
Commissioner Reardon: On behalf of Governor Andrew Cuomo and the Labor Department, I want to welcome you to today's Hearing on the subminimum wage in New York State. The Department of Labor works on behalf of both workers and businesses. We provide income support to workers who lose their jobs and we ensure that the employees receive proper pay and work in safe environments. We help businesses find and maintain a skilled workforce and we provide them with no cost services designed to help them thrive in New York's growing economy. One of Governor Cuomo's 2018 State of the State proposals directed me to evaluate through a series of hearings, the possibility of ending 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 meant 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 voice concerns fearing retaliation.

Governor Cuomo has directed this agency to ensure that no workers are more susceptible to exploitation because they rely on tips to survive. This is the last of seven scheduled hearings to solicit public comment on how to best address potentially eliminating the minimum wage tip credit. Today we are focusing only on the hospitality industry and we will not be hearing any testimony about non-hospitality workers in businesses which we did last week. 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 businesses and interact with your workers. Through these hearings to date, we have heard more than 30 hours of testimony. We understand these issues are highly complex and 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 findings are unassailable based on data and fact and any actions are done right in a fair and well thought out manner. Through these hearings, we are asking for input about the scope of the problem and the potential scope of our solutions including any hardships created by the subminimum wage, reasons for and ramifications of eliminating the subminimum wage in your industry, and recommendations for the elimination timeline should we move in that direction and complicating factors.

Let me also draw an important distinction. As the sign up here says, this Hearing is about eliminating the subminimum wage. This Hearing is not about eliminating tipping. We fully support tipping and 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.

Another important point I want to make is that these Hearings are not about the number of people in the room. Through these hearings we are collecting your stories, related data and the insights that only you can provide.

Now I'd like to introduce members of our panel listening today. Mario Musolino, Executive Deputy Commissioner. It's a contest. Nathaalie Cary, Deputy Commissioner of Administration and Chief Financial Officer, James Rogers, Deputy Commissioner Worker Protection, and our alternate who will be at the table time to time as the panel takes breaks, Milan Bhatt, Assistant Deputy Commission Worker Protection, and as usual, Nathaalie Cary has won the applause contest. So to the important stuff. Testimony will be strictly limited to three minutes to allow as many people as possible to testify. We have a very full agenda today. In addition, although we value your testimony, we will not allow any substitutions of speaker's slots or allow testimony to be read on behalf of another individual unless they have an accommodation. And I want to reemphasis because this has happened in the past, if the persons name is called and they are not available to testify, we move on to the next person. You may not substitute for that person. If someone was unable to attend or if you have to leave before you name is called, please give us your written testimony. We will collect it from you at the front desk outside where you checked in, and finally, some very important ground rules. Please respect the people testifying and the panel. Do not heckle the speaker. Do not use abusive language or threatening behavior, and do not interrupt another person's testimony. We are working very hard to make sure that everyone who has signed up to testify gets their appropriate three minutes and we understand the passions are very high in this room and on this topic. We ask you, I know you want to support your colleagues with applause or whatever, however you express yourself, but during the testimony please do not interrupt the speaker. If there is continual interruption, those people will be removed from the room and they will not return. We're doing this to make sure that everybody has the opportunity to have their voice heard respectfully in this room. When you come up to testify and the podium is right here, please give your testimony to the individuals at the table, where are you? You are over there, Matt and Ramona. There is a light on the podium. Begin you testimony when the light turns green, the clock will start running. For those testifying, you will get a yellow warning light at 30 seconds left. It will blink red when your time is up. Please don't try to keep speaking after your time is up because it irritates everyone. Just being candid. I want to again thank everyone for taking the time to participate in today's hearing. I know that you've all spent a lot of time and effort on your testimony and lets begin. So the first five people to testify are.

Ramona: Good Morning everyone. Once you hear your name, we will ask you to please come to the front row reserved seats and I'm going to be calling the first five speakers right now: Maria Rubio, Saru Jayaraman, Rachel van Raan-Welch, John Reoli, and Melissa Fleischut. Please come on down to the seats reserved here.

Commissioner Reardon: And while we are waiting for the first speakers, I forgot to mention, we have headsets for people. I hope you picked them up when you came into the room. When you come up to speak in your native language; if you do not speak English, there will be interpreters for people with headsets for English, it's Channel One, for Spanish it's Channel Two, and for Chinese it's Channel Three. So if you don't understand English, please find if people are speaking English, find the Channel for your language. If someone is speaking a language you don't understand, please find the

channel that will interpret. This is done in order to cut down on the amount of time to testify. And our first speaker is Maria Rubio. Is Maria here?

Mario Rubio: (Interpreter) I'm from New York. I come from Honduras. I'm 47 years old and in my country I was a lawyer of human rights. I had to leave my country because I wanted to do my job and I wanted to do it right. I had to defend a client, a woman specifically who because she did not belong they were not part of a gang, she was violated, she was amputated. I had to defend her and that brought problems to me so I had to leave that country to save my life, and I had to save her. When I left my country, I came here to start a new beginning, a new life. I was no longer Mario Rubio, the lawyer. I came to work in the hospitality industry. I worked in the restaurant industry. I worked in a restaurant one month and they did not pay my salary, one month. I had to leave there and I had to continue because life here is about work and I like to work. I went to another restaurant and everything was going well until the owner asked me to increase the clientele, I had to put on a short skirt to show more. Obviously I did not accept that. I wanted to work. I did not want to expose myself or do an exhibition or flirt with clients. I didn't want to do that. I wanted respect and I wanted to work. I worked in another restaurant and when you work the restaurant you don't just show up to serve as waiters, I had to do cleaning, I had to clean the bathroom and they don't pay you for that. I had to get there earlier so that I could cut their vegetables, I could make the salads and they would pay me \$25.00 for the day because supposedly I was suppose to earn a wage, tips. It was freezing outside and if you make \$25.00 a day that does not even cover five hours of work. I had to walk so that I could not take from my salary what the cost of transportation, like the train. It was a very unfair life. It was very tough. Not only because of the way we were treated sometimes they would steal our wages but also because of, speaking of my case, the abuses as a woman. It's also good to know that maybe some owners, I'm not generalizing, but there are owners that abuse, that they take advantage and they take the tips. So all we can count on is what we earn. Thank you.

Commissioner Reardon: Thank you. I know it goes fast. Saru Jayaraman.

Saru Jayaraman: Hello, I'm Saru Jayaraman. I'm the President of the Restaurant Opportunities Center United and the Director of the Food Labor Research Center at the University of California, Berkeley. We have as an organization over 130,000 workers and employers and consumers all working for better wages and working conditions in the industry which has conducted about 50 reports and have written three books on the industry based on about 10,000 surveys of workers nationally. What we know is that this industry is the second largest and absolute fastest growing sector of the US Economy but it's unfortunately still the absolute lowest paying employer in the United States and in New York largely due to the lobbying power of the National Restaurant Association which unfortunately has been around in various forms since emancipation when tipping first came to the United States from futile Europe. In futile Europe, tipping of course where it originated was always on top of a wage, an extra on top of what people were paid. That was the original concept of a tip. When it came to the states right around the time of emancipation, the restaurant lobby demanded the right to hire newly freed slaves and not pay them anything at all and let them live entirely on tips. So the idea of tips as

wage replacement was a direct legacy of slavery for a black workforce that was codified into law in 1938 as part of the new deal which gave us the right to the first minimum wage law in the United States but unfortunately left tip workers out at zero dollars an hour, and of course we went from zero in 1938 to the whopping \$2.13 an hour at the Federal level and 43 states including New York continue this legacy of slavery today. As you know, two-thirds of tip workers in the United States and in New York are women and actually in New York they are mostly people of color and immigrants. About half of all tipped workers in New York State are immigrants, 75% in New York City are foreign born. So we are talking not only about servers and bartenders who often are people of color and immigrants but also busers and runners and delivery workers. The vast majority of these workers are women who work in casual restaurants. Casual restaurants and diners, chains, all different kinds of restaurants where tips do not bring them to the full minimum wage or allow them to survive. Worst of all they suffer from literally and statistically the highest rates of sexual harassment of any industry. We are the source of the largest number of charges to the EEOC and that is because when a woman gets, has to rely on tips to feed her family, she must tolerate all kinds of inappropriate customer behavior in order to do that. There are seven states that got rid of this system as you know, plus Flagstaff, Arizona. We find they have higher restaurant sales per capita, higher job growth in the industry and one-half the rate of sexual harassment. So we know this can work and in fact, as you may know on Tuesday of last week, Washington, D.C. joined the ranks in these seven states voting in large majority to eliminate the lower wage for tipped workers and have a full wage plus tips. We know New York can be a leader on this. There are at least a dozen other states that are likely to follow. The Department of Labor at the Federal level has reported that an 84% violation rate with regard to employers making up the difference. Thank you.

Commissioner Reardon: Thank you. Rachel van Raan-Welch. Rachel van Rann-Welch? Do we have Rachel. No?. John Reoli.

John Reoli: Good Morning and thank you for giving me the opportunity to speak at this hearing. My name is John Reoli. I work as one of 25 servers at Veselka in East Village, a private-owned Ukrainian restaurant established in 1954. We are open 24-7. I work five, eight hours shifts a week. I have worked at Veselka for 11 years. I've worked in the industry in various positions and briefly as an owner for 38 years. Last year I earned \$59,283 from working as a server. I would also like it noted that I have full support of Veselka's father and son owners, Tom and Jason Birchard to respectively speak at this hearing. I'm here to speak about the impact that the elimination of the tip credit would have on New York City. According to the most recent census data gathered in 2009, there are 7,966 full service restaurants in Manhattan alone. If each restaurant is given a conservative estimate of 10 servers, 79,660 is the approximate number of servers in Manhattan. This is almost 80,000 servers not including bartenders who will have their incomes greatly, most likely negatively, impacted by the elimination of the tip credit. The impact will come in many ways. Some restaurants I dare say, many will simply close thus creating unemployment for all employees and managers. Others like Veselka will adapt to a buffet or a cafeteria-style which will eliminate all servers. The owners of Veselka do not to reformat their iconic establishment and I suspect many other owners

don't want to either. The prices of restaurant meals will not decrease, profit will increase, but the tax base to New York City and New York State will diminish because servers and bartenders will not be paying unemployment taxes, not be paying employment taxes to their previous levels or at all, closed restaurants will not be paying business taxes, employment taxes and sales taxes. This affect will travel down the food chain to food producers, processors, purveyors, and trucking companies who are supported by the restaurant industry and they will see great decreases in their business. The news of famous restaurants closing and the overall absence of restaurants will negatively impact the tourist industry in New York City. The fun of the food industry of the food truck industry aside, a few would travel a thousand miles to eat from one. The impact on commercial real estate, availability, and value need only be viewed by the continually empty storefronts along 7th Avenue in the West Village. This massive disruption can simply be avoided if the Governor can fully appreciate the damage that his decision to eliminate the tip credit will do, not only to Manhattan but to Brooklyn, to the Bronx, the Staten Island, and to his home borough of Queens as well as this entire state. Once again, thank you.

Commissioner Reardon: Thank you. Melissa Fleischut.

Ramona: After Melissa, the next five speakers please make your way to the front. We have: Ron Mathews, Frantzy Taine, Andreas Knezevic, Amanda Fugazy, and Andrew Rigie.

Melissa Fleischut: Commissioner Reardon and the Department of Labor staff. By now you know that I am Melissa Fleischut, President and CEO of the New York State Restaurant Association. I'd like to thank you Commissioner and your staff for patiently listening to hours of testimony on this issue. I've been witnessed to five hearings this year and today is my sixth about eliminating the tip minimum wage in New York. At all of those hearings you heard from many tipped employees, managers, and restaurant operators who support keeping the tip credit in New York. Today you will be hearing more of the same from the owners, managers, and employees in New York City. New York City is often referred to as the restaurant capital of the world but have you ever stopped to think about why? It is because of the men and women in this room. The bartenders, waiters, managers, and owners who have chosen to work long nights, weekends, and holidays to consistently deliver a world class experience to their guests. There is a magic to this City that draws people here from across the globe and we welcome them with service and a smile, but if you walk around the City, you will see that the industry and the City are changing. There are many vacant store fronts. There are more fast casual restaurants and fewer full service restaurants. How don't get me wrong, I think both segments are great and enjoy having them all as members; however, more fast casual restaurants means fewer bartenders, fewer waiters, less guest service, and overall different experience when you dine out. You don't travel the globe to eat at a fast casual restaurant; you go for the experience and the service. The young upcoming chefs in our industry aren't choosing to make it here anymore. Why? Because the risk is too great and the reward is too small. They are opening in places like Chicago, Denver, Charleston, and Austin. Now some in this room might say they don't care if there are

fewer restaurants in New York City or even New York State if it means the tip credit is eliminated. But to the men and women holding those jobs, it means everything. To the owners who have risked all that they have on those businesses, it means everything. There are many reasons that a restaurant in Watertown is different from a restaurant in Albany or a restaurant in New York City, but this issue is not one of them. The restaurant industry in New York City strongly opposes any reduction or elimination of the tip credit as they do everywhere else in this state. The restaurant industry has come together and is more united against this proposal than any issue I have witnessed in 20 years at the New York State Restaurant Association. Those restaurant employees that are here today that are in favor of eliminating tip credit will most likely tell stories of wage theft as they have at other hearings. Their experiences are currently illegal and deserve your attention. New York State has increased the minimum wage for the past five years and by the end of 2018, the cash wage for tipped food service workers in New York City will have doubled. The New York State Restaurant Association is 100% committed to partnering with the Department of Labor to weed out wage theft in the industry but eliminating the tip credit is not the answer; not for New York City, Albany, Buffalo, Syracuse, Watertown, Long Island, or anywhere else in the State. Thank you.

Commissioner Reardon: Thank you. Ron Mathews.

Ron Mathews: My name is Ron Mathews. I'm the New York City Regional Director for the New York State Restaurant Association. I'd like to cut through all the BS, the political positioning, the biased talking points, the hidden agendas, and speak extremely direct. The tip credit and the current system were developed to ensure tip workers receive at least the minimum wage. So for the record, the current system guarantees that tipped employees earn the full minimum wage and there are checks and balances in place to ensure it. A large majority of the employers follow the rules and as most things there are going to be some rule breakers that need to be addressed like drivers taking a right on red when the sign says no right on red. The small percentage of bad apples breaking the labor rules should be dealt with. The idea of eliminating the tip credit will reduce sexual harassment is the equivalent of raising a fine for drivers taking that right on red illegally by \$10.00 and thinking it will make a difference in anything but a boost to the State's fine revenues and an artfully position talking point for the political groups who authored and supported it. The harassers will not stop their inappropriate behavior because the staff is making a few dollars more an hour and the staff will not feel any more empowered to address anything differently because a few dollars on their base wage. This is a serious issue and disconnected from tip wage and connecting it is unfair to all involved and it brings false hope for improvement. Seven hearings around the State show that the majority of tip wage employees earn exceptional money above the minimum wage. I think most of us know that in advance of the hearings anyways. Seven hearings around the State also show that beyond the tip wage, there's some tough employment stories that need to be addressed across industries; however, removing the tip credit in the restaurant industry is like punishing an entire city school system because five kids somewhere in the school system are cheating. It's like saying to the New York City schools; you're all going to be punished 15 points because somewhere in this system someone is cheating. That certainly wouldn't be fair and I think you can note the similarities of that analogy.

The reality is New York State stands to gain tremendous tax revenues in talking points for lets say political gain and budgetary benefit. The reality to restaurant owners is that the level of labor cost increase would be 73% in a business with margins of 5 to 10%. Stop to figure out the numbers; it equals trouble, closures, job loss, and restaurant industry, in the restaurant industry. I'm sure that was not the intent of the DOL. When jobs are eliminated, remaining staff is strained, work cultures and morale gets hurt, performance drops. The one that loses are those who are affected by this, the servers. The only thing I can ask of you is this. Please give careful consideration to the affect of what this would do to the largest private employer industry your State has and I appreciate your consideration.

Commissioner Reardon: Thank you. Frantzy Taine. Frantzy Taine? Andreas Knezevic. Andreas? Thank you.

Andreas Knezevic: Good Morning. I'm here after, I've been a server in New York State for 39 years. I've been paid \$2.13 an hour for those 39 years or almost all of those 39 years. Waiters, servers, whatever you want to call us deserve to be paid \$15.00 an hour. The New York State Owners Association, it's not a Restaurant, it's only the Owners they represent; only the owners, servers deserve a wage, yes, owners will suffer, to bad, they have been getting away with slave wages for over 30 years. It's time for time for them, with no benefits for their servers, for no rights for their servers, yes there will be suffering, that's really that's it. I will probably suffer too but you know what, I will gladly take it to get a living wage. And that's all I need to say. Thank you very much.

Commissioner Reardon: Thank you. Amanda Fugazy. Amanda Fugazy?

Amanda Fugazy: Good Morning. My name is Amanda Fugazy and I'm a Partner at the Law Firm of Ellenoff, Grossman & Schole, where we have a concentration in the restaurant industry. I urge Commissioner Reardon and the Department of Labor to implore the Governor to stop this misguided plan to eliminate the tip credit. It's bad for workers, it's bad for business, and it's bad for New York. New York is fast on its way to becoming the toughest operating environment in the country. This is not something to be proud of. If the tip credit is eliminated, New York requirements will likely, their pay requirements will likely be the highest in the nation. Add to this, New York City and New York State crippling regulatory environment. Unbelievably sky rocketing rents, six minimum wage increases in a row, dramatic increases in salaries that have to be managers, mandatory medical, paid leaves, and scheduling regulations, and it seem absolutely crazy that the Governor believes the industry can sustain a 33% hit on direct labor costs for service workers on top of all the rest. The most misguided part about this plan is that eliminating the tip credit will surely hurt the very people it's purported to help; the service workers. It cannot be believed that this cost can be passed on to customers through increased menu prices without negative repercussions. Patrons will leave smaller or no tips. It is not true that this will not eliminate tipping. This is very much about eliminating tipping. Employers will cut overtime, hours, shifts, and staff to save money or they will simply have to close. Restaurants may even move to a No Tipping model, in which case will have waiters making \$15.00 an hour instead of the

average \$25.00 an hour that they make now. The tip minimum wage should be left intact. To eliminate it is simply bad sense. It's bad for workers. It's bad for business and it's bad for New York. Thank you.

Commissioner Reardon: Andrew Rigie. Andrew Rigie?

Ramona: After Andrew, will the next five speakers please make your way to the front: Eimear Conway, Toni Van Pelt, Chris Williams, Camille Rivera, and Noreen Farrell.

Andrew Rigie: Good Afternoon. My name, Good Morning, my name is Andrew Rigie. I am the Executive Director of the New York City Hospitality Alliance. We are a trade association that represents restaurants and bars throughout the five Burroughs. So you have heard up to now and will continue to hear some pretty powerful stories on both sides of this issues, but today I want to correct some misinformation that's been said and I'm sure will be put out there today. One, fair and equitable regulation is fine. Excessive and unrelenting regulation is not. We supported the \$15.00 minimum wage, anti-harassment training, and we support strong worker protection, but market pressures and the most competitive restaurants seen in the world our industry needs to breath. We need relief, not more regulations. By the end of this year, we will have had nine mandated increases within three years plus the upward pressure these increases place on all wages as a whole. Eliminating the tip credit will cost an additional \$14,000 per tipped employee that works full time per year. Just imagine that in your our personnel expenses. It's unprecedented. Two, raising the tip wage will not reduce wage theft. We stand in solidarity with all the workers who testify about horrible work conditions that they have endured. We do not believe; however, that an employer who breaks the law now will magically start complying with the law if you make them pay more. If you eliminate the tip credit, the damages will just be bigger and honest business owners and workers will be hurt. Three, if sexual harassment is tied to tipping this proposal does nothing to change that. If advocates believe that the correlation between tipping and sexual harassment, then why do they say they want to preserve the tipping system rather than abolish it. Even if New York eliminated the tip credit, by their own admission employees would still rely on tips for income; therefore, according to their logic workers will still be trapped in an economic system that perpetuates harassment. Sexual harassment, exploitation is unconscionable and illegal and that is why our City and State both passed Anti-sexual harassment Training that we support. Four, comparing New York City to California is purposely misleading. West Coast restaurants are not all thriving and many of them are actually furious about the fake news campaign suggesting they are. In fact, there was just an article in this weeks New York Times talking about San Francisco where there is no tip credit is reducing their service staff in what were full style, full service style restaurants, and there has been a campaign in California to get a tip credit. Even considering this, New York City rents are much higher, food cost are much higher than California, and comparing the two is like comparing apples and oranges. The data also shows that since the tip wage was last increased, that there has been a significant drop in employment growth. Finally, I would like to just say that many of our restaurants and workers had to leave....

Commissioner Reardon: Thank you.

Andrew Rigie: And there's about...

Commissioner Reardon: Thank you. Eimear Conway. Eimear Conway? Eimear Conway? Nope. Eimear Conway, nope? Toni Van Pelt. Is that you Toni standing? Thank you.

Toni Van Pelt: Hi, I'm Toni Van Pelt and I'm the President of the National Organization for Women. If you are a woman and you have worked for tips chances are you have been victimized by customers who see the tip transaction as a license to harass. I've been there personally. Or by chefs or employers who abuse their positions of power. Before his suicide, Anthony Bourdain, whose partner Asia Argento, has accused Harvey Weinstein of rape, spoken on abuse on his former self. He said and I quote, "I had to ask myself particularly given some things that I'm hearing and the people I am hearing them about, why was I not this sort of person or why was I not seen as this sort of person, that these women could feel comfortable confiding in. I see this as a personal failing". I hope that every man who works in or patronizes a restaurant and who admired Anthony Bourdain's bad boy image takes these words to heart. The customer of the, the culture of the customer is always right and the staff has no power places women in dangerous situations where they are forced to deal with unwanted attention from customers in order to keep their jobs. Thirty-seven percent of all sexual harassment complaints made to the EEOC involve restaurants. A 2014 study by ROC United found that 78% of female restaurant workers reported being sexual harassed on the job by management, co-workers, and customers. The power dynamic a customer holds over a wait server is appalling and dangerous. If the server can't make her rent without tips, she may not be able to afford to object to sexual harassment. One Fair Wage provides a baseline standard of living that reduces poverty rates among women working as tipped workers. This rate has shrunk from 21.7% in states with a subminimum wage to 15.3% in the states with one wage. Now wholeheartedly supports ROC United and their efforts to establish One Fair Wage, which is an economic and social justice issue disproportionately affecting women and specifically women of color. To support One Fair Wage is to support the equal treatment of women who are often forced into vulnerable positions where they may be subjected to harassment from both employers and customers just to earn a living wage. Female servers earn just 80% of what their male counterparts earn. The disparity cost women more than \$228,000 over a lifetime. Thirty percent of tipped workers are mothers and almost half of those mothers are single moms. More than 14% of the 4,000, 41,250 sexual harassment claims filed in the US between 2005 and 2015, were in the food service and hospitality sector; more than any other industry. A recent article in the New York Times shared some of the experience. Thank you.

Commissioner Reardon: Thank you. Chris Williams.

Chris Williams: Good Morning. I want to thank this distinguished panel. I want to thank this distinguished panel for the opportunity to testify today. I'm here to testify in favor of eliminating the subminimum wage for tip workers and for One Fair Wage

system for all workers in New York. My name is Chris Williams and I have my own law firm called The Worker's Law Office. You can probably guess from the name of my firm which side of restaurant cases that I am on and you will be right. I'm one of those people that restaurant owners don't like to see coming. Our firm has litigated cases against restaurant owners all over the country and I can tell you that there's a clear difference in places that have a One Fair Wage system and those that do not. If you allow me, I want to let you in on a little trick of the trade for employee side for attorneys like myself. We will often search court records to see where there is a lot of litigation so that we may know where it makes sense to focus our practice. It's not hard to do, anyone can do it. About two years ago I had someone in my office go onto the Federal Electronic Records System and download every wage and hour case that had been filed from 2010 to 2015 in the central district of California, which covers Los Angeles and the southern district of New York, which covers Manhattan. We then went through and identified the nature of each defendant's business in those cases and it may not surprise you that there were a higher percentage of cases filed against restaurants in Manhattan than in Los Angeles, but it might surprise you on how big this disparity was. In the southern district of New York, restaurant cases accounted for nearly a quarter of all wage and hour cases filed in the central district of California less than 10%. What accounts for this difference? One obviously explanation is that California is a One Fair Wage state, while New York has continued to allow payment of subminimum wages to some restaurant workers. Ours was not a scientific study and we did not look at the specific basis for each law suit but I think it is a reasonable hypothesis if not an obviously one, that at least part of this restaurant litigation gap between these two restaurant heavy cities can be explained by the continued use of the tip credit in New York versus the One Fair Wage system in California. So why I am, an employee side attorney, in favor of the move to a One Fair Wage system when continuing to allow the payment of subminimum wage leads to so much litigation? Well, don't worry about us worker rights attorneys, there will always be people who cheat and who try to compete unfairly and my firm and others like us will go after them. But the two-tiered system in New York is simply too inefficient and ineffective for employers who are not trying to cheat and it's unfair to workers. In non-One Fair Wage states like New York, too many restaurant owners find themselves caught up in litigation where they may not even intend to break the law because of the important protections for workers who are receiving subminimum wages. Eliminating the existing competition between restaurants based on paying subminimum wages is the best way to eliminate this inefficiency and protect the rights of all restaurant workers. Thank you.

Commissioner Reardon: Thank you. Camille Rivera. Camille Rivera? Is Camille here? No. Noreen Farrell.

Ramona: After Noreen, the next five speakers are: Kathy Amiliategui, Tania Wolf, Lenora Lapidus, James Mallios, and Julie Vogtman. Please come on down to the front.

Noreen Farrell: Hi, Good Morning. My name is Noreen Farrell and I'm the Executive Director of Equal Rights Advocates and I also Chair a national campaign called Equal Pay Today, which is trying to close the gender wage gap, including by addressing the

subminimum wage. Because women are co-primary and sole bread winners of their families, we know that boosting their economic security really lifts up entire families. We work with hundreds of restaurant workers who are literally on the menu for male customers who exact a price for their tips; leering, grabbing, repeated requests for dates, stalking in parking lots, because they need those tips to offset a subminimum wage, and it doesn't stop with customers. A restaurant workers tips often depends on the restaurant section given to them by their managers. We represent mothers with years of experience and young women in their first jobs who tolerate abuse by their supervisors rather than risk a section that prevents them from earning enough to feed their kids or pay their rent. Depressed wages, sexual harassment, the subminimum wage presents a perfect storm of harm for women workers in this State. But I'm here to say it doesn't have to be that way. As the research that I cite in my written testimony establishes, we know that states with one minimum wage for all workers regardless of tips, have more robust wages, tips, sales, employment, and establishment growth than unequal treatment states. I live in the State of California, a State that has never had a subminimum wage, never, not once, and contrary to the arguments presented by the proponents of a poverty subminimum wage, the sky has not fallen on California. As a One Fair Wage state that treats all minimum wage workers equally, we have managed to grow our economy to be fifth largest in the largest and our restaurants are thriving and rather than harm minimum wage workers, California's one minimum wage has risen steadily and will be \$15.00 an hour in 2022. Having one minimum wage as we heard in California streamlines accounting for employers and decreases the likelihood of wage theft claims by restaurant workers, and our women workers are harassed less. Over 80% of tipped restaurant workers in New York report that they receive unwanted sexual attention and over half of these say it happens on a daily basis. In California, a one minimum wage state percentage is far lower; 32%, and this isn't because California has fewer people in it that will harass workers, the difference is that New York's two-tiered system promotes sexual harassment and its disproportionately affecting women workers. It incentivizes employers to turn a blind eye to sexual harassment. In this Me Too moment, New York has the opportunity to stop being complacent with the abuse and harassment of women workers.

Commissioner Reardon: Thank you. Kathy Amiliategui.

Kathy Amiliategui: Hello, Good Morning. My name is Kathy Amiliategui and I'm an organizer on the Workplace Justice Team on Make the Road New York. Our community-based organization has more than 22,000 members and five community centers. Many of our members work as tipped workers in restaurants, car washes and nail salons, as you know. Our members work in our communities in smaller restaurants and dining establishments around Bushwick and Jackson Heights. These are not high-end restaurants but they represent a significant portion of the restaurant industry. It's critically important to consider that while some restaurant workers who work in busy areas of Manhattan may be earning a substantial amount in tips and therefore are not concerned with the minimum wage, there's an even greater workforce earning far less and struggling to make ends meet. They must also be fairly represented by our minimum wage laws. The purpose of the minimum wage and hospitality as an all other industry is to set the standard for fairness of all workers. As an organization, I've talked to workers

in many industries; garment workers, bank workers, warehouse workers, retail, etc., unlike these other industries, the opportunity to make tips could represent an opportunity for increased financial security. Tipping could be a means for customers to show appreciation for good service. Yet, instead the subminimum wage system makes it so that the customer's good intention in leaving a tip is subverted. Tips are used as a way to keep base salaries low and fill out the minimum wage for workers. I've spoken to servers who have worked in restaurants for over 15 years. One server in particular and her base wage remains around \$8.00, relying on tips from the friendly service she has honed over the years. I've spoken to members who come into our office seeking help because their wages and tips were stolen from them from their managers. When workers come in asking for help, they always ask what they should be making? What is the minimum wage? It's a simple question and yet for tipped workers, one with an unnecessarily complicated answer. It's nearly impossible for workers to enforce their labor rights when the minimum wage is so convoluted. Frequently workers go through the process of meeting with advocates and lawyers to understand what their legal minimum wage should be only to find out that their wages are being stolen anyways. Well some might say that this is the fault of individual restaurants and that these problems should be addressed individually. This is not a one off issue. Wage theft for tip workers is so wide spread it points clearly to systemic problem. The subminimum wage lies at the intersection of many forms of exploitation in the restaurant industry; wage theft, sexual harassment, and sexism. We must take a systemic approach to the solution. Raising base wages for tip workers to the full minimum wage is a crucial first step. As a California native deeply involved with labor organizing on both coasts, I know first hand what happens when tipped workers earn the full minimum wage and we can all learn by looking at the seven states in which tipped workers earn the full minimum wage that they are doing better and so is the economy. It's time for New York to ensure that all of its workers are offered the protection of a fair minimum wage. We commend Commissioner Reardon for holding these hearings and urge New York State to raise the minimum wage, base wage, for tipped workers to the full minimum wage. Thank you for the opportunity to testify today.

Commissioner Reardon: Thank you. Tania Wolf. Tania Wolf?

Tania Wolf: Good Morning. My name is Tania Wolf and I currently work for Make the Road New York. I worked in the restaurant industry for over seven years. I started working as a waitress in high school. My mom had a job as a postal worker but she still couldn't keep up the bills and take care of me and two sisters. In order to help my mom out, my older sister and I began to work at a small mom and pop pizza shop. When I was 15, I started as a bus girl and eventually made it up the waitress staff. I worked all throughout high school and college. I worked around 30 to 35 hours per week while also attending school, helping my mom take care of my sisters, and preaching at my local congregation. When I was 20, my mom died leaving my sisters and I without her support. Waitressing is laborious and hard work but it was the only job my older sister and I could maintain during such a traumatic point in our lives in order to take care of ourselves and my little sister. Given that we were paid this subminimum wage, we relied on tips to make a complete wage. Put simply, if you don't make the tips you need in a

night something isn't getting paid whether it be rent, groceries, or maybe books for school and unfortunately many customers do not tip. On a good week, I'd bring home \$400.00 to \$500.00. On a bad week, it could be as little as \$250.00, but in order to make sure I had made those tips, I would have to work doubles on Fridays, Saturdays, and Sunday nights and pick up a few shifts during the week. This meant that I was also short on the time to study for college exams and missed out on opportunities to find other employment. As part of waitressing, it is understood that you should be arriving early for shift to do things like set up the waitress station and clean up the dining room and even the bathrooms. So even when you're doing tasks that don't allow you to get tips, you are still being paid the subminimum wage. There were also many instances of managers manipulating workers to do what they want in exchange for the good shifts or the good sections. The tip wage system also means that many in the industry have suffered harassment. There is one moment I won't ever forget. When I walked into the restaurant's dining room to start my shift, a man was sitting at the table with five dollar bills on the table. When I came over, he said that these five dollars were for me and each time I messed up, he'd take one dollar away. If I was good, I'd get all five dollars. Depending on temperamental customers in order to pay your bills and take care of your family is no way to live. Luckily I made it out of the restaurant industry and into a stable job. Having job security and financial stability has deeply changed my life for the better. Restaurant workers deserve complete wages that are not dependant on the mood and variability of customers or managers. I encourage you to end the subminimum wage and support workers. Thank you for your time.

Commissioner Reardon: Thank you. Lenora Lapidus.

Lenora Lapidus: Good Morning. My name is Lenora Lapidus and I am the Director of the ACLU Women's Rights Project. I submit this testimony on behalf of the ACLU and the New York's Civil Liberty Union. Thank you for the opportunity to testify in support of One Fair Wage and for your leadership on an issue that is so critical to women and families. We urge the Department of Labor to eliminate the subminimum wage for tipped workers in New York. The ACLU is a nationwide organization of more than a million members dedicated to preserving the constitution and civil rights. The NYCLU has more than 200,000 members and supporters across the State. It works to defend and promote the principles embodied in the US Constitution and the Constitution of New York. New York's current two-tier wage system allows employers to pay tipped workers a subminimum wage that is significantly lower than the general minimum wage paid to other workers. Given that 19% of restaurants workers in New York live in poverty, it is imperative that the Department remove this structural barrier to economic equality and provide tipped workers with a reliable, livable minimum wage equal to that afforded to other workers with tips on top. Eliminating the subminimum wage is a necessary step toward equal pay for women. The majority of tipped workers are women and women of color in particular, and their concentration in tipped occupations that by law receive a subminimum wage reinforces the gender wage gap. Restaurant servers are 71% women and experience almost three times the poverty rate of the workforce as a whole. Among single mothers working in the New York restaurant industry, 35% live in poverty and 70% live at or below twice the poverty level. A higher minimum wage would lift these

women out of poverty. The dependence on tips to earn a living wage also makes these workers more susceptible to sexual harassment. Female restaurant workers, 90% of them have experienced sexual harassment at work and this industry has filed the most charges with the EEOC. Because tipped workers are forced to rely on customers rather than employers to meet the minimum wage, they must tolerate sexual harassment to ensure their earning. Ensuring tipped workers receive a stable living wage directly from employers by eliminating the subminimum wage will provide a majority female workforce greater financial stability and stronger footing from which to advocate against sexual harassment. The ACLU and NYCLU urge the Department to eliminate.

Commissioner Reardon: James Mallios. James Mallios? Julie Vogtman.

Ramona: After Julie, the next five speakers please make your way to the front: Mel Gonzalez, Ricardo Silva, Ivan Garcia, Javier Gallardo, and Raul Vasquez.

Julie Vogtman: Good Morning. I am Julie Vogtman, Director of Job Quality with the National Women's Law Center. The Law Center has worked for more than four decades to advance and protect a quality and opportunity for women and girls. I appreciate the opportunity to speak before you today about an issue that is vitally important to women across the State of New York. It is women in New York who are most likely to be working for tips especially in the restaurant industry getting less than the minimum wage from their employers and as you've heard, often silently tolerating harassment just to take home the money they need to feed their families. It is women tipped workers who face a poverty rate close to three times higher than the rest of the State's workforce, and women of color in tip jobs who live in poverty at nearly four times the rate of non-tip workers in New York. It is women who are most likely to be working as hard as they can to support children on their own and so it should come as no surprise that it is women who face the gender wage gap. In New York, women overall typically are paid eighty-nine cents for every dollar paid to men and gaps are much wider for women of color, and that is why today I am calling on you to give working women in New York One Fair Wage. By requiring employers to pay the full minimum wage to everyone regardless of tips, you can help women and their families move from poverty to economic security. You can help close the wage gap because you will especially boost wages for women and you can make a real difference for children too. Study after study shows that when families with low incomes get a boost, they're better able to provide what their children need and their children are healthier and perform better in school. Study after study shows too, that raising the minimum wage delivers these benefits without costing jobs. New York has already made important strides in this direction and your State's own experience should ensure you that the end of the tipped minimum wage will not mean the end of tips. When the tipped minimum wage for food service workers here went from \$5.00 to \$7.50 an hour in 2016, tipping rates in the year that followed, the increase was essentially unchanged. Moreover a recent study comparing restaurant industry performance in bordering counties in New York and Pennsylvania where the tip minimum wage has not gone up in 20 years, found that in the year following New York's increase, counties on the New York side of the border saw both restaurant workers take home pay and employment rates rise while Pennsylvania border counties saw considerable smaller pay

increase and a slight decline in employment. Adopting One Fair Wage in New York would fulfill the promise of a \$15.00 minimum wage for everyone and would mark another vitally important step toward truly equal treatment under the law for the women and people of color who make up most of the States tipped workforce. I urge you to make One Fair Wage a reality in New York. Thank you.

Commissioner Reardon: Thank you. Mel Gonzalez. Mel Gonzalez?

Mel Gonzalez: Hi, my name is Mel Gonzalez. I'm an Equal Justice Works legal fellow at Make the Road New York. Thank you for the opportunity to share this testimony. My work is focused on food delivery workers in New York City and this testimony is based on our experience representing thousands of these and other tipped workers. The food delivery industry exemplifies how this subminimum wage for tipped workers creates substantial and intersecting burdens for workers to earn a decent living. I want to highlight three of these burdens which especially affect delivery workers, a largely immigrant workforce comprised of over 50,000 workers in New York City. First the tip minimum wage exacerbates the rampant wage theft that exists within the industry, the restaurant industry, particularly for minority workers. Currently there are at least eight possible different minimum wages that a worker may be entitled to receive. Even an employer dedicated to following the law may be confused as to what base wage a delivery worker should receive. Many delivery workers are entitled to the full minimum wage yet employers frequently capitalized on the complexity of the wage structure to misclassify delivery workers in order to pay them the subminimum wage. Worse delivery workers are often paid below even the tip minimum wage. If employers address this at all, sometimes they tell workers that the difference will be made up in tips. This may sound reasonable enough to workers unfamiliar with the complexities of the tip wage structure, yet as a consequence we frequently help workers who only receive six, seven dollars an hour as their base wage. Some employers have argued that tipped workers generally receive substantial earnings in tips; however, the data does not bear this out, including for delivery workers. A recent survey shows that even when accounting for tips, delivery workers of color are making on an average below \$11.00 an hour, well below the minimum wage and not paid overtime, or given benefits like Workers Comp. Second, the tip minimum wage creates perverse incentives. The delivery work industry is a powerful example because it demonstrates the way the tip wage structure can endanger the lives of workers and the general population. The wage structure exacerbates this because it incentivizes workers to engage in more dangerous activity than they otherwise would. Every single delivery is important for delivery workers because the tips they earn on those deliveries make up a substantial part of their income. As a consequence, workers are incentivized to bike faster, cut corners, and make as many deliveries they can thus it exacerbates a context in which workers literally are choosing between their and other safeties and their own livelihoods. In this way the tipped wage structure implicates public safety overall. Third, the tipped wage structure makes workers unable to predict how much money they will make on a given week due to inconsistent tips. This system puts workers in a constant state of insecurity. For delivery workers who are largely workers of color, this is exacerbated by a tipping culture that several studies have shown is racial discriminatory, meaning that workers of

color are tipped less on average. In fact, more than 50% of delivery workers of color have received zero tips, zero dollars in tips at least once within their last work day. Having one guaranteed minimum wage will go a long way to ensure that workers receive at least the bare minimum wage that the law mandates even as the tips they receive fluctuate. Thank you.

Commissioner Reardon: Ricardo Silva. Ricardo Silva?

Ricardo Silva: Good Morning. My name is Ricardo Silva. I currently work as digital organizer for Make the Road New York where I am able to have a vote in job security and financial stability, but for many years it was not like that. I am here today because I know first hand what it is like to struggle to survive on just the minimum wage after working at different restaurants for over 10 years. My family and I emigrated from Mexico to the United States when I was 14 years old. My parents risked everything leaving their home in order to give my sister and I a good education. My parents worked tirelessly in low paying jobs to support us. My mom will clean houses and for the past 20 years my step father has worked in restaurants making just minimum wage plus tips. It is because of their hard work and labor that I am able to be what I am today. Working in restaurants is difficult and thankless work. My stepfather worked as a server in two different restaurants with back to back shifts just to make ends meet. He would be on his feet from 7:00 AM in the morning until 10:00 at night. Despite working 15 hours day, five to six days a week, we still struggled to get by financially. I remember wondering if we would be able to afford Christmas presents year after year. Working at this minimum wage plus tips and not being able to rely on consistent and stable income, the restaurant industry goes through highs and lows, busy and slow seasons, leaving many workers financially insecure living paycheck to paycheck. Furthermore, the industry is notorious for lack of job security. Without a notice or cause, restaurant workers are often fired. No 10 years I experienced the same thing, working over 30 hour per week and going to school, but still struggling financially. I had to work multiple jobs at once just to afford getting my degree. On a good day I may come home with \$100.00 in tips; on a bad day it would be \$40.00 or even less. I never knew if I had enough money to make tuition or buy my books. My financial stability was tied to the generosity of customers no matter how many jobs I had or how many hours I worked. It is people like me and my stepfather that cook and serve your food. We are a critical piece of the American economy. In New York, the restaurant industry is vital to the tourism that brings in important revenue to our State. We work long hours in physically demanding jobs for poverty wages. We have no financial stability nor job security. The restaurant industry thrives at the expense of us. Luckily I am been able to make it out of the restaurant industry into a more stable job. I no longer make the unfair minimum wage and rely on the generosity of customers. All workers deserve fair and stable wages and you have the power to make that happen. I owe you to recommend getting rid of this minimum wage and supporting working New Yorkers. Thank you.

