent any time in Buffalo over the years, it won't be hard to see that things look nothing like they did ten or even five years ago. Our downtown is finally becoming a downtown once again. People who open one small business and did things right have in just three or four years opened second and even third businesses. At a time when our industry is growing so much in this city, such an abrupt increase in operating costs might be enough to stop all of this growth. You are already aware of the thin profit margins in this industry. Owners and operators would have to be crazy to increase their exposure if the margins became even thinner. The result, fewer opportunities for us, as well as farmers, brewers, distillers, distributors, musicians, cleaning crews, security guards, and so many more. We also need to consider the many non-tipped employees who required raises to keep up with the cost of living. We need to be able to offer fair and competitive pay in order to recruit and retain talented and hardworking kitchen staff. The chefs, line cooks, and prep cooks create the dishes that keep our customers coming back. You may not hear from any of them today, as they are already busy prepping for tonight's service. And don't forget the dishwashers, the true backbone of every restaurant. Without them, everything stops. All of them will surely see their wages stagnate if you legislate a wage increase for those of us who already earn the most. We all saw changes after the last round of tipped wage increases; higher prices, reduced staff, and reduced shifts; all because of a raise that none of us asked for. Businesses have been forced to water down their customers' experiences. They are paying more and getting less, and that is not good for anyone. Nobody wants to see restaurants become glorified vending machines. It is misleading to say that the tip credit allows owners to underpay their staff. What it does is acknowledge that the server staff are already well compensated for their efforts. Please keep the tip credit in place. Thank you, and since I have fifteen seconds, this isn't going to be good for New York City either. I worked there for years, and restaurants are dropping like flies from high rent increases. Thanks.

Commissioner Reardon: Alyssa Summers? Timothy Karnes? Diane Munley?

Ramona: The next five testifiers are Georgine Hartman, Olga Faynshteyn, Richard Noblett, Sarah Ely, and David King. Please make your way down to the front and hand us a copy of your testimony.

Commissioner Reardon: Georgine Hartman?

Georgine Hartman: Hello. I will keep it short and sweet. This has been a great day listening to everybody, so I will keep everything we have already heard to the side. Twenty-eight years I have been in business at Grover's Bar and Grill down on Transit Road. Why don't we just do one little thing? If we don't have a server that makes \$15.00 or \$12.00 an hour in a little town in New York State, have the employer bring them to that rate. Call it a wash. Why are we

discussing going back and forth, when if they are exceeding minimum wage, what everybody here is saying, if they don't make it, bring them to that wage. Why are we trying to fix something that is not broke? I mean are you allowed to answer that?

Commissioner Reardon: No, we are here to hear you.

Georgine Hartman: Well, okay, like I said, I don't understand why we are having this on and on, and you have heard all day from this people; they don't want this to happen. We had it happen in 2015. As everybody has stated today, you go out for wine, it is four dollars. Now it is going to be eight dollars. You are going to eliminate a middle class society that is even going to be able to afford to go out and have the experience. It is going to be luxury, not a disposal income environment anymore. So instead of going through this, paying taxpayer dollars, letting everybody, you sitting here today having to listen to this; it is not broke. If someone doesn't meet the standards in a diner or somewhere and that server doesn't make that wage, I would gladly pay somebody and meet the difference if that was a slow day at work or something happened that they weren't making a livable wage of \$15.00 an hour. Cut and dry, very simple. Otherwise, we can all expect that everybody at this podium, everybody sitting behind me, myself included, it is going to be a luxury experience instead of something people like to do every day after a hard day of work, which is dine out, and that is all I have got to say.

Commissioner Reardon: Thank you. Olga Faynshteyn?

Olga Faynshteyn: Hi. My name is Olga Faynshteyn, and I have been a server and a bartender for the past three years at both a corporate restaurant and a family-owned one. Both corporate restaurants will be negatively affected, as prices will have to increase, causing less customers to come in and taking money out of our tipped pockets. Family owned ones will suffer even more, causing them to close. It would be a shame in a city like Buffalo that prides itself on outstanding local food choices, hat those places would suffer and potentially have to close. It is being said that tipping will not be eliminated, but with the increase in prices and costs, hours will be cut and dining outings will decrease, making these so-called wages pointless for us. That's about it. Thank you.

Mario Musolino: Richard Noblett.

