

*PUBLIC HEARING ON
SEXUAL HARASSMENT IN THE WORKPLACE*

*PROCEEDINGS
December 6, 2017*



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PUBLIC HEARING ON
SEXUAL HARASSMENT IN THE WORKPLACE

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2 Court Square, 2nd Floor
Long Island City, New York

December 6, 2017
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PUBLIC HEARING in the above-entitled
action, held at the above time and place, taken
before KAREN E. RIGONI, CSR, RPR, a Registered
Professional Reporter and Notary Public of the
State of New York.

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16 Employment Law Unit

17 Simone Pero, NYWIFT

18 Martha Kamber, The YWCA of Brooklyn, Inc.

19 Leah Rambo, Local 28 (Sheetmetal Workers) Union

20 Carey Castro, journey-level carpenter

21 Jeff Trexler, Fashion Law Institute at Fordham

22 Susan Scafidi, Fashion Law Institute at Fordham

23 Sara Ziff, Model Alliance

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1 A P P E A R A N C E S: (Cont'd)

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PUBLIC HEARING

DEAN BILEK: Good afternoon. Can you hear me?
My name is Mary Lu Bilek, and for the last year and a half, it has been my privilege to be the dean of the CUNY School of Law. My job is to welcome you here today.

In 1983, a group of progressive law teachers and progressive public interest lawyers asked the question: What would a law school look like if it was dedicated to making lawyers ready to practice? If it took seriously the obligation to diversify the profession, because that is our only hope for a civil society. And if it said it's okay for there to be one law school that's loud and proud about having a curriculum, a student body, and a faculty dedicated to creating public interest and social justice lawyers. (Applause.)

We were at that time in an elementary school drinking water out of fountains down here and getting books out of boxes in a gym. We moved here several years ago. And part of my job is to collect moments like this that fill this new building with the spirit of social justice and public interest with people who are dedicated to advancing the rule of law and making the world a

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2 more equal and fair place.

3 I am proud to tell you that we are ranked by
4 U.S. News as having the third best clinical
5 program in the United States. We have more women
6 on our faculty than any law school in the country.
7 We are the most diverse law school in the country.
8 And we graduate the highest percentage of public
9 interest lawyers of any law school in the country
10 trailed by more than 10 percent by number two.
11 (Applause.)

12 I can't think of a gathering that more honors
13 what we stand for than this hearing today
14 sponsored by the New York City Commission on Human
15 Rights. We are honored to have your commissioner
16 with us. She is a beacon to those of us who
17 know -- she reminds me every day of what it would
18 look like if we all took seriously the
19 responsibility that comes with the power that we
20 have to be publicly and out front an agent of
21 change. Thank you. (Applause.)

22 We are deeply honored to have in this room
23 today and so collected in the spirit of this
24 building for all times Congress Ember Eleanor
25 Holmes Norton. (Applause.)

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2 Her career stands as an emblem for all of us,
3 what a lifelong commitment to public service,
4 committed to deeply held values can mean and can
5 bring, and I'm just jazzed to meet her, and really
6 grateful that the Commission brought her to us in
7 this space.

8 I am going to sit down in a minute. I just
9 want to thank Professor Rick Rossein who helped to
10 bring this event to us. And his work started
11 many, many, many years ago, and he was an expert
12 on and a pioneer on issues like sexual harassment
13 in the workplace. We have among our faculty Judy
14 Golshide (phonetic) who is one of drafters of the
15 Violence Against Women's Act.

16 We have -- 61 percent of our students are
17 women against a national -- a national average of
18 51 percent, and 65 percent of our faculty are
19 women against 34 percent nationally, so these
20 issues are near and dear to our hearts.

21 I can't sit down before I tell you what a
22 moment it is for us to also acknowledge that among
23 the staff attorneys of the commission are 11 of
24 our alums. (Applause.) And among the people
25 whose testimony you will hear today are four of

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2 our alums. I feel like what our founders set out
3 to do is happening in a way that is making a
4 difference, and I thank you for creating this
5 moment. (Applause.)

6 MR. ROSSEIN: Can everybody hear me?

7 AUDIENCE: No.

8 MR. ROSSEIN: Oh, I just had to push it on.
9 Now can you hear me?

10 AUDIENCE: Yes.

11 MR. ROSSEIN: Dean Bilek, Commissioner, and I
12 guess I was going to welcome the panelists.
13 They're not quite here yet today.

