

Commissioner Reardon: Good Morning. Thank you. On behalf of Governor Cuomo and the Labor Department, I welcome you to today's Hearing on 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 the employees receive proper pay and work in safe environments. We help businesses find and maintain skilled workforce and we provide them with no cost services designed to help with thrive in New York's growing economy. One of Governor Cuomo's 2018 State of the State proposals directed me to evaluate a series of hearings with the possibility of ending the minimum wage tip credits in New York State. In some work places such as car washes and restaurants where wages and tips are generally both low, a worker's income can rely entirely upon tips. These tips means as a reward for good service instead serve as a critical wage subsidy that brings worker's wage up to just the legally mandated minimum wage. This system disproportionately impacts women and minorities and prevents some workers from coming forward to us with 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 5th of 7 hearings to solicit public comment on how best to address potentially eliminating the minimum wage tip credit. I want to take a moment and acknowledge that there is as separate room that is holding the overflow will be hearing everything that is said in this room. I want to acknowledge that they are in there and will be filling the seat _____. 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. Through these hearings today, we have heard more than 16 hours of testimony. We understand that these issues are highly complex and that that we are talking about potentially changing rules that have been in place for decades and that is why we are here today, to ensure that our clients are unstable based on data and fact 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. This sign here say, this Hearing is only about eliminating the subminimum wage. It is not about eliminating tipping in New York State. We fully support tipping and support worker's rights to earn those tips here in New York State, in fact when the Federal Government looks to attack worker's tips in New York State we will continue to protect your tips they earn.

Another point I want to a make is these Hearings are not about the number of people in the meeting room. Through these hearings we will hear stories related to tips and the insights only you can provide.

Now I'd like to introduce to you our panel listening today. Mario Musolino, Executive Deputy Commissioner, Nathaalie Cary, Deputy Commissioner of Administration and Chief Financial Officer, James Rogers, Deputy Commissioner Workers Protection, Milan Bhatt, Assistant Deputy Commission for Workers Protection., and I am Roberta Reardon, the Commissioner of Labor here in New York State. Testimony will be strictly limited to three minutes to allow as many people as possible to testify. And we have a very full list of preregistered testifiers today. In addition, although we will not allow any substitutions in slots or allow testimony to read for individuals who are not here. Please, in order to expedite this process, come to the front row when your name is called. The front row is right here behind the speakers. If someone was not able to attend or if you want to when their name is call, please give those written testimonies to the front desk when you checked in to register to testify. And finally, this is a very important ground rules, please respect people testifying and the panel by not heckling the speaker, not using _____. As I have said repeatedly in these hearings, everyone who has registered will have a chance to speak today and I expect respect from everyone. We have a lot of views in this room _____ in New York State and I ask you please to respect other people's rights. When you come up you will come to the table and when the light turns green you start talking. You will get a yellow warning light when 30 seconds are left and red you time is up. Again, I want to thank everyone in this room for taking the time to participate in today's Hearings and I know how important it is to each and everyone of you and I want you to know it is equally important to us. So our first five speakers are..

Ramona: Our first five speakers are: Frank Kerbein, Rosanne Martino, Melissa Fleischut, Maggie Raczynski, and Jessica Rodgers. Please make your way down to the front.

Commissioner Reardon: One of the things is you have to push the button to turn it on.
Frank Kerbein:

Frank Kerbein: Good Morning Commissioner _____.

Male: Excuse me, the sound up there is terrible.

Frank Kerbein: (inaudible – terrible and echoing).

Commissioner Reardon: Rosanne Martino. Melissa Fleischut. Remember to turn it in on and back away from the mic a bit. Is the light on?

Melissa Fleischut: Good Morning Commissioner, The Department of Labor staff allowing this opportunity to address it again. I'm Melissa Fleischut, President and CEO of the New York State Restaurant Association. At the beginning of our hearing _____ maintaining the current system in keeping the tip credit. You then went on to say it's not about the number in the room. _____ (echoing) not about the number in the room. If it's not what is it about? It's not about employee wages are disproportioned for women. New York State has a small percentage of _____ state in the country _____ according to _____ own statistics not

the national _____. It's not about _____ New York State Senators who voted to keep the tip credit in 2016. If it were we would be here to _____. _____ (very bad echoing). Or is it about _____ whose covered these hearings and released editorials like the Buffalo News did earlier this week arguing that the tip credit should remain intact. Maybe you're right, maybe it's not about the number of people in the room. Maybe it's about the 10,688 people who signed the online petition stated by Tiffany Hodum supporters of the tip credit in New York. Maybe it's the 22,345 members of the Facebook group stated by Maggie Raczynski, supporters of the tip credit and NY. We think that this is precisely who and what it is about. We hope you agree and we hope you and Governor Cuomo are listening but just in case you decide it's not about them, we have voter registration forms with us today and will helping them to register to vote in the back of the room. Thank you.

Commissioner Reardon: Rosanne Martino:

Rosanne Martino: Thank you. My name is Rosanne Martino and I'm from Manhattan and I've worked in the restaurant industry for over 40 years, first as a server, then as a general manager for the last three years as a restaurant consultant. I'm here to testify in favor of One Fair Wage. My first job as a server was while I was in school receiving zero dollar pay checks and discovering on April 15th that my subminimum wage didn't even cover my tax bill. As a server when the restaurant wasn't busy, we were required to wash walls, floors, do inventory, help with prep in the kitchen. We were considered cheap labor. That practice continues in restaurants today. I want to dispel the notion that eliminating the subminimum wage for tipped workers would cause customers to stop tipping. The average customer does not know how much a tipped worker makes per hour and they tip anyway assuming it's a gratuity freely given above the workers wage. Instead of focusing on much servers make in fine dining restaurants and saying they don't need a raise, I'd like to focus on the indirectly tipped service staff; the busers, runners, and baristas who outnumber the servers in restaurants. My restaurant management experience is in fine dining restaurants and 90% of the full time busers and runners that I worked with came to me to verify their earnings because they qualified for public assistance and lived in subsidized housing due to their low wages. I'd also like to focus on the huge liability restaurants risk by paying a subminimum wage. I worked for two restaurants that were hit with wage an hour violations, both cases, the restaurants were completely innocent and had documentation to prove it. In both cases, our attorneys advised us to settle because it would be too expensive to litigate. Both cases we ended up paying over \$100,000 between legal fees and settlements. Each restaurant would rather have paid a little bit more an hour to each worker gradually over time than these huge bills all at once, and my final point is to dispel the argument that moving wage, workers through regular minimum wage would put some restaurants out of business. Every year some restaurants go out of business for various reasons and I don't expect that will change. When prices go up for electric or milk or limes or any other commodity, they go up universally so no one is at an unfair disadvantage. From a level playing field, a well run restaurant will not have a problem paying workers a fair wage. I've managed restaurants that pay a fair wage and they've managed to survive even thrive though they were at a disadvantage to their competitors. A lot of administrative work associated with

complying with the 80/20 rule and making sure tipped workers are making minimum wage disappeared, staff retention increased. These restaurants are doing the right things for their employees and they need to be supported by legislation that levels the playing field and acknowledges that tipped workers are 100% human beings and they deserve 100% of the minimum wage afforded to every other worker.

Commissioner Reardon: Maggie Raczynski.

Maggie Raczynski: Good Morning esteemed members of the Department of Labor. Today I want to take a factual look at the history of the wages in the United States and a close look at the wages in the seven states without a tip credit, and New York. Does anyone know what the largest overnight increase of the Federal minimum wage was? Do you think it was more or less than the \$2.50 our industry sustained in 2016? The truth is \$.70 is the largest overnight Federal minimum wage hike. As far as the seven states with no tip credit, do you think that any of them ever raised their wage \$2.50 overnight? The answer is no. Minnesota was the closest with \$1.85 in 2014, next closest was Washington in 1989 raising their wage a \$1.55. So the New York service industry has already taken the largest increase in the history of these eight states and now we are talking about further increasing the wage. Let's talk about how long it took to increase the wage \$2.50. Here in New York, it happened overnight. The closest state to us is Minnesota; it took four years, Washington; six year, California; 10 years, Oregon and Montana; 11 years, Nevada took 12 years, Alaska took 15 years to raise the wage \$2.50. Now look at \$5.40 increase, which is what we face this year if the tip credit is eliminated. So for New York, it would be less than three 3 years. Let me tell you that these numbers in the other states are quite large. Washington, 18 years; California, 20 years; Oregon, 22 years; Minnesota and Alaska, 28 years, Montana took 36 years, and Nevada at the top of that, 39 years to go up \$5.40. Now one step further and we'll look at how long it took to raise the wage \$6.10, which is what we would face the last day of this year. Washington – 21, California – 22, Minnesota and Oregon – 30, Alaska – 37, Nevada and Montana – 42 years, and this would happen in just three years for New York if the tip credit was eliminated overnight. I understand that you could phase this in but that wasn't the decision two years ago so that leads me to worry and even with a phase-in, you're not talking about anywhere from 21 – 42 years, so please stop comparing us to those seven states as they have no real bearing on the situation here in New York. Their state is not like ours and they have never sustained the increase we had two years ago. If you want to help us, Department of Labor, I have a suggestion. Spend some real time and money researching the statements that have led us here today. Look at this organization that claims to represent workers but cannot seem to get anywhere near the majority of us here on the same page. See where their research comes from and how they manipulate facts and degrade our industry to manipulate people to support their heinous ideas. If they even remotely represented anyone who is serious about this industry, they would think twice.

Commissioner Reardon: Jessica Rodgers. And before you start, the next five please:

Ramona: Next five speakers are Leon Bush, Kevin Goggins, John Buntich, Nancy Bambara, and Joshua Chaisson. Please make your way to the very front and hand us copies of your testimonies.

Jessica Rodgers: Good Morning. My name is Jessica Rodgers. I am a student and a server. I have worked in the service industry in some form or another for 10 years. As a result of my serving job and the money and the flexibility that it allows, I've been able to complete two years of my education and I'm on my way to becoming a Social Worker. As a Social Worker, I will make New York State a healthy and happier community. Unfortunately, were the tip credit be eliminated, my options for pursuing my education would be eliminated as well. In my career, I've worked in the non-profit sector in Washington, D.C. and in Albany in Public Relations and in Legislation. In those capacities, I relied on part-time serving jobs to financial allow me to work for causes that I believed in even when they didn't pay the typical lobbyist salary. In all my years of serving, in all the cities I've served in, and in all the restaurants I've worked for, I've been treated more as an object in my power suits in this very building that I have ever been while working for tips. As a waitress, I am guaranteed a fair wage. My employer is required by law to make up the difference if my tips to not reach minimum wage. In all my years of serving, this has never been a problem. It was never a problem when it was \$5.00 an hour, it's certainly not a problem now that it's \$7.50. What is a problem is the reality that the last time our wages were increased, just two years ago; I effectively lost my job as a result. At \$5.00 an hour my employer could allow me to work even when it wasn't terribly busy. I could still make extra money to save or go out to dinner and put money back into the local economy. However, with the increase to \$7.50 an hour, that was no longer financially feasible for my employer and my hours were cut. My spending money and saving money disappeared as a result and I struggled while I looked for other options. I can't blame them for the decision that they made. On slow nights it just wasn't worth it to them even if it would have been for me. My hours were cut from several nights a week to only being on-call for the weekends and occasionally on the schedule for days they knew it would be busy. After I left, my position was phased out entirely, eliminating a job that the restaurant had had for decades, all because of the wage increase. I made it through one increase and had to find a new position. In order to survive another, I'd almost certainly have to leave school which is a shame because I have been looking forward to being a social worker and contributing to the betterment of New York. Working as a server enables me to meet these goals. All I ask from you is to please step aside and let me get back to work. Thank you.

Commissioner Reardon: Leon Bush. Leon Bush. Leon Bush? Nope. Kevin Goggins, Goggins.

Kevin Goggins: Thank you for allowing me a few minutes to supply you with some hard data on what happened since the Government raised the wage from \$5.00 to \$7.50, as that data will inform what happens in the future if the tip credit is eliminated, before I do that, a few facts which I find relevant as some misinformation has been presented in previous hearings. By the time these hearings are over you will have heard from well over 600 current, active, and real tipped employees in the state. Believe me, they are highly

educated, many with Master's Degrees, well-informed, but most of all extremely concerned about their future. The total tenure of those folks that you have all heard from will amount to well over 9,000 years of experience, so I think they know what they speak. Much of the data the paid opposition uses cites restaurants jobs which adds in non-full service restaurants, things like Panera Bread. When those are added in it skews the numbers. What you need to focus on is full service restaurants, since we're the ones who actually had to pay the increase. Much to also talk about the State of California and it's wage, as an FYI, it took them from 1997 to 2018 to go from \$5.00 to \$11.00, which is what where we will be towards the end of this year. That's over 20 years. What you have planned is less than three. So apples to apples clearly does not, I've included a chart of that history in my wage testimony. You've also not given the change to \$7.50 or more in some areas, long enough to take hold. Devastating effects have occurred. Owners of restaurants who have risked their life savings, like Tom V, who you heard from in Syracuse, will fight tooth and nail to save their business and their employee's jobs. Trust me, they are in the fight of their lives already to this. You should also be aware that many owners have long-term leases of usually five plus years and when those come up, they'll give them an easier way to get out and many will close and that is happening weekly in the State of New York. My first chart shows the impact of that wage on the full service restaurant growth in New York City. You see the impact of the growth being slashed by over 75% once the tip credit was changed. That will happen at twice the result going forward. Next you see the change in full service restaurants growth in the State of New York, full service restaurants opened 405 the year prior, closed 273; it's a difference of over 605. That's 13 restaurants per week that didn't open or close in that year. Next you see the change in actual full service growth and actual jobs cut my a third. The next two charts show the growth in restaurants in New Jersey and Pennsylvania. It's amazing that in that same timeframe, they were able to find a way to grow their restaurants against their trend, while we were declining. Lastly, you will see the future. This is a McDonalds in Chelsea, New York, where you see 14 kiosks, 14 less employees that should be the concern of the Department of Labor; how to keep those jobs and not turn them into kiosk iPads. The mission of New York State Department of Labor is to protect workers, not kiosk, assist the unemployed, not add to them, and connect job seekers to jobs, not disconnect them from the ones that they already have. It's your call Governor. People or kiosks.

Commissioner Reardon: John Buntich. John Buntich. John Buntich.

John Buntich: I don't have to push the button, I see. Alright, good morning, my name is John Buntich. I'm an Operations Director for the Ninety-Nine restaurants. I represent eight Ninety-Nin Restaurants in New York and that is about 300 servers and bartenders that work for us here in the great State of New York. I can tell you that every one of them is treated with dignity and respect. Deciding what to talk about today was much more difficult that the last rounds of hearings when we went to \$7.50 an hour. As a leader of our company and in our industry, I probably should tell you that the casual dining industry is in a very difficult position today long before the tip credit elimination may take place. This will have a devastating effect on our business model. How we do business will dramatically change. Prices will skyrocket. Hours and positions will be

lost. That is not debatable. This will cost my eight restaurants here in New York \$600,000 in its first year. That's on top of the \$300,000 going to the \$7.50. That is a million dollars, roughly a million dollars in three years in labor increase on my eight restaurants here in New York. That is not sustainable, it's not possible. I should tell you that when we broke it down, our servers and bartenders, 300 of them as I said earlier, averaged \$20.00 per hour with their \$7.50 an hour and their declared tips. I should tell you that we broke it down further. In all ethnicities and genders in the Ninety-Nine make equal pay and I will give those to anybody that wants to see that. I should probably tell you that our servers and all servers generally are the highest paid team members in the restaurant. This fight is backwards. It should be focused on the true minimum wage. The restaurant industry understands it, fifteen is inevitable, but to continue to fight this battle on tip minimum wage is the wrong way to go. It's going to hurt and destroy our industry. I should tell you that jobs will be absolutely be lost so for anyone to sit here and tell us that there won't be job loss with that kind of rate increase is lying and I'll say that. I should tell you that people will be replaced with technology; thank you Outback. They showed a clear message that that's what happened. When it went to \$7.50, the vast majority of my counterparts went to kiosks at the table. They did that because they needed to put less servers on so the level of service went down. The servers have to work harder for their money now. They have five, six, seven tables instead of three, four, or five tables because we put the kiosks out there and that's the justification that we can handle more tables. We didn't take that route the first time. It will be inevitable this time. I should tell you that restaurants from large chains to small mom and pops, great businesses across our state, will close. We saw that and I thank again, the Outback, they showed it to you on paper. We're showing you true facts, not hyperbole. We're not bending facts, we're not changing facts. We're telling you absolutes. We are in this industry. And finally, I should tell you the job creation and restaurant growth in New York will be gone. It won't happen.

Commissioner Reardon: Thank you. One second, John. She has a question.

Nathalie Cary: And if you can just, can you hear me? John, just a quick question.

John Buntich: Yes.

Nathalie Cary: The numbers that you presented in terms of a million dollars, was \$600,000 if this were implemented. I just want to be clear, right, so you are saying that if this was implemented doing the overnight approach.

John Buntich: Yes.

Nathalie Cary: Have you done any impact statement on if this was phased it? Have you guys thought about that at all? Because the overtime, we've heard that overtime has been done in other state and I think...

John Buntich: Yes, I think phasing could be a potential but it can't be over five years, you know what I mean. It would have to, we would have to look at the other models. I

think it's been clearly stated that when you take 22 years or 20 years to raise it, we can raise our, you know a hamburger is going to go from \$11.00 or \$12.00 to \$15.00 or \$16.00 dollars. That's the impact we'll have to do overnight and that's us, we're cheap. There are other places that a \$14.00 burger is going to be \$20.00 for a hamburger with French fries and it's our only way to sustain when you give us that kind of an increase. It's impossible. Okay? Thank you.

Nathalie Cary: Thank you.

Commissioner Reardon: Nancy Bambara. Nancy Bambara. Joshua Chaisson.

Ramona: After Joshua, the next five: Jeannette Walter, Meg Fosque, Nieves Padilla, Elizabeth Sprotzer, and Clemente Martinez. Please make your way down to the front and hand us copies of your testimony.

Joshua Chaisson: Commissioner Reardon and esteemed members of the New York State Department of Labor, good to see you all again. My name is Joshua Chaisson. I'm a co-founder and Vice President of the Restaurant Workers of America. I'm a bartender and server of 17 years and I hail from the State of Maine. A member of Governor Cuomo's administration recently reached out to a reporter and when asked about what happened in Maine, he, with tip credit reinstatement, the administration member said, we're researching that. Fortunately, I have a first hand account. After our minimum wage ballot initiative was passed in 2016, we had guests coming into our restaurant across the state saying things to us like, you make minimum wage now, do you still think I should leave 20%? And those were the people who were brazen enough to say it to us. There's no telling how many people lowered their standard tip percentage. At the public hearing in April 2017, many tipped workers brought their pay stubs from the first quarter of 2016 to the first quarter of 2017, to show legislatures that they had lost money. Though the new law was set to phase in our wage increase on January 1st, 2017, went from \$3.75 to \$5.00 an hour but the public's lack of knowledge surrounding the new law was certainly beginning to show in our incomes. We came together as a Grassroots group of tipped workers and rallied our Legislatures to show them that the elimination of the tip credit was coming from out-of-state money, like Restaurant Opportunities Center or ROC, we didn't have, want anything to do with One Unfair Wage. Much like here in New York, in Maine, we the workers came before the decision makers on policy and told you that the remarks made about women and sexual harassment that ROC makes are disingenuous at best and overly offensive at face value. They compare women of my industry to sex workers claiming that they will sell themselves for tips or claiming that the only way a woman can get a good shift in a restaurant is to sleep with their manager. How incredibly offensive is it to the women of my industry to speak in such a manner. Sexual harassment is clearly a cultural issue as shown by Hollywood A-listers and government officials. ROC is attempting to use this Me Too movement to their advantage. Fortunately their language is transparently demoralizing and demeaning to women. This movement used to be used to empower women to speak up and speak out about harassment; not used to further an organization's agenda. In Maine we heard the same remarks about tipping being rooted in slavery. While there may be some truth to the history behind

hiring newly emancipated slaves long ago, ROC uses this statement as very thinly veiled race baiting. How ridiculously offensive is it to compare present day servers and bartenders to the plight of African Americans and slaves? Two weeks ago, Jessica Wintermartin, a ROC Board Member, called a black man an Uncle Tom for supporting the tip credit during open debate over initiative 77 in Washington, D.C. Their language is consistently beyond the pale and I hope this panel soundly rejects their rhetoric. Speaking of D.C., in the last two weeks, progressive democrat Muriel Browser came out in opposition of this ballot. I certainly hope that this panel will follow my states lead and the City of D.C. and soundly reject this policy. Thank you.

Commissioner Reardon: Jeannette Walter. Jeannette.

Jeannette Walter: Good Morning. I figured a picture is worth a thousand words so there is three thousand more right here. But my name is Jeannette Walter. I live in Gansevoort, New York, and for the past 14 years I have been working at Panza's Restaurant in Saratoga Lake as a Food and Beverage Customer Service Specialist, a/k/a a Server. I don't have a sad story. I don't want to tell you another story of how much I love my job, that I make good money and that I support my family because you have already heard all of that. I will tell you that I've been in the business for over 35 years. I've done many jobs over the years; cashier, customer service, bank teller, insurance sales, receptionist, waitress, cook, and management in both retail and restaurant. Yep, jack of all trades while trying to master one. Even with all of these different jobs, I've never been as happy as I am now. Panza is my family, friends, and employer. This is a small business. Some days you only about seven people working including my boss, Anthony Panza, and a lot of small business are just like us. Wage can be a strain on any business especially one Cuomo's proposal. I can tell you that my husband worked at Quadgraphics and got a nickel for a raise several years in a row. Quad is a very large company while Panza is a little speck in comparison. If Quad could only give out a nickel raise, what would the elimination of the tip credit to my boss? Yet I don't need a raise. Onto the subject of sexual harassment by either customer or co-workers, I have never been harassed and really at my age I would take it as a compliment. It is my belief that a lot of sexual harassment cases, not all, are due to people with a lack of self confidence and knowledge. There are plenty of programs out there that offer women self-defense classes. My own Taie Kown Do school offers free self two times a year. Over the years, I have known a few young ladies who freaked out if a male customer looked at them too long and yes, I rolled my eyes. You have to understand my father was a Chef and he talk me how to toughen up and he gave me a lot of crap and some things you just have to take it as a compliment and they are actually are compliments. Now I know there are some cases of sexual harassment are more extreme but I do not feel that because I make less than minimum wage people feel they have the right to see me as less and treat thus. Actually, I dare someone to try. I'm a strong minded woman who can handle herself. I just want this panel to know that I understand and that Cuomo believes that eliminating the tip credit is a good idea and that it will help me but do I look like the damsel in distress?. No, I do not. Okay then, please do not eliminate the tip credit because then I may have to be. Thank you.

Commissioner Reardon: Thank you. Meg Fosque.

Meg Fosque: Good Morning and thank you for the opportunity to testify today. My name is Meg Fosque and I lead the Workplace Justice Organizing Project at Make The Road New York. I'm here representing our 22,000 members, many hundreds of whom work as tipped workers, as car wash workers, servers, busers, and nail salon, and delivery workers. New York has made real strides towards ensuring that the minimum wage functions as a safety net for low wage workers, first by passing the minimum wage for fast food workers and then passing the \$15.00 an hour minimum wage state wide. Of course the reason we all here is because there is a glaring loophole in our minimum wage laws. The so-called tip credit that allows employers to dock workers wages when they received voluntary tips from customers, this loophole creates poverty and exacerbates exploitation in industries already plagued by wage theft and harassment. There are of course some workers who work in high-end or very popular restaurants that earn so much in tips they are not concerned about minimum wage. The purpose of the minimum wage; however, is to set a standard fairness for all workers. The majority of tipped workers do not work in high-end restaurants. The experience of our members who earn tips is that even working multiple jobs and long shifts, they have a hard time making ends meet. One of our members, Felix, was telling me the other day that he works delivering food for a restaurant and sometimes after a 12 hour shift he brings home just \$30.00 in tips. Restaurant servers regularly report having their tips shorted for factors beyond their control, like the kitchen being short staffed and car wash workers report not knowing what their earnings are going to be from week to week because tips vary so much based on weather. The bottom line is that tips are variable. Customers leave them to workers as a thanks for good service; not as a means to supplement their base wages. Our laws need to recognize this. There's well documented evidence about the harms of the tip minimum wage. Studies clearly show a connection to increased harassment and higher levels of poverty and wage theft. Tipped workers are twice as likely to live in poverty than non-tipped workers. It's also unnecessarily complicated making it difficult for workers to know what they should be legally earning. A car wash worker must first determine how much they average per hour in tips before they can even know the correct minimum wage. This is practically an invitation for wage theft. There's clear evidence on the other hand about what happens when tipped workers are in the full minimum wage. We have to look no further than California and six other states to see that in these states where workers are in the full minimum wage, tipped workers do better as well as the economy. It's really no surprise when tip workers earn more in base wages, they have greater economic stability and greater money to spend in their community, and a worker who makes \$13.00 an hour as opposed to \$8.00, has a greater ability to stand up to a customer who is behaving inappropriately. I really commend Commissioner Reardon and the panel for giving us this opportunity to testify and encourage New York State to right this historic wrong and ensure that all workers are guaranteed the protection of a fair minimum wage. Thank you.

Commissioner Reardon: Nieves Padilla.

Meg Fosque: Our next two speakers requires translation.

Commissioner Reardon: Sure. So the next few speakers are going to be speaking in their own language and they will be translated.

Meg Fosque: Do you want them to read the entire testimony and me to testify after or go bit by bit? It's up to you all.

Commissioner Reardon: Bit by bit is probably easier.

Meg Fosque: Okay.

Nieves Padilla: (Interpreter) Good Morning to the Panel and everyone present. My name is Nieves Padilla and I'm an organizer for the Worker's Committee at Make the Road New York. Thank you for the opportunity to testify today. For the last 18 years, I've worked with workers fighting against injustice in a lot of different industries and I've heard many times from tipped workers about the difficulty they have making ends meet to support themselves and their families like paying the rent, paying for food, paying for school clothes and other expenses. Many have told me that to go out shopping or the cinema is a luxury they simply cannot afford. Many of these workers have to work two and three jobs in order to meet the expenses of their home. They have to sacrifice time being physically present with their family in order to have a roof above their heads. I'm not against tips, they are always going to be welcome, but many workers simply don't make enough in tips to make up, to be able to support themselves and their families. Workers that earn tips are still complete workers. They are equal to all other workers. They also have families as do other workers. They have the same cost and expenses as other workers. So they also deserve a minimum wage equal to the minimum wage of other workers in New York. This isn't a luxury, it's necessary to create a just system for all workers in New York. This fight isn't mine and it's not yours; it belongs to all of us that believe in justice. Thank you.

Commissioner Reardon: Elizabeth Sprotzer. Elizabeth Sprotzer.

Elizabeth Sprotzer: Good Morning. My name is Elizabeth Sprotzer. I'm a Staff Attorney on the Workplace Justice Team of Make the Road New York. Thank you for the opportunity to share this testimony today regarding tip workers and the critical importance of New York State acting to eliminate the subminimum wage. As my colleague mentioned, Make the Road New York in a non-profit community based organization with over 22,000 low income members dedicated to building the power of Latino and working class communities to achieve dignity and justice. Our Workplace Justice Team and myself represent hundreds of low wage immigrant workers each year to enforce their rights under Labor and Employment Laws. Many of clients are tip workers and low wage industries such as restaurants, car washes and the nail salons, who despite working full time jobs are unable to support themselves and their family on the low wages and unpredictable tips they are paid. The subminimum wage created an extreme economic instability for workers particularly for low wage workers whose tips when combined with their wages still bring their total pay far below the minimum wage. One

of our members and this is a common story, worked at a restaurant in Queens for five years. Maria, she is a single mother, she was paid \$28.00 per day throughout her employment and worked up to 60 hours per week. You will hear working in Queens that that's the rate that you get per day. Many days she earned less than \$20.00 in tips. There were many weeks when she did not have enough to pay rent. The small amount she could save was not enough. She had to apply for food stamps for her son and on her days off from the restaurant, she worked in cleaning jobs just to get by. For workers who rely on tips to support themselves and their families, there is significant pressure to tolerate sexual harassment or other abuse in order to learn, earn a living. We represented many immigrant women who have experienced sexual harassment by customers and whose employers not only have failed to address the harassment but have encouraged the women to dress more provocatively or flirt more with customers to up the sales of the business. Our clients have also suffered harassment from employers themselves who can easily withhold or steal tips at any moment and we see the tip theft takes many different forms by like for instance by requiring employees to turn their tips in at the end of the shift and then managers keeping a portion for the house requiring customers to tip at the counter rather than directly to workers. This is very common in nail salons and finally, we find the different set of laws that apply to tip workers exacerbate wage theft violations in tipped occupations. Employers take advantage of the complicated set of rules including their ability to take a different amount of tip credit allowance depending on tip amounts, to misinform workers of their rights, and to argue that they are in compliance with the law. We commend Commissioner Reardon for holding these hearings and thank you for the commitment to ensuring the workplace protections extend to all workers in New York State. Thank you for the opportunity to testify.

Commissioner Reardon: Clemente Martinez.

Ramona: After Clemente, the next five speakers are: Luis Wyler, Gordon Clarkson, Brian Keyser, Susan Zimet, and Michael Sweeney. Please make your way down to the very front and hand us the copies of your testimony.

Clemente Martinez: (Interpreter) Good Morning. My name is Clemente Rodriguez Martinez. I'm a member of the Worker's Committee of Make the Road New York. I'm the father of four children who were born in New York and I've lived in this country for 15 years. So New York is not a cheap place to live especially when you are the only bread winner for a family of five. As the father, I have the responsibility of paying the rent, the utilities, food, transportation, clothing, and other necessary costs. Like many other immigrants that come to this country, I've had to work really hard for very little money. So currently I work for a restaurant delivering food, I make less than the minimum wage, and I depend on tips which are divided amongst many workers. My average weekly salary is \$360.00, even though I work many hours. Every month I'm very stressed out about how I'm going to cover all of my expenses. My rent is \$1,450.00 a month and that's a huge part of my monthly salary. The experience of having to make difficult decisions like choosing between paying my utility bills or buying groceries is something that I don't wish on anybody. Even though employers are obligated to make sure that I earn the full minimum wage when the tips don't add up to this, this actually

never happens. I can't keep working so hard and not earn at least the same base minimum wage as others workers. I need this to take care of my family. I'm asking that this panel end subminimum wages. We are complete workers and we deserve to have a complete minimum wage. Thank you.

Commissioner Reardon: Luis Wyler.