Richard Noblett: I know that we have heard testimony this morning about other car washes downstate. I would like to make it clear that the company I represent, Delta Sonic, should not be lumped in with that group. Delta Sonic is family owned and operated, offers employee recognition, scholarship opportunities, promotion opportunities, and a clean and safe working environment. As a car wash manager in a full-time position, this proposal is not something that will affect me directly. I am speaking to you on behalf of those whom I believe it will affect because I work hand in hand with young men and women in tipped positions every day. The idea of this new law may be with a noble intention, but I am afraid that the realities would be vastly different. Part of my responsibility is to make sure my wash technicians claim their tips every day. I see firsthand the financial rewards they receive from happy and satisfied customers for their hard work, and it significantly exceeds the standards of minimum wage. Not all

technicians at Delta Sonic work off tips, but the positions that do are universally seen by the techs themselves as the places to be with the most earning potential. Removing the tip credit could result in a reduction of the number of wash technicians on staff due to an increase in direct labor costs and a lower expectation to tip such positions, all of which would hurt the hardworking technicians, leaving them at risk to make less money, work less hours, or potentially lose their jobs. As I assume you are aware, the State of Maine began the process of raising the wage for tipped positions in November of 2016. The process only lasted until June of that following year, when a bill was passed to restore the tip credit because the people in those positions, quite frankly, didn't want it. Labor reduction is not a fear, but a reality. My particular location has already begun to implement further automation in preparation for this legislation. In the current state, these positions at Delta Sonic are highly sought after amongst students and others seeking flexible, part-time employment with potential well above minimum wage. In my experience, the current system works and does not need to be changed. Thank you.

Mario Musolino: Sarah Ely? Sarah? David King?

Ramona: The next five testifiers are Rochelle Hughes Nicole Cunningham, Paul Vanihel, Jaimee Guzzardi, and Joshua Kelly. Please make your way down to the front.

Mario Musolino: Rochelle? Nicole?

Nicole Cunningham: Okay, hello. My name is Nicole. Obviously you know. I work for Outback Steakhouse and have worked for that company for 22 years on and off. I was born into the restaurant business. My grandfather owned a restaurant for 25 years, my uncles owned a restaurant, my cousins still own restaurants, so basically I have a lot invested. I, my husband actually owned a restaurant too. I do not think we should get paid minimum wage. We compensate for it, the restaurant compensates for it, and since we are in Buffalo, I am going to talk a little bit about Buffalo, and it wouldn't work here. I am a bartender, a server, and a host, and in Buffalo, it is middle class or lower, and I know a lot of our customers, if the menu prices go up, they are not going to come, they are not going to tip us as much as they used to, and it is just going to hurt the business, and since Outback is a corporation, it doesn't make a difference if it is a family owned business or not. It is just not going to work out. We are going to lose employees. We are going to have to go down to, we have a minimum of, we have to have three tables. That is the most we can have. We are going to end up having six, seven, eight tables, and it is just not going to be the same experience as it was when we had two or three tables. So basically, there is just no need for the elimination of the tip credit, and by the way, I didn't vote for Governor Cuomo.

Mario Musolino: Paul Vanihel? No. Jaimee Guzzardi?

Jaimee Guzzardi: Close enough. God, I haven't talked in front of a microphone since I was in chorus in fifth grade. According to ROC's website, they are 25,000 strong. Seems like a lot, but this 25,000 strong represents or spreads over California, Massachusetts, Illinois, Michigan, New York, Pennsylvania, Washington, and down to Washington DC. If you break that down, this means that there are at most 3,000 in New York. We have a Facebook page, a lot of people in

this room, it is called the supporter of the tip credit in New York. We have almost 22,000 supporters and numerous other groups, so just with our group, you will see we clearly outnumber them. And we don't ask for donations, we don't pay people to speak, we don't mislead celebrities to line our pockets; we speak from our hearts. We actually work in the industry; they do not. Even these simple numbers don't lie. If decisions are truly for the people and represent the majority, I urge you to listen to all of us today. We have spoken, and we outnumber them. Don't try to fix us; we are not broken. I know, broken record. I would like to take a moment to think about the numbers in the room. I think in the opening statement, she said something about like it is not the numbers that are in the room that matter, but I think that is very false. If you turn around, like how many ROC supporters are left? And then how many of us that support the tip credit are left? Most of the ROC people got up and walked out after they did their speech. I don't think they are interested in what anybody is here today, and most of them don't even work in it. Most of them are rude, as you can see. Actually, I wrote down on the 44 speaker, there is a jerk behind us that said something about our servers being killed because my sign said servers' lives matter. I think every server's life matters; doesn't matter about color, doesn't matter how old you are; doesn't matter if you have five kids or zero kids. I think it matters for everybody. I don't think anyone should be talking out of turn. If you wanted to talk, you should have signed up. I have never been exploited as a female. I make more than almost every man in my building. I respect every man, woman, child, elderly or I don't know. They say that woman that are older have to work morning shifts. I work alongside women in their 40's, 50's, going into 60's, and they work just as hard as anybody else I have ever seen in my life. I have never been a victim. If anything, this career choice has made me be a strong person. It has made me teach others to be strong people. I have trained over 200 people, even just in the last probably seven or eight years of my life. I am proud of what I do. I am proud to serve the people of New York. I am in a tourist town. I love them every year. They are the reason why I make money and the reason I live, and the reason I hope one day to be able to show all the recordings that I have taken of everybody. I would love to show those to my grandkids and be able to say that we spoke for a difference. I don't know what else to say. Go us.