14 I want to give a little shout out for one of
15 our former students and alums, Hollis Fitch
16 (phonetic) who is the deputy commissioner for
17 enforcement at the commission. (Applause.)
18 Already took away my one without the four other
19 alums who are testifying here today. So we
20 welcome all of you. And a special welcome to all
21 the people who are going to be testifying today of
22 their own stories of being targeted as sexual
23 harassment and their ideas about how to address
24 this epidemic of sexual harassment that we're
25 going through right now.

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2 I'm sorry, very sorry that my mom could not be
3 here tonight. She's going to be 100 in February.
4 And for those of you who may not know this, that's
5 before women had the right to vote she was born.
6 Last night she shared with me her own story of
7 sexual harassment. She graduated college at 20.
8 She was one of the few women in her class at
9 Brooklyn College. I'm here today teaching at CUNY
10 because of her opportunities. At that time, it
11 was free, free institution at all city university.

12 At 20, she graduated, she went to her first
13 job in Manhattan, and she said she was called in
14 the backroom by the boss who showed her something
15 very pornographic. And she said, I didn't know
16 what to do. I just felt uncomfortable. She had
17 the shared this story with me some time before and
18 forgotten that, but that's okay. The point is
19 that we know that sexual harassment is going on
20 for a long time.

21 For decades I've had the honor of representing
22 many women in sexual harassment cases, many women
23 who have been targeted, and these women are called
24 the tip of the iceberg. They were courageous to
25 come forward, but now we have to go below the sea

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1
2 and deal with what's below there. We know the
3 huge number of women -- 70 percent of women who
4 are sexually harassed simply do not even peep
5 about it because of the fear of retaliation and
6 punishment and career loss. And so we're here to
7 start trying to figure out what else needs to be
8 done.

9 I have the great honor and pleasure to
10 introduce an amazing national civil rights and
11 feminist leader, Congressman Eleanor Holmes
12 Norton. She was my first boss. So I wish for all
13 my students here today, you should only be so
14 lucky to be able to work with a fierce activist
15 lawyer. She was a tough boss. She yelled at me a
16 couple times. Her red pen went through my brief
17 many times. But I hope for you that you have a
18 similar experience.

19 Her accomplishments are so long and so deep
20 that I could spend hours. I'm not going to spend
21 hours doing that. She has served in Congress, I
22 believe, for almost 28 years now. And I'm just
23 going to tell a few short stories in terms of her
24 persistent advocacy of civil rights, but focus on
25 these issues at hand today. Sex discrimination,

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2 particularly sexual harassment.

3 Some of you may have seen the original series
4 from Amazon Studios where the actress Joy Bryant
5 plays Congressman Norton in 'Good Girls Revolt'.

6 It is set in 1969, what was happening. Well,
7 there was a cultural change in progress sweeping
8 the country, but many institutions and employers
9 and organizations were resisting and one that was
10 focused on in this movie had to do with Newsweek
11 Magazine. They were happy to hire really
12 outstanding women to be researchers but not
13 journalists. And many of the women, quite
14 frankly, thought, well, that was good enough.
15 They got this job. But others also wanted more.
16 Eleanor Holmes Norton, Congresswoman Norton,
17 represented that. And I believe, you could tell
18 me if I'm wrong later on, it was the first class
19 action sex discrimination case brought under the
20 1964 Civil Rights Act.

21 In any case, before representing the Newsweek
22 women, Congressman Norton was very much engaged in
23 the struggle for black freedom in this country.
24 For instance, she participated in the 1964
25 Mississippi summer fighting against virulent

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2 oppression against black people. And sits tonight
3 here at the law school, and I'm sorry that we all
4 can't share, a group of our students are involved
5 in what's called The Mississippi Project which was
6 founded many years ago by students, and those
7 students go to Mississippi every intercession to
8 work on civil rights issues, because Mississippi
9 is still a backwards state and needs a lot of
10 struggle in that area. And there is a program
11 here tonight, Rita and Bill Bender, who are civil
12 rights activists down in Mississippi in 1964 and
13 beyond are actually here tonight today, too.

14 Later as an attorney with the American Civil
15 Liberties Union, she represented Julian Bond. For
16 those of you who might remember, Julian Bond was
17 the head of SNCC, the Student Nonviolent
18 Coordinating Committee, which was a group of
19 revolutionary young people who really decided that
20 they were going to organize in different ways, and
21 they were all very courageous people.

22 Congressman Norton was the first woman chair
23 of the New York City Commission on Human Rights
24 from 1970 to 1971, and she was the first woman to
25 chair the Equal Employment Opportunity Commission.