Luis Wyler: (Interpreter) Hi, Good Morning. My name is Luis Wyler. I'm a member of Make the Road New York. I've lived in this country for 10 years after leaving my family in Argentina. I arrived here with really strong dreams but I found that the wages are really very actually low. So I've worked as a server in various restaurants in New York during the last 10 years and I can explain to you all how difficult my life is and how difficult it is for many of co-workers who also work as servers in different restaurants. The salary that I earn each week averages about \$400.00 and that includes tips. You can imagine how difficult it is to live in an expensive place like New York on these weekly wages and on top of that to have to pay rent and all of the other expenses I'm responsible for in order to survive. Because of this I have to live sharing a room with another person in a basement and I don't have any income during the months of February and January. And this is actually having the stress a huge impact on my health. I have as a result high cholesterol, high blood pressure, and high sugar, high blood sugar, and on my wages I cannot afford health care and this makes the situation even more difficult. On two different occasions, I was the victim of wage theft and had to file a law suit against my employer and this of course was incredible stressful. With the hours that I work and the wages that I earn, it is really hard to have a social life and I can't imagine supporting a family. The truth is that it's impossible to get ahead in this City on this salary and so eliminating subminimum wages isn't a question of choice or luxury, it's a question of survival. Like all other workers, we deserve a salary that's dignified and just and allows us to put food on the table, allows us to be able to study so that we can improve our situation in life and so that we can contribute to the community. At this moment it is impossible for me to even to cover basic expenses and so I can't concentrate on improving my future or the future of my family, and that is why I am here today asking the panel to put an end to subminimum wages.

On a personal note and on another life and this is not a part of my statement for the record but I'm also an economist and really pretty interesting article about Henry Ford and when the time he needed to sell his cars he increased the salary of his employees and that created an illusion that lasts even to today. For so those people are really worried that this will create a downturn in the economy, I think they are wrong.

Commissioner Reardon: Thank you. Gordon Clarkson. Gordon Clarkson. Gordon are you here? Nope? Brian Keyser, Brian?

Brian Keyser: Thank you Commissioner Reardon and the New York State Department of Labor for holding these hearings and giving the public the opportunity to comment on the proposal to raise the minimum wage for tipped employees. My name is Brian Keyser. I own Casellula Cheese & Wine Café in New York City. I've been in the restaurant industry for 21 years as a server, as a manager, and for the last 11 years as an

owner. I'm here to show the Commission the fact that not all owners are against paying the full minimum wage for tipped workers. I'm a business owner and I believe it's important to pay all of our employees a living wage. I don't question the motives of the servers and the operators who are here today to argue in favor of the tip credit but I believe they have been misled by the NRA's misleading and dishonest campaign on the issue. I've spent years researching this topic and although I started out being against paying tipped employees the full minimum wage, my research has resulted in a change of heart. The National Restaurant Association, the other NRA wants you to believe that this is just a increase in pay for service in high-end restaurants and bars who already make great money, but this is really about the tens of thousands of servers in diners, cafes, and casual chain restaurants, as well as car washers and nail salons who don't make a lot of money in tips and who struggle to make ends meet. The NRA wants you to believe that the restaurant industry in New York will be destroyed if tipped workers are paid the full minimum wage but the truth is, there is no evidence that this is true and a mountain of evidence that it's not true. Seven states don't have a tip credit and their economies and their restaurant industries are strong and customers still tip and tip well in those states. They want you to believe that New Yorkers will stop tipping if the servers make the full minimum wage but tipping is actually higher on average in the states with no tip credit than the rest of the country. There is no evidence that customers changed their tipping habits when New York's tip wage went from \$5.00 to \$7.50. There is no reason to believe it will change if it increases incrementally to the full minimum wage over the next few years. Their so called evidence is anecdotal and intended to instill fear in restaurant owners and servers. The evidence supporting a full wage for servers on the other hand is based on historical facts, real research, and the industry wide national data. They dishonestly convinced servers that their tips will go away and then convinced those servers to march, write letters, and testify when all the evidence indicates that tipping will not change when we move to the full minimum wage. Your tips are not going to be taken away as a result of this measure; you're just going to get a raise. Increasing the tipped minimum wage, in fact any increase to minimum wage pumps money into the economy which is good for business. Business owners like myself should be in favor of that. Paying employees well increases morale, improves job performance, reduces turnover, and contributes to the overall health and happiness of employees, all of which are good for our business. I'm a restaurant owner and I support raising the base pay for tipped workers to the regular minimum wage in New York State. Thank you.

Commissioner Reardon: And Gordon Clarkson, I skipped to the next name too soon.

Gordon Clarkson: I'm Gordon Clarkson. I'm from an independent operation and most of the people that I see here are also from locally owned or operated independent or small local chain restaurants and bars. We hear that opposition to this initiative is a scare tactic for by the owners and Fortune 500 companies with huge lobbying budgets, which is ironic given the amount of lobbying that brought us to this point in the first place and the amount of money that has been spent over the past few years by organizations like ROC to put this on the table. The people here have no lobbying power. I have no lobbying power except my voice, my pride, and my passion and that's why it's so important to listen and hear the voices of those that are speaking today, many of whom have given up

lucrative shifts on a Friday to be here paying their own way, sacrificing for their future, but they are not victims, not yet anyway. This panel, I believe, and these hearings have come along way a clear picture is emerging. There are undoubtedly abuses, people like Jose absolutely deserved to make at least the minimum wage and so there's no doubt about that whatsoever and that serious wage theft and exploitation issues may exist in some industries but that is not the impression I'm getting from the restaurant folks that are speaking here. The business is not perfect but the basic model is effective. I'm seriously concerned that ulterior motives or special interests are seeking to highjack the issue disingenuously aligning it with the Me Too Movement while trying to manipulate the wage scale to ripen the industry for unionization, not for the worker's protection, but for their own edification and enrichment. Equally I hope the cynicism that regards these hearings is an exercise only as misplaced. The payroll and income taxes are not the true motivating factors and that the decision is not a fair complete. I believe that the tip credit should remain in place. I do not believe that a system that already guarantees minimum wage for wait staff for all genders and identities leaves them open to sexual harassment or exploitation. I do believe that effectively raising the minimum wage by another 40% in the short term would do serious harm to the businesses, their guests, and the staff they employ. I honestly believe you are hearing us and that you are able to objectively evaluate this emotional issue and I thank you for your time.

Commissioner Reardon: Susan Zimet.

Susan Zimet: As Chairman of the Women's Equality Party, I would like to thank you for the opportunity to testify about the current two-tiered minimum wage system in New York and more specifically how that relates to the gender wage gap and increased sexual harassment in the workplace for tipped workers. Seventy-seven percent of single parent families in New York are headed by women. According to a recent survey by the Restaurant Opportunities Center United, 46% of all tipped workers in New York are single mothers and tip workers live in poverty and use public assistance at twice the rate of other low wage workers in New York. Those numbers are even higher for women of color. New York's two-tiered minimum wage system under which tip workers are paid a subminimum wage and are forced to rely on tips to earn a living is for all intents and purposes a legislative gender wage gap. The DOL's own paid gap study released just last month made the policy recommendation to eliminate the subminimum wage for tip workers and would ensure that women make the least, are paid a predictable wage and that business books are not balanced on the back of the workers. The subminimum wage is also linked to higher rates of sexual harassment in the workplace and it's documented. When female workers are forced to rely on customers to earn a living wage, they are more likely to find themselves tolerating inappropriate or abusive behavior from customers, colleagues, and management just to make ends meet. They are more likely to be encouraged or required by their employers to dress in provocative ways to encourage more generous tipping and they are less likely to report sexual harassment experienced at the job because they fear retaliation that will result in earnings and job loss. A 2014 survey conducted by the Restaurant Opportunities Center and put together of 700 current and former restaurant workers in the 39 states, two-thirds of all women working in restaurant industry reported having experienced sexual harassment from co-workers,

customers, and even restaurant management. The restaurant industry is the greatest source of sexual harassment claims filed with the Equal Opportunity Commission. The correlation between working for tips in the instances of sexual harassment is real. Paid tipped workers is a structural solution, the subminimum wage thing, is a structural solution that addresses one of the root causes that gender wage gap in New York State, the Women's Equality Party fully supports the proposal to eliminate the tip minimum wage. We thank you for this and I just would like to in my day job and I try not to compare politics and non-profit work, but I do represent the Hunger Action Network of New York State. I'm the Executive Director and we represent all of the low wage paid people, the food people, you know on food stamps, that go to food to food pantries, so I just want to reiterate what one of the people said today. This is really about the tens of thousands of servers in diners, cafes, casual chain restaurants, the majority of whom are women who don't make a lot of money in tips and struggle to make ends meet. Those are the people that I represent during my day job and we spend a lot of time on wage theft and issues. Thank you.

Commissioner Reardon: Thank you. Michael Sweeney.

Ramona: After Michael Sweeney, the next five speakers are: Andrea Callan, Matt London, Rossana Coto-Batres, Jonas Shaende, and Chris Brenner. Please make your way down to the very front and hand us copies of your testimonies.

Michael Sweeney: Good Morning and thank you for the opportunity to speak today. My name is Mike Sweeney. I'm a partner with Getman, Sweeney & Dunn in Kingston, New York, and we are a law firm that is dedicated to litigating wage and hour issues on behalf of employees. We've represented more than 10,000 workers in wage and hour litigation and our experience leads us to believe that the tip minimum wage should be the same as the minimum wage in New York. I'm here to dispute the idea that litigation is an effective way to protect the minimum wage for tipped workers. Minimum wage violations are common because minimum wage laws are often are not an effective deterrent. The difficulty for workers in brining claims, limitations and joining claims together, statute of limitations on how far you can recover, all combine to make violating the law more profitable for employers than following it, in many instances, and the law does not always provide effective protection for low wage workers. Low wage workers are understandably reluctant to sue their employers because they survive week to week and risking loosing your job just isn't an option. They are often intimidated by the legal system due to the lack of understanding, past experiences, or lack of permanent immigration status, in many instances. Many simply don't have the resources, the time, or the money to prosecute their claims and even where they are willing to stand up, Departments of Labor are overworked and understaffed and private attorneys are reluctant to take small minimum wage claims because the risk of litigating those are just not worth it. A different minimum wage for tipped workers leads to minimum wage violations. The tip credit minimum wage is not intended for non-tip related work and unfortunately, it's difficult to draw a line between when the tip credit is allowed and when it is not. With all the instances, but I would like to share an example of how this happens. We brought a Federal Collective Action for a class of 16,000 servers who were

paid a tip credit at minimum wage across the country including here in New York. After a private equity firm bought the company, it made a move to increase profits and forced management to cut labor costs and they did that by laying off cooks, dishwashers, janitors, who they paid the full minimum wage and requiring servers who were paid the tip credit minimum wage to do their work. As a result, the server spent as much as half of their time in cleaning bathrooms, washing walls, cleaning windows. Despite these clear violations, the case is still going on after five years. Just when we began to see progress in it, the private equity funds sold it to another private equity fund that went into bankruptcy to try and shed the debt, including the minimum wages. This just isn't fair and the remedy is not effective. Raising the tip minimum wage to full minimum wage is fair for workers and it also helps employers by creating a level playing field. Thank you.

Commissioner Reardon: Andrea Callan.

Andrea Callan: Good Morning Commissioner Reardon and members of the Department of Labor. I am Andrea Callan. I am the Program Director at the Worker Justice Center of New York and also previously served as the Staff Attorney at WJCN and have litigated many cases of wage theft on behalf of tipped, mostly immigrant workers. I'm testifying today here in solidarity with our majority immigrant worker population. WJCN pursues justice for those denied human rights with a focus on agricultural and other low wage workers through legal representation and community empowerment and advocacy for institutional change. Our service area concentrates on the 55 counties of Upstate New York north of Bronx County. The elimination of the subminimum wage could go a long way in reducing the legal violations we seek to remedy each day in my organizations work. Just some examples, we have represented clients performing housekeeping work who are paid a straight hourly wage, at times not even rising to the subminimum wage let alone the minimum wage and then receive no tips because any tips collected by the housekeepers were to be turned over to the managers, as a matter of policy. Some of the employees had worked faithfully for this employer for years before they even came to understand their rights to earn at least the minimum wage and that they were entitled to the tips left behind by the customers regardless of the base rate that they were being paid. In another example, restaurant workers who seek consolidation with our organization concerning their wages, the vast majority of them are unaware that employers must "top up" the difference between the subminimum wage of \$7.50 per hour and the minimum wage in the vast majority of our service area which is \$10.40 per hour. As a result, we have found that workers rarely keep records of their tip earnings that can later be used as evidence to support their wage claims regardless of the fact that the workers are not required by Wage and Hour Laws to submit written evidence in support of their wage claims. Without keeping those records, workers struggle to recall the amount of tips earned week to week and are subject to the mercy of their employer's records alone. Unfortunately, we have also discovered that many employers also fail to keep those adequate records or any records at all of the tips earned by employees rendering it nearly impossible for workers to have a full and accurate accounting of their wages they are actually owed. In one of our most egregious cases, a client who worked as a waitress earned as little as \$1.94 per hour in some weeks when her take home pay was divided among the total hours that she worked in that work week. Another common

problem we encounter for our clients in the restaurant industry is the addition of work duties and responsibilities rendering the employee a non-service employee for some portion of their hours in any given work week. For example, workers are asked to come in to work to perform cleaning tasks or attend special meetings for which renders them non-service employee for those hours. In addition to the common trends that we encounter in our work, we stand in support and confirmation of many of the findings shared by our sister organizations concerning the public policy and vocations of the minimum wage tip credit. Indeed, research showing that women and people of color are disproportionately impacted we find support for in our organization. Thank you.

Commissioner Reardon: Thank you. Matt London. Matt Loudon? Matt Loudon?
Rossana Coto-Batres.

Rossana Coto-Bartres: Hello. My name is Rossana Coto-Bartres. I'm the Outreach and Education Coordinator for NECOSH, the Northeast New York Coalition for Occupational Safety and Health. We are an Albany based non-profit whose mission is ensuring all workers have access to a safe and healthy workplace. We focus our work on protecting the most vulnerable workers; low wage immigrant, minority refuge, women and young workers, all of whom are employed in large numbers in the food service, hospitality, and retail industries. Many of the workers we train depend on their earned tips to make ends meet. They work as service and waitresses at many local restaurants, as cashiers and dishwashers at fast food establishments, as nail salon workers, as cleaners and maintenance workers in hotels. The majority of these workers are women, single mothers and parents who struggle to make a living earning less than minimum wage. They should not have to depend on their tips to make ends meet as this dependence makes them more vulnerable to experiencing workplace health and safety abuses. In the Capital District, there are over 40,000 workers employed in the food service and hospitality industries. Restaurant and hospitality workers experience sexual harassment and stress at alarming rates. While restaurant workers represent 7% of the national workforce, they make up 37% of the Equal Employment Opportunity Commission claims for sexual harassment. Workers in the restaurant and hospitality industries often rely on the kindness of customers to supplement their salaries forcing many workers to tolerate inappropriate and illegal behavior from their customers in order to make a tip. Food service workers may be more inclined to tolerate cases of harassment by coworkers, supervisors, and employers who have the power to schedule workers during a less busy shift highlighting the wage instability and stress these workers face. Furthermore, workers employed in the food service and hospitality industries experience occupational injuries at a rate of 2.4 injured workers for every 100 workers. Food service workers face hazards that include exposures to chemicals used to clean and disinfect, sharp objects, slippery surfaces, hot temperatures, and machines used to cut or cook food, as well as the ergonomic hazards of lifting and standing on their feet all day. The high rate of occupational injuries among food workers is alarming which combined with their lack of benefits and dependence on tips to make ends meet, forces many injured workers to continue working instead of facing a decrease in their wages. The instability that tip workers face contributes to wage disparities among female workers, forces many workers to put up with sexual harassment and stress and exacerbates occupational injuries among

workers in the food service industry. It is time for New York State to eliminate the subminimum wage and enable workers to make a fair decent and dependable wage so that all workers can be safe and healthy in their jobs. Thank you for your time.

Commissioner Reardon: Thank you. Jonas Shaende.

Jonas Shaende: I am glad to have the opportunity to testify today on the matter of subminimum wage in the State of New York. My name is Jonas Shaende. I'm the Chief Economist at the Fiscal Policy Institute, a non-partisan, non-profit think tank that provides research on New York economic tax budget migration and other policy issues. The Fiscal Policy Institute continues supporting the States phased minimum wage increase to \$15.00 an hour. The increase has lead to accelerated income growth across the state. At the time of this testimony, the State of New York has a record high number of private sector jobs in its history. We believe increasing the tipped minimum wage is bound to result in similarly positive economic outcomes. Poverty among tipped workers, in many sectors, is staggering. About 15% of all tipped workers live in poverty. That is more than twice of all workforce in poverty at 7%. Moreover, about 16% of tipped workers qualify for SNAP benefits compared to 10% of total workforce who do the same. In essence, the public or taxpayers if you will, support tipped workers not only with their tips but also collectively through public benefits. Clearly no industry would like to lose the type of support that virtually functions as a public subsidy and in some cases, subsidies could be even useful temporarily. In this case, however, we as the public subsidize disproportional subsistence level poverty; therefore, increasing the tipped minimum wage to \$15.00 would be a correct and consistent development minimally required to advance toward fair compensation and income stability for workers in New York. In a recent study of the industry by professors, Palbrook and Ruiz (sounds like), both job growth of 1.1% and income growth of 6.4% were registered in Western New York in the year after the state tipped wage increased to, in 2015. On the whole, the growth was not matched in the neighboring Pennsylvania counties where minimum wage remained constant, thus bringing the subminimum wage appropriately to the level matching the level of state minimum wage can be reliable be expected to both lead in the increase in earnings and also, maybe, have a positive but neutral impact on the levels of employment in the State of New York. That is all I have to say. Thank you.

Commissioner Reardon: Thank you. Chris Brenner.

Ramona: After Chris, the next five speakers are: Jeanette Wiks-Lim, Dorothy Hill, Marisa Licandro, Katie Ullman, and Terrell Brannon. Please find your way down to the front and hand us copies of your testimony.

Commissioner Reardon: Do I have Jeanette Wiks-Lim? Jeanette?

Jeanette Wiks-Lim: Hi, so my name is Dr. Jeanette Wiks-Lim. I'm a Labor Economist at the Political Economic Research Institute at the University of Massachusetts in Amherst. My research primarily focuses on the low wage labor market in the United States and I specifically studied minimum wage and minimum wage laws across the

United States for over 15 years. So in order to keep my testimony pointed, I will focus my comments on two accounting arguments that are uniform and wage policy with no supplement wage will produce two potential negative unintended consequences. One lower earnings for workers who customarily receive tips such as waiters and waitress, and two, lower employment industries that depend heavily on customers tips to ensure workers get paid the minimum wage rate. So earnings first, to examine how a uniform minimum wage policy would affect the earnings of workers who customarily receive tips, we can look to the seven states which you have already heard about that currently do operate with a uniform minimum wage policy and no subminimum wage. These states are Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington. I did the following exercise, using data from the U.S. Department of Labor. I looked at the last 10 years. I compared the average wages including tips of waiters, waitresses, and bartenders in those seven states to the average wages of waiters, waitresses, and bartenders in those remaining states that have a supplement wage for tip workers. This analysis indicates that across the board the average wages for these occupations are higher in the states that have a uniform minimum wage policy. I also find that this not just because these seven states with no subminimum wage, it is not just because they are high wage states. When you look at their bartenders, waiters, and waitresses averages wages compared to other workers within those same states, they are doing relatively better than in the case of states that have a subminimum wage. So in some, what we can see periodical data, that a uniform minimum wage policy does not appear to have any negative impact on wages including tips and may actually improve wages. Now the question of employment, I also examined data on the question of how uniform minimum wage policy would affect employment. Again, I just compared the average annual employment growth rate and the average establishment growth rate in the full service restaurant industry in states with different policy, minimum wage policy issues. What I found is the employment growth in full service restaurants in the seven states with the uniform minimum wage policy, it outpaces the employment growth among the states that have a subminimum wage. I also find that the number of establishments grow at a faster rate in the states with the uniform minimum wage policy compared with states with a subminimum wage. Again, like the earning situation, you see that these seven states tend to have a more dynamic economy in general but when you compare the employment growth and the establishment growth rate to the private sector within those same states, again, the full service restaurant industry in the states that have a uniform minimum wage policy perform better. So these patterns of employment and business growth as well the tipped workers earnings all point to the conclusion that businesses that rely heavily on workers that earn tips, full service restaurants can and do operate successfully under a uniform minimum wage policy.

Commissioner Reardon: Thank you very much.

Male: I have a quick question. Is that okay? Can you wait a second?

Commissioner Reardon: Can you wait one second? Excuse me.

Male: Professor, can you wait before you go, we have a question.

Male: Professor. A quick question for you. Is there anything that you can say about what has happened to real wages over the last three decades in terms of buying power of people at the lower end of the economy?

Jeanette Wiks-Lim: Oh, I think that it's been documented so many times over the last three decades that the average worker's wages have stagnated over the last 30 years and one of the things that we see about minimum wage policies in general is that they do support the bottom but the minimum wage policies that we've had across the country have primarily stagnated, especially when you're thinking about the Federal minimum wage policy, so the support at the bottom is weak and you just look at average wages. Really it is across three decades of average workers earnings just stagnating. It's a phenomenon that we really have to think hard about what our labor standards are which happened over time in order to try to move those wages in some positive direction.

Male: Thank you.

Commissioner Reardon: Thank you. Dorothy Hill. And for those of you who are new in the room, when we call your name there are seats right behind the speakers table that you can come to. So Dorothy Hill? Are you here? No. Marisa Licandro.

Marisa Licandro: Good Morning. My name is Marisa Licandro. I have been a restaurant worker for five years since the age of 17, mostly in Poughkeepsie. I am also a member leader at the Restaurant Opportunity Center of New York, or ROC New York. We represent 13, I'm sorry, there are thirteen million restaurants workers in our Nation; out of tipped workers 70% of them are women. Our industry is the largest and fastest growing sector in the U.S. economy yet we receive the lowest wages. Women's employment is concentrated in low-wage front of the house positions. We women are subject to the highest rates of sexual harassment on the job of any sector as reported annually to the Equal Employment Opportunity Commission. Women also suffer from three times the poverty rate and are twice as likely to use food stamps than workers of other sectors, not to mention that these statistics are worse for trans women and women of color. This harassment comes from customers, coworkers, and managers. Women are forced into silence because speaking against the customer means a bad tip and speaking against the manager means possible cutting of shifts or unfair scheduling. The outdated subminimum wage system puts men in positions of power over women forcing us to choose between our paycheck and our livelihood. As a restaurant worker I can attest to various forms of sexual harassment and assault embedded into the culture of restaurants such as sexist uniforms, sexual jokes, pressure for dates, sexual advances, groping, and rape. A restaurant job is often the first job a young woman obtains mostly in positions that are notorious for low pay along with sexual harassment. This potent system causes women to be less likely to recognize and report sexual harassment through their careers and lives. Last fall I shared my personal story with the Washington Post in an article entitled "Rape in the Storage Room, Groping at the Bar, why is the restaurant industry so terrible for women". I experienced attempted rape by a coworker yet I was scheduled and forced to work with my perpetrator multiple times. I and other women should not fear for our safety while at work. I'm a restaurant professional so why don't I receive the

same protections as other industries. I and a powerful majority of restaurant workers believe that to reduce in one day eliminate sexual harassment, the policy needs to change. ROC's One Fair Wage campaign seeks to end this shameful culture that tolerates and even promotes sexual harassment. We're only asking for the minimum wage with tips as an appreciation for good service. The myth that servers make a lot of money is only true for those privileged enough to capture the high paying fine dining positions. One Fair Wage will end legalized paid discrimination and transfer power into the hands of the workers. We will fight until we receive one fair wage. Thank you for letting me speak on behalf.

Commissioner Reardon: Katie Ullman. Katie Ullman? Terrell Brannon.

Ramona: After Terrell, the next five are: Darrel Sukdheo, Veronica Avila, Michael Kunizaki, Prabhu Sigamani, and Orlando Charles. Please find your way down to the front and hand us copies of your testimony.

Terrell Brannon: Thank you Commissioner Reardon and the New York State Department of Labor for giving me this opportunity to share my comments about the Governor Cuomo's proposal to examine raising the base wage for tip workers. My name is Terrell Brannon and I live in New York City. I'm a waiter. I'm in favor of raising the tip minimum wage to the regular minimum wage. After working in a restaurant industry struggling after working in the restaurant struggling to make ends meet, so to pay the bills I realized that living off tips was too unpredictable for me to plan my budget and pay my bills, for many of us working daily hoping that we have enough hours or tips to make it through. I am for a higher regular minimum wage with tips and I urge you to consider the many hardworking men and women who have lived with economic uncertainty wondering what lies ahead, if we can afford to pay our bills, or feed our families. Thank you.

Commissioner Reardon: Thank you very much. Darrel Sukdheo. Darrel Sukdheo?

Darrel Sukdheo: Good Morning. It's good to see you all again. I'm having some technical difficulties, excuse me for a second.

Commissioner Reardon: Darrel, your clock is running.

Darrel Sukdheo: Oh, sorry. I'm here to testify in favor of eliminating the subminimum wage like so many others that will be here today speaking about all the different issues. I'm a restaurant worker and I just want to give you a snapshot of over the last two weeks for me. I only get three shifts a week currently, okay. Last week Wednesday I got \$5.00 in tips; all the restaurant, we pool the tips and eight of us have to share the tips. Last week Wednesday, I got \$5.00 in tips and with just three shifts a week; I'm really in a position where I have to go food banks to be able to feed myself. Okay, so that's what's happening right now. I'd like to ask the four of you on the panel and if you don't mind, to do a little exercise with me. Imagine you are working for \$8.65 an hour, you're getting 40 hours a week, which I don't, plus an average of \$20.00 tips a week. That's \$446.00

before taxes. I'd like to ask you guys to budget that and imagine living on that money and I think from that perspective you will understand what the huge majority of people in the restaurant industry are facing. Some people seem to sit here and think that everybody is making great money. That's not everybody. That's probably the top 1% of restaurant workers in the industry. The rest of us, the 99%, we are struggling, really struggling. So I'm going to ask you directly, please give me a raise. The restaurant is not going to do it of their own volition, so I'm asking you to help us so we can have a better living standard in New York State and hopefully we can eliminate a lot of the problems. You've heard many of the experts speak about the benefits of increasing, rather eliminating the subminimum wage. This is real. This is happening in other states, you know, I've considered moving out to California so I could make a better wage. I've considered, as a matter of fact, I cater on the side trying to make. Thank you.

Commissioner Reardon: Thank you. Veronica Avila.

Veronica Avila: Thank you for allowing me the opportunity to give my comments on phasing out the tip credit. My name is Veronica Avila and I live in Brooklyn. I'm with ROC and I'm in favor of phasing out the tip credit. Conversations around phasing out the tip credit have usually featured as we've seen today, a fear of tablets replacing people. Over the last decade, yes, restaurants have started to adopt automation technology though major chains have primarily implemented tech as a way to increase profit by boosting productivity. Chains such as Olive Garden, Chili's, Red Robin, and Applebee's, and Buffalo Wild Wings have adopted these tablets system wide. Other chains have adopted mobile ordering, payment technology and companies like McDonald's as we saw visually today, have adopted self-ordering kiosks. Applebee's actually has been a table industry leader. Starting in 2013, they began to install tablets with a goal of having them in every location. In 2013 alone, they committed to installing 100,000. These numbers sound alarming and the visuals are also quite alarming but these interfaces to date have primarily been used as a means to: 1) help turn tables quickly by speeding up the payment process thereby increasing volume, increasing points of profit so the tablets are used as a way to increase check size or do things like charge guests to play games and also gather customer feedback. I stress it's not as simple as saying that you can buy a couple of tablets to replace workers and technology at the moment is not being used in response to labor costs. Applebee's own former president, Mike Archer said and I quote very clearly, "our intention is not to replace servers who provide personal connection that is invaluable in our restaurants. This is not about saving on labor" he said. Technomic, a research group focused on the restaurant industry indicates that labor savings are at the bottom of the list of reasons restaurants are implementing self-service systems, in fact they say, "only about 3% of chains have adopted touch screens to date; the initial cost of installing this technology outweigh any labor savings". These table tablets are also not a consumer preference as restaurant technology report reveals these kiosks are only the eighth more important out of nine technological features for diners. California has been a pioneer in this and there we've seen that the restaurant industry has outperformed the rest of the nation from 2001 to 2016. They saw a 45% increase in their employment and nationally since 2013, since the start of all this tech, the nations full service restaurant

employment grew by 16% and the trade association projected that table service restaurant sales would reach \$263 Billion, a 3.5% increase in 2016.

Commissioner Reardon: Michael Kunizaki.

Michael Kunizaki: Good Morning, happy Friday. Thank you Commissioner Reardon and the New York State Department of Labor for giving me the 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 Mike Kunizaki and I live in Queens, New York. My mother is from Ecuador and she worked as a professional hair stylist to provide for our family for decades. Even though she worked in salons in Manhattan, I remember how reliant my mother was on tips. She would comment at the dinner table about how some of her customers tipped better than others while others didn't tip at all. Not what one would expect from clients in the middle of the City. I was a Sociology major in college and graduated from the University of Michigan in 2004. Since then I've worked exclusively as a worker advocate in multiple industries such as health care, education, entertainment, and the restaurant and hospitality industries. I've functioned in multiple capacities and I'm an expert in my field. Over the last few months, I've encountered more claims of sexual harassment than I did in all of the other industries that I've worked in over the last 10 years combined. Restaurant workers tolerate inappropriate behavior on the job because they are so reliant on tips to earn a living. Women are pressured by their managers to dress scantily clad, to ignore comments about their bodies or unwanted touching. I met a server recently who was sent home and fired for not doing drugs and having sex with her boss in the back room. No, it's not a lie. Listen, people work when they are sick, people work nights and weekend shifts even if it means not being able to spend time with their families because they typically bring in higher tips. Employers can control the way tips are shared and accounted for so tipped workers are at an increased risk of wage theft. I know a busser who worked 10 to 13 hour days, 6 days a week, for 4 months. He didn't get paid until a couple of months later. He got paid \$300.00. No minimum wage, no overtime, and no tips because the owner was stealing them. He is from El Salvador and a teenager. His bosses knew he was vulnerable to being taken advantage of and that's exactly what they did to him. They used his immigration status as a justification for not paying him. Unfortunately, this person's experience of wage theft is not uncommon. All tip workers deserve to be paid the regular minimum wage by their employers with tips on top. Passing One Fair Wage would improve not just people's working conditions but their living conditions as well. The two are not mutually exclusive. Thank you.

Commissioner Reardon: Thank you. Prabhu Sigamani. Prabhu Sigamani? Orlando Charles. Orlando Charles?

Ramona: After Orlando, the next five speakers are: Catherine Barnett, Sonia Osorio, Yamila Ruiz, Jamaica Miles, and Chrystina Monte. Please make your way down to the front and give us copies of your testimony.

Commissioner Reardon: Catherine, is that you coming down? Could the next four please come to the front so we can expedite the testimony, please.