Commissioner Reardon: Joshua Kelly.

Ramona: After Joshua, the next five testifiers are Hillary Johnson, Jusitna Mott, Kiki Payne, Michaaela Newcomb, and Jeremy Moore. Please make your way down to the front.

Joshua Kelly: Alright, good afternoon to the panel. Thank you for having me and everyone behind me. My name is Josh, and I have been working in this industry now for just over ten years. I have held at various times nearly every position you can imagine a restaurant employee could have. When I was a server, I never earned less than the legal minimum wage and in fact was earning far more. I have never experienced an unsteady wage, even as a server, and have only ever needed the one job to pay my bills, and the restaurant industry has been that job, and it has taken care of me all this time. I am currently employed as a manager for TL Cannon, an operator of 62 Applebee's locations, most of which are located in New York. The elimination of the tip credit affects our company in all the same ways it affects a smaller business. We operate with the same profit margins and costs as any other restaurant, whether it is a single café or a multiunit chain. Our industry at times is still trying to balance the wage increases from two years

ago. Another drastic increase now would be devastating to many, including myself, my restaurant, and its employees. The rising costs to our restaurants will see fewer staff on busier shifts, smaller raises for non-tipped employees, higher prices, and an overall decrease in restaurant morale and in our ability to provide a great service experience for our guests. My employees earn more, around \$20.00 to \$25.00 an hour in a tipped position at this point, sometimes more. Every single one of them needs this job that they have to make ends meet. Cutbacks caused by eliminating the tip credit would surely mean a reduction in available shifts, fewer hours of work for each of those servers who rely on those hours to survive, and, sorry. At this point, they all tell me that they are happy to have the position that they have now and the way that their wages are paid currently. I encourage that you listen to them. Thank you very much.

Commissioner Reardon: Hillary Johnson?

Hillary Johnson: Hi. How are you? My name is Hillary Johnson, and I, this is my second hearing that I am attending. I was at the Syracuse hearing, and I actually regret not having testified. You know, listening to their testimonies, having watched grown men and women cry, I myself cried along with them over their losses from the last wage increase and their fears of what is going to happen in the future. I, myself, am scared of what is going to happen in the future. I went from being a manager of my dad's restaurant, and my husband and I decided to have me go this route because the pay is better. We provide very well for our family this way. I have a sixteen-year-old son, well he will be turning sixteen years old in Peru next summer. We are able to send him for his Spanish club. My eight-year-old daughter and myself were just talking the other day about careers and jobs, and waitressing and bartending were on that list because it is a career for some of us. It is not just an entry-level position. This is what we provide for our families with. It is not something we go to work and, you know, I enjoy going to work. This is what I live for. I don't have, like ah, I have to go to work today, no, I am excited to go to work. I am excited to go talk to my barguests and talk about what is going on in their lives today, what are their families going through. I am lucky that my employers, we are able to have health insurance, eye care, and dental, so eliminating this is going to affect my family, my friends, my co-workers, people that I see on a day-to-day basis because their experience is going to change when they go out to eat. They are not going to get the same treatment that they always do get, so just to touch base on the whole sexual harassment thing, aspect. Eliminating the tip credit will not fix that. Somebody, you know, that is a person's behavior. It is their behavior, it is not based off of what they give us. Whether or not they give us a tip or not, their behavior is still going to remain the same. That is not changing. And I would like to, we are all here, you are hearing our voices, by a show of hands, how many of us have been sexually harassed at work? It does not happen very often, and unfortunately for those ones that it does happen to, this is not where we deal with that issue. It is not part of that issue, so with that being said, I am totally against this. I am happy with the way that everything is now. Thank you.

Commissioner Reardon: Thank you. Jusitna Mott? Kiki Payne? Michaela Newcomb?