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2 I believe she was appointed by President Carter in
3 1977. And as chair of the City Commission on
4 Human Rights, she held the first public hearing in
5 the country on discrimination against women, which
6 was -- you know, these hearings were amazing and
7 she was one who stirred up a lot of trouble. She
8 was a government agitator, a taxpayer. And they
9 produced such reports that one called the women's
10 role in contemporary society, the report of
11 New York Commission on Human Rights was actually
12 published as a book. Under her leadership, and I
13 worked on some of this, the commission
14 investigated racial discrimination employment
15 housing and they sent testers out to find out what
16 was going on. And I understand that's been
17 revised, so that's great, Commissioner, that you
18 are doing that, too. And guess what? One of the
19 developers that was found to be racially
20 discriminatory lived in Queens, and his name was
21 Trump, okay? In fairness to the current occupier
22 of the White House, it was his father, but he was
23 closely working with him.

24 As I mentioned, Congresswoman Norton was
25 appointed by President Carter in 1977 to head up

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1
2 the EEOC. And she and her staff were responsible
3 for setting the very strong foundations for the
4 development of sexual harassment of law. In 1980,
5 the guidelines of the sexual harassment were
6 published to inform everybody what was sexual
7 harassment.

8 As we have vividly seen over the last few
9 months, the laws and social and workplace culture
10 require profound structural changes to be able to
11 more effectively stop and prevent sexual
12 harassment.

13 I leave you with one more image before I bring
14 on this extraordinary person who is going to be
15 our opening speaker for this very important and
16 timely hearing, and this is the image. I hope
17 some of you have seen this. In 1990, what was
18 happening? Well, we had a hearing before the all
19 male, all white Senate Judiciary Committee, where
20 our hero third marshall was being replaced by a
21 man by the name of Clarence Thomas, and there was
22 a hearing, and of course you all know there were
23 allegations of sexual harassment by Professor
24 Anita Hill against him. She had worked for him
25 when he was the chair believe it or not of the

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2 Equal Employment Opportunity Commission, and
3 that's where the sexual harassment occurred.

4 And there was an attempt to shut her down and
5 to shut her supporters down. And I remember this
6 photograph of Eleanor Holmes Norton and five or
7 six other women literally charging up the capitol
8 steps -- you got to see this charge up the capitol
9 steps -- into the Senate chambers to the man that
10 Professor Hill be allowed to testify.

11 It is my great pleasure to bring this
12 charging, demanding woman and fierce advocate for
13 social justice, Congressman -- Congresswoman
14 Norton to the podium. (Applause).

15 CONGRESSWOMAN NORTON: Thank you very much,
16 Rick. I should stop and let you do your work.
17 And may I apologize if I yelled at you. That's
18 just my tone of voice when I'm trying to get
19 something done. I have to tell you, there's a lot
20 more yelling to do in the Congress of the United
21 States these days. (Applause.)

22 And I thank you, Rick, for how you laid out
23 some of my work. I thank Dean Bilek for being
24 here. And I especially thank the Chair of the
25 Commission, Carmelyn Malalis, because she is doing

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2 groundbreaking leadership work where it is most
3 needed today.

4 Yes, I come from Washington. That's where
5 leadership can come from. A lot of things you
6 should get in leadership on these days. But the
7 best leadership particularly on issues like sexual
8 harassment are not going to come from those of us
9 who are further from the people. When I was at
10 the OC, we used to say we're on the ground, and
11 that's how we know what's happening and that's why
12 we have hearings to tell us more about what's
13 happening.

14 So it is a very special pleasure for me to
15 leave Washington even on a Wednesday, the busiest
16 legislative day, to come to New York because of
17 the work. And I think it is path-breaking work
18 that the New York City under the chairwoman
19 Malalis is doing, and I thank you for that work.

20 I must tell you that when I was invited to
21 speak at a hearing of the New York City Commission
22 on Human Rights, I felt right at home. This is
23 certainly where I belong. And you're doing the
24 kind of work that I tried to do, and I must tell
25 you, it gladdens my heart to see the commission

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2 carrying on that kind of work today in this
3 environment at another time and another place, but
4 where it is particularly needed.

5 So whether in New York at the Commission or in
6 Washington at the EEOC or indeed in the Congress,
7 first, let me indicate how important the hearings
8 of the kind you're about to engage in are. They
9 were exquisitely important for the work I did at
10 the Commission and at the EEOC. If you don't hear
11 from the people, if you don't hear from those who
12 are affected, you cannot do your work.