Catherine Barnett: Good Morning. My name is Catherine Barnett and I am the Director of the Restaurant Opportunities Center of New York, a chapter of the Restaurant Opportunity Centers United. For the past 17 years, ROC has advocated for better wages and working conditions for the 11 million plus restaurant workers in our nation; more that 400,000 of whom live and work in New York State. Today you have heard a lot about sexual harassment and our research that we've been looking at from before there was a Me Too movement, has brought out the fact that there are higher rates of sexual harassment reported to the Equal Employment Opportunity Commission from the restaurant industry than any other sector. Today we are standing here before you not just to discuss sexual harassment, which is an unfortunate byproduct of a two-tiered wage system, but to talk about a solution. One Fair Wage which is a solution to the rampant exploitation in the majority female and immigrant workforces. We are standing here for better wages and better tips. In New York State, workers make between \$7.50 to \$8.65, depending on the region and rely on tips to bring them up to the state's general minimum wage. We know that states that already pay tipped workers the basic tip minimum wage also still provide tips and New York should be next. One Fair Wage is actually good not only for workers but for also for business. Many restaurants in tipped minimum wage states are suffering from greater liability calculating the minimum wage and keeping on top of that exposes the restaurant. It is confusing to make sure that you are in compliance when you are trying to be in compliance. It promotes, it stuns cross training and also options for mobility and worker retention. The 80/20 Rule, there are so many restaurants in New York State that are in violation of this despite their best intentions to do the right thing. We know in recent research that comparing Department of Labor data in states along the New York, along counties along the New York and Pennsylvania border since the last tip minimum wage increase, restaurants workers in New York saw their salaries go up an average of 7% and jobs actually increased on the New York border by an average of 2%. I'm talking about counties like Allegany, Tioga, Broome County, Delaware, and Sullivan Counties. This is an industry that we all love and we support One Fair Wage.

Commissioner Reardon: Thank you. Sonia Osorio. Sonia? Yamila Ruiz. Yamila Ruiz? Jamaica Miles. Chrystina Monte. Next five.

Ramona: The next five: Briana Petersel, Amanda Broderick, Scott Wexler, Ellen Jaffee, and Yolanda de Jusus Gonzalez. Please make your way down to the front and give us copies of your testimony.

Commissioner Reardon: Briana?

Briana Petersel: Hi and thank you. My name is Briana Petersel. I've been a host and a waitress at Ninety-Nine Restaurant right here in the Capital District for over 13 years. My mom had me at 21 years of age, she is a single mother, and with a single working mother. After she had me, she ended up waitressing here in Albany at Denny's. Through

waitressing overnight at Denny's, she was able to take care of me during the day and provide diapers, food, and even give my grandmother, her mother, money for bills and household expenses. In my early 20's, I was a early childhood teacher. I was struggling to make ends meet. On a whim I went down to an open interview at a new restaurant for a summer job. I was hired and I could honestly say this was a huge turning point in my life. When I started working as a waitress, it was the first time in my life I didn't have to struggle just to get by. I was able to pay off student loans, able to pay for a car, and never had to worry about how I was going to pay rent. I ended up leaving my teaching job to work full time as a server. Since starting my career as a server, I have been blessed with four babies. My job has provided me with flexibility to extend my maternity leaves, breastfeed and pump at work, and unlike many women my age, never once have I had to worry about childcare. I was able to pay for preschool, dance teams, countless birthdays and Christmases all through my tips that are my wages. Eliminating the tip credit is a personal attack on my ability to provide for my children and a personal attack on my work family. There is no other industry that empowers women and mothers the way that the restaurant industry does. Being a server has been a passion of mine for years. I am heartbroken to think that the Government is trying to tear this from me. Being part of a chain restaurant that is in other states, I fear the labor increases on the highest paid employees, yes, us servers, will force them to leave New York State, leaving me a jobless mother of four and tearing apart my work family who I care about very deeply. Please when you look over all the testimonies and stats, pros and cons, remember these faces. Remember us pleading with you not to take away our passions or livelihood or our ability to provide for our families. Thank you for taking the time to listen to my story.

Commission Reardon: Amanda Broderick.

Amanda Broderick: Welcome to Albany. This is the closest you will come to my hometown, Saratoga Springs. I have driven to every hearing to share my three minutes. I have collectively gathered 15 minutes of your time over the last two months. It probably would have been a lot easier and less gas money if I could just sit down and have a cup of coffee with you. There should be no confusion that we all support the tip credit. Over the past few weeks, I have sat and listened to my fellow industry family explain to you the consequences of eliminating something that is our very base of our business models. We do not have companies and unions like ROC supporting us to be here. We are not being paid to take this Friday off during graduation weekend to show our support for the tip credit. We are here because we know this is something bigger than ourselves. We believe in saving the restaurant industry, saving the jobs that will be lost, saving menu prices, saving small businesses, and saving the experience of dining out. We are educated people, we are not confused, we are not fear mongering. We have read of what has happened in Maine and have spoken to those people affected by that decision. We have seen the studies of poverty in other states and we have seen businesses closing their doors. We have seen these things because we have taken our own time and have done the research. We have canvassed neighboring counties to get the word out about the tip credit. The amount of people I have run into that have no idea what is going on at these hearings is astounding. Why is this not covered in the mainstream media? Why does this feel like a backdoor deal? I have personally not met a single employee in the restaurant

industry who wants one unfair wage. Everyone I have spoken to knows that this, what this will do to their establishments and they want to be left alone. The group of passionate people behind are here to tell you on behalf of themselves and those they work with to please leave restaurants out of this. We believe this is a terrible idea. If you are confused as to why we don't want this raise, look around the room. People's jobs are on the line. People's family run small businesses are being threatened. We care about each other. We love what we do and we love supporting others with the same passion. This is the livelihood of tens of thousands of New York residents, not just New York City. We count on tourism and community relations. If you truly care about the community and the people you serve, you will always be successful. Those who struggle in this lifestyle have a way of moving on to something better for them. The passionate remain and only grow stronger. Please don't punish the people that take pride in their jobs and know the consequence of an unwanted pay increase. We never asked for this. Thank you for listening to what these amazing hardworking people have to say today.

Male: Can you stay here? Excuse me. Can you come back Amanda? Amanda?

Commissioner Reardon: Amanda?

Male: Can you come back? I have a quick question for you. Thank you. You've come to all of these hearings.

Amanda Broderick: Yes.

Male: We've seen each other all over the state.

Amanda Broderick: Yes.

Male: And I appreciate your passion for the issue.

Amanda Broderick: Thank you.

Male: And we've had five hearings and we are going to have two more hearings and I suspect you will be there.

Amanda Broderick: I'll be there.

Male: And each one the house is packed with people with passions on both sides. People go out and they talk to the press and they get on TV, there are newspaper articles. Is there any sense of a backroom deal being had by you

Amanda Broderick: Overall? Yes.

Male: Really.

Amanda Broderick: Because, now listen, so...

Male: We've had seven public hearings.

Amanda Broderick: You've had seven public hearings. I feel like we have canvassed Albany, Saratoga, Clifton Park, Lake George, Warrensburg. We have driven to these places and have gone to these people and said, do you realize what is going on right now and they all, 65% of people look at me and go what are you talking about? That is scary because there would be 500 more people here today if everyone knew what was going on.

Commissioner Reardon: We have been very public about it. Thank you. Scott Wexler.

Scott Wexler: Good Morning. I'm Scott Wexler, Executive Director of the Empire State Restaurant and Tavern Association. The Association represents small restaurants and taverns throughout the state from Long Island to Niagara Falls. Restaurant workers around the state have testified about the middle class live styles they enjoy due to their employment as tipped workers. They have shared heartwarming stories of how their profession has help provide them with economic security, but there is an organized effort to mislead you into believing that these testimonial are untrue; their claims are blatantly false. With all due respect to some of the testimony, including the professor that we heard from just earlier, it really isn't important, it doesn't inform this discussion to compare what happens in the seven states without a tip credit to the 43 that don't. The comparison should be between those seven states and New York. As you can see from the chart, and I've enclosed copies for you to my testimony, waiters and waitresses in New York have an average wage higher than their counterparts in six of the seven states with no tip credit and the next chart shows that bartenders in New York are out earned only by their colleagues in California and Washington. The data also seems to indicate that restaurant workers in New York receive substantially more in tips than those in states without a tip credit. The data shows that in New York, waiters and waitresses have a net wage that's total wages earned less the statutory cash wage of \$7.56 and bartenders have a net wage of \$7.65; higher than those in all of the states with no tip credit. You've also heard from restaurant workers that they fear that eliminating the tip credit will result in drastic changes in restaurant operations to their detriment. They have good reason. According to a study by James Parrot, the aggressive schedule for increasing the minimum wage in New York City had forced businesses to focus on efficiency and how they could adapt their operation. You've heard similar testimony from folks at these hearings that restaurants will raise prices, restaurants will impose administrative charges to replace tipping, and restaurants will reduce employment and hours of tipped workers. The restaurant workers you've heard from have told you they don't want to change the current system. This data tells you that they know what they are talking about and the data supports the testimony of those restaurant workers who fear the economic consequences they'll suffer if the tip credit is eliminated. They are professionals you know so I'm not surprised that their predictions are spot on. Thank you.

Commissioner Reardon: Ellen Jaffee. Ellen Jaffee? Ellen? Assemblywomen.

Ellen Jaffee: Thank you very much Commissioner and Deputy Commissioners for the opportunity to have this discussion today. It is so essential to talk about this issue on subminimum wage for tipped workers. As an Assembly member, if you are aware, I have been having this dialogue for quite awhile and I have sponsored the One Fair Wage Bill along with Senator Andrea Stewart-Cousins, which would strongly support an increase in base wages for tipped workers. I'm trying to cut back to get to three minutes so it's going to be a little challenging certainly. For many years employers of food service employers have provided with a credit that reduces the hourly minimum wage paid to employees receiving gratuities. These employers now pay \$7.50 per hour to workers so long as the workers receive on average the difference between the reduced minimum wage and the statutory minimum wage in tips. Allowing for the tip credit that has created many inequities, and that's being polite, many inequities in food service work. Employees who are not make whole by gratuities face serious and egregious legal processes to recover their own wages involving complicated recordkeeping and inadequately legal remedies. Reliance on tips has also created an environment where workers are victimized and in some cases, encouraged to turn a blind eye to rampant discrimination and sexual harassment by clientele and managers. This results in annual restaurant employee sexual harassment claims consistently five times the rate of other industries. It states Alaska, California, Maine, Minnesota, Montana, Nevada, Oregon, and Washington have eliminated the tip credit and required employers to pay the full minimum wage to employees. Those states have seen growth in the restaurant industry and more equitable experienced workforce. There's more stability, more ability for them to stay within that job and to be able to maintain their lifestyles with their children and families. New York's two-tiered wage system presents challenges for employers as well as workers unlike many of the laws, wage and hour laws, put the owners and employers to keep accurate records and follow the law which take up large amounts of time and money and monitoring the compliance. This includes the 80/20 rule where employers are supposed to ensure that tip workers perform no more than 20% of work that is not related to direct service. Maintaining the necessary records and compliance of the two-tiered wage system exposed employers to additional liability. Well there is so much to say and I know that I can't and that's the difficulty sitting here and writing it. But it's time...

Commissioner Reardon: Thank you and I will share from the front.

Ellen Jaffee: It's time, it's time for New York to get on board and eliminate the shameful...

Commissioner Reardon: Assembly member, I'm sorry, thank you.

Ellen Jarffe: Economic injustice for tipped workers. Thank you so much, we will work together to make sure that our families, particularly our women..

Commissioner Reardon: Thank you. If you cannot maintain order in this room, you will be asked to leave. Do you understand me? Thank you.

Ellen Jaffe: I'm sorry, so much to say. It's difficult. Thank you.

Commissioner Reardon: Thank you. Yolanda de Jesus Gonzalez.

Ramona: After Yolanda, the next five speakers are Zachary Lerner, Jose Gutierrez, Alex Martinez, Pabitra Dash, and Mina Kumari. Please make your way down to the front and give us copies of your testimony.

Yolanda de Jesus Gonzalez: (Interpreter) Hello, my name is Yolanda and I live in Queens. I have been a nail salon worker for the last 17 years and I come here representing the New York Nail Salon Worker Association. So we are here because we recognize this as part of our fight to better the conditions in our industry. I am here to support raising the subminimum wage to the regular minimum wage as many other workers are ready to take part in because we see our work the same as other workers here in New York. It is not fair that we have to depend so much on tips as part of our wages and that's not something that can be guaranteed to us. We deserve to be paid a fair and just wage and this is why we are here. This change in this law would assure us that we would get pay that's stable and that is something that is necessary for our futures and our families. So we get paid a base pay that is in this industry paid majority by the day and owners seem to think that we are going to make enough to reach the minimum wage by the tips which is not the case. Clients aren't aware that we have to depend on the tips. And so, sometimes they don't give tips if they don't want to. And also because of the really low pricing for manicures and pedicures, when they do leave tips that results also in low tips. So in us having to depend so much on tips we see this as unjust in our industry because our work is one that's seasonal. In the summertime there is a lot more people but that also means that our schedules aren't fixed. So if people are coming we have to stay, 1) because we're obligated to stay from the owners, but also because they might leave a tip. But then in the wintertime it's not as busy as in the summertime, it slows down yet our wages don't increase, there isn't as many clients so there isn't as many tips. So often we're not taking lunch during the day because our hope if people come in while we're eating lunch, many of us will take them with the hope that they're going to leave a tip. Nobody is assuring us that we're going to, by the end of the month pay basic needs like our rent. Also owners aren't taking the responsibility as they should under the law to pay the difference when we don't make enough in tips resulting in a lot of wage theft. And this is why we're here in support.

Commissioner Reardon: Thank you very much. Zachary Lerner, Zachary Lerner.

Zachary Lerner: Thank you for having me. My name is Zachary Lerner, I'm the Labor Organizing Director for New York Communities for Change a nonprofit community organization that represents over 20,000 low to moderate income New Yorkers across the state fighting for issues like worker's rights, affordable housing, and other issues that deeply affect our members and our communities. As one of the organizations that started the Fight for 15 and organized thousands of fast food workers to win the historic increase in the minimum wage, we see the raising of the tip minimum wage to the same minimum wage as all other workers as the next step in raising the floor for workers across our state. Many of our members are carwashers, restaurant workers and nail salon workers

struggling to make ends meet much of which is due to the instability of tips. Some weeks they may make enough to get by to provide for their families, but most of the time the inconsistency makes it hard for them to budget ahead. If they are placed on non-busy shifts or for carwashers when it rains it shuts down the carwash, then their wages just won't be enough as their tips will be lower, even nonexistent. Many employers even though they're supposed to pay the difference if tips do not equal the minimum wage, do not actually follow the law leaving many of our members receiving below the minimum wage. This leads to my next point about wage theft and misappropriation of tips. Members of ours have said managers use tips to pay for miscellaneous repairs or buy things for their store instead of giving workers what they earned. Some employers even keep portions of the tips for themselves. Having the current tip credit system in place only encourages these practices. There is a housing crisis that is also happening across New York State not just in New York City. Rents are skyrocketing while wages have remained stagnant, homelessness is at a record high with almost 100,000 homeless New Yorkers across the state with thousands being working homeless. This problem is worse for tip workers who deal with the earlier problems described. As some of our members will testify today they are sharing 1 or 2 bedroom apartments with 5 or 6 other people or even more and many are relying on public assistance just so they have a roof over their heads. We need to do more for workers in our state. In conclusion, we need to follow in the footsteps of the Fight for 15 and do what's right for the 400,000 tip workers across our state. 7 other states across the country already have one fair wage for their workers regardless of whether they are tipped or not and the industry is still successful and workers are making more than ever. New York needs one fair wage now. Thank you for your time.

Commissioner Reardon: Thank you. Jose Gutierrez

Jose Gutierrez: (interpreter) Welcome everybody and thank you for letting me share my story. My name is Jose Gutierrez, I am from Mexico and I am 39 years old. I have 2 children in Mexico and 2 children in this country. I came to this country 18 years ago with the hope of giving my sons and wife a better life. I spent a lot of time looking for work and I found one pizzeria in Manhattan, Brayberry Pizza. I have worked there for 5 years. At first I thought my situation would change radically I was making \$400 per week for 7 days plus tips. Unfortunately I do not control the clients and how much they have to give me for tips. Many times my tip is from \$7 to \$20 a day. It is not what I was looking for but I had to survive. The schedule is from Monday through Thursday from 8 a.m. to 11 p.m. and Friday to Sunday from 8 a.m. to 1 a.m. They were very long days and I was doing everything from serving to delivery to cleaning and working in the kitchen. We as immigrants came to work hard and honestly but we ended up being used and mistreated. It is not fair that we have to spend long hours and every day in a job where sometime bosses do not even know our names because for them we are just a machine that helps them enrich themselves while those who work are forced to leave our children and wives for the whole day for a salary so low that it is not enough to have a normal life. I ask you to please vote to improve one fair wage for all workers. Thank you.

Commissioner Reardon: Thank you. Alex Martinez. Alex Martinez. Pabitra Dash.

Pabitra Dash: Good afternoon to all. Thank you for giving me the opportunity to share my comments about Governor Cuomo's proposal to...

Commissioner Reardon: Excuse me one second, can we please keep it down up there. Thank you.

Pabitra Dash: to raising the base wage pay to tipped worker to the minimum wage, thank you Commissioner Reardon and the New York Department of Labor. My name is Pabitra Dash and I am a nail technician. I work as a nail technician for 8 years and now I'm an organizer at Adhikaar. We as nail technicians I can say _____ and I enjoy my job and I feel proud my job. But I work for 8 years for the same job with same wage and same tips category. Because of that my condition is for full-time. I couldn't see changes in my life. So in the one hand this is really good job because it womanly job on the other hand there is many more issues so that we couldn't survive in this world. Sometime I feel like I'm human being, I ask my questions myself and I ask these questions many times for my coworkers. Sometime our own they told us like don't pleading for tips, as well my clients they told us like don't plead for tips and I asked myself that question, am I greedy. And they don't know like we work for tips and we try to survive with that tip with very, very low wage and we are greedy to survive in this world. That's the reality but nobody understand why they are greedy for tips and why they are working really hard for tips. This is seasonable job. We get salary for work and same ways. In summertime we have many more clients but we get same wage and wintertime we lose our job. We have to make money in the summer and we have to survive with that money in the winter. Because of low wage in our society people live in 1 room for 8 or 9 or 10 people together. We don't have great room all that time and we don't have great system in our salon so that it give domestic violence, sexual harassment. Many people are in it and we don't have better opportunity for education. Because of this thing I couldn't feel like proud myself, I work as a nail technician. I always say to the people I work as a nail technician that's a reality and I work with a thousand of nail technicians. Thank you.

Commissioner Reardon: Thank you. Mina Kumari. Mina.

Ramona: After Mina the next 5 speakers are Dolma Sherpa, Gyanu Gurung, Muna Punel, Shakuntala Sewa, and Carlos Castellanos. Please make your way down to the front.

Mina Kumari: (interpreter) My name is Mina Kumari and I live in Woodside Queens. I am a professional nail technician and have worked in the nail salon industry for 21 years. I would like to share my experiences and issues today with you all. We need one fair wage in New York because I'm completely dependent on customer tips to make a living. It is not enough to pay the rent and other household expenses. It depends on the customer if we get tips or not. They will give us if they want to. Instead of depending on the tips for our pay, if we get one fair wage it will be good for us. Nail salon business is seasonal. During summer it picks up and during winters it slows down. So employers

sometimes cuts hours and sometimes tells us to stay home if it's not busy. If we have to stay home we cannot survive in this way because we do not get our hours to work which means we will not get enough pay and it becomes difficult. We respect our employers however we do not get the same respect back. If they ask us not to come we understand there's a situation. Instead they treat us very badly when they ask us to pick up our pay. We tell them its okay if they can't pay the day of but sometimes they need to understand that we have bills to pay and family to feed. We are also working and trying to survive. I am grateful that they had given us place to work and earn, but just because we work for them does not mean that we are there to clean up after they take the clients who give higher tips? Is this right. This is why our pay should not rely on tips. I have worked for 20 years and I do not get any retirement money or pension. My employers harass me and gives me comments like I need to retire soon. If I retire, stay home and not work, how will I survive? How will I feed my family? Everything is getting expensive, the rent, bill, food but our pay remains the same. While working in tips we do not get to take care of the good tipping customers instead the owners take them. This leaves us with nothing and only takes the customers that gives us less tips or something not even. We deserve justice and would like to ask how we cannot rely on just tips but also get paid subminimum wage. Thank you for giving the opportunity to share my story with you.

Commissioner Reardon: Thank you. Dolma Sherpa.

Dolma Sherpa: Good afternoon everyone, thank you for inviting today. My name is Dolma Sherpa I'm a professional nail technician, I work in nail salon for more than 3 years and I joined Adhikaar in 2015. As a nail technician I have learned that you rely heavily on the tips for our salary. It means we have to live with a lower than minimum wage for our work. Our owner unfortunately wants to cut out our tips from our salary which again, is lower than the minimum wage. Nail industry is the one industry where the nail technician has to buy their own supplies, so there's uniform, equipment, stools and _____ with our one expenses. Workers who are working this field of nail technicians have to come across as known as technicality of our unstable schedules due to customer rates becomes very low during winter. Therefore the low standard amount of these our days also deduct with the seasonal changes of customer rates. However during the summer our schedule is packed without lunch breaks, no vacation days, sick days or even the national holidays. Our sick leave are not paid for as well. Our workers also struggle with earning tips due to the location of nail shops. Some locations so that tourists commercial areas attract many folks who don't understand the system of tips in this country like foreign tourists. This is problematic because of language barrier between us. The foreigners will have no concern on giving the tips for the labor even if they do understand the tips the system of the tips, they give us workers coin, mostly pennies which is very frustrating for us. Besides this, sexual harassment has also been operating in the field of nail technicians. Workers who had to massage client had experience unwanted physical touch so there's grabbing of hand in _____ way during manicure too. These acts are done mostly men to us females. Moreover _____ of a man always requests for female workers to do the same in the body massage. This type of sexist diversion between men and women nail technicians leads to sexual harassment. Unquestionably one of my coworkers had experienced this. A male client requested for a

female for body massage. The man was aware of the rule of the no full body nudity while doing massage, however he was naked with only small towel to cover his private parts and even we had provided him the clothes to cover up. Mind you my coworker was a female. These are the experiences we have to live by every single day so we as a professional nail technician deserve to be paid more than the minimum wage. We deserve the same minimum wage as everyone else. This is why we need a fair wage. Thank you for listening my story.

Commissioner Reardon: Thank you. Gyanu Gurung. Gyanu Gurung. Muna Punel.

Muna Punel: Thank you Commissioner Reardon and the New York State Department of Labor. I'm in favor of raising tip minimum wage to the regular minimum wage and tips on top of that. My name is Muna Punel I'm nail technician and have worked in nail industry for 2 ½ years now. I'm also a registered nurse in back country so I'm very much concerned about health. If we as nail technicians are not getting one fair wage and we have to depend fully on tips our health is affected. Our health is affected because of the work overload. We work on weekends and we play with chemicals.

I want to share my experience that happened one year ago. I was going through a lot due to loss of my brother. I was having hard time concentrating on my work. It made me feel like I did not have the energy to go do my daily life and work. I used to work on weekends and my friends used to have off on weekends. I didn't realize that working for 1 ½ years continuously on weekends that I need to have weekends off to match with my friends. While not enjoying life on weekends and also because we have ups and down in life I went on depression. During that time I would cry in front of my friends, my employer and my doctor. Because of my nursing background, I was aware of symptoms of depression and I got treated as soon as possible. I was able to take care of myself on time. We as low wage workers are bound to work without concentrating on our health because we have family to support. Tips are so fluctuating with days weekends and weekends are really busy and weekdays are not busy and also in the weekend, weekdays we have like some days are busy and some days are not. Like in our place Tuesdays are not busy like it's very slow. And also during weekends I have to work while my friends are enjoying on the weekend and they don't get off in the weekdays. So its making me to have mental problems and causing a lot of my friends to have mental problems too. So I'm a skilled professional and I deserve to be paid the legal minimum wage by my employer and still on tips. Thank you.

Commissioner Reardon: Thank you. Shakuntala Sewa, and Carlos Castellanos.

Ramona: After Carlos the next 5 are Patricio Santiago, Gerardo Gomez, Margarito Perez, Miriam Bolanos, and Marcos Lopez. Please come on down to the front and give us copies of your testimony.

Commissioner Reardon: Patricia, Patricio sorry, Patricio Santiago. Do we have Patricio? Patricio Santiago no. Gerardo Gomez. No. Margarito Perez.

Margarito Perez: (Interpreter) Thank you so much for the opportunity to be here my name is Margarito and I come from Joemar Carwash. The carwash industry is a very unique industry. Its an industry that really needs regulation and needs a fix to the fact that workers are paid subminimum wages separate from tips. A lot of times when the tips are divided by managers to the workers, they don't actually give us the amount of tips that we're owed. And so the fact that they don't give us the tips that we're owed is really incredibly difficult. We work 12 hour shifts. We work in all types of weather, when it's raining, when it's really cold, when it's hot. And when the weather is really bad they send us home or they don't even call us into work. So for example this week we haven't even worked 20 hours, we haven't even had 20 hours of work because of the weather and we're not making any money and this is incredibly difficult. And it's incredibly hard to have such a low salary and of course we're paying taxes on our low salary. And another thing that happens unfortunately in the carwash industry is there is a lot of discrimination. And managers are disrespectful to workers; don't give workers the respect they deserve. I know cause its happened to me. And what I would really like what I'm asking is that we get paid what's fair. Thank you.

Commissioner Reardon: Thank you. Miriam Bolanos.

Miriam Bolanos: (interpreter) Good afternoon, my name is Miriam Bolanos I am an organizer with the Retail/Wholesale and Department Store Union RWDSU. In 18 years I've had an organizing experience 6 of which have been organizing carwash workers. I've learned that their work conditions are the most terrible conditions I've witnessed. Work conditions include lack of respect, job insecurity, difficult conditions that these immigrant workers experience, lack of protection or even training on the use of extremely harsh and dangerous chemicals that they wash cars with and especially wage theft. The tip credit system should be eliminated in the carwash industry because it lends itself to the abuse of wage theft. Workers deserve regulations that will change their wages to one fair wage plus tips. Working on the carwash campaign over the last 6 years I've met workers who lived through the following; first I met Valentine Gomez a worker from Guatemala who worked at Best Carwash in Brooklyn. He would complain about the long hours drying cars under the burning hot sun and he still didn't even earn set wages. He worked for tips and he told me that other workers in the shop were only paid \$3 an hour. On another occasion I met with Mr. Alberto Nolasko 65 years old from Mexico. He worked in SoHo Carwash in downtown Manhattan applying Amoral to cars. It is one of the most difficult jobs in a carwash because the worker basically works in a bent position for 12 hours straight. He would complain because the owner would deduct \$30 from each workers paycheck every week to pay for damages to cars or replace mirrors, windshield wipers, etc. I also spoke with Mr. Antonio Diaz who worked at Marina Carwash in Brooklyn. He worked as a mechanic fixing chain motors, brush systems and as a car washer, chauffer, ticketer. He would put in overtime hours 60 hours a week but on payday he would only receive \$200. they would give me a cash register receipt with his pay and would promptly take it back so he wouldn't have proof of how much he was paid. When he complained, the owner would promise to pay him the following week but would end up paying him in parts spread out over weeks. These stories are common in the carwash industry where workers are under compensated in a system of tips under

which the industry operates is prone to wage theft. From what I understand is the credit system is one more privilege and not a right for owners. I give thanks to you and Governor Cuomo on behalf of the carwash workers in the RWDUS for this opportunity to share these stories.

Commissioner Reardon: Thank you. Marcos Lopez.

Ramona: After Marcos Lopez the next 5 speakers are Michael Kink, Sabita Lama, Roger Davidson, Patrick Noonan and Jenna Hahne. Please make your way down to the front and give us copies of your testimony.

Marcos Lopez: (interpreter) Good afternoon Commissioner Reardon and members of the Department of Labor. I wanted to thank you for being here at these hearings and for giving us a chance to testify because carwash workers need one fair wage plus tips. My name is Marcos Lopez and I'm an organizer at the Retail/Wholesale Department Store Union. I've worked on the carwash campaign the last two years. In this industry owners take advantage of workers. They exploit them in deplorable conditions and wage theft is common. Workers work 60 to 70 hours a week yet earn only on average \$525 per week. By paying them in cash, owners can get away with not declaring an accurate number of workers to the Worker's Compensation Board, to the state and they declare the business is a small family business. The tip credit is a factor that contributes to wage theft in the carwash industry. The tip credit doesn't work for this industry because workers hours are dependent on the weather. If it rains they don't work which means they don't earn tips or even regular wages because they're sent home and there are customers who don't leave a tip. Workers can't predict or calculate how much they'll earn in tips day-to-day or week-to-week. That's why its important to regulate paying the industry so that workers earn one fair wage plus tips and are able to live in dignity with their families free of abuse and discrimination. Thank you to you and the Governor on behalf of carwash workers and RWDSU for the support you've given us. Thank you.

Commissioner Reardon: Thank you. Michael Kink.

Michael Kink: Thank you Commissioner Reardon and members of the panel and I want to take a little time to authentically thank you guys for putting this together and thank Governor Cuomo for his willingness to create a public forum for these discussions. I've been a part of all the fights on the economy and wages and economic inequality for the last decade and I think that more voices are better. I think that authentic charged public discourse is better. I think you guys having the courage and putting in the time to go around the state to listen to these things is important. And I have great respect for all the workers and business owners that are here. our position with the Strong Economy for All coalition is that we need to eliminate the subminimum wage. I know that every worker in this room and every worker at every hearing wants more money in their paycheck. I know that every worker who's testified and intends to testify at these hearings wants more tips, if they receive tips. And I think the facts on the ground in the states that don't have a subminimum wage is that workers have both more money in their paychecks and higher tips. In California, in Nevada, in Minnesota, in the states that have one fair wage

their restaurants are growing faster than in New York. Their economies are growing faster than in New York. The wages of the people at the bottom end of the scale in those states are growing faster than New York. Our state has the worst income inequality in the country. The biggest division between the rich and the poor. And there's a lot of fights between the rich and the poor, in between the folks that are working class. There's a lot of emotion that's charged behind these issues but the fact is, you can find public policies that work. Governor Cuomo has moved forward with a stronger minimum wage. Governor Cuomo has moved forward with some fair tax policies that ask the wealthiest to pay their fair share. I think getting rid of the subminimum wage would be an important part of doing the most we can do for the New Yorkers who are furthest behind. It's something that would benefit all workers, white, black, brown, Latino but you know that there is an overarching impact on women and on communities of color. Those are important issues for public policy, those are important issues for economic policy and I think we can do better by workers, we can do better by our economy and we can play the national leadership role that we need to play if we eliminate the subminimum wage. Thanks for your time.

Commissioner Reardon: Thank you. Sabita Lama. Sabita Lama, Patrick Noonan. Patrick? Oh I'm sorry I jumped over Roger Davidson.