Michaela Newcomb: So I have a whole speech planned out, but it is basically redundant. We are all saying the same thing. We don't want to make more money. We make enough money as

it is. I worked in a restaurant as a manager. I am only 22, and I was working there at the time that minimum wage got increased by 50 percent. We had seven employees working on a Friday night serving. After that happened, we went down to three. That restaurant no longer is there because they can't afford it. In the town I live in, you can't afford it. So I left that. I am back at serving now. I am also a bartender, and I have done every position in any field of customer service. I have been there and done it. I know how it is. I have never been sexually harassed. I was a 21-year-old bartender working in Elmira, New York. If you have ever been around there, you know how it is. I have never been sexually harassed. If you tell somebody don't speak to me like that, it is not going to happen. If you stand up for yourself, and if that doesn't work, go to somebody. Go to your manager. If that doesn't work, go to the next person. Making more money has nothing to do with being sexually harassed like everyone says. It is not going to fix anything if we make an extra six bucks an hour. You are just going to have people not in this industry anymore. Another very important thing to me is all the people that are going to be out of work; the kids that are just getting out of high school and trying to go to college, and having that summer job where they are going to learn how to interact with people, not in high school, because the real world is nothing like high school. Besides the fact that you are finding your family, people that are going to be there forever. Sorry. My family, got me through the hardest time of my life, losing my child. I can't thank them enough, and I don't want this to happen. So I really hope that you listen to what everyone said and hopefully do the right thing for the majority of the people in this room; not the few that didn't get the help they needed because in any good industry or any good business, you are going to be able to find that help and unfortunately for those people, they didn't. So, thank you.

Commissioner Reardon: Thank you. Jeremy Moore?

Ramona: The next five testifiers are Angel Hess, Tanya Pohwat, LilaSue Verstrete, Harley Balintfy, and Stephanie Catlin. Please make your way down to the front.

Angel Hess: I feel like Reese Witherspoon in Legally Blonde. When I get my paycheck each week, it is zero. The first thing they do is they take out my health insurance. The next thing they do is tax my tips. Hey, I am Angel. I have been a server for over 30 years. I have worked in many different environments from five-star restaurants to diners to corporate restaurants. I currently am working for TL Cannon, which owns the Applebee's franchise, which I have been proud to work for almost four years. I for one love my job. I take pride in all that I do to the point where customers can clearly see that I am happy to serve them. Oh my God, I am so nervous. When I serve, I don't put on a fake smile and because of this, people are willing to give me tips because they enjoy their time spent with me at the restaurant. One of Governor Cuomo's reasons for wanting to eliminate the tips is that it will decrease wage theft. Well there are unfortunately some servers who don't always claim all their tips. There are many more of us who actually claim 100 percent of their tips. It is proven in my pay stubs that I have always claimed 100 percent of my hard-earned tips. These tips are taxed directly, and I am a citizen who pays my taxes every year with these tips. If the minimum wage were to be raised to \$10.40 an hour and tips were to no longer be a thing, I would never make as much money as I currently do with earning tips. Statistically, if I were to work a 40 hour week on a minimum wage with no tips, I would make about \$416.00 a week. Including tips, with the current \$7.50 per hour wage,

my average hourly wage is calculated at \$26.32 per hour. That means for a 40 hour week, I would be making about \$1,052.80. Using these numbers, my calculated yearly income would change from \$54,745.00 to \$21,632.00. This drastic change of income would not only negatively affect my standard of living, but also hurt my family. With losing out over half of my income, I would no longer be able to afford my healthcare, a decent house to live in, and I could potentially end up living on welfare. The State of New York should be focusing more on lessening the need for welfare instead of causing a drastic increase in people who will end up relying on this state to live in. Thank you.

Commissioner Reardon: Tanya Pohwat? Tanya?

Tanya Pohwat: Hello, my name is Tanya Pohwat, and I represent the type of person Governor Cuomo believes he is helping by eliminating the tip credit. Governor Andrew Cuomo is trying to show that he is taking care of the little people by eliminating our hard-earned tips, but he is going about it all wrong. The fact that the state has already tried to go through with a similar change should be reason enough that this plan isn't going to succeed. Our Governor has already used the wage board to increase the tip wage by fifty percent. The already went into effect in the beginning of 2016. The results were not ideal. The number of restaurants in New York State had had years of steady increases, but data from the Census Bureau show that New York lost over 500 restaurants in 2016. Assuming that we are talking about all food service businesses, there is also a similar trend. New York had lost over 400 of these businesses in 2016 the first time the state had not dropped in food service in nearly two decades. Employment in the full-service restaurant industry was growing at an average rate of 6.5 percent between the years of 2010 and 2015. In 2016, when Governor Cuomo's tip wage increase went into effect, the growth rate slowed immensely, barely passing one percent. The last time the state experienced full-service employment growth this slow, it was 2009, during the worst of the great recession. Not only has this idea of eliminating the tip credit failed in New York, it has also failed in other states, such as Maine. In 2016, Maine voters instructed the state to drop its tip credit, effectively raising the minimum wage for restaurant workers to twelve dollars an hour. Some employees said they saw their tips drop so badly that they and restaurant owners lobbied the state to undo the raise. The state legislature did this, and Maine reverted to the old two-tiered wage system in January. If other states, as well as New York, fail to benefit from this plan, why go through it again. Thank you.

Commissioner Reardon: Thank you. LilaSue Verstreate?