13 Soon after I became chair of the New York City
14 Commission on Human Rights, you have heard that I
15 held the first hearing in the country -- that
16 late? -- on sex discrimination issues. Why is it
17 that -- that was, I mean, maybe almost 15 years
18 after the 1964 civil rights activist passe. Why
19 were there no hearings on women's rights? Well,
20 part of the reason is that we have a national
21 Equal Employment Opportunity Commission because
22 black people came forward and brought the issues
23 of racial discrimination to the country and
24 achieved the three great civil rights laws in
25 1964, Civil Rights Act including Title VII. It

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2 was my great honor to administer the 1965 Voting
3 Rights Act in the 1968 Fair Housing Act. That
4 didn't happen because government got some chime in
5 its ears to tell it what to do. It happened
6 because black people came forward.

7 So the Commission, and very often, even the
8 New York City Commission was responsive largely to
9 those who were responsible for getting the statute
10 in the first place. As you know, women were
11 literally thrown in at the last minute for Title
12 VII for the 1964 Civil Rights Act. And imagine
13 that, the notion that, well, you know, we know how
14 to avoid under Sandy after slavery and
15 discrimination for almost 400 years of
16 discrimination against black people. But wait a
17 minute, women are your children. Women are the
18 people that men sleep with every night. How come
19 you didn't know about that form of discrimination?
20 When I was at the New York City Commission on
21 Human Rights, I went into the city to say to
22 women's groups, where are you? Why am I only
23 receiving complaints from people of color? So,
24 yes, the burden is always going to be on those who
25 experience the offense, and women are taking that

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2 burden, and I am here this evening because the New
3 York City Commission on Human Rights has accepted
4 that burden.

5 And I want you to know that hearings even
6 before you engage in enforcement can promote
7 action. At our Commission, these commissions just
8 on women's issues and on discrimination, we heard
9 virtually every woman who was prominently involved
10 felt she had to testify. So we heard from people
11 from Burrell Saunders (phonetic) of the National
12 Welfare Rights movement and Dorothy Height of the
13 National Council of Negro Women to academic stars
14 like Margaret Mead and movement leaders like
15 Betty Friedan. That's just how novel it was to
16 have a hearing on women's issues.

17 You heard about a book that was published
18 after. It wasn't a book. It was a pocketbook.
19 It was so novel to have hearings on women's issues
20 that (inaudible) just took it under himself to
21 publish a pocketbook for wide distribution to be
22 sold to members of the public. It was called
23 Women's Role in Contemporary Society. So it tells
24 you how broadly based those hearings were.

25 Those hearings produced action. Four months

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2 after the hearings, New York state legislature
3 placed household workers under the minimum wage
4 law of New York state for the first time ever.

5 Hearings matter my friends. (Applause.) And I
6 believe these hearings will matter, because the
7 New York City Commission hearings are right on
8 time to produce important results.

9 They may or may not involve changes in law.
10 You already have a strong law. Today's hearings,
11 though, do show that the baton has been handed and
12 accepted to the enforcement agency to make sexual
13 harassment grayer. (Applause).

14 The Commission has taken hold of a very
15 difficult issue in the best way. They got to hear
16 from people. They got to know what they're
17 talking about. And when I say "know what they're
18 talking about," don't just assume because these
19 are experts at the New York City Commission that
20 they know what sexual harassment is. I mean, if I
21 were to go around this room and say: Define for
22 me what you think sexual harassment is. I'm sure
23 I'd get very different answers. And I'm convinced
24 that most men and women are not sure of what
25 sexual harassment is. There is work to be done

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2 here, friends. But the most work to be done is
3 going to be done, in my judgment, by agencies like
4 the New York City Commission because they are
5 closest to typical women who experience sexual
6 harassment where the spotlight has yet to turn.

7 Periodically, this is not the first time, the
8 national interest is stirred by accusations of
9 high profile figures, from Clarence Thomas to
10 Harvey Weinstein. Well, thank you very much. And
11 it's particularly stirred when that harassment is
12 said to have taken place in the palaces of power,
13 from the Supreme Court and Congress to Hollywood
14 and TV. These are places of ultimate power and
15 influence where women incur maximum risk in
16 alleging sexual harassment. Yet, I believe sexual
17 harassment is far more likely to occur in typical
18 workplaces involving typical men and women. We
19 will find out if we have more hearings like this.
20 I don't believe that the average high profile man
21 is going around sexually harassing everybody in
22 place. I do believe it's much easier to engage in
23 sexual harassment in workplaces that you and I
24 know.