Roger Davidson: My name is Roger Davidson and I'm the owner of Council Rock Brewery in Cooperstown, New York. Council Rock is a modest brew pub with good food and beer. We're not upscale, we have paper napkins. Our average tip. A little bit closer. We are not upscale we have paper napkins and our average ticket price is around \$20. we are very busy in the summer, we are slow in the winter. The average return for investment on an independent restaurant is 7%, its 14% for chains. Council Rock is currently less than that average at this point so we're certainly not getting rich at our employee's expense. Our labor costs are higher than the industry average. We employ 20 to 30 full and part-time people and we keep them employed all year long. The subminimum wage for servers helps us to staff a little more robustly giving our customers better service and a better dining experience. That gives the servers more hours but more importantly more tips and we find in our restaurant happy customers tip more generously. The last sever wage hike cost us \$500 a week and that may not seem like a lot to some people but in the winter that was not \$500 less profit, that was \$500 less we had to pay our electric bill and ironically I was considering giving a wage increase to our cooks but I had to postpone that because all of a sudden I had \$500 less a week to work with. Our current at least in our area the current system is not broken. Current server pay based mostly on tips provides incentive to servers to give excellent service and rewards them generously when they do. For us it's a triple win situation when they give great service they're well compensated, the customer has an excellent experience and so they return. And then we increase our business. If the monetary incentive for excellence is removed or diminished service and the industry in our area will suffer. We added server's yearly wages, holy cow, anyways the average wage for our servers was \$15 an hour and it ranged up to \$20 an hour. We have servers that have been with us for many years, we could not recruit or keep servers if we were not competitive. By the way I don't steal my employees tips, I don't harass or tolerate any harassment and that's our business model.

Male: Mr. Davidson.

Commissioner Reardon: Mr. Davidson.

Ramona: After Jenna our next 5 speakers are Jose Hernandez, Mariano Diaz, Sara Palmer, Blue Carreker, and Ashleigh Owira. Please make your way down to the front.

Male: Just one quick question. Could you tell me how many customers you serve in a week or how many meals you serve in a week average?

Roger Davidson: Oh gosh on a very busy day we might in the summer we might do 300 orders during the winter it might be 80 or so.

Male: Okay great.

Commissioner Reardon: Thank you. Patrick Noonan is still not here Patrick. Jenna Hahne.

Jenna Hahne: Hello how are you guys? My name is Jenna Hahne I'm a bartender and server at the Rock in Troy. I have a couple, there's a lot of different things about this particular issue that I would like to speak on but probably will not be able to on all. My one biggest issue with this the subminimum wage is the entanglement it has with the me too movement and how it's being framed to tilted towards harassment as if that's the standard in our industry. It is not. It is not typical or daily practice for people to be harassed whether by customers or coworkers. And if that is the standard and its being brought to a superior's attention and that superior's response is anything other than supportive or that's a bigger issue and we have more questions to ask of our employers than we do of the service staff in particular. That being said, the tip, we as service in the restaurant industry I personally feel it's unfair to lump us together with nail technicians and carwash attendants. We do not do the same things. We do not have the same jobs. we do not get paid the same way, we should not get paid the same way. I can't do those jobs. I can't work on somebody's nails, I can't do that. They can't necessarily do my job. It shouldn't be one painted all with the same brush, it's unfair. Do those people deserve a higher minimum wage, absolutely. They work incredibly hard for money that they're not getting. That is not the case overall in my experience in my job. I create an experience every single day for my customers. I participate in celebrations and any sort of event that our regulars, my regulars want to celebrate that come to my establishment and I'm a part of that. They become a part of my family, I've become a part of theirs. They choose to give me to help pay my bills and my salary because they know that they are being provided a service that has to be paid for. And that service does not necessarily fall solely on ownership or management to do. Thank you.

Commissioner Reardon: Thank you. Jose Hernandez.

Jose Hernandez: Good morning my name is Jose Hernandez. 7 years ago I came from Dominican Republic looking for the American dream. I am the father of a girl who lives back in my old country, many times I had elusions of bringing my daughter but its only a dream because my salary as a restaurant worker does not allow me to even have an apartment for me. I just have to share with other people who are from different countries and difficult cultures. My salary is \$60 for 8 hours a day with tips. I know many of my clients do not give enough money in tips because of increase in cost of living and rent in the City of New York. This is even more difficult for me because I'm trying to improve my life. I have changed my work from one restaurant to another but it doesn't matter where, it's always the same situation. Because of this situation I'm here asking the New York Department of Labor to change the tips wage so we can have a fair salary to help us improve the living conditions of ourselves and our families. I think we deserve this because we are also part of this country and we are also affected by the increase in the cost of living of the rent. Thank you. All we have to do is have faith in God and hope everything goes well.

Commissioner Reardon: Thank you very much. Mariano Diaz.

Mariano Diaz: He wants to thank you all for hearing his testimony today.

Commissioner Reardon: Excuse me.

Mariano Diaz: My name is Mariano Diaz I'm a Dominican and I have a daughter back home that I'm supporting. Many times I have decided if I pay the rent or provide food for my family since I work in several restaurants and it does not matter which. I work in several restaurants and it does not matter which, I always face the same problem, my wages are not enough to sustain my family for many years. I have received wages below the minimum while doing everything from serving deliveries. So many workers have to face problems of minimum wage of not enough tips. I can't depend or make plans with tips since I can't control or know how many clients are going to arrive and from those customers how many are going to leave enough tips if any at all. Faced with the increase of the cost of living and housing in New York we restaurant workers ask the State Governor to issue an opinion to raise the base of to at least minimum wage other workers have. 7 years ago I came to this country and I still haven't gotten to my objective that I wanted to get. Because unfortunately where I work in the restaurant they don't have the wage I expected them to give me. We're glad that you are hear listening to us as workers and we hope this changes. Thank you.

Commissioner Reardon: Thank you. Sara Palmer.

Sara Palmer: Thank you to Commissioner Reardon and the Department of Labor for allowing the opportunity for public comment. As you know, there are 7 states that already implemented one fair wage and according to the Bureau of Labor and Statistics of each state, after 2 years of implementing the one fair wage and ending the subminimum wage, Alaska added 1.8 million workers in the leisure and hospitality industry, Montana added 4.6 thousand restaurant jobs, Nevada added 2.2 thousand restaurant jobs,

Minnesota added 14.3 thousand, California added 2.4 million, Oregon 23,000 and Washington state added 35,000 restaurant jobs. The National Restaurant Association also reports using data from the Bureau of Labor and Statistic and that after 2 years of implementing one fair wage, Alaska grew by 40 restaurants, Nevada by 217, Oregon by 187, Washington State by 103 and California grew by 2,025 restaurants. In an article posted on April 17th, 2018 the Intercept reported on a poll conducted by Luntz Global on behalf of the National Restaurant Association where it was found that 71% of people surveyed want to see the minimum wage raised even if they had to pay a bit more dining out. The article also quotes the National Restaurant Association's Hudson Riehle who is Senior Vice President of the NRA's Research and Knowledge Group saying and I quote, "The Restaurant industry now in the United States is larger than 90% of the world economies." In an industry where they pay their top CEO, Don Sweeney \$1,867.88 per hour it is hard to believe the restaurant industry would crumble from paying their workers the full minimum wage plus tips. Thank you.

Commissioner Reardon: Thank you. Next we have Blue Carreker, Blue Character, Carreker. Ashleigh Owira.

Ramona: After Ashleigh the next 5 speakers are Gregory Reynoso, Jim Hume, Janice Bruce, Suzanne Adely and Jill Mason. Please make you way down to the front and give us copies of your testimony.

Ashleigh Owira: Good afternoon Commissioner Reardon and the New York State Department of Labor. My name is Ashleigh Owira and I am a tip credit supporter. I've been working in the restaurant industry for 16 years as a server, bartender and hourly shift supervisor. I've been at my current place of work for almost 14 of those 16 years. I decided while going to college that this is what I wanted to pursue as my career path, the restaurant industry. I decided to make the restaurant industry my career. I didn't settle for the restaurant industry. I choose this industry, I love this industry. It's a very rewarding feeling to provide a guest with great service and receive a gratuity to compensate for the great service I have provided. I've built an impressive clientele and some of those people even come into the restaurant multiple times per week to have a good meal, receive great service and engage in a good conversation. I met my husband of almost 11 years in the restaurant industry. We have 3 beautiful thriving children. The restaurant industry and its flexibility allows us to work opposite shifts so that one of us is home to care for our children while the other is working. My kids are not in daycare. I can homeroom captain at my kids school, and afford to buy supplies for the class parties and events. We have a mortgage and we both drive new cars. Our children are involved in many activities and sports which cost money. We take family vacations and we provide for our children on our restaurant wages with tips. Never once have we taken a government handout. The restaurant that I work for doesn't just pay us tipped employees an hourly wage, we are offered a 401K, health insurance benefits and full-time employees are even offered vacation pay. They also give back to the community and hold many fund raising events for people who genuinely need the support. I personally don't know one individual who works in the restaurant industry that supports the elimination of the tip credit. Everyone that I know in the industry, weather it be a server,

bartender, host, dishwasher, cook or manager including myself support the tip credit. If this proposal is supposed to be in favor of the tipped restaurant employee, why would you continue to pursue the elimination of the tip credit when there are so many people opposed to eliminating it that actually benefit from the tip credit. Take some advice from people who have a lot of experience in the restaurant industry not from people with no experience. Please sustain the current system. I am fearful that more likely than not this proposal to eliminate the tip credit will have a very negative impact on the restaurant industry. Don't allow anymore restaurants to close their doors, or jobs to be lost, or hours cut. You have heard my person reason why what this industry currently has to offer works for me. But I know that I can speak for all of us when I say we appreciate the concern but we don't need to be saved. Thank you so much.

Commissioner Reardon: Thank you. Gregory Reynoso, Gregory Reynoso. Gregory, are you Gregory Reynoso?

Blue Carreker: No, I'm Blue Carreker.

Commissioner Reardon: Oh you're Blue, I'm sorry I didn't know that you were here. Go ahead.

Blue Carreker: Good afternoon and thank you for hearing my testimony. It's been several decades since I ran the breakfast shift at Hungry Charlie's on Harbor Square in Cambridge. The main clients were the janitors who worked on overnight shifts at the local colleges and students who pulled all nighters. The janitors sat at tables and bet on the horses, and the next day if they'd done well they gave me a good tip. If they did poorly, I gave them a free cup of coffee. I learned a lot of things that year and one of them was to avoid jobs where my weekly pay depended on tips. When I worked at my next restaurant I worked as a short order cook. Not much more pay but at that time it was not considered a tipped job and I knew exactly how much pay I would get every week. I also knew that the pay that I had earned through my hours was going to provide the foundation for the social security that I needed to retire on when I finished my work life. That's important to me and it's important to all workers. One of the critical roles of government, I believe, is to establish laws and regulations that dismantle systems that discriminate and build new systems that promote the health and wellbeing of all citizens. The economic sectors we're discussing today are far from the brink of collapse. Every year more and more Americans want someone else to prepare and serve their food, wash their car and paint their nails. Running a restaurant, I know takes enormous energy and risk and the people who work at them have an incredible amount of skill, patience and organizational ability. But, success brings a good income to the owner who can generally afford a comfortable home and regular vacations. For corporations who run chains, it brings major profits. The question to me is simple, why should this sector or these sectors be allowed to ask customers to subsidize their labor costs? If you can't afford to pay the minimum wage, I don't believe you should be in business. The only reason we've tolerated this wage discrimination in our society for so long is because the workers are primarily women and immigrants. When I was young women stood together to break down barriers that kept us relegated to the home or few professions. Today many more

careers are open to us but we had to stand up to plenty of people who said such changes would hurt society. People get used to living under discrimination and they get used to taking less than they're worth and they're afraid of demanding their fair share would result in the loss of the piece of pie they currently are given. Whenever workers have demanded fair wages and working conditions, business owners have threatened catastrophe. But this boy has cried wolf too many times and its time to stop believing in Chicken Little. The sky will not fall and workers deserve a fair wage.

Commissioner Reardon: Thank you. Gregory Reynoso, Gregory Reynoso. Jim Hume, Jim Hum. Janice Bruce, Suzanne Adely, Jill Mason.

Ramona: Next 5 speakers are Thomas O'Connor, Marina Marcou-O'Malley, Evan Christou, Tiffany Hodum and John Joy. Please make your way down to the front and give us copies of your testimony. And after John if we can have the next 5 after that, Timothy Duval, Sarah Samyn, Anita Thayer, Gary Smith and Luciana Valdiva.

Commissioner Reardon: Okay, Thomas O'Connor are you here? Okay thank you.

Thomas O'Connor: Good afternoon. Thank you for providing me this opportunity to provide my perspective on this proposal. I'm Tom O'Connor, I've Vice President of Government Relations for the Capital Region Chamber. The Capital Region Chamber is strongly opposed to this proposal. Let me tell you a little about my organization. We're the largest chamber in the Capital region. We present 2400 employers, both not for profit and for profit. The bulk are small business owners. They employ 150,000 within this region. So this proposal has an impact on them. So, first I want to take an issue with some of the signage. Let's get away from agency speak and speak in terms that the real world can understand because that's where we live and work. What we are talking about is the potential of eliminating or reducing tipped workers tips. That's the fact of the matter. Second, why are we here? The 2016 legislation expected that the phase in would go through 2021 so why are we here? More importantly, this proposal is not needed nor is it wanted. Current tipping practices work, they do it's a fact. Our employees that receive tips are treated fairly it's a fact. Employees do not need to be saved by the State of New York. What they need is to be left alone. Truth be told, our employers and our employees like each other. They work well together so we don't need saving. Now this hearing has put it clearly into perspective for me. So often, we hear the employer vs. employee in this case its truly the employer and the tipped workers, the vast majority against the State of New York. What I would suggest is we work together to make sure that all New Yorkers prosper. Thank you.

Commissioner Reardon: Thank you. Marina Marcou-O'Malley, Marina? Thank you.

Marina Marcou-O'Malley. Good afternoon, thank you for giving me the opportunity to testify here. My name is Marina Marcou-O'Malley and I am the Policy Director for the Alliance for Quality Education. We are an organization that primarily works on issues of education injustice and especially for programs and services that aim to have adequate and equitable funding for low income communities and particularly communities that

serve students of color, black and brown students. Now you may ask why we're here. Well we find that having an economic stability and having a livable income is of the utmost importance for our families and our students. There are studies that show that parents spend a great of money to make up for all those things that are necessary for schools, that schools ask them to bring in, a few thousand dollars a year studies show. Now with this in mind and without a stable wage, without knowing exactly how much is going to come to your household every month, every week or every 2 weeks or a month, it is pretty much impossible to plan. Research shows that a family of 4 in New York State has to be making approximately \$48,000 to be able to make its bills and have somewhat a quality of life. Yet the average wage is, the average income for a year in New York is about \$22,000 a year for a tipped worker who works year round. That means that New Yorkers that work in the restaurant industry are 2 ½ times more likely to live in poverty than workers not in this industries. Again, these workers are parents and have children who go to school. Economic instability for families leads to food and shelter uncertainty which has a devastating impact on children and particularly for children of color and families of color and immigrants, let's not forget that. Children living in poverty are more likely to enter school having fewer enrichment opportunities. Research shows higher income families spend approximately \$8,000 on enrichment opportunities for their young children. This result in children entering school having more educational experiences, knowing and using more words, doing better in school. Additionally, research shows that family income is a strong predictor of parents educational level. So children from lower income families are more likely to be sent because they care for their younger siblings than students from more affluent families. Now we are here because we support raising the minimum wage for everybody in the industry. Thank you for giving me the opportunity.

Commissioner Reardon: Thank you. Evan Christou, Evan.

Evan Christou: Good afternoon. My name is Evan Christou, President of the Restaurant Operators Cooperative. A group purchasing organization of 225 independently operated restaurants representing \$45 million a year in food service purchases from New York based companies and over 6,000 employees of which more than half are servers. I am here on behalf of those servers as much as I am my member restaurants. Established in 1992, we are the original ROC and this ROC is absolutely and unequivocally opposed to eliminating the tip credit. Servers get paid a tipped workers minimum wage plus they receive tips and gratuities based on the quality of the service of hospitality allowing restaurants to keep prices competitive. Paying them a higher wage will most definitely devastate this traditional formula and result in a net loss of income for the server as proven in the state of Maine. For the consumer their dining experience will change forever. The customer will inevitably pay the price. All of these actions cause menu prices to rise significantly. I personally own a restaurant in a working class town of 29,000 residents where the average household income is below \$50,000 per year. If my neighbor and customer makes \$45,000 a year and now has to pay 10, 15 or possibly 20% more for their meal, how are they going to be able to afford to go out to eat? Multiple that by my 2,500 customers per week and its only a matter of time before the residents in my town have no restaurant to go to and my 42 employees are out of a job. We are again

demonizing small business and entrepreneurship creating an impression that restaurant owners are selfishly taking advantage of their employees. Where I'm from, nothing could be further from the truth. We build our people and our people build us. We accommodate family schedules, academic schedules and everything else to contribute to the success of our staff members. This demonization is even highlighted in the title of this hearing. How can a wage, which is approximately double the tipped wage of Massachusetts and Pennsylvania and triple that of New Jersey be considered subminimum? We are also undermining the democratic practice by using a loophole in the labor law to avoid legislative vote. Since the 50% wage increase that took place in December of 2015, many restaurants have either closed or reduced staff, now this. How much more can a restaurant take? Every restriction that government imposes causes a loss of business, the elimination of job and higher prices to the consumer. If you eliminate the tip credit you will take away the opportunity for so many people to make a living waiting on tables whether as a career, as a means to pay for their education or to supplement their household income, to perhaps take a family vacation, or give their kids a nicer Christmas. Please do not take away this opportunity for the thousands and thousands of servers in New York State who rely on this method of income. Thank you.

Commissioner Reardon: Thank you. Tiffany Hodum, Tiffany Hodum. Before we go on I would just like to announce that Deputy Commissioner Rogers had to leave so in his Chair we have Milon Bhatt who is the Assistant Deputy Commissioner for Worker Protection.

Tiffany Hodum: Good afternoon Commissioner Reardon and esteemed members of New York State Department of Labor. Thank you for the opportunity to speak in opposition to the elimination of the tip credit. The tip credit legally protects me and ensures that I always receive minimum wage. In the 16 years that I have been in the restaurant industry, I've never needed to be paid a tip credit. My tips have always made me more than New York State minimum wage. I don't need to be saved. My name is Tiffany Hodum, my husband and I are both servers in Saratoga Springs. We support ourselves and our young son with our serving jobs. Our finances are budgeted based on our current income which averages out to be above \$27 an hour. If the tip credit is eliminated our income will drastically be altered and we will lose everything that we have worked so hard to afford for our family. I understand that the tip credit will not eliminate tipping however I also understand that restaurants operate on extremely slim profit margins. What I don't understand is why this has been overlooked and how anyone would think that restaurants could sustain such a large wage increase and continue to operate under the same business model. Changes to the way that the restaurants currently operate will result in loss of pay and jobs, decline in business and even forcing many restaurants to close. Back in late January when I first heard that the Governor was proposing to eliminate the tip credit, I started a petition to support the tip credit. The petition has gained almost 11,000 signatures and hundreds of comments in opposition to eliminating the tip credit. I would like to share a few of those comments with you. The most popular comment that has been left was, if its not broke don't fix it. One person said, if passed, it would devastate so many. Small businesses, communities, families and individuals. Cuomo never stopped to ask the people it would be affecting how it would affect them. it

offers no real benefit. Why try to fix something that doesn't need to be fixed. Also, many small business owners commented. They shared that they could not afford such a large wage increase and would have to close leaving many without jobs. One said, "The increase in minimum wage has forced me to sell one restaurant and without the credit I have two others that may not make it as well." Servers and bartenders commented as well, most of them saying they would not be able to afford to pay their bills. One in particular said, "This is how I make my living. This is how I support my family. This is how I pay my outrageous student loan debt. This is how I contribute to my community. This is how I pay my taxes. This is how I support local businesses. This is how I survive. Please do not take this away." Eliminating the tip credit is going to change the restaurant industry in New York and will devastate so many hard working people. Please do not eliminate the tip credit. Thank you very much for your time.

Commissioner Reardon: John Joy.

John Joy: Hello my name is John Joy. I've lived this storybook fairytale American dream life. I work in an industry for almost 20 years that I love. Me and my wife met each other at a bar we worked at together. Now we've saved up enough money to own a place of our own. After almost 5 years, we make just enough to survive but we love our life. I want anyone who is responsible for making this decision to look at me and realize I'm not some statistic. You will be personally responsible for putting me out of business and turning my fairytale into a tragedy. This will kill the restaurant industry. If Steve Harvey asks on the Family Feud what profession gets paid in tips, you would hear, waiters, waitresses and bartenders. And that's who is being affected by this bill, not the car washers or nail salon workers; those people are a very small fraction of who would be affected. The last time I checked, we live in a democracy where our elected officials and our government are supposed to do what's good for the majority of the people. The majority is the restaurant industry and we don't want this. If this bill passes our government and our elected officials have failed us and have failed democracy. To those of you who do want this bill to pass, its time to stop looking to change an industry and start to change for yourself. Be an adult and take responsibility into your own hands. Don't try to shake up an industry because either your employer sucks or you're just not good at your job. If you pass this bill, it will change the culture of this industry. We share tight bonds with our coworkers, our customers because the culture you're trying to destroy is built on a tipping system. Yes, it's a unique way of paying people. But this is a unique business. We work nights, we work weekends, we work holidays, we do everything opposite of your typical 9 to 5 job. So it only makes sense that we get paid in a unique way. We all love this business and I'm standing here to ask you to please just leave it alone. Thank you.

Commissioner Reardon: Timothy Duval.

Timothy Duval: Hello my name is Tim Duval, I'm the Director of HR for Valet Parking America. We employ approximately 350 employees across New York State. We provide subcontract to parking services at hospitals, casinos, restaurants, ski resorts, private events across the state in a variety of settings. We strongly object to the proposal

of elimination of the subminimum wage for several reasons. As a subcontracted company we face a unique set of challenges that haven't been addressed so far today from what I've heard. We have four points we'd like to address;

1. Tipped wages have been established by the Department of Labor for the next 5 years through 2020 and we have contracts in place that reflect these rates.
2. The increased labor costs passed on to our clients will inevitably cost jobs and will be part of that.
3. Those that violate wage and labor laws will continue to do so, additional rules will not change this.
4. The proposed change would discourage those in tipped positions from moving into leadership roles which is quite frankly a major problem for most the hospitality industry.

My first point, with the New York State outlining the increase we have contracts that have been structured around these increases. To consider eliminating it would make doing business in New York State increasingly difficult. Second, as the cost of doing business in New York State continues to rise due to a variety of changes, cuts will have to be made. As a business owner if I'm the GM of a hospital or restaurant or I'm one of the administrators of the hospital where we provide a lot of services, I have to look at cuts. Those cuts are not going to be in my food cost, its not going to be in my rent, that's going to be in ancillary services such as valet parking, which, as we said, we have 350 employees in New York State that provide a great service. Those cuts would likely come first eliminating jobs. third, laws currently in place are not being followed and the proposed rule change for this actual hearing, the text reads, "In 2008 the Department of Labor found that nearly 8 out of every 10 car washes in New York City violate minimum wage and overtime laws with some paying just \$3 an hour." This references employers breaking rules that were already in place. As if often the case, those content with breaking the rules will continue to do so and those who follow the rules will be punished. Additional enforcement in our opinion makes much more sense. Fourth, bringing wages up for tipped employees which, in our business, are typically the highest earners of all staff with some earning \$30 an hour on some shifts just in tips will create less of a reason for staff to move up into leadership roles. Many have testified about this job being a stepping stone for them and then moving into leadership. If the valets are paid the same as the manager, but the valets get tips and the managers don't, what's the motivation to learn a new skill. To summarize, we're against the proposed change for 4 reasons, the rates have been forecast, the loss in jobs, law abiding businesses will be punished and it would discourage leadership growth. Thank you very much for your time.

Commissioner Reardon: Thank you. Sarah Samyn. Sarah. Sarah Samyn? Nope. Anita Thayer.

Anita Thayer: Good afternoon Commissioner Reardon and the panel. My name is Anita Thayer, I'm speaking today on behalf of the Working Families Party of New York State. Working Families is a growing political organization that fights for an economy that works for all of us and a democracy in which every voice matters. Although our party started in New York State and it is our home base, we are now in 15 states plus the District of Columbia. I am here to say that the Working Families Party of New York

State firmly supports the adoption of one fair wage and calls on the New York State Department of Labor and the Governor of New York State to eliminate the subminimum wage for tipped workers as soon as easily possible. There is no sector of the New York State workforce that does not deserve to be paid an adequate minimum wage from their employer. Tipped workers are among the lowest paid workers in the workforce and experience poverty at higher rates than other low waged workers. One fair wage brings a minimum of equity to tipped industries such as carwashes, nail salons and food service. The proposal before the Department of Labor does not ban tips, does not regulate tips, nor does the real minimum wage for all workers change the widespread custom and tradition in our culture of tipping. Instead, one fair wage limits the opportunities for unscrupulous employers and managers to engage in wage theft while allowing tipped workers the dignity of being paid by their employer for working in the employers business. Furthermore, one fair wage will limit the rampant sexual harassment that is pervasive in the restaurant industry which comes from some customers, managers and some owners. A careful review of the research from jurisdictions where states do not provide the restaurant industry or any other sector with the option of the subminimum wage i.e. the states of Alaska, Minnesota, Montana, Nevada, California, Oregon and Washington shows that there is no decline in the restaurant trade and that workers do not experience any loss of income compared to workers in the same sectors in the other 43 states. To reiterate, the proposal before you for consideration is not to eliminate tips and there is no evidence to suggest that the American public will reduce tips to workers based on the implementation of the universal minimal wage. Consumer tips out of consideration for our hard working restaurant staff and appreciation for good food and good service. We can understand why the restaurant industry and other industries do not want the responsibility of paying their workers and would prefer the public continues to subsidize the labor costs of running their businesses. However the Working Families Party is here today to ask you to do the right thing. Please finish the job you started when you increased the minimum wage. Thank you very much.

Commissioner Reardon: Thank you. Gary Smith, Gary Smith. Luciano Valdiva, Luciano.

Ramona: After Luciano the next 5 speakers are Allan Abbad, Susan Mezera, Peter Guidarelli, Kathleen Leitgeb, and Elizabeth Nicholas. Please make your way down to the front. After Elizabeth, John Carr, David Nicola, Christopher Tripp, Mark Dorr and Llona Hogan. If you can make your way down to the front and give us your testimonies.

Commissioner Reardon: Allan Abbad. Is Allan in the house? No. Susan Mezera

Susan Mezera: Hello, thank you for letting me speak again. I'm Susan Mezera from the O'Brien Inn in Saratoga. I started waitressing in my early 20s. I had two small children, and it was flexible enough that I could spend a good deal of time with my family and still earn a weeks pay on part-time hours so I could contribute to the household budget. At the time, I wore skirts, a bit of makeup and I made the same amount of money as everyone else, no more, no less. I am not 67, no skirts, hardly any makeup but now out

of 25 servers I am the second highest earning server in my restaurant. So to the servers who feel they need to be subjected to sexual harassment or dress a certain way to make money, I am proof you do not. We rely on our personalities not our wardrobe. No person who's engaging in sexual harassment behavior ever asked to see your paycheck first. Why would you think making minimum wage would magically end the harassment? If you feel the need to dress a certain way or be subjected to harassment to make money, maybe you're just a bad server and should look for a different career. Why are the hashtag me too and hashtag times up movements using us as an example to further their cause when none of us ever asked them to? its no secret that the quality of your service and attention to your guests directly relates to the outcome of your money at the end of the day. throughout my 43 years as a server, I've established relationships with so many of my guests. They ask for me whenever they come in. they know that whatever the occasion is, a birthday, anniversary, or graduations that I'll make the day special for them. in fact many have followed me at 3 different restaurants. I've seen babies grow into adults, graduate, get married and sadly have gone to many funerals. They've become like family. How are my customers going to get the service and special attention if we're spread so thin we have no extra time to take care of them. this is the main reason people come out to our restaurant, they come for us. They come for the personal connection. 90% of our reviews on Yelp and Trip Advisor specifically mention our good service and in a tourist town those reviews are everything. If they wanted food thrown at them, they'd go to a drive thru. Please do not let the memorable dining experiences disappear for them. The non-hospitality workers issues are valid and I feel for them but their issues are not ours. Please consider separating us from the non-hospitality workers, everyone would get fair...

Commissioner Reardon: Thank you. Peter Guidarelli, Peter Guidarelli. Peter. Nope. Kathleen Leitgeb.

Male: Did you say Peter?

Commissioner Reardon: Yes I did.

Peter Guidarelli: My name is Peter Guidarelli I'm from a restaurant family of 30 years. I was a dishwasher, a cleaner, a busboy, pizza maker, cook, bartender, manager. Ultimately when I became an owner I became all of the above at one point or another. Today however to the agony of some of my peers I recently sold and I am now a former restaurant owner. Not to retire but to have 5 less jobs. Governor Cuomo says this is about economic justice, citing the need to protect women and minorities in the restaurant business. He is actually hurting the livelihood of the very people he claims to be trying to help. His divisive statement are nothing more than race and gender bating which is evidenced by some who agree with the governor on this topic. He has created an us vs. them mentality. That is not right. These are all good people in this room on both sides of this issue. Governor Cuomo's call for economic justice means he has discovered an injustice. This policy implies that all of these business owners are breaking the law. The ones who created this injustice. The Governor's claims of harassment and discrimination are the norm in this industry. Quite frankly, instead of penalizing painting a broad brush

of an entire industry, why not penalize the violators and enforce the harassment, wage theft and discrimination laws that are on the books to the fullest extent possible. I think everyone in this room would agree on that. On this subject the Governor says, at the end of the day this is a question of basic fairness. In New York we believe in a fair days pay for a fair days work and that all workers deserve to be treated with dignity and respect. Governor Cuomo said there should be no exception to that fairness and decency and he looks forward to the findings. I will give you one finding, we need small business justice in New York State but where do we go for justice from an overreaching, over regulating and intimidating state government? Governor where is the dignity and respect for the small business owner who risked their life savings, sacrifice of time with their families, the 80 hour work weeks, dig into the savings and retirement plan when revenues fall short to meet payroll during lean months or hard economic times? Governor what is your plan for those who put it all on the line to open the business, realize the dream and employ people, then fail? Where's the justice for them? What is their fair pay for taking the risk and losing it all. Governor who is there to save the small business owner from the lack of dignity and respect you show them by forcing business killing laws down their throats? You have succeeded in creating a real us vs. them mentality, business owners vs. our government. There would be hundreds more here today, servers, owners, and vendors opposed to this policy but they are scared if they exercise their right to free speech there would be severe retribution from the very government who should be there to protect them. Think about that, they fear their government. How ironic, a policy to eliminate fear and intimidation in the workplace is actually creating that fear and intimidation for the small business owners. Thank you.