Commissioner Reardon: Thank you. Ivan Garcia, Ivan Garcia?

Ivan Garcia: Good Morning. My name is Ivan Garcia. While I currently work as an organizer for Make the Road New York, I spent the last eight years working in the restaurant industry, three of which are actually going to testify today and I had a bad experience at all of them. I'm here today to share the reality of working for a subminimum wage in restaurants. I started working in different restaurants when I was 18. I began as a busboy and eventually became a bartender and server. I spent eight years working in different restaurants in order to support my family and myself. I worked my way through college and graduate school working anywhere from 40 to 80 hours a week. Working for the subminimum wage means that you are relying on tips. This means that sometimes no matter how hard you work or for how many hours you still may not make enough tips to pay the bills. Some weeks I only brought home anywhere from \$300.00 to \$400.00. Working full time in a physically demanding job should not mean poverty wages. Okay, I still have time. Outside of our typical wait staff duties you were also made to do things like take out the garbage and clean the bathrooms. Managers would have wait and bar staff take care of these tasks because it was cheaper for them to pay us the subminimum wage than hire someone to clean who would make the regular minimum wage. As you can imagine, this meant less time for us to make tips. There were other ways that management took advantage of subminimum wage workers, for example, because managers only had to pay wait staff the subminimum wage many restaurants had no problem overstaffing. This means that all wait staff would have less tables and no one would leave making enough money for the shift. When you pay workers the subminimum wage, you are putting them in a position to rely on their managers to get the good shifts, the good sections, and to have the integrity not to steal your tips. Putting workers in this vulnerable position leads to much sexual and racial harassment and overall an unhealthy work environment. In fact, one time a manager told me that if I slept with him they would make sure I would get better shifts. Managers were also known to make racial comments like you are a Mexican, you can work a double. By allowing the subminimum wage, by allowing the subminimum wage system, you are perpetuating an environment that is unsafe and unfair to workers. I urge you to stand up for workers by getting rid of the tips that subminimum wage and making sure working New Yorkers are safe and have one fair wage. Thank you.

Commissioner Reardon: Thank you. Javier Gallardo.

Javier Gallardo: Good Morning. Thank you for giving me the opportunity to testify today. My name is Javier Gallardo. I work for Make the Road New York. I started working the restaurant when I was 19 years old and I worked there for over seven years. My brother and I both worked in restaurants to support ourselves and our mother. I first began as a bus boy, bar back, server, runner. Despite working over 50 hours per week it was impossible to make rent and pay my bills. With the subminimum wage system, it is no surprise that New Yorkers working in the restaurant industry experience poverty at more than twice the statewide rate. Imagine supporting yourself and your family on such a low and unstable income. Not having any financial stability was very difficult. I was often worried how I was going to make ends meet. I never knew how much I would make that day or if I would be lucky enough to be given a good section where I could hardly make enough money in tips to supplement the sub wage. Giving people shifts or

giving service center sections was a tool often used by management to manipulate and exploit workers. For example, despite being legally guaranteed a break after working a certain number of hours, manager would try to pressure you to stay on the floor. They would even get mad if you wanted to take a break to use the restroom. They would use the promise of losing a shift or good sections or the promise of losing shift or getting a bad section as a way to get workers to do what they wanted. When low wage workers are forced to rely on tips and to get a complete wage, their ability to survive depends on the whim of a manager. At my last job, my manager would give service quarters on how many drinks were to push out. If we resist or didn't make the target goal, they would retaliate by taking your shift away or by moving you low sections or low turnover to make sure you didn't make enough money. They used this system of subminimum wage as a way to manipulate workers into doing whatever they wanted; workers deserve one fair wage. They should not be punished in a position where the must put up with abusive practices in order to ensure their rightfully own paycheck. I am here to testify today in order to standup for workers and get rid of the New York's subminimum wage system. Thank you.

Commissioner Reardon: Thank you. Raul Vasquez..

Ramona: After Raul, the next five speakers are: Manuel Flores, Felipe Ramirez, Pedro Rojas, Dawn Lafreeda, and Michael Saltsman. Please come on down to the front.

Raul Vasquez: (Interpreter) Hello. I am Raul Vasquez and I work as a server for four years. I came today because I was a victim of stolen wages and I came here to testify about the abuses in the industry. When clients give us tips, it doesn't make sense, the clients don't know that this is part of the salary. All of the tips that you see, it's difficult to plan our lives when out of your salary goes up and down day to day and depends on how busy the restaurant is. It's supposed to be that the restaurant makes sure that we earn the minimum salary when the tips don't add up to the minimum salary. It happens often. There is a very easy solution. The employers should do what other employers do, small and large, and that is to pay us the minimum salary. Tips should be gratitude for good service not a subsidy for the owners of the restaurant. We ask that the Department of Labor please act on behalf of the equality. Thank you.

Commissioner Reardon: Thank you. Manuel Flores. Manuel Flores? Felipe Ramirez. Felipe Ramires?

Felipe Ramires: (Interpreter) Good Morning. My name is Felipe Ramires and I'm a member of the committee of Make a Way for New York. I live in New York for around 17 years. I came to this country to make a better future for me and for my family. I have two children. My goal is that they have a better education than me so that they don't have to go through what I went through. I've had to work very hard, 12 hours, 12 hours a day every week. Sometimes my only day off I work, I do a part time work to make ends meet. Sometimes I have to collect bottles. I work in delivery, deliveries in Brooklyn. I make \$340.00 a week plus the tips. On a good day, I take \$25, \$30, \$45 or \$50.00 but that is rare. Some days I don't receive anything. I don't know, I never know what I'm

going to earn per month but I do know that I have to pay rent of \$1,500.00, lights, gas, and cell phones, and plus the food for my family. It's impossible to cover all of these expenses with a salary less than minimum. The rent does not wait. You have to pay each month these expenses. Thank you.

Commissioner Reardon: Thank you. Pedro Rojas. And just to remind everybody, there will be no heckling.

Pedro Rojas: (Interpreter) Good Morning. My name is Pedro Rojas. I have been working delivery for foods and life has been very difficult. There have been many changes in this industry. We work six or seven hours per week or eight hours a day, at least. Personally, I've worked more than 70 hours per work and work when the weather is really bad, for example, if it's raining or snowing we still delivery. We do deliveries anyway we can. To earn a salary I rely on tips because I don't earn enough with my salary. My last base salary was much less than the minimum salary. I also did not get time and a half. I have no access to any benefits and supposedly the workers as a consequence don't rely on tips to be able to support myself. I never knew how much tips I was going to receive on a given day and I could not rely on how much I would make each week or each month. Sometimes I would get 20% tip on one delivery and then zero percent on the next delivery and that was very difficult to know if I could continue to pay and other needs. Additionally, we work in an industry where there exists a lot of salary theft. Thank you.

Commissioner Reardon: Thank you. Dawn Lafreeda.

Dawn Lafreeda: Good Morning. My name is Dawn Lafreeda and I own 81 Denny's Restaurants in six states. But before I owned restaurants, I was a Denny's waitress. I went into the food service industry for the money. I was a young woman wanting to make a better life for myself and I saw waitressing as my avenue for that. I only had a high school diploma and no formal training. But my story isn't unique, you see the restaurant industry employs and gives opportunity to anyone who seeks it. In my restaurants, I struggle to find help. The only job position I don't have trouble filling is that of the server. Some have held us up as a poster child for the policy change you are now considering but the claim that servers don't do well at a restaurant like Denny's is simply not true. Higher end restaurants have a limit to the number of tables servers can wait on and they often co-work a table and share the tip. In the Denny's environment, servers get more tables to themselves and tables turn faster. I've had servers leave to go to higher priced places because they think they can make more money but they end up coming back as they were able to better working at Denny's. Others have suggested that servers at Denny's are forced to dressed sexy in order to earn their tips. Now if you have seen any Denny's, been in any Denny's location recently and seen our modest uniforms, you understand this is a ridiculous claim. It's also insulting to suggest as some anti-tipping advocates have, that waitresses in New York or anywhere else must lower their uniform to get better tips. Sexual harassment exists in all walks of life from the political world to Hollywood but my own personal experience, not to mention federal data, indicates that there no link between this bad behavior and the restaurant industry or a

compensation system that involves a tip credit. I've heard it said that in California the lack of a tip credit hasn't caused any restaurant harm. I differ with you. I grew up in California, I owned three restaurants there and I had to sell them because I could not afford to do business there. I was losing money. The dramatically higher labor costs require restaurants to charge higher than average prices and too many customers have rejected those price hikes. The clear result has been cutting of staff, shorter hours, more self service, and ultimately restaurant closure like mine. I am where I am today because of the opportunity I had as a waitress at Denny's. I am deeply worried about a future where these opportunities no longer exist especially for those without a college education like me. If States like New York push labor cost higher in an industry where the profit margins are already razor thin, that outcome is inevitable and those servers most affected understand that good jobs will be destroyed.

Commissioner Reardon: Michael Saltsman. Michael Saltsman?

Michael Saltsman: Alright, I got three minutes here ticking down. Good Morning. I am Mike Saltsman. I am the Managing Director of the Employment Policy Institute and I am a supporter of tip credits and tipped employers. You have heard from advocates on both sides of this debate who have made often conflicting claims and what I want to do today is cover a set of facts that are not in dispute. Fact: 56% of tipped servers in New York are women; not 70% as you've heard repeated. Servers report earning \$17.00 on an average statewide, \$20.00 - \$25.00 in New York City and have a lower poverty rate than other non-managerial restaurant workers. Fact: Government data shows there is no relationship between the states tipping system and sexual harassment at full service restaurants. If you only take away one thing about tip credits and sexual harassment, let it be this. New York has a lower percentage of sexual harassment charges from full service restaurants than any state without a tip credit. Fact: New York's last tipped wage hike was followed by a drop off in full service restaurant employment growth unlike anything seen since the great recession. Over 270 restaurants closed and even today New York City's full service restaurant employment growth hasn't fully recovered. Fact: New York, San Francisco is not a restaurant model for New York City to aspire too. This week's New York Times article on San Francisco's trend of fine casual where customers serve themselves at nice restaurants because restaurants can't afford the labor cost is a preview of what's to come. Fact: Tipping does not have a legacy in slavery. I know this because I consulted the same source that ROC's founder used when she wrote the book where this bogus claim originates from. Nothing in her source identifies tipping as being a legacy of slavery and a US economic historian has dismissed this idea. Fact: The proponents of tip credit elimination in New York view it as a first step in eliminating tipping entirely. I know the department has taken, been careful to state that that is not what these hearings are about but ROC's founder, it's members and it's allies have all been implicit in their desire to see this practice eliminated and our survey of several hundred restaurants in New York suggest they will get their wish because one in seven they are very likely to pursue a no tipping model if the tip credit is eliminated, and that brings me to my last fact which is that most servers want to keep the tip credit. ROC has struggled to identify any critical mass of hospitality industry workers in New York State or any State who want this policy changed. If these hearings have demonstrated

anything, let it be this. A handful of Ford Foundation funded activists don't get to decide what is best for restaurants workers. The restaurant workers get to decide what is best for restaurant workers. I hope you listen to them and the facts and keep New York's tip credit. Thank you.

Commissioner Reardon: Please sit down.

Mario Musolino: (Unclear)

Michael Saltsman: You know what, I just told...

Mario Musolino: I just want to ask a question because I just want to move this along. Did you testify that after the last tip wage increase there was a decrease in restaurant employment or did you say the rate of growth slowed? I didn't hear.

Michael Saltsman: So both. There was a closure of over 270 restaurants.

Mario Musolino: Did you say there was a decrease in employment?

Michael Saltsman: In employment growth.

Mario Musolino: In employment growth, okay thank you.

Michael Saltsman: From about 6 to 7% on an average down to 1%.

Commissioner Reardon: Got it. Next five speakers and I know our first one is Patricia Smith,

Ramona: Next five speakers are: Patricia Smith, Kyara Vargas, Elizabeth Murray, Steve Wong, and Nadege Fleurimond. Please come on down to the front.

Patricia Smith: Commissioner Reardon, my name is Patricia Smith. I'm the Senior Council at the National Employment Law Project. My previous experience including Commissioner of Labor of New York from 2007 to 2010, is detailed in my written testimony. I have 30 years experience in labor law.

Commissioner Reardon: Get a little closer to the microphone, they can't hear you.

Patricia Smith: Sorry.

Commissioner Reardon: Thank you.

Patricia Smith: The two-tiered system, the tipped minimum wage versus the regular minimum wage puts pressure on very limited public enforcement resources. It creates an unnecessarily complex system. It puts workers at a higher risk of wage theft and it even has unknowing good employers often violating the law. There are structural reasons why

there are higher minimum violations in the hospitality and the tip industries. It is difficult for workers and employers to keep track of tips accurately. Workers especially in restaurants often work irregular schedules, keeping track of tips is difficult when in one shift they will come in the form of both cash and credit cards. The variety of tip pooling arrangements also makes it difficult to keep them, and finally some employees simply don't ask their employers to make up the difference when their wage does not meet the regular minimum wage often because of retaliation fears which can be as subtle in the restaurant industry as being reassigned to a less lucrative shift. You are well aware that public enforcement resources are very limited. Private enforcement is also being increasingly hampered by Supreme Court decisions that uphold forced arbitration or limit class actions. Based on 30 years of labor law enforcement, I can say with certainty, that enforcement alone, even increased enforcement, will not solve the problem of rampant minimum wage violations in the hospitality industry. On the other hand, eliminating the two-tiered minimum wage structure would eliminate many of the complexities that result in the rampant violations. Now you have heard claims that taking away or raising the tip minimum wage may be eventually eliminating it is going to hurt tipped workers bottom lines, but I as detailed in my written testimony, I've looked at the Peer review economical studies and it does not support that claim. Finally, in May there's a claim that in May there was a substantial decrease in worker's income after the referendum that was going to eliminate the tip minimum wage. I have read every single piece of testimony that happened at that hearing and that is a misstatement. In January, the tip minimum wage in Maine was never eliminated. In January 2017, it was increased. There was a hearing that April, two workers testified that their income had decreased. Many more workers had testified that their income had increased.

Commissioner Reardon: Thank you.

Mario Musolino: Question. I want to make sure just that I got this right. It was kind of at the end of your testimony. You said two workers in Maine.

Patricia Smith: Two workers testified that their take home pay had decreased.

Mario Musolino: Do you know what the change in Maine was because that was a phased.

Patricia Smith: Yes, Yes I do actually. In Maine, on January 1, the tip minimum wage went from \$3.75 to \$5.00 and the regular minimum wage went from \$7.50 to \$9.00.

Mario Musolino: So it went up a \$1.25 in minimum wage.

Patricia Smith: Exactly.

Mario Musolino: And two people testified that...

Patricia Smith: That their take home pay went down. There were some people who testified that their tips went down but of course their cash wage had gone up.

Commissioner Reardon: Thank you, thank you very much. Kyara Vargas. Kyara Vargas? Elizabeth Murray.

Elizabeth Murray: Good Morning. Nobody has said this but I think in a moment when it feels like our democracy kind of in imperil sometimes how amazing it is, makes me emotional, but how amazing it is that so many people are choosing to stand up and interact with their Government. It's kind of amazing, isn't it. Thank you everyone for being here. My name is Elizabeth Murray and I am the HR and Communications Director for the Marlow Collective, a hospitality company that successfully operates five One Fair Wage businesses in Brooklyn. I'm here today to tell you that paying employees the full minimum wage is not only possible but will make our industry a stronger, healthier, and more equitable one for all who work it in. It's true that New York City restaurateurs face a myriad of challenges and need help. Expediently rising rents or city and state bureaucracy, high fees and fines, there are all significant barriers to entry that threaten small business owners, once the backbone of our economy with extinction. But the solution is not to continue to artificially depress wages passing the cost of a fair wage onto consumers and the burden of ensuring their wage meets the minimum on to service workers, which I think the last testimony spoke to you very well. Though the solution isn't commercial rent stabilization, free assistance navigating city and state agencies, common sense reforms on fines and penalties and targeted tax breaks and guaranteed loans that will help businesses make the transition to an equitable system. But workers need your help too. Unemployment rates are at the lowest level since post-World War II but wages have failed to rise. Unions which were once the fulcrum that really helped employees stand up against employers and have, give balance to our system have been disseminated in this country. We've seen the affects of this wage stagnation and lack of hope across our entire political system. I would like to echo some of the other testimony given this morning to say that this is an issue of worker's rights and one that disproportionately affects the financial security of women and minorities, immigrants many of whom are supporting a family on a single income. As an operator of One Fair Wage businesses, I am proud to tell you that we pay our front of house employees at least minimum wage. We start our back of house employees at a \$1.00 an hour above minimum wage. That's porters, cooks, line cooks make at least \$2.00 and hour above minimum wage to start, and are not only profitable but growing and opening more businesses. This is the way forward to creating a more sustainable industry for workers and owners. Thank you.

Commissioner Reardon: Steve Wong.

Steve Wong: Thank you Commissioner Reardon and the New York State Department of Labor for giving me the opportunity to share my comments about Cuomo's proposal to examine raising the base wage pay to tipped workers to the regular minimum wage. My name is Steve Wong. I'm the owner of Oxlis, a restaurant, a pop-up restaurant opening a permanent location in Brooklyn later this year, and a special investments officer at the Working World, a federally certified community development and financial institution that, a non-profit investing in employee ownership both nationally and internationally.

I've been in the restaurant industry for over a decade as a server and a bartender and have consulted with dozen of businesses including full time restaurants during my work impacting investing at the Working World. I'm here to testify in favor of One Fair Wage and the elimination of the subminimum wage for tipped employees. Having spent the past seven years in impact investing specifically in the employee ownership space, our experience at the Working World is that there is little substitute for fair compensation when it comes to maximizing employee performance. It is easy when workers reap the benefits of a business success they tend to care more for the business. As a restaurant owner, we feel strongly that the elimination of the subminimum wage for tipped employees is an important step in making our industry sustainable for owners and more importantly the hundreds of thousands of employees throughout the state. As an industry, we shouldn't be asking some of our employees to be paid less than every other profession especially when there are many who do not have their most basic needs met. At Oxlis, we've paid our tipped employees the regular minimum wage to show our employees that our actions, through our actions, that we wish to do right by them and ask them to do the same for us. We see their commitment to our restaurant reflected in the quality of our service and the critical part of our own success. Raising the base wage of tipped workers is the best thing that New York State can do for the economy. It isn't an opinion, research reflect this as well, and states with One Fair Wage, such as California where I am from, the restaurant industry is growing at a faster rate and workers are earning better wages and equal or better tips. The New York State has a long standing history of being political leaders on the national level as our country faces unprecedented level of equality embracing one fair wage is a easy step to strengthen state economy, communities and families. Thank you.

Commissioner Reardon: Thank you. One second. Steve, just a quick question.

Nathalie Cary: Was your restaurant, did your restaurant pay one fair wage the entire time or did you transition to one fair wage?

Steve Wong: We paid it the entire time during the last two years of our events.

Commissioner Reardon: Thank you. Nadege Fleurimond. Nadege Fleurimond?

Ramona: The next five speakers are: Emily Chatterjee, Christina Vanderveen Gupta, Felipe-Tem Rojas, Dulce Hermida, and Jose Rodriguez.

Nadege Fleurimond: Good Afternoon. My name is Nadege Fleurimond, a member of ROC New York , and I am the owner of Fleurimond Catering. For the last 15years I have hired many individuals from servers to bartenders and we have from the onset paid workers one fair wage plus tips. I've also managed other restaurant establishments that pay subminimum wage plus tips and have clearly seen the difference in work performance, hence why I am in full support of One Fair Wage for all. The rateat which workers call out of work drastically is differently. In a restaurant when a worker is going to work knowing they may or may not money it doesn't encourage them to want to go in unless it's a Saturday or Sunday when they are expecting lots of traffic and tips. Within

my catering establishment, we rarely have call outs and workers really take ownership of the business. I don't believe that the burden of paying workers should be on the customer. As an employer, it is our duty to charge a rate when we can afford to pay all the employees as well as our expenses. I was must in France last week where tipping is optional. It creates a better dynamic between the worker and the employee. The employee doesn't have to devalue themselves in order to ensure a tip. Not every restaurant is a high end restaurant where servers are earning \$300.00 to \$400.00 a night in New York, and even those restaurants, the type of clothing is often times regulated and the type of profiling associated with the hiring of workers is repulsive. Tipping should be allowed as a way for customers to show appreciation; that I am in support of. One Fair Wage allows a clear standard that both employees and employers can understand. Thank you.

Commissioner Reardon: Emily Chatterjee.

Emily Chatterjee: Good Morning. Thank you to Governor Cuomo and State Labor Commissioner Roberta Reardon, and the State Department of Labor for holding these hearings on the proposal to end the lower wage for people who work for tips. My name is Emily Chatterjee and I'm Senior Council with the Leadership Conference on Civil and Human Rights. The Leadership Conference is diverse coalition with more than 200 national organization working to build an America as good as it's ideals. As an organization, it is committed to promoting and protecting the civil and human rights of all persons in the United States. The Leadership Council stands against racial, gender, and economic justice in all arenas, including the workplace. It is not possible to understand the dynamics of today's tipped workforce without looking at the history of the tipped minimum wage. The original of the tipped minimum wage are deeply entwined in our nations struggles with racial and gender equality, while the custom of tipping is itself is due to the history of slavery. The practice of tipping proliferated in the United States after the Civil War. At that time, the restaurant and hospitality industry exemplified by the Pullman Company hired newly freed slaves without paying them base wages. The effect was to create a permanent servant class for whom the responsibility for paying a wage from shifted from employers to customers. In a early 20th Century southern journal were accounted for being uncomfortable tipping white working people. As we observed in 1902, "one expects Negroes to take tips, it is a token of their inferiority, but to give money to a white man, it was embarrassing to me". Tipping kept African Americans in a economically socially subordinate position. By 1880, 43% of all working people employed in hotels and restaurants were black. By 1900, 25% of all black working people engaged in non-agricultural labor were employed as servants and waiters including the vast majority of black women. In the early 1900s, it is estimated that five million working people in the United States, more than 10% of the labor force were in tip taking occupations. The Fair Labor Standards Act established a bare minimum floor for tipped wages only in 1966. The federal tip minimum wage has remained at \$2.13 an hour since 1991. Fast forward to 2018, and one can see the through line from the origins of the tip minimum wage to today. In 2018, people of color are more likely to work in the tipped workforce and are more likely to live in poverty than their white counterparts. For example, the take home wages of people of color who work in restaurants are 56% less

than their white colleagues. Today, of the almost six million tipped working people in our country, 66% are a woman, that is in our country, not New York, and women of color are disproportionately represented in the tipped workforce. Tipped workers of color on an average are paid less than their counterparts. The median annual income for tipped workers of color is \$14,300.00. For black working people it is even lower at \$12,900.00 a year. Poverty rates for people who work for tips are more than twice as high as rates for working people overall. With female tipped workers, especially women of color, in particular disadvantaged. At the 1960 March in Washington for jobs and freedom, black labor leader, A. Philip Randolph noted that yes, we want all public accommodations open to all citizens but those accommodations will mean little to those who could not afford to use them. Thank you for your time.

Commissioner Reardon: Thank you. Christina Vanderveen Gupta.

Christina Vanderveen Gupta: Thank you Commissioner Reardon and the New York State Department of Labor for the opportunity to share. My name is Christina. I am a ROC United member and work as a server here in New York City. I'm a single mother and live in Brooklyn with my two daughters, both recent college graduates, one of whom has been working as a server as well. I love my chosen profession but need to voice my concerns about the equities of the subminimum wage tipped workers receive. I have worked in the restaurant industry for more than 30 years. It is a demanding job whether it is a chosen profession or a job that offers flexibility to pursue an education or other interests. It takes a dedicated staff to make a restaurant successful. As servers, we must be up-to-date on Department of Health practices, know the menu with it's possibly allergy elements and interact with customers to ensure their needs are met in order to provide an environment that is clean, safe and welcoming. We're the ambassadors of our restaurants. We are the sales people but also act as therapists, dietitians, and kind citizens to our customers. Some employers also rely on their servers to help with other tasks such as dishwashing, drink making, and cleaning floors, all while paying us the subminimum wage, a fact that many consumers are not fully aware of. Another note is that a lot of customers tip less than the 15%, a lot of tourists, which is a big part of our New York City industry, leave no tip at all. At the end of the day being a server means making sure your guest has a good experience and unfortunately sometimes that means having to smile through inappropriate behavior or comments from customers or accept blame for circumstances outside of your control that may influence your tips. In addition to facing discrimination based on gender, race, or age, it says something that as I've gotten older and my skills have improved I actually get tipped less on average. Having to rely on tips for the majority your income is not reliable or fair compensation for anyone. Tips are additional and un-required gratuity and they should be in appreciation of service, not a salary. Paying employees a living wage for their work is not an arbitrary decision to make. Food service is one of the biggest and fastest growing industries and there is no reason to rely on subminimum wage labor to make a profit which restaurants like Zingermans in Michigan have shown increases in their profits and decreases in their labor costs after raising the base pay of their tipped employees. Following the example of the states of Washington, California, Oregon, Nevada, Minnesota, and Montana, Alaska, and now Washington, D.C., and passing this law would assign service jobs a realistic value

and provide tip workers with dignity, peace of mind, and the benefit of a secure livelihood. I want my daughters and all others to have the right to be paid fairly by their employers for their hard work. And another little note, ___ said, this is how this could be a sane world, it starts with sane citizens and that is us. Thank you.

Commissioner Reardon: Thank you. Felipe-Tem Rojas.

Felipe-Tem Rojas: Hello and Good Morning. My name is Felipe-Tem Rojas. I have been working for tips as a delivery worker for four years at a variety of restaurants across Brooklyn. For a long time, I didn't know that I was entitled to the same minimum wage that everyone is entitled to. For most of my time doing deliveries I made much less than the minimum wage; sometimes as little as \$25.00 for an eight hour workday. I was always told that it is a normal wage because I work for tips and that those tips should cover the rest. Unfortunately, even with tips I rarely make the full minimum wage and even on the best days. If I got paid the full minimum wage of \$13.00 an hour, it would be double of what I make right now per hour. This will completely change my life and the lives of my family. Even now that I know what I should be getting under the law, it is very difficult for me to advocate for higher wages because my boss just tells me that I make enough with tips. Many of us delivery workers are in the same position and would thus benefit tremendously from getting rid of the opportunity as far as have to pay less than minimum wage. It would also mean that we would be less dependent on tips which will create a much safer working condition for us. Every delivery is important for us because that's how we make tips and that means that we feel a lot of pressure to make deliveries as fast as possible so we can make more money. Sometimes this means that we bike more aggressively than we would like to which put us more in danger. Just recently my nephew who is also a delivery worker was hit by a minivan while he was working. He broke a bone in his leg and had to stop working. He is now scared to do that work again and worse, he is not even getting paid any compensation from his job for the medical costs and the lost wages. Thankfully nothing has happened to me out there on the road but to me it doesn't make sense that our wages would be so dependant on how fast we make the deliveries because that means that our safety is at odds with our livelihoods. If we eliminate the subminimum wage, we would be less dependent on making deliveries as fast as possible and would therefore make feel comfortable biking more safely; therefore, I ask the Department of Labor and the people on the panel to consider our experience as delivery workers when deciding whether to eliminate the subminimum wage for tip wages. We urge you to listen to our stories and work to ensure that we receive at least a full minimum wage and we could possibly think that the work, the boss's objective is always to reduce and make more profit for themselves and never for the workers. Thank you.

Comimssioner Reardon: Thank you. Dulce Hermida.

Ramona: Next five speakers make your way down to the front. Rodolf Tome, Taria Vines, Gemma Rossi, Beverly Neufeld, and Mansoor Khan. Please come down to the front.

Dulce Herminda: (Interpreter) Good Morning. Thank you for the opportunity to share my testimony today. I am Dulce Herminda. I have two children and I live in Brooklyn for 25 years. I work as a waitress for a restaurant in Brooklyn, New York. They pay me \$5.00 an hour plus tips, eight hours a day, five days a week. I take home \$200.00 in tips a week. This salary is not enough to survive. I have to clean the tables, charge out the cashier and use the computer, take telephone orders, organize freezers, clean bathrooms, organize all the utensils for food; plates, forks, knives, _____. I have to quit this job because not enough to survive. I cannot make pay the rent and everything else at home. We need the minimum wage the same as other workers and more time to spend with our family. Take the decision of raising our minimum wage like other workers. The tipped workers have the right to have the same level of life as other workers, for all the workers in New York. Thank you.

Commissioner Reardon: Jose Rodriguez. Jose Rodriguez? Rodolf Tome.

Rodolf Tome: Good Morning. My name is Rodolf Tome and I'm a member of Worker's Committee Making a Road New York. I live in Queens. I live with my wife and two children. I work in a restaurant doing the job runner and barback. I have worked more than 13 years in the restaurant industry. I want to talk a bit with you why you should raise the minimum tip wage. I work Wednesday through Saturday, Friday and Saturday, they are very busy days. When I arrive to the restaurant, I have to prepare everything for the rush ___-cooking, taking ice, clean the tables and preparing everything for servers. These preparations jobs take me two hours, start serving at 7:00. I am in charge the foods and check the bar. ____, by 11:00, the restaurant turns into a nightclub so I have to move tables and chairs from the salon. I clean the entire area. At 11:00 I am just a bar back. Then after closing, I am now working in the back washing the dishes, glasses, and mopping the flooring then I work 5:00 PM to 5:00 AM and that's another work because the other place. I want to tell you something about tips. First, the managers and customers control how much you earn, working a lot for a big group but at the end the tips is just for the servers and the manager just says he cannot do anything about it. Sometimes I earn well but sometimes not. The managers also sometimes have to decide whether to decide if we receive tips. Our bartenders and waiter have a manager is ___ prefer white people as bartenders sometimes and managers give the best shifts to their friends or girlfriends and so those people have a better chance to make tips at the end with depend on tips but it always changes. We always have to be worried. Thank you.

Commissioner Reardon: Taria Vines.

Taria Vines: Good Afternoon and thank you Commissioner Reardon for having us. My name is Taria Vines. I have spent 30 years in the restaurant industry. I started at 14 in the fast food, by 18 I was working for a full service 24-hour diner. A college student and a single mother at the time, I had no clue as how the industry worked. So when management told me to shorten my skirt and lower my blouse, I did, and that's when the harassment began, I was harassed by co-workers making sexual gestures, by management looking down my blouse, and being propositioned by customers. Because of the tip minimum wage, I had to do what was told and expected of me. If I was paid the state

minimum wage, things would be much different, not only wages but also respect and dignity. I'm sorry, it's an emotional thing when you are being harassed and stressed out at work and no one knows what we deal with on a eight hour shift. An eight hour shift consists of me asking you what would you like, for me that could be anything, but for you to tell me bend over and let me see your ass or things of that nature is demeaning and no women, a mother at that, should be demeaned at \$2.13 an hour. So for New York, One Fair Wage is needed. Thank you.

Commissioner Reardon: Thank you. Gemma Rossi.

Gemma Rossi: Hi, thank you Commissioner Reardon and the New York State Department of Labor for letting me share my comments on Governor Cuomo's proposal to examine eliminating the subminimum wage for tipped workers. My name is Gemma Rossi. I live in Brooklyn, New York. I've worked in the service, worked as a server in New York City for over the last 13 years. I've worked everything from fast food to fine dining and I am in favor of eliminating the two-tiered wage system in this state so that I can receive the regular minimum wage. The current subminimum wage of \$8.65 an hour is not enough for me to support myself and my family. I must depend on customer's tips to do so. This means that for over the last 13 years, I've not been able to count on a steady paycheck. My earnings fluctuate nightly. If the restaurant is not busy that night, I do not make a decent wage. If customers do not feel like leaving extra, then I do not make a decent wage. There are many external factors that cause my income to be precarious, none of them having to do with how hard I work. That being said, my bills are always the same. My rent is the same every month. The cost of child care is the same every month for me. My tuition and school loan is the same every month, credit card, insurance, all the same every month. The \$8.65 an hour that I'm being guaranteed subminimum wage is so far below a livable wage that I do not have income that I can count on. For this I've always held a second or even third job. I tutor, I nanny, I clean apartments. This means that in order to have a stable source of income that allows me to support my family without falling behind on payments or living off of a credit card to survive, I have to spend more time away from them. Relying on tips for my income has also pressured me in putting up with inappropriate behavior on the job. In fact having my first jobs in restaurants showed me from a very young age that I can either tolerate sexual harassment or let my income suffer. I spent my entire career dealing with lewd comments from customers, not because I'm okay with doing so, but because I need to pay my bills. Part of my job as a server is to fill customer's expectations to the best of my ability; that should not mean that I must compromise my level of comfort, morals, and safety in order to do so. I've been encouraged by management to act and dress in certain ways in order to get more tips. One establishment I worked at for many years exclusively hired women for the front of the house and at staff meetings we were told to wear more makeup and to dress provocatively. Although this angered me and made me feel uncomfortable, I did it, mostly because my experience as a women working for tips told me that it was normal. This subservient, dangerously subservient relationship needs to be de-normalized. The only way to do this for us servers is to be less reliant on tips. The only way for that to happen is to raise the minimum wage for tipped workers to the

regular minimum wage. I love what I do. I'm good at it and I deserve the regular minimum wage. Thank you.

Commissioner Reardon: Thank you. Beverly Neufeld.

Beverly Neufeld: Thank you for the opportunity to testify about the minimum wage for tipped workers and more specifically how it relates to workplace sexual harassment and economic inequality for women. I am Bev Neufeld, founder and President of PowHer New York. We are 100 organizations across New York State in every city. You have heard from many of our partners and we're working to accelerate economic equality. We do that by connecting the dots between so many of the issues that we are talking about today. Fairness in the workplace, ending sexual harassment, child care, and immigrant rights, etc. The subminimum wage is predominately affects the female workforce and it's linked to the high rates of sexual harassment in the restaurant industry. It prevents thousands of women from achieving economic security and stability. For that reason PowHer New York urges the Department in this historic Me To Movement and moment to take action to implement One Fair Wage for all workers in order to combat these intersected issues. PowHer has worked for over a decade on equal pay as you know and I think here in New York State, it is absolutely stunning that for African American women, the wage gap is sixty-six cents to a dollar, for Latinos, fifty-six centers to a dollar. This is part of the problem and legislating, it's legislated in the tips minimum wage. Thirteen million employees nationwide are in the restaurant industry. It is the single largest source of sexual harassment. We have to address this problem of sexual harassment. It's 2018, times up, it's really time to take action to end sexual harassment and make sure that women get paid a fair wage. Restaurant work is often the first job young women hold. This is a devastating and discouraging entrance into the workforce to indoctrinate them into this kind of workforce. It's not so simple as just changing a job for women or even shifts especially when one is already struggling to make ends meet, and the night shift which we haven't even talked about are more lucrative because of higher tips but that is dangerous for not only the workers, it's for the families because women have trouble finding night care and that is not really available. So the real life outcome for so many victims of sexual harassment is that they quit their jobs, they leave without the benefits of references, they ruin their trajectory of their career. In this Me To movement, in this moment that we're in, we are asking that New York State take action and we encourage the Government to have a We Too moment. We are part of the problem and we too are part of the solution. Thank you.

Commissioner Reardon: Thank you. Mansoor Khan.

Ramona: Next five speakers: Marisa Licandro, Bonnie Mohan, Alison Baker, Maria Moreno, and Sarah Kopp Reilly. Please come on down to the front.

Mansoor Khan: Hi, thank you. I wanted to first thank you for listening to me and I know there are two sides in this room. There's people who opposing this and people who are for it and I truly do understand their point of view where they are coming from and how they are worried, but also on our side, we have our valid points too. There are three

points I want to bring up why we should remove this tip credit and I know both sides will agree with me on this. I believe it's a fair conclusion I've come to. The first thing that has hurt a lot of servers throughout this country, whether they are going to admit it today or not, is the loss of gratuity. Yes, we have lost our gratuity on parties of six or more, five or more, meaning that you have a one, two, three hundred dollar check, maybe get 5 or 10% or no tip. That's a reality. I'm sure many of the servers on the opposite side have gone through this. I've gone through it. With the extra hourly pay, granted it may be two or one dollar extra an hour as it staggers through its process, it's going to add up at the end of the week and that could help you in some way, shape or form, and the interesting thing is the conversations I'm hearing about this are not just limited to New York; Brooklyn, Utica, Upstate New York, all around the state and the country. You know what I always hear is, if my check was just 20 or 30 dollars more, I could pay that cell phone bill and accumulate two or three checks together or get my MTA pass, and I'm sure everybody in this room that gone through that moment before and it's just the reality of it. The other thing is living in New York City. I'm sure many people know here it order to get a room that is \$1,000.00 a month; your W-2 papers have to reflect \$40,000.00 of income, 40 times the rent. That's the truth. You go on Craig's List, you go anywhere, and it states that clearly. Getting this, many friends that I have told me when got rejected for a room, I was just short \$1,500 or \$2,000. Now imagine if we had One Fair Wage, people would actually have a rental room, an actual room to rent in an apartment versus paying weekly fees of \$250.00 to \$300.00 a week, and you know what, some of these places you go to are not even great places and you have to go the next place and you loose the processing fee and your deposit, and the third most important thing is taxes at the end of the year. You know how many servers I've met at the end of year have a burden of paying their taxes and the sad thing is they have to either pick getting health or not owning the IRS at the end of the year. So with One Fair Wage, a lot of the servers will be able to balance both. Maybe your check won't be that high but you will be able to certain things that invest back into economy. I do believe these three points are very valid, it's for the economics of the City and for your own well being to have your own apartment, not owe the IRS, have health care, and actually get some sort of check at the week. I work 40 hours a week and after claiming my tips, my checks are \$20.00 or \$15.00. It would be nice to see a \$50.00 check. Thank you.

Commissioner Reardon: Thank you. Marisa Licandro.

Marisa Licando: Good Afternoon. Thank you Commissioner Reardon and the Department of Labor for letting us come up and speak our stories. So I am in favor of One Fair Wage since this proposal would benefit all workers, front and back, employers and consumers. Although the change feels quite overdue we are happy to have the platform today, so thank you. I am been a restaurant worker for five years, since the age of 17, working mostly, working in most positions in the front and back of the house throughout multiple parts of New York. These have been the most formative years of life, now I'm a career server and deserve a safe and protected industry. I have experienced and witnessed atrocious, in-despicable sexual harassment and assault in restaurants. Rather than be a part of the compliancy with the culture rooted in disrespect, sexism, and racism, I decided to join ROC New York. I've been a member for two years

and can attest to the long term benefits of having an empathic community of fellow restaurant workers that have the strength to self reflect and choose that they deserve better. Every single person in this room, no matter which side of the issue has faced some kind of discrimination; everyone has a story to share. I was sexually assaulted by my restaurant co-worker while in college. The assault affected my professional and personal life. I scheduled with my perpetrator multiple times and forced to work with the scariest person to me until I broke down and quit. even after revealing my truth to my manager. I was forced to choose between my career and my livelihood and mental health. I started to feel the fear of paying student loans and expenses while trying to emotionally cope with my trauma. Since I relied on tips, both me and my assaulter wanted the lucrative weekend shifts; guess who was forced to quit. One Fair Wage at that time in my life could of prevented to this unfair scheduling and I can only imagine the possibilities of the future. I share this very personal side of my life because unfortunately it's not an uncommon story. Women of color especially are concentrated in low-wage front of house positions and white men have the ability to capture the higher paying fine dining positions across the country. They tell stories of making tons of money as a server. Good for you but that's not a majority of workers. These power dynamics created in restaurants put men in positions of power over women letting sexual violence run rampant. I do have an upside. I sought out my current restaurant, Romans, because they pay a fair wage, after leaving the restaurant, my rapist worked at. This hospitality group not only pays at least the hourly minimum wage but we make a percentage of revenue and tips on top. It professionalizes our work and puts power back into our hands. I work at a gratuity free restaurant and I still make tips on top of my thrivable wage. There are so many reasons why we need this. My reason is because I'm tired of being treated as a second class citizen and being harassed. Thank you.

Commissioner Reardon: Thank you. Bonnie Mohan.