LilaSue Verstreate: Hi. Good afternoon. My name is Lila Verstreate. I don't think I have ever been more nervous in my entire life, but I have been a server for six years. I have worked at a lot of restaurants in that time, but nowadays you will find me at the Original Pancake House in Williamsville. My tips have allowed me to live a comfortable life, as well as begin a career in real estate. I am positive that throughout your hearings in other cities, you have heard all the facts, so today, I am not here to bore you with facts. Instead I would like to paint you a picture. Let me tell you about a day in the life of a server. The guy at table 12 has a peanut allergy. I double, triple, quadruple check with the kitchen that his food is made without anything that could cause him harm because his life depends on it. The kid at table six just through a glass plate

across the restaurant and it shattered at table seven's feet. They are annoyed because the kid is screaming. Now I have to handle this situation and keep everyone happy. The mom at table three is letting her two-year-old daughter pour salt all over the table. I have to clean that up later. And wouldn't you know it, the women's room is out of paper towels. All of this is happening, and meanwhile, I am up twice in double sat. Why do I put up with it? It is simple, because of my tips. Being a server isn't easy, and I put up with a lot of nonsense on the daily. My job is hard, it is physically demanding, it is fast paced, and honestly, sometimes it really sucks, but believe it or not, people are good. If you take the time to really talk to your guests, you will find that out. Being professional and winning people over are dire to my job, but I am good at it. I am a hard worker, and I earn the money in my pocket at the end of the day. So I just can't understand why you are trying to take it away. In 2016, I graduated with my Bachelor's Degree at SUNY Brockport. I, like many people before me, served my way through college. Serving has helped me pay off a tremendous amount of debt while also being able to begin a life for myself. So many of us rely on the tip credit for things like paying off our mortgages or credit cards or cars. Single mothers or fathers that serve or bartend or do whatever they have to do to make ends meet for their children; if you take away the tip credit, it could be so detrimental to so many people. This would also be detrimental for small business owners. If there is anything that I know about the City of Buffalo, it is that we love our local restaurants. They are the heart and soul of this community. Restaurant owners would have to raise their prices, less people will come out, and I don't know of many servers that would ever serve at a restaurant for a fixed wage. I am going to skip this because I have 40 seconds left. I am going to go down to... I know the tipping system isn't perfect, but is getting rid of it really the best solution? The tipped credit was eliminated in Maine, and it wasn't even a full year before the bill was overwhelmingly voted on to be repealed because it was so detrimental to not just servers, but also to restaurant owners. It is not as simple as just making a transition. There is no getting used to it. I couldn't live off of minimum wage or a fixed wage. It is not what I built my life around. Tipping is my livelihood, it is how I make a living, it is how I have begun to build my future, and I rely on it. I think before eliminating the tip credit, all decision makers should really listen to what we have to say. It is important to us, and it is important because it is part of who we are.

Commissioner Reardon: Thank you. Harley Balintfy?

Harley Balintfy: Hello, I am Harley Balintfy. The act of eliminating the tip credit has already been passed and put into effect in seven states. If it happens to go to New York, we will be the eighth state, but ours will have been with the most drastic changes. Restaurants and other food-service-based businesses make up roughly 80 percent of the jobs in our state. By removing the tip credit and setting one minimum wage for tipped workers, it would do the exact opposite of what Governor Cuomo is expecting. It will end up putting so many of us hardworking citizens out of a job and not because we decided we didn't want to work in this industry anymore; it will be caused by the restaurant not being able to continue running under these conditions. The families will struggle to get by and make ends meet. Broke college students aren't going to be able to pay off their student loans and move forward in this world, and plenty of young children aren't going to be able to experience their first job in the industry. Instead, we are all going to have to find alternate ways to make as much money as we are making in tips because honestly, just raising the minimum wage isn't going to equal what one server can make on one Friday

night. In order for some tip workers to continue living the same quality of life as before when relying on tips, there is an unfortunate chance that they might find themselves involved in illegal activities to make ends meet. The state will most likely see an increase in younger involvement with dealing drugs and possibly even prostitution if people get desperate enough. Most college students find themselves considering dropping out and becoming a stripper at least once during their time at school, and now without being able to make tips enough through waitressing, their considerations might as well turn into realities. Governor Andrew Cuomo is proposing to eliminate the tax credit in New York State as he believes that will immensely reduce sexual harassment in the workplace. It is believed that tipping in this state disproportionately affects women in the service industry and is linked to higher rates of sexual harassment. I understand that it is more difficult for Governor Cuomo to immerse himself into a woman's perspective, but sexual harassment happens regardless of whether men are tipping or not. Sexual harassment in the workplace has to come from other service tables; men sitting at the bar or even those directly serving the customers. Our tips are not the problem in this situation. Our tips don't need to be taken away. It is the people that think they can treat us like we are an object that need to be taken away.