Commissioner Reardon: Thank you. Kathleen Leitgeb, Kathleen.

Kathleen Leitgeb: Good afternoon, my name is Kathleen Leitgeb and I'm the Executive Director of the New York State Bowling Proprietors Association. And I'm speaking today on behalf of our more than 300 commercial bowling centers from across the state. 90% of our centers are independently owned and operated and employ 8700 hard working New Yorkers. The proposed elimination of the wage tip credit will have a negative impact on the operations of our bowling centers and will hurt our valued employees who rely on those tipped wages. Our member centers have bar, restaurant and party host employees who rely on tips for a portion of their salary. Many of our tipped employees who work and live in Upstate New York earn well above the mandated minimum wage of \$10.40 an hour. Our employees prefer the tipped wage system of compensation which has been in effect for decades since it creates an opportunity for them to make more money than just working for an hourly wage. This proposal is nothing more than a solution in search of a problem for the sole purpose of pandering to a specific base of political supporters ahead of our November elections. The current tip wage law requires employers to pay the difference between the base minimal wage and the tip credit ensuring that the employee earns state mandated minimum wage. Proponents of the elimination of the wage tip credit mistakenly point to states such as California who have abolished the credit are supposedly flourishing though according to the Harvard Business School, which analyzed the issue in California found that in San Francisco, a city of comparable size and economy to New York for every \$1 increase in

restaurant worker minimum wage the rate of restaurant closure was 14%. After New York increased its minimal wage in 2015, the state's restaurant industry experienced an immediate 33% decline in growth from the previous 3 years, the main reason for this decline is our small businesses operate on razor thin profit margins and an additional increase in government mandates has the potential to force owners to close their doors. Our members have continually supported their employees many of whom who have worked in our bowling centers for decades. We know that the wage tip credit works and the employees are making a wage that allows them to support their families. New York has some of the best workers protection laws in the nation and, if enforced, wage cheats will pay those funds back to the workers. There is no need to eliminate the tip wage credit as the impetus for the state to enforce its existing laws. We urge you to spare us from this unnecessary mandate and strike the Governor's proposal from your Department of Labor regulations. Thank you so much.

Commissioner Reardon: Thank you. Elizabeth Nicholas. Elizabeth Nicholas. John Carr.

John Carr: I think you guys need a break up there. I'm impressed.

Commissioner Reardon: Just doing our job.

John Carr: Hello my name is John Carr. 20 years ago I owned the Adirondack Brewery in Lake George, New York and through the hard work of myself and my staff, some of which are here today Abby and I have worked together that whole time, we've been able to grow brewery and now sell our beer throughout New York State. I'm here on behalf of the brewers, the cooks and my wait staff all of whom are concerned about what this could do to their jobs. Owning a brewery that sells beer throughout Upstate New York, I've had the opportunity over the 20 years to travel the state and I've been in numerous restaurants and taverns throughout the state doing this. The reasons for removing the tip credit that I've heard, not only today but read about are simply not true. In these thousands of restaurants that I go into every single, I do not see this and I'm unique. I'm in restaurants from Long Island to Buffalo and I'm not seeing what I'm hearing here today and I suggest we investigate and look into this. This industry is by no means male dominated in anyway. Restaurants are started by, managed and worked for by the most diverse group of any industry I've ever seen in New York State, let's not lose that opportunity. After the affect of minimum wage combined with the increase in tip wages in 2016, what I'm seeing as I travel the state, a lot of owners and operators are waiting for their leases to end then they plan on closing many of those businesses. I see a sharp decrease in the number of hours that restaurants are open. This not only negatively affects the servers, the cooks, the hostesses everyone. These restaurants that were open 7 days a week are now open 4 and 5 days a week. Restaurants that have lunch and dinner now only do lunch on Fridays and Saturdays. What happened to all those cooks jobs? The server jobs? Everybody lost on that and that's going to continue. This is an even more dramatic increase and we have not still experienced the full roll out of the Family Leave Act and the minimum wage increases. Given what happened in other parts of the country, I have been there and I have heard how great they are, these success stories, I

anticipate that in Upstate New York that with this enacted with the minimum wage we'll see over a 30% closure rate of restaurants. This is documented not only by the Harvard study but by what I've actually seen in cities like Portland, Oregon, Eugene and San Francisco. These success stories of minimal wage rates are not success stories. The third rainiest city in the United States of American, Portland, Oregon has over 500 food trucks. Restaurants were torn down. You go to san Francisco, a cheeseburger is \$17.95. Will they pay that in Buffalo? Will they pay that in Poughkeepsie? No. Will they pay \$9.00 for a beer in Lake George in Whitehall, New York? No they won't. The customer will seek out different approaches and go for them and it will be food trucks. It will be limited service. These jobs you're trying to protect will be affected and all the cooks jobs, everyone's jobs will be negatively affected. Thank you.

Commissioner Reardon: Thank you. David Nicola, David Nicola, David Nicola. David, nope. Christopher Tripp.

Christopher Tripp: Hello again, my name is Christopher Tripp. I'm a 25 year old server captain at the O'Brien Inn in Saratoga Springs. I would first like to start off by saying the passion here is unreal. This is why when we hear about somebody trying to come in and change everything, we panic. You saw that in Long Island when it was trying hard to keep our people calm. It's not anger, its passion. On another note, how is it possible for Cuomo to be so sneaky on a "regulation" that affects so many people? It was left to a group of workers to campus restaurants and educate others on what is happening. So many people were left in the dark. Why was this not publicly announced? I know its not your fault Commissioner and Deputy Commissioners but it does feel like we are being stepped all over so that he may get more tax dollars out of the workers or that unions may take dues out of certain unionized wait staff's paychecks. I am not part of any union just a group of workers trying to save the industry. Also, there has to be a way to separate the restaurant workers from carwash attendees and nail salon technicians. My impression is that 99% of the people that are calling for this elimination are from other fields. If they need a raise and we don't, why would you continue to group us together? We have nothing against them but it is like you are forcing us to fight against these people who aren't even in the same industry. I've never seen anyone turn down a raise but we genuinely do not want this and we don't need this. Last, there is no shortage of jobs in our industry but there will be if you take our tip credit. If you don't like where you work, go work somewhere else. I lived in New York for 2 weeks before I found a job at the Saratoga National Golf Course doing catering. I worked there for about a month and got hired at the Olive Garden in Queensbury. I've lived here for 5 years, never found an issue finding a job. We work very hard for our money front of house and back of house. Don't change what we have. Don't change our work ethic and don't change our livelihood. I also have a quick message for the ROC, our opposition. Leave us alone. New York Restaurant workers don't need your help. How come you don't have any high earning servers on your side? Seems that if you weren't trying to take our tips as well as the tip credit, finding them would be pretty easy. I'd say you're just as sneaky as Cuomo if not worse. You don't know what good for our industry and neither do celebrities you have endorsing you. How about instead of using the money from Sarah Jessica Parker's benefit dinner to further your cause, you help the people who genuinely need it, you

know, the people that you have brainwashed. Thank you for your time, see you in New York City.

Commissioner Reardon: Thank you. Mark Dorr, Mark Dorr. And before Mark starts I just want to point out because I've heard it several times today, this was very publicly announced. The fact that the American public doesn't pay attention is not our problem. Mark.

Mark Dorr: Okay. my name is Mark Dorr, I'm the President of the New York State Hospitality and Tourism Association and we represent 1000 hotels, amusement parks and bed and breakfasts throughout the state many of which have restaurants and serve banquets. And I sat there for a couple hours, three hours and I had my own data and I was going to present it and then I thought to myself your childhood really comes out in you. My father was a big finance guy and he goes, you know the data you can make it say whatever you want it to say. So I said you know I wrote that down, it gets put in but I wanted to try to bring after all the data we've heard, the common sense approach. In my job as a President, I travel all over the state. We have members on the tip of Long Island, New York City, out in Buffalo, Plattsburgh, everywhere and I travel a lot and with the minimum wage going up and that little increase, I know what I see when I travel. In the state our member properties and what I see is some of the things that were mentioned here earlier today is instead of doing what we're hoping to do to provide a better living and better wages and everything for the employees, we would up eliminating employees because if you go in you're going to see ordering on an iPad and you're going to see 2 people in the back running your food out whether it's a banquet, whether its in a restaurant. So where you may have had 10 people working in that restaurant taking care of it, now you have 2. because as a lot of the restaurant owners and people have said today, they can't afford to continue to do it. And in closing I did my own research. Yesterday on my way I stopped at a restaurant I've never been in, independent place. they didn't know who I was and I walked in and introduced myself and said, "I'm going to a hearing tomorrow about eliminating the tip credit" and he says, "Oh you are, I've heard all about it." He knew about it he said, "Hey I've heard all about it. Yeah I tried to explain it and educate my employees on it" and I said, "Great." I said, again, "I don't know you. What is going to be the first thing you're going to do if the tip credit becomes implemented and its raised?" And he stood there and he said, "Well let me think" and he said, "The first thing we're going to do is we're going to start investing money not in our people, we're going to be investing money in technology and we're going to get iPads and we're going to do orders and I'm going to have 2 people in the back running the food out." So, to me that was a big wake up call for me coming in today and I think I've heard that a lot especially from the guy from the 99 and Applebee's as they've already cut and Outback they're at the forefront of that. But having an independent small property restaurant owner in the Capital District say the first thing he's going to do is invest in technology not people, I think that's the thing that we need to remember as we move on in the process. Thank you.

Commissioner Reardon: Mark can you hear me?

Mark Dorr: Yes, I can hear you.

Commissioner Reardon: So I'm assuming that your travels take you beyond New York State _____ (can't hear).

Mark Dorr: I will be honest with you, in my job I travel within New York State the most even vacationing to be totally honest with you, we have 2 kids and a family and relatives and if I, all our members are in the tourism industry and I'm always out there talking and saying to everybody there's all this great stuff to see in New York State. I did a little presentation last night for the Girl Scouts. For me to say, "Oh by the way we are going to Florida in the summertime, we're going to Disney Land" but I generally travel within New York State because that's what I do.

Commissioner Reardon: I guess my question is related to, we've heard this from a couple of different folks _____ (can't hear – not using mic).

Mark Dorr: I really probably can't correctly answer that. Somebody else may be able to. I mean I just know when I travel in New York the difference of me ordering and us going out to dinner the tablets are much more prevalent. We go to Maine I will say that but we go to like a resort right on the water and there's a restaurant on-site, we're not ordering on tablets there. But maybe that's just a different market.

Commissioner Reardon: Thank you. Mark Dorr, Mark Dorr, that was Mark. Sorry. Llon Hogan.

Ramona: After Hogan the next 5 names are Denise Cuiffo, Derrick Cannon, Nicole Tortatice, Sarah Schultz and Robert Marquardt. Please make your way down to the front. And after Robert let's have Kate Belden, Angela Wilber, Luke Riley, Vincent Giglia and Marie Medina.

Llon Hogan: My name is Llon Hogan and I am Director of Catering Sales and also a full-time server at Hattie's Restaurant in Saratoga Springs. I honestly cannot believe that I am here today fighting for my family's wellbeing. I have always felt so fortunate in that I have found a career that is fulfilling and lucrative when I know so many people struggle to support their family let alone find joy in their work. I look forward to going to work everyday and I'm happy to support a family owned business in my community. I have a flexible schedule, I love the people I work with and for, we have fun and best of all I make great money. This is why I was shocked to hear about Governor Cuomo's proposal to end the tip credit because he believes in a fair pay for a fair days work and that all workers deserve to be treated with dignity and respect. I thought to myself who are these people he is talking about? Certainly isn't me or any of my coworkers or the many friends I have in the restaurant industry. I've never once thought about my hourly pay being unfair because frankly its inconsequential. My money comes from my tips which are commission on sales, my knowledge of the menu and my personality. I'm attentive, an ambassador to my city which is a popular tourist destination and I'm hospitable. I earn my money and in doing so I feel empowered as a happy, successful woman who is

doing her best to support her family. A handout from the government who thinks I cannot do it myself is insulting and leads me to my next point. Regarding the sexual harassment issue, I have worked for Hatties which, by the way, has thrived under the present pay structure for 80 years and who's namesake is a woman of color. So I've worked there for 11 years and before that I worked in several other restaurants during high school, college and graduate school. I've never once allowed myself to be mistreated for the sake of a tip. I have also never worked in a place where I was supported by the owners or management to handle poor behavior by customers in any way I see fit. In addition, I have never also never experienced sexual harassment from my kitchen staff coworkers. We are like brothers and sisters in arms strapped for battle, in it together. They wouldn't treat me poorly and they would be the first ones out there to defend my honor. I am not saying this doesn't happen somewhere but it also happens in every other industry regardless of pay. Lumping this into the me too movement is insulting to the many, many people who have legitimately experienced sexual harassment. Perhaps our time and effort should be focusing on the many labor issues that have been presented to us in these hearings that have nothing to do with the minimum wage but are about illegal practices by exploitative owners. Those are the people who need our help. We're good, we're fine. Thank you very much.

Commissioner Reardon: Thank you. Denise Cuiffo.

Denise Cuiffo: Hi, my name is Denise Cuiffo I currently work at the Applebee's in Lindenhurst. I am an Assistant General Manager. I have been in the restaurant business for almost 27 years. Starting as a host working all the way through all of the front of the house back of the house positions to currently becoming a manager. I spoke to you a little bit in Farmingdale about my experience as a tipped employee but I didn't really share the reason I opted to move to a management position. Being a server was not for me. I do not like not being good at something, like really good at it and let me say that I was an order taker, I was not a server. When I waitressed I provided a level of service that I would not want to receive if I was going out to eat. I tell you this because I think we all need to examine why all of the servers who are against eliminating the tip credit are in fact against it. The people sitting behind me the ones that I'm fighting for they're servers, they're not order takers. They deserve to earn their income the way that they have become accustomed to. being a server is so different from being a waiter. A waiter is an order taker, someone who can easily be replaced with a kiosk and a food runner. A server is someone who takes pride in the service they provide. A server knows they're regulars, they understand their menu. They take the time to learn how the food is prepared, how the vodka's distilled, how the wine is fermented and the beer is brewed so they can guide their guests into making selections that are appropriate for them. a server smiles when any party walks in and gets upset when they're over sat because they know the level of service they're going to provide is less than what they would like. A server is someone who willing stands at the table for 10 minutes while the diner changes their order 10 times. A server makes suggestions and gives them the time that they need. A server knows that they're going to go home with way more money than most restaurant managers and/or operators are going to make on any given day because they're going to provide a fabulous experience for the diners. Now you're going to say eliminating tip

credit will not eliminate tipping. I will counter you and say with smaller profit margins, businesses will be forced to reduce staff, servers will be over sat, they have to take more jobs in the restaurant and will lose the ability to provide the service that they are so proud to provide. Keep in mind, the rule of thumb is 15% for good service 20% for great. if the server has too many tables and is gone when their table needs them because they had to run a rack of dishes, can they give great service? The answer not likely. Not to mention once the general public knows the server makes minimum wage they will feel they don't need to tip. So, again unless there is an amazing level of service, which will be next to impossible to provide there may be no tips. I'm here to speak on behalf of the servers and bartenders that I employ. They're like family to me and when they say they don't want this to pass I say, I am going to stand with them. I realize from the outside people look at my opposition to this passing and think that I'm concerned with the bottom line for the store that I run. Truth is Applebee's is not going anywhere. It's not going out of business. It's not going to close its doors, we're going to change our service model, we're going to figure it out. The mom and pop restaurant down the block from me they're going to close. They can't carry a wage increase like this and become an impersonal place to go. Honestly, it will benefit me and my restaurant for that mom and pop place to close. So why I ask you is some place like Applebee's so opposed to this passing know that we could increase our guest traffic, know that we could capture all of those people and we could do it very well. It's because we want to keep our service model the way it is. we want to employ servers not order takers.

Commissioner Reardon: Thank you. Derrick Cannon, Derrick Cannon, Derrick Cannon. Nicole Tortatice, Sarah Schultz.

Sarah Schultz: Alright hi, my name is Sarah Schultz and I've been in the restaurant industry for 20 years. I currently work for a chef owned and operated establishment in Glens Falls called Morgan and Company. My first job was waiting tables and I continue to do so throughout college and after. The convenience of building my schedule around my courses load in school was paramount to being able to afford the cost of living and to finish my degree. I continued on with serving after college because I enjoyed the flexible scheduling, the money I earned and it's a fun job to have. I think of serving as a trade. I have grown and honed my skills as a waitress over the years. It is required of me to provide the guests with unique dining experience, to have an extended knowledge of food and beverages, to understand the severity of allergies and to communicate those allergies to the kitchen. Servers are sales people. It is our job to steer a guest to a steak rather than a burger. A higher check average benefits both me and the business I work for. The compensation I make with my tips is also the reason I look forward to trading holidays for a business night at work. One of my main concerns with the elimination of the tip credit is less money for the back of the house staff, the cooks and the dishwashers. If there is more money going to pay tipped employees then there is less going to non-tipped employees who depend on the hourly rate. My employer should have the financial ability to pay our experienced, talented cooks what they deserve, something that could be compromised if tip credit ceases to exist. There is a beautiful culture to the restaurant business. Every place has its share of regulars, guess who come in often become friends with the staff, who enjoy chatting with us as much as we enjoy visiting with them. it is a

very personable experience to dine out. If restaurants are forced to pay their bartenders and wait staff more, there will be a lost off jobs, menu prices increasing and establishments closing. While eliminating tip credit doesn't necessarily end tipping the percentage of tips could decrease over time if dining out becomes too expensive or if guests even know what we make hourly. Tips are taxable income that the stat could lose. My father always told me, if you find a job that requires you to do what you enjoy you will never feel like you're working. And for me that is serving. I love my job. Everyday is different. By working as a waitress I managed to buy a house with my husband who also works in this industry at the 99 and have some money in savings and afford my lifestyle. I do not need minimum wage because I already earn a living wage. Thank you

Commissioner Reardon: Thank you. Robert Marquardt.

Robert Marquardt: Good afternoon panel. My name is Robert Marquardt. My wife and I are owners of Jimmy's Egg in Clifton Park, New York. We are open from 6:00 a.m. to 2:00 p.m. serving a variety of breakfast and lunch items. We do not serve alcohol and employ 25 to 30 people, we are very proud of that. I'm also President of Charlie Brown's Fresh Grill with 17 locations in New York and New Jersey which is a full service restaurant. We came back to New York so we could be closer to family. I've been working in the service industry since I was 14 years old during the summers in Lake George, New York. I went to college at Michigan State University attending their business school and earning a degree with a major in Hotel and Restaurant Management. So I speak here today with almost 30 years of restaurant experience where starting as a dishwasher many years ago, working up through the ranks to currently being President of a mid size restaurant company and owner of a breakfast restaurant. In a statement from New York Governor's Office Cuomo stated, "In practice many employers find it difficult to keep track of employee tips properly. Was this true 15 to 20 years ago? Probably. Is it true today with point of sales systems and modern accounting software available to the service industry? No. As for sexual harassment being another reason to try and change the public culture, in the 30 years that I've worked in the restaurant industry I have had 2 situations of sexual harassment. Our servers at Jimmy's Egg make on average \$27.50 per hour on weekdays and \$35.50 on weekends. Pretty good serving bacon and eggs. Using hard number from 2017 I'm opening up my business to this, we employed 11,603 hours for the year in tipped wage difference. If the tip credit goes away, we must make up \$33,649.45. Our EBITA for our second year over was just over \$56,000 that does not include the debt service on the business. I think we can all do the math and know what would happen. How much can we raise our prices? How much will the citizens of Clifton Park, New York pay for bacon and eggs, an omelet or hot cup of coffee? My family and I also want to live the American dream and be small business owner. We work very hard and put much of our savings into our business. We do it the right way and none of our staff or employees want this. They all know who's responsible if this is passed. It's comical to hear the Governor's office and other advocates say they are not taking tips away, nor discourage it, do you think that business owners will roll over and not alert the customers of the new wages in New York when prices go up? In summary, this is about an increase in payroll income tax and getting to boost the sales tax when restaurants raise their prices on menus, this is not about helping the hardworking New

Yorkers in the restaurant industry one bit. Trying to do this to an already taxed restaurant industry is hypocritical beyond belief. Please refer to the black box intelligence summary spreadsheet that my company uses to monitor national sales result. They only deal in hard numbers and dad from the restaurant industry. The state of New York was down 2.93% in 2007 comp sales. Thank you.

Commissioner Reardon: And you are?

Kate Belden: Kate Belden.

Commissioner Reardon: Okay the next 5 please.

Ramona: Next Elizabeth Alexander, Rhonda Myers, Kayla Toney, Ashley DeLuis, Heather LePere. Please make your way down to the front and give us copies of your testimony.

Kate Belden: Hi, my name is Kate and I'm the Director of Restaurants for the Lotus Group of Companies located in the Adirondacks. I come here today urging you to reconsider eliminating the tip credit. I have made restaurant work my career and a lucrative enjoyable one at that. I will lose my job should you raise the tip minimum wage. Our restaurants will close. History, fact and popular demand clearly indicate the tip credit format works in restaurants and that it works well. Restaurant industry employees currently make much more than minimum wage while restaurant owners are still managing to survive at a 5 to 12% net profit model. In one of my restaurants, 81% of my employees tips were via credit card last year, it was 100% reported and 100% taxed. So if Cuomo is after their taxes, New York State is already getting them. History shows that significant wage increase like the one that hit the hospitality industry in December of 2015 caused restaurants to close. Owners had to limit state in both front and back of house. It caused less annual raises to the returning and valued employees. Locally owned restaurants in my area incurred a 25 to \$75,000 increase in payroll expenses from just this 50% wage adjustment. I've done the math. Our pub would incur an additional \$25,000 payroll increase and our fine dining establishment payroll would increase by almost \$45,000 if we match the current minimum wage. We are still recovering from the last wage hike. History shows that it did not work in Maine and it will not work in California. Full service restaurants cannot survive this kind of wage increase. The doors will close and people will lose jobs. fact is that a proposed 100% wage increase over the next couple of years will put both my restaurants out of business. It will end jobs, it will end bonus structures. It will end table service, it will end extra help in the kitchen. It will normalize counter service and self service stations. It will increase hours for my salaried employees. It will increase the overall cost of the restaurant. Payroll taxes, employee insurances and payroll fees will see dramatic increases. I live in a tourist driven economy. Our restaurants only stay open in the off season, if you will say, to keep people employed. We actually knowingly lose money during those months but jobs are important and our employees are important. We currently offer a bonus incentive structure to our chefs and our sous chef. We offer cumulative hourly seasonal incentives to our kitchen staff. How and where will we find

room in the budget for those things once half our staff payrolls have been doubled? Popular demand speaks for itself. look at the room and listen to who is speaking. The hospitality industry cannot be classified as one unit. You group us in small categories but you treat us the same. If you feel the tip credit does not protect certain parts of the very general hospitality base, make the necessary adjustments to the parts that want and need it. We do not. Restaurants do not want or need it. Don't fix what isn't broken. I like my job and you raising the tip credit means that this mom of 2 needs to start working in getting a new career. I didn't think eliminating jobs was on your task list.

Commissioner Reardon: Thank you. Angela Wilber. Did we skip that's why I was curious, what's your name? Vincent. 104. Okay we're not to you yet Vincent. Angela Wilber. Luke Riley. Okay you're next.

Vincent Giglia: Thank you. my name is Vincent Giglia, I'm a server at a Novo Kitchen and I have been in this industry, an industry I love for almost 20 years now. I'm here today to say I am completely against the elimination of the tip credit. To be clear I did not ask for this, I do not want this. Do you remember the last time we raised the tip minimum wage from \$5.00 to \$7.50 I do, it cost a large restaurant that I was working for almost \$150,000 a year. When our doors were shut we are roughly \$100,000 in the red. We were not able to bear the cost of the higher minimum wage. That day I learned what it was like to sit in a room with 40 other people closest to me, people I consider friends and family and wonder what now? I witnessed emotions from these people raging from sadness to anger and fear. It was devastating not know what tomorrow will bring. Would we be able to pay our rents this month? Where would we go? Will we see each other again as our family was torn apart and spread to the winds of uncertainty? By far, one of the worst days of my life. But life goes on. I have a new job and now I have to fear if I will again face the uncertain future of this proposal to eliminate the tip credit goes through. The restaurant I am currently employed in has a small staff than my last one by almost half. On average, we use 542 labor hours for tipped employees a week to operate. At the end of the year, the minimum wage for the majority of New York will raise to \$11.10. That would mean \$3.60 a hour to every tipped employee. Multiply that by 542 labor hours that's \$1,951.20 a week multiply that by 52 weeks that's a loss of \$101,462.40 a year. How are businesses supposed to make up with these kinds of losses when our industry survives on razor thin profit margins? Do they cut shifts? Do they cut positions and let go of staff? Raise prices or maybe we just simply close the doors of the businesses that can no longer afford to operate. These will be very real and unwanted consequences to our industry if this proposal to eliminate the tip credit is passed. I can go on all day as to why the proposal to eliminate the tip credit will be devastating to our industry but I'm on the clock here. Basically, to sum things up I'm pleading with you not to allow the eliminate of the tip credit. We currently do not need saving unless this proposal goes through. Preserve our industry, preserve our way of life. Thank you.

Commissioner Reardon: Thank you. Marie Medina, Marie Medina. Elizabeth Alexander

Elizabeth Alexander: My name is Elizabeth Alexander. I have owned and operated Hattie's Restaurant in Saratoga Springs with my husband for 18 years. I am proud to say that Hattie's has remained women owned since 1938 with only 3 owners in its 80 year history. I vehemently oppose eliminating the tip credit for many reasons: first the argument that raising the minimum wage will eliminate sexual harassment is ridiculous. A leopard does not change his spots no matter how much you make per hour. As a women I find it demeaning that people think that I would stand idly by when a staff member is being harassed. I have and will kick people out of my restaurant for reprehensible behavior. As far as the rhetoric that _____ is spreading and I quote "Managers are telling workers to go out and get it. Show more cleavage, wear less, go out and sell themselves." I would never, I would like to say directly to her, I have never nor will I ever say that and I don't know anyone in my industry who would. Another quote that infuriated me, "I've heard stories from servers who say the kitchen staff makes me kiss them or show them my breasts to get the meal for my table. It's because they know we depend on tips." Well not in my house. Bad people exist everywhere. There are laws in place to prevent this, do not punish the industry as a whole because of a few who do not know how to act. When the front of the house was given the first raise of \$2.50 per hour bringing them up to the current \$7.50 per hour, that equaled \$100,000 increase in the labor costs that my restaurant has not been able to absorb. By my main reason for not eliminating the tip credit is my staff. My Hattie's family. I have people who have worked at Hatties for 23 years predating me, employees who have been there 18, 16, 11, 10 years and that is the majority of my staff. If they weren't making a good living or being mistreated I am quite certain they would have left by now. We are now cultivating the second generation, hiring our present employees children as busers, hosts, bar backs, food runners, jobs that will not be around much longer. If the tip credit is eliminated I would be forced to raise prices and cut staff, thus changing the restaurant model that has been successful for 80 years. Two employees would remain full-time out of 42. Two employees would remain part-time, four employees would be summers only. Please consider all the names on this list that are crossed out whose jobs will be lost when making your decision. I thank you very much for your time.

Commissioner Reardon: Thank you. Rhonda Myers, Rhonda Myers. Kayla Toney. Rhonda, no. Ashley DeLuis.

Ashley DeLuis: Hello. There are many facets to the tipped industry and not all of them are equal. I'm here to represent the small business restaurant. There seems to be a gross misunderstanding of who needs this and who does not and if an entire section of an industry is telling you we don't need this, listen. Serving at its highest form is an art. There is an enormous amount of time, effort, skill and dedication involved in working your way up the restaurant industry. There are stacks and stacks of résumés piled in all of these restaurants and it has nothing to do with the hourly wage. The exchange goes like this, hospitable service is given to guests and guests repays this wonderful experience with a tip. Paychecks are almost usually nothing due to taxes and what we actually live on are the tips. The opportunity for the tip is from the restaurant and the restaurant exists

in a symbiotic relationship with the server where labor costs are low and resources can be used for good product, reasonable menu prices and wages for the back of the house. This exchange has been in place for so long that you would be forcing hard working people who have structured their financial health, family planning and life goals to all of a sudden belong to an industry that is unrecognizable. You cannot uproot the financial planning of thousands of good people because you feel the need to rush into this legislation. It's tax pouching disguised as good will but is not fooling the people it's affecting. Generally when you put the time and effort into a serving job and you have proven your skill, you are awarded with the best shifts. This is how you advance. This is how you grow your earning potential by performing your job well. Taking away earning potential takes money out of people's pockets. Customers will most likely not feel obligated to tip or will not lay down as much due to increased menu prices, these increases due to entire labor costs. Just to keep a small businesses head above water will most likely mean less staff, therefore lower quality of service and a more stressful and demanding working environment. You would devalue an entire group of people that have built their lives striving to make good money in an industry that rewards competence. And this goes for the owners and the servers because both require competence to be successful. I also have to address the sensationalized idea that somehow a mere \$15 an hour wage will present sexual harassment. Ask Alyssa Milano if getting \$80,000 an episode prevented her from being sexually harassed. Thank you. the creator the original Me Too movement, Tarana Burke has laid out specific goals for the movement like processing all untested rape kits, dadadada, nowhere does it say raising a server's wage. It's a weak relation and frankly I think it is being used to gain brownie points among those who have never worked in the industry, who don't understand the debate but understand hashtags. Sexual harassment is an issue in all industries and politics and to use this grave issue in this way is a despicable and untrue relation. The legislation is at the precipice of cutting an entire industry fueled by hard work, perseverance and not to mention the intersexual advantage is given to women, people of color and the gay and lesbian community. Thank you.

Commissioner Reardon: Thank you. Heather LePere. Heather.

Ramona: After Heather the next 5 speakers are Chelsea Minard, Joe Carfora, Kim Gioia, Devin Stockton and Carlos Morales. Please make your way down to the front and give us copies of your testimony.

Heather LePere: Hello, my name is Heather LePere I'm a former server and currently the owner of the Breakfast Club, Etc. in Lake Placid, New York. I would first like to commend the work of the Labor Board and thank you for hearing us. My business partner Susan and I first started our restaurant because we love the industry and we love our town. Our staff is our family and they know we do not accept anyone mistreating them. so tips or no tips, there is zero tolerance for harassment in our restaurant. One of my major concerns about eliminating the tip credit is how it will affect my back of house staff. The math is simple. My front line workers average \$30 an hour well above minimum wage. They don't need a raise and they know it. When their base pay goes up it means I have less money in payroll for my back of house staff. So losing the tip credit

will make the current deficit between front and house payroll much worse. It's simply not sustainable. Being in a tourist area we have large swings in business. I have to make enough money in our busy times to sustain us during the slow times. After the previous 50% raise to the front house staff, I no longer have my buffer to get me through the spring. I've had to decrease my hours. I've had to drastically cut shifts from both my front of house and back of house employees. Restaurant margins are thin and for a place like mine that specializes in breakfast they're even thinner. If the tip credit is eliminated I will be forced to completely change the way I do business and because I will not survive operating with the number of servers is currently employ. I'm not sure if this means changing to counter service or hospitality included model with greatly increased prices or shutting down entirely. But the final result would be that the very servers this plan is attempting to help will suffer along with my back of house employees and other small business owners like me, the customers and the community we serve. We've heard this quote before from Mayor Cuomo saying that the "At the end of the day this is a basic question of fairness." But, the reality is while however well intentioned his plan is it gives a raise to my highest earners while leaving less money for the rest of staff and how is that fair. To quickly address the question you asked Mark earlier, I don't want to automate, I don't want to go to tablets, that's not something I want to do. I like the service my servers give, it's a nice time to come out to breakfast and enjoy yourself and have somebody to talk to and relax. I don't want to automate, I don't want tablets but I might be forced to do that. Thank you.