Bonnie Mohan: Hello and thank you for having us here to share our stories. My name is Bonnie Mohan I live in Crown Heights Brooklyn and I work in the Bronx running a nonprofit dedicated to improving access to quality healthcare and affordable housing for New Yorkers. I've strong connections to the restaurant industry. My very first job at 16 I was a hostess in a steakhouse and I remained working in the restaurant industry for 7 years. Both of my parents were restaurant workers while I was growing up and my father still works part-time as bartender. My uncle is a restaurant worker, my aunt is a restaurant worker, three of my cousins are restaurant workers. The restaurant industry has supported my family for generations which is why I am in favor of raising the tipped minimum wage to the regular minimum wage. When I was a child my mom was often away at night and on weekends and holidays, sometimes working 2 and 3 restaurant jobs in order to get the shifts she needed to make ends meet. I remember when she slipped on a wet kitchen floor and fell on her back. I also remember her going back to work the next night still in pain because she couldn't afford to miss a shift, not for the paycheck but for the tips. So I come to this issue as a child of a restaurant worker and as someone who has worked in restaurants myself. I know personally the insecurity of lacking a steady paycheck. I know personally what its like to endure sexual harassment from customers and managers because I was dependent on that income through tips in order to pay my

bills and my rent. But I also come at this issue through my current work in health and housing both of which are affected by the substandard compensation common in the restaurant industry. Because restaurant employers are permitted by law to pay their workers a subminimum wage approximately 2/3 of the regular minimum wage, those workers are completely dependent on customer tips to make a living. This puts workers in an incredibly vulnerable position. Being dependent on customer tips mean these workers can't count on a steady paycheck. Their earnings fluctuate on such fickle factors like which shift they're assigned to work, how busy a night it is and the mood and often prejudices of their customers. For anyone here who has ever applied for an apartment in New York one of the first things the landlord asks is to see previous paystubs as proof of income. How does that affect someone whose weekly paycheck might amount to less than \$250? When someone relies on tips for a living every shift they have to take off might be the difference in making rent and not. This puts their housing at risk. So what happens most of the time is people go to work even when they're sick. This affects their health and the health of their customers and coworkers. For all of its challenges, I love working in restaurants. I love the fast pace and the flexibility, working alongside people from Kansas and Ecuador and Bangladesh and Queens. The restaurant industry is a part of the fabric of New York City. People from all across the country come and the world to visit our city and dine in our restaurants. When they walk into our restaurants they see a microcosm of the city itself. This is something we should be very proud of. But that doesn't mean we can't and should do better for the workers that keep this industry running. Restaurant workers are skilled professionals and they deserve to be paid the regular minimum wage by their employers.

Commissioner Reardon: Thank you.

Bonnie Mohan: It's time for one fair wage.

Commissioner Reardon: Thank you. Alison Baker.

Alison Baker: Good morning. My name's Alison Baker and I represent the Restaurant Opportunity Center of Chicago. Thank you to the Commission for hearing my testimony. I am in favor of the one fair wage for all of New York's tipped workers. I was a server in Washington State where tipped workers are paid the full wage with tips. After one fair wage passed in Washington State my tip average did not change but actually went up and I was able to get off of food stamps. Also if business was slow, I know that at least I would receive a decent paycheck so that I could pay my bills and rent on time. When I was sexually harassed, I had the opportunity to say no and refuse them service because I wasn't relying on tips to pay my deserved wages. Being of service to others is hard and sometimes a draining profession. It is also a dignified and noble profession. There are 13 million hard working Americans who deserve a fair wage so that they do not have to put up with harassment and mistreatment by their employers and customers. We are not just servers and cooks, busers and food runners; we are parents, single mothers, students, artists, musicians, dads, wives, husbands, family people, working people. We are the silent majority who nourishes and serves the people of this nation. We are happy to show up and work and to provide valuable service to others but we, as workers, deserve a fair

wage and to not just rely on tips to pay our wages and feed our families. Now that I live in Illinois a state with a subminimum wage, I feel nervous that I won't get a busy section at my restaurant or that I may be subjected to sexual harassment by customers, and to have to take the abuse with a smile so that I can make tips in order to pay my bills. I encourage all of New Yorkers to vote in favor of one fair wage so that we can protect the inherent dignity of each of the 400,000 tipped workers of this great state. Thank you very much.

Commissioner Reardon: Thank you. Maria Moreno.

Maria Moreno: Good afternoon, thank you for having us. My name is Maria Moreno and I'm a previously undocumented immigrant and woman of color and a restaurant workers, I'm also representing the Restaurant Opportunity Center of the Bay. I have worked in the service industry for over 7 years in various tipped positions in the front of the house. My restaurant jobs have been my vitality and a means to put myself through school, pay for rent and live life in 4 different states. Three of those states have had a subminimum wage ranging from \$2.13 to \$5 an hour. During the time that I live in these states I endure exploitation, work open to close 6 days a week just to make ends meet. I endure sexual harassment and harassment in general I was grouped, followed and verbally abused. I was also on the brink of homelessness at some point and I was running a student debt because I never had a stable income. It wasn't until I moved to California where restaurant workers make fair wages because the subminimum wage has been abolished that I finally was able to support myself economically, tackle my debt and overcame harassment because I no longer had to rely on customer's whims to receive a paycheck. I believe no one should have to rely on customers alone to make a living. With the booming industry in California I can confidently say abolishing the subminimum wage benefits the industry as a whole. Sexual harassment rates are lower in our state. Our paychecks are higher and our tip averages have not been affected. I believe workers in New York deserve the same, they deserve receiving fair wages. They deserve \$15 an hour plus tips. Thank you.

Commissioner Reardon: Thank you. Sarah Kopp-Reilly.

Ramona: After Sarah the next 5 speakers are James Cox, Lohanne Harvey, Kimberly Taliadorous, Donald Chasse Gunter and Florentino Modragon-Lopez. Come on down to the front.

Sarah Kopp-Reilly: Hi, thank you for having me. First I would like to say that my name is Sarah Kopp-Reddy not Reilly so I mean it's all good. I am a server in St. Paul, Minnesota.

Male: (Can't hear shouting something)

Commissioner Reardon: Please be quiet.

Sarah Kopp-Reilly: Minnesota has been a one fair wage state for over 30 years and it has been a one fair wage state as long as I've been alive. I am grateful for this fact. I am able to make the money that I need to make to live without fearing of living in poverty, without fear of harassment, without fear of not being able to have what I deserve as a human which is to be able to live. I started working in the service industry when I was 15 as a Barista and I have been lucky enough to continue in the service industry. It's not an industry that I ever want to leave. I love it and I want New York to join Minnesota as a one fair wage state so that workers in New York have what they deserve and can live. Thank you.

Commissioner Reardon: Thank you. James Cox. Let me just remind you do not heckle the speaker or you will be asked to leave. You'll have your moment at the microphone. James.

James Cox: Hi, my name is James Cox, I am 32 years old and I've been serving for 15 years. I live in Oakland, California I make about \$13.23 an hour I take home on average \$150 to \$300 a night in tips cash and my checks are about \$300 to \$400 every 2 weeks. I grew up in Michigan where I was making \$2.50 an hour. I moved to Chicago where I was making \$4.50 an hour and I make more in tips in California than any other place I've lived and I've lived in multiple states and multiple cities. I can't think of any other industry where strangers walking in off the street get to decide the worker's value. I can't think of any other industry where workers are getting paid half the minimum wage and it's considered legal and okay. I can't think of any other industry where the custom pays the worker's wages instead of the employer or where one employee pays another employees wage a.k.a. the kitchen tip out. Restaurants need to be held accountable for paying their workers a fair wage not the general public and not strangers coming in off the street. I'm a queer woman of color. My experience in the workplace might be very different from a straight white man's for obvious reasons that are rooted in institutional racism in this country. Those biases and ideas don't disappear when somebody walks through the front door of a restaurant. People don't stop being racist, sexist or homophobic because they're out for dinner. These biases based on background, appearance, prejudice can directly affect my income and they do. This is a women's rights issue, a gender justice issue and a race issue in an industry of mostly women and people of color this is an issue that needs to be dealt with. A tip is not a promise; a tip is not a set amount. As adults we have responsibility. Rent does not fluctuate from month to month, tips do. Having one fair wage helps me budget. I can save my checks. I actually get checks now for the first time in my life. I have a 3 year old and I can't imagine raising her living in a subminimum wage state. While living in Michigan and Chicago with the subminimum wage I made so little with tips I was eligible in receiving food stamps. My income was determined by a manager who had the power to place me in a busy or slow shift and section, the weather, how quickly other people cooked my food and the mood of the stranger leaving me the tip. Living in a subminimum wage state it was hard to find housing. Its hard to get someone to rent to you when your check is zero dollars. It's hard to compete with other applicants who have an actual dollar amount written on their check and a way to tangibly show how much money they make, a stable, dependable income that's usually a requirement is 2 to 3 times higher than what

you need to make to live there. When the customer is always right, your main source of income is tips you sometimes find yourself having to tolerate the inexcusable just to keep that person happy so they will leave a tip. I can say that moving to California I've never seen more small businesses. I've never seen so many mom and pop shops opening up all over. My tips have not disappeared. Jobs are there, I get sick days, I get a check and I get tips and I'm taken care of better than any other state that I've lived in. We have gratuities, we have tips on top of gratuities and people are still eating out. We're all professionals and its time that we get paid a professional wage. Thank you.

Commissioner Reardon: Thank you. Lohanne Harvey, Kimberly Taliadorous, Donald Chasse Gunter and Florentino Modragon-Lopez

Commissioner Reardon: Thank you. Lohanne Harvey.

Lohanne Harvey: Good afternoon, thank you for having us. My name is Lohanne Harvey I'm here to show my full support for the one fair wage in New York. I've been a worker in the food industry for the past 5 ½ years in San Francisco, California a one fair wage state with a booming hospitality industry and a shortage of workers. I have worked in many positions in the front of the house as hostess, busser, food runner and server. I currently work in a prestigious fine dining _____ start rated restaurant in the financial district. One of the busiest most expensive full of business people neighborhoods of San Francisco. I'm here to support the one fair wage in New York because no one should work for a subminimum wage. It is not decent respectful way to live. As a server who gets paid \$14 an hour plus tips in a city which traditionally pays \$18 plus and tips I still struggle to make any savings. I can't imagine how tipped workers in New York city makes ends meet at the end of each month. Tips are not guaranteed and workers rely so much on things that shouldn't matter like the weather, the day of the week, the general attitude or culture of the guest. Everyone who works so hard as anyone in the food industry deserves the right to afford a decent living be able to pay their bills fully and on time and to plan for the future as any other worker who makes a minimum wage. Tipped workers don't make the money on tipped workers and bosses imagine it. As one fair wage state worker I make enough to live a decent life without that but I still care barely save money. Last year I had an injury in my knee, I wasn't able to work for 2 months and with it I completely went to my savings and went into that. it took me months to put my finances back in order and organize my life. As I said, I live in San Francisco, California, a one fair wage state which is also one of the most expensive places to live in the US like New York City so I really admire how tipped workers here try to get a decent living with this dehumanizing and disrespectful subminimum wage. Work is work and the food industry is a hard type of work so it deserves a minimum wage as any other work because the words already say it everything, it is the minimal wage any worker deserves for their job. Most guests and no tipped workers don't even know about the existence of subminimum wage. For them, tips are a financial demonstration of quality of service offered given by them not wage paid by them. This and wage are exclusively employers obligation. Thank you very much for your time.

Commissioner Reardon: Thank you. Kimberly Taliadorous.

Kimberly Taliadorous: Hello, my name is Kim Taliadorous I work in Maine as a waitress and a bartender. In 2016 Maine voted to raise the tipped wage over time and phase out the tip credit altogether. In June of 2017 this law was quietly repealed and the Maine law requiring employers to pay tipped workers half the state's general minimum wage was reinstated. Our raise was stolen from us. To me this was disappointing because I'd hoped to finally have an income I could rely on. I was disappointed and others didn't even know it was repealed. The repeal was fueled by misunderstanding and misinformation about workers being able to receive tips on top of the fair wages. Workers were being lied to that they would not longer receive tips, effectively decreasing their income substantially. These are mistruths and I encourage those who are hearing this to reach out to workers who we just heard from in one fair wage states. My daily income relies heavily on things I have no control over, my customers impression of the food, the building, sometimes it just boils down to the customer's personal beliefs. These are all things that happen daily across the country and they're a known reality of our industry. This leaves me and my family with an unstable income even though I take pride in making customers happy and enjoy being good at my job. I receive unwanted advances with the threat of not being paid if I don't placate or endure the harassment. I wait out the long cold winters in Maine when my bills are at their highest accruing debt and barely getting by. If Maine had kept one fair wage I would have the comfort of knowing that during those slow times I would be compensated fairly for my time. My bills would be paid and I could budget and plan around a small but stable income to get me through to the next season. We are the lowest paid and, wait a minute, sorry. If the law had been kept I could stand up for my rights and these customers who treat me poorly knowing that I didn't have to endure their abuse in order to make a tip. We are the lowest paid and rely completely on customer's whims. Tipped minimum shows we are not worth the investment of our employers. The poverty rate of tipped workers is almost twice that of nontipped workers and we are more likely to rely on public assistance according to labor economists. There are more than 3 million Americans working tipped jobs in America and many of those are at or below the poverty level. The restaurant industry is a multimillion-dollar industry profiting off the backs of some of the lowest paid people in the country. Servers deserve a living wage and states that have one fair wage are reporting stability, growth and I've personally spoken with those workers in those states and all of them have told me that customers still tip at a similar rate as they did before. I am thankful that New York is reviewing these practices and considering one fair wage for all workers in the state. I hope that you can pave the way for the rest of the country so we can also join you. Thank you for your time.

Commissioner Reardon: Thank you. Donald Chasse Gunter

Donald Chasse Gunter: Thank you Commissioner Reardon and the New York State Department of Labor for giving us a chance to tell our stories. My name is Chasse Gunter and I'm from Seattle, Washington and currently a server assistant. I've worked back of house and front of house positions for a little more than 5 years. There's a lot to impact when it comes to the topic of wages, tips, paid sick and safe leave and all the

different required benefits in the service industry where I live. It different in King County and Washington State and Seattle and STEK, all the different and they were all fought all along the way but as I've seen the industry grow as the wages have increased. I think it was \$11 an hour when I was a dishwasher 5 years ago then it was \$13 when I was a line cook a year after that. Now I always get \$18 to \$30 an hour as a busser and a server and most of the people I know are paid even more. The demand for work is so high I have to turn down jobs every week and all my former bosses have me out there recruiting for them. The competition for workers is fiercer now than the competition for business. The 7 states that have enacted 1 fair wage have all shown job growth. I've witnessed it first hand. It also is not really fair in my head that employers get to get away with paying employees less than any other field. The customers don't pay the staff anywhere else, it would look really weird if they did. Like I think it would be weird if I like tipped a nurse when I left the hospital. I don't know why that's not weird to everyone else. Where I'm at now I make \$15 an hour as a base pay and I make, our restaurant has a service charge, I make as a busser the smallest cut of the 20% but I still get \$18 an hour plus medical, dental, 401K, paid vacation. I'm getting paid right now. We even have problems with employee retention because so many places still pay more. Because wait, oh I lost my place. My pay fluctuates but it's good. It's always pretty good and great. like its always between like I said, at the very lowest its 18. So I just want that for everybody. Thank you.

Commissioner Reardon: Thank you. Florentino Modragon-Lopez.

Ramona: After Florentino, the next 5 speakers Curtis Leon Long, Elvis Diaz, Manuel Villanueva, Maria Vasquez and Madai Gonzalez. Please come on down to the front.

Florentino Modragon-Lopez: Good morning New York. I am a supporter of one fair wage and thanks for the opportunity to share my story. My name is Florentino Lopez, I live in Seattle and I've been in this city for a long time. I've been working as a server for 15 years and I love all that comes with my profession, the good days and bad days. Not everything is perfect. as you might know, tips are very variable. Sometimes I can make \$300 per tip on a good day and some others I can just make \$40 depending on the day. In Seattle, one fair wage \$15 an hour was approved years ago and workers quality of life is improving every day. There was a lot of speculation before the wages were increased. I was told that I might lose my job, that my tips were going to be less and restaurants might shut down. The reality proves different. \$15 per hour is my wage for my work and my tips are compliments of my good service and a way to get a better life for my family and my community. After years of this increase of wages, my tip rate has been the same and sometimes even better. I still work at the same restaurant which just opened a new one. Restaurants are popping everywhere in Seattle. I invite you to come over to Seattle, its not only about coffee its about fine dining room restaurant where owners are fighting for people to come to work for them paying more than \$15. Raising wages was a good move and dignified restaurant workers before society. New York City needs one fair wage to show the country and the world that we care for our communities and we are on the right side of the history. Thank you.

Commissioner Reardon: Thank you. Curtis Leon Long, Curtis Leon Long. Are you Curtis? You are not okay. Elvis Diaz, Elvis Diaz. Manuel Villanueva. See don't sit down.

Manuel Villanueva: I thank you for the opportunity to share my testimony here. My name is Manuel Villanueva I'm a Mexican immigrant, I emigrated to the United States 18 years ago. I'm originally from California, I'm from Mexico City but I moved to Los Angeles and that is the place that I lived here since I to the states. Finding a restaurant work I learned as a trade it was for me something very accessible. I learned to love it and I was really very passionate about food about serving people, about helping people. I initially entry as a cashier then I became a buser, then I became a runner. I was always good that being a server was a privilege. That you need to work really hard to be able to be in the front. I always look up at the servers, none of the servers look like me. I work really, really hard, extra hard to learn the menu. When I learned the menu I went to my managers and they said, "You have a very thick accent." I went to school at night and I better my accent I learned new words, I came back and they said, "Well you don't look like the face of the restaurant." It was really hard for me to hear that. Luckily I had a friend that was a manager that pushed my promotion and I did. It took me about 4 years to become a server. After being a server I was the best when I was Captain of the Servers and when they asked me to train people, sometimes I'll train college students with no experience at all. So I felt cheated. Throughout the experience in the restaurant I always know that my tips were compliments of my good service and I lived and depend on my paycheck. The restaurant work is only 4 hours a shift, sometimes 5 and out of those 5 hours you can make tips. When I met ROC, I'm a member of ROC and an organizer with ROC now. It was something for me to teach people what it looks like so they can understand it better and the ways that we struggles personally with the racism and _____phobia and also homophobia that I faced from customers and coworkers. So when I tell people, my members that states like New York which are the symbol of the United States tip workers make less than the minimum wage, they are horrified. So I brought some of our workers today to share how life is in California and how is New York can do the right thing and just giving a fair wage to workers so they don't depend on those tips. Because they're really damaging. I'm still living with sequences of that mistreatment that I lived when I was in _____ at the restaurant and I want that to change for everybody. Thank you.

Commissioner Reardon: Thank you. Maria Vasquez, Maria Vasquez.

Maria Vasquez: (interpreter) Good afternoon, my name is Maria Vasquez, before anything thank you very much for listening our voice. I'm here to support the minimum wage, the increasing minimum wage because it's very important for our people. (interpreter stopped)

Commissioner Reardon: Thank you. Madai Gonzalez.

Ramona: After Madai the next 5 speakers Trupti Patel, Nelson German, Caitlin Dizunno, Jeanelle Sims and Heather Carlucci. Please come on down to the front.

Madai Gonzalez: (no interpreter)

Commissioner Reardon: Thank you. Trupti Patel.

Trupti Patel: Good afternoon, my name is Trupti Patel and I'm a tip service industry worker from Washington, D.C. I'm a first generation immigrant that has come to stand in solidarity and give my full support for one fair wage for New York tipped industry workers. The hospitality industry is one of the fastest growing sectors in the US economy. This past year it has earned \$800 billion and accounts for 4% of the GDP. However hospitality industry jobs are consistently listed as the lowest paying jobs according to the US Department of Labor. The current status quo of having the consumer pay wages and have tipped workers living solely on the generation of whim of strangers if a model that allows for legislated pay inequity. The opposition thrives off a business model that allows the industry workers to be paid wages that are meant to keep them in poverty and to deliberately uphold the last vestige of Jim Crowe. End this racist scam. 75% of these workers are marginalized and vulnerable due to be exploited and abused. They are deemed invisible, work silently in the shadows and suffer in isolation as they are the new immigrants who are unaware of their rights and not being able to speak English. In spite of the fear mongering tactics and deceptive rhetoric pushed in concert by the National Restaurant Association and the Restaurant Workers of American the voters of DC sent a powerful message that nearly 30,000 tipped industry workers needed one fair wage from their employers. While a powerful blow was dealt to the opposition in winning one fair wage in DC, they will do and say anything to win. They will intensify and employ the same tactics in New York to prevent another victory. For supporting one fair wage myself and fellow colleagues because targets to online and offline bullying, name-calling, intimidation and retaliation in attempts to silent us and stop the movement. ROC national board member Woo Chang was threatened to be set on fire, ROC DC all minority female staff received threats of physical violence. ROC DC member leader Thaya Bryant faced retaliation and loss of livelihood and I myself was nearly assaulted 4 days ago. I urge you to send a message to the opposition, time is up, give the half a million tipped workers in New York one fair wage.

Commissioner Reardon: Thank you. Nelson German, Nelson German.

Nelson German: How you guys doing today? Thank you New York State Department of Labor for this opportunity to tell my story. I am a business owner in Oakland California but a New York native. I own a restaurant called Alamar Kitchen and Bar, I'm the Chef and Owner there. For me I am here to testify in favor of one fair wage. I think it's the right thing to do and I can attest while other business owners that I now from California and also New York City that we support it. We want to respect our employees. Honestly our employees are everything to us. They're the ones that make things happen, it's not the owners. We are the backbone but they are the heart and the soul of the restaurants. So we need to show them respect, we need to provide a living wage for them. For me more is right. I can say that for me in my business I was really scared when the minimum

wage went up in California, especially in Oakland, it went from \$9.00 going up to \$15.00. Scared the hell out of me. I thought my business would fail in 2 days. But I gave it a chance because I knew I was in their shoes before. I was an employee too and I wish I would have been paid a living wage back in days. Business honestly, is doing better for me. it's doing better for a lot of California restaurateurs. Not for everybody, you have to adapt, it's the only way you can survive. New York City is the greatest city in the world, I attest to that I was born here, we know how to adapt we know how to survive. One fair wage honestly is going to improve employee performance. Also its going to reduce staff turnover which is one of the biggest things in the restaurant industry, has always been. Right now, my turn over rate before I was losing 3 people a month, I have lost zero in 2 years since minimum wage has risen. I think it would be the same here in New York. People would know actually what they're getting at the end of the week after the two weeks instead of worry about tips. Tips vary but a nice base wage doesn't. Honestly, also too I hear a lot of the opposition and people how they're disagreeing, we're forgetting about the rest, forgetting about the busers, food runners and bar backs who don't make as much money not as much as the servers do this will change that. This will build a better culture too. People will actually work together instead of cutthroat which is known here in New York fighting for whoever has the best section, who's getting the most bigger tables, that's going to eliminate that. I'm honestly here supporting one fair wage I think its going to be best for the restaurant business.

Commissioner Reardon: Thank you. Caitlin Dizinno.

Caitlin Dizinno: Hi, thank you for having me. I have worked in the restaurant industry for about 16 years, I've hosted, I have prep cooked, I've been a server, I've worked in tipped houses, pooled houses, tipped houses that have moved to pooled houses, service charge houses, now I manage a restaurant in San Francisco. I think its worth saying when we talk about our model which we talk about all the time in a city that's much like your own; housing crisis, labor shortages, we look to lead. In terms of restaurants and love of restaurants where a lot of that began for this country New York still leads. So I am here asking you to catch up and also to lead. In our little San Francisco restaurant on July 1st in just a few days minimum wage will be \$15. We employee a little over 100 employees all of them make more than \$18 an hour, its possible. They all have full medical benefits, dental, vision and then they also receive a 401K 4% match. All of our restaurant's finances are open to our employees. It is not easy, it is not glamorous but its possible. Something that no one has talked about yet is exactly what a subsidy is in the food world. American has learned a lot. The food industry has learned a lot about what subsidies in agriculture have done in terms of changing the idea the consumer has about what food costs. So much of my time serving in restaurants have been watching a broken system, it has been built on from restaurant to farm all the way through on a system that undervalues the people who grow out food from the beginning in our history to serve it to make it and we see that kind of being held up on crutches by the subsidies to minimum wage when we talk about restaurants and then you see it in agriculture as well. I do not buy that any industry that undervalues its workers can value the future of its industry. It is possible for businesses to seek models that are sustainable and that work. We're doing it. San Francisco and New York are not apples to apples, they shouldn't be, we don't

want them to be but I think in the discussion that restaurants who care about the future of their industry and the future of food we have to be talking about what that model looks like; subsidies and wages which are the largest part of a very tight margin for restaurants are a big deal and so coming to you from San Francisco thinking about restaurants work, what's important in equity and asking to lead. Thank you.

Commissioner Reardon: Thank you. Jeanelle Sims.

Jeanelle Sims: Good afternoon everyone. Thank you so much for hearing us today and thank you for your consideration. My name is Jeanelle Sims, I am born and raised in Chicago, Illinois and I'm representing ROC United Chicago. I'm not going to belabor all the points that everybody has already said as far as my fellow colleagues and ROC members but I've always been passionate about food, about service, about beverage and also about justice. And this is a great intersection of that for me. I think that one fair wage is the only way to go just because everybody should be paid fairly and equitably and we should not be beholden to the whims of whoever comes throughout the day or the weather, etc. But ultimately we're looking to you from the State of Illinois that's very politically precarious as I'm sure you're aware, we want you as a State of New York to kind of set that tone to show that it's politically viable for other states that are in similar positions to do the same thing. So we're just asking you as another state going through similar situations to step forward, lead the way and to do what's right. Thank you so much for your time.

Commissioner Reardon: Thank you. Heather Carlucci.

Ramona: After Heather the next 5 speakers Dahlia Goldenberg, Andy Morrison, Christian Duarte, Lily Christensen, and Kirk Adair. Please come on down to the front.

Commissioner Reardon: Do we have Heather? No. Dahlia Goldenberg.

Dahlia Goldenberg: I'm here with the Women's Organizing Network or WON an organization of women fem and gender nonconforming community labor and political organizers from all 5 boroughs. We believe that we just fight injustice by organizing with a careful analysis of the ways that gender and race impact any given issue. In our organizing we must center those who are most directly affected by a problem and the same can be said for policymaking. The minimum wage increases Governor Cuomo signed into law 2 years ago have tremendously helped many low income New Yorkers including me. With my bigger paycheck I was able to buy healthier foods to help manage my chronic health conditions and to begin to pay off my credit card debt. By leaving tipped workers out keeps them in cycles of poverty and women of color predominantly hold these jobs. So essentially a subminimum wage perpetuates sexism and racism. Fortunately, the Department of Labor has an opportunity to fix it. In today's really terrifying federal political climate many people who are not receiving their full wages may feel too afraid to speak up for fear of risking deportation or losing salary based affordable housing. Many tipped workers don't even know what the tip penalty and tip credit is. I recently asked a server who is a college educated white American

citizen if she was paid the tipped subminimum wage rather than the standard minimum wage and she said, “No, I make \$8.70 an hour”. So this woman who has relatively little to lose by reporting her company for wage theft wouldn’t even know if her wages were being stolen. Her restaurant never explained her wage structure to her. So I think the best way to protect workers is to close the loopholes and raise the wage for everyone. Many organizers work in the hospitality industry between campaigns or alongside part-time or volunteer social justice work. In the past I worked as a tenant organizer and as a labor organizer, I’m currently a patient advocate but my main source of income actually comes from dog walking. So the app I use allows clients to tip and not getting tipped means significantly reducing the income that I count on. Although I usually wind up making just enough to pay my bills, I never know for sure until the end of the month. I haven’t made it yet for July actually and the stress of such a widely fluctuating income week to week to wondering if I’m going to be able to pay my rent has actually made me sick. I had an anxiety attack and woo.

Commissioner Reardon: Thank you. Andy Morrison.

Andy Morrison: Thank you Commissioner Reardon and the New York State Department of Labor for the opportunity to participate in today’s important hearing and to share our comments about Governor Cuomo’s proposal to examine raising the base wage paid to tip workers to the regular minimum wage. My name is Andy Morrison and I’m the New Economy Projects Campaign Director. New Economy Project works with community groups to build a just economy based on cooperation, equity, racial justice and ecological sustainability. Since our organization’s founding in 1995 we have worked closely with a wide array of community-based organizations to challenge systemic discrimination by Wall Street Banks and other financial services entities that harm New Yorkers and perpetuate poverty and equality and segregation. We also work with groups to build alternative community controlled initiatives including community land trusts, mutual housing, worker co-ops; community based financial cooperatives and more. We have since 2005 operated a free legal assistance hot line for low income New Yorkers aggrieved by discriminatory and exploitative financial practices. Throughout hotline and related impact litigation New Economy Project has helped hundreds of thousands of low income New Yorkers and New Yorkers of color particularly seniors, immigrants and women to vindicate their rights and obtain redress from banks, debt collectors and other financial services companies. New Economy Projects strongly supports one fair wage for tip workers and is proud to stand in solidarity with working New Yorkers demanding economic justice and dignity in the workplace. Today we’re here to offer our perspective on how people’s economic insecurity subjects them to an array of abusive and discriminatory financial products and services which in turn compounds existing inequities in our economy. New York’s unjust two-tiered wage system under which hundreds of thousands of working New Yorker’s are forced to rely on tips to get by drives poverty and fuels economic insecurity. We know that tipped workers live in poverty at more than twice the rate of other working New Yorker’s and frequent experience unpredictable fluctuations in pay and hours depending on the shift and season. Now families that experience income volatility whether a gain or loss report lower financial wellbeing and less savings than those with stable income according to an

analysis by the ____ Charitable Trusts. And through out work at New Economy Project we have seen first hand how low wages and financial instability throw low-income families into the clutches of financial predators like abusive debt collectors, financial fraudsters and high cost lenders. Indeed financial exploitation feeds on people's inability to get from paycheck to paycheck and an entire financial services industry has emerged in this country that is predicated on exploiting people and extracting wealth from low-income communities and communities of color. We have tremendous expertise in this area and would be pleased to answer any questions, and provide additional information. The important thing is that as we fight back on vicious attacks on people from this administration at the federal level we need local action and this is an important opportunity to end inequity in New York State, let's raise the wage for tipped workers. Thank you.

Commissioner Reardon: Thank you. Christian Duarte, Christian Duarte. Lily Christensen, Lily Christensen, Kirk Adair.

Ramona: After Kirk the next 5 speakers Emma Howard, Fatmir Bujupaj, Mike Paarlberg, Annie Rigelhaupt, and Andre Butler. Please come on down to the front.

Kirk Adair: Good afternoon ladies and gentleman. Thank you very much for this opportunity. I'm Kirk Adair I live in New York City I'm a _____ and wine director. I took my degrees in London in Wine, Spirits, Beer, Coffee and Tea. I have worked in the restaurant industry for 35 years and I am in favor of raising the tip to minimum wage to the regular minimum wage. Because my employer is permitted by law to pay me a subminimum wage I'm completely dependent on customer tips to make a living. This is an unstable and precarious way to live. Being dependent on customer tips means I can't count on a steady base paycheck every single week to pay my bills. I can't count on earning enough money to pay my bills on time and this after 35 years of work in the industry 6 days a week. Tipping practices are influenced by a server's gender, race and appearance, attributes that are factors in how much a customer tips and thus how much I earn which amounts to discrimination by emotional response. Because I rely on tips for a living, I'm compelled to tolerate in appropriate behavior on the job. I constantly face and hear age related jokes and suggestions that I'm too old to perform certain tasks. Because I rely on tips, I feel compelled to work even when I'm sick and that's really not employment, that's slavery. For instance, I was required to show up for a full inventory of a wine cellar the day after I had a double hernia operation. Sorry. A double hernia operation. I cannot begin to tell you the amount of pain. For instance at one point my work week Wednesday was 12 hours, my work day Thursday was 12 hours and then Friday I was required to show up to receive the wine delivery at 10 in the morning and I worked 58 straight hours from Friday to Sunday brunch, finished Sunday brunch at 4:00 in the afternoon and that was on a weekly basis for one entire year. One employer for instance was taking tips from the front of the house to pay illegal workers that he had imported for that purpose. He was never prosecuted, he was never adjudicated for that. We never received any compensation even though we went to the Labor Board on that. With that I mean I really believe that one fair wage and prosecuting this correctly and one fair wage and eliminating the tipped allocation would be a real benefit. Thank you.

Commissioner Reardon: Thank you. Lily Christensen. Lily Christensen no. Kirk Adair. Oh that's Kirk sorry. Emma Howard.

Emma Howard: Good afternoon my name is Emma, I thank you for the opportunity to speak. The tipped worker, I believe that tip credit is important. Most of my income comes from tips. I don't always know how much I'll make each day but that keeps me on my toes and motivates me to work hard. Tip credit is important for my employer as well. They don't have to pay workers as much and they can let income depend on whether customers think you're cute or not. This benefits the customer too because if they think your ugly and boring they have the right to pay less for their meal. I think its most empowering for me as a worker though. Because I have complete freedom to earn more money just by exploiting my sexuality. A lot of people don't understand that this job is about selling ourselves as much as it is about selling food. I like to think of myself as an underpaid prostitute. It's just like unregulated sex work and being exploited isn't that bad. One of my employers taught me that its actually flattering being sexually harassed because it means people like you and want to get to know you more. This is really about connecting with people. Some might say they don't want to be grouped by a stranger but I say its just part of providing good customer service. Tipping is about paying for performance and I appreciate that the harder I work the more money I get. I've learned a lot about work ethic. Sometimes I have to exploit myself for my employers as well as customers. We've advocated for this regulation proposed by President Trump himself that would allow owners to pocket our tips which might sound unfair but it only encourages me to work harder. Maybe if I give my manager a blowjob he'll let me have the money I earned. Thank you.

Commissioner Reardon: Fatmir Bujupaj, Fatmir Bujupaj, nope. Mike Paarlberg.

Mike Paarlberg: Hello my name is Michael Paarlberg I'm a Professor of Political Science at Virginia Common Wealth University and I am also an Associate Fellow _____Studies in Washington DC. I conducted it back in January an economic impact study of the last time New York State raised its tip minimum wage in comparison to other states in the general region. What I found was that take home pay for restaurant workers, workers at full service restaurants rose in the year following the increase in tip minimum wage while employment did not go down it went up. Now this is a statewide aggregate which does not necessary hone in on the actual specific impact of tip waged owner due to that I utilized methodology which is standard for minimum wage studies economists use called Difference and Difference Modeling. What I did was I looked at the impact of the tip minimum wage raise in New York State vs. Pennsylvania which did not raise its minimum wage but only along border counties between New York and Pennsylvania. This is a way to isolate the effect of a single policy change. It's called a Natural Experimental Model. Essentially the argument which holds up in economic studies is that populations just on either side of the New York Pennsylvania border are essentially the same. Demographically, economically they share the same labor markets. So the only effective difference following the 2015 raise in minimum wage was the raise in minimum wage for those workers on the other side of the border. What I found was take

home pay which includes both base wages and tips combined did not go down it went up and it went up relative on the New York side relative to Pennsylvania side. Essentially border counties wages on the Pennsylvania side did go up as well but they went up anywhere between, well not all of them did, some of them went down negative 3%, some went up 4%. On the New York side take home pay went up between 4% and 9%. At the same time also on the New York side employment did not go down, it went up. This is a standard way to test impacts of wage raises. We've seen this in the most recent Seattle study of the tip minimum wage. The first example of this was a similar study of the impact of minimum wage on fast food workers comparing New York to New Jersey. So essentially what I found was that there is no real evidence that an increase in tip minimum wage either decreased take home pay for restaurant workers in terms of tips which makes sense because intuitively no one who tips restaurant workers quizzes them ahead of time what their base wage is. It's just part of our culture that we give 20%. So predictably I did find that while wages went up tips did not go up but employment did not change.

Commissioner Reardon: We have one question.

Female: So did you say that the numbers you looked at here were an aggregate so you look at things kind of...

Mike Paarlberg: On a county level so this was through the Bureau of Labor Statistics quarterly census of employment and wages.

Female: Now we've heard a lot of different testimony about the impact that doing anything like this might have on business and there will be an impact. But what we haven't really talked about is short-term vs. the long-term impact. The short-term impact have you know any studies that looked at the short-term impact of these particular increased vs. the long-term impact of those increases?

Mike Paarlberg: What we could only look at was data 2017 because it was a 2015 study. We are currently looking, the BLS actually just released its newest numbers, actually for 2017 so it will be looked at one year past the raise. We're looking at those numbers and what we've seen I haven't done a full model similar to this but it looks like its upheld the results that we have which is essentially that employment stays the same and take home pay goes up.

Female: Great, thank you very much.

Commissioner Reardon: Thank you. Annie Rigelhaupt

Annie Rigelhaupt: Hey, I'm Annie Rigelhaupt and I'm a tipped worker living in DC I'm here to support one fair wage for New York. Thank you. I'm from Oakland, California where I bartended for over 10 years working and living in a one fair wage state I could count on a stable paycheck every 2 weeks. It was a few hundred dollars, it wasn't much but it was a consistent income that I could depend on. As a tipped worker in DC I receive

a zeroed out paycheck every 2 weeks so my income depends entirely on tips. There are slow nights, and busy nights and good nights and bad nights. There's very little consistency. In California I made minimum wage plus tips. I earned great tips there just like I do in DC. I challenge the opposition and the Department of Labor to find a more dynamic and lucrative restaurant and bar scene than what we have in the Bay area. One fair wage works in California, works in the Bay area its going to work in DC and it can work in New York. I'd like the Department of Labor to know the tactics that restaurants are using to manipulate their staff. DC just passed one fair wage. Leading up to the election last week the restaurant I work at they posted notices on our time clocks that said verbatim, "If passed the initiative would eliminate tips, move tipped workers to a flat hourly rate." The restaurant used our mandatory menu class like a preshift line up to tell servers and bartenders to make sure to inform their guests about dinner service to vote no on one fair wage legislation. The restaurant also sent out like e-mails, newsletters encouraging staff to vote no on one fair wage. They sent out a signup form so that staff could volunteer at the polls. So restaurants in DC are employing these tactics, most likely they're doing the same thing here in New York. Lastly, I'm here so that the Department of Labor can understand that the opposition to one fair wage does not speak for tipped workers. They don't speak for my coworkers that are too scared to speak out against their management but it encouraged them to stand against the fair wage. They don't speak from my most vulnerable coworkers who work as buser, polishers, back waits and bar backs and they do not speak for me. Thank you

Ramona: Next 5 speakers are Jenedith Rodriguez, Ramon Guzman, Evan Puchalsky, Eric Pfaff, and Mariano Diaz. Please come on down to the front.

Commissioner Reardon: Thank you. Andre Butler. Do we have Andre butler here? Come up.

Andre Butler: Good afternoon my name is Adre Butler and I'm with ROC United and I have the rare privilege of being able to be both. I work sometimes as a salaried worker, as a banquet server and also work sometimes as a restaurant worker, as a tipped worker. When banquets are hot, wedding season, prom season, bar mitzvah season you make a flat wage that you know what you're gonna have for the next month or two months, you an gage things, paying rent, mortgage whatever it is, gas electric. You have a set that you can plan your 3 or 4 months out. Now banquets are backing off now, wedding is not going to be as hot in about a month so I'm going to be working in restaurants and during the summertime you don't have a real gage because you're at the generosity of the customer. There might not be any other industry but the hospitality industry where our wage as a tip worker is based on the generosity of the public. And that's a rough way to live. Because if the customer doesn't feel like tipping you that day then you don't really make anything and I would challenge every member of the politician, member of the Department of Labor to recognize that every day you all interact with people who are only making a tip wage, when you go to the restaurant for lunch, go to the restaurant for breakfast when you do all these things, these people are making barely surviving making a tip wage. While you all or other people are making a salary wage. So the backbone of economy for the most part runs off of tip workers who are slaving their way day to day

just to make ends meet keeping in mind that we like what we do and that's the reason why we're always getting all the push back because we love what we do. Something about giving Mr. Jones his coffee every morning gives me a thrill in my life and that's how we think because we love to interact with people. So please keep in mind that everybody has the right to know what he or she is making, have a decent living wage, be able to take care of his or her rent, his or her mortgage, his or her parents, sick parent as it might be, and to not work in an industry and be relying on the generosity of the public to live. So I would ask the Department of Labor to please raise make it one fair wage, eliminate the sub tip minimum wage. Thank you.

Commissioner Reardon: Thank you. Jenedith Rodriguez, Jenedith Rodriguez. Ramon Guzman, Evan Puchalsky.