Commissioner Reardon: Thank you. Stephanie.

Ramona: After Stephanie, the next five testifiers are Robin Latour, Greg Drease, Chelsey Goodrich, Scott McIntosh, Corey Schuler, and Carl Gessing. Please make your way down to the front.

Stephanie Catlin: Well, this definitely is intimidating! Alright, my name is Stephanie Catlin. I would like to thank everyone for giving me this opportunity to voice my opinion. I am a waitress at the Original Pancake House in Williamsville, and I take pride in my job. I am aware of the work that I do and know it is not equivalent to \$15.00 an hour. If you haven't worked as a tipped employee, you wouldn't know how important they are. There should not be a cap on my potential earnings. Living in Buffalo, I know that the two main things to do are eat and drink. There are so many restaurants, which include so many employees. If the tip credit gets eliminated, I will leave my job, no questions asked. That is not a fair wage. Businesses will lose employees, also losing good service. I have not only worked as a server, I have also worked as a licensed massage therapist, which is also a tipped position with no set minimum wage; however, I make more money serving. Fifteen dollars an hour would not suit my lifestyle. I don't mind waiting tables for money, I don't care about a job title, because money pays bills, and as far as sexual harassment, if a customer were to become unruly, I wouldn't just let it continue because I need that tip. They would be asked to leave. As a woman, I have more respect for myself to let that happen and continue to deal with it because of a tip. I have dealt with sexual harassment at the grocery store, bank, or just walking down the street. That is a problem we cannot fix. So just because sometimes you get no tip, a five percent tip, rude customers, a walkout on a check; that doesn't mean that something needs to change. It is not supposed to be easy. It is a job. We work, we put up with a lot, and yes, there are flaws. Again, my name is Stephanie Catlin, I make \$7.50 an hour plus tips. I am a single mother who waits tables. I am fully capable of supporting my son and living comfortably. I do make anywhere from \$25.00 to \$34.00 an hour. Also, just because I have to, if it ain't broke, don't fix it.

Commissioner Reardon: Thank you. Robin Latour? Greg Treace?

Greg Drease: Sorry, I don't have a handout. I did my homework on the bus. My name is Gregory Drease. I am a born and raised Rochesterian, and currently I work as a valet and banquet server at a fine-dining restaurant. I am not the typical restaurant worker, but my experience as a valet is they give me their ticket to get the car, the tip is already in the hand. They don't care what my service is. I am going to get what they are giving me regardless of my service. It is completely arbitrary; it is up to them. If they are drunk, I get more, you know? So I was just looking up, went on the Department of Labor website, and I was looking up the seven states that have implemented one fair wage. I looked at the year before they implemented it and two years after the implementation. I found that Alaska added 1.8 thousand workers in the hospitality industry, which restaurants fall under. Montana added 4.6 thousand, Nevada added 22.2 thousand, Minnesota added 14.3 thousand, California added 2.4 million, Oregon added 23,000 and Washington State added 35,000. Some people may lose their jobs, but in all of the seven states, they have added jobs in that field. And then for the number of restaurants; these stats came from the National Restaurant Association website. They got them from the Bureau of Labor stats, but in the first two years that one fair wage was implemented in these seven states, two states had restaurants close; Minnesota lost 229 restaurants and Montana lost two. In the other five states, they added restaurants; 40 in Alaska, 217 in Nevada, 187 restaurants were added in Oregon after they bumped this pay increase, Washington State added 103 restaurants, and California added 2,025 restaurants, paying their workers with a minimum wage plus tips. It just seems like of these seven states California is the one demographically closest to us. If they can do this and add workers, add restaurants; I don't see why New York State can't do it. Yeah, thank you.

Commissioner Reardon: Chelsey Goodrich? Scott McIntosh? Corey Schuler? Carl Gessing?

Carl Gessing: Thanks for staying all the way to listen to me. Thank you for your time to speak here today, for me to speak here today. My name is Carl Gessing, and I am a full-time educator in fifth grade, and more importantly today, a server. Eliminating the tip credit will be a divisive move towards our government towards numerous individuals and businesses. I am representing Dina's of Ellicottville, here today. During my time, I have been able to work part time to support my fiancée and myself in addition to our teaching wages. I have been able to pay off the majority of my undergraduate and graduate loans solely because of tipping, which probably says more about education than it does about the service industry. In my first year of teaching full time, I almost matched my wages working three days a week in the restaurant, and my wage there was almost double my hourly wage of that of a teacher when broken down. In my own personal experiences, I have not been subjected to any sexual harassment for a tip. What I have experienced is a family that I have gained at the restaurant and through my fellow employees, my employers, and especially my customers. The potential instillation of one fair wage impacts not only me, but also my employers and obviously customers. I teach fifth grade math, and even I can see how the numbers will impact people negatively. Money does not grow on trees, as we have all heard, and labor increases are not magically fixed. Someone must come up with the money. Food will get more expensive. iPads will take orders. We will lose the service portion

of the service industry. This is my testimony. Please do not change our tipping system that continues to positively benefit my life, the lives of my co-workers, as well as my employers. I just have one more thing to say. In America, any time someone gives a handout for more money, people take it, so the fact that there are this many people here today that are here objectifying more money says something that it is a bad thing. Thank you.