Male: I was just wondering from you experience with servers, has there been increase in or decrease in the average percentage of tips. So if it was 15% one time maybe that percentage has changed in relation to _____(not using mic can't hear)

Heather LePere: Not that I know of. I do know that it's cost me over \$40,000 but percentage of tips vary kind of greatly in Lake Placid anyway because we have a lot of Canadians that come through who don't quite do the same thing and yes we also have a lot of international tourists. So we kind of swing wildly anyway but it usually pans out.

Commissioner Reardon: Thank you. Chelsea Minard, Chelsea, no. Joe Carfora, Kim Gioia.

Kim Gioia: Hello. If you haven't figure out yet, most servers don't do this job for the hourly wage. I know I don't. I've been serving for over 20 years. When I started the hourly wage was \$2.90. It's never been about that. I wouldn't have cared if the hourly wage never increased. Increasing the wage does not help us. It in fact hurts us. When the last increase brought us to \$7.50 there were negative changes made in our restaurant. We have less servers on shifts and less servers hired. You, as the Department of Labor, say you want to save jobs yet this has only hurt our jobs and I see it just getting worse if the tip credit is eliminated. Also, I don't and have never felt exploited because I rely on tips. I feel freedom and in charge of my own wages because I rely on tips. If I didn't like relying on tips, I would just work a minimum or higher wage job which is what anyone else should do if their tip job doesn't give them a living wage. By eliminating the tip credit you would be taking away all of the benefits of being a server and leaving all the

crappy parts about it. Those benefits are different for everyone except for the money. We all do it for the tips. You can say that you as a state at not eliminating tipping but we as servers know that will be the end result if this wage increase goes through. It will affect how the guests in our restaurants tip us when they don't receive the service they are accustomed to and their checks are significantly increased. I do this job for the flexibility of my work schedule and the opportunity to pick up an extra shift if an unexpected expense arises. I have 4 kids and I do this job for them. I've always wanted to be the involved mom, the class mom, the PTA mom, the soccer mom, the Cub Scout leader mom, not the work 2 jobs and never home mom. Because I choose to be a server I've been able to be that mom I wanted to be for the last 19 years and continue to be. Like most other New York families, my husband and I both have to work to survive in New York. Because of serving I get to work part-time, be there for my family and still make a full-time contribution to my family budget. Don't take that away from me. also, about the tablets because you had asked before, most of the people that sit down, I work at Applebee's, our tablets are strictly for playing some games, paying your check. You can order certain things on there but it doesn't take away from the service. But even though it doesn't take away from the service most people don't even want to use them. they push them to the side, they said, "I don't even want this on my table." So many people have said to me, "I don't want to touch this cause its going to take away your job." Now you're going to put that into reality of what they're telling me they don't want to use the tablet for and the tablet's already there. They're not being used as servers yet but they can easily now be turned into that.

Commissioner Reardon: Thank you. Devin Stockton. Devin Stockton.

Devin Stockton: Good afternoon Chairpersons of the Board, I would firstly like to thank you for the opportunity to speak today. Although we are a passionate and anxious people and terrified of losing everything we've worked so hard for, we are appreciative of your time. my name is Devin Stockton and I'm a server at a small family built and owned restaurant in Upstate in Queensbury, New York called The Silo where Governor Cuomo himself has dined. The Troster family built it from the ground up in 1981 and its been a staple to our community ever since. They are a kind, hardworking, salt of the earth people that don't deserve to lose everything they've worked so hard for, for 36 years which is exactly what will happen if what Cuomo is proposing is passed. I won't say much you haven't heard 100 times already because honesty it would take me 3 days and not the allotted 3 minutes to list off all of the reasons why this proposal would devastate Upstate New York starting with the misconception that most restaurant owners make and have a ton of money to support such a ridiculous demand. Understand a small fortune goes out every week and the only money coming in is the profit made on the plate of food which is pennies on the dollar because food cost is astronomical. To put it into perspective, a case of Romaine letter is somewhere in the ballpark of \$80 and you can add a zero to that number for a case of New York Strip. Now you're asking them to give the largest part of their staff a 100% increase in pay. Think about that. Many prices for a place like the Silo are as high as they can go. We serve middle class people that can't afford a \$21 omelet and a \$4 cup of coffee. This will cripple the mom and pop places we all love to go to. Your tables will donned with tablets and servers become food runners

and drink fillers. Fine dining restaurants will never be the same because the tablet can't explain what Au pwab (sounds like) sauce is or how the chef prepared the roasted duck this evening. We had planed to start the home buying process this next year but with all this rhetoric about up heaving this very industry in which I make my living that plan is now on the back burner and moving out of New York is a very real possibility. See this affects everyone around us. He is the Executive Chef at a successful restaurant in Saratoga which will now lose one of their core employees because his wife can't make a living here anymore. I'm sorry make a living here anymore the way that she knows how. Everything we've sacrificed for years; missed weekends, holidays, time with our family and friends, the wear and tear that we put on our bodies, all of it will have been for nothing if you rip this rug out from underneath us. Before I leave I need to touch on the very unreal sexual harassment accusations that _____ and his celebrity pals have had the audacity to blame as the cause for all of this. I worked both salary based and tip based jobs and I can vouch from a victim standpoint that sexual harassment occurs at both and that 90% of it happens from within house not from the guy enjoying his eggs Benedict at table 302. Sarah J. Parker and company and their misguided campaign are completely out of touch with people like myself and everyone here behind me. you are single handedly on the verge of destroying countless lives and I'm begging you please stop. And Mr. Cuomo if your real agenda is to simply find a better way to tax and track unclaimed revenue from the hardworking restaurant industry employees, shame on you for hiding under this cloak of counterfeit heroism. Do your due diligence and find a better way.

Commissioner Reardon: Thank you. Carlos Morales.

Ramona: After Carlos the next speakers are Kay Clifton, Kathleen Grebe, Kevin Dugan, Karli Bayer and Pam Winberry. Please make your way down to the front and give us copies of your testimony. After Pam, Nicole Locklin, Bill Gathen, Ryan Brennan, Denise Scherer and Anthony Rovet. Please make your way down to the front.

Commissioner Reardon: Kay Clifton?

Kay Clinton: Yep. So here I am again, Kay Clifton and thank you for hearing another testimony from me. after the Buffalo hearing a light bulb went of in my brain. Yes, I really have a brain and I use it a lot especially at work. You have a very important job to do and I understand that. I really believe that you are listening to every testimony, I hope you are. But I have to tell you that the stories are heartbreaking for both sides. There is no much repeat testimony that at times I even want to stop listening. But I haven't and I hope that you haven't either. Real quickly take a look at what I'm wearing. I want everyone to see what I'm wearing today. This is what I wear to work everyday. Correct me if I'm wrong but I don't see anything that screams I'm available except my smile. The whole sexual harassment issue is absurd. Moving on this is what I was really going to talk about 2 different issues by saving the tip credit. First, I think that this is an issue that is not black or white but there are some gray areas. I think of the hospitality and nonhospitality industry should be dealt with separately. We both have different issues. I also think that the DOL should look into the laws of people that have testified to that are

being broken. They have nothing to do with minimum wage issues. Seconded, a lot of people don't understand that the job I do is unique and requires a lot of skills. All they think oh you're just a bartender or server. If you're really good at your job in the restaurant industry, you have acquired a lot of skills that most people don't even have a clue about. The first is communication and people skills. You must greet your guests as to their needs. Parents with children or senior citizens must be dealt with differently some people like what I call silent service where I check on my guests but say nothing. Where other guests need your every attention you need to be able to think fast on your feet, multitask and problem solve while working as a team. You need to be knowledgeable about your menus, drinks, wine, any special events you have coming up and figure out how to fit it into your conversation without seeming to pressure the guests. Being a great server is a balancing act, everyday, every shift and every table is a different experience. You need to be on your toes at all times and adjust your guests needs in a moment's notice. This will not be able to happen if you do away with the tip credit. No matter how great we are at doing our jobs we simply won't be able to deliver this experience to our guests while handling twice the amount of tables, and the consumer will not understand. Please do not pass this new proposed tip law credit. The industry will never be able to handle it or be the same as it is today. Don't make me leave this industry. I love my job 99% of the time. I sit here with everyone behind me and ask you to please save our industry.

Commissioner Reardon: Thank you. Kathleen Grebe, Kathleen Grebe.

Kathleen Grebe: Hello, my name is Kathleen Grebe and I'm here today because I am a waitress at 2 West Bar and Grill up in Saratoga Springs and a full-time college student at Sienna College over in Loudonville and I support the tip credit I'm in this industry because my life as a full-time college student requires my primary focus to be school but I have to work in order to afford tuition. That's why the tip credit is so great in the restaurant industry. I only have to work about 20 hours a week and I don't have to worry about making enough money. I wouldn't be able to do that if I worked in any other industry nor would I be able to do that if the tip credit were to be eliminated. If Governor Cuomo does away with the tip credit many people believe that due to increased menu prices guests would be less inclined to tip their servers. As a result, these people feel that service will suffer guests will have a worst experience and that will exacerbate the problem of decreased tips, I don't share their optimism. Although they're probably correct in their beliefs I think they're being optimistic to think that many places will even survive this change. Menu prices will increase, product quality and portion size will probably decrease, staffing will be reduced, service will suffer and eventually, no matter how hard a business may try, many will be forced to shut down due to lack of patronage leaving us without jobs. that is exactly what happened in Maine 2 years ago which is why it lasted for less than a year and why we do not want it to happen here. I know that some people would have the public believe that restaurants do not follow laws regarding minimum wage if the server does not make enough in tips or about sexual harassment in the work places. In some cases these people may be correct but that does not equate to a reality for all or even for most of us. If it were true, no amount of money could fix harassment, certainly not for me, I think that goes for the rest of us here. restaurants

where harassment and improper pay are problems ought to be punished somehow but the owners and management of those places are the ones that should be punished not the servers and certainly not all of the servers across the state for the wrongdoings of just a few. The biggest problem that we face here today is that the restaurant industry is not the only one affected by this potential change. The other groups affected however are so different from restaurants, we can't all be lumped together. Eliminating the tip credit may be what's best for salon workers and for valets or any of the other groups that were represented here today but its definitely not what's best for the restaurant industry or for our guests. So maybe the solution is as simple as making the difference official. Separating the groups. Give them what they want without claiming that what will definitely harm us is somehow intended to help us. I know that I'm not alone when I say I love my job as a waitress just the way it is and I don't want to see this change. I fear that if the tip credit is eliminated the copy I work for will fail and I don't see how Governor Cuomo could possibly think that's a good thing. Thank you.

Commissioner Reardon: Kevin Dugan, Kevin. Karli Bayer, Pam Winberry. Oh no you did that. Nicole Locklin.

Ramona: Okay after Nicole the next speakers please make your way down, Susan Sadkowski, Tim Holmes, Joseph Graieri, Mike Veneziano and Eric Lukash. Please bring us copies of your testimony.

Nicole Locklin: At the age of 16 I started my first real job and found my first real passion, the food industry. I instantly fell in love with the fast pace and the high stress environment. I also learned about the value of relationships I formed with coworkers and customers. Then at 17 years of age I found my home, I began at Pizza Palace and remain employed there to this day. I began as a dishwasher and learned every available position in the restaurant. I was the first dishwasher and delivery driver then I became our first female cook, a waitress, a dough maker, hostess and assistant manager. I worked there for over half my life because I immediately know that not only this restaurant but this industry is where I love to be, the food industry. The lessons I have learned about people and about myself have been invaluable. If the bill that removes tip credit is forced into law it will be the death of small businesses like Pizza Palace and so many other locally owned restaurants. The rise in labor costs will be the proverbial straw that breaks the camel's back for so many especially in small towns like mine. For restaurants who try to remain open the cost of labor will be passed onto customers. Raising the minimum wage does not help food industry workers because it simply drives prices of goods and services up to compensate for the cost of higher wages. Businesses are in business to make a profit so raising wages only raises the prices. Although I don't have a solution to fix the problems of the working poor I do know that this is not it. The tipped workers I know are putting themselves through school and raising families, buying houses, cars, taking vacations and taking care of elderly relatives not only because of the money they earn but because of the flexibility our industry allows. New York is larger than New York City. There is more to our great state than the 5 boroughs. There are towns, cities, businesses and people that will be forced to move probably out of state when the inevitable death march of restaurants occurs. The scenario already occurred in San Francisco, California

last year when the minimum wage with no tip credit was raised. It proved fatal for most restaurants. They couldn't keep up with the overhead costs and has to shut their doors. According to a recent Harvard study called The Survival of the Fittest, the evidence suggests that higher minimum wage increase overall exit rates for restaurants. Since the removal of the tip credit is most likely motivated by tax revenue, how will this help anyone? Your businesses being open leads to less revenue for the state. It also means a much larger portion of people on unemployment. Although the tip credit removal might make sense for some in the service industry it will mean destruction for a large part of the service industry. It's a horrible idea and will help absolutely no one in the long run.

Commissioner Reardon: Thank you. Bill Gathen, Bill Gathen. Ryan Brennan, Denise Scherer, Anthony Rovet. Susan Sadkowski, Tim Holmes, Joseph Graieri, Mike Veneziano. There you go.

Ramona: After Mike, the next 5 speakers are Jennifer Bono, Stephen Hansman, Elizabeth Clifton, Christopher Clifton and Joseph Gallo. Please make your way down to the front.

Mike Veneziano: Good afternoon Commissioner Reardon and members of the Department of Labor, thank you for taking time today to listen to our testimony on this critical issue and that if passed would be devastating to our company as well as to the majority of the employees in the restaurant industry. My name is Mike Veneziano, VP of Finance/Government Affairs at Doherty Enterprises. Our company owns and operates 21 Applebee's and one Spuntino Wine Bar and Italian _____ throughout Nassau and Suffolk County. We are a major Long Island Employer with approximately 1500 employees. This is the 5th of 7 public hearings of which I have attended to and read news articles and heard reports on the other two and I hear what is being said today. It appears to be that approximately 95% of the restaurant industry is completely aligned and wanting to keep the tip credit in place. that in itself speaks volumes. Much of the opposition is not coming from servers in the restaurant industry but from carwash workers and nail salon workers. I definitely sympathize after hearing their testimony here as well in Farmingdale, Long Island and how their employers mistreat them. However this issue is not about the tip credit. It is clearly about their employers not obeying the labor laws that are currently in place specifically withholding tips, not paying the tip make up or for that matter not paying them at all. As such, the focus should be on the Department of Labor cracking down on the employers who are abusing their employees as well as the labor laws. Under this proposal tipped employees in the restaurant industry would make less. Its apparent in our company that the average worker server is making in excess of \$20 per hour. The governor is imposing a policy that employers are not asking for and would hurt the very employees who this proposal is directed. At I can talk to you about what this will cause Doherty Enterprises should this proposal become a reality but I will not focus on that. This is about our employees. When the tip wage on Long Island increased to \$7.50 from \$5.00 we eliminated 22 manager positions, service shifts were reduced, we increased prices and we closed 1 Applebee's. Should this proposal pass, I can assume you we will not expand any further in Long Island and in fact the most likely scenario would result in change in the way we currently do business and that would not be in a positive way. Right now, an employee can take on additional shifts, get paid out on their

tips on the same day in addition to the earning servers make on an hourly basis, flexibility is another vital reason workers enter our business. Ask any server and they will probably echo the same. In closing please advise Governor Cuomo that he is trying to change an industry practice that based on our server outreach many of our colleagues...

Commissioner Reardon: Thank you. Eric Lukash. Eric Lukash. Nope. Jennifer Bono.

Ramona: After Jennifer the next speakers are Jo Phinney, Lee Nolting, Nicole Toney, Jaymi Godbout, and Corey Mott. Please make your way down to the front.

Jennifer Bono: My name is Jennifer Bono and I'm a server in a small café restaurant in New York. I first want to thank the Board and your patience in listening to us fight against something we do not need. When it was time for me to go to college my parents told me they would help with college payments however I would have to pay for my education too. I was fortunate enough to have received some academic scholarships but I had to take out loans for the first year. By the time my second year came around I had to get working. I didn't want to be saddled with huge debt when I graduated. I wanted to be able to build my savings instead of take money out of it. Determined to reach my goal I decided to work at a local restaurant near my college. I was seeking 20 credits a semester in order to graduate early to save money and worked about 40 hours a week, first as a host and then serving. To put it in perspective, in just under 4 months I was able to pay off \$7,000 of college debt thanks to serving. I kept up with waitressing even when I started working at a paid internship. Keeping my hustle I was able to graduate early, maintain a full-time job and move out of my parent's house all within the same month. Today I'm proud to say I have no debt thanks to serving. Working for tips is how we are servers make money. Some of us make our living off tips. I understand the tip credit elimination is not a fight to eliminate tips but eliminating the tip credit will indirectly eliminate tipping as well as completely destroy the industry. Our employers won't like it because they will have to adjust menu prices just to afford to keep their restaurant staffed. They will also be forced to turn to automation replacing servers with iPads and kiosks. Guests won't like the menu prices. As a result will not come in as often. They also won't feel the need to tip as much or at all since their bills significantly increased and now also servers are making a fair wage of \$15 an hour. Servers will especially hate this because we all know we can and do make well in excess of \$15 an hour as is now. Working just as hard and making only \$15 an hour or worse being replaced by a tablet is not something that we want. To Governor Cuomo and the Department of Labor, my wish is that you leave the tip credit and the restaurant industry alone. Please don't try to fix what isn't broken.

Commissioner Reardon: Thank you. Stephen Hansman, Stephen Hansman, Elizabeth Clifton, Christopher Clifton, Joseph Gallo, Jo Phinney, Lee Nolting, Nicole Toney.

Ramona: The next speakers please make your way down to the front, Calanne Van Laeken, Kuran Van Laeken, Amy Conrad, Elizabeth Nicholson, Kirk Pahlitzsch. Please make your way down to the front and give us copies of your testimony.

Nicole Toney: I've only been in the industry for 6 years. I started out working as a hostess with no knowledge of the industry, trained and worked briefly then as a busser, a dishwasher, a front of line expeditor, a prep cook, a bartender and finally a waitress. Having worked my way around the restaurant, I've come to an understanding that every job is important in a way to keep the restaurant running efficiently. I rely heavily on my coworkers to keep me going through a shift. A busser clearing my table, a hostess filling up my water, my dishwasher to help me pick up that heavy glass rack that I'm too short to reach. I value their jobs as much as my own and I fear that if the tip credit is eliminated their jobs will be eliminated as well. I can't stress enough how much I love my job and how different for the worse it could be if this tip credit elimination goes through. I'm one of the newer employees at my current restaurant and I fear that my job position will be one of the first to go. In waitressing over the past 5 years, I've been able to get 2 degrees and a certificate. I was certified in dental assisting and I was able to maintain a 4.0 GPA in doing so while making enough money to pay out of pocket for college this far. Even with these degrees and certifications, I still choose to served over everything else. I'm going to school now to be a teacher and my plan is to continue to wait tables around school and throughout my teaching career. Waitressing with the tip credit has allowed me to worker fewer hours, fewer shifts and make just as much, if not more money than I would working in another job making minimum wage or more. In terms of sexual harassment, I've never been sexually harassed working a subminimum wage job. Before working in the restaurant industry I worked at 6 Flags Theme Park. I was not allowed to take tips there. I worked in the arcade and over the few summers working there I was sexually harassed 6 times that I could remember. As a young teenager 14, 15 years old, I was sexually harassed working a job that did not have a subminimum wage. I have not once been sexually harassed working this subminimum wage job that includes working late nights into early mornings as a bartender dealing with intoxicated guests. I feel that if the tip credit is eliminated it will alter my life and so many things will change. I fear I'll lose my job. I fear that the quality of service will decline. I fear I will no longer be able to pay for my car, my college or my vacations when I do get time off. I fear I'll never be able to purchase a house. I fear for my fiancé's job who has worked in the kitchen for 13 years. I fear for my coworkers who have kids and families of their own. We, the workers whom this directly is affecting are relying on you to save us to save our liveliness, to represent us the way we want to be presented and to keep the tip credit. Thank you.

Commissioner Reardon: Thank you. Jaymi Godbout, Jaymi Godbout, Corey Mott, Calanne Van Laeken, Kuran Van Laeken, Amy Conrad, Elizabeth Nicholson, and Kirk Pahlitzsch.

Ramona: After Kirk the next speakers please make your way down to the front, Brian McDonnell, Jason Edone, Chrissy Coyne, Julia Pratt and Vivian Pratt.

Kirk Pahlitzsch: My name is Kirk Pahlitzsch and I grew up in Brentwood, New York and live in New York. I started as a dishwasher and worked as a server and cook to pay for college. I'm now the VP of operations for Applebee's and I'm responsible for 103 locations in 4 states. We opened our last full service location in New York in 2011 after

opening numerous locations since 1996. but I've opened more in other states and 2 years last for instance. I'm responsible for over 6500 team members. We did introduce technology to increase through but to keep up with increasing expenses. We believe in our people and believe in our team's connection to the guests and community. We grow our people from within and over 40% of our managers started as hourly team member. We enjoy, as a company, one of the lowest turnovers in the industry. Our employees staff the location with family and friends, enjoying a ___ health plan, 401K with 100% matching. What is the state of our industry? You see all the price commercials of \$6.99 and \$7.99 burgers, 2 for \$20 and more. Why would these offerings exist if profit was strong? We focus very hard on keeping our pricing as low as possible to service everyone. This increase would cause certain income level families with nowhere to go out and eat as prices would increase. We worked very hard to open locations in all communities and pass on the smaller locations in 2015 in Hempstead due to uncertainty with wage and closed one in 2017. we currently are reviewing how we would pay for 200% increase since 2015 in wage rate if passed. Last time we reduced management by 22 through attrition, charities and donation levels would be reviewed. Staffing levels average volume would determine viable locations, technology is coming. Tomorrow I could turn on full menu at tables, cutting my staff by more than half in our locations. Order and pay on the phone apps, geo fencing can have our guests never touching a menu or their wallets. Tests have already been started with virtual restaurants offering delivery only. Do I want any of this? No. Please don't make me make survival decisions that hurt my family of 23 years. You asked about a backroom deal perception earlier today, my answer is simply, you call this meeting subminimum wage, it is a tip credit wage hearing. Our senators and assembly members voted for tip credit wage in 2015 representing their communities. Meetings impacting the restaurant industry, its Friday, this is the second one on a Friday, did they want us here? I support the tip credit wage and pray the perception is wrong. Don't punish the people who follow the law. I had over 120 people in Farmingdale that didn't get to testify as your staff is aware. They all focused on registering to vote as they have never before. Thank you. 4:5836

Commissioner Reardon: Brian McDonnell.

Brian McDonnell: Hi, my name is Brian McDonnell, I'm the Director of Operations at Doherty Enterprises which operates 151 restaurants in 3 states. I and my team are responsible for the 21 Applebee's restaurants on Long Island. I'm here today to testify against Governor Cuomo's decision to eliminate the tip credit in New York. I've been in the business for over 30 years. I choose this business because I enjoy the restaurant business, just like many people here today. My concern is if Governor Cuomo does eliminate the tip credit in New York he will forever change the model of this industry as we know it and what has worked for years. This judgment will change the thought process and how we need to operate and how we will need to staff our business. I'm not truly sure why Governor Cuomo is considering making change to something that's not broke. We already have a fair labor policy in place, the tip credit and tip makeup. As a company, we uphold the law 100% so all can earn a fair wage. Eliminating the tip credit means we need to pass the additional costs onto our guests, reduce the number of employees, increased pricing will result in smaller to no tips at all which will affect

service and bartender's income. As you have mentioned previously, you're not looking to eliminate tipping overall but this will materialize as our guests are paying more and aware of all employees making minimum wage. With higher menu pricing this could lead to less frequent visits by our guests and potential income for our employees. The data is clear that employees who earn tips in New York make more than minimum wage. In many cases 2 to 3 times the minimum and the law protects those that don't. The recent minimal wage increase in New York already had a huge impact on our business, since the increase we were forced to reduce our employee payroll and base by more than 90 employees, as well as the 22 managers that we had to reduce. An additional cost to this business will continue to have us consider how we need to do business and if we should consider to do business in New York or focus on the other states we operate in. This will not only affect how we operate as a company but many other restaurants in New York. Smaller businesses will be hit even harder. With the reference to sexual harassment that ROC presents, sexual harassment is not and has never been an issue in our restaurant. We teach, we train, we manage against all types of harassment. We must protect all our employees whether there is a tipping system or not. This shouldn't be confused with fair pay. Furthermore technology will be rolled out much quicker than expected. We are in the people business but with the increased cost to our business, being forced to reduce staffing levels, we will have no option but to rely on technology even more. I'm not truly sure if this is the legacy Governor Cuomo wants to be known for. I'm not just here supporting my employees and the industry work force; I'm also here for my job. This will affect me and every other level in the hospitality business. We have a saying in our company; if it's broken fix it. This is to ensure the staff and guests are happy. Governor Cuomo, there's nothing broken and we don't need anything fixed.

Commissioner Reardon: Thank you. Jason Edone, Jason Edone, Chrissy Coyne.

The next speakers please make your way down to the front, Alice Broderick, Melissa Vohnoutka, Sarah Sabers, and Nicholas Moon.

Chrissy Coyne: Good afternoon, thank you for having me. First off, I talk to hundreds of people a day and I'm never nervous and somehow just four people is making me extremely nervous so bear with me. Hello, my name is Chrissy Coyne. I am from Long Island, New York and I've been in the industry for over 25 years. Today will be about a 16 hour day with the commute and I just think that it's totally worth it for the 3 minutes that I have here today. With that said, I don't think there's anything left to say that you haven't heard yet today. I wish I could have spoken earlier and all those people today that are treated unfairly could see it's not the industry, it's their employer. If they heard all of us speak today and if they would have stayed, they would know it is the people they are working for. It's a shame they came here for this and not to you earlier with their issues. We have so many labor laws in place to ensure people get breaks, paid minimum wage if tips don't present themselves and also the spread of hours laws that are in place. I feel that we're looking to add changing laws because of bad bosses. The bad bosses won't change with the new laws. If they're not following the current laws, why would they follow them now? Spread of hours in itself was something that I didn't know about or ask for but we as servers weren't aware and it slipped in. Spread of hours changed our

industry. We can't work as much as we want when we want to or without our employer paying the price, therefore we can't work the shifts we want and are forced to sometimes work two jobs. I see this is history repeating itself again. Another change to our industry that we do not need. If we keep changing the industry, we'll be eliminating the jobs and places for our guests to go, prices will increase as you have heard and service will decrease. People go out to eat for the experience. We, as servers create an experience for the guests and cater to each guest based on their need. There will be fewer servers to create that experience which will lead us to less reason for them to tip. If we eliminate tip credit and everyone makes the same wage, people will not tip, servers will no longer create the experience for the guest and everyone will repeatedly have the same boring, less engaging experience. Seriously, when have you seen this many people come together and beg you not to increase their hourly rate. When we go to a place where employees make minimum wage you typically don't tip. The thought of people who still tip is truly not realistic. If you go to McDonald's, a bagel store, they do not tip and they now have tablets. I work for a bagel store and I serve the people at the tables and I brought them their drinks and they never tipped because they said, "That's your job." They didn't think to tip and that's what will happen. So fighting for increased minimum wage has pulled together the staff, the management, the republicans the democrats, that in itself should be the testimony alone. Lastly, I find it hard to believe that increased minimum wage will stop men from harassing women.

Commissioner Reardon: Thank you. Julia Pratt, Vivian Pratt, Alice Broderick, Melissa Vohnoutka,

Melissa Vohnoutka: Hello, I am Melissa Vohnoutka I'm a server and a bartender in Saratoga Springs. I'm here to say that I do not support removal of the tip credit in New York State. I 100% support the system we have in place now. It has worked very well for me and my family for the last 6 years. I am able to have a flexible schedule. I can move my schedule around for my children. I do not need to pay for sitters because I'm home with them. I'm able to support my family with the tips I make which I'm very happy to earn. I'm able to provide a nice home for my family, pay for sports and field trips and take my kids on vacation. I'm able to have a very nice life with my family. We absolutely do not live in poverty. And to have people say we live in poverty is so far from the truth. Removing the tip credit I fear will then cause a lot of people to actually live in poverty. Raising the wages for servers is going to hurt the industry I feel beyond repair. Menu prices will go up, our regulars will come out less, sales will go down, back of house will get less raises, restaurants will close and people will be out of a job. The unemployment rate in the state will go up and more people will have to go on assistance. One of the things I love about this industry is I have the ability to make as much money as I want. Single parents can afford life without being on assistance. I can help my kids pay for college. This industry has helped so many bright minds through school. We have college students that just come and work the summers and have enough money to pay for their classes and books with minimal student loans, less debt for the next generation I would think is a good thing. In my restaurant the people I work with have become my family. We support each other at work and outside of work and to fear that the removal of the tip credit could hurt my family it hurts my heart. In all the reports focusing on the

Me Too movement of sexual harassment in this industry is flat out untrue. To say that a woman has to deal with sexual harassment from a guest in fear of not getting her tip is the silliest thing. In my restaurant I work with the strongest women I've ever met. I as a woman can personally say that even if you remove the tip credit, people are going to harass who they want. They don't care how much money we are making or if its fair wage. I'm a very strong woman and I refuse to deal with such acts. I also refuse to stay quiet when the government and opposing side are putting out reports saying that eliminating the tip credit is to protect us from such acts. At my restaurant such acts are never tolerated. We have such a great management team that take care and stand by their team. So please listen to us, we are speaking out for what we want and love. Thank you

Commissioner Reardon: Thank you very much. Sarah Sabers, and Nicholas Moon.

Ramona; The next speakers, please make your way down to the floor, to the front, Jessica Diaz, Kate Priest, Nate Reardon, Aletea, DeCuffa-Morales, and Elias Hammann.