Evan Puchalsky: How you doing. My name is Evan Puchalsky I'm a food and beverage director at the Moxy Hotel in Time Square and part of _____ Group. We employ over 2500 employees in New York City many of which have been with us for 15 years. in 1996, 1997 I was a server at a small place in my hometown. I fell in love with the sense of family and how it provided us as a purpose a living for the single mothers, the college student trying to pay their tuition and the student just trying to figure out what they wanted to do with their adult life that is rapidly approaching. I continued to work as a tipped employee throughout college being paid \$2.13 an hour plus tips. I was fortunate enough to pay off my college tuition shortly after college ended. The first 7 years of my 20 year career was as a tipped hourly employee and I could argue that those years are the exact reason why I continue to love what I do every day, day in and day out. The Department of Labor chart recently released shows job growth in the hospitality sector decreasing from 7% to 2% since 2010. Ironically that is exactly when the tipped minimum wage started to increase. With the elimination of the tip credit we'll have to absorb \$14,000 per employee in increased wages and estimate that we'll have to close 20% of our venues in New York and eliminate about 1000 employees. We will also have to consolidate jobs within each venue and additional crew members in our other stores may also lose their jobs. I fear that good, genuine and gracious hospitality that we pride ourselves on as an industry may be replaced with iPads similar to what fast casual restaurants like McDonald's have already started doing. I urge you to separate sexual harassment 8020 law violators and the issue we're here for, the guarantee of minimum wage either by gratuities plus \$8.65 per hour or \$13 an hour whichever is more. Please punish the people who are not following the rules instead of grouping everybody together and create something that isn't encompassing everyone and can make a difference where it really counts to the people who are suffering. The hospitality industry is a 200 plus million person industry all across the globe and this cannot be a one size fits all approach. Thank you for your time.

Commissioner Reardon: Thank you. Eric Pfaff.

Eric Pfaff: I just wanted to start with the fact that I actually live here in New York and I actually serve every day and I do not benefit from this and I am not being paid to be here. my name is now Eric Pfaff Mooney, I was recently married and thank you for the

opportunity to speak today. The tip, removing the tip credit is a solution with no problem. I've been a tipped employee for 14 years and a New York City server for the last 6 and I'm not doing this part-time nor am I just passing through. This is my passion and my profession and I would like to take this opportunity to state my absolutely support of the tip credit. I cannot complain about my compensation. Our pay is above what many of my peers in other professions make with less hours and more flexibility. We as a pooled house average \$35 to \$45 an hour. We make about \$55,000 a year working 30 hours a week. Our tips are our own. Men and women are given the same amount of points on the hour and we work as a team. Tips give me the opportunity to control my earning instead of someone telling me what I'm worth. Tips supported my wife to grad school as I am the sole provider. I was given the opportunity to see her walk down those steps one month ago. Tips helped me build a credit score. Tips helped me create a bank account and pay off my student loans which I cannot afford in an untipped wage. Tips put servers on your side while we are in service, we are in no way subservient and that is on us to claim. Saying otherwise is insulting to the integrity of my profession. In other states like Maine and California which you've heard a lot of misinformation about, show how removing the tip credit will hurt the skilled tip earner. So when the tip workers leave you will see a noticeable difference. This policy change will result in the loss of wages, skilled workers as you can see from the Danny Meyer's Field Experience and raised prices for consumers. Businesses will close and you, not you Governor Cuomo will have to deal with the political ramifications. We're talking about the end of New York's restaurant reputation just like California's Bay Area, Goggle it. As an aspiring business owner and job creator what motivation is there for me to make my hospitality business in New York? Hospitality is more nickel and dime than the public may think and I'm tired of people who aren't in it commenting. We are talking about a 5% margin and any money saved by the tip credit goes back into the business to give guests a better experience, better value and to better compensate back of house who will be held off on their raises and the first people to lose their jobs will be the busers and runners, just look at Red Robin. If this change occurs, I'm going to seriously have to consider New York as a future home of my own business. Therefore in the defense of all tipped employees whose family and dreams

Commissioner Reardon: Thank you.

Eric Pfaff: (shouting, unclear).

Commissioner Reardon: Thank you. Mariano Diaz. Mariano Diaz.

Ramona: Next 5 speakers, Jose Morales, Diana Hernandez, Prarthana Gurung, David Jones and Eilish Morris. Please come on down to the front.

Commissioner Reardon: Do I have Jose Morales. Jose Morales. No. Yes.

Jose Morales: (Interpreter not on)

Commissioner Reardon: Thank you. Diana Hernandez.

Diana Hernandez: Good afternoon thank you for allowing me to share my story. My name is Diana Hernandez, I am a restaurant worker and a member of New York Community for Change. I live with my mom and my little brother in Brooklyn. I always wanted to start a career in cosmetology but I needed to save money for school to help support my family so I started working in the restaurant as a waitress. I work 10 hours a day 6 days a week which only is about \$300 a week plus tips. Sometimes I make decent tips but there are days where I make only like \$7 to \$20 a day in tips. This is because not everyone is a good tipper and many times whether the weather or other factors mean less customers. That combined with my wages is not enough for me to even help support my family never mind helping me save for school. Things need to change. I can't keep working for long hours hoping that enough customers come in so that I can make at least minimum wage that everyone else gets. Our rent in Flatbush Apartment is the same every month but I'm never sure what, I'm sorry. Our rent in Flatbush Apartments is the same every month but I've never sure what my take home pay will be so I could know what the budget comes out of it. So that's why we need the fair, that's why we need one fair wage for all workers. Thank you.

Commissioner Reardon: Thank you. Prarthana Gurung, David Jones, Eilish Morris.

Ramona: Next 5 speakers, Susan Povich, Paul Floess, Anil Bathwal, Sivan Baron, and Patricia Avendano, please come on down to the front.

Commissioner Reardon: Thank you. Eilish Morris.

Susan Povich: Thank you. My husband and I opened a small seafood business in Red Hook, Brooklyn in 2009 called the Red Hook Lobster Pound. We represent the overwhelming majority of restaurant owners who operate in New York City. We are not a corporate restaurant group we are 100% family owned and operated. We support ourselves, our children and our 50 part-time and full-time employees. We have given single mothers the ability to get off of public aid. We have given students the opportunity to take on less debt. We have given formerly incarcerated persons an opportunity to earn a living wage without discrimination based on their past acts. We were 100% destroyed by Hurricane Sandy and we invested our life savings into rebuilding our restaurant after we were destroyed. If New York eliminates the tip credit, we will likely close as the burden of the additional salary of \$157,000 will eat into 80% of our net profits. We cannot increase menu prices in our casual restaurant to meet this obligation. We have had to increase prices 50% over the past 5 years to already meet wage increases. Prices are the number one complaints that our guests already have, just look at our Yelp reviews. I want to be clear, there is no subminimum wage in New York. This is a misnomer, a distraction and misinformation. The law is clear that if the tips plus the tip worker wage does not equal the current minimum wage, I have to pay my employees an additional amount which in 9 years I have never had to do. Our average server, bartender, runner and busser wages \$25 an hour, far over minimum wage. This is an enforcement issue not a tip credit issue. Moreover you've indicated you are not interested in eliminating tipping, this eviscerates your own argument that tying the tip

credit to harassment. Keeping harassment at bay is an enforcement issue, an education issue, not a tipping issue. Getting rid of the tip credit is not the solution, having employers like me that care about this issue and a government that enforces the strong law is the solution. Our business has a strong internal anti-harassment policy that includes customers and vendors. I have personally asked a long time customer to leave and never return when I felt his behavior had crossed a line. I have terminated both tipped and nontipped employees; harassment is about bad people not the way people are paid. There will always be bad actors and no law will change this. I am dead serious; you'll be putting thousands of small businesses in New York City including mine, out of business if you end the tip credit. You will be putting restaurant dining out of reach of 85% of the people that live in the City. These people do not eat at trendy and fancy restaurants owned by Danny Meyer and the Marlow Group. They come every Wednesday to us for a \$25 lobster dinner. You will be putting hundreds of thousands on the unemployment rolls including 50 people from my establishment alone. I will sell my building that I happen to own or convert it to condos and those high paying jobs that I created will be lost forever. Thank you.

Commissioner Reardon: Thank you. Paul Floess, Paul Floess, Anil Bathwal, Anil Bathwal, Sivan Baron, Patricia Avendano.

Ramona: After Patricia the next 5 speakers are Mariana Davenport, Gorgoni Fieross, Dina Alicia Brito, Marcela Gomez, and Andreas Koutsoudakis. Please come on down.

Patricia Avendano: (interpreter not working)

Commissioner Reardon: Thank you. Mariana Davenport.

Mariana Davenport: Hello, my name is Mariana Davenport, I'm the Director of Workforce Education at New York Communities for Change which is a nonprofit community organization representing over 20,000 low to moderate income New Yorkers across New York City and Long Island. And I'm here as a supporter of one fair wage. Our members fight for worker's right, affordable housing, better schools and improvements on a number of issues affecting low-income communities. As one of the organizations that started the Fight for Fifteen campaign which resulted in a historic minimum wage increase for workers across the state, we want to ensure that all of our members and their coworkers who work in tipped industries are able to feel the benefits of this increase as well. As the Workforce Education Director, I oversee our program of 13 English classes at 6 sites in Brooklyn and the Bronx and other services including workshops and referrals for job placement interviews. More than 500 students participate in our classes each year. All of our students are immigrants from various countries and many of them work in restaurants, carwashes and nail salons where they depend on tips to survive. When we register students for classes, a part of the registration process we ask about their jobs and incomes and its always quite shocking to see how little the students make while working more than 40 hours a week. Students talk with us about their work experience often sharing stories of how they are paid below the minimum wage without receiving overtime and how they have had their tips taken by their

managers among other issues. They talk about how they are dependent on tips and how many factors play into whether they will actually make the minimum wage or not every day. we've connected students with lawyers to help with these types of cases but the fact of the matter is that the current laws around the tipped minimum wage don't work for everyone. Employers often don't make up the difference in wages if tips are low that day. there's no reason that people should work full-time but still not make enough to pay rent and provide for themselves and their families. As we see it, there's no reason to have 2 tiers of minimum wages for workers. If you work you should be guaranteed at least the same minimum wage. Already 7 states here in the US have one standard minimum wage and it hasn't resulted in a meltdown. Restaurants still exist and workers are doing better than ever making a higher base pay. When \$15 per hour was announced here in New York many restaurants and businesses said it would be a big problem but it has been working out. We need one fair wage now for all tipped workers. Thank you.

Commissioner Reardon: Excuse me do you want to leave the room?

Male: No.

Commissioner Reardon: Then be quiet. Gorgoni Fieross, Dina Alicia Brito, Marcela Gomez, Andreas Koutsoudakis. Marcela come on up. Thank you.

Marcela Gomez: (interpreter not working)

Commissioner Reardon: Thank you. Andreas Koutsoudakis.

Ramona: The next 5 speakers, Joseph Napolitano, Frank Gattie, Danny DePamphilis, Robert La France, Sarah Brafman. Please come on down to the front.

Commissioner Reardon: Do we have Andreas Koutsoudakis? No. Joseph Napolitano, Frank Gattie.

Frank Gattie: Hello my name is Frank Gattie and I worked in New York's restaurant industry from 2005 until 2016. I want to start out by saying that I respect all the workers who came out today, the organizing that's been done on this campaign is a testament to the power we have when coming together to fight for something we believe in. Today I'm here to tell you why I support a full minimum wage for all workers in New York State. I admit because of my privilege I did well for most of my serving career. I was able to pay my rent and attend college while working in a restaurant. But there were also times that I struggled financially. And those times were often unpredictable. Unlike other industries, a service pay can fluctuate from day to day in ways that are often outside of anyone's control. A raining day, pay cut, holiday, pay cut, construction at the restaurant pay cut. These things affected me in the short-term, a few bad shifts could lead to a bad week. However there are things in the longer term that make a server's life financially difficult. One thing I want to bring up is the industry's hiring process. In other industries applicant is told a salary before accepting an offer. In restaurants here in

New York City questions of pay are answered vaguely by managers who may or may not even know how much their employees are making. To solve this problem many restaurants have instituted something called a trailing system where potential hires work one unpaid shift as a sort of try out and are encouraged to ask other employees what the pay and scheduling is like. Two of the many reasons this is a problem it's retaliation, current employees often give fake answers about their pay. And two, one shift is never a good example of how busy or slow a restaurant actually is. You may be convinced the job will bring in sufficient tips but later learn the pay is not as good as expected. And this leads people like me, I've experienced this where you jump from job to job to job in search of a restaurant where you can actually make a living. Your finances can take a big hit during that process but if you were at least paid a full minimum wage it could help with some of that. I want to thank you and I just want to say you know, we have to be honest, one fair wage or not there's still going to be wage theft, there's still going to be sexual harassment and when those things happen I hope you'll all remember the work you did on this campaign., because you can try and save the industry all you want but in the end the industry will not save you. we can only save each other by coming together and fighting for what's right.

Commissioner Reardon: Thank you. Danny DePamphilis, Danny DePamphilis. Robert La France.

Robert La France: My name is Robert La France and I am Vice President of Operations of ACBP Hospitality Group, the parent company of Arts and Crafts Beer Parlor. We have two locations in Manhattan and employ approximately 25 people. I have been in the restaurant industry for over 30 years, I started as a dishwasher in New Mexico, was promoted to busboy and became a waiter. I moved up to bartender in College while attending Arizona State University as the first staff member of the original PF Chang's Chinese Bistro. As a performing artist in opera and musical therapy, New York was my final destination to pursue my vocal performance career. While I achieved a fair amount of success in the arts, it was also feast or famine. The restaurant industry kept me in the game during bad times. Without it supplementing my income I could not afford to keep a roof over my head while I chased my dreams of performing on the greatest stages in the country. The industry, especially restaurants like the Palmer Restaurant gave me the freedom and flexibility to do just that and I am proud of those accomplishments. But dreams change and I now find myself as an owner operator on the other side of the bar. Over half of our employees are pursuing their dreams of working in the arts. We have painters, photographers, makeup artists, writers, singers, dancers and actors working with us and they elevate the quality of our operations more than I can discuss in the allotted time. these are real professionals, published authors, performs, artists on Broadway with TV and movie credits. Feast or famine these employees depend on me to provide an operation that creates the greatest opportunity to make money and the flexibility to pursue their soul fulfilling interests. The arguments implying that the tip credit leads to sexual harassment and wage theft are simply a red herring. While it may happen elsewhere it has rarely happened in my experience working in New York City. Bad operators are held responsible for breaking the law. New York City and state have some of the toughest labor regulations in the country and the penalties for breaking the law are

incredibly tough. The responsibility of enforcing the law falls on the shoulders of government. Our industry is full of good operators who are just trying to make ends meet while tackling increased labor costs, unincorporated business taxes, astronomical rents and always rising insurance rates. If elimination of the tip credit is passed, I will be forced to cut hours and some jobs altogether to merely survive. The result of this action will kill some people's livelihoods and ultimately kill the opportunity of fulfilling their artistic dreams. You may be fine with that Mr. Governor but I am not. Enforce the existing laws and do not place greater burden on small business owner because we are low hanging fruit. With establishments already closing at an alarming rate you will make the operational environment of New York City almost impossible to survive in. While I do everything in my power to ensure employees make good living and have a good quality of life, your actions on this issue may take that luxury away from me. Like Pontius Pilot I will have to wash my hands of this. Feast or famine sir, the choice is yours.

Commissioner Reardon: Thank you. Sarah Brafman.

Ramona: After Sarah the next 5 speakers are Shelly Friedland, Zechariah Choi, Hamed Khan, Jelena Pasic, and Ryan Schipf. Please come on down to the front.

Sarah Brafman: Hi, my name is Sarah Brafman and I'm a attorney and _____ fellow at A Better Balance. I want to start by thanking Governor Cuomo and Commissioner Reardon for convening this hearing to consider ending the subminimum wage in New York State, a practice that disproportionately affects women in the state and contributes to a cycle of poverty for low income working women. My organization, A Better Balance a nonprofit legal advocacy organization headquartered here in New York City was found with the goal of ensuring workers to meet the conflicting demands of their jobs and family needs and ensuring that women and mothers can earn a fair and equal wages they deserve in order to provide for themselves and their families. A Better Balance has been proud to work in partnership with this administration to advance many of the pioneering solutions to combat the gender wage gap as leaders of the coalition passed both the Women's Equality Act and most recently New York's groundbreaking Paid Family Leave law that went into effect this past January. We commend Governor Cuomo's commitment to ensure gender equality. Ending the subminimum wage for New York's 400,000 tipped workers nearly 2/3 of whom are women is a crucial measure in the fight for gender parity. Tipped workers in the state are paid \$8.65 per hour before taxes putting their income after taxes devastatingly near what an MIT study calls a poverty wage. Restaurant servers nearly 20% of whom are single mothers experience poverty at more than double the average rate in the state earning a median income of just \$22,000 per year. Through our free confidential legal hotline we hear firsthand particularly from women and mothers about how earning a subminimum wage negatively affects them and restrains their ability to provide for themselves and their families. Employers abuse their power and exert control over employee's time and choices knowing they cannot afford to walk away. For the many women who begin their career in restaurant jobs they're taught in an early stage in their careers that unwanted touching, degrading demands and sexualized comments are the costs necessary to strike toward economic security. After

all, their income largely depends upon the whims of customers. Customers who, if unsatisfied, determine whether these women are able to provide for themselves and their family. To support the continuance of a subminimum wage then is to stay idle knowing that unnecessary and demeaning sexual harassment female food service workers face could be happening 50% less frequently. The US Department of Labor reported that after conducting an investigation 83.8% of restaurants have perpetrated some type of wage an hour violation including 1,170 tip credit violations which resulted in nearly \$5.5 million in back wages owed to workers. Establishing one fair wage will held shield employers from liability by preventing wage an hour violation and complicated tip credit laws. The conclusion is simple, we must end the subminimum wage in New York State.

Commissioner Reardon: Thank you. Shelly Friedland, Shelly Friedland. Zechariah Choi, Hamed Khan, Jelena Pasic, Ryan Schipf. Next 5 please.

Ramona: Next 5 Essam Attia, Essam Attia, do we have Essam Attia? Daniel Carrillo, Amalia Restrepo, Stephen Van Note,

Stephen Van Note: Hi, my name is Stephen Van Note, I'm the Director of Operations for a small independent restaurant company operating 7 restaurants here in New York City. I'd like to start by thanking the Committee for the opportunity to be heard on this subject. I think my credentials to speak on the effect of eliminating the tip credit are those of one who's worked in the industry for 30 years, been an employee, a restaurant owner and for the last decade a multi unit restaurant operating executive. From those who would eliminate the tip credit, we have heard often via willful mischaracterization of the facts, platitudes about fairness, charges of fraud, implications on the cause and effect of harassment and the demonization of a nonexistent subminimum wage. We have heard pontification on the economic realities of running a restaurant and how eliminating the tip credit has not caused the sky to fall elsewhere. Reliable facts have been in scarce supply, in fact, anyone who takes an unbiased look at the agendas of the folks from whom these comments originate, has uncovered the obvious and dubious motives. I would like to share some facts the made for media or made for politics term subminimum wage implies a situation that does not actually exist. At our restaurants directly tipped employees are earning over \$30 an hour and indirectly tipped employees are earning over \$20 an hour. Those are verifiable facts. Not cherry picked case studies or deliberately misleading statistics. And its not just our restaurants. A New York City Hospitality Alliance Survey of 486 New York City restaurants which employ nearly 14,000 tipped workers found that those servers earn on average \$25 per hour. In 2016 a similar nationwide study was done by the NRA, National Restaurant Association, proved that tipped workers average over \$15 an hour nationally. The term subminimum wage to describe tipped worker compensation is just completely inaccurate. The current proposed cash minimum wage will be \$10 an hour next year, that's double what it was in 2015, the tip credits eliminated, tipped employees will be \$15 an hour that's a 73% year over year increase. And a 300% increase from 2015. only the willfully naïve or patently ignorant can believe that this will not cause financial consequences to restaurants. The elimination of the tip credit alone will cost our company 8% of volume. There's very few restaurants out there that even make 8% on volume. To speak plainly, elimination of the tip credit will cost

people jobs, reduce wages.

Commissioner Reardon: Thank you. Excuse me Stephen, question.

Female: Quick question for you Stephen so I appreciate you giving me your testimony today but the question I have on the area where you talk about it would have the impact of 8% on volume for you, is that, are you quoting that on if this was done immediately? Like if it were done exact and immediate?

Stephen Van Note: Yes that's what I'm referring to. So next year the cash minimum wage is going to be \$10 instead of \$8.65. That translates to somewhere around 18% or 15% increase right. That's just a straight increase. It comes right off the bottom line. Right so if you take that number and make it \$15 that's going to be a 73% increase. You can scale into it but all you're doing is gradually destroying the industry instead of doing it over night.

Commissioner Reardon: Okay thank you. Tsedeye Gebreselassie. And the next 10 before you start.

Ramona: the next 5 speakers are Lorelie Salas, Kay Clifton, Georgette Farkas, Suzannah Koteen, Sandra Zambrano, Michael Curley, Padriac Sheridan, Linda Rosenthal, Maria Figueroa and Philip Johnson. Please come on down to the front.

Tsedeye Gebreselassie: Hi, good afternoon my name is Tsedeye Gebreselassie, I'm a Senior Attorney at the National Employment Law Project and the Director of the Job Quality Program. For the past 10 years I've specialized in minimum wage and wage enforcement policy. I've worked with most of the states and many of the cities that have raised their minimum wages in recent years. I'm here to testify in favor of the proposal to raise the tipped minimum wage to the full minimum wage. I lived in the City for 15 years, I love New York City. Before school I was a server in California where I can attest to the importance of having a base minimum wage paid directly by my employer with tips being an addition to and not a substitute for those wages. People have talked a lot about what I was going to say. I just want to respond then to a couple of points that have been brought up. It is true that the vast majority of tipped workers in New York State do earn low wages. I do not doubt for a second that the workers in this room that are opposed to this proposal make good money but that's just not the case for most workers. The median hourly wage for a tipped worker.

Commissioner Reardon: Excuse me if you're going to talk, you're going to go outside. Got it?

Tsedeye Gebreselassie: I think everybody here deserves respect on either side of the debate so please. Median hourly wage for tipped workers in New York State according to the New York Department of Labor Statistics Occupational Wages is \$11.24. In New York City is \$9.93, in Hudson Valley, my written testimony which I've submitted shows the different changes. So it just goes to show you that this is a proposal about increasing

the wages for the vast majority of workers in the state who are not here today but who really need this wage increase. Second point, a lot of people have talked about fluctuations in pay, I just want to point out it was very powerful to hear from workers, mainly women, people of color, older workers who talk about how they really are dependent on manager's whims. They are dependent on if a manager wants to retaliate against them and they are dependent on customers who have their own bias and prejudices and tip different workers differently depending on who they are. That is a very real concern and I think that highlights the importance of having a strong base wage for everybody. And I will say, and this is in my written testimony, it is true that places that have gone to one fair wage or have raised their minimum wages, and I have worked with many of them and have studied economic literature and worked with economists on it, have been able to do with a gradual transition, employers are adjusting and workers I mean the cost of living is going up every year, having a wage that does not go up is unsustainable in the long term. Thank you so much.

Commissioner Reardon: Thank you. Lorelie Salas.

Jeya Yim (sounds like): Good afternoon and thank you Commissioner Reardon for the chance to speak today at the 7th public hearing to evaluate the possibility of eliminating the subminimum wage in New York State. My name is Jeya Yim, I'm Senior Enforcement Council at the Office of Labor Policy and Standards of the New York City Department of Consumer Affairs. I'm here to represent Mayor De Blasio's administration and DCA Commissioner Lorelie Salas to articulate the City's support for creating one minimum wage for tipped and non tipped workers in New York State. DCA is committed to combating the root causes of economic insecurity such as inconsistent pay, a problem that breeds household anxiety and uncertainty both nationally and here in New York City. My office is charged with enforcing city level labor standards. We also develop policies to raise job standards and we provide a central resource to help New Yorker's assert their workplace rights. We are uniquely situated to draw on our enforcement, research and other experiences with a diverse array of workers and employers to conclude that the state much eliminate the subminimum wage. We submitted testimony at last weeks hearing on the tip credit and non-hospitality industries and I'm here today to add to that testimony by pointing to specific problems faced by tipped hospitality workers. In the restaurant industry tipping institutionalizes unequal pay for workers based on race and gender. Consumers tip black servers less than white servers and women are tipped more if they conform to sidle expectations of attractiveness and femininity. Sexual harassment of workers is also rampant in the restaurant industry. In one survey 60% of transgender, 50% of women and 40% of restaurant workers overall reported experiencing "scary or unwanted" sexual behavior at work and the largest share of sexual harassment charges was filed with the Equal Employment Opportunity Commission came from the restaurant industry despite known under reporting in that industry. Moreover wage theft is facilitated by the nature of tipping. Tips are stolen because of how they are collected; whether they are left in a jar or on a credit card or just sitting on a table. Employers can easily collect and then simply not distribute tips meant for workers. Without workers even knowing the full amount of tips that they earned. Some employers unlawfully do not pay even the subminimum wage forcing workers to

rely almost entirely on their tips. Servers at a restaurant in one Department of Labor proceeding testified that they were paid \$30 per day for working between 8 and 13 hours per day, less than \$4 per hour. It is a norm in every other industry that employers bear the cost of labor, something employers in the hospitality industry can afford given the industry's growth in recent years. I also note that this growth has not slowed in jurisdictions that have adopted one minimum wage which a lot of other individuals today have testified about. In fact the Economic Policy Institute notes that nationally almost 13% of tipped workers live below the federal poverty line. Bluntly speaking, keeping a subminimum wage is an endorsement of a two tiered wage system that hurts the most vulnerable among us. I urge the Department of Labor to create one minimum wage for tipped and non-tipped workers. And I thank you for your time.

Commissioner Reardon: Thank you.

Female: Excuse me why does government get to break the rules and have someone else testify in their place?

Commissioner Reardon: It was the Office of the Commissioner. Excuse me I'm chairing this meeting and they registered as the Office from the City as that is how we accepted it. Let me just explain something here. Obviously everybody's very emotional and has their own story. I am asking all of you to respect everybody else's truth. You will have your 3 minutes at the microphone but if you insist in catcalling people, you will be taken out of this room and you will not come back in. Kay Clifton.

Kay Clifton: Hello members of the Department of Labor. Thank you for hearing me again. I'm here to testify for the 5th time. Kay Clifton from Bay Port, New York. I'm pleading with you to leave the tip credit alone in the full service restaurant industry. Please separate us from the fast food, carwashes and nail salons. I think they are two very different industries and should be dealt with separately. The tip credit works for the restaurant industry when its laws in effect now are followed and should not be changed. Don't punish the entire industry for a small amount of bad employers that don't follow them now because they won't follow any new ones. Instead investigate them. If the tip credit goes away the restaurant industry will drastically change from the way it is today and not for the better. Hours of operation will likely decrease and the number of staff members per shift will be cut, especially the support staff such as hostesses, busers, food runners and expos. These jobs will go away as well as the number of servers per shift. When this happens, a lot of workers will be left unemployed. A lot of restaurants especially the mom and pop restaurants and the small establishments will not be able to survive this wage increase and will be forced to close their doors, again, resulting in more unemployment. The restaurants that do survive will probably have to start using tablets or if they do already they will increase what the guests can do with them. Besides all this, the guests will be the ones that suffer the most. The dining experience will never be the same as it is today. Instead of going out for a nice relaxed evening or to celebrate some special occasion and be pampered, they will pretty much be on their own to navigate through their dining experience. Their server will be too busy to give the great service they are used to because of the extra amount of tables that they'll have and the

extra duties they will have to perform due to not having any support staff anymore. So the guest experience will not be memorable magical or simply enjoyable. The server will not have time to chat with the guest, make suggestions to enhance their experience or even catch up with their regulars as to what is new. These are the things that make full dining restaurants unique and different from fast food restaurants. We as servers do this great, make the guest experience special and memorable by making suggestions, explaining specials and basically just taking the time to talk to the guests and figuring out what's going to make them happy when they leave and be a returning guest. This is what I do for a living and I enjoy my job the way I do it now and so do my guests. If this all passes, the industry will never be the same. Let me ask you why you like to go out and many times return to the same place? Maybe it's the food or drinks, the friendly service or any number of reasons. These places, your favorite places could be gone because you think you know what's best for me, for my business and for my life. Please don't change my industry or the way that everyone enjoys going out to a full service restaurant including you and Cuomo.

Commissioner Reardon: Thank you. Georgette Farkas.

Georgette Farkas: Good afternoon and thank you to the panel for this opportunity to speak for not just my small business but for the full service-dining sector in general here in New York City. I'm a native New Yorker I've worked in restaurants starting out as a cook, bartender, server, busser, and then just about everything you can do at a restaurant starting at the age of 15 which means a lot of decades. My restaurant is here in New York City. I employ 52 people, about half of them are tipped employees. Those tipped employees are earning an average of I'm sorry a minimum of \$25 an hour however servers and captains on the highest level of our tipped employees are earning \$45 an hour. The majority of them have been working in our company since we opened 5 years ago. That's a rare thing. We all heard about turnover but restaurants that are operating with decency and respect and care for their employees don't have that kind of turnover. I ask you why do my employees, the 52 of them and the half who are tipped credit employees, why do they choose to work as a tipped employee earning a tip credit? I also ask you and the Governor and the Department of Labor where will these employees go to earn equal compensation to what they're earning now? Where will they go to earn \$25 to \$45 an hour? I don't know and I'm very concerned for my employees and the thousands of other New York City restaurant full service employees. I also think it's so important to say that when restaurants are well run, when they're properly run with decency and care can be some of the best places for employees to build careers. Nurturing places for women and minorities to work. The best stories in our business are the stories of people who enter our business as a porter and go on to work as a busser, an expeditor, a runner, a server and become managers, actually our servers earn more than our managers our tipped servers earn more than our managers. These are the best stories in the restaurant business. Eliminating the tip credit in the full service restaurant industry the result I'll leave the facts and figures to those who are in a better place to share them, I can only say in a typical full service restaurant it will lead to lower compensation, the closing of businesses and most crucially the elimination of jobs, the elimination of thousands of jobs. so I don't think too many people are too concerned about one little business owner

but I'm concerned about the thousands of those employees. The thing that I'm most proud of is the fact that I employ them. Again, recognizing that the decency and the care that can really characterize a fine workplace, a workplace like mine. That really is the foundation of our sector. Its not, there are terrible stories and I abhor hearing the stories of wage theft, of harassment of any kind but our restaurants can be the most nurturing places.

Commissioner Reardon: Thank you. Suzannah Koteen.

Suzannah Koteen: Hi there my name is Suzannah Koteen I live in New York, I've worked in the restaurant industry for 30 years and I am now the proud owner of Lido Restaurant in Harlem. For one, this subminimum wage debate is completely confusing to me. For one no one is legally making less than minimum wage. If a tipped worker's hourly wage plus their tips do not add up to at least the minimum wage it is already a law that that employer must make up the difference. I cannot speak for all restaurants however I can tell you that at my restaurant which is a mid rate priced Italian restaurant in Harlem, when hourly and tips are added together my busers average \$26 an hour and my servers and bartenders average \$35 to \$38 an hour. Secondly, people that are arguing to abolish the tip credit are saying that tipping leads to sexual harassment. Is sexual harassment an issue in the restaurant industry? Of course it is, its an issue in our country. However it is a completely separate issue. There have been some high profile incidents in the news lately, Mario Batali the spotted pig, about rampant sexual harassment and I'm glad that those bad actors have been called out and have faced consequences. When Harvey Weinstein was outed as a serial sexual predator no one tried to legislate what people in the film industry from interns to assistants, to actresses were paid. No one got that if that intern was just paid a little bit more Harvey Weinstein would be powerless to take advantage of them. ironically Hollywood actresses are among those who are hearing these scary phrases like subminimum wage and sexual harassment and they are trying to tell the restaurant industry how to operate. Again, I cannot speak for every workplace but I know that in my restaurant my team is a vital part of my business. We have many loyal customers who return not only for the food but for the atmosphere. If my workers did not come to work feeling respected and safe, my customers would know it and my bottom line would be affected. Raising tipped workers from \$10 an hour which is already happen as of January 1, 2019 to \$15 an hour would represent a 300% increase in labor costs in just 4 years. I'm not aware of any industry that can absorb that kind of increase to their bottom line without drastically changing the business model. Can I increase my food and drink prices 300%? Currently there are several landlords that have approached me with vacant spaces. I am interested in one of those spaces, I cannot make the numbers work if this goes through. There are potentially 60 jobs that will not be created. I'll leave it there.

Commissioner Reardon: Thank you. Sandra Zambrano, Sandra Zambrano, Michael Curley, Michael Curley, Padriac Sheridan, Linda Rosenthal, Maria Figueroa oh it's Linda. Linda Rosenthal? Assemblywoman Rosenthal.

Linda Rosenthal: Yes, thank you I'm assembly member Linda B. Rosenthal and I represent the upper west side and parts of the Clinton Hills Kitchen neighborhoods in Manhattan. Thank you for the opportunity to testify today on the critical issue of our state's subminimum wage. I commend the New York State Department of Labor for working to assess the implications of a subminimum wage on our state's workforce particularly as it pertains to today's hearing on restaurant workers. In 2017 New York State took a historic step in improving a \$15 an hour minimum wage statewide. Sadly not every wage-based worker has reaped the benefits of this game changing move. New York State guarantees tipped workers only a subminimum wage. This system has left thousands of tipped workers struggling to make ends meet and disproportionately hurts women and people of color. The subminimum wage would guarantee tipped workers also leaves them particularly vulnerable to wage theft. In New York and in 42 other states, tipped workers are guaranteed only a subminimum wage that without tips enables them to live just slightly above the federal poverty line of \$15,060 for a family of one. Even with the tips they earn, restaurant servers in New York State experience poverty in more than double the statewide rate earning a median full-time year round income of just \$22,000. the variability of tipped income is a problem, particularly acute in the restaurant industry. Compared with the rest of the national workforce, people working in the restaurant industry are twice as likely to be enrolled in federal food assistance programs and three times as likely to live in poverty. In fact of the 10 lowest paying professions nationwide 7 are within the restaurant industry. The myths of a lucrative tipped income have left restaurant workers floundering with little recourse. The broad economic inequity of our current wage system is only a fraction of the picture. Desperate to come home each month with enough money to support their families, tipped restaurant workers are forced to stand tight lipped as they are routinely dehumanized and harassed in their place of work. There is a power dynamic at play in every server patron relationship and because we do not guarantee a minimum living wage that leverage point is the gratuity. Women who make up 61% of restaurant servers statewide and people of color, studies show are tipped at lower rates on average than whites, a day at work easily becomes a minefield of unwanted words and conduct. Addressing the conduct may result in a lost tip or worse a lost job. Wage theft among tipped workforce has become so rampant it's nearly the norm. Under state law employers are required to bring their workers earnings up to...

Commissioner Reardon: Thank you. Maria Figueroa, Maria. Maria Figueroa from Cornell ILR? Philip Johnson.

Ramona: Okay the next speakers please come on down to the front, Anthony Monticello, Aletea DeCuffa-Morales, Denise Cuiffo, Christopher Tripp, Nicole Tortatice, Marie Medina, Rhonda Myers, Angela Collazo, Nicolette Becker, and Patrick O'Sullivan.

Commissioner Reardon: Thank you. Anthony Monticello.

Anthony Monticello: So I've been a restaurant business about 30 years. I own 4 restaurants in midtown. I know you've heard every scenario everything from owners to everybody else but statistics don't matter. What matters is that everything comes out of

our bottom line. When you're asking us to pay \$15 for a tipped employee when they already make minimum wage if they don't make enough tips, we pay that. it comes out of my bottom line. Nobody else's, not the governments, there's no subsidy there's nothing. We pay for everything. When we get hit with the health department it's a fine, fire department it's a fine, outdoor café costs money. Everything is rising and now you're asking us to do more increase. We don't have it. We don't have the budget. And speaking of budgets when the Government needs money they can't put their budget together, what do they do? They tax us more. And I think this is what its all about. Its about Cuomo wanting \$15 an hour permanent so now the extra 5 bucks is guaranteed tax money in his pocket every year from every tipped employee. That's what it's all about. And I'll tell you want, if you want to help tipped employees, why don't you stop taxing their tips. It's a gift. Its gratuity, its here you go for doing a good job. It shouldn't be in the government's hands. This is what they get as a gift. It should not be taxed. This is the way to help them. you want to raise to \$15, give them that. but no, you know why, because it all comes down to tax dollars. It all comes down to the government's pockets and that's what I am tired of. I am tired of the government legislating how much money people should make. If people don't want to work for me they can go somewhere else. They don't have to wait or bartender. They can go work at Chick-fil-a. They can work at Shake Shack. Guess what, they're not going to work at Shake Shack because bear in mind next year he's going to put in kiosks everywhere cause he can't afford it. So when are you going to stop? When does it end. We just 3 years ago increased their wages. When does it end? When do we get a chance to survive and breathe and lick our wounds and try and make things better? We don't have that chance. We can't worry about rent. We can't worry about taxes. Help us. You want to raise it, do something about the taxes. I pay 20% on my village taxes increases every year. Help us with electric, water, something. you guys do nothing for us. Where is our relief? I'm asking for something, you want minimum wage to go up, give us something in return. Help us out but there's noting you guys do to help, you just tax, tax, tax and you get lawyers involved. I can go on Google right now and find out how much I make minimum wage. I can Google right now and find out any lawyer that will sue a restaurant owner in 2 seconds. This is a digital age. Don't tell me that no one knows their rights cause that is BS the lawyer was here earlier, he would sue everybody on a dime with no money out of their pocket to come after me. It's enough, please it's enough, give us a chance to breathe. Thank you.

Commissioner Reardon: Thank you. Aletea DeCuffa-Morales

Aletea DeCuffa-Morales: Hi, first of all I'd like to say I live and work in New York State and here I am again to testify in favor of the tip credit. You have already heard hundreds of stories and facts of why eliminating the tip credit is a horrible idea and I ask of you, who is really here protecting us the workers? It isn't ROC and I can tell you that for certain. Who is protecting the honest, law-abiding business owners? The few servers who don't make enough in tips or who have their owners steal from them should be investigated and punished but the rest of us should not have to suffer. If this passes you will single handedly desecrate the restaurant industry. And frankly I'm offended and disgusted that ROC states that we women make less than our male counterpart. That's simply not true. I'm also offended when they claim that us women are sexually harassed

to earn tips, that is simply not true. Yes, and the slavery correlation I mean that is reaching. I am a server not a servant. And that sign right there, that sign subminimum wage is also offense, there is nothing subminimum about my wage. And I'm curious where is ROC getting their stats? I'm sure it's from Saru's Berkeley studies. Well that's pretty convenient. It also blows my mind that people not even in our industry are telling us how our business works. Oh wait ROC did open a restaurant called Colors, yeah they did and how did that work out? Oh it didn't it closed shortly after it opened. I have worked successfully in the restaurant industry for over 15 years, now if and when my position is reduced or cut out altogether where am I going to go to find work? I've done nothing but be a server for 15 years. I live in Upstate New York where its mainly small business mom and pop restaurants. And in no way will they be able to sustain another increase. This past Sunday we took our kids to see Incredibles 2, good movie by the way, and as we were walking to the theater we passed a Friendly's and I stopped dead in my tracks. Through the window I saw a tablet on every single table. I thought to myself there is no way. So I peaked into the restaurant and saw only 2 servers, I guess now they're food runners for the whole place. This is now a sad reality and will only get worse if the tip credit is eliminated. I really truly hope you guys are listening to us the servers who work every single day in this industry and have made a living for ourselves, I really hope you're hearing us. Thank you.

Commissioner Reardon: Denise Cuiffo.

Denise Cuiffo: Hi, My name is Denise Cuiffo. I'm the AGM at Applebee's in Lindenhurst and this the third time that I'm speaking to you. This time I would like to share with you some research that I've done. Included in the packet that I turned in are the responses from many New York State Assembly people. Not the one who just spoke who I sent e-mails to regarding the tip credit issue. She didn't answer me. Every response that I received they agreed the eliminating the tip credit was a poor choice. The Assembly people speak for their constituents so what are you seeing amounts to thousands of people against eliminating the tip credit. It's pretty fair to say that if this had gone to a public vote as Initiative 77 did in D.C., New York would have seen a very different outcome as to what they did. I would also like to point out that in sitting through the other two hearings that I was at as well as watching countless hours of testimony on u-Tube that ROC is doing a disservice to the very people that they coerce into coming here speaking in front of you. They come in and they tell a very convincing story about how terribly they are treated at work by their employers, but I ask you, in listening to their stories, how many labor laws appear to be violated every shift. They talk about having tips stolen, their hours cut, their pay withheld, no breaks, no spread of hours pay, no benefits offered, being called off last minute or only allowed to work two hour shifts because it is slow. If these issues are so prevalent, why are the people of ROC asking the employees to wait and hope that eliminating the tip credit will change the terrible way their employers treat them. If ROC stands for these people, why are they not pounding down your door everyday to make the employers offer fair treatment to their employees to debt? Why isn't that when the testimony from supporters of the tip credit is read, you're informed who they are and where they work every single time yet when the people who are paid to be here by ROC testify, they don't tell you who they work for?