Commissioner Reardon: We have five last names of additional testifiers. Elizabeth Golden, Mrya Barker, Kimberly Sardo, Debra Helmes, and James Conway will be the last speaker. Elizabeth? Have a seat.

Elizabeth Golden: I did write a testimony, but I am just going to put it the way it is from my heart. I am here again, and I am hoping that you guys are listening to us. Our testimonies are going back to Governor Cuomo expressing our fears and desperation to not destroy our businesses. I bought my business 15 years ago, O'Brian's in Clayton, New York, as I told you before, a very deprived area. I do have 23 employees on right now. My payroll runs about \$9,000.00 a week. If I have \$12,000.00 a week in sales, I am jumping for joy because I just made my payroll, so you know that doesn't give me a lot of room to move any place else. During the summer months, I am up to about 45 employees, and my payroll runs between \$12,000.00 to \$15,000.00. We live in, there are not a lot of people in our area. We have a three-month window to make it. I don't know how we got here. I think what really happened is Governor Cuomo has made some very bad choices. He has made a mess in our state, and he has got to find more ways to get money from taxes from us hardworking people. We need you guys in this fight, and I hope you go back to him and please tell how important this is to us. I am, as I told you last time we met, going into the summer \$40,000.00 in debt before I even start this summer. I do side jobs. I do bars for weddings to hope to gain a little bit of money so I can dig myself out of this. If Governor Cuomo really wants to help us, and I don't think his real agenda is to help us restaurant owners or the people who work at them; last year, we had the big flooding in our area. I didn't see Governor Cuomo to help us. I lost a lot of income. We suffered a lot. I pay in the wintertime. This winter, I was paying \$1,000.00 a week for propane to keep my building running. That is a lot of money. And then I worry about the rest of my employees. I do it in the wintertime, and if I try to do it, and I have done it in the last years, I give bonuses to my employees at Christmastime, and I do a meal for them, whether I have it or not, I find a way to do it. Our culture has changed. I was raised to work for what I wanted. I wasn't entitled to it, and I worked many, many hours. Last week, my head cook went on vacation, and I paid him for that vacation. I worked seventy-five hours. I was the late night cook until 2:30 in the morning, cleaning my kitchen. I was exhausted. I am going to be 55 years old. I am tired. I don't want to close down, you guys. I have a lot of people I am responsible for and a lot of families I am responsible for. When I bought O'Brian's 15 years ago, my dad was still alive. He passed away 11 years ago yesterday, and he said to me, and I have a teaching degree, are you sure you want to buy a restaurant and bar? I have done this since sixteen years old. I said, yeah dad, I do, and I was sink or swim by myself. Let me tell you, I do not need Governor Cuomo to help me sink. If I am going to make the wrong choices and not stay within my budget and things like that, that is on me, but I don't need his help. My cook just went to the Carolinas. He came back and said, I am leaving you at the end of October. I can't afford to be

Commissioner Reardon: Thank you. Myra?

Myra Barker: Good afternoon. I testified in Watertown, Syracuse, and now today in Buffalo. I am the owner of a small restaurant in the Thousand Islands area, which is comprised of all mom and pop restaurants. When I first heard of Cuomo trying to eliminate the tip wage credit, I was perplexed. What was he thinking? How much more of a burden does he think we small businesses can take? Doesn't he know our businesses are a luxury? People don't have to go out and eat or grab a frosty libation. They can stay home and do that. They want to be treated like they deserve to be treated and are willing to pay for it. With New York State being one of the highest cost of living states, it makes it harder and harder to make these special moments happen, going out to dinner is the first thing they are going to cut off their list. First thing I did when I heard this is I reached out to Buffy, and we talked about it. Then we reached out to Maggie Razinski because we could not sit by idly and see what was happening. Buffy and I got a hold of most of the restaurant owners up there, and we passed the word on to their staff. We had a meeting at my restaurant with over 20 restaurant owners that employ over 666, I know, ironic number Cuomo, and we had over 1,047 years of experience in my restaurant that day, and I am confident that I can speak for all of them. We do not want the elimination of the tip credit. Our businesses will suffer. One owner there has worked over 40 years, owning five restaurants. He is scared that with all that hard work and sweat that he has put into all of his businesses that if this raise happens, his businesses will be worth nothing. He will have nothing to give to anybody, and nobody is going to want to buy them. We brought a restaurant three years ago after having 35 years working in and within this industry. I have a degree in agricultural science, ornamental horticulture, and graduated from design school in Texas. I am a designer who has always loved cooking and received my first cookbook in first grade. I was also assistant governor for Rotary International, and our motto was service above self. I have that above my store, service above self. I pride myself to give back to my community, I am a board member at our Cape Vincent Chamber of Commerce. New York State has so many problems that this is one they do not have to fix. If you eliminate the tip credit and raise the minimum wage, we will close. I want to keep my business open and remain in New York State, but I will have no choice. If you eliminate this tip credit, many restaurants will be unable to continue operating. If you eliminate it there will be one less Quick Draw machine in New York State, making millions of dollars for New York State. And in closing, you the Board of Labor must see by now how this will affect our industry. If you pass this absurd elimination of tip wage credit, I hope you have budgeted enough money for new signs along the highways that say Welcome to New York, hope you brought a bagged lunch.