Nicholas Moon: So you say this isn't about the number of us in the room, it most certainly is. Your job is to ensure that labor laws do right by the masses. I've been to 5 years where we outnumber the opposition at least 4 to 1. You're telling me that the hundreds of testimonies you've heard beginning and pleading to leave us along don't matter in comparison to the few that plead poverty and speak proven falsities. That the tens of thousands we speak for don't matter in comparison to the few that claim there will be no consequence? Here's a simple solution ROC get a different job. The majority of us make much, much more than minimum wage and are more than happy with our jobs. If this were a vote the number of heads certainly would matter so why don't they now when we're here pleading our cases? The point of sexual harassment is absurd. Sexual harassment happens across the continental US. According to the New York Times, New York has the lowest sexual harassment rates throughout restaurants than any of the 7 states that have eliminated the tip credit. Eliminating the tip credit simply will not eliminate sexual harassment. To believe such a thing you must be truly naive. A raise in our pay will not derail the sexual prowess of the perverts that victimize men and women no matter where they work. On the note of the 7 states without the tip credit, they are not New York plain and simple. You can't compare us to the other states and what they've done over the stretch of decades when we're speaking of doing the same thing in a matter of 5 years. This is New York here and now and I'm here now to remind you how the action of eliminating the tip credit and spiking pay so drastically overnight could eliminate tens of thousands of jobs across the state. Spiking unemployment rates, increasing taxes surely because of all the money New York will lose from the loss of those income taxes and the money that will be needed to cover the costs of state benefits for the unemployed. Where will that money come from then? Who's this good for? The people that are here that don't like their job, get another one. Go somewhere else where you can make a good living like the rest of us. It's that simple. The state and industry is going to lose far more than there is to gain. Leave us alone. We're fine the way we are making the money we make and living the lifestyles our jobs allows us to live. We're not victims. We made the choice to make subminimum wage fully aware our wage would be determined upon our skill levels. I started as a buser at Oliver Garden in Queensbury and

I am now the Captain of front of the house staff at a prestigious restaurant covering all bases; serving, bartender, busing and hosting in Saratoga Springs working for the most kind and generous man I've ever had the pleasure of calling not only my boss but my friend. I earned my spot by working to the top not by idly standing by, learning and growing and making myself better in every aspect of my job, as have most of the people in this room. Takes our numbers into consideration and help us save this industry. Help us save our state. People are leaving this state as quick as my hair's leaving my head and it will only get worse once people lose their jobs or lose interest in working in the restaurants across the state. Millions of people we're talking about. It's your job to do right by the masses and we the men and women in the industry that favor the tip credit are the majority here. This is week 5 and we are reminding you that we do need your help. The hospitality industry will crumble. The industry I grew up in and thrive in the industry that gives everybody an equal opportunity to make just as much as others with college degrees. The industry that gives us the industry to prosper and flourish.

Commissioner Reardon: Thank you. Jessica Diaz.

Jessica Diaz: Hello Jessica Diaz here for the 5th time with you. After I'm done we'll have spent a quarter of an hour together or at least you listening to what I have to say anyways. So, I haven't had this much stress in my life since I was in college where I then developed stress induced asthma. Well here I am having a hard time breathing again. This is very stressful for me and every time I drive to a different hearing I see the signs that were well spent, shall we say on advertisement for New York State Wine, New York State Eating and all these signs that keep promoting the drinking and the eating that we're here to provide that may no longer be the case. I feel this particular conversation with you, like I've said I've saturated so many facts and everything that I think I just want to say that I don't know how long my time in New York will be, how much longer I'll be here if this is the case. I've already said, I'm college educated. I think this job, it's a transferable skill to different states. I may have to go somewhere else. I will no longer be a resident of New York along with the almost million people that have left the state already. It's fact. I've lived in other states, California, Arizona, Alaska and I've always been a proud New Yorker for the reasons why most people don't like New Yorkers, we're loud, we have big personalities, we believe in whatever we believe in to the fullest. It's one or the other, it 0 to 100 with New Yorkers and I love that about us and that's part of why I came back to New York because I felt like I was back home. I've been here for a few years now and I honestly feel like I don't know if this is home anymore. I don't feel like my thoughts and my concerns and my life and stuff like that's really been of value to others anymore. The money is talking more than anything else. I'll be honest with you, this thing with Sarah Jessica Parker is Monday and I saw that the plate tickets are anywhere from \$500 to \$50,000. I mean that's just like, where is the money going be going to? And I guess when I think about this gala and all the celebrities and everything, you four up here right now and Governor Cuomo are the four making the decision. Not anybody else. It's the 4 of you witnessing all that you've seen from us not any of these other elite members which I may add are not here again. And we are all here again to show you how important this is to us. So when you think about these decisions, I'd like you to honestly think about the individuals that you've seen day in and day out from 1 to

5, 6, 7 all these hearings. The actual human beings that are here in front of you with \$5 or \$50,000 it doesn't matter, it's our voices, it's our jobs. we're here as people asking you to really think about the bottom line what New York is going to lose.

Commissioner Reardon: Thank you. Nate Reardon.

Nate Reardon: Good afternoon. I would like to begin today by referencing some of those statements made by folks earlier about extremely low earnings, low hours and spending 5 years at a job where pay only goes down. There's law and rules in place regarding show up pay, make up pay, 10 hour spreads, overtime, maybe 20 rules etc. So when it comes to the ability to find employment in New York State, we look at New York State as having in 2009 8.9% unemployment to April 2018 to 4.6% unemployment. As of March of 2018, there were over 1.1 million job postings in the Northeast region. So I say let the job market dictate your employment value and earning potential not the State of New York. For those speaking of wage theft, unaddressed harassment claims, poor working conditions and unpaid hours, these are laws being broken that a change in pay rate will not solve. If you're looking to resolve these issues you have brought up, you can easily report those violations to the New York State Department of Labor. If Cuomo truly wants to make a difference in the lives of his constituents it would seem to be more impactful if he focuses his efforts on enforcement of laws and regulations already in place. Cheaters will always cheat no matter what wage you ask them to pay. Please go after those breaking the laws rather than those abiding by them. As I stated before, there are literally over 1 million jobs open. We already have numerous labor laws and regulations in place to protect workers pay work environment and quality of life. If your job does not take care of you, either report them or leave. I know I'm always looking for great people. Now I employ over 75 people right now. They're my family and all the time they're treated with dignity, compassion and respect. I'm truly grateful for the pride, passion and personalities they bring to work each day. Many have blessed me by being with me for years, our family is always welcoming new members. For many this is their only source of income. They make an income that meets or exceeds their basic needs. They stay for the people they work with, they stay for the guests they have the pleasure of interacting with each day. They stay because the industry supports their lifestyle as they enjoy flexibility and scheduling, time off whenever they want or need it and an income that allows for all of this to be possible for them. If this does go through, there will certainly be a period of retraction prior to any potential growth. How much this regulation will negative impact the hospitality industry is quite challenging to predict as we have, as mentioned several times earlier, never seen such a large wage increase over such a short period of time. Please allow our industry a moment to catch up to where we were prior to the last wage increase before we're forced to attempt to absorb even higher payroll costs. This will certainly cause jobs in the short-term as others have stated today, restaurants will continue to invest in technology rather than in people when faced with payroll increases. Who knows if these lost jobs will ever return? New York is making it increasingly difficult to provide that world class hospitality and its tourism industry thrives on. It's not a version of New York State that I dreamt of when I was growing up here. Thank you.

Commissioner Reardon: Thank you very much. Aletea, DeCuffa-Morales.

Ramona: The next speakers please make your way down to the front, Donald McKinney, Michaela Johnson, Patricia Jensen, Stephen Sullivan, and Shawn Moran.

Aletea DeCuffa-Morales: I'm number 124 from Syracuse. In Syracuse you heard my story now I would like you to hear my opinion. It's absolutely appalling that this issue has taken up so much time and taxpayer money. The math is simple, higher wage equals less jobs. If that hasn't been proved to you by now from hundreds of testimonies, I don't know what else to say to make you understand. I sit here before you in my uniform looking exactly as I do when I go to work. I've never been asking to look any different. Saru has publicly said that managers have asked her servers to dress more revealing. I mean how can you even begin to make this look sexy? Frankly my husband doesn't even find this look appealing. So hashtag Me Too, thanks but no thanks. And speaking of Saru Roc, plain and simple, they lie. I find it very convenient that all of Saru's studies were done by her own means and control. Hell if that's the case I could sway the outcome to say whatever I wanted to also. And where is ROC's fearless leader? Want to know where mine is, right there. Maggie Raczynski has been at every hearing and contacts us daily traveling the state leading us to fight this asinine proposal. And not for nothing but us restaurant people have been doing all of this on our own time and our own dime, accepting no monetary compensation unlike the opposition. Which leads me to this obnoxious gala being held by Sarah Jessica Parker in support of one fair wage. It's disgusting. How about a gala for the homeless, the wounded vets or local schools. Put money towards issues that really matter and not this issue because there is no issue. Leave the tip credit alone. I've never been a political person, actually only voted in two presidential elections, but you better believe that I will be front and center this November and will not be in favor of the Governor if this passes. Close to 300 restaurants closed solely due to the 2016 wage increase. Doesn't that tell you something? I mean come on. I assume you are all highly educated people. Please look at the facts and not the misconstrued lies and data that Saru and ROC put out there. I would never tell you or anyone else how to do your job or how your industry works. With all due respect, please reciprocate the gesture and don't tell us how to do ours. According to Saru's data, 70% of restaurant workers are women and if this passes, that 70% will be the ones getting hours cut and positions eliminated. It's ironic that a governor that presents himself as a champion of women is advocating this anti-woman bill. My husband is Hispanic. My father owns a restaurant and is married to a Japanese woman, my stepbrothers are Japanese and we all have worked and been treated with as much dignity and respect as any white person working at our restaurant. So Saru let's not pull the race card. If you are a tipped restaurant employee and you can't make \$2.90 an hour to reach minimum wage, please do yourself a favor and find a new career path. If you're being mistreated in anyway don't play the victim but rather be your own hero. A few extra bucks an hour is not going to stop people from being racist, bigots, pervert or corrupt but what it will do is put a huge hole in the hospitality industry. Whatever happened to New York State supporting small businesses? Cause those businesses are the ones that you'll destroy if the tip credit is eliminated.

Commissioner Reardon: Thank you. Elias Hammann. Elias Hamman. Donald McKinney, Michaela Johnson.

Michaela Johnson: Good afternoon thank you for taking the time to meet with us. My name is Michaela, we met at Syracuse and I'm back again to share some more. So it's stated that we are not exploring removing tipping. While in an ideal world we could guarantee that but we live in this world. We cannot guarantee what this will do to our tips. When the rate was increased to \$7.50 an hour my staff noticed a decline in tip. Why? Multiple factors. The general public may think and some have expressed to my staff that with the higher wage the need for tips to be that high or to be there at all may not be necessary, the price of the menu items go up to cover that wage gap as well, therefore surprising my guests with a higher check when they come out to dinner. Now where I live in New York State we are a very shall I say value conscious group. We live on budgets, which is true we all do. But the amount of unhappy guests that I've had to deal with over the last few months because we've had to raise our prices, I've lost count. Sales have dropped because our value conscious customers are going to visit more affordable options that don't require the tipping. Sales drop the number of hours I have available for my staff drop, the number of jobs that I have drops. And they and their families will have to find extra or other employment to meet their needs. We've heard throughout the day the issues of wage theft, sexual harassment that are thought to be corrected to a higher wage. The last time I checked those were already illegal. So we have these systems in place that just need to be enforced. I plead to you to follow through and protect your workers, fix bad business, fix bad bosses, don't fix an industry that doesn't need to be fixed. Please don't clump us together with carwash workers and nail techs, we are individual industries with individual needs and attentions that need to be given.

Commissioner Reardon: Patricia Jensen, Patricia Jensen, Stephen Sullivan.

Ramona: The next speakers please make your way down to the front, Josh Kroner, Michelle Soroka, Heather Clark, Michael Grzybowski, and James McReynolds.

Stephen Sullivan: Good afternoon, my name is Steve Sullivan. My wife Yvonne Cinnamon and our partner Dave Powers own the O'Brien and Long Fellows Hotel and Restaurant in Saratoga Springs. We've been in business for over 39 years and we have the pleasure of working with 185 of the most talented and wonderful men and women in our industry. I believe that you've met some of them seated behind us in Long Island, Watertown, Syracuse, Buffalo and now in Albany. I'm the second-generation American citizen both my mother's and father's parents emigrated to the United States from Canada in the early 20s. They came here individually with a suitcase and a dream. They worked hard, they had a deep and abiding faith, and were determined to have a better life here than where they came from. They met the loves of their lives, they married, had children, raised them to believe they could do it too and they did. I'm the first of my family to graduate from college; I helped put myself through school washing dishes, tending bar, waiting on tables. My father told each of his 5 children that we could do or be anything we wanted to be a along as we were will to work hard, have faith that you're never alone,

treat all you meet with respect, deliver more than is expected of you, pull yourself to a higher standard and assist those less fortunate and you will be successful in whatever you choose to do. Advice given over 50 years ago. It still rings true today. The American dream, the American way. Many operators in our industry have similar stories, in fact ours is one of the few left where anyone can come with a limited education, applying hard work with a dream, passion and the recipe for success I described earlier and own your own restaurant. In 2016 New York State signed into law a 50% increase in wages for tipped employees from \$5 to \$7.50 an hour. 2 years later they are discussing the total elimination of the tip credit and moving the minimum wage to \$11.10 an hour. My question to you is, how does any industry sustain a force 120% increase from \$5 to \$11.10 an hour for over 50% of their employees over a 3 year period and then track it to \$15 an hour. By our calculations that increase will cost our businesses over that 3 years period beginning in 2019 somewhere around half a million dollars. There is just not that kind of profit on our business. I have many more yesterdays than I will ever have tomorrows and as I sit here today I wonder what happened to our state? At one time I thought of the state as a good partner with our business, giving as well as receiving, today not so much. The unintended consequences of a decision like this, those restaurants that are hanging on by a thin thread will go out of business immediately. Our prices will have to increase 30% that \$13 hamburger will become \$17. our customer business will be lower, will generate less revenue in sales tax and the state will lose revenue due to lower taxes on tips. President Lincoln in his address at Gettysburg stated that "Government for the people, by the people shall not perish from the earth." You have heard the testimony from so many hard working men and women who depend on these jobs to support themselves and their families...

Commissioner Reardon: Thank you. Shawn Moran. Shawn Moran. Josh Kroner, Michelle Soroka.

Michelle Soroka: Hi and thank you for taking the time to listen to me. My name is Michelle Soroka and I've worked at Applebee's for 11 years. I apologize now if I get a bit emotional. This is a situation I never thought I'd be in. I wasn't sure if I was going to approach this hearing sad, scared, angry. I realized I'm all of them. I never thought I had to defend an industry that I choose to be in. The industry that I love. I come to you as a bartender, server and expo, a manager, a mother with a Masters Degree I choose not to use. When I took this job 11 years ago I was aware of how much I'd be paid and I still choose to accept the job. Why? Because its not about my hourly rate. It's about how amazing this job is, the family you become, the friends you meet and the joy of working with people. I love what I do, I wouldn't change a thing. This industry is not for the weak. The opposition claims unfair wages and sexual harassment issues for women, well I'm a woman and I can promise you that harassment exists everywhere. I can also promise you I don't feel the need to extort myself for tips. I'm a strong woman who will not flaunt herself for money. What I will do, is I'll ask how your day is I'll be your friend, how your kids are. I'll give you my honest opinion on the ribs today and listen if you need to talk. I'll give you the best service that I can. I willing work to earn my tips, I'll not worry about my hourly wage because I enjoy earning them and can do so well. Again, this industry is not for the weak for those unwilling to work. Eliminating the tip

credit will affect my whole industry family and not jus the front of house. Increase in prices, decrease in staff and decrease in the level of service we'll be able to provide. Over 40 states currently have the tip credit and as you've heard many have had it taken away and fought to bring it back due to all of the negative effects. ROC is cofounded by someone who has no real concept of what the real industry is like or what a restaurant family is. If she did she would never do this to them. if you have never worked a clopen which is close-open for those of you that don't know, a Valentine's Day double, picked up a shift for a friend even though you just worked two doubles in a row or served free meals to veterans on Veterans Day, you do not speak for me. Again, this industry is not for the weak. If you do not like the hourly rate, there are other options out there, please go find them. This is like no other industry and that is why I love it. The tip credit system is not broken and does not need to be fixed. Those that do not understand it should not be fighting to change it. I would never go around fighting to change how your job is handled because I've never done it. So until you have done mine and truly see how devastating this would be, please leave the tip credit alone because its not broken. Thank you.

Commissioner Reardon: Thank you. Heather Clark, Michael Grzyboski, James McCreynolds.

Ramona: Next speakers please make your way down to the front.

Commissioner Reardon: Are you Heather?

Heather Clark: Sorry, I didn't hear you.

Commissioner Reardon: Switch places and then James.

Commissioner Reardon: Thank you. James McCreynolds.

Heather Clark: Hi I'm Heather Clark I am a native of Lake Placid, New York a.k.a. the Olympic Village and while I could have come to speak about fear of my full-time job of 17 years as a server I decided to talk about my fear for the other small businesses of my town and my town in general. Main Street alone has about 25 restaurants, all independently owned, small businesses. I've talked to them a lot of them are going to have to shut down. And you're crushing the dreams of the people that opened these restaurants. Even having to change to counter service or something goes against their vision, what they waned to do when they opened. And as those places close, of course, foot traffic is going to go down and that's going to hurt the other businesses; small shops and my grandfather's movie theater. So places will be boarded up and then the town won't be able to really pitch about our beautiful downtown, to events and conferences to everything else will eventually just disappear. Like my grandmother said, we're going to become a ghost town. Keeping it short and sweet.

Commissioner Reardon: James.

Ramona: Next speakers please make your way down to the front, James Casey, Sara Porter, Jeremy Eberhardt, Megan Bateson and Kimberly Zuppelli.

James McCreynolds: Thank you very much for your patience and your willingness to allow us to voice our opinions on such an important and controversial matter. My name is James McCreynolds, the General Manager of the Adirondack Brewery in Lake George. First let me lead off by making this clear, harassment has never been tolerated in a restaurant I've ever been a part of in my entire 20 years in this industry and it will never be appropriate anywhere. Okay. And for those who have leeches onto this industry or this issue to gain mainstream media coverage is also embarrassing and they should be in shame for doing so. To imply that tipping leads to harassment and increasing one's hourly wage will somehow magically stop harassment is both factually not accurate and borderline delusional. May I also add my wife is a bartender of 20 years and who continues to stay in this industry for the great pay, flexibility and the financial benefits it brings to our growing family. I am not a greedy manager who is out to take advantage of anyone. I am truly concerned about the negative effect this is going to have on the very hard working individual it wants to help including my wife and the industry I also work in. I understand Governor Cuomo is not eliminating tips but he is most certainly limiting the full service model that promotes and sustains tipping. The fastest growing models of the restaurants in this country are quick service, no server models. Why? Because it is not cheap to have someone bring a glass of water to a table. It is not cheap to have someone get you a napkin while you are out to dinner on your date night with your spouse. This is where the tip credit comes in. It is a partnership between the restaurant and the employee. It is not so owners and managers can get rich off of cheap labor as some well funded pro-union lobbyist groups might have you understanding and believing throughout the news. New York State already has laws that protect minimum wage. If you don't earn it in tips you are paid a makeup pay. This is a law the Department of Labor has. I suggest it gets enforced. New York State already has a lower rate of sexual harassments in restaurants than any other states that have a higher minimum wage for tipped employees. This is an issue that is not needed, why are we bringing it up? Upstate New York is not New York City, it is not San Francisco or any heavily populated cities it is involved with. These restaurants are passed down from generation to generation and a purpose, I lost my spot. It will most certainly hurt the very businesses they wish to have. The one thing you have to understand that's very, very clear right now is look around. No one that is actually in the restaurant industry is asking for this. It doesn't make any sense at all financially or managerially. I have had an ad in the paper for almost 3 years for kitchen staff. You know how many ads I've put in the paper for front of house? The answer is zero. It is a great job, extremely well paying and very, very rewarding. Don't take that away from this industry. Thank you.

Commissioner Reardon: Thank you. James Casey, Sara Porter, Jeremy Eberhardt.

Ramona; Next speakers please make your way down to the front, Kailey Gyorffy, Laura Halperin, James Giaccone, Mackenzie Bevin and Joedy Hill.

Jeremy Eberhardt: My name is Jeremy Eberhardt, I work for Applebee's East Greenbush in New York here and I'm representing some wonderful people. Wonderful and worried people. I work for a proper pay. I work for a tipped wage and I support keeping it separate from the full real minimum wage. The phrase subminimum wage is an unfinished thought and is just propaganda. We always make at least the full minimum wage and a lot of the time we can take way more than that home. What is being proposed will act as a pay cut for the workers in this industry. When our wages last went up, our restaurant lost diversities, support staff and available shifts. Customers mistakenly though we were already getting paid minimum wage and we no longer relied mainly on our tips. My pay did not increase. If I really need to I can show you the W2s to prove that. It deeply saddens me that there are those still being taken advantage of in this industry., I want them to have the same freedom and pride in their work that I do. But combining these wages does not directly address the issues being raised and every proposed benefit is indirect and thus not good enough to solve those problems. There are laws presently in place in New York to prevent bad practices in the workplace and they need enforcing to help my peers. These problems deserve legislative fixing but then again that would be hard work, work I would be glad to help out with. This job has afforded me chances to go to DC and New York City for numerous marches and social events to be a proponent for good change in our society. I can't imagine being afforded that opportunity if this is implemented. Our opponents have distorted this conversation since it began. Those behind the proposal do not have our best interests at heart. They seem to disregard the math involved. This cost of increase will fall on the customers and the employees and lots of organizations will close, restaurants mostly. They hope to cause calamity for specific reason just so they can create a problem for us needing solving at that point and unionize us. They have said this is their end game in eliminating the practice of tipping altogether as well. Our opponents also claim the tip wage credit is tricky and difficult to understand. That is patronizing and not a legitimate basis for upending an entire structure for pay for a workforce. That argument instead belies the other true motive for the change, Cuomo thinks New York is not getting their full cut in the form of taxes. It won't end up increasing the tax revenue if we don't have employees to take taxes from and places are closing. This occupation give its employees more power and freedom through out pay than most others. Employers do not control our money, we do. Why do our opponents not point to Maine as a success for eliminating the tip wage credit? It was a colossal failure and had to be walked back within a year. Do we really need a repeat of the New York Tourism sign debacle? If Cuomo really wanted egg on his face that bad, Applebee's has a really good all day brunch burger. If this change is approved, we will not go away. We will continue to fight for each other. We will take care of each other even the ones on the other side.

Commissioner Reardon: Thank you. Megan Bateson, Megan Bateson, Kimberly Zuppelli, Kailey Gyorffy, Laura Halperin.

Laura Halperin: Hi, good day. My name is Laura Halperin. I drove from Rochester, New York, this morning. I also grew up in Rochester, New York. In 1993, I moved to Metropolitan Detroit where I was a medical office assistant, was married and raised my two sons. I divorced my husband and came back to my hometown of Rochester in 2016.

I became a server at the Outback Steakhouse as means to reacquaint myself with the new area even though I grew up there, and I love serving. It is a great way for me to make money and I'm really good at it. Since I've returned I noticed many of the businesses have left, Kodak, Xerox, Bausch & Lomb are a few examples of the businesses that are no longer there or they are in the same capacity. It appears Rochester is in the process of a Renaissance. I am opposed to the elimination of the tip credit wage. For starters, most of the State of New York seems to be in the process of rebuilding. It has been my experience, at least in the Metropolitan Detroit area, people watch the money they spend during these times making the dining experiences more expensive at this time when every penny matters to the common folk will surely hurt businesses. We need our businesses to stay here and open. New York State is already one of the top five states for people to leave relocating to other parts of this country. New York is already an expensive state to live in where most people I know work more than one job. The \$10.40 minimum wage is not enough at all for anyone. I have heard others speak that agree with the elimination of the tip credit wage compare New York State top the other seven states that have implemented this into law. First and foremost, their revenues are far different than New York State. Each one of those states has growing economies; their sales tax are all under 8%. Three of those states have no sales tax at all and states with no economical struggle, a law like this could and would work. New Yorkers have a national reputation of being tough and innovative, progressive and strong. I fear that apply such a law when Upstate New York needs to attract new businesses and rebuild the economy, it will have the opposite effect. It may drive more people to flee in order to pass such a law effectively, we need a stronger economy. I urge you to reconsider putting this into proposal into law. It is just not good business practice at this time. Thank you for listening and please do the right thing for New York. Make it a place where businesses want to come, where people want to move and spend their money, and I really, really...

Commissioner Reardon: James Biacone. James Biacone?

James Biacone: Hello Commissioner and Labor Board. Thank you for the opportunity to speak. I've changed my typed version a little bit to modify with what I heard today. I'm James Biacone. I've been operating a restaurant in Albany County for over 35 years and have been involved in one in Rensselaer County for over 19 years. I strongly oppose you even considering taking away the tip credit and then a new writing in the restaurant industry. The increase you passed three years ago from \$5.00 to \$7.50 server wage has had a tough impact on our business already. When we were paying people in the front of the house more money, wait staff and bartenders who make more money, it is more difficult to pay the people in the back house, the cooks, food prep more money. Simple economics. As earlier stated, it creates a larger gap. In addition to this, you already set the wage rate at two-thirds the state minimum phased in over time. The current system works and I can't figure out why you guy always want to change things that work and the model that works in our industry. To make it clear, more clear, it's harder to give the cooks in the back of the house wage increases as labor costs have become a major component in a challenged industry. For many years there is always food costs components and now labor is becoming the number one component. Have any of you ever worked in restaurants or small business for more than five years? Please do not take

away the tip credit in our industry. Negative impacts it would have is raising menu prices, payroll keeps going up, food costs are uncertain, hard to give the kitchen guys more money. The food cooks, food prep personnel, the dishwashers work long hours usually physically more demanding and also in a hotter environment. When is enough enough? Your answer being given to new business and changes are being made in zoning regulations with more places to eat and more communities with no real increase in population and therefore, the pie just keeps getting smaller for the hardworking. Do you ever wonder why people are leaving New York? Tablets are already popping up in small food places eliminating jobs. This will become more a norm, ordering off of a machine instead of a human service, making the patrons experience cold and less inviting but keeping restaurants afloat, hopefully in the long run. I strongly oppose the elimination of the tip credit. Please leave the full service restaurants the way they are. Thank you.

Commissioner Reardon: Mackenzie Bevan. Nope? Joedy Hill.

Ramona: The next five speakers please make your way down to the front: Elizabeth Golden, Caitlin Bailey, Kristen Flores-Fratto, Michael Corson, and Ellie Grenauer.

Joedy Hill: Good Afternoon. Here we meet again. This is my fourth trip. I've been sitting here all day listening. I really don't have much of a choice because I torn my ACL on Friday, but I am here and I'm not giving up. I don't really want to keep saying the same things that I've heard all day long so I took my time and I learned how to use my iPhone and Google and I found a few interesting little items and one of which was the tip credit being eliminated in California and they are telling us how wonderful California thinks it is. Well, not so much. A proposal from Governor Andrew Cuomo to eliminate New York's tip credit has worried restaurateurs who are already reeling from the recent wage hikes. Cuomo's Council, Alphonso David, recently dismissed these concerns by pointing West. California as an example does not have a tip wage and the sky didn't fall, he said in a forum. David might want to take a closer look at the data. For many California restaurants and their employees, the sky has indeed fallen. These people that don't understand this, they think that everything is great, it is not. I also found a few other things of interest. If we, us tipped workers, lose this battle and are forced to accept minimum wage, many may be forced to look to welfare for assistance and as a New York Post Ad so nicely put it, here's an offer, you can make \$38,000 in cash in resource services a year, tax free, with no work required. That's right, no work required. Just apply at your local Welfare Office, and this is more money than the entry level salary for a teacher in New York State. Not good. We have to make at least \$21.00 an hour to make what they are receiving in benefits. Not good. Our income wages are taxed. Theirs are not. So in reality, we aren't anywhere near a living wage. If I have to work for your so called wage increase, then Governor Cuomo better come up with a livable wage and make it more than just a Welfare wage. Again, Maggie, our illustrious leader rallied over 20,000 followers in just a few months so I'm sure that, I don't know what Mr. Cuomo's agenda is, I don't know why he wants this, if it's a money thing, maybe he should think about one of these days when our Quick Draw machines are down for one day, we can do it. This is not a threat. It's a promise. We are going to make a

difference. We are going to hit it where it's going to hurt; in his wallet. We will survive. We will make a difference. Thank you.

Commissioner Reardon: Elizabeth Golden

Elizabeth Golden: Good Afternoon you guys, thank you for listening to us again. My name is Elizabeth Golden. I've been in this business for 40 years. I'm a restaurant and bar owner and I'm back again. I do employ over 40 people during my busy time which is only about three months in the area I live in. I would hate to have to close down and lose my business and put people off and on unemployment. We are presently at a record high for unemployment and welfare in this state and I do not want to become a statistic. My payroll has increased over \$320,000 over the 10 year period. I cannot absorb much more. You guys have a sign here that says we are not exploring eliminating tipping. I do live on the Canadian border and the servers in Canada do make between \$9.00 and \$10.00 an hour. They are the world's worst tippers. Trust me. These people will lose their tips when people know that they are going to get paid a higher wage. I have to ask why are we fighting so hard to keep our businesses open and keep our employees with a job? It should be our choice to give raises to our employees who are deserving of a raise. Yes, this is based on performance, our sales, and what we can afford. The Government should not be able to dictate how we operate our businesses or make financial decisions for us. At the end of the day, I am the one who has to be able to pay my employees and pay my bills. The minimum wage now has put a tremendous burden on my business and you've already made the bad decision to keep it going to \$12.50 an hour. I probably will not be here. I am actually looking to move south which is very sad; I have lived here my entire life. As you know the area I live it is very limited. There are many factors: weather, population, a very short three-month tourist season, and we have a very high people living on welfare and assistance. Mother Nature such as the flooding and our very cold long winter months, just to share as I told you last time, I as paying a \$1,000 a week just for fuel. Yes, New York City might be able to make this move. Everything in New York City is much more expensive. We need to look at geographic locations but we cannot afford this. Governor Cuomo please count the people who have left the state. Your job as a leader is to help businesses thrive in this state. You have failed miserably and you are continuing to fail. Please do not hurt our state anymore before your job as a politician is done. I do hope you do not run for Governor again; I will not vote for you. I will vote for anybody but you. We cannot support your agenda. I have to laugh about his false advertising that New York is open for business. Many of us will be gone soon based on Government requirements and interference. Thank you for your time.

Commissioner Reardon: Thank you. Caitlin Bailey. Caitlin Bailey?