Are we even sure they are employed by restaurants? Did these things really happen to them or are they paid performers? It could be argued that they are afraid of retaliation by their boss for speaking out but if they are so afraid how did they get the day off to be here? If they are so mistreated, why do they stay there? And again if ROC really wants fair treatment for their workers, why aren't they demanding fair treatment now? I'll remind you of the last time I spoke by saying that I work for a large chain restaurant, I'm not going to close my doors, I'm not going to lose anything, I'm going to gain guest traffic but when the mom and pop shops close down. Excuse me. But we don't want that to happen. We want it to be a choice for our guests, we want to be able to employ as many people as possible and we want to be able to provide a fair wage for the back of the house employees as well as the front of the house. Please let the servers of the state continue to provide a great service for the great wages that they earn. It's what they want. And finally to the people that I have stood with for these last few months, please be proud of what you have achieved. Win or lose, you have all shown, all of you that you with the grace and class and intelligent, I'm so honored to be a part of what you've started and I will never forget the lessons that I've learned from each of you. It takes heart and stamina to work a closing shift, go home and change, and get on a train or bus to come here to put yourself out there to speak at these hearings. I thank you for your diligence, your courage, and your determination.

Commissioner Reardon: Thank you. Christopher Tripp

Christopher Tripp: Hello again. My name is Christopher Tripp. I am a 25 year old server captain at The Olde Bryan Inn in Saratoga Springs. Commissioner Reardon, you said at the last hearing that this was in fact publically announced so I did my homework and I went to uTube and watched the State of the State address again and even took notes and in it he did not say anything about the proposal to eliminate the tip credit. I had to go online to his website to find out more of his stands on the issue. The average person doesn't know to go to the website to find out information on an issue that wasn't touched on in his speech, so this really was not publically announced in fact I watch the news every morning with my morning coffee and I have yet to see him say anything about this. This is why we feel so left out in the dark. This isn't really what we are talking about though. I would like to say that I am a democrat through and through. I believe strongly in the equality and human rights, in fact I agree with most of the things that Cuomo spoke about in his State of the State. Sexual harassment and discrimination are definitely something that we should be speaking about. However, I believe the elimination of the tip credit has nothing to do with human rights. Every restaurant in New York State that I have worked for has never turned a person down for sexuality, gender, or race, and everyone is treated equal. I have never been treated differently for being a homosexual, in fact within two years of my employment at the Olde Bryan Inn, I got offered a management position which I turned down and eventually became a Supervisor. I have always felt welcome and comfortable. So here is my point. I am being asked to choose between my political views and my employment. I would rather give my right leg than to vote Republican. Don't make me vote against my own personal beliefs because when it comes down to it, I will not be voting for Cuomo again. He will lose a supporter and a vote. I would like to finish by saying, I just moved out to Granville, New York, which is

on the border of Vermont. It takes me an hour every single day to get to work to Saratoga, which I believe it's absolutely worth it because it's much cheaper to live out in Granville, but if the tip credit is eliminated there is nothing from keeping me to go work in Vermont where they are allowed tips and they have a tip credit. So I appreciate the time. Thank you for listening. Thanks for all the hours listening, I appreciate it. Thank you.

Commissioner Reardon: Thank you. Nicole Tortatice. Nicole Tortatice? Marie Medina. Rhonda Myers? Angela Collazo?

Angela Collazo: Hello. Okay, sorry. Good Afternoon, my name is Angela Collazo. I work at Miller's Ale House on Staten Island. I've a veteran server of 16 years. I am here speaking to you to show my support of the New York tip credit. I want to start off by thanking you for giving me another opportunity for my testimony to be heard. Back in April, coworkers and I attended a hearing in Long Island. I was there for my wants and needs. I wasn't aware of what was going on in nail salons and car washes. I am thankful I was in Farmingdale that day; it brought awareness to me. To be honest, if I were them I'd be begging for your help too. I took it upon myself to investigate their claims. After speaking to nail techs, I was saddened by what they are saying. The claims that they are saying are true. The testimony, my testimony is still about hospitality, my wants, and my needs; however, the Labor Board needs to investigate and look into those businesses, not the hospitality industry. Everything the nail techs and car workers, car wash workers are saying and claiming are true. We in the restaurant do not agree. We are not being treated unfairly. I know my employers compensate me and follow guidelines, requirements and rules placed by you, the Labor Board. My New York, err sorry, don't fault those who follow your instructions. Go after the ones abusing their power over their employees. We as servers have a hard job. I know many of us strive for the best because it is our main source of income; our tips. I've never been paid under wage. I work in a very fair environment and I know if there is ever a problem, I can go to any of my managers. I've heard the statistics about sexual harassment. Let's be honest, I was more sexually harassed on the MTA bus on my way here. I've heard testimony from people opposing the tip credit and how they are not compensated and don't make minimum wage, well again, that's a labor board issue. That needs to be looked into. They need your help; not the hospitality industry. My bosses make sure we are paid, treated fairly, and they look out for us. My Miller's family is my second family. We are all terrified of the elimination of the New York tip credit and fear of losing our jobs, our sense of security and whatever future plans we had set up depending on money whether it be finishing school, buying our first car, or putting a down payment on a house. I am a mother of four. My family depends on me, my tips, and my job. I need my job. I love my job and I want my job. Come January, we all need our jobs, we all have plans, and we don't want them ruined by the subminimum wage hearing. Thank you.

Commissioner Reardon: Nicolette Becker.

Nicolette Becker: My name is Nicolette Becker. I am a server at Miller's Ale House in Staten Island and I am here today to tell you why we need our tips and why restaurant

workers will suffer from this massive pay cut. I have been working at Millers for a year now and as a 22 year old college student, I cannot be more grateful to have this job. I'm able to come home everyday with cash in my wallet and at the end of the week, even a little extra money in my paycheck. This job has helped me survive. I'm not just here to speak for myself but for every server who depends on tips to feed their children and families, for those who are single parents, for those who depend on tips to pay their rent, their bills, and other expenses. Being a server is the one job where those who weren't fortunate enough to go to college actually have a chance at making a decent income. We are able to provide for ourselves and our children without having a Master's Degree or an office job. So Governor Cuomo if you want to talk about economic justice, servers are a prime example of it. We servers take pride in our work. We are on our feet for several hours a day, no breaks in-between, and sometimes we may not even have a chance to eat, but we choose to push ourselves through every single shift because we know the money is worth it in the end. We know how to hustle and we are grateful for every dollar we make. There are people in this room; however, that may feel differently. Some people here want this One Fair Wage and I understand your side. Nail techs and car wash workers, for example, should be getting paid better. They should not have to make \$7.50 an hour and get \$2.00 to \$3.00 tips per hour. You are right, that isn't fair. However, there are two very different industries of work, these are two very different industries of work, excuse me, and just because those tips aren't making you happy doesn't give anyone the right to protest against mine. You simply cannot compare servers and bartenders to nail techs and other tipped employees. Servers must use their feet, hands, voice, brain, vision, balance, and entire body to do their job correctly. Multitasking isn't the word to describe what we do everyday. We are nonstop working machines until our shift is over and we work hard and we work this hard for our tips. Give those demanding the One Fair Wage their well deserved pay but leave the restaurant industry as is. That is the basic and logically solution. I love serving and I support the company I work for but if this Bill does pass, I will have to leave my job and start looking in other areas of work. Think about how harshly this is affecting the restaurant industry and how many people will be out of jobs. We do not want to live off of only minimum wage. The current system works so please with all due respect, leave our tips alone. Thank you.

Commissioner Reardon: Patrick O'Sullivan.

Ramona: After Patrick, the next speakers are: Kim Gioia, Gordon Clarkson, Michael Swanston, Joshua Chaisson, Carlos Morales, John Clement, and Pam Winberry, Catherine Barnett. Ryan Brennan, and Denise Scherer. Please come on down to the front.

Patrick O'Sullivan: Commissioner Reardon, Department of Labor panel, good afternoon. I am a strong supporter of the tip credit for full service restaurants. My name is Patrick O'Sullivan and I'm a 23 year veteran of New York City restaurants. In case you didn't guess from my Italian accent, I have the privilege of calling New York my adopted home. I wasted 11 years as a member of Unite Here and will never again work in a union restaurant. I was a member of ROC United in its early days before I understood its real agenda, and in 2005, I attended the New York City Council Hearings where ROCs co-

founder, Ms. Jayaraman sought legislation that would facilitate the City revoking the licensing of restaurants that did not meet her prescribed standard of operating. Mercifully it fell on deaf years with New York City Council, especially in light of the unmitigated disaster that ROCs COLORS restaurant would become established to be a shining example of high road restaurant management and operations. COLORS very quickly became a comic off of a template for how not to run a restaurant besieged with lawsuits by its own employees or ROC members for wage theft and repeated prosecutions by New York City Department of Health for egregious health and safety violations. COLORS restaurant is now shuttered for its final time having reached a point where it could no longer be sustained even with the help of tax payer funded and fell on profit grounds not afforded other restaurants. It's ironic that this is the person and her organization who somehow sees themselves as qualified to prescribe how other restaurateurs should run their businesses and how staff are paid, and please don't laugh, this is the person and her organization that wants to "professionalize" our industry workforce. Over the course of the past 15 years, hospitality industry leaders of New York City have reached out to ROC and Ms. Jayaraman and offered a place at the table to learn the true economics of our industry and an opportunity to partner constructively to be a force for good for it's workforce. At every turn, ROC and Ms. Jayaraman responded by vilifying restaurant ownership management regulatory bodies and the 97% of our industry workforce who disagree with ROCs agenda. It's ironic that while they describe us as elitist, the bulk of ROCs funding comes from the highest ranks of America's elite. Our social media group, supporters of the tip credit in New York, exceeds ROC's membership after just five months of being formed. ROC does not speak for me or for anyone else.

Commissioner Reardon: Thank you. Kim Gioia.

Kim Gioia: Good Afternoon. My name is Kim Gioia. I'm currently, I currently work at Applebee's as a server and have been an employee with my company for over 16 years. I've worked in every area of the restaurant from dishwasher to cook to general manager, from which I demoted myself back to server so I could finally start a family. There have been a few organizations who claim that the job of a server represents poverty, unfair wages, and sexual harassment. If this was the norm for the industry, I can assure you I would not be sitting here defending it; I would of found another job by now. As I'm sure this is the case in some restaurants, this is not the case in most. The restaurants that illegally running their businesses by not paying their staff tip credit, by not allowing breaks, by stealing their staff's tips, these are where you will find your problem with the service industry. Those businesses need your attention. For those many, many of us that work in legitimate businesses, we are not victims. We do not need saving. We are treated well. We earn benefits and vacation time. We are not told to act a certain way in order to receive tips and we are paid tip credit, if needed. We earn tips with hard work; not our bodies. Abolishing the tip credit will not stop sexual harassment. Paying us One Unfair Wage will not turn bad people into good people. Sexual harassment happens everywhere in every job no matter how much someone is paid. Take Hollywood for example. I've heard of more sexual harassment cases in the last year than in my 20 plus years in the food industry. People who get paid millions of dollars are still harassed. Do you think paying them more would stop that? I don't. Speaking of Hollywood, that is

where you will find your problem with our industry. In movies and TV shows the position of a server is represented as the “last resort” job, it’s a job that no one wants, or must work triple shifts to make any money. This does not represent real life. Hollywood is not real life yet they chose to speak for us. Just recently I was watching a TV show where a female character took a job as a casino waitress because she could not get anything else. In the following scene after complaining about why she wasn’t making tips, her sister, also a waitress, threw her a push-up bra and said, this is a push-up bra; this is a waitress’s best friend. I’m pretty sure a push-up bra is every woman’s best friend, but that’s beside the point. Our industries portrayed by so many who no nothing about our industry. Stop listening to those who claim to fight for us but have never been us. Stop listening to those who are using us for their own agenda. Eliminating the tip credit will eliminate jobs. I don’t have to tell you how, you know, you’ve been hearing it from our voices and seeing our faces at every hearing. We do not want or need a change. Thank you.

Commissioner Reardon: Thank you. Gordon Clarkson.

Gordon Clarkson: Hello, Good Afternoon and thank you for taking the time to listen to us all once again, for the last time. I was not flown here by anybody else either even though it may sound as though I was, but if I were an unscrupulous employer and I was ripping you off when I paid you \$7.50 and I was ripping you off when I paid you \$5.00, am I going to rip you off when I’m paying you \$10.40? I think if anything, I’m going to find new and creative ways to make sure that my bottom line is not hurt by the fact that I have to pay you more money on your hourly wage. I am not going to suddenly have a come to Cuomo moment and decide that I’m going to confess and pay the fair full minimum wage if they decide to eliminate the tip wage credit. We also hear, I see the tee-shirts with Better Wages, Better Tips, and I hear about Tips on Top, and I can’t equate the two sides to the same argument that they are trying to make the point that tipping is the prime cause of sexual harassment in the industry, and at the same time Mr. Paarlberg stood here and said changing the minimum wage did not change the amount of tips people made in his study. So did it change the amount of sexual harassment? If I give you \$10.00 today as a tip and I’m looking for your phone number or a little squeeze of your hand, and I give you \$10.00 tomorrow when you’re making a different amount, is that somehow now that I’m just appreciating your professional service and you kind attention or is it I’m exactly the same person, because a pig is a pig, an unscrupulous employer is an unscrupulous employer, and a minimum wage is not going to change anything with those scenarios. You know, we did see the change in the D.C. situation this week and I’m actually somewhat relieved that we have an informed, educated panel who are going to be able take our comments and evaluate them rather than putting out an emotionally loaded question of whether or not we should pay somebody a subminimum wage because obviously nobody really thinks we should pay somebody a subminimum wage and nobody does pay anybody a subminimum wage unless they are breaking the law, so I’m grateful that you are here, that you have been taking these comments and taking this information and that you will be able to make an informed and just decision. I’m going to look forward to a successful conclusion. Thank you.

Commissioner Reardon: Thank you. Michael Swanston. Joshua Chaisson.

Joshua Chaisson: Madam Commissioner and esteemed members of the Department of Labor. This is my fourth and final time before you. I shared with you all the recent history of my home state of Maine and eliminating our tip credit through a ballot initiative and after our legislatures listened to the workers. After they listened to us, they reinstated our tip credit with a super majority of bipartisan for it out of both the House and the Senate. In my short three minutes here today there is an enormous amount of ground to cover for those of you who will take the time to read it, I will provide a tome of information in my written testimony. Madam Commissioner, starting in Buffalo you added that you were not looking for majority of plurality of voices but instead you were listening to our stories. So here is some stories of my own. In Maine, we pushed back on the term subminimum wage when any publication or any legislature used it. We did+ so because the term, according to our state's law, is a wage paid to those with intellectual disabilities. In Long Island I was shocked to see all the subminimum signs everywhere. I thought, okay may this term is used differently here in New York. I was saddened to learn that the term has the exact same meaning according to your laws. So what's not been, so it's been hard for us to feel like the Department is respecting us entirely when clearly the term subminimum wage has no place at these hearings. I've had the utmost respect for you Madam Commissioner and the entire staff of the Department of Labor. Everyone I have encountered has been nothing but kind and respectful to me sans the blatant use of subminimum wage. The last story is my personal story. I'm a gay man married to a man of color. I've experienced every kind of harassment, bullying, and ridicule you can possibly imagine. The only place that I can say that I've never felt less than is at work. It 18 years of serving, never once has anyone ever treated me poorly because of my sexuality. In traveling this state, I've experienced the same treatment that I have come to expect from my industry. Everyone has welcomed me with open arms and not once have I encountered anything but kindness and gracious hospitality. Perhaps it's because in my industry, we judge people based on the equality of their work, not their age or sex or race or sexuality. I stand here today with people who are black and brown and queer, republican and democrat, and everywhere in between. We stand together to show you that this is not a partisan fight but one of common sense and pragmatism, both of which are lacking in this proposal. In the deliberation that this department has and will endure, I am cautiously optimistic that you will listen to we, the workers who will be most intimately impacted by this change and hear that our livelihoods are threatened by the Governor's proposal. In the New York Times, the New York Times recently reported that in San Francisco with a \$15.00 an hour minimum wage with no tip credit has forced many restaurants to move to a quick server counter service model eliminating serving jobs entirely. This proposal is a sure fire job killer and I would hope that putting people out of work is not what you or the Governor would consider fairness. I would like to thank you all for being gracious to me and the Restaurant Workers of America in listening to us. Please hear the testimonies and recognize that our livelihoods are on the line and please strike down this proposal. Thank you.

Commissioner Reardon: Thank you. Carlos Morales. Carlos Morales? John Clement. John Clement? Pam Winberry. Catherine Barnett.

Catherine Barnett: Good Afternoon. In the wake of the fight in Maine to eliminate the tip minimum wage, a group called Restaurant Workers of America popped up claiming to represent workers while also spreading misinformation about the proposal up there both before and after its repeal and organizing mostly well-paid front of house workers, the minority of restaurant workers. The organization purposely works to insult and undermine ROCs body of work and its staff and to disparage our efforts to lift hardworking people out of poverty. Perhaps most disturbingly, at most of the hearings, they have continued to spread misinformation and shown disrespect to those testifying in support of One Fair Wage. I testify today to share critical information about this organization because their unjustified attacks have been both personally and professionally hurtful to me, our members, and our cause. An investigative report in the Columbia Journal Review published last week details evidence to back up what we had concluded long ago. The NRWA is funded by the Restaurant Lobby and doesn't represent the majority female of color and underpaid restaurant workforce. I will submit the article for the record and would like to use my remaining time to share some key points. Here I go. An editorial interestingly quotes to those organizations across the nation, restaurant workers are speaking up against paying tipped workers the minimum wage; six restaurant workers exactly. This group is the all white board of an opaque 501 C 4 called the Restaurant Workers of America, which is funded by restaurant owners and regularly appears with industry trade groups and republican politicians to praise the tip credit. Its most prominent spokespeople are tipped wait staff who publically support the interest of restaurant owners, though the groups members describe themselves as liberal one of its members is actively running as a conservative independent for a position in them main House of Representatives, a fact noted no where is publications quoted her. The groups board members where they are identified as part of a political group in one place yet they are quoted as simply as tipped wait staff in other places. The name Restaurant Workers of America follows the pattern of the Union but its not clear that the group has any broad support from tip workers besides the obvious spokespeople. The groups founded, Joshua Chaisson said he did not "have the numbers in front of me" in a phone interview. The group has direct ties to organization more clearly backed by large national lobbyists that represent restaurants and they Save our Tips, a campaign backed by the National Restaurant Association paid NRWA Board Member Ryan Astor for advertising. Save our Tips is managed by the Lincoln Strategy Group which was paid \$600,000 in 2016 by the Trump Campaign and is managed by GOP Consultant, Nathan Sproul, who has made headlines for suspected for voter fraud. I let the entire article speak for itself. Thank you for this opportunity.

Commissioner Reardon: Thank you. Ryan Brennan. Ryan Brennan? Denise Scherer.

Ramona: The next speakers please make your way down to the front: Anthony Rovet, Susan Sadkowski, Joseph Graieri, Eric Lukash, Jennifer Bono, Mike Veneziano, Elizabeth Clifton, Christopher Clifton, Joseph Gallo, and Jo Phinney. Please come on down to the front.

Commission Reardon: So do we have Anthony Rovet? Nope. Susan Sadkowski. Joseph Graieri. Eric Lukash. Jennifer Bono. Jennifer?

Jennifer Bono: Good Afternoon Commission Reardon and the members of the Department of Labor. My name is Jennifer Bono and I am a server at a small café in New York. This will be my third time testifying against the tip credit elimination. The past two testimonies I've given, I spoke about how being a server was a unique job to have although I didn't have, although it didn't have a high hourly wage like an office job might. Most of the servers wage was from customer's tips. I've also mentioned that eliminating the tip credit would indirectly and negatively affect the way customers tip, would eliminate servers jobs and increase the push for automation throughout the industry. It is without a doubt that if the tip credit were to be eliminated that the restaurant industry would drastically change from the way it operates today. From the past hearings I've attended and with following the updates of this whole case, I think it's clear that the overwhelming majority of us servers, bartenders, restaurant owners and operators do not want this change. On the opposition, we have heard from members of ROC and some employees of car washes and nail salons who seem to think elimination of the tip credit will help instill labor laws that their current employers or owners aren't following. We may not know one way or another if this is true. One could argue if their employers aren't following labor laws now such as stealing their employee's tips, not paying them minimum wage or at all and sending them home in short shifts, what would make these employers follow labor laws if the tip credit were to be eliminated? I'm not sure if there would be a difference but instead of dwelling on the possibility of the what-if, lets focus on the facts. The restaurant industry does not want or need the change. The non-hospitality workers do. So they should be addressed differently. Keep us separate. Thank you.

Commissioner Reardon: Mike Veneziano. Mike?

Mike Veneziano: Good Afternoon Commissioner Reardon and the members of the Department of Labor Committee. My name is Mike Veneziano. I head up the Government Affairs at Doherty Enterprises. Our company owns and operates 21 Applebee's and one Spuntino Wine Bar and Italian Tapas, throughout Nassau and Suffolk County. We are a major Long Island employer with approximately 1,500 employees. However, when the tip wage went from \$5.00 to \$7.50 two years ago, 21 managers lost their jobs. God only knows what could happen if we, if this proposal goes through. As you know, this is the last of the six tip credit hearings as it relates to the hospitality industry. It has been a long onerous process but extremely important to everyone in our industry. As such, we must get this right. This is my third time testifying and my take away from what I've heard and read is as follows: Starting with Farmingdale, hearing that this was a subminimum wage, definitely incorrect as you've hear the testimony and everyone speak. By law every tipped employee must be paid the current minimum wage by their employer. Second, 90% of the restaurant industry is in alignment. I'm sure there are folks that are not. We heard their stories as well, but I think in it of its self speaks volumes. The majority of servers, as you have heard, make well in excess of minimum wage and do not want to lose this income nor are they asking

for a change. Much of the opposition as you also heard was from car wash workers and nail salon workers and I definitely sympathize with them. They should of never been lumped into our industry in the first place. If the Governor and the Department of Labor want to do the right thing, carve them out of this fight, give them the increase, the minimum wage, but leave our industry alone. Regarding the concern on sexual harassment, I know for a fact that our company and many restaurateurs have policies in place, conduct ongoing training programs, and hang posters in their restaurant educating their staff on this issue and I don't think many people know today, but back in April and May, the Governor and the Mayor of New York passed legislation to combat sexual harassment in the workplace. This is, and I believe this legislation will greatly enforce and enhance the compliance of this issue moving forward so there's the result if everybody is concern about that if that is an issue, it's addressed and will continue to be addressed. Something has to be done to address the ongoing issue of employee's abuse and wage theft but eliminating the tip credit is not the answer. Though increased education and effective enforcement of existing wage laws we can find innovative and less harmful methods to address any issues tipped employees might be facing. Please advise Governor Cuomo and please take this under advisement that considering a change in our industry is not the answer. Please leave us alone. Restaurant colleagues, 23,000 employees can't be wrong. We do not need to be saved. Please do, let's do the right things for everyone.

Commissioner Reardon: Thank you. Elizabeth Clifton. Christopher Clifton.

Christopher Clifton: Hello members of the Department of Labor. My name is Chris Clifton and I live in Bayport, New York. I'm here to ask you to leave the tip credit alone. I am 20 years old and I am currently a full time student at SUNY Oneonta. I've been working in the restaurant industry for five years starting the spring of my sophomore year of high school. I started out as a busser, from there on I've been a food runner, and I am now currently working as a server. It's a great job for me because they offer flexible hours and provides me a good income. When I was still in high school, I was able to work while doing sports every season and get good grades due to the flexibility of the industry. Since starting college, I've only worked during the summers and have been able to save money for when I'm at school, but I'm planning to find a part-time job in the restaurant industry next year when I'm at college because I know that will be able to work around my school schedule. If you take the tip credit away, I would never have been able to find a job with as much flexibility that I had in high school. I've always been a hard worker and I'm an Eagle Scout which took a lot of hard work with it. In the restaurant industry I learned a lot about the at work ethic, how to work as a team member, and also how to budget money. You look at it a lot differently if you earn the money instead of just being given it. Both of my parents worked in the restaurant industry; my mom still does. Because of this as a widow, she is still able to support me and my sister and we have no student loans because of it. She has also been able to spend quality time with us and always around for all of our important events like soccer games, track meets, concerts, and all that. If you change the tip credit it will help no one and I'm sure many of the people in restaurant industry. I ask you please leave the tip credit alone. Thank you.

Commissioner Reardon: Joseph Gallo. Joseph Gallo? Jo Phinney.

Ramona: The next speakers please make your way down to the front: Hal Weidenfeld, Lee Nolting, James Parrott, Jeremy Merrin, Nicole Toney, Calanne Van Laeken, Kuran Van Laeken, Amy Conrad, Corey Mott, and Alexandra Butera.

Commissioner Reardon: Hal Weidenfeld.

Hal Weidenfeld: My name is Hal Weidenfeld. I am Senior Vice President, Legal and Business Affairs for Venues and Labor at Madison Square Garden. The Madison Square Garden Company would like to thank Commission Reardon and the New York State Department of Labor for the opportunity to submit testimony. The Madison Square Garden Company is a world leader in live sports and entertainment experiences with iconic venues such as Madison Square Garden, The Hulu Theatre at Madison Square Garden, Radio City Music Hall, The Beacon Theatre, Tribeca Film Festival, and our controlling stake in the Tao Restaurant Group, we are a significant economic engine for the State of New York generating more than \$1.3 Billion Dollars in annual revenues and employing more than 9,000 people. In 2017, our New York City venues welcomed more than 6 Million guests at a variety of live events and experiences including the New York Knicks, Rangers, Liberty and Westchester Knicks, the Christmas Spectacular starring the Radio City Rockettes, concerts, college basketball games, corporate meetings and events, award shows, e-sport tournaments, boxing and MMA matches, graduations, and family shows. Each of these unique live experiences would not be possible without the team work, cooperation and trust of our tipped employees. Eliminating the tip credit would negatively impact Madison Square Gardens business and likely drive up prices for our food and beverage offerings. In addition, it inevitably will reduce the work opportunities for those who are it's intended beneficiaries resulting in less income for these employees and a reduction in the quality of service that Madison Square Garden provides. Madison Square Garden employs over a thousand people in connection with its food and beverage operations. The most desirable and most highly compensated positions are positions held by the employees who compensation is tied to the receipt of gratuities. The elimination of the tip credit would only serve to further skew the compensation disparity between employees whose compensation is solely tied to their wage rate and those who enjoy the benefit of gratuities. Finally, Madison Square Garden recently acquired a controlling interest in the Tao Group. As representatives of that entity will testify, the elimination of the tip credit would have a traumatic impact on the Tao Groups specifically and on the entire hospitality industry. Madison Square Gardens is constantly seeking opportunities to expand its business within New York State and elimination of the tip credit, however, would significantly diminish the viability and attractiveness of any further expansion in that industry. While Madison Square Garden respects and appreciates the efforts of the Department of Labor to protect the workers of this great state.

Commissioner Reardon: Thank you. Lee Nolting. Lee Nolting? James Parrott. Jeremy Merrin.

Jeremy Merrin: Hi, Good Afternoon. I'm Jeremy Merrin, founder and owner of the Havana Central Restaurant Group. We have restaurants in Manhattan, Westchester, and Long Island. The first thing I would like to say if there are people in the audience who felt that they've been, you know, dealt with unjustly by their employers, I invite them to apply to Havana Central because we have a great restaurant. We're always looking for good people, so welcome.

Commissioner Reardon: Workforce development.

Jeremy Merrin: Jobs are always available. So I would like to say that the tip credit of course affects all the servers and all the tipped employees but it affects the employers dramatically as well, so that is what I am here to talk about today, and I'll tell you about our particular experience. So we did the calculations, at Havana Central we employ 425 people in New York State. What will the elimination of the tip credit mean to us? It will cost my Time Square restaurant an additional \$459,000. It will cost my Westchester restaurant an additional \$331,000. It will cost my Long Island Restaurant an additional \$386,000, for a total of over a million, almost a million two in total additional dollars. Quite simply, this would put me out of business. We don't make nearly that much in profit, not even close. Those who favor the elimination of the tip credit need to understand that you know, for instance I sell rice and beans; I'm in the Cuban restaurant business, right? How much can you really charge for a plate of chicken and rice? How much can you charge for an empanada? Do you think people are going to come in and they are going to pay \$20.00 for a plate of chicken and rice or \$5.00 for an empanada? It's just not going to happen and there's no way that we're not going to have to raise our prices to that level in order to pay for the difference. The only lever I have now because we have basically cut out all of the fat that is left in our business you know as a result of all the minimum wage increases, the only lever I have left is pricing and where there's not much pricing elasticity. So you see my time is coming to an end but I really would like to say is what world do you want to live in? Do you want to live in a world where every restaurant uses iPads instead of servers? Do you want look for help when you need a spoon or a refill and have nobody to help you? At the end of the day, you know, do you want a world where you're only dining choice is fast food restaurants? The answer is No. You want a full robust restaurant program in your town and what this is going to do is going to eliminate that. So I plead you to keep the tip minimum wage.

Commissioner Reardon: Thank you. Nicole Toney. Nicole Toney? Calanne Van Laeken. Calanne, I'm sorry, VanLaeken? Kuran Van Laeken. Amy Conrad. Corey Mott. Alexandra Butera.

Ramona: Next speakers please make your way down to the front: Kurt Pahiltzsch, Brian McDonnell, Jason Edone, Amanda Broderick, Chrissy Coyne, Louis Pechman, Steve Cox, Mallory Lorch, Sara Sivers, and Nicholas Moon.

Commissioner Reardon: Thank you. First up is Kurt Pahiltzsch.

Kurt Pahiltzsch: Members of the Board, thank you for my time. I appreciate you giving the opportunity for all these people to be heard. I represent 105 restaurants in four states. In New York, I have over 1,500 employees that I am very proud of because I've gone to all of these hearings and I've listened to them talk to you, you know, and I think if you people are looking to truly represent the voting base and the constituents of New York, you should truly focus on who the people are here that are talking to you on their own time, on their own dime, giving up shifts to be here, you know because I'm the guy, I'm the guy that's going to have to make the bad decision. I'm the guy that talks to all the chain operators. I know the Friday's guy, The Chili's guy, The Miller's guy, I know them all, Outback, everybody, and we all talk the same thing and you see it. McDonald's right now is struggling to find IT competency to produce the kiosks fast enough. They are doing over a thousand restaurants a year. They can't get it done quick enough and that's what's going to happen. You're going to have to make me take a situation where all of these people, these generations of people that have worked for me, 70% or less turnover I have in all my restaurants, 15% less of management, all of my employees that talk to you, they talk to you about their general managers, they've grown, bilingual individuals, English as a second language, work their way all their way up to general manager. Okay, these are the people that are going to lose these opportunities and your going to come in, you're going to be able to come to my restaurant in the future if this goes through and never touch a menu, never touch your wallet, your basically going to be geo-located on your phone, you're going to say give me my existing order, and you're going to walk in and there is going to be somebody that says Hi, you're Sally? Table 22, your food will be out in three minutes because it is already cooking when you are 10 minutes away. That's what is going to happen. You are going to take these people and I have college graduates that are professional servers, why would they do that? Why would they find more money working as a server than in their profession they paid thousands of dollars for that education? That's what I ask you. I ask you to look at the people that are in this room right now. They have been here since early this morning so that they could stand on the sidewalk outside and hopefully find a reporter. Okay, their eight hour shift isn't up, they're not paid right now, they didn't go home. So I urge you and I beg you and I plead with you, don't make me the bad guy, don't make me the guy that has to institute all of these computers. I don't want them. I grew up in restaurants. I believe in the service experience. These are all entrepreneurial. These people love to fight to get the work done.

Commissioner Reardon: Thank you. Brian McDonnell.

Brian McDonnell: Good Afternoon and thank you. My name is Brian McDonnell. I'm the Director of Operations for Doherty Enterprises, which operates 151 restaurants in three states. I've been with this company for 22 years and we have basically 549 managers, over 8,000 hourly employees. In 22 locations in Long Island, we recently had to reduce 90 employee positions and over 20 managers with the last hourly increase back in December 2016. With the continuous plan to increase tip wage, minimum wage the next three years on Long Island, we will be forced to manage the labor force every year. Now Governor Cuomo wants to eliminate tip wage credit altogether. Eliminating the tip credit means that we will need to pass the additional cost on to our guests and continue to

reduce the number of servers and employees in our restaurants. This is my third hearing and I continue to hear the same message. There is no need to fix and make any changes to the tip credit. This message comes straight from our employees who are here fighting for their jobs and their ability to make a great living. Funny how they all name the restaurant they work in when testifying, not like the opposition. There truly seems to be a big opportunity in the other industries, nail salons, car washes, I would look at separating those concepts from us and work with addressing the issues that are broken, which is merely enforcing the laws. I don't believe more money will uphold what the labor laws are actually are right now. The claim that ROC, that this is sexist, racist, or just employee theft issues is ridiculous. There are labor laws in place to protect everyone. Let's protect our people followed by enforcing the laws that are currently in place instead of stripping employees of their livelihood or own personal agendas. Since these hearings started, the plans to increase minimum wage, we already see strong drive towards technology. McDonald's alone has closed and renovated many locations and added kiosks in preparation for reducing positions and managing the increased labor costs. Many other companies are following suit. McDonald's is not the only one doing this. Governor Cuomo needs to understand that eliminating the tip minimum wage credit is not at the expense of the restaurant but at the expense of the employees. We need our employees and we need to leave the tip wage alone. Thank you.

Commissioner Reardon: Thank you. Jason Edone. Jason?

Jason Edone: Good Afternoon. My name is Jason Edone. I am currently employed at Cassie's Restaurant in Orangeburg, New York, and I am here to argue against the elimination of tip credit. I'm here to share a personal story like the rest of my fellow servers and one thing I will mention is I've been sitting here for about four and a half hours listening to the statements from the people for eliminating this subminimum wage or the tip credit, hearing a lot of statistics and reasons but I don't here their personal stories. I don't hear how this affected them in their job or how eliminating the tip credit has made their life better, had been able to make more money, so and I also haven't heard a lot of people from New York. I hear a lot of stories from Washington and Seattle and California, which makes me think that they're just paid to be here while the people are sacrificing their day to come and testify against you. My wife and I both work at Cassie's. We actually met there over 10 years ago, got married, have two kids, soon to be three. Right now my wife is a stay-at home and this is the only source of income. With this income we pay our rent, food, and other amenities for our kids. Any change to status quo of our business is going to affect our livelihood and eliminating the tip credit would drastically change our industry and our income. Let's say for arguments sake, that people still make the same amount of tips if we get rid of this even with excellent service. Let also say subminimum wage exists even though those employees on tip credit receive minimum wage through tip make-up, okay, the biggest change would be increased to all employees in the front of the house by over 100% next year, which probably add another 7 to 10% of costs. So where are they going to get the increase across? They are going to get it from their prices and everybody is going to talk about it, but for my situation being in Rockland County, unlike Long Island and New York City, people have an option. They can go to New Jersey where the tip credit is \$2.13 an hour and right now no one is

trying to change that. They can go over there; they can get the same Italian food that we would serve but a lot cheaper price. Now we can raise prices to make up for the increase in wages but we can't get people to come through our doors especially when they have an option right across the border. Less people coming in, less money we make, less jobs, and most likely we'll probably close. So in closing, please listen to everybody. I think everybody on my side has a very good story, has a very good point, very good personalized, please do not touch this. Thank you very much.

Commissioner Reardon: Amanda Broderick.

Amanda Broderick: Hello everyone. This has been a long and tiresome journey over the past few months. I have learned a lot along with you and have met some pretty incredible people around our beautiful state, people with many things in common but most significantly, people with one purpose; to speak up and to show up in the support of the tip credit. I have made the personal decision and sacrifice to attend all these hearings, to stay and listen to ever testimony with you with the exception of the few bathroom breaks. I wanted to be sure to hear all the sides of the issue and to come to my own conclusions so I can better understand when a decision is made in the future, a decision that will affect all of New York State and the hardworking people and small business owners of the hospitality industry. I will not repeat what was already said but I would like to share what I am taking away from this experience. I am a part of a group of people, a demographic if you will, of folks who have never felt the need to get very involved or active in government. The more I speak with my coworkers, customers, and fellow restaurants I frequent, I have discovered the same underlying truth. We do not talk about politics or religion at the bar. It was always been a taboo, I'm sorry, it always has been a taboo topic at work; therefore, we do not necessarily run to the voting booths every election day. The most important lesson I am taking away from this experience is just that. I have like so many others I've spoken with now understand the power of our voices. With the tip credit issue, Governor Cuomo has woken a sleeping beast in all of us. The fight does not end today. We will remember in November. My final message in regards to the opposition is this, I hope after all this time and testimony, their struggles with bad business and obvious breaking of labor laws that are currently in place gets investigated and resolved. I hope the criminals that are cheating the system and taking advantage of hard working people are held accountable and necessary action is taken, but remember that in the past those who have foolishly sought power by riding on the back of the tiger has ended up inside. I have used hard work and determination to exceed what One Fair Wage has to offer me, the consequences of eliminating the tip credit is far greater than a few dollars more in my paycheck. We should not be depending on any Government to give us anything. We should be striving for better; not settling for the minimum. It is the foundation of work ethic and a valuable life lesson. It is what makes the tip credit so important, the system works as it stands. I plan on continuing this fight like all the others you have met. Now there are over 25,000 of us and we are organized thanks to these hearings. Let everyone know whether it wishes us well or ill that we shall pay any price, bear any burden, meet any hardships, support any friend, oppose any foe, in order to ensure the survival of the tip credit. We all need to stand up and continue to exercise our right to make our voices heard and thank you for listening to what we have

to say. I pray you've heard our message and understand that this is bigger than any one individual. Thank you.

Commissioner Reardon: Thank you. So I have received a note that Number 160, Alexandra Butera felt she was not called. Alexandra Butera, are you... Oh, I called your name but please come down and testify.

Alexandra Butera: Hi, yeah, my name Alex for short, I'm a 24 year old busser and I'm going to start this off with a quote by an educator named Thomas Raynesford Lounsbury. He was an educator in the 1800s and he was on record saying that "it never ceases to surprise with the infinite capacity of the human mind to resist the introduction of useful knowledge" and I'm going to be honest with you. I feel like this whole debate about the subminimum wage is useless. I feel like it is pointless. You are punishing the wrong people for no reason at all. I have a sister who has worked in a restaurant for 10 to 15 years, never once was she ever sexually harassed or discriminated against at all and the one thing that bothers me right now is I view this whole thing as nothing but intimidation factor by this Federal Government to take more money out of all these hard working people's pockets. That's what I think. Ok, alright, you can laugh all you want, but this is what I personally believe and if we're going to talk about sexual harassment, then how about we talk about the fact that in New York over 1.8% of all sexual harassment claims come from restaurants, where in California it has increased to 4%, and they got rid of the tip wage salary base so how do you explain that? It can't be. And the one thing I just want to talk about really quick is I believe what all of us has found to realize is I was never very good at math but the one thing that I learned in math class was cause and effect. Anytime there is a cause it is equal to a greater effect that occurs. Look at what happened to McDonalds. Those people fought so hard and passionately to get \$15.00 an hour and they got it and then look what happened. McDonald's began to downsize. They began to give their jobs to robots, not even real people, and they kicked out thousands of people off their jobs and now they are looking for new jobs and new places of employment, so but I feel like this whole time now we're talking about worker's rights but what about the rights to the workers who are going to lose their jobs. I'm going to lose my job but at the end of the day I'm going to be honest with you, I'm fine if I lose my job. I'm 24 years old. I have the ability to still mess up and still do whatever I want with my life, but there's a bunch of people in here who don't have that. They don't have tomorrow, they don't have the luxury of time and that's why I'm here talking about. I'm talking about all those. I guess they left, I don't know where they went, but anyways, I'm talking about them but also everybody here and I understand that both sides of spectrum people are really being discriminated against and are being underpaid but on the same side of that token, there are people who do put in that effort and really do deserve the tips and the thing is I feel like with this whole situation here with shrine the most beautiful thing and that's incentive and that's the thing, the incentive to go to work and really put in the effort to make your work environment or your coworkers. I don't know. I'm not very good at public speaking but I just feel like it's the one thing you guys can grasp from all of this is I feel like that at the end of the day we should just show that local politics still reign supreme and I feel like we should, at least you the panel, come up with a decision that best reflects everybody in this room.

Commissioner Reardon: Thank you. Chrissy Coyne. Chrissy Coyne? Louis Pechman, Louis?