Commissioner Reardon: Thank you. Kimberly Sardo.

Kimberly Sardo: Good afternoon, how are you today? Alright, so I am Kimberly Sardo. I am here today not in defense of my tips because I am good enough at what I do to pull a dollar out of the cheapest customer. But I am here on behalf of my customers and my staff. With that being said, I am going to touch base on a few things. Number one, minorities; I am a minority. I am Native American. I am employed with this industry. Two, poverty; I gross on black and white \$1,200.00 a week. Does that sound like I am poor? I own my own house, I own my own Tahoe, I own my own Silverado. I am not poor. Next, would be sexual harassment; I have never been

made to feel like a victim in this industry, but I will say is Cuomo has now made me feel like a victim because I may lose everything. Thank you.

Commissioner Reardon: Debra?

Debra Helmes: Hi. How are you? Thank you for letting us speak. My name is Debra Helmes, and I have worked in the restaurant industry for over 35 years. I have been 23 years at Dina's in Ellicottville, and I don't consider myself an employee. I feel like a partner. I have watched and grown with Dina as she started out as a little restaurant, and now we can seat 400 people. She has put a tremendous amount of money into that building and into her staff. I work with people, I have been there for 23 years, and there is a lady that has been there longer, but a lot of us have been there for many, many years, and we have been there because we are invested. We are invested in the industry, we are invested in our restaurant there and the community. Making this change, I feel, is going to put a burden on everyone, mostly the restaurant owners. We are not victims. We make plenty of money. Maybe that money needs to be re-appropriated someplace else, but we work hard. I see all the restaurant owners that I know and have worked for, they roll up their sleeves, they are in there working with us. I just don't think it is fair. I don't think it is fair in my name to put that burden on other people. I guess that is all I really have to say. Thank you.

Commissioner Reardon: The last speaker is James Conway.

James Conway: Hello, and thanks for staying to the bitter end with me. A few things, number one, sexual harassment does happen. If you doubt it, I guess you haven't been paying attention. Men like myself can be sexually harassed, and yes, it was a long time ago. Two, let's be clear, no one is taking service tips away, and anyone who says otherwise is lying. The sign says it right there, we are not talking about eliminating tipping. I was called a name today, but unlike the other guy, I kind of liked it. I was called an activist. The reason we are all here is because we are active in making our lives better. I have been a server, barkeep, cook in a restaurant for 35 years. I heard a lot of great stories today, and I have one too. When I started in the 80's, I made seventy cents less per hour than I do today. If you average it out, it is about two cents per year that I have gotten raises. If it had not been, I was only able to make ends meet for my family due to my wife's second income. I have never been able to get realistic health insurance through my employer. Not only has the luxuries. Single parents and workers who are not represented here do not have it. Had I gotten even a hundred dollar check all those years for 35 years, I would have had \$175,000.00 more in my bank account. Now I used to make two-fifty a night at a good bar, but two things happened; the bar closed, not my fault, and I got older; that is my fault. I have been turned down for many bartending positions because I am not young and do not have a great looking body anymore. I never thought it would happen to me, but it did. I hear a lot of pull-yourself-up-by-your-bootstraps here; all well and good, if you have boots. Not everyone does. I see a lot of entitlement here today. I used to be like that too. I do not claim to be a victim; I just want dignity and respect in my profession, and the best way you can do that is pay me a living wage. I can't speak for restaurant owners, but where I in their position, I too would say the system is not broken. You make the guests pay your labor costs. I see no reason

that political accommodation cannot be made for truly small businesses to get them out of paying this higher hourly wage. Thanks for your time.

Commissioner Reardon: I want to thank all of you today, and I appreciate your attention.

All: Thank you.