Caitlin Bailey: Hello again Commissioner Reardon and esteemed members of the Department of Labor. Thank you for your time today. Today I'm here to tell you that I do not support the elimination of the tip credit and here is why: Number One: This will have severe negative impact on the restaurant industry. Eliminating the tip credit will decrease the amount of shifts available for staff and could possibly eliminate support staff all together. Number Two: The tip credit allows restaurant owners to keep labor costs

down while keeping it affordable for people to dine out. This would make it very difficult for the average citizen to dine out, and Number Three: The guest experience will no longer be a priority because they will be ordering off of tablets, refilling their own drinks, and trying to figure out where they can get that ramekin of Ranch. We as restaurants workers strive to make each guest stay better and it would be unfortunate when we cannot do that anymore. To address sexual harassment, I have never allowed myself to be mistreated for a tip and I can assure you that I would never work for someone that didn't stand behind me if I was. Like for myself and many others, the restaurants industry is something that just works and it fits in our lives. We are not asking to be saved so please leave us alone. Thank you.

Commissioner Reardon: Thank you. Kristen Flores-Fratto.

Kirsten Flores-Fratto: Hello again. This is my third time here and I was very well prepared at the first two hearings and I had the written speech. I don't have that today, I'm sorry I didn't have time to get that together. But I do have a few bullet points that I would like to make today and I just would sort of like to speak from the heart today. The first thing, this has already been pointed out, I'm just going to quickly touch on this again, the fact that this hearing is on a Friday, Graduation weekend, has presented itself to be a major difficulty for many people in the industry that would have been here today and are not here today. I had a bus for 18 people with people committed to be here today and we ended up with 7 because of the day of week that it is, so we are unfortunately very under represented today. I just wanted you to know that. The first thing is that, you know, I have spoken to you as a women business owner, I've spoken to you on behalf of my minority employees, and today I am here as a chef, somebody who has worked my way through the kitchen and I would like to speak for my kitchen employees a little today. I've heard quite a few people mentioning them. I feel that it deserves a little bit more attention and I'm going to give you a few specific details of how I feel the kitchen people will suffer should we eliminate this tip credit. First of all, the kitchen employees are generally really the most underserved of the restaurant community. I talk to them about this issue with the servers and to them, the idea of them getting a raise to lift them out of poverty is laughable, it's ludicrous to kitchen people. You know, as somebody who has been at that low minimum wage starting out in the kitchen, I know what they make, I know how hard they work, I know the blood, sweat and tears that comes along with a kitchen position and I want to tell you what we do at my restaurant. We don't follow minimum wage guidelines, minimum wage guidelines at the Gatehouse pretty much at all. We follow the MIT Living Wage calculator, which tells us by county what a living wage is considered and it is consistently a dollar or a little bit more or above minimum wage. We get quite a few employees, kitchen employees, from an organization called, oh my goodness, Center for Employment Opportunities. They sent us people that are trying to get rehabilitated right out of prison and we get quite a few great employees from them on a regular basis. We start them consistently at the living wage at \$11.50 an hour. I am able to do that with these people because of the tip credit. Please leave it in place. Thank you.

Commissioner Reardon: Michael Corson. Michael Corson?

Michael Corson: Thank you for taking the time, I appreciate it. I've been to three hearings, I've spoke twice, I sat and listened at one of them, I gave you a little background about myself about how I came from a buser to now co-own the Gatehouse Restaurant with my wife. It's a very successful restaurant back in Rochester and we support about 50 employees in that business and I echo the sentiments of, the comments of my wife. We would love to be able to use that extra income for the hardworking employees of our kitchen who deserve it and earn it and work hard. I do want to say that there are a few Department of Labor's laws for miscellaneous industry occupations right now that are in place. A few are, but not limited to, basic minimum hourly rate allowances, overtime, call-in pay and spread of hours, additional rates and split shifts, allowances and regulations for each category, meals, lodging, tips, required uniforms, students, so on and so forth, and I know you are well aware of all of these. Some have exemptions. Outside sales have exemptions for the standard minimum salary requirements meaning those sales based employee's jobs can pay below the \$727.00 weekly minimum salary base because it is a commission-based job. So something to ponder, our servers are basically sales associates, right? They get their sales territory which is their station basically. They get their sales territory and they sell the product that is provided from our factory which basically is our kitchen. They sell their products and then they earn their base wage with the tips, with the base on the tipped credit, right, and the additional income which is a percentage of their sales. So they are an outside sales person but inside sales people as well, so outside sales associates are exempt from this state minimum salary requirement because they receive significant income from commission. For over a century, tipped workers and restaurant owners have based their lives and businesses on this existence of this same exemption from the minimum wage. So I ask you, why is Big Pharma exempt from the minimum wage but the restaurant industry is not? Why are the huge profits from the pharmaceutical industries more protected than the razor thin margins of the restaurant industry? It makes no sense at all. They get their minimum wage exempt and we do not, well we do but you want to change it. Are you going to turn their business upside down and make them start paying the higher rates because they are a commission-based industry? Thank you for listening, I really appreciate your time.

Commissioner Reardon: Thank you. Ellie Grenauer.

Ramona: Next five speakers please make your way down: Douglas Kellogg, Doug Dreissigacker, Erin Reissin, Sarah McCauley, and Diane Garvey.

Ellie Grenauer: Hi, I'm Ellie Grenauer. I'm very sorry I could not bring my singer with me today. She did entertain us in Buffalo. I've been in the restaurant business for 40 years working almost every job in the business and I am now a co-owner of a small casual restaurant in Buffalo. I am here to emphasis that jobs will be lost and restaurants will close. This is a reality. Most restaurants run at a 5 to 7% profit margin. With the increase to \$11.10 at the end of the year, with the tip credit removed and based on my 2017 tipped hours of 14,000, this is an extra \$65,000 in wages, taxes and insurance for a small family run business, and let's not forget about the back of the house. So if the front

of house gets an additional \$3.60 per hour, my kitchen staff deserves that as well. As of the 35 people that I employ at our restaurant, 28 of those people have been employed by our company for more than 10 years. They enjoy the lifestyle, the money, and the freedom their job gives them. They do not need an, need New York State to additionally guarantee minimum wage. New York State Article 19 of the New York State Labor Law already guarantees that. My full-time and part-time serving staff average about \$30.00 per hour in tips. Not bad for a job that requires for formal education, gives you the flexibility to raise a family and be there for the most important times. If we were allowing sexual harassment or taking their money from them, they would not be there and we would be breaking the law. As I listen to some of the very sad stories today, I can't help but notice that it sounds like a laundry list of bad employers. The business is not for everyone. It demands a high energy sales person who likes flexibility in their lives and their schedules. No there are not great benefits except freedom. Freedom to choose your schedule, freedom to make as much money as your sales abilities allows you to, and freedom to have your own business without paying the expenses to so. And finally, harassment, sexual or other at any level is illegal. Sorry. Thank you.

Commissioner Reardon: Douglas Kellogg. Douglas Kellogg? Doug Dreissigacker?
Erin Reissin.

Erin Reissin: Hello, I would first like to thank you for allowing me to speak here today on behalf of an industry that I have made my career. My name is Erin Elizabeth Reissin. I choose to make my living as a general manager at the Gatehouse Café in Rochester, New York. This is a small version of my story, one that others may not experience if the tip credit is removed. Nearly 12 years ago, I interviewed with one of the owners of the Gatehouse, just interviewing for a back server position, he said in that interview, my wife and I are about to open our own restaurant, who knows, maybe one day you will be our manager. Ten years after the Gatehouse opened its doors I have worked my way up to the position and salary that I am currently at which is a good income. The road that has brought me here has been a long one. At no time did I consider this small business not my family or that I was ever alone. After one of shifts as a bartender nine years ago, I looked at my manager in the eye and I started crying. I told him that I was pregnant and I was nervous and unsure of the life that was ahead of me. Each step of that way my work family was behind helping me find the first name of biracial son, Nolan Pickett, to now giving me the capability to pay for his fourth year of private education. Since I shed my tears that night, there have been 12 babies that have been born into the Gatehouse family. Seven weeks ago was the most recent set of tears from my bartender Sarah and when her eyes, our eyes weren't as watery anymore, we giggled because after she had been there for six years at the Gatehouse, she knew we would do anything and everything we can to help her grow her family. From happy to sad, we've had losses to from long time customers battles with breast cancer, Kenelly got better and then she got worst and we were there to help her celebrate her getting better and we were there to celebrate her too short life. Dan and Heather, they sat at my bar every Tuesday night waiting for their son to get out his school plays or rehearsals at the School of Arts a block away in Rochester; every single Tuesday until they stopped. When they walked in after about four months later, Heather and I broke down because I knew their sons Leukemia had returned and

she lost her beautiful little boy. All of these ups and downs make every decision, my decisions, worth it. The good, the bad, all of this is jeopardized now. Our employees are holding the restaurant down on this busy Friday because I as a manager would not ask my employees to give up their tips today. This is why I am here and they, all of them, tip, not tip, salary, male or female, 17 to 62 years old, we are all asking you to understand we are happy and we love our jobs. Thank you.

Commissioner Reardon: Thank you. Sarah McCauley. Sarah? Diane Garvey.

Ramona: Next speakers please make your way down to the front: Brian Gagne, Erika Case, Rachel Snook, Kevin Katz, and Brad Rosenstein.

Diane Garvey: I'm really nervous so I'm going to pretend I'm telling you the specials, okay? Good Afternoon. I am 100% behind the New York State tip credit wage. I strongly support it. I've been a full time waitress since 1980. I started when my twin sister came home from a single dinner shift waitressing and in that night, she made the exact same money I earned during a full week as a bank teller. That's when my life long career was born. I've been waitressing for 38 years and I love it. I'm fast, I'm efficient, friendly, and I make excellent money. I've been at my current restaurant for 21 years. Customers like me and often request me. Everything was going along fabulously until the end of 2016, when my pay went up from \$5.00 an hour to \$7.50 an hour; a 50% increase. Because of this increase in payroll costs, the owners could no longer offer us a free meal during our shifts. Our yearly Christmas bonuses were a thing of the past. Customers began to tease me about being rich now and tips suffered. The back of the house was furious with us. They already thought we made the majority of the money in the restaurant and now we're getting more. It was awful. The owners were unhappy and I couldn't blame them. I didn't need or want this increase. In 2017, they told me it cost them extra \$55,000 a year in an increased payroll in an already tight economy and we're open for dinner only. The diner down the street realized a whopping excess of \$150,000 because they serve from breakfast to dinner. I work in Schenectady County where the median income, household income is \$41,000. Even with the increases in our wages phased over several years, our clientele could not afford the price increases that we needed to maintain the present wait staff. People will only pay so much for life's extras like enjoying dinner out. None of our customers are going to pay \$40.00 for chicken parmesan. They don't have that kind of disposable income. If you eliminate the New York State tip credit wage, the owners have said they will terminate the wait staff and go to a self serve buffet or they will close the family business after over 70 years in business. Eliminating the New York State tip credit wage will cost me and my fellow wait staff our jobs. It will hurt the very people you say you want to help. I urge you to please reconsider and don't eliminate it. Please let me keep my job. Thank you.

Commissioner Reardon: Thank you. Brian Gagne. Brian.

Brian Gagne: Good Afternoon Ladies and Gentlemen and thank for letting me be here. My name is Brian Gagne. I am the Director of Operations for TL Cannon and Applebee's in Upstate New York. We operate 56 restaurants employing over 4,400

people of which about 65% are tip credit. I have three people with me today that took the two hour drive to be here and gave up their shifts because this is important and it's important that we make good decisions. I have a prepared speech but after sitting here for six plus hours, I don't need to read it, do I? It seemed like I came to two meetings today for two different groups and I think part of what I want to share that it is totally two different groups. You had the first half of this meeting with the people from downstate in the City, car wash concerns and who doesn't feel for those people. Those stories are heart wrenching. The nail salon girls not making the money that the state should be making sure they do, guaranteeing those folks minimum wage. The servers that we polled prior to this meeting, we talked to about 100 servers in the Mohawk Valley. The minimum they are averaging and a ran the report yesterday is \$18.00 an hour total all in. Someone commented earlier that credit card sales were 100% accounted for and taxed. By raising this, it's going to put an undue burden on the restaurant industry and on these great people. I've never heard so much passion as I have in the last couple of hours. How about the O'Brien folks, amazing, Kurt from Doherty, Ashley from Ninety-Nine. These people are here because they know the impact this could have and we all know it as well as business owners and operators. When it went up from \$5.00 to \$7.50, with 56 restaurants, you can only imagine the impact that took to our business. Costs have to be passed on, in some cases, services will definitely need to be looked at if this happens and yes, we do have table tops and they are mostly for convenience. We have not eliminated any service staff since the last increase because our people are our family, they are extremely important to us. We won't give in to having to do that unless it is forced upon us, which we don't want to see happen. I feel it is very important that you split these categories out and look at a new category for the people that are in those other industries and as many have said behind me, leave tip wage alone. To me it's an easy decision and I'm sure you will make the right one. Thank you.

Commissioner Reardon: Thank you. Erika Case.

Ramona: The next five speakers please make your way down to front: Todd Shimkus, Ed Duguay, Beth Kafka, Francine Acompora Perez, and Ashley McKay.

Erika Case: Hello everybody. My name is Erika Case. I'm a bartender at Applebee's in Queensbury. I've been a server, bartender and a manager in this industry for over 23 years. I've been able to buy a home, I've raised two children, I've had brand new cars, I go on vacations all the time and never once have I ever felt like I'm anywhere near the poverty level. I say all the time that I would never go back into management jokingly because I won't take the pay cut, but there is actually a lot of truth to that. I've heard many expressions thrown around to help further the ROC's agenda such as economic fairness, sexual harassment, and I would love to just say right now that I've never worked with another server or bartender that is alluded to the fact that they felt like a victim of income inequality. As a matter of fact, we always talk about the money and the flexibility of being the exact reasons why we're still in the industry. We're hard working individuals with a passion and a talent for creating wonderful guest experiences. With this passion comes the keen ability to have control over our own income. We work very hard to ensure that we're making the money that we need to make to sustain our own

lifestyles. As soon as our guests hear that we are being paid a regular wage, we lose that ability to control our income. Guest are no longer going to feel inclined to tip us. As far as the misconception that women are not compensated enough to deal with the harassment from guests, that's just wrong. We make our own choices as to where we are working. We also decide what we will and will not put up with. It has been my experience that most every server and bartender that I know are very strong willed people. It takes a certain personality to do these jobs and if and when a guest says or does something inappropriate, we are good at letting them know it's definitely not tolerated. As far as harassment from co-workers and management, there are proper procedures put into place to deal with these situations should the need arise. Imposing and yes I do feel that it's an imposition, a standard minimum wage on the industry is not a solution to harassment. At this point in my life, and I'm sure that I speak for many behind me, I do not want to make a career change. I love what I do and I've worked very hard to become the server and bartender that I am. Should Governor Cuomo pass this, you will be forcing myself and many just like me into that very uncomfortable situation. Thank you for your time.

Commission Reardon: Rachel Snook. Rachel Snook? Kevin Katz. Kevin? Brad Rosenstein.

Ramona: Next speakers please make your way down to the front: Steve Holmes, Damon Jones, Curtis Tindal, Linda Toney, and John Howard.

Brad Rosenstein: Good Afternoon Commissioner and members of the Labor Board. My name is Brad Rosenstein. My grandfather Jack started Jack's Oyster House 105 years ago in downtown Albany. For those of you not from Albany, we welcome you here today and thank you for your service in this long grueling day. We put together some information that we're honored to share with you on the ramifications of the tip credit elimination and we're really in your mercy, so to speak, from an industry prospective that our industry is, would significantly change and we would be moving in a different direction regarding the tipping if this does pass so we are hoping that you will keep it where it's at. We'll have reduced income for our hourly tipped employees where we would be forced to go to a straight hourly rate for them if this passes. They would make a good hourly rate as compared to other industries but not enough for them to want to stay in our industry and we're blessed with as you've heard today, some really great individuals that give amazing service to the public and that's why they do so well with the tipping. We'd be forced to pay them a nice hourly rate but not near what they are making now and it would be substantially less wages each week for them. Also, there would be very much tighter scheduling. We'll have less employees with less hours unfortunately just to try to stay in business. We had to eliminate the bus person position when current tip credit increased the 50% from \$5.00 and hour to \$7.50 and hour. Now we are all pitching in and we're bussing tables altogether as a team and that whole position was eliminated unfortunately even for the youngsters that want to start in our industry and have a job, now there is just no opening for them because no business can afford to pay them the minimum wage to get started as somebody that has no experience in our industry. We can't afford to raise our prices to our guests. If we do, less people

will be able to dine out. There is also much less of an incentive for the food service workers to provide excellent service to our guests if they don't have that tip incentive. The food service industry is totally different of all other industries. We really do not need to change it. It relies on this tip credit and our industry will be adversely affected and these key employees will look for other industries to go into and not be in our industry. So we really hope that you will keep things the way they are. It's working well and we appreciate your time. Thank you so much.

Commissioner Reardon: Todd Shimkus, Ed Duguay, Beth Kafka, Francine Acompora Perez, Ashley McKay, Steve Holmes.

Steve Holmes: Good Afternoon and thank you for taking the time all across New York to listen to restaurant owners and operators and employees. My name is Steve Holmes, I along with Gary Tromblee own and operate Sticks & Stones, Woodfire Bistro and Bar in Schroon Lake, New York. It's about 80 miles north of Albany. Our business is seasonal. We do the majority of our business in three months. It is coming up very quickly in the summertime, but we still stay open year-round, seven days a week. Why do we do that? We do it to provide a service to the community, to provide year-round employment for almost 20 people, and a place for people to go to deal with the dead of winter and celebrate anniversaries and birthdays and celebrations of life, or just to get out of the house. Six years ago, I started the plan for this business after 28 years in the corporate chain restaurants. If I had known tip wage would be over \$10.00 an hour, I don't think I would of opened this business. There would not be those 20 jobs for those people nine months of the year and then 40 jobs for those people in the summertime. Our tipped employees with the \$7.50 an hour wage current average about \$27.00 an hour. If tip credit is removed, we will do things differently to try to stay afloat for the community and our employees and ourselves, but it may not work. Prior to opening Stick & Stones, I spent 28 years in corporate restaurant operations, most recently as a franchise consultant. I worked with franchisees in 30 states. I can tell you that they were and they are very cautious about site selection and state selection due to the box economics and particularly labor costs. Certain states have become ones that multi-unit, multi-state operators avoid future development and eliminate existing units that underperform. New York is becoming one of those states. Sad. Please do not reduce or eliminate the tip credit in New York for the sake of the thousands of employees and citizens of the State of New York. I've invested my life savings in opening my business, I took the risk. People ask me, when are you going to do another restaurant? When are you going to expand? When are you going to add another place? I don't think I'll be doing that based on the \$7.50 an hour rate; I certainly wouldn't do at \$10.00 an hour. The American Dream, open your own restaurant, we've all heard it, on TV, everywhere, but not New York. If tip credit is removed, eventually tipping will go away and prices will skyrocket and the average New Yorker will not be able to dine out at a full service restaurant. Thank you.

Commissioner Reardon: Damon Jones.

Ramona: Next five speakers please make your way down to the front: Melissa Schebell, Chelsea Hammond, Sara Internicola, Eric Bowers, and Alana Klein.

Damon Jones: Hello, I'm Damon Jones. I am a server at the Gatehouse in Rochester, New York. I'm here to ask you all to leave our tips the way it is. We survive comfortably. We will not be able to survive if this hourly wage because we won't be able to survive. It's a challenge everyday when I go to work. The way I have to make money is by tips so I, we challenge our own self to see how much money we can make per day, so it's like a game with other servers but it's not a game because it's life. If you take, give us that raise and take away the possibility of tips, it's not going to be the same. We won't have servers, as many servers as we have, we probably won't even have as many restaurants as we have. I probably would have to leave the industry, not because I would want to, because I would be forced to be able to provide for my 14 year old daughter, to be able to keep a roof over her head. It's just a trickle down effect that it would do and it's not good. We appreciate that you thought of us to maybe try to help but this is not the help that we are looking for. You can help maybe giving more changes to the back of the house, some money go towards them, people that do need it instead of the front of the house because I never came looking for a raise. I was happy with the \$2.90 when I started 22 years ago but I appreciate it, the thought, but sometimes you don't need to think about me. Just leave me alone, I'm all right, and you know, I can speak for other servers, they doing just fine and if you want them to continue to do just fine, leave it the way it is, don't change it because they won't. Thank you.

Commissioner Reardon: Thank you. Curtis Tindal. Linda Toney. John Howard. Melissa Schebell. Chelsea Hammond. Sara Internicola. Eric Bowers. Alana Klein? Next five.

Ramona: Next five: Maria MacPeek, Jasper Alexander, Kelsey Haberman, Timothy Taney, Jennifer Freirmuth, Sara Santoto, and Brooke Taney.

Commissioner Reardon: Okay, Maria MacPeek, yeah, Maria MacPeek. Sorry.

Maria MacPeek: My name is Maria MacPeek and I'm here to talk about my first job at 16 years old was dishwashing for Ponderosa Steak House. I then moved up within the company and was promoted to Salad Bar Attendant and then to Cashier, and then to Food Runner for Server. No tips were involved there. It was a regular hourly minimum wage. After two years I took a job as a sales person at a men's formal wear shop. I also took a job as a banquet server and that's where I discovered the world of tipping. I worked for the formal wear shop for six years and during that time I always retained a serving and a bartending position so I could supplement my more than minimum wage income from my full time sales position. After six years, I left my full time position with the formal wear company and even though I enjoyed my job there, I could no longer justify working 40 hours a week and bring home the same or less money than I did at my 15 hour a week serving job. I will now have been in the restaurant business for 35 years this coming June and I've held every position in the restaurant from dishwasher, host, cook, bus person, bartender, server, assistant manager, manager, and now general manager of a family owned full service restaurant and banquet facility. Regarding harassment, I will tell you in my 35 years in this industry, I cannot recall even one incident that I could be

considered harassment. However, I cannot say the same for my higher than minimum wage paying full time sales position. There are rude, obnoxious, self-entitled people in every industry. I believe we should hold those individuals or individual establishments accountable for their actions or in some case, lack of action, but certainly we should not punish an entire industry as a whole for the actions of a few. Regarding the first tip wage increase, during peak season in 2015, we employed 77 people. Peak season 2017, we employed 57 people. Yes, we did raise our prices to compensate for the minimum wage hike and yes, our business did fall off and less people were coming through the doors, and there were 20 less people on our payroll. I am concerned about the restaurants in New York State losing business to nearby Pennsylvania. When hearing prices from a popular tourist destination in Ellicottville, New York to another tourist destination in Bradford, Pennsylvania, I found the following: A cheeseburger in Elliottville, New York is \$14.99; the cheeseburger at a similar restaurant in Bradford, \$9.99; Romaine Caesar Salad \$14.99, Romaine Caesar Salad \$11.95 in Bradford; Calamari \$13.99, Calamari \$8.95 in Bradford. I have provided the menus for review. By the way, the hourly state minimum wage is \$7.25 in Pennsylvania and the tip minimum wage is \$2.83. After last weeks hearing in Buffalo, I noticed those who were speaking for the wage increase spent very little or no time in the restaurant industry. That prompted me to post a question to our Facebook group asking how long everyone has been in the industry. There are over 270 comments left with the least being 3 years and the most 49. Collectively 6,597 years of experience chimed in all supporting the tip credit. Please listen to these 6,597 years of experience and leave the tip credit in place. Thank you.

Commissioner Reardon: Jasper Alexander. Let me guess, you are a Chef?

Jasper Alexander: Yea, you got it. Thank you for letting us come here and address you. I'm Jasper Alexander. I've been working in the restaurant industry for 30 years and for the last 18 years, I have been a Chef and co-owner of Hattie's Restaurant in Saratoga Springs. I would like to thank you for giving us the forum to voice our truth and as much as I hate that saying, I use it because in this instance it is truly appropriate. I hope that you have been listening to the overwhelming voice of the New York State restaurant workers for the past five weeks. We have come in force to try to make you understand how catastrophic it would be for our industry if you eliminate the tip credit in New York State. We simply do not want this change and it will result in thousands of restaurant closures, quite possibly my own, a beloved, historic institution that has been in operation since 1938. Two years ago when New York State increased the tip minimum wage of 50%, two years ago you guys increased the wage from 50%, that change alone has resulted in \$100,000 year increase in my labor expense. There was not and is not the budgetary breadth to absorb that kind of increase. You have taken away my ability to control the largest controllable expense in the restaurant. As a result, we have operated at a loss for the last two years. All other economic factors have remained consistent. My operating loss is solely due to the increase in the tip minimum wage. Tipped employees make up approximately two-thirds of my total employees. Try to imagine what would happen if the states ability to operate in a fiscally responsible way, if overnight you increased the wages by, of two-third of the states employees by 50% and then two years later you increase the wages by another 50%, and yet that is exactly have you have done

and are proposing to do to us again. The state would go bankrupt and many of us will go bankrupt as well. Restaurants cannot just simply raise prices to cover the costs. Our industry just does not work like that. There is a balance and a tolerance threshold to what our customers are willing to absorb. This threshold is intrinsically tied to the overall expectations, the perceived value, and the dining experience and our delivery of that dining experience. You are putting us in the same position of having to increase prices while at the same time decreasing the level of experience; that equation does not work. I must also challenge the assumption that workers in the restaurant industry are categorically exploited because they rely on tips. I am frankly insulted that the restaurant owners are being portrayed as agonistic exploiters of their workforce. There are horrible abusive people in every industry and they should be identified and held responsible for their behavior but to assume this behavior will be corrected by the elimination of the tip credit is just preposterous. The claim that the tipping culture leads to the exploitation to the work force while at the same time you plan that the end of tipping is not the end goal of this proposal. How is this, how is taking away a tool that I use to control my expenses going to solve the problems you claim are created by the tipping culture. It is not remotely address the issues that are at the core of your argument. I have great empathy for the other industries.

Commissioner Reardon: Thank you. Kelsey Haberman. Kelsey? No. Timothy Taney. Jennifer Freirmuth.

Jennifer Freirmuth: My name is Jennifer Friermuth and I work at one of the Bob Evan's Restaurants in the Buffalo Niagara Region. I am also a survivor of domestic violence and marital sexual assault. My rapist was convicted on August 12th of 2016 after a two year legal ordeal that cost me four jobs, my health, much of my support system, and so much more. I'm coming forward and identifying my history openly because I have been very closely following Governor Cuomo's 2018 Women's Agenda and I don't believe this administration has made the connection that waiting tables is a viable path to freedom from abuse. Make no mistake, the policies enacted recently which removed firearms from abusers and assist victims in separating themselves from their abusers is going to save life's; however, I believe that when it comes to the eliminating the tip credit Governor Cuomo is wrong. Speaking on his 2018 Women's Agenda, Governor Cuomo said, 2018 we will build on this progress and continue to advance the quality across all areas of life. While the Federal Government seeks to role back women's rights, New York State looks forward toward the future with this full set of proposals to create opportunity for women to succeed in every area of work, health, safety, education, and family life. If the Cuomo administration is serious about advancing a progressive women's agenda, then it also needs to know that as a survivor of domestic violence, being able to work as a server under the current policies have allowed for me to transform my life and that same rule is true for every women I've met in similar circumstances. Waiting tables, even at the current wage, offered me liberation from debt and homelessness and afforded me the opportunity to heal the violence from my marriage, separation, and divorce. It allowed me the freedom to achieve mental, emotional, and financial stability while supporting my own endeavor to go back to school to become a domestic violence victim advocate. Exactly one year ago I lived out of my car with the

dog until my best friend who is also a server took me in and gave me the time to get healthy, start school first, and then go home to Bob Evan's when my health improved enough to withstand strenuous activity. Since returning in October of 2017, I am now able to pay all of my bills and make rent while saving money to move out on my own and as a DV survivor that is the dream. That kind of agency, that autonomy and independence cannot be achieved as quickly in any other profession. Working as a server gave me a new lease on life. My life is no longer controlled by toxic or abusive relationships and I no longer depend on anyone financially. My work family includes mothers who left violent relationships and turned to waiting tables to support their children as they transitioned into single parenthood while their former partners withhold child support and not one of them is a welfare beneficiary. We don't want another minimum wage hike. We worry that corporate will relent and use their buying powers to restructure our team by replacing servers with tablets. We worry about the impact that the rising menu prices designed to offset the spike in payroll will deter our regulars from dining in as frequently. Most of our regulars are elderly on a fixed income and wouldn't get a hot meal otherwise, especially on holidays, and further, dining with us is the extent of human contact many of these guests have on a regular basis. This proposed change would harm our quality of life as well as lives of our guests. Sad enough to affect legislative change through 2018 Women's Agenda, Governor Cuomo must also learn to recognize when to leave well enough alone and commit to protecting the one industry that provides an avenue out of the damage left in the wake of leaving an abusive partner, even if that commitment is to leave the industry further unmolested.

Commissioner Reardon: Thank you.

Jennifer Freirmuth: But I have a question for you.

Commissioner Reardon: For me? Yes.

Jennifer Freirmuth: Thank you. You've had a number of workers come forward today and I know in the Buffalo meeting too, to report abuse from their employers to you, so I want to know if you have any intention in investigating their claims? They came to you. They told you what their grievance is.

Commissioner Reardon: Absolutely. When people lodge complaints with us we investigate them. Every single one of them. That is our job and we do it.

Jennifer Freirmuth: So an investigation is going to be launched on complaints every witness made?

Commissioner Reardon: If we know how to reach them, we do it. That's what we do.

Jennifer Freirmuth: Thank you.

Commissioner Freirmuth: Sara Santoto. Brooke Taney. Kimberly Sardo followed by Jason Sardo, and the last speaker is Steve Wong.

Kimberly Sardo: Good Afternoon. My name is Kimberly Sardo. I would love to share a story with you and I would like to tell you about the last time I was sitting on the Bay in San Francisco. I was at a bar, I don't remember the name of the bar, I was near Pier 37 by Fisherman's Wharf, and I go into the bar, I order my burger, I go outside. My burger never came. I go up to the bar and go, where's my burger? She goes, oh don't worry, it will be right out. I look up and I see a sign that says, No Tipping Allowed. So of course, I ask about this sign and she says well with the increases, my owner had to increase the prices so in order to be able to get people to come in they need to know that they don't have to tip on top of the increase. So to tell me that by increasing our minimum wage is not going to affect our tips, I've seen it with my own eyes, it most definitely will. Thank you.

Commissioner Reardon: Jason Sardo.

Jason Sardo: Good Evening Commissioner, Councilman. I work at Stampcrete International. I am not in the restaurant industry; however, I was. Currently I am making only \$17.00 an hour and my wife who you just hear spoke doubles what I make per week. I have been considering moving back to the serving industry and getting away from the manufacturing because she does triple sometimes definitely doubles my wages. But with the new hearings of a subminimum wage, I'm fearful for her job let alone mine. So I am here to ask you to please support the tip credit along with everybody else. Now when I was younger I also worked as a newspaper boy, that job no longer exists. Young kids don't have that opportunity. I also worked at McDonalds and I also worked in a car wash industry. Those jobs are stepping stones. They are not there to make a career out of or support a family but I understand that times have changed and those people probably do need a bigger wage but please leave the food industry alone. Thank you.

Commissioner Reardon: Thank you. Steve Wong. Is Steve Wong here? Okay, that's it. Thank you very much.

Audience: Thank you.