Louis Pechman: Thank you and Good Afternoon. I am an Employment Attorney in New York and founder of WaiterPay.com, a website intended to promote awareness about the wage payment laws in New York so that employees and restaurants owners alike have a greater understanding of their respective rights and obligations. As someone who has litigated over 200 restaurant pay cases on behalf of both employees and employers, I wanted to give some perspective from the trenches on the tip minimum wage. First, an increase in wage is generally welcome news to employees; however, we have observed that with the recent minimum wage increase of tipped employees, restaurant employers are eliminating overtime. For most restaurant workers, elimination of overtime is viewed as a negative development. Second, wage theft is rampant in the restaurant industry but an increase in the tip minimum wage will not address that issue because many servers work just for tips, on shift pay, or with other arrangements that cheat them out of their minimum wage. In other words, the labor law violators who do not even pay the current minimum wage will be unaffected by this increase. In essence, the restaurants who comply with the law will feel the pain. Those restaurants that engage in wage theft will obtain competitive advantage and surely, they are not present in the room, today. Third, servers are legitimately concerned that increase in the tip minimum wage will kill the golden goose. It is typical for servers not to pay attention to house pay as it is dwarfed by the tips they make. A great night for a server means great tips not extra hours of house pay. For those servers who are earning a high multiple of the minimum wage in tips, the increase in the minimum wage brings restaurants one step closer to a dreaded no tipping policy. In this regard, you folks, I think the issue that needs to be joined is are these hearings about no tipping policies or is it about the tip credit, because the debate gets very skewed depending upon where that's going. So people could make a creditable argument there's a policy issue that tipping could lead to harassment but I've been an employment lawyer for 35 years, nobody every came into my office and said I've been sexually harassed because I'm getting a tip credit wage. So I think it's, what is it going to be? Is this about tipping, elimination of tipping, or is this going to be about the tip credit and the tip minimum wage. So that's my thoughts. Thank you for your time.

Commissioner Reardon: Steve Cox. Mallory Lorch. Sara Sivers. Sivers? Nicholas Moon.

Ramona: Next speakers please make your way down to the front: Jessica Diaz, Kate Priest, Ranie Bisht, Adam Coney, Stephen Brakell, Maggie Raczynski, Megan Bateson, Michele Cranmer, Ron Duckstein, and Denis Sweeney.

Commissioner Reardon: First up, Jessica Diaz. Is Jessica here? No Jessica? Kate Priest. Ranie Bisht. Adam Coney. Stephen Brakell. Adam, sorry.

Adam Coney: Dear Commissioner Reardon and esteemed members of the Department of Labor. We met in Syracuse and it is a pleasure to see you again. Thank you for this

opportunity to express my heartfelt testimony to you today. As a friendly reminder, my name is Adam Coney from Endicott, New York. I'm here to speak in favor of keeping the tip credit, protecting the art of dining, the art of serving, and the art of cuisine. Should you eliminate the tip credit, it will be the end of an era. Restaurants will close, jobs will be lost, and the commonwealth will reminisce about the days when servers were servers and they actually served you with skill. I've been a career server for 18 years and serving is an art, my art. I don't walk through the dining room, I waltz, I sing to people. The art of dining is a big song and dance which a professional server performs well. Serving is my joy and satisfaction. Come to Number 5 Restaurant in Binghamton, New York, and let me show you. Be my guest. Bring your appetite and just enjoy your night out. My personal motto and daily affirmation is, Adam, you're only as good as your last table, and it doesn't matter if I was a rock star last night or an hour ago, every table matters, and my guests leave happy. My guests are served by an artist, not by a machine, tablet, or touch screen. Should you eliminate the tip credit; the golden art of dining will be over. One unfair wage is going to close doors. The back of the house will never see a raise in their paychecks because payroll will become completely absorbed by the front of the house who are the highest paid employees in the restaurant industry. What happens to the inspiring chefs of the next generation, of culinary artists in the making who want professional training or apprenticeship? By eliminating the tip credit, the back of the house suffers most. The culinary arts will become like cursive handwriting, dead, not in use, simply not taught anymore. Eliminating the tip credit makes certain jobs and skills obsolete and you are the Department of Labor, please continue to keeping jobs and saving jobs and making that your top priority. Please keep the tip credit. God Bless you, God Bless the RWA, God Bless supporters of the tip credit in New York and thank you for your time.

Commissioner Reardon: Thank you. Stephen Brakell.

Stephen Brakell: Hi, I've worked in the hospitality industry for more than half my life. In this time I've held jobs from dishwasher, cook, busser, server, bartender, and eventually owner. I think you could say I have extensive experience in the restaurant industry. In this time I have managed with much help from my lovely wife, whose birthday is today but we thought it was more important that I be here than spend it with her, were able to buy a house, raise and educate two wonderful kids, watch them grow, and enjoy everything this country and state has to offer. Yes, as an immigrant to this country I'm living the American Dream. Unfortunately, that dream if the tip credit is removed will be in jeopardy for hundreds of thousands of current and future restaurant workers. Every summer thousands of young workers get their first working experience in full service hospitality industry. They learn work ethic, responsibility, refine sales skills, and so much more. These jobs prepare our youth for the future while earning good money. In high school, my wife started working as a busser at a diner on Eastern Long Island. Her parents weren't wealthy and the income from her early wage and tips, she earned enough to enjoy her teenage years. In fact, the money she earned she used to pay for college application fees, money her parents couldn't afford. She was accepted to Hunter College where she graduated and continued to waitress and support herself through school. She is now is a doctorate with a degree and jobs her job as a Nurse Practitioner and Professor.

This would not of been possible without her time working in the hospitality industry. If this proposal is enacted, many jobs will disappear and the opportunity that was afforded to her will no longer exist. The restaurant industry is a stepping stone into great things for so many young people. Don't take it away. Recently I arranged a meeting with Senator James Saunders, my local representative, a Democrat from southeast Queens and a member of the State Labor Committee, Senate Labor Committee. He took the time to listen to our concerns. He met about 30 real restaurant workers from Queens. He was surprised that the workers didn't want a 100% pay raise. After our conversations, he now understands that despite the good intentions of this proposal, the unintended consequences will result in significant harm to the people it's meant to help. If the tip credit is eliminated for full service restaurants, it will do significant damage to an industry that produced about \$50 Billion dollars in GDP in New York State. It will have massive effects of small communities; your local restaurants in Queens, Upstate, Long Island will have to cut workers, raise prices, or maybe even close. Those vibrant neighborhoods and thriving villages that we love to visit will suffer. People will suffer. As I have followed this process, I've learned many new things. For instance, I was not aware that nail salon workers and car washer workers were paid on a tip credit. I feel for many of these people and I think the industry business models are significantly different from that of full service hospitality. I firmly believe you should look at each industry separately and make recommendations on a case-by-case basis. The mission statement of the Department of Labor is to protect the workers, assist the unemployed, and connect job seekers with jobs. Please listen to us the workers and protect us and keep the tip credit in place.

Commissioner Reardon: Thank you. Maggie Raczynski.

Maggie Raczynski: Good Afternoon. I'm going to start by going off script so you are not going to be able to follow on this part. I will not allow any of the people that I've been standing with, working with, or being a part of my group to be discredited or shunned for talking to business owners in the industry that we work in. It is not fair for someone to say that the RWA works solely with business owners with the ideas of business owners and they don't support the workers of this state because they definitely do. Back to my speech. We've come to the end of our journey and originally I wasn't even supposed to be here. I'm suppose to be on vacation in Myrtle Beach with my family, but I flew here yesterday and I will fly back momentarily to be with them. I want you to take what I say seriously because I have dedicated a lot of the last six months to this and I have taken a short term loss for a long term gain to stand up for what I believe in. I want to talk about three numbers. The first number I want to talk about is 23,000. That's the number of followers I have. I got them in six months. ROC touts 25,000 workers support them. They've been around for over 15years. Don't you think that if their policies and their objectives were true they would have more people standing behind them? The next number is 808. In March of this year, 16 celebrities wrote a letter to the Governor stating that he was doing the right thing by eliminating the tip credit so to protect the workers of this industry because we are so rampantly sexually harassed and we can't stand up for ourselves. In response to that, I wrote a letter to them. I posted it on Facebook and from Friday to Monday, the three busiest days of the week in our

industry, I got 500 co-signers on that letter. To date, I have over 800, 808 was the number when I tallied this last night or the night before last but they have continued to sign on and I believe there are so many more out there that haven't signed on yet. But what ROC will tell you is that 9 out of 10 women in this industry experience sexual harassment on a daily basis, so for the 808 I have, there are 9 to every one but no one has said that to me as I traveled the state. Just doesn't seem to make as sense. The last number and most important that I will address is three. I have three beautiful daughters and if I thought this would help them be better you could take my job away. If this would make them safe in the future, you could put me in a cardboard box on the street. This will not help end sexual harassment. Self-empowerment and knowing what you're due is what people need in this world. We don't need to eliminate the tip credit and eliminate jobs in an industry that has given me so much. Thank you.

Commissioner Reardon: Megan Bateson. Megan Bateson? Michele Cranmer. Ron Duckstein.

Ron Duckstein: Hi, my name is Ron Duckstein. You have my script? I'm not going to read it. I've been in the business for 40 years. I started as a dishwasher, excuse me, Jones Beach, making a minimum wage I believe then was \$3.15 an hour. I left to be a buser, gave them my notice and they made me head dishwasher. I have management now. I stayed with that group. I stayed with them for through my college years so I was a graduate of Cornell University, I was a Chem and Bio major. I decided to stay in the restaurant business. Listening to this, some of it scares me, I tell you, and some of you are just working for the wrong people and get over it, leave, the door does not lock from the inside. You can leave anytime you want. I've had both corporate and I've been in both corporate and private environments. My best years were 18 years with Outback Steakhouse. I opened up 21 restaurants, which I had between 10 and 20% ownership in those restaurants. The first time minimum, the subminimum wage was decreased or the tip credit was decreased all panic jumped across the entire company. I had to fly down to Tampa and talk about what we were going to do. We went from two to three table stations to three to four table stations, less servers on the floor, we put busers, more busers on, and we put runners on the floor. Food servers did not have the shifts that they wanted, I cut those shifts. I did not have to eliminate any servers but they did not have the hours they always wanted. Reducing the tip credit again forced us to reduce the number of shifts. I own two restaurants right now. I was bought out of Outback Steakhouse four years ago. I own those two restaurants; one is in Merrineck, New York. When the first tip credit was decreased two years ago, it cost us \$80,000. Well that restaurant, I made \$3.00 last year. The entire restaurant working my tail off, I made \$3.00. This will put me out of business. I've had a great life. I have two beautiful homes, my family is terrific, the guys that I've been putting this together with that are my partners, they're going to be in trouble. Me, I have a great life. I can go on with my life and have a lot of fun and I'm having a lot of fun right now. The future of this business is in your hands and I will tell you this, tell Mr. Cuomo if this goes through, learn how to cook because I'm not going to cook for him.

Commissioner Reardon: Denis Sweeney.

Dennis Sweeney: My name is Denis. Nothing rhymes with Denis but whatever you come with we'll go with. I've been a waiter server in Manhattan for 15, for 33 years. I own my own home, I have an IRA Roth Account, and a one year old daughter. She is my lobbyist. She has a lot of poopy diapers. I studied at Trinity College, Dublin, Ireland, Julliard trained artist, writer, I have a massive book collection. As an empowered sales person, I earn 15 to 20% sales commission on every table I take care of. A tip is a wage subsidy, not a handout. Ms. Reardon, you are grossly mistaken with that. Tips, tips is a sales commission. A tip says a percent sales commission has been sustainable for decades. We don't survive Madam, we thrive. That's our paycheck. Eliminating the tip credit does attack tips Ms. Reardon; it destroys sales commission. Many prices will go up, restaurants will close. In order to meet higher labor costs, immigrant support staff will be the first to be fired. At a San Francisco service charge and the waiters not going to care if you order regular coffee Mr. Rodgers, he's going to give you Decaf, or maybe he calls you lefty, or your Gin is Bathtub or Beefeater, Mr. Musolino. Add more to the cost and you have Seattle prices enter the 2015 law suit ___ Kingdom where tips are forbidden, banned, and the waiter income drops. Sexual harassment is epidemic in London Pubs and Paris Cafes. No tips there. Seven states with the tip credit for over 20 years still have sexual harassment problems. Sure, be ignorant, blame the tips, blame the paycheck, when it's behavior that needs to change. ROCs a lobbyist for the greedy Local 100 Waiter Bartender Union. Their address is 275 7th Avenue, look it up. The Union wants tip credit extinct, eliminated, gone. Page 36 of ROCs propaganda book, ROCs President writes, ROCs research shows that these seven states fare better than the other 43 on almost every aspect the restaurant industry cares about. Overall restaurant, sales per capita, job growth and restaurant industry, job growth among tip workers, and even tipping among the seven states. Her reference force is Roberta Furman (sounds like) and herself. Herself? Furman's top ten are Alaska, Arkansas, North Carolina, West Virginia, South Carolina, New Mexico, Illinois, Mississippi, Arizona, Missouri. I only got Alaska, really? This book is loaded with cherry pick facts, fallacious reasoning, misspellings, grammar, you know, it smells like Saru Jayaraman has rotten poop in her diaper. Look, get one copy of this book, \$15.00 bucks. Read it, pass it among your coworkers. You can get about a hundred petitions out of it and the book jacket, read off the cover, this one is for me, this one is from my daughter. Put a stamp on it. We're going to mail it to Governor Cuomo and write, keep the tip credit system, let us keep our sales commission. This is a dog and pony show.

Commissioner Reardon: Thank you. Wendyll Caise.

Ramona: Next speakers are: Wendyll Caise, Robert Smith, David Standridge, Steve Millington, Greg Wetanson, Lou Ramirez, Tanya Lindenberg, David Chiong, Terence Tubridy, and Trenness Woods-Black. Please come on down to the front.

Commissioner Reardon: Wendyll Caise. Do we have Wendyll here? Yes.

Wendyll Caise: Thank you Commissioner Reardon and esteemed members of the New York Department of Labor, greetings from Maine, my name is Wendyll Caise. In

Governor Cuomo's State of the State address, he said, when you write a law you write it to do what you intend it to do. If New York's intent is to keep thousands of servers and bartenders employed from New York City to Pulaski, keep your tip credit. Governor Cuomo is basing this economic policy on a discredited ROC report focusing on sexual harassment with a scientifically insignificant survey pool, no directory serve in one wage states, and no research outside of large urban areas. ROCs claim that eliminating the tip credit will solve sexual harassment conflicts with EEOC data, common sense, and oddly their own research. In the exact same report on Page 10, it's the glass door report, it says with 90% of the, I'm sorry, ROC cites 5,000 earlier surveys were only 10% of restaurant workers reported that they or their coworker had suffered sexual harassment, with 90% of the surveys not supporting their agenda, they flipped their interview script and this is an excerpt from their training manual, "interviewers must know the agenda/purpose of these interview. Be aware of what we as research reporters want, i.e. know what kind of quotes we're trying to draw out of interviewees". This is not research. This is propaganda used to stump through an agenda with no financial model and should not direct policy. A catastrophic 300% direct wage increase to servers since 2015, the highest paid staff in the restaurant is not social justice, it's an unsustainable economic policy experiment that 24,000 servers are not interested in. ROC has never provided a performa, a microeconomic model. I have and it's attached. That should have been job one. A mandate that raises labor from 30 to 49% breaks the full service model because it produces a negative 14% bottom line. There are three options: Fire 75% of your staff; raise prices by 30%; go tip free and lose customers to PEOD or close. We know the proposal does not outlaw tipping and even ROC has tempered their language, but the census bureau data disagrees. As you determine your findings, please consider the intent of the law. Please look at the financial modeling I have provided from a schedule to PEOD. If your intent is to preserve well paid jobs, small businesses, take the advice of Julie Rabinowitz, Maine's DOL Director. Save your tip credit.

Commissioner Reardon: Thank you. Robert Smith. Robert Smith? David Standridge. Steve Millington.

Steve Millington: Hi Commissioner Reardon, hello Department of Labor panel. Thank you so much for giving us this opportunity to speak with you today. My name is Steve Millington, I'm General Manager and Chief Financial Officer of Michael's Restaurant. Michael's is located at 24 West 55th Street, we've been there for 29 years. We're approaching our 30th year. We have two locations; one in California and one here. Michael McCarty, my boss, has created both of these restaurants; one in 1979 and the second in New York in 1989. I'm going off script a little bit only because I feel like this is such a personal moment for me being in the restaurant business. These are my family, these are my people, we work together to make people happy all the time and so the internal things that come to grips to me are what is done to my boss watching everything get more and more expensive to operate. If you're going to remove the tip credit, you're going to destroy us, you're going to put us another 100 grand a years into the toilet and it's not going to be good for anybody and Cuomo is my customer so I know. Michael's has been in business for 29 years at its present location and currently employs 40 people. I and my organization and our service staff for advocates of the tip credit. This credit is

beneficial for the financial structure of our business. We pay our employees well above the minimum wage of \$13.00 per hour. They make about a \$1,000.00 bucks net a week, okay. This is due to our pricing structure, location and level of our fine dining status. The tip credit of \$4.35 allows our restaurant to pay our hardworking kitchen staff a more fair and meaningful wage thus reducing turnover and maintaining a level of quality our clients have grown accustomed too. Rescinding the tip credit would badly affect the quality of staff we could afford to keep, to hire, and keep employed. The present level of taxation and raising labor costs have taken a debilitating toll on many restaurants and owners that I personally know, ours included. The micromanaging and continual financial punishment by our elected officials must end. I implore all our governmental entities to make a, take a long hard look at the independent small business person. Soon they will look and they will not find any of them standing; they will have a little machine like they said. So do not take the tip credit away, please. You'll simply be punishing the already beleaguered back of house work force. Thank you so much.

Male: I have a question for you.

Commissioner Reardon: One question.

Male: Can you stay there? You are in a unique position because you have a New York and a California and we've heard so much different kinds of testimony. What's your experience of bottom line issues with the different labor costs between your two restaurants?

Steve Millington: I feel as though from watching, because I can only get bits and pieces about what's happening to the owner, Michael, who I have worked for for 20 years, he is suffering so dearly. He has not made a profit. I think the profit that one gentleman said he made \$3.00. We haven't made a profit in eight years in New York City. Right after 2008, when the economy collapsed, it was over. The good days are gone and in California, he's had a terrible, terrible time maintaining people in the kitchen and keeping things running and I don't know, it's taken a toll on his health, I'll tell you that, I can say that from personal experience.

Male: Thank you.

Commissioner Reardon: Thank you. Greg Wetanson. Wetanson? Greg Wetanson? Lou Ramirez. Lou? Tanya Lindenberg.

Tanya Lindenberg: Hi, my name is Tanya Linderberg. I work at Applebee's. I've been working there for over 16 years and I've been serving for over 20 years. I would not have continued to be a server if I didn't feel as though my wage was worth the hard work required of my job. My job is worth way more than the minimum wage and I've never had trouble earning way about the minimum. In that 20 years, I have never encountered any kind of sexual harassment, I've also never been asked by my employer to dress or act a certain way. I have also never witnessed sexual harassment to any coworker that I've known in the past 20 years. If as we heard, the vast majorities are not earning enough

tips, those people need to find a different way to earn a living. Throughout these hearings, you've heard other people state that the problem is not the tip credit system but the employers that are taking advantage of what seems to be mostly minority people. They need your help, not us. You've heard actual truths about how the last wage increase has hurt businesses and servers. Please spend some time doing your own research on the statistics you've been hearing for and against and find out the actual facts. Please do the right thing and help the people that need your help. Investigate the places breaking the laws and leave the rest of us alone; they're happy with the service industry the way it is. All those representatives that claim to come up here and say they are speaking for us, they don't speak for me. I don't agree with anything they are saying and I only heard one of maybe 30 of them say they've actually ever worked in a restaurant, so how can they even begin to understand what working in a restaurant is like, what the work is like, and how I earn my money and if I feel like tips are fine the way they are. I make more than enough money that I ever feel I need. Thank you.

Commissioner Reardon: Thank you. David Chiong. Terence Tubridy. Tubridy?

Terence Tubridy: Thank you Commissioner for your time. My name is Terence Tubridy and I've been in the hospitality industry my whole life. Let's be clear, restaurants are not the enemy and owners are not evil. We care deeply about our staff, wait staff, housing, poverty, sexual harassment, and racism are social justice problems and to think eliminating the tipped wage will solve them is moronic; it's education and empowerment. Restaurants raise people out of poverty; they do not keep them there. Radical changes have radical dramatic effects. I own restaurants in Manhattan and I own restaurants in the Outer Burroughs. When the City or State make a change that may work for Manhattan, they forget that the Outer Burroughs are a cluster of small towns and they have damaging affects. Everyone here is fighting for the same thing; preserving jobs. You have already raised the minimum wage which we support and comply. Each year it's going up and as a proud employer of 500 employees with 500 families, I know exactly what it takes to make payroll every week. Our projections with this change, with this proposed change will probably force us to close two to three out of our eight that we own. That is 200 jobs gone. We'll have to change our models and the rest. That is not a threat, it's math that keeps me up at night holding on for dear life. People are relying on us. There's ideology and then there is reality. Businesses are living organisms, they are created to survive, they will adapt to its surroundings and if they don't, they will die, adapting only in less jobs, non-tipping models, or automation, or eminent death. To someone else's point, we will lose the artists that want flexibility, the students that have no flexibility and the entrepreneurs curious to break into this industry. Radical change produces radical results. Your future wage hearings will be robots testifying before you. Contrary to the popular believe, owners, good owners are the last ones to get paid and I'm here representing the ones that are right on the cusp of closing. I've got to tell you there are a lot of them. They are holding on by a thread, life savings gone. Take a look at the empty stores across these neighborhoods. Ms. Rosenthal's Upper West Side, Flagship (sounds like) Avenue, Northern Boulevard, although we would like to believe that its greedy landlords holding back these storefronts, it's the other R word, it's risk. People are not risking their life savings to open small businesses because of radical

changes such as your suggestion. I will not risk opening a business in New York State. Your stats are wrong about our businesses. I'm in this everyday. You're measuring shake shacks and shops of the world including, and including them with taverns, saloons, and restaurants that really make the fabric of this neighborhood. My phone rings everyday with good people trying to save their business. Please Mr. Cuomo, radical change produces radical results and these radical results means loss of businesses and loss of jobs and loss of our communities. Thank you.

Commissioner Reardon: Thank you. Trenness Woods-Black.

Trenness Woods-Black: Good Afternoon Council. Thank you for this opportunity. This is a matter that has been literally keeping my dad up at night. I stand before you all today proudly as the third generation member of the Woods Family, owner and operators of the 56 year old Sylvia's Restaurant. For over 40 years, thank you, for over 40 years, Sylvia's was the largest minority employer in Harlem. Sylvia Woods, founder, my grandmother, worked as a waitress for several years as a tipped server at Johnson's Luncheonette. There she was able to not only take care of her family but provide a roof over her head, I'm sorry, but provide a roof over the heads of several South Carolinians who came to New York in search of a better way of life via employment opportunities in the great Village of Harlem. When the owner of Johnson's wanted to sell the restaurant, he immediately asked Sylvia if she would buy it due to her work ethics as a server. With a loan from her mother, which was their sole asset, the family farm as collateral, Sylvia's Restaurant was born. Because of Sylvia's tips from waitressing, she was able to take care of her family and pay her mother back within one year. To date, we employ over 110 people some of whom have been with us, I love to refer to them as our staff family, for over 20 years. They have other businesses. They are home owners, they are immigrants, they are migrants, they have secured degrees for themselves and provided financial means for their families to do the same. Governor Cuomo, this message is for you. This is the American Dream actualized by being a tipped worker. If you eliminate the tip credit, you're eliminating this dream. Please save our industry and a few of my fellow restaurateurs in Harlem could not be here today but what you all need to know is that we have our life savings wrapped into our businesses and the restaurant industry, you know that it just operates on margins and the margins have been squeezed and squeezed and squeezed. You know my family is fortunate, we own our real estate but even with that we still can't afford to continue to employ people for the first time we've had to lay people off in 56 years. We've never had to do that. I know that my friends are going to lose everything. They've taken out mortgages on their homes. I don't know where immigrants that are coming from different countries that don't know how to speak the language or don't have education are able to earn \$20.00 and \$25.00 an hour, where are they going to go? We're not going to survive. Please save the tip credit. We need it desperately. Thank you.

Commissioner Reardon: Thank you.

Ramona: The next speakers: Bill Bonbrest, Devon Stockton, John Livanos, Shanelle Mangold, Bryan McTiernan, Michael King, Kristen Flores-Fratto, David Mohally, Susan Mezera, and Marco Chirico.

Commissioner Reardon: Thank you. First up, Bill Bonbrest. Bill, are you here? No. Devon Stockton.

Devon Stockton: Good Afternoon Chairpersons, it's a pleasure to see you all again but I'm sure the light at the tunnel for you isn't bright enough just yet. My name is Devon Stockton and I'm a 15 year veteran server currently part of the wait staff at the Silo Restaurant, a family built, owned, and run establishment and stable in our Upstate Community since 1981. I gave up shifts, spent money on transportation, and time trying to perfect these speeches I've written for my testimonies to you not because I want you to think highly of me or to gain attention from anyone that might be watching or listening, but because I will do whatever it takes to convince you to steer this ship back in the right direction, which is allowing us to make our income based on performance, effort, and skill set. Every single one of use here has the opportunity to make more money than we did yesterday regardless of the number of hours we've worked. Take that away and you take away everything. The money we make to pay our bills, our livelihoods, and some of us, our careers. What will happen to the 653,000 tipped employees that work in the hospitality industry in New York that will suddenly be either out of a job or scrambling to find a new one to feed their families and pay their financial responsibilities? I understand I'm no economist or financial expert, but it seems to me like the monetary hit that New York work take from the hundreds of restaurants that would be forced to close and the hundreds and thousands of people that would now be standing in the unemployment lines going out the door, would be higher than the amount of possibly, the amount of possibly unclaimed income by workers in the hospitality industry. If this is the real reason for this movement, why wouldn't you take a more sensible approach like possibly making it mandatory for us to claim a specific percentage of our sales every shift, a reasonable number that would help keep everyone honest and the numbers more in line. If those of you who that are having difficulties providing a sufficient W-2 did that in the first place you would be able to prove to prospective landlords and banks that you make enough money to pay for your rent and mortgage. If it's about pay and equality between front of house and back of house, why wouldn't you just demand higher pay for the back of house and instead of for the front of house; the ones who need it the least and aren't asking for it. At the Silo we have an average of seven servers a day working eight hour shifts. If the owners are forced to pay the projected \$15.00 an hour, that's an extra \$2,900 a week, \$13,000 a month, and almost \$160,000 a year. How much do you think they can charge for pancakes and coffee to absorb that kind of hit? And if it's about the celebrities that are suddenly overly interested in my wellbeing, the Me Too movement has become a wall they can hide behind to make their motives seem heroic and compassionate. Sexual harassment happens everywhere. It has zero to do how we make our income and everything to do how the derelicts doing it were raised and how owners and managers keep it at bay in the restaurants. I am begging you with every ounce of humility in me to please stop listening to them and listen to the hundreds raising their signs, voices, and fists. We are the ones that matter. Thank you.

Commissioner Reardon: Thank you. John Livanos. John Livanos? Shanelle Mangold. Shanelle? Bryan McTiernan. McTiernan? Michael King.

Michael King: My name is Michael King. My family and myself have been in the restaurant business our whole life. My mom and dad met at a restaurant, my dad was the bartender and my mom was the waitress. I heard many stories of wage theft here and I would like to say wholeheartedly I agree it's terrible and should be stopped immediately. According to the New York City Department of Health, there are currently 26,223 active restaurant permits. I mean I know that's 500 less than last year and in fact that's it's the first time in several years that active restaurant permits has declined in this City. That's a disturbing fact. 26,000 restaurants in this City and there should be more people here. If it was really out of control, there would be more people here complaining about wage theft and conversely there should be more people here supporting the keeping of the tip credit and I've talked to many, many servers and bartenders all over the place and I will tell you why they are not here, because they all gave me this same answers: One, they didn't know about it, and two, this is not going to happen. They don't even believe me when I tell them this. They all followed up and said if it does happen, this is my last day. We should absolutely address the issue of wage theft but changing the cash wage will not do that. If anything, it will make it worse. People are currently breaking the law in industry, in any industry, will continue to do so. For those people that were following the law and they are going to make it more difficult for them to met payroll needs, we're going to attempt to turn them into lawbreakers, they will try to pay people off the books, we're going to create a new group of lawbreakers. A new law will not make more people ethical. It's as if you're trying to start prohibition all over again. The Government created a law that they didn't want, didn't need, and the people that profit the most were the lawbreakers. You're not helping the people who are law abiding citizens. In any industry and when the minimum wage just went up recently from \$11.00 to \$13.00 an hour, do we really think that the landscaping person who is paying their employees off the books really gave them a wage increase? Or how about the bodega that then changed to paying off the books and now doesn't have to pay the proper overtime and pay that person the proper wage? We know wage theft is an issue but you're not fixing it, you're putting a fake bandage on it. If the city and the state lowers the speed limit, they don't tell the cops to stop looking for speeders, we figured it out. If you want to stop wage theft, go catch the lawbreakers. Thank you.

Commissioner Reardon: Thank you. Kristen Flores-Fratto.

Kristen Flores-Fratto: Hello. My name is Kirsten from the Gatehouse in Rochester, New York. It's lovely to see you again. I recognize that there's a battle raging over who represents the restaurant industry in New York State. ROC speaks for hundreds, maybe thousands of people who feel they've been done wrong by the system and demand that it be fixed. RWA and the group supporters of the tip credit in New York speak for thousands of industry workers with no membership dues, no contracts, and they are not paid to show up here. These groups created by and for tipped employees along with the New York City Hospitality Alliance and the National Restaurant Association aren't

asking for a fix and would rather spend a whole day in June sitting in a hearing room in Manhattan rather than have the tip credit eliminated. You as the deciding body are faced with the determining who most represents the needs of workers in our industry, who is qualified to speak for us and if it requires another fix. The people here from Maine speak from experience. Please listen to them. Wendyll Caise has provided you with important data today and I urge you to devote proper time delving into it. As you well know, Maine has already been through this and they reversed chorus after tipped employees saw substantial loss of income and employment. Maggie Raczynski, our fearless leader, was inspired to get involved when she saw her own place of employment cut out buses and bar backs in 2016, so please weigh her words carefully, and every single owner who has followed you around our great state pleading for reason and mercy, deserve your full and complete attention to this matter. In Buffalo, I handed you a copy of the US Census Bureau Report that shows that after the tipped wage increases, employment at first increases and then levels off and then decreases. Today I beg you to wait. You need a clear picture of five years of industry trends before you can possibly lay another huge wage increase on this industry. You need to examine job growth, closures, and DTF seizures since 2015. I ask that before you alter the lives of thousands of New Yorkers, you execute a wage study of tipped employees by region, by county, by density, in order to accurately determine whether the ROCs claim that tipped workers live in poverty is true or if its fugazy. Governor Cuomo knows what that means. Every industry person I know is scratching their heads wondering where this narrative is coming from. I know ROC has no viable business model to offer the restaurants in this state and I'm going to run out of time so I'm going to finish ____ about our industry, ROC doesn't speak for us and we respectfully insist that you recommend to the Governor that he keep the tip credit. Thank you.

Commissioner Reardon: Thank you. David Mohally.

David Mohally: Hello, my name is David Mohally. I'm the owner of small bar in the East Village called Bua. We have 12 employees. I'm here today to support keeping the tip credit in place. I'm speaker 198, so we've heard a lot of testimony already about how this will potentially impact businesses and employees. We have not heard too much about how it is going to impact customers, however. It's pretty easy to calculate what it's going to cost our business. It's going to cost our business a \$120,000 a year in extra wages, which is pretty much going to eliminate any profit and paint us into a corner where we've got no other option but to raise prices. This is where the customer comes in. Our customer is typically in their 20s and they are artists, students, someone who has just moved to the City and taken up their first job. What they all tend to have in common is that they don't have too much disposable income which is why they drink in a place like Bua which is a very affordable neighborhood bar. Now since the minimum wage started going up about four years ago, the average price of beer in a bar has gone from \$5.00, \$6.00, \$7.00. At the end of this year when the minimum wage goes up again to \$15.00, our beers are going to be an average of \$8.00 plus. God forbid this tip credit disappears; we're going to be looking at \$10.00 beers. Now, at the same time, our customers disposable income has stayed about the same over these last four or five years. You know you're hearing about the economy doing well but you constantly read about that

not being necessarily reflected in the wages of people. So we have to reach a breaking point at some point where people are just not going to be willing to pay that \$10.00 for a beer and what's going to happen at that point? It's hard to tell. We can't tell if our customers are going to keep coming in the same numbers they always have, are they going to find alternative cheaper places to go, are they going to buy a six-pack and drink at home with friends before coming out in the evening? The answers we don't really know. We know for sure it's going to cost us more money, \$120,000, we know for sure that we have to up our prices but we don't know how the customer is going to react to that and that's what is going to determine everything as to whether this change is going to work or not. So my question is, why are we taking this gamble? The reasoning we are hearing is because; well we want everybody to make at least \$15.00 an hour. Well as luck would have it, at the end of this year, everybody is mandated to make \$15.00 an hour so why gamble with the life of my business that we have built for 14 years and all the other business owners and the livelihood of our employees who by the way make \$30.00 an hour and have health insurance, why do it?

Commissioner Reardon: Thank you. Susan Mezera.

Susan Mezera: For the fourth time, thank you Commissioner and panel. I'm Susan Mezera from the Olde Bryan Inn in Saratoga. Our owner ran out of time during his testimony so out of respect for him, I'd like to finish his speech. President Lincoln in his Gettysburg Address stated that the Government for the People, by the People shall not perish from the earth. You have heard testimony from so many hard working men and women who depend on these jobs to support themselves and their families, you've heard from operators who care about their employees and treat them with respect and dignity. May Lincoln's words ring true and assist in making the right decision, save the tip credit. Now I'd like to share a little more about the above gentlemen, my employer, and my friend. In 1978, I was hired as a server at Lillian's Restaurant. It was there that I first met a waiter and college student, Steve Sullivan, better known as Sully. We only worked together for a couple of years as he left in 1979 to go to work at a new restaurant called the Olde Bryan Inn. He started as a server and with hard work and dedication went on to be a manager and then a partner with Dave Powers. Our paths crossed again in 1996, when I applied for a job at the Old Homestead which was one of three restaurants now owned by Dave and Sully. Though I was there only one year when he announced at a general meeting he was selling the Homestead to two other investors. The room was in shock and employees sat there and sobbed for hours. I was one of them. That is how much his employees thought of him. Eight years later, without his leadership, the writing was on the wall and I knew I had to leave. I've now been at the OBI for 14 years. I've never in the eight restaurants that I've worked in had a better employer. He is the most caring and hardworking person I know. No job in our restaurant is more important than any other. I've seen him do dishes, clean bathrooms, host, run food; he's the oldest living buser we know. Every Monday he provides dinner for a hospice family, Sunday's meals for the food pantry, meals for Code Blue for all winter long. Countless other charities and at Thanksgiving, he closes the restaurant to provide dinners to a thousand homeless and seniors who would not otherwise have a dinner. He knows all of our families and if you are out sick, he calls to see how you are doing. Who does that? I would hate to see

him have to choose out of 185 employees which ones to let go. He treats us like family and it would truly be a Sophie's Choice. You've heard all the stories of bosses doing everything wrong, see, Steve is not one of them, that's why I am fighting for the tip credit. Please don't let his American Dream die.

Commissioner Reardon: Thank you. Marco Chirico.

Ramona: The next speakers please make your way down to the front: Dario Gaites, Matthew Czachor, Daniel Soloway, Jacqueline Arquer, Courtney James, Joedy Hill, Elizabeth Golden, Jason Cabrera, Eftihia Nomikos, and Carrie Smith.

Marco Chirico: Good Afternoon. My name is Marc Chirico, I'm the owner of Enoteca On Court and Marco Polo Restaurant; two small mom and pop shops in Brooklyn. I was working in this industry since I was a teenager. The tip credit system is always the norm. Even my family has been in this business over 40 years. Since then we've seen so many different trends, styles, operations, but now more than ever, the difficulties of running and operating imagine the businesses have become nearly impossible. Business owners dealing with these new legislations, regulations, fines, other blockages in our industry have pushed us to the point where we can't even operate, sustain, or even offer a decent living to the people under our belts. Now with all the people we employ from servers to bartenders, and other has become more difficult, our staff against these new proposals by the state and are happy with the system currently in place. If restaurants are required to comply with these new regulations, then the prices will have to go up, we will be forced to cut shifts, we're forced to cut staff, worse, close indefinitely. In fact, if this goes through against the tip credit, we'll no longer be able to operate substantively. It makes us owners look like the bad guys and the general public when in fact we're the ones that is taking the biggest loss. As a result, oppose to the changes and for us we are letting our employees down. Please, we, I'm sorry, I'd like to thank everybody for an effort in the dispute and hope you make the right decision for the best for the City, the industry, and most importantly our employees. Please save the tip credit. Thank you.

Commissioner Reardon: Thank you. Dario Gaites. Dario, going once. Matthew Czachor.

Matthew Czachor: Alright, how are you doing. I'd just like to start by saying I started working for Applebee's 21 years ago. It was suppose to be a summer job while I was in college and it was the first kitchen I ever worked in and today I am an Area Director. When I first became a manager, I definitely took a pay cut from serving to do so; however, I'm not here to speak about the opportunities this industry and company have provided me and many others, I'm here to speak about how to protect them from the systemic changes you are currently considering implementing. Opponents of the tip credit have come up two main arguments for removing the tip credit; sexual harassment and theft of wages. My understanding is that they are already laws in place to protect employees from such acts. Tip credit already states that an employee must be made whole if they do not receive the proper amount of tips so minimum wage is already guaranteed. If the employer were not obeying one law, why would they obey an even

tougher law? That would be like lowering the speed limit from 55 to 45 because too many people are speeding instead of ticketing the drivers that are doing 70. All you are doing is punishing those who are obeying the law in the first place. How about finding out where these people work that are testifying about not being paid overtime or spread of hours, or getting breaks, and getting at least minimum wage, and go knock on the doors of those owners. Let us punish those people who are not doing the right thing instead of those who are. The next problem with removing the tip credit are the unintended consequences; we still don't know the affects the current increases that we experiencing right now are going to have. We have seen the experiment fail and employers and employees fight together to restore tip credit in other states and none of those states are as unique as New York. Fast food restaurants are already replacing employees with kiosks, online ordering, and other forms of technology. You say you're not taking tips and indirectly you are not but when menu prices increase and they will, restaurants will use fewer workers. Service will suffer and the whole dining experience will change. If the experience changes so will the tips. Without being able to engage the guests and share a connection, they will be less likely to leave a substantial tip and add on to that the increased costs and the guest knowing the servers are already getting minimum wage and now the tips are gone. As for the sexual harassment portion of the argument, there isn't an industry that is not dealing with this as an issue. As we established already, if laws are being broken let us start punishing those who break them before we make more laws. We do not need new laws, we need competent people to enforce the existing ones and when those elected officials fail, we need to hold them accountable. We cannot let the politicians blame the honest and hardworking people who gave them their jobs. All tipped credit employees are assured minimum wage by law already. Minimum wage will continue to increase and we're not even sure how that will affect us yet. Please do the right thing by all of us and hold those accountable who should be and if you need my help, feel free to call.

Commissioner Reardon: Thank you. Daniel Soloway.

Daniel Soloway: My business partner runs Jake's Handcrafted in Brooklyn. He makes sausages by hand and sells them for an average price of \$10.00. We get push back at that price point for an artesian handmade sausage. With the tip wage going from \$5.00 to eventually \$10.00, the cost to us is \$10,400 per full time front of house employee. If our profit margin on a sausage is \$1.00, we have to sell an additional 10,400 sausages to make the difference up per employee. We have 24 seats. Do the math. It's an equation that does not work. I have yet to see a dime from my involvement in the restaurant and the staff makes more than my business partner as it is, in the current environment, pardon me. Things in New York have gotten so bad for restaurants that we started a sausage co-packing business and the production is handled in Massachusetts and Illinois, not New York. Let's review the history for a moment. Fifteen years ago the expected gratuity was 15%, now it's 20% and even more. That's a wage increase just on the socially norm. Add the tip wage increase and that's another wage increase plus the food cost has increased and the employees get tips on top of that. It's a triple win for the employee. That's a wonderful thing and that's great news and has waiters making \$25.00 to \$40.00 or more an hour. Also consider those who have taken the risk to own a restaurant.

Investors took a risk and put up the capital under a set of certain assumptions. Owners often take out loans or use their homes as collateral to get started since you can't obtain a SBA loan if you haven't been in business for more than two years. With the potential new regulation, the rules of the game will have been changed and that's unfair and not reasonable. When the Governor said he is exploring eliminating the tip credit, what process and research guidelines did he put in place? Is the exploration limited to these hearings held around the state? Is the Department of Labor and other agencies conducting economic impact studies? Is the Government taking talking to all the stakeholders? So far, we've heard from owner/operators like myself, we've heard from wait staff and special interest groups. Why not ask the stakeholders? Will the vendors and distributors be affected? How about the local farmers? Did anyone ask the customers how they feel and how they will be impacted? Supposedly New York State is open for business; however, the restaurant industry is intertwined with so many categories and services. When restaurants raise prices it directly affects the customers whose spending is based on household budget. Increased costs will deter them from dining out and will lead to layoffs.

Commissioner Reardon: Thank you. Jacqueline Arquer.

Jacqueline Arquer: Hello. My name is Jackie Arquer and I am here today to show my support for tip credit. For the last seven years I have worked as a server and bartender for Applebee's; however, I have worked in the service industry for over 10 years. I have attended a few, I'm sorry, I have attended a few of these hearings so far and what motivated me to come back today was a chance to sit in front of you all one last time. If the elimination of the tip credit passes, my entire life along side the life of every server in here will take a drastic financial hit. I feel it is important for you to realize that the majority of those who support the tip credit had to take off from work tonight in order to testify. On an average we make well over a hundred dollars a shift. So that's a lot of money that we are sacrificing just to have this opportunity to share our opinions with you. I'm sure all my colleagues would agree that it is well worth the money spent and the time traveling to be able to express ourselves and to educate you on the true reality of the service industry and not feel drowned by the outrageous lies that those who are being paid here, that those who are being paid to be here are spilling. Servers make great money and have the freedom to practically make our own schedules. Eliminating the tip credit will eliminate my job. It might sound silly to you but I do not want a raise. I do not need saving and I am not a victim. I stand here with the serving army to protect my livelihood and wellbeing. I'm good at what I do and I'm financially awarded for it. Eliminate the tip credit and I become nothing. There will be no more incentive to work weekends, holidays, or late nights where I make most of my money. My job responsibilities will change, my schedule will change, and my pocket will truly suffer. I sympathize with those who endured mistreatment; however, it is silly to believe that minimum wage would eliminate those issues. I'm a proud server and I'm a strong women standing against these allegations that make our industry seem like a free for all. Please note that the Restaurant Opportunity Center does not represent me or the majority of the workers here and we do not need saving because we are not victims. There are also no issues of sexual harassment in my restaurant, but if there were I have faith that

they would be handled by my amazing managers quickly. I'd also like to take this time to thank our managers and especially our corporate managers for being so tremendous in the support that they have during this emotionally charged time. Hopefully together you will hear all of our voices and we can save our jobs and this tip credit.

Commissioner Reardon: Thank you. Courtney James. Courtney James? Joedy Hill. Elizabeth Golden. Jason Cabrera.

Jason Cabarera: Hello everyone. My name Jason Cabarera and I'm a server at Applebee's in Lindenhurst, and I'm here to support the tip credit. Taking the tip credit away will negatively affect everyone in the hospitality business. Restaurant owners will lose profits, they will lose staff, staff will lose money, and probably would lose their hours because the owners won't be able to afford them on the clock, food costs will go up and most of you complaining about it will probably not even have a job. I honestly cannot believe how some of you have the guts to say you want the minimum wage to go up and the tip credit to be taken away because you are supposedly being harassed or bosses are taking your tips away but you don't have the guts to report it, those issues to human resources, because I'm pretty sure that all those are illegal. So I encourage all of you to reach out to HR if you are having any of those issues. All my life I've dreamed of owning a restaurant which I'm pretty sure will eventually happen but with all of this going on right now, I have a lot of concerns about what the future holds not just for me but for everyone in the hospitality industry. This is my second time attending a tip credit hearing and it disgusts me how Governor Cuomo is trying to damage our industry by taking the tip credit away from us and it disgusts me even more the fact that there are a bunch of people who probably don't even work in the industry, supporting him. I don't know about your personal experience, but I personally would like to talk about mine. I came to the US five and a half years ago and I recently became a US Citizen. Thank you. I've been supporting myself for about three years now. In order for me to cover my monthly expenses, I needed to have two jobs and still find the time to go to school and do good in all my classes. Let me remind you that living on Long Island is not cheap at all. We're talking about \$2,500 monthly if not more. I was working as a full time manager and a part time on a second job. I had no days off and I was attending school full time. After being promoted as a server and quitting my other job, I don't have to worry about working a second job nor do I have to worry about not making enough money to cover my expenses, since even when the slowest night I walk out with \$100 bucks in my pocket plus my hourly pay, and now I have enough time to do my school work and at least have two days off, and trust me when tell you that I'm making more than enough money. So for those of you who do not support the tip credit, I will politely ask you to reconsider looking for a job that fits your personality a little better because if you are here to complain about not making enough money it's probably because you're not doing your job as a server or whatever you do to earn your money. So stop trying to destroy our industry because we will not allow you to do so. And for you Governor Cuomo, instead of trying to take the tip credit away from us for some foolish reasons...

Commissioner Reardon: Thank you. Eftihia Nomikos. Eftihia Nomikos? Carrie Smith.

Ramona: After Carrie, the next speakers are: Ellie Grenauer, John Buntich, Elizabeth Alexander, Jasper Alexander, Jesse Feldman, Tom Capodiecici, Sarag Schultz, Kim Sardo, Jason Sardo, and Tracy Cacckello.

Carrie Smith: My name is Carrie Smith from Maine, an active member of Restaurant Worker's of Maine, and a proud co-founder of the Restaurant Worker's of America with nothing to hide. I come before you today as a concerned tip employee of 28 years. The restaurant industry is under direct attack by activist groups. We are up against a few in Maine. One held a resistant summit and one of the seminars at this summit was called "Making the Personal Political Story Telling". This title has had a huge impact on me both politically and personally. Politically I have since decided to run for the Main State Legislature; personally, I'm found wondering if I'm hearing a non-fiction story based on facts, real events, and real people, or a fictional story that describes imaginary events and imaginary people. It's very hard to tell the difference. Take for instance, the name of this hearing, the subminimum wage hearing. New York State Law says that subminimum wages are paid to employees with disabilities. By definition, I should be surrounded by employees with disabilities. This to me looks like a room full of tipped employees who make a full minimum wage. This seems strategically confusing to me. At another seminar, the resistance school at Berkeley taught by Saru, founder of the Restaurant Opportunities Center, she tells her students a huge fictional tale about her experience in Maine, spoken directly from Saru, and I quote, "A culture of fear emerged after the election, so the National Restaurant Association was able to whip up a few workers and say your tips will go away and bring a few workers to the State Capital and convince Legislatures to overturn the decision to eliminate the tip credit". The only truth to this is that we did get legislatures to listen to us and the tip credit was reinstated. Saru herself was there. She witnessed the huge crowds that filled every overflow room our State Capital has to offer. One of our States most attended hearings and the longest public hearing in our states history. We were not manipulated by the NRA. I like many others had honestly never heard of them. We were a true Grassroot group of workers that love our industry and fought for our jobs based on math, not fear. Another one of my favorite fictional tales is the story of the evil restaurant owner that needs to pay servers the full wage. Where does a business owner get their money? From the customer. The true version of this is that the customer will always pay the wage of the employee in every industry. The customer will pay our wage with increased menu prices or the tip. We consider our job commissioned based and it is not for everyone. Some make more than others but please listen to the overwhelming majority.

Nathaalie Cary: Thank you.

Mario Musolino: Ellie Grenauer. Ellie?

Ellie Grenauer: Hi, my name is Ellie Grenauer. I traveled here from Buffalo, New York, and I put some visuals together because I feel like I'm having a really hard time getting across to you the impact this will have on a small business. I got some numbers from about 20 different small restaurants in Buffalo and this is what we've come with. If you look behind me, so food costs currently without losing the tip credit are at 29%, operating

and occupancy cost are at 26%, labor costs 38%, that includes everything, benefits, taxes, disability. So what's left, yup, the pickle, the pickle. That's my profits at 7% or that's the average profit. So if the tip credit is taken away so what happen? That labor cost will go up to 45% and that pickle is gone, 45%. So what will restaurants do? Some restaurants will close, jobs will be cut, that unemployment line will get longer, the restaurant up the street from me when the tip minimum wage sent up to \$7.50 during her peak season, she cut from 70 employees to 50 employees. What else will happen? Menu prices will go up so that burger will go up \$2.00 to \$3.00 dollars and instead of coming with fries you are going to be charged an extra \$3.00. So what does that mean? The customer is spending a lot of money so what happens in that case? Tips will decrease. They don't have a choice and they are educated, my customers know that the servers will be making more money. The other thing that will happen is technology will begin to take over. I've thought about it in my restaurants and so maybe for lunch, I go to counter service only. Finally, tipped employees do not want to make \$15.00 an hour. They work very, very hard for their money. Raising the tip credit only takes away my ability to pay higher wages to the back of the house and the support staff. This is not a win for anyone. Please leave the tip credit in place and save New York jobs.

Mario Musolino: Thank you. John Buntich. John Buntich? Elizabeth Alexander. Jasper Alexander. Jesse Feldman.

Jessie Feldman: Dear members of the Labor Board, assembled guests, and to Governor Cuomo. It is difficult to comprehend our Governor's motivation for empowering our board to circumvent laws that he signed off on just a few years ago. I urge this Board not to make decisions that will have the unintended consequence of hurting the very employees this new proposal seeks to assist. As it has been said, those who want to abolish the tip credit state that tip workers are subject to sexual harassment. Our experiences has been that when we propose doing away with tips in lieu of a fixed hourly wage, they are up in arms declaring they still want their tips. So these supporters contradict themselves. You can't have it both ways or are they willing to remain targets of sexual harassment as long as they get more money. That ploy is shameful and undermines the legitimacy of their argument. There is a claim that seven states have successfully abolished the tip credit. Most often cited is California. Well California ain't New York. The cost of doing business and the rents we pay in New York are much higher than in California and Mr. Governor, I don't think you want New York State's economy to mirror that of California's. Further, California instituted their laws when there was about a \$1.00 difference between minimum wage and the tip credit. The argument that servers make less than minimum is false as it has been stated and you all know, the law states that any tipped employee must be paid minimum wage if their tips and hourly wage do not exceed that threshold. The arguments that servers are subject to unfair scheduling practices is another issue which is factually incorrect. The fact is that people seek out server position because of the earning potential and the scheduling flexibility. I have documentation in my pocket that shows that in the first quarter of this year, our lowest earning server earned over \$27.00 per hour, after tipping out. That's the very lowest earner. Others earned over \$40.00 per hour. Do these people, are these the people that really need the raise? My company estimates that amongst 12 restaurants, we

are looking at potentially a \$400 million to half a billion dollars increase in yearly expenses based on all these recent wage increases, pardon me. These numbers are simply unsustainable. This proposal will absolutely cause restaurants to close their doors. In order to survive, restaurant will have no choice but to drastically raise prices and work with less servers. I implore this board to help the restaurant and hospitality industries of New York remain in business and be job providers. I urge the board not to succumb to slogans and politically correct sound bites. The unintended consequences of abolishing the tip credit will be without doubt a job killer. Thank you for listening with an open mind.

Mario Musolino: Thank you. Tom Capodiecici. Tom? Sarag Schultz. Sarag? Kim Sardo.

Kim Sardo: Good Afternoon. Man did I miss your faces. This is my fourth meeting, alright, and I just want to start off meeting with saying this business is not for everybody. When I train somebody, one of the first things I tell them is this job is a performance. You are on stage, okay, so take for example. You put something down in front of somebody and they go, Oh, no I wanted the blue one, you go, it's blue. It's as simple as that. With that being said, I'm going to touch on a lot of the things that I've already touched on at the other meetings that I've already been here. I've spoke on the minorities in the industry. I'm going to remind you I am a minority. I am Native American, I'm Mohawk, I come from the Turtle Clan, yet I have excelled in this business. It's called perseverance. Nobody owes me anything. I will work for it. I've spoken to you about poverty. I've told you that I own a new Tahoe, I own a new Chevy Silverado, I own two motorcycles, and I own my own home that is paid for. I did that in this business. My husband has even stood in front of you and told you that I am the bread winner. Again, as a woman of color, and red is a color, last week I worked 32 hours and I still grossed \$960.00; it was a very slow week, and yet I still grossed \$960.00. The restaurant that I work in is not fine dining which the opposition has said that only the fine dining workers make any sort of money in this business. It's actually a very small restaurant. Anyways, I have spoken about sexual harassment. The women who work in this business are the strongest women in the world. I know myself, I would never work in an establishment that would require me to put up with sexual harassment because lets remember, you can choose where you work. I also know I could guarantee if someone just may possibly lose a hand, even an arm if they tried to touch me in a way that I thought would harm me. Anyone who knows me would tell you I don't take crap from no one. This is the same for the women that make it in this industry. Like I said, they are the strongest women in the world. On that note, my daughter works in this restaurant.

Nathaalie Cary: Thank you.

Commissioner Reardon: Jason Sardo.

Ramona: After Jason, the next names please come up to the front: Aimee Goretski, Tezra Bryant, John Imossi, Vincent Giglia, Stephen Maly, Erin Reissig, Michael Corson, Harris Tooley, Susan Marinos, and Kevin Hehir.

Jason Sardo: Good Afternoon. My name is Jason Sardo. I am a manager in Syracuse, excuse, Stampcrete International. I'm a manufacturer but I support the tip credit. I have worked in the industry in the past and like my wife told you previous to me being here, we have two brand new vehicles, two motorcycles, and a paid house. We have three beautiful daughters who one is sitting is here with us tonight and if you have a daughter you know how much a sweet sixteen birthday can cost. I have two more ahead of me and hopefully I have three weddings and I hope they're long out but the tip credit is going to allow us to do this. But I see the writing on the wall and if we lose the tip credit, I don't know how I'm going to pay for any of what I just mentioned let alone keep what we just bought, the house, the cars, and the bikes. I hope you support the tip credit as I do, as my boss does, my boss let me take the day off. Last month, I saw you in Albany. He let me take that day off. I'm not getting paid to be here by my boss so I'm taking a loss to be here. I took the time to drive out to New York City, it was a very strenuous drive. My wife can take the day off and make it up like that without getting paid for taking the day off because of the tip credit. That's pretty much all I have to say on this situation. I appreciate your time and I hope you support us. Thank you.

Commissioner Reardon: Thank you. Tracy Cacckello.

Female: Not here.

Commissioner Reardon: Aimee Goretski.

Aimee Goretski: My name is Aimee Goretski and I have worked as a server at Aquagrove Restaurant for eight years. I do not enjoy public speaking and I had to give up a shift to be here today. I say this because I need you to know that despite being forced out of my comfort zone in addition to my lost wages, I am here because I feel that this is far to important subject to stand by without voicing my concerns. I am not affiliated with any organization and I'm here to represent my coworkers and myself. While preparing for this hearing, I did some research and came across some interesting statistics about sexual harassment, pay inequality due to gender, and even more on the alarmingly slow growth in the restaurant industry as a whole in New York, but instead of spewing a bunch of numbers at you today, I have decided to tell you about my 30 plus years of experience in the restaurant business and at the same time speak to those discrepancies between what I have heard and the past testimonies and my own experience. I have worked as a server in California. I worked there for 12 years where there is no tip credit. I made half of what I make here in New York, half! If you do away with the tip credit, you will not be protecting me from sexual harassment because a sexual harasser is a sexual harasser. I make the same exact money as my male counterparts and while I appreciate that you mean well, I do not believe that there has been enough research done on the part of Governor Cuomo's office, real research, that hasn't been supplied by groups with their own agendas. I understand that doing away with the tip credit sounds like a good idea on paper but I truly believe that it will cause jobs to be lost and for those lucky people who do not end up on the chopping block, a substantial loss of income. I also understand that you are not advocating for the ending

of tipping but the reality is that is exactly what will happen. Maybe not outright because, maybe not outright but because restaurant owners will be forced to raise their prices making dining out even more of a luxury than it already is. It would also be the significant cut in staffing that will affect the service and that will of course lower the tip percentage. Some restaurant owners are even recommending that simply add a service charge to cover the difference, which lets face it, means the customers will assume that this is a gratuity. The tip credit ensures that I at least make minimum wage. If there are restaurant owners that are out there not complying with the law, it's your duty, it's YOUR duty as the law, as the labor department to go after the law breakers. Not to make more laws that they can figure out how to get around.

Commissioner Reardon: Thank you: Tezra Bryant. Tezra Bryant? John Imossi.

John Imossi: Hello, my name is John Imossi and I'm currently General Manager of Applebee's in Lindenhurst. Like the rest of my great staff and my fantastic AGM, we went through a lot to get here today. We closed our store last night, worked all through the night doing inventory and our paperwork, just so we could leave at 6:00 AM to be here to talk to you about this very important subject. I've worked in the restaurant industry for 20 years and I've worked in nearly every capacity. I've been a server, bartender, cook, manager, and restaurant owner. To me I know that the tip credit is vital in keeping the restaurant industry running as strong as it has been. The elimination of the tip credit would be detrimental to anyone who works in or goes to a restaurant in this state. When I look at the possible elimination of the tip credit, the biggest issue I see is how much it will affect the small business owner in the restaurant industry, which is already one of the hardest industries to start and run a successful business. You face a lot of competition with high cost of goods and significant labor costs already. In my years as a business owner, I knew how hard it was to keep up with the payroll and also staff my restaurant to provide great service to my guests. The elimination of the tip credit will cause business owner's labor costs to rise which will cut into margins that are already very thin. As we have seen the minimum wage increases in quick service restaurants without the tipping model, the big chains will find a way to cut their staffing level and save money through increased use of automation and technology to service those kiosks. Big chains can do this as they have the money and the wherewithal to go through with such measures. I can already see that is starting to happen with full service industry as this tip credit issue becomes, begins to become a bigger and larger reality. The bigger franchises are preparing to do what they can to stay profitable meanwhile the mom and pop stores are merely focused on running their current day-to-day business, as with most small business owners do not have these options available to them. So if this does come to pass, they will be forced to severely cut down their staff to stay profitable or they will just close entirely. This is bad for everybody as it makes entry into this industry much more difficult for aspiring entrepreneurs and in the end it cuts down on the variety available to our consumers. The opposition has repeatedly brought up issues of mistreating my employees, which are terrible tragedies, but not related to tip credit. If an employer is stealing tips or not paying legal wages or not giving breaks, then that's an enforcement issue, not a tip credit issue. I would urge these employees to stand up for their rights that they already have and report their employers so they can be prevented

from doing this to other hardworking individuals such as their selves. Abusive employers will always be abusive employers whether or not there is a tip credit and until these employers are prosecuted for their mistreatment of their employees, this will continue. Eliminating the tip credit would fundamentally change the way a restaurant industry has always worked in this state and it would be breaking a system that works for many New Yorkers that work in businesses that are following the law. Please keep the tip credit. Allow restaurant workers to continue working the industry they love and allow restaurant patrons to enjoy dining, their dining experiences as they always have. Thank you.

Commissioner Reardon: Vincent Giglia.

Vincent Giglia: Hello, my name is Vincent Giglia. Last time you saw me I spoke about losing my job in the last server wage hike. You heard about my sadness, my fears, and especially if this were to happen again. Today I'm here to talk about my outrage, outrage about using the political football known as the Me Too movement to pass another unneeded and unwanted raise to the server minimum wage. Outraged because it's basically calling the people of my industry weak, implying that we need saving, implying that the strong men and women of every color, creed, and orientation in this industry that we bleed are victims. I assure you, this is not the case. From the single mothers doing what's best for supporting their families, the students balancing an education and making a living, people like myself who are just trying to rebuild their lives. I promise you, we are thriving. We do not need saving. There's harassment in every level and every industry. It's undeniable but instead of going after the offenders in this argument, you are choosing to attack an unbroken system that allows our industry to flourish. It's like saying, I'm so sorry you were harassed Miss, but maybe next time you shouldn't wear such a low cut subminimum wage. It's ridiculous. You're proposing that a roughly \$6,000 raise a year to every waiter, waitress, and bartender in the State of New York will reduce the amount of harassment in our industry and it possibly will. You see it's hard to be harassed at work when you are unemployed. With the elimination of the tipped credit, restaurants will be forced to raise prices, cut hours, eliminate jobs, or just close as a result of the sudden hemorrhaging of profits to the increased payroll and payroll taxes. You know this because this is what happened two years ago when we raised the minimum wage by 50% and lost over 200 restaurants in the State, including the one I was employed at. Are we really ready to repeat history? So ask yourself, do we really want to travel down this road again or do we want to stop this insane journey and let us get back to back to work earning a living the way know how with a system that works. We don't need saving. We are strong. We are united and we don't want this. Save the tip credit and preserve our industry. Thank you.

Commissioner Reardon: Thank you. Stephen Maly.

Stephen Maly: Good Afternoon. My name is Stephen Maly. I have 24 years in the industry and I've been here since 8:30 this morning and I find it a little frustrating that groups like ROC United got to speak for the first four hours of this hearing and now you are hearing from people that are in favor of the tip credit, because it would have been nice for us to speak in front of a full room.

Commissioner Reardon: May I just tell you that people were signed up in the order in which they submitted their names.

Stephen Maly: I understand that.

Commissioner Reardon: We had nothing to do with it.

Stephen Maly: I understand that but that happened in clusters so that was one person signing up for 10 people where we signed up individually, but I do get that. It just doesn't seem fair because they are getting paid to be here and we're not. The answer to the question why restaurant employees, restaurant owners, and the consumers around the state are against wage tip credit elimination is simple. The industry as we know it will not be able to survive. The doors to venues will shutter, it's already happening, increased wages, increased ordinances, and increased costs of real estate have put unbearable stress on operators being able to keep their doors open. Eighty percent of restaurants in New York City already fail in the first five years; what does the state think is going to happen if lower tip wages are eliminated and payroll goes up 33%? There will be some restaurants and bars that will survive but they will have to make drastic changes to do so. Prices will increase. Over the last few years there's already been a steady increase in food costs to consumers across the board. Affordable dining will be a thing of the past and therefore pricing out the exact people that this proposal is intended to help. Simple math tells us we will no longer be able to operate with a personal touch that we are used to providing. Humans in hospitality will be replaced as you've heard by iPads and counter service, no longer being able to provide the layers of service we are used to. We would have to do more with less and fast casual stores would saturate the streets that have historically provided a culture of dining that people travel all over the world to experience. Are there bad owners in the State of New York? Yes. Does sexual harassment occur in the industry? Yes. But these issues that affect industries well beyond the walls of dining establishments. The Me Too movement is a real world wide issue, this is not a tipping issue and it's an absurd idea that it is considered normal in our workplace. We don't tolerate it from our staff. We don't tolerate it from our ownership and we certainly don't tolerate it from our customers. The laws for protecting restaurant employees from sexual harassment are already in place, let's continue to enforce them. The law to protect a server for an over engaging and wage theft is already in place, keep enforcing it. There are always bad eggs in any industry but changing the tip credit doesn't correct those bad eggs. Our training and education and legislation do. The sad reality and disturbing truth in this whole thing is that real jobs will be lost. This is true travesty of the proposal.

Commissioner Reardon: Thank you. Erin Reissig.

Erin Reissig: Thank you. My name is Erin Reissig, I'm from Rochester, New York. I spoke with you in Albany and this is my second time obviously, it's going to be the last so thank you I appreciate listening to me. This side I came from last time was the restaurant family side and this time I am going to speak not about the if's but on what I

actually did with the last wage increase. In 2016 we moved into a larger location. In 2015 we could seat about 65 people and now in 2018 we sit a little over 100. In those two years, though our space has doubled, my employees have not. I have had to reduce my labor. Since then, I have cut out 5 busing shifts, I have cut out 5 hosting shifts, 5 bartending shifts and 14 serving shifts. At 6 hours a shift, that's 174 hours that I had to reduce a week. Its not just hours, I had to fire those people. I had to let those people go and say, "I'm sorry we just can't afford. If you want a reference I'll give you one." And that's all I could do. We haven't had enough time to catch up from the last wage increase. To find more positive and innovative ways to change our industry so that all of us can get a raise, that's the front and back of house. The back of the house who work just as hard as the front of the house and they deserve it. And who is fighting for their raise? We are fighting ROC United and the other side is fighting to not give them a raise. We don't see how it's possible to give everyone the money they deserve if we're only giving the top earning workers the money. I just want to let you know that in eliminating the tip credit you are not just eliminating jobs, you are eliminating whole positions. Words like busers and food runner, assistant server, garmo, all these positions will no longer exist. Nobody is going to know what a buser is in 10 years from how if we eliminate the tip credit. Right now it's something we need and if it shows us the information shows us that it's something to get rid of then maybe we have that discussion later, but right now we have not had enough time to see what a 200% wage increase is going to do to our industry. Thank you very much.

Commissioner Reardon: Thank you. Michael Corson.

Michael Corson: Good afternoon. Once again thanks for the time. I spoke in Albany and Buffalo. My name is Michael Corson I'm the co-owner of the Gate House Restaurant in Rochester, New York. I am what this industry likes to call a lifer, I think that I'll just do it until I find a real job. Well that statement is true for so many people in this industry including me 25+ years later here I am still in the business but now I'm employing 50 people in the City of Rochester. However eliminating the tip credit will not only stifle job growth it will force me to reverse course, cut back, lay off and reconfigure my service model. It would be going backwards. In this day and age as a country we're faced with many political, economic and social challenges and I feel that this issue encapsulates them all. As a business owner should the tip credit be eliminated, I'm faced with a confounding combination of both knowing what's to come and not knowing what to do about it. A feeling that does not exactly inspire economic confidence. How can I possibly spend more money right now, invest in my business, or hire more people. I'd like to remind the Governor that his job is to promote job growth and creation not crush it. Socially, ROC seems to pit people against each other, tipped workers against owners, women against men, immigrant against local, dark against light, we won't bite. This is the New York State Restaurant Industry and we are all inclusive. Politically, ROC United has an agenda, they want to unionize our industry and our industry workers don't appreciate it. Tipped workers are already organized and they are perfectly capable of advocating for themselves should they feel the need. Governor Cuomo is playing with people's lives as he dabbles with the far left and it won't help him in the polls as _____ business owners feel the sting of his neglect. In closing, why

should one fair wage apply to an industry that has a wage tier in place already? There are plenty of job sectors that offer a steady hourly wage including the kitchen department of my restaurant where I am fortunate enough to start the kitchen people at a living wage of \$11.50 an hour, take away the tip credit and now I starting hiring kids from the Rochester Inner City at \$10.40 an hour, the mandate minimum. I ask you how that is a socially responsible thing to do. Thanks again for your time.

Commissioner Reardon: Thank you. Harris Tooley.

Harris Tooley: Good evening, thank you for your time. My name is Harris Tooley, I moved here in the summer of 2013 a few weeks after I was out of school. I had no real idea of what I wanted to do at the time however I've worked in kitchens and in restaurants since I was 16 and I knew that I could fall back on service industry jobs in order to afford the astronomical rents of New York. Since that year, I've had the opportunity to work my way up from busser to server, to bartender. I've gotten to experience and highs and lows of working in the restaurants and bars in New York City. I've begun to make a career in this industry and am working towards opening and running my own bar. At no point have I sought out a minimum wage. I made and continue to make more than the minimum wage. Currently, I'm a full-time bartender in Queens at the Bonnie. It's a neighborhood spot. I usually make somewhere between \$30 to \$50 an hour. I specifically sought out a company that provides employee benefits and subsidizes healthcare. I have had the opportunity to travel to other countries, move into a more stable living situation, join a gym, eat out, see plays and movies, pay off my student loans all off of tips. I live for all intents and purposes a middle class life. These are things I did on my own without the assistance of ROC United or any form of union. Saru Jayaraman the head of ROC has essentially stated that her goal was to end tipping. If she expects me to make the same money for \$15 an hour as I am fortunate enough to make now then I would need to work an average of 108 hours a week. In this industry we are sales people who work on commission. To call us subminimum wage workers is an attempt to disenfranchise us. It is also an attempt to make us feel like some sort of underclass who needs some sort of savior to help us. The idea of an enforced service charge also takes the tips out of the hands of the employees and gives it to the employer and the employer allocates what they think is fair. In an attempt to empower us, ROC would take away our agency in the restaurant. There is already a law in place that protects workers and ensures that we receive minimum wage. What we need is enforcement of that law not a wholesale destruction of the economy of the restaurant industry. Because the employer is able to pay us less than minimum wage, he is able to employ more people, pay higher wages in the kitchen, provide better service all around. Getting rid of the tip credit will force people to work fewer hours. People will loose jobs, especially those in unskilled, part-time employees like artists and actors, entry-level positions. It will raise prices for consumers and will, in the long run get rid of a tradition of service in this country that is matched nowhere else in the world. But first and foremost, getting rid of the tip credit is nothing short of forced unemployment. This is a social experiment for multimillionaires. I don't want my livelihood, my future and ability to live and contribute to the economy of New York City ruined by their machinations. Thanks.

Commissioner Reardon: Thank you. Susan Marinos.

Ramona: The next speakers please come on down to the front; John Joy, Ken Sofer, Don Borelli, Gabriel Ciornei, Dereck Neemth, Michael Davidson, Monica Giffone, Dorothy Bradicich, Bobby Linkins and Jim Conway.

Susan Marinos: Good news, no statistics and a short speech. Alright so my name is Susan Marinos, I'm currently the General Manager of Huntington Applebee's and my journey to the restaurant work started when my son was 2 years old and my job I had for 12 years said I couldn't have flex time anymore. My husband was a New York City police officer who was unable to have any overtime so he was making less than 40 grand before taxes at that time. So we lived paycheck to paycheck. So the solution I came up with was to find a job with flexible hours, could not afford daycare, wasn't worth going to daycare just to pay daycare and never see my child and certainly wasn't eligible for government assistance, not that I'm one to take government assistance. So I started working in restaurants that was my answer. So I started working as a server, worked around my husband's schedule, learned how to be great at my job. Learned how to talk to people, solve problems, solve family problems and it saved my family. Saved us emotionally, saved us financially. That was from tips. As I got better, my tips got better and I think that's just the way it is in the service industry. Working as a server definitely saved our family. At that time I was getting \$2.65 an hour plus tips. Over the years I learned and grew and I went through the ranks and became a general manager. So my parents raised us with a strong work ethic. In our kitchen was a plaque that said, "The world owes you a living but you have to work hard to collect it." Isn't that what this country is built on? That's America. Working hard and ceasing opportunity, in my case as a server is how I achieved that. Going to a set minimum wage without tips decreases the server's income but it takes away the drive for quality service. Doesn't that oppress the very people that today you're trying to protect? The new mantra will be "Well I'll get there when I get there, I'm only getting minimum wage." That's what a flat salary will produce in the restaurant is that sort of indifference. If this bill is to support women and minorities, I think you're missing the mark. The salaries will decrease and you're turning restaurant service into the equivalent of a factory job or worse, as everyone stated, the jobs will be gone and the kiosk service will take over. Most servers need the flexibility to pick up shifts when dollars are tight and adjust schedules to work around childcare, school and college. They count on the tips to keep them financially sound. The amount of money they make over \$25 an hour allows this to happen and taking a \$10 cut an hour isn't going to help them. Thank you so much for your time.

Commissioner Reardon: Thank you. Kevin Hehir. Next 10 please.

Ramona: I called them already.

Commissioner Reardon: Oh you did, sorry. John Joy, John. Ken Sofer, Don Borelli.

Don Borelli: Good evening. My name is Don Borelli, I'm the CEO of ACBP Hospitality Group the parent company of the Arts and Craft Beer Parlor. I have two locations in Manhattan. Our average check amount is \$21 as we just serve beer, wine and bar snacks. We don't serve \$50 steaks and \$100 bottles of wine so we need to make the most out of our \$20 checks which means operating on very tight margins. I started the business 4 years ago with my retirement savings. Our staff then consisted of 5 bartenders. My business now employs 19 bartenders and 5 kitchen staff. We're not huge but I'm proud of the fact and grateful for the opportunity to create jobs for some very deserving and hardworking New Yorkers. Over the past 2 months, we've been forced to cut our staffing 20% of our shifts due to increased operating expenses, particularly the cost of labor. I fear more cuts are coming if you eliminate the tip credit. My big dilemma is whom should I cut? If I were to look at this logically and dispassionately, I would cut my food runner but this particular position is occupied by a special needs individual who is also the caretaker for his ailing mother. Therefore, I will not cut him because there is more to my business than selling craft beer especially when I consider the human element. However facts are the facts and the numbers don't lie. Therefore I will need to choose someone else to cut. Here's some of my real choices, a single dad supporting his child, a new father of twins, a recent graduate paying off her student loans, a husband whose wife is on long-term disability, a newly wed trying to buy her first house. These are some of my actual employees, not fictitious characters and my choices unfortunately are very real but none of them great. These are the real life stories behind the statistics you have heard today. I implore you, please consider the human impact of your decision and how it will affect businesses who employ New Yorkers who need the jobs you will effectively eliminate along with the tip credit. Thank you.

Commissioner Reardon: Thank you. Gabriel Ciornei, Gabriel, Dereck Neemth, Michael Davidson, Monica Giffone, Dorothy Bradicich, Bobby Linkins, Jim Conway.

Ramona: Next speakers please make your way to the front, KC Wagner, Rebecca Conry, Jordan Romanus, Teofilo Reyes, Alice Feliz, Deynis DeLeon, Josoan Picon, Kiara Campbell, Gisselle Rodriguez, and Shedaii Josephs.

Commissioner Reardon: Thank you. KC Wagner, Rebecca Conry, Jordan Romanus, Teofilo Reyes, Alice Feliz, oh Teofilo sorry.

Teofilo Reyes: Good afternoon, thank you so much, my name is Teofilo Reyes, almost evening. I work as the National Research Director for the Restaurant Opportunities Centers United headquartered here in New York City and I'm also a visiting scholar at the Goldman School of Public Policy at UC Berkeley. I wanted to touch on a couple of issues if I have enough time; one is the issue of pertaining to establishing growth in the subminimum wage and the other is two questions around sexual harassment. It's a common refrain from industry represents that restaurants can't support and increase to the tip and wage, that they'll be forced to shut their doors and lay off their workforce. The same refrain has been repeated to oppose the limitation of sick leave and has been widely used to delay implementation of smoking bans around the country. In all those cases, those claims have proved false. The data do tell a different story. We did hear earlier this

morning that the increase in the tip minimum wage from \$5 to \$7.50 an hour led to a decrease in the number of full service restaurants from 2015 to 2016 and to reduce growth in the rate of employment growth. Quarterly data for all food service establishments and preliminary annual data for full service restaurants from the quarterly census of Employment and Wages came out, was released a couple of weeks ago. And so we can now look at data for 2017 and see the continued resilience of the restaurant industry. In 2015 there were 19,041 full service restaurants in New York State; in 2016 we saw a decline to 18,768 full service restaurants however in 2017 full service restaurants rebounded dramatically so there are currently 20,778 full service restaurants in New York State. On the next page I plotted the percent change and the number of establishments the industry has experienced and you can see there has been linear growth since 2011. Over a period of 2 years its been able to absorb this \$2.50 wage increase, it rebounded and its continued its previous growth trajectory. In 2015 New York had the second fastest rate of growth of all surrounding states, this did dip in 2016 and now it has the fastest rate of full service restaurant establishment growth in the region. Full service employment growth has outpaced all surrounding states since 2011 including in 2016 and it is now growing at a faster clip in 2017 as establishment growth increased. I'm going to stop there but I just want to reiterate that this proposal to raise subminimum wage is doable, it ensures basic dignity of workers and is something that the industry can easily enough absorb and continue to grow.

Male: I have a couple of quick questions. This is new data I haven't see so the 2017 data.

Teofilo Reyes: This is the 2017 preliminary full service restaurant but it matches the quarterly food service data as well.

Male: Alright two questions answers them in either order, first, I'm trying to understand what you mean by linear growth in New York compared to the other line you have. And the second question I have is this big jump from 2016 to 2017 do you have an opinion on what that would be? Do you think the 2016 number was wrong, an artifact of the data?

Teofilo Reyes: No, I do not think it was wrong. I think what happened is that smaller establishments had a more difficult time with that increase.

Male: So you think there was real impact on the smaller establishments?

Teofilo Reyes: Well, you have to look at what happened 2 years after. So there was the industry was able to absorb that, I think its important to look at how the policy was phased in. I think that's a key question so you were able to maintain fluid continuous growth as opposed to choppy growth. And the question around linear growth it just looks at overtime when they look at, when people talk about the industry dropped in one year vs. another year, if you look at it over a longer period of time you'll see that there is a linear growth trajectory, it could not have exponential growth. The industry could not continue to grow 10% every year, year over year because that's just an impossibility. So if we look over time we see that there's linear growth in New York and it's out performing surrounding states.

Female: So just to clarify right, so we're saying again 2015 and 2016 drop off you are attributing to the increase. Because I've been asking that question, the short-term vs. what happens in long-term. So in short-term your data supports that there will be an impact particularly just to smaller establishment but there's a possibility that that can actually be rebounded in 2 or 3 years.

Teofilo Reyes: Well there's absolutely a possibility that it would rebound it would also be tied to other economic fundamentals. However I think the question, \$5 to \$7.50 that's a 50% jump overnight right. So I think that's the question to look at not necessarily that there was this increase that you're going to see because many places see increase as in the minimum wage. Oakland saw similar increase \$2.00 increase but it was not that same percentage increase and so you did not see that same drop in the number of establishments.

Female: So the argument smooth scale in, slower scale in might have impact on that particular drop off.

Teofilo Reyes: Correct.

Commissioner Reardon: Thank you very much. Alice Feliz, Alice Feliz, Deynis DeLeon, Josoan Picon, Kiara Campbell, Gisselle Rodriguez, Shedaii Josephs.

Ramona: Next speakers Nawshin Islam, Selena Thomas, Sheila Madali, Zach Litif, Yamila Ruiz, Veronica Avila, Sussie Lozado, Darrel Sukdheo, Dulce Rojas and Martha Maffei.

Commissioner Reardon: Thank you. First up is Nawshin Islam, Do we have Nawshin? Selena Thomas, Sheila Madali.

Sheila Madali: Good afternoon, good evening. We've also been here since 8:30 in the morning so thank you for your time and your patience my name is Sheila Madali I'm the Director of Law and Organizing at ROC United. I focus on the legal rights of our restaurant worker members and their empowerment. I am here to testify in support of one fair wage because frankly its unconscionable that in 2018 we have to debate whether or not employers should pay their workers. I've been with ROC for 6 years now and in that time I've worked with countless restaurant workers who've had their legal rights abused and violated. On a micro level there is frequent abuse and misconceptions of our worker's right due to the two-tiered system. On a macro level the subminimum wage and the two-tiered system essentially legislates gender pay inequity through a subminimum wage for a predominantly female workforce. But at the end of the day I know its late and we're all tired and I'm not really here to talk that much about the law I'm here more to talk about the future and the incredible opportunity before us right now to make a positive impact on what's happening in the world, what's happening in our communities, what's happening in our industry. I want to focus on how this moment we're in fits into the context of a broader movement for racial, economic and gender justice. I want to

focus on how sustainability in the food system requires sustainable wages for the workers who grow, make, produce and serve that food. I want to focus on how racial justice requires abolishing all legacies of slavery including the subminimum tipped wage. I want to focus on how gender justice requires actual structural interventions and I want to focus on a better future for our workforce for our communities, for the people who are going into the restaurant industry now so that they don't have to experience the same thing a lot of us have had to. Thank you.

Commissioner Reardon: Thank you. Zach Litif, Zach Litif, Yamila Ruiz

Yamila Ruiz: Good afternoon my name is Yamila Ruiz, I also want to thank you for your patience and willingness to listen to all of our testimonies today. I'm here today as a restaurant worker and organizer for the Restaurant Opportunities Centers United and also as a first generation immigrant to the United States. I've worked in the restaurant industry for 10 years from quick service, fast food restaurants to family style chains, to fine dining establishments. I've worked as a hostess when I was fourteen I had my first job as a busser, as a cashier, server, bar back and bartender. My family owns and operates a small food business in Central New York on Cayuga Lake where they pay a full minimum wage to their employees plus tips. Their business is profitable and a well-respected part of the Finger Lakes Community that takes the high road to profitability. We also have family members who work in small family run restaurants in the City of Auburn, Skaneateles and Waterloo, New York. Many of whom are piecing together 2 or 3 jobs just to make ends meet and be able to provide for their families. They are career servers who have dedicated their life to this industry. I'm here on their behalf today, as well as on behalf of the workers who were unable or too afraid to come forward to testify. These are full-time restaurant workers who couldn't be here today because they needed the shifts happening during this time because they are so dependent on tips. When employers are allowed to pay such low wages, tipped workers are make vulnerable to exploitation and harassment. Because we rely on the whims of our customers for our income, we face such high rates of poverty and financial instability that we are forced to accept mistreatment in our workplaces. The fear of eviction and the inability to care for ourselves and for our families outweighs our willingness to demand better. As tipped workers we have been subjected to an incredibly exploitative power dynamic. Because tips are our only true source of income we have no choice but to endure mistreatment at the hands of our customers, our colleagues and our managers at times. Often we are encouraged to be a willing party to our customer's advances, to be objectified in one aspect of our work means we're objectified by everyone. We are taught to believe this behavior is normal and acceptable. Our livelihoods are threatened when we speak out for ourselves. Without a proper wage to depend on we cannot break free of the system. In my 10-year career working as a server and cashier, I've experienced wage theft, sexual harassment, discrimination and retaliation as a result of depending heavily on tips for the entirety of my income. Living off tips is extremely volatile and earnings can vary significantly from shift to shift, day to day and especially from week to week. This makes it very difficult to budget and plan to be able to afford monthly expenses such as

rent, bills, healthcare costs, as my restaurant did not provide insurance and my rapidly occurring student loans. I once worked a 7-hour shift and did not make any tips so I made zero dollars because my hourly wage goes entirely to taxes. We're fighting for one fair wage in New York State so tipped workers can have a wage we can rely on. By making sure that all workers in New York receive a fair minimum wage we can fix it. I urge you to please get rid of the subminimum wage, it keeps so many tipped workers in poverty. This proposal is the first step towards closing the wage gap faced by thousands of women and people of color and increasing financial stability for workers in our state. Thank you.

Commissioner Reardon: Thank you. Veronica Avila.

Veronica Avila: Hello, good evening my name is Veronica Avila and I am with ROC United. I live in Brooklyn and I'm also a former restaurant worker, restaurant jobs were the first jobs that my parents had when they emigrated here and my partner is also a lifetime restaurant worker. I'm here because I'm in favor of raising the tip minimum wage to the regular minimum wage. One of the things that we heard in an earlier testimony was that by the end of this year New York will have had 9 wage increases. while that was actually meant to deter the tip credit we see that with the 8 already enacted wage increases and maybe even because of them, the industry has continued to thrive. In 2017 the National Restaurant Association projected that New York restaurant sales will top \$43.3 billion yes, despite this obvious prosperity tipped workers are still under a tiered wage system. restaurant sales in New York have not only continue to increase the size of the full service workforce which is actually where most tip workers work has also continued to rise. So we've heard this before but I'll breeze through it. From 2015 to 2017 the size of the full service workforce in New York increased by 4%, from 2016 to 2017 that same workforce increased by 3%. So this out paced New York overall job growth. The restaurant industry is also expected to continue to grow. The workforce is supposed to experience a 6.1% increase by 2028 according to the National Restaurant Association industry data. Full service restaurants like we also heard are also thriving. So from 2015 to 2017 the number of full service establishments increased by 9%. From 2016 to 2017 the number of establishments full service restaurant establishments in New York increased by nearly 11%. So 11% is actually, as we've already heard, the highest level of establishment growth that we've seen since at least 2011. perhaps also in parts of workers increased purchasing power. In states with one wage where tips are not the basis of the wage but a token of appreciation for the experience that service professionals create, the industry is even more prosperous. In 2017 states with one wage according to National Restaurant Association data were expected to experience higher industry sales when compared to New York. So 5.1% for fair wage states and 3.6% for New York. So we also have seen higher full service restaurant employment growth. So in one fair wage states from 2011 to 2016 the industry experienced a 20.4% increase in the number of full service employments and gradually implementing one fair wage for all workers across the state is a sensible and needed proposal and I encourage us to be a leader on this issue.

Commissioner Reardon: Thank you. Sussie Lazado. Sussie Lazado? Darrel Sukdheo.

Darrel Sukdheo: Good afternoon. Thank you for having me again today. So it's been a long road in the beginning I said a few things and I want to tie it altogether again. I'm going to begin by asking you please give me a raise. I need a raise. That's what the elimination of the subminimum will do for me personally, it's going to give me a raise. I work in an ethnic restaurant with just 3 employees. One of those is the owner. And I basically multitask, do everything like everyone else. So I shop, I prep, I cook, I serve, I mop, I sweep that's my job alright. We have a tip jar on the counter. Typically the tips for the day are less than \$20 simply because the community we serve is not a tipping community. They didn't grow up as part of their culture so they don't really do it. So I cannot depend on tips alright. Yep they're paying me the tip minimum. So I've heard a lot of testimony here about the dangers of eliminating the subminimum. You've heard a lot of testimony, but let's look at the facts. When it increased from \$5 to \$7.50 these restaurants did not close and they didn't fire a single employee, in fact, if you look at them closely you'll see that they maybe even added employees. The same thing again when it went from \$7.50 to \$8.65 they didn't fire any employees, and they did not in fact close any restaurants. In fact New York State last year had 65,000,000 visitors. Guess who's serving those people? These same restaurants, they're very profitable. What has happened as a result of the increase, I will admit is that they earn less profits because they have to give some of that profits through the increased wages back to the employees. I think that's fair. I'm cool with that. The employees are partners in the success of every single one of these restaurants so why shouldn't they also share in the profits, right? And at a later date I'm going to come back and ask you for a share of the profits but right now I'm just asking you for an increase. Please give me an increase. I'm speaking for everyone in my industry and as you know New York City more than any other place maybe not Upstate has probably 2/3 of the ethnic restaurants that doesn't see a lot of tipping, please take that into consideration. Thank you.

Commissioner Reardon: Thank you. Dulce Rojas, Dulce Rojas. Martha Maffei.

Ramona: Next speakers Lola Solis, Victoria Hernandez, Anely San Juan, Marianita Julca, Rosalinda Ramirez, Ana Maria Julca, Elizabeth Rosche, Bonnie Nielsen, Amanda Greiner, and Christina Vargas.

Commissioner Reardon: Thank you. Lola Solis, Victoria Hernandez, Anely San Juan, Marianita Julca, Rosalinda Ramirez, Ana Maria Julca, Elizabeth Rosche, Bonnie Nielsen, Amanda Greiner, Christina Vargas.

Ramona: Next set Samantha Langis, Tamika Harper, Kai Chu, Melissa Quisenberry, Irene Lew, Nina Trumbo, Mia McDonald, Suzanne Adely, Bomin Kwon, and Tony Herbert.

Commissioner Reardon: Thank you. Samantha Langis, Tamika Harper, Kai Chu, Melissa Quisenberry, Irene Lew, Nina Trumbo, Nina.

Nina Trumbo: Thank you Commissioner Reardon and everybody else on the panel for giving me this opportunity to share my comments about the subminimum wage proposal. My name is Nina Trumbo and I'm a Research and Policy Analyst at ALIGN the Alliance for a Greater New York. ALIGN is a longstanding alliance of labor and community organizations united for just and sustainable New York. Our model addresses the root causes of economic justice by forging coalitions, shaping the public, debate through strategic communications and developing policy solutions that make an impact. All employees including restaurant servers and tipped workers should receive a living wage. New York's two-tiered pay system for tipped vs. nontipped workers has adversely impacted the State's most vulnerable earners. The 2016 legislation to raise the hourly minimum wage to \$15 in New York was a major step forward in improving the economic mobility of low wage workers in the State. Yet, New York's tipped hospitality workers currently face a minimum wage that is \$4.50 to \$5.00 less than their nontipped peers. This gap will rise to a full \$5.00 for all hospitality workers regardless of employer size by December 2019. Tipped workers are more than twice as likely to live below the poverty line as the rest of the employed population according to data from the Restaurant Opportunity Center. Furthermore, restaurant workers are more likely than employees in other types of industries to experience health related hardships. According to Community Service Society's annual unheard third survey of low income New York City residents, 23% of restaurant workers pooled in 2016 said that they went without health coverage in the past year and 19% reported difficulties with filling a necessary prescription due to lack of money or insurance. Low income restaurant workers are more than twice as likely than other low income workers to receive less than 2 weeks notice of their work schedule which leads to serious problems managing their jobs and other family responsibilities. When tips don't add up to at least the minimum wage, employers are legally required to make up the difference between a tipped worker's earnings and the full minimum wage. However, employers and tipped workers find it difficult to track tip earnings, a task that is often complicated by tip sharing arrangements among workers. As a result, enforcement of the system has been difficult and tipped workers are more susceptible to wage theft. Tips are not a regular paycheck yet they can make up the majority of a tipped worker's pay which means their fluctuating income makes it harder for these workers to plan their family's financial stability. In the 7 states where tipped workers received the full minimum wage before tips, the poverty rates among tipped workers are significantly lower than in states where tipped workers receive a low base wage. Furthermore, paying tipped workers the same minimum wage as nontipped employees has not harmed the restaurant industry. According to research from the Economic Policy Institute, growth in the restaurant industry has been as strong, if not stronger in states where tipped workers received the full...

Commissioner Reardon: Thank you. Mia McDonald, Suzanne Adely, Bomin Kwon, Tony Herbert.

Ramona: Next set of speakers Christopher Jones, Basma Eid, Chun Hwa Shin, Shaunna Thomas, Emelie Kihlstrom, Georges Forgeious, Llona Hogan, Vittorio Antonini, Leith Hill, and John Capelli.

Commissioner Reardon: Thank you. Christopher Jones, Basma Eid, Chun Hwa Shin, Shaunna Thomas, Emelie Kihlstrom, Georges Forgeios, Llona Hogan, Vittorio Antonini, Leith Hill, and John Capelli.

Ramona: Next set of speakers Jessica Walker, JD Henderson, Juan Castillo, Richard Blum, Peter Coleman, Marcelo Da Silva, Jeffrey Bank, Tiffany Johnson, Sonia Ossorio, and Meghan Joye.

Commissioner Reardon: Thank you. Jessica Walker.

Jessica Walker: Thank you for the hearing and thank you for your longevity. I'm Jessica Walker, the President and CEO of the Manhattan Chamber of Commerce. We are a business organization and we like to think of ourselves as the guardian of small businesses and start ups here in Manhattan. Our borough has the most restaurants and bars in New York City by far, I think that we represent about 180,000 workers. I'm sure you have all that data. So I do have testimony but I just wanted to make 3 points and get you guys out of here; 1) I think that the rationale for this change I think is flimsy at best. I think that that really came across in the hearing today. It's been said many times but current law requires tipped workers make at least the minimum wage and if that doesn't happen, then it's an issue of enforcement. I hope that that's come across quite a bit today. 2) I do want to add credence to what you heard today. There were a lot of business owners who spoke but obviously with my borough wide perspective I just want you to know that there are many more who are not here today who do have concerns and there's no question about it that this would be devastating for those businesses. You heard that many cannot easily absorb those costs. I've spoke with business owners in Harlem, the lower east side and throughout the borough, this would be very difficult. And 3) I think it also came through in some of the testimony that you heard today businesses really do feel under attack in New York City on many different fronts and I think that in some ways they don't always feel that government is on their side. And this obviously is not helpful in that regard. So with all of this in mind, I really do ask you to really think through the need and the rationale for this change. I think that this really is a solution in search of a problem. You've heard today from many workers and also from many business owners there is no problem here. And finally, I just want to say that I do hope that you will do the right thing and maintain the tip credit. Thank you.

Commissioner Reardon: Thank you. JD Henderson, Juan Castillo, Richard Blum, Peter Coleman, Marcelo Da Silva, Jeffrey Bank, Tiffany Johnson, Sonia Ossorio, and Meghan Joye.

Ramona: Next set of speakers Alcieli Felipe, Amar Djebra, Bryant To, Kevin Wolyniec, Nicholas Bassolino, Greg Hunt, Dan Constantine, Kristina Olson, and Paola Pedrignani.

Commissioner Reardon: Okay Christina Perez is actually the first one, is Christina here?

Christina Perez: Hi, good afternoon my name is Christina Perez. As a former tipped employee since young, I am now restaurant manager for over 12 years so I know the

challenges that they faced. As a woman and as a minority I had nothing but a chance to better my future by being a tipped employee. Being able to work less hours and make enough money to be able to maintain myself as well as care for my family and even be able to earn a college degree. As someone who was employed to ensure people, who are our guests, receive a positive dining experience. As for sexual harassment for all of the years I have in this industry have never experienced any harassment however my sister who works in Banking has experienced. As a manager, I have always treated all my staff equally as this is what I learned and received when I was a tipped employee. We would pool tips and ensure that everybody made an equal amount no matter your race, sex, religion or age. As a restaurant manager I take pride in providing great service and quality. I can assure you that paying all staff minimum wage will not give you that great dining experience. As well, it should not give you the opportunity to write restaurant reviews or celebrate special occasions at restaurants. I can assure you that I would not only lose my current amazing staff who treat you like a guest not a customer as they are currently working 4 days a week making anywhere between \$800 to \$1000 after taxes as to going to working 40 hours a week 5 days a week just to bring home \$420 after taxes. We not only have equal tips for all employees as we are a pooled house, as well we have the same uniform for both men and women. I assure that all of my staff know the open door policy that is available and may be utilized at any hour being able to speak to any manager, owner or HR team. What we need to focus on is the separation of the delivery boys, the catering, the carwashes and the nail salons as they have mentioned previously as opposed to the industry such as a family sit down restaurant. I would never have been able to achieve this success in my life without having started as a tipped employee. Getting myself a college education, being raised by grandparents as an orphan. I would not want to cut other individuals short of a better future. Thank you.

Commissioner Reardon: Thank you. Alcieli Felipe.

Alcieli Felipe: Hi, thank you for being here and take your time to listen to us. I didn't write anything I'm going to talk from my heart. My name is Alceili Felipe I've been in the US for 12 years. I was born and raised in Brazil and being here for 12 years, I as a server 10 years. I didn't speak any English. I learned here in this country. I've been in New York for 5 years and New York and the hospitality here made me grow. I'm a fact of New York. I work in a restaurant and I'm able, I just finished school. I'm able to travel the world. This job gives me flexibility. I don't live below the poverty line. That's not a fact that's not right and if somebody lives below the poverty line they're not reporting their tips. Maybe we should enforce that law. Maybe enforce the law that they reporting their tips because I make \$1000 a week and I'm not living below the poverty line. I can afford, I don't have student loans, I pay my school as I go and I just graduated as an esthetician, I'm proud of myself. I'm 32 years old and I can't stand the fact that I am a server but my busboy will be fired. How is that cool? Yes, I've been harassed before but I've been harassed in the streets too. The harassment is a part of this culture its not a restaurant job problem. That's all I have to say, I'll give you that last minute and a half. Thank you.

Commissioner Reardon: Thank you. Amar Djebra, Amar. Bryant To.

Bryant To: Alright so I'll start, hi my name is Bryant To I'm from Barbonya Restaurant 250 Park Avenue South. I'm a proud server of 2 years. I've been featured on the Real Housewives of New York as a waiter because I'm that awesome. And if you go on Yelp there's 100 reviews for me being a 5 star server. So why am I here? For I make \$48 an hour not counting \$8.65, whatever the minimum wage is. I could care less about being paid hourly. I make the equivalence of \$75,000 a year. Why did I get this chance because when I first started with no experience, starting in the kitchen as a food runner bringing food to the table I had no experience, I was in college. Why? Because the boss had to pay me so little that he took a chance on me so that I could make even as a runner \$25 an hour at least. Why should you never eliminate tip credit because you give the owners the incentive to stop taking tips which is a disaster for the industry. Why? Have you been to Gramercy Tavern lately, _____ Star Restaurant, terrible service. They don't give anything about their customers anymore. do you ever go to an Applebee's where you had to wait 45 minutes for the server to tell you, "Oh by the way I forgot your order." I have, I didn't leave a tip. Why? You didn't deserve it. It's a tip industry, you get paid for what you're worth you get paid for what you bring to the table, for what you do. I can't tell you how much that every position in the restaurant matters; the buser, the runner, we all work together. Were all a team. I'm the only Chinese person in my restaurant which is a Mediterranean restaurant. I don't feel discrimination. I feel endearment, I feel embraced. I once had a customer and they go, "Oh by the way there's a lot of discrimination in the industry?" I had a customer ask me if I spoke Chinese, if I even spoke English because I look Chinese. I asked them, "Hey by the way I'm sorry I only speak Chinese, I apologize for the inconvenience." My manager, you know what he told me, tell the guy to get the hell out because he protects us. We matter. I matter. If anyone harasses any of my colleagues I will tell them to get out and no owner that walks in that door will tell me otherwise. Why? Because we care. we're here we make a living. I am not in poverty. Why? I helped my mother. She had a kidney surgery, I paid for it because Medicaid wouldn't cover it or whatever the insurance policy was. My brother's going to Johns Hopkins, I'm the one paying for his down payment for his appointment for the next 6 months. Why? Cause I can. Because of this industry, because we have tip credit. I can't sacrifice my future, the futurest future, the lower service and hospitality we have in this industry because of some misguided idea that we have what is this. I don't even want to say their names, they're not important. What's important is we don't remove tip credit. Why? Because we're already making \$13 an hour anyway. If it's a problem of poverty its because the \$13 isn't enough which is why I went into the restaurant industry instead of banking.

Commissioner Reardon: Thank you. Kevin Wolyniec.

Kevin Wolyniec: Yes, ma'am. Before I begin can I ask a question? Have either of you, any of you ever worked in a full service restaurant?

Commissioner Reardon: Yep.

Kevin Wolyniec: Awesome thank you so much I just want to make sure my message resonates. To start I'd just like to acknowledge the individuals who are still in this room, having respect and listen to everyone's opinion today, especially the New Yorkers like myself. I was not flown here by some activist group. I got home from work at 3:30 this morning, took a 7:15 from Ronkonkoma on the Long Island Railroad, grabbed the 6th train uptown to arrive here at 10:00 a.m. and when I leave here this afternoon I'll go straight to work in midtown to my amazing staff who I'm here to represent today. Although I could speak for days about the tip credit, my grievances I'd like to use my 3 minutes just to say thank you. Specifically to my employees who have waited here by my side all day just to hear me speak. Thank you to the businesses I've been fortunate enough to work for almost my entire life. The restaurants, delis, carwashes, bars, nightclubs, lounges, coffee shops, corporate and family owned companies both large and small who have gathered here today for one reason and that's to save our livelihood. I started as a dishwasher at 15 years old before I was lucky enough to become a busboy and earn tips then I waited tables and used those tips to buy my first car. I tended bar and used those tips to pay for college when the great State of New York took away my financial aid and I finally earned a management position thankfully to the business owners who have continued to mentor me along my way. Because of all of them and all of us we all understand one thing, our businesses live and thrive because of the people we hire to run them. With this potential to remove the tip credit our jobs simply won't exist. I ask when you wake up tomorrow and start your day to remember the names and faces of New York's finest hospitality workers. The barista who wakes up at 4:15 a.m. and greets you with a smile before making your morning coffee. The bar tender who remembers that you use Makers Mark in your Old Fashion, she peels an orange twist in your glass just to help you forget about a stressful day at the office. Without the tip credit all these names and faces will disappear. As operators, we can't afford to provide exceptional service to our guests with the suggested wage increases. we can't afford the extra time it takes to teach and mentor the young individuals like myself who will hopefully become the industry's next generation of chefs and restaurateurs. We can afford to simply impose additional costs out of the bottom line without downsizing. I'm entering my place in this industry for 15 years and despite your decision, I will continue to push myself and my team forward. after traveling for 8 of those years opening and operating venues in 8 different cities I have seen how your legislation firsthand can benefit the masses that helped me employ over 200 individuals with autism at a carwash in South Florida, but I've also seen legislation cripple this industry. I've seen young men and women like myself work their entire lives to call a business their own only to lose everything because of ideas like the one you're suggesting. Removing the tip credit will affect the everyday employee not just the business. This isn't just about employers.

Commissioner Reardon: Thank you very much. Nicholas Bassolino.

Nicholas Bassolino: Good afternoon how are you today? I'd like to take the time to thank you for listening to everyone speak. A little bit about my past. So I work for a company that I actually instituted one of the kiosk style of dining. I was the general manager at 5 restaurants at the time. we had a crew of servers they were paid more than minimum wage. I always thought of tips as to ensure proper service. The idea that you

earned a living wage you earned your credit, your tips your lifestyle by providing amazing hospitality. These servers became food runners at best. They were thought how to use an iPad, how to adjust the gratuity on the iPad from 15 to 10 or 20% whatever they felt was appropriate as a guest. Guests would order, food would come out there was zero interaction. You might have seen them, they're in the airports, Newark Airport that's in New Jersey obviously. They're in New York as well they're in JFK and LaGuardia I'm sorry I have a little bit of difficulty with public speaking. After that I left my general manager position there and took a server position in New York. It was actually more money every year for me to work as a server in New York City than a general manager for that company. And they paid very well. Since then, I've gone and taken over I'm working with Dos Caminos who represent 143 employees that work in Time Square from my location, plus the 4 other locations and _____ concept that represents another 27 locations throughout the city. When I thought about the tip credit, thought about who it's going to affect, it's going to affect me I'm going to have to raise prices if we do have to pay more for our servers, of course, which is going to decrease our business. After it decreases our business, tips are going to go probably about the same for a little bit, maybe and they'll drop off. Guests won't be able to continue to pay these high rates for food for 3 tacos to go and eat 3 tacos for \$20 something well now its going to be \$26 or \$27. How long is that a sustainable model? A very simple model. Right now the margins are slim. If you're going to cut them even more, it's going to be more difficult. So onto my crew I asked them, this is the ones that they're going to affect. These are the ones that is going to see the increase, what do you think? They came up to me they said, "Listen Nick, I thought about this, this is not good for us." My servers on average lowest paid server \$27, \$28 hour. Highest paid making \$35, \$37, indirect tip employees, they making \$18, \$19, \$20 all the way up to about \$23 an hour. No one gets overtime in our restaurant. We can't afford it. It doesn't work with our business model. Now you want to change it and increase it, its' not going to work. But I appreciate you taking the time to listen to me, thank you so much and have a wonderful evening.

Commissioner Reardon: Thank you. Greg Hunt, Dan Constantine, Kristina Olson, Paola Pedrignani.

Ramona: Next speakers are Nicole Piantedosi, Xiao Yi Liu, Choi King Yu, Ji Zou Zhuo, Yan Hua Liu, Wai Fong Cheong, Pei Yin Chen, Xiu Zhu Lin, Yi Chen, Li Chen sorry, and James Bitzonis.

Commissioner Reardon: Okay first speaker is Nicole Piantedosi.

Nicole Piantedosi: Hi, I live in Brooklyn. I took the Q6 to get here. and last year as a bartender I made over \$50,000 easily. Removing the tip credit will kill tip culture. Often American and foreign guests alike as me, do you make a full wage and I tell them no, I rely on your tips and they like to tip me. no one is going to tip on top of a full wage. We will end up having to put up tip jars hoping for a dollar or change like we are working in Starbucks. The people who are for this change are not career servers or bartenders. Perhaps they have found their calling somewhere else. Maybe as a professional activist. The service industry is one of the only fields where someone can make more than

minimum wage without a college degree which is huge for me. It's a ladder to the middle class that you don't have to go to school for. If we're already guaranteed the minimum wage, this would just guarantee we won't make more than minimum wage. There are jobs where you receive a flat wage like at a supermarket or a movie theater but they still are shift employees this doesn't make them salary employees, so one fair wage won't make you entitled to guaranteed shifts. You'll still be at the whim of an employer. It's just you won't have the opportunity to earn more per hour. And all this idea that working class women would allow themselves to be exposed to sexual harassments for money is frankly very insulting. I have never exploited myself for a tip ever and I actually have a very great staff of bouncers that will support me if I just want them all gone in a second. It's very insulting to say that women would even think about that. Let me keep selling Martini's, let me keep making over \$50,000 without having to go back to school. I have a learning disability, college was really hard. Don't take this away from us.

Commissioner Reardon: Thank you. Xiao Yi Liu and there are some issues with interpretation so you're going to have someone translate for you is that correct?

Xiao Yi Liu: (Interpreter) Hello everyone, I work as a waitress in a restaurant in Manhattan Chinatown. I've been in the job for more than 10 years and I have never let customers touch me in exchange for tips. In the service industry sexual harassment has nothing to do with tip credits. Customers give tips because we provide good service. We are not strippers. The fact that we accept tips doesn't mean we allow customers to take advantage of us. If there is an issue of sexual harassment the New York State government should figure out a way to stop it. Why does Governor Cuomo treat sexual harassment and tip credits as the same thing? There are groups that bring in celebrities saying that tip credit equals sexual harassment. This is an insult to both the service workers and the customers. These celebrities don't represent us, they earn thousands of dollars an hour. They don't understand how difficult we try to make a living. In New York City the rent and cost of living are very high \$15 an hour is a poverty wage, not enough to support our families, if we don't have tip income we will not have enough to feed our families. In fact these groups do not care about whether we are sexually harassed, their goal is to use the elimination of tip credit to abolish tip practice. This way they want to make us restaurant workers lose tip income, encourage customers to stop tipping and let the bosses take our tips, this way if we want to earn more money we will have to better take care of the bosses not the customers. We don't want to see Governor Cuomo being misled by these groups to eliminate tip credit. That will hurt a majority of service workers especially women and low income families. If you really care about women you should support us instead and to make Governor Cuomo protect service worker's tips from being taken away. Thank you.

Commissioner Reardon: Thank you. Choi King Yu, Choi King Yu, Ji Zou Zhuo, Yan Hua Liu, Wai Fong Cheong, Pei Yin Chen, Xiu Zhu Lin,, Li Chen sorry, and James Bitzonis.

Ramona: Next speakers are Dominic Stiller, Maria Diaz, Buddy Caruso, Alejandro Penate, Pdraig Dwyer, Xiu Yun Guo, Guo Quan Yan, Zhi Liang Chen, Shao Feng Pan, Yu Ting Fang.

Commissioner Reardon: Thank you. Dominic Stiller, Maria Diaz, Buddy Caruso, Alejandro Penate, Pdraig Dwyer, Xiu Yun Guo, Guo Quan Yan.

Xiu Yun Guo: Hi everyone my name is Xiu Yun Guo, I've been working as a waitress for almost 10 years. In the service industry our income mainly depends on tips. The better the service we provide the more tips customers are willing to give and the more often they would like to come. Therefore our income becomes higher and higher. Right now some groups neither understand nor care about is the low income female service workers. They propose to eliminate tip credits saying this will increase our wage. In reality they will also eliminate the tip practice and makes women live a more difficult life. If tip credit is eliminated the tip customers will give less tips and our income will decrease. Moreover those unscrupulous bosses will use this opportunity to ask the customers not to give tips, increase the prices of the dishes or concoct various pretext to steal all our tips. Most workers in this industry are women. Those groups who propose to abolish tips either hates women or have something else in mind. Despite several minimum wage increase in the past 2 years, it didn't really bring much benefits to us. Even though the restaurant I work has increased hourly wage according to the law, my work hours have been cut. My work intensity has increased and with this comes the decrease of tip income. At the end of the day I earn less than before not to mention the well known fact in my community that most waitresses don't get paid minimum wage due to government's lack of enforcement of labor law. Their wages are the same as a decade ago. At the same time the cost of living has increased. This is bad for us and unfair to those law abiding bosses. Increasing minimum wage without enforcing the law will only lead to more wage theft. We hope the government can pay attention to the problem in the service industry. This has strengthened the enforcement of labor law and past legislations to prevent unscrupulous bosses from taking our tips and wages instead of focusing on eliminating tip credit or tip practice. Thank you.

Commissioner Reardon: Thank you. Guo Quan Yan, Zhi Liang Chen, Shao Feng Pan, Yu Ting Fang.

Ramona: Next speakers Teneidra McFadden, Antonia Burns, Pete Fitzpatrick, Marla Carter, Karen Kramer, Stan Gutgarts, Jacob Erdmanczyk, Samantha Safer, Dennis Zacharopoulos, and Domingo Teofilo.

Commissioner Reardon: Teneidra McFadden, Antonia Burns, Pete Fitzpatrick, Marla Carter, Karen Kramer, bingo.

Karen Kramer: Hi there, my name is Karen Kramer, I manage a bar in the city called Madam X and its freezing in here. Well you have the nice spotlights to keep you warm. I worked in this industry for more than 35 years. I've been at Madam X for almost 21,

started for 15 years earning tips and really didn't want to become a manager mainly because I didn't want the pay cut. I earn in a week what my staff earns in a weekend and not even a particularly good weekend. This legislation aims to address an economic situation of flat earnings and unfair wage payment to employees out of the 90% of those of us who aren't in that 10% billionaires. Tipped hospitality industry workers are among those who need this help the least. My staff makes money. They do it in 2 or 3 shifts a week and they spend the rest of their time with their families, going to school, trying to become Broadway actors and actresses, musicians, artists, that's why they work in this industry for the flexibility for the cash, to make their money. I've never taken a penny from any of them and I don't feel like I should be punished for those employers who do. I'm a good employer who's had employees working for me for as long as 18 years because I treat them right and they work hard for what they make. They don't make a minimum wage where they stand at the check out counter and beep your items through the scale at the pace of glaciers. When they get busy they get moving and that's how you get served. Because they know that's what it takes to make their money and they're willing to do it. It isn't for everyone and it's really, really hard work but that's what they wanted to do. And they make a living doing it. They're not sexually harassed. I'm a woman whose been in this industry since I was 17 years old and the other women I know who are in the industry are among the strongest and most self determined women I know in any industry. We have to be because we deal with the public every single day. some women are harassed. In this industry and every other. Police officers are sexually harassed by their coworkers. Raising their wages isn't going to change that. Help the people who need the help. go the carwashes and the nail salons, help them but listen to the people in this industry the ones who rely on tips.

Commissioner Reardon: Thank you. Stan Gutgarts, Stan Gutgarts, Jacob Erdmanczyk, Samantha Safer, Dennis Zacharopoulos, Domingo Teofilo.

After Domingo the next speakers are Heather Spaniol, Danielle Armstrong, Claire O'Sullivan, Jennifer Mesa.

Domingo Teofilo: (interpreter not working)

Commissioner Reardon: Thank you. Heather Spaniol.

Heather Spaniol: Hi everybody good morning, good afternoon, good evening, I think I've been here all day with you guys. I also closed my restaurant last night, got home at 3:00 a.m. and was up right away I really didn't sleep at all pretty much preparing for today. But thank you all for putting up with us all day. I'm a lead bartender in Time Square, I'm a women as you can tell, a single mother of a child with severe autism. So I feel like I'm one of these people that ROC is supposedly speaking for being a woman in this industry. I've been in this industry 20 years, 17 in Las Vegas, I just moved here 3 years ago specifically for my daughter to get better services and doctors. What scares me personally in the long run if things go the way they could I'll be forced to move back and lose the doctors and the schools and everything that I have for her. the subminimum wage is a lie. The fact that it's the name of the hearing kinds of scares me, makes me

think Cuomo made up his mind already and I just pray that this is not the case and this is not a dog and pony show. The second speaker was the President of ROC. She spoke about surveys, history, sexual harassment is an epidemic. I've been in this industry 20 years it is not an epidemic. Some drunk customer may do one inappropriate thing once a month, that is not sexual harassment its just bad behavior. Please don't punish us for that. the theme today seems to be everybody for this one wage not one of them are servers currently today so it makes no sense why they should be making decisions for us. And another thing I heard all day, we're not forced to rely on customers for tips, we choose to rely on customers for tips. It's a choice. And some servers are just better than others. Real estate people are better than other real estate people. That's just how it goes. You make more I'm sure government people you guys don't all make the same, I mean I don't know how somebody could make \$10 a day as a server but you know try something new. I don't know. but don't punish us all. Please do not punish us all. And prices are already way too high, I just paid \$20 for a burger a couple of hours ago. I don't want to pay anymore than that. and I understand there's bad employers, servers making less, sexual harassment but this will not fix those problems. This will not fix those problems. And I feel bad for those people. I hope there's something we can do for them but please don't do this to us and please don't do this to me personally because it will dramatically affect my child that is disabled and I will probably have to leave this state and go back to Vegas where they've always paid more than minimum wage. They're one of these 7 states but they always paid more for all the big casinos, maybe not the little ones but so the career servers have always made great money there. So please, please, please, do not encourage Cuomo to pass this.

Commissioner Reardon: Thank you. Danielle Armstrong,

Danielle Armstrong: Hi my name is Danielle Armstrong and I stand here proudly to represent the service industry and especially the Stout group. I'm a manager at Stout in the financial district. As a women may I just say how I do not agree with the past statements made saying this is all about women. Its statements like this that reinforce the idea that women are inferior. What about all the male tipped employees? To piggyback off what a lot of women have said today, I'm getting nervous now I apologize. That they were abused or assaulted while working in a bar, restaurant or diner, I hate to say it but it happens in every strain of life. It is unacceptable in every circumstance situation but understand that this has nothing to do with the tip credit. It happened to me years ago but again, its noting to do with the tip credit. I would like to make something very clear. The tip credit is in place to ensure that all tipped employees earn at the very least the minimum wage which they do above and beyond. Why would we change something that clearly works so well in our industry? Why should the service industry both tipped workers and bar owners especially in New York City suffer by making this unwarranted change? Change should only be for the better and not for the worst. For myself I have been in New York in the hospitality industry for over 7 years. I worked my way up through the ranks, I'm now in a management position that I'm in today and I love it. On a daily basis I teach my staff, I train them, I help them and continue to grow and they get better in their positions. My staff members also work up through the ranks to get better positions for themselves. This is to ensure that every guest has a great experience and in

turn the staff give great service and they earn really good money. Why do we opt to keep the tip credit? Because New York City is all about service not just order taking. The key word here is service. New York City is the service industry. Being a runner, busser, server or bartender in New York is an ever challenging job but its also a lot of fun and its exciting and you get to set the parameters of your work hours and how many days a week you want to work. As a tipped employee you generally get to work as much or as little as you like. This is not a 9 to 5 job nor should it be. This tip job allows mothers to put their kids to bed at night, fathers to work 2 jobs if necessary, students to pay off their outrageous school loans and many, many people who work in this fantastic industry just to support themselves while they shoot for the stars, become an actress or a singer, danger. New York City would not be as well known for its service industry if not for these tipped staff members. I'm going to skip right to the end. To eliminate the tip credit this will 86 much more than just the tip credit. Thank you.

Commissioner Reardon: Thank you. Claire O'Sullivan, Jennifer Mesa, Dennis Dominquez.

Ramona: After Dennis we have Koa Stovall, Paige Sinon, Lohanne Menezes and Francis Fox.

Dennis Dominquez: Good afternoon. My name is Dennis Dominquez, I'm currently employed at the Outback Steak House as a managing partner. In my tie in the service industry I worked many positions, bus boy to host, server, even bartender. I've been in management for 6 years now but I've been in the industry for a total of 12. we have spoken several times about how eliminating the tip credit is a horrible thing for our industry. There is no doubt about that but I also think about our future. How tipped minimum wage works on both sides of the social economic spectrum. It is our industry where people can make a career out of it and it's also an entry level position for our youth. Our youth can learn many different skills just as discipline, maturity, punctuality and teamwork. Skills that can transfer into educational tools as well into any successful industry as well as the service industry. I refer to my past as well as my current employees who have worked over the years using these tools, growing, learning and using us as a stepping stone whether its service industry or my profession as well. with the tip minimum wage credit, New York State will be losing more opportunities for these entry level positions or stepping stones as I refer to. Our service industry is the last industry where we have a potential opportunity for our youth to have these skills and have an entry level position. With the increase in wage rate and reducing the tip credit, we will potentially lose this position for our youth in the future. Our current industry removing the tip minimum wage rate is a horrible idea in all spectrums of it for our state, for our values, for our future and for our youths that we have growing up in our state. Please don't let New York State become another one of these states. Thank you.

Commissioner Reardon: Thank you. Koa Stovall, Koa Stovall, Paige Sinon, Sinon, Paige, Lohanne Menezes. This is Paige?

Paige Sinon: Hello, good evening my name is Paige Sinon and working for tips as a server is all American as it gets. From the high school teenagers who might have their first job roller skating as a car hop to the college student waiting tables in a diner to help pay their tuition, to a mom or dad working part-time to give their children a better life, even to a person who falls in love with the art of service and makes it a career. Whatever the reason it draws you to the food industry we're all in it. At the heart of good service is the desire to go above and beyond. To exceed against expectations and return to be judged and rewarded for your extra effort. To pay an hourly wage to servers undermines this tradition and will result in guests not tipping. It has been tried before and that is the outcome consistently. Additionally, employees who choose to work so hard in this fast paced industry work because of those tips and if they are eliminated they have no incentive to do so. While change will not solve the problems of harassment or pay discrepancies, since those issues do exist in all industries, they are not paid on tips. It will create other problems. While some establishments will be able to afford new revenue policies, others will not and doors will close if this becomes mandatory at a state level. More problems like cutting jobs and raising prices to cover higher labor will be faced by those that can stay open. The system currently in place works for a reason so why would we change something that's working? This occupation gives as much as it takes and I would like to express my gratitude for having the opportunity to work in this industry. I love it and have had the ability to be paid well for very hard work and for dedication and to have been able to pay for my own home and a car on the tips of appreciative customers. It is because of this that it is the American dream and it's my wish that future generations have these same opportunities as I have had. And thank you for taking the time to speak to me.

Commissioner Reardon: Thank you. Lohanne Menezes, Francis Fox. I have a short list of people who signed up late but I think are still here Rack Willis, Ruben Valez, Edwin Cabrera, Lola Solis, Daisy Amaga, Aleta Alparo, Julie Heder. Julie.

Julie Heder: Hello thank you very much for waiting to hear my few words. My husband and I own a small restaurant up in Larchmont, New York and we've had that for about 30 years. We're about to sign a 10 year lease but to be honest with you we're waiting to see what happens with all this. This is not really an easy business to be in as I'm sure you've heard. When we first heard about the idea of eliminating the tip credit for restaurant we explained to our employees how it will impact the way we do business. They are all very concerned and I agreed to speak for them today since you are not holding a hearing in Westchester which is 1 hour north of New York City. They're all part-time employees who are really busy with their real jobs. I'm not going to stand here and beg you not to ruin our business because some lobbyist I guess, ROC is trying to talk you into that. I don't really understand the concept of one fair wage when all of my tipped employees are guaranteed by the state and by us to make the minimum wage while they in fact make much more than that. They are required by law to be paid \$7.50 plus tips. This is far more than the \$2.13 federal wage required in some other states. I've heard mention that tipping causes sexual harassment which has never happened nor would it be tolerated in my restaurant. We have both men and women in front of the house positions, why try to

make this look like women are being victimized as servers. There has always been a delicate balance between the kitchen staff and the front of the house and that is actually salary fairness. Allowing the servers to make the same minimum wage plus tips would create a huge disparity. This is not wage fairness. My kitchen crew works really hard and they'd likely be ready to leave the kitchen if that were the case. Rather than dwell on these negative points, I'd like to list 3 simple facts; small towns are now being decimated by Wal-Mart and Amazon, few businesses can make a go of it in a small town. Restaurants followed by real estate offices and banks are the most likely to go into a town. Real estate values depend on the viable downtown area and the best way to keep property values up is to add good restaurants. Good schools are the number one reasons people choose a town followed by public space and a vibrant restaurant scene. Larchmont currently has a high store vacancy rate, no new stores opening up and many small family run restaurants surely will close if tip credit goes away. No one will argue that this is a tough business. Most of my employees are teachers and they work part-time to get some extra money to help their family. They've already let me know they're not going to be working Saturday nights or evenings if it goes to \$15. And you've forgotten the most important which is the New York Sales Tax that we provide to you guys every single month for just being open, you'll be losing that if I decide not to renew my 10 year lease. I hope when this bill comes up you will consider all the unintended consequences of this potential legislation.

Commissioner Reardon: Thank you. our last speaker of the evening who has waited patiently is Assembly Member Stacey Pheffer-Amato.

Stacey Pheffer Amato: Good evening. My name is Stacey Pheffer Amato and I'm a New York State Assembly woman representing the 23rd Assembly District. Thank you Commissioner Reardon and the entire New York State Labor Commission for allowing me to make my testimony today. Long before I was elected to the New York State Assembly, I like so many other New Yorkers spent time working as a server at a restaurant. It was definitely tough work but the reality was that the hours were flexible and I was consistently able to make extremely good money during my shifts. My coworkers were a mix of full time servers supporting their families, actors, musicians looking for a good wage while working part-time to finance their dreams, college students seeking to schedule shifts around their classes and every other personal story you could imagine. The one thing we all had in common however was that we made significantly more per hour than we would have at any other less flexible job and much more than minimum wage. As we are aware the reason we are here today is to solicit the feedback on a proposal to eliminate tip credit system and mandate that our servers and tipped employees be paid the full minimum wage which will soon be slated for \$15 an hour. And while this obviously sounds terrific and certainly the intentions behind such a proposal are good, the reality is that eliminating the tip wage will hurt struggling small businesses and ultimately have an unintended consequence of hurting the very servers they're intending to help. for restaurants which are already facing unprecedented high rents, food costs and increased labor costs in New York, this will represent tens of thousands of dollars in new wages they will need to pay for each of their servers. The restaurant owners I've spoke with have made it clear that this proposed increase is

unsustainable and it will lead to lay offs and in the most extreme circumstances shattered businesses which our local retail strips already littered with vacant store fronts cannot afford. For service this can mean fewer shifts, lower take home pay and in the worst case scenario lost jobs altogether. As you might imagine, servers are extremely concerned about what this loss of tip credit might mean for them especially since its very possible that some restaurants could do away with tipping altogether and simply pay them a minimum wage which, as noted above, would be a significant reducing over what they have been taking home now. The fact of the matter is that every single New Yorker being paid a tip wage absolutely unequivocally must be paid at least the full minimum wage. Again, it is the business owners responsibility to make up the difference if their wage plus tips don't meet that legal threshold. If an employee is not receiving this minimum wage then the business owner is breaking the law and should have the full weight of the DOL's enforcement division upon them. but to focus on eliminating the long time economically critical structure of the tip credit and thereby hurting the good guys, I'm going for it I've been here 4 hours. Rather than focusing squarely on good guys makes no sense. For restaurants to survive the tip credit must stay period. I do want to say thank you for being here so long.

Commissioner Reardon: Thank you. Thus endeth the hearing. Thank you all.