25 The Commission hearings, therefore, do mark an

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2 important day for an enforcement agent stepping
3 forward themselves. The women who came forward
4 have shown great courage, and you've been reading
5 about them. They have not started a remedy for
6 themselves. Statute of limitations has long past
7 when these women came forward, but they have
8 rendered. These women, they are women we never
9 heard of before. They have rendered an important
10 public service by exposing a national problem that
11 had gone unattended because it floats beneath the
12 surface of human interactions. It is very
13 difficult to prove. No matter what happens, we do
14 still have due process in this country. That's
15 why the enforcement agencies cannot do this alone
16 and can't do it by enforcement alone.

17 Sexual harassment is not like other forms of
18 discrimination. It is mostly unwitnessed and
19 uncorroborated. It is personal and not public.
20 Therefore, it is very different from the other
21 forms of discrimination that we are all accustomed
22 to. Failure to hire. Failure to promote.

23 When I chaired the EEOC, the courts had not
24 even embraced sexual harassment as a violation of
25 Title VII of the 1964 Civil Rights Act. The

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2 reason is largely because the agency hadn't
3 embraced it. There were a few district court
4 cases and the courts didn't know quite how to deal
5 with this that didn't look like other forms of
6 discrimination. There was no Court of Appeals
7 case. Employers and employees alike had no idea
8 what these words meant. They weren't even coined
9 by the agency. I don't know where the words came
10 from.

11 So we thought the most important thing was to
12 do what the New York City Commission is doing
13 today, hold some hearings. Educate yourselves,
14 enforcers, and help educate the public at the same
15 time. Get the information, get the evidence, and
16 get it from all parties.

17 What resulted were the guidelines on sexual
18 harassment as a violation of the act and the
19 Supreme Court ultimately embraced those guidelines
20 where the Commission defined sexual harassment,
21 and to this very day they're used by the courts.
22 It's very interesting, when I came to the EEOC, I
23 thought, well, I got rid of a backlog of cases at
24 the New York City Commission on Human Rights, so
25 I'm going to get remembered, if at all, for

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1
2 getting rid of the backlog, a notorious backlog,
3 at the Equal Employment Opportunity Commission.
4 But I'm here to tell you that sexual harassment
5 guidelines overrode the backlog, and in the public
6 domain, sexual harassment guidelines became what
7 was important about my service.

8 At the Equal Employment Opportunity
9 Commission, women were hungry for official
10 recognition of this workforce plague and for
11 indication that something could be done about it.
12 You mean if a man comes and offers an unwelcomed
13 sexual advance, the law enables me to do something
14 about it, somebody ought to tell me so.

15 I do believe progress was made. Witnessed the
16 thousands of women who come forward today, but
17 only about 7,000 each year. Is that the sum total
18 of it? I don't want to speculate. I would hope
19 so. But think of who these women are. Think of
20 yourself. If you were harassed, if somebody
21 continued to come forward with an unwelcomed
22 sexual advance, the first thing you do to run
23 willy-nilly to the New York City Commission or to
24 the local office, and I see Electra Yourke who
25 worked with me both at the New York City

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2 Commission and at the EEOC and she's still at it
3 at EEOC local office. Is the first thing you do
4 is run to Electra or run to the New York City
5 Commission incurring the real risk about something
6 that had happened to you that nobody else saw and
7 nobody else knew anything about?

8 Remember, women who file those complaints at
9 the EEOC or the New York City Commission are not
10 seeking to expose a problem the way women have
11 done against President Trump, for example. They
12 are not seeking a scissile remedy. In fact,
13 they're seeking a remedy. They're not seeking any
14 revenge or any exposure. Something has happened
15 to them personally and they want a personal remedy
16 for an unwitnessed act. Try that one on for size.

17 Notwithstanding the sexual harassment
18 complaints that are filed in federal, state, and
19 local commissions by courageous women. I do not
20 believe that we have really begun to penetrate the
21 true extent of this problem. The Congress, I can
22 report this evening, is floundering. Last week we
23 past a bill -- dig this -- requiring posting of
24 employment discrimination rights and training for
25 members of Congress and staff. I'm pleased to

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1
2 report that the Congress of the United States
3 passed that bill. No applause. One hand clapping
4 is quite enough.

5 Look, I had already done that as a member of
6 Congress with my own office. I had already taken
7 the video. It's only a half hour video. Every
8 member could have done that. We didn't need the
9 leadership to say: Now it's the law, you must do
10 that. All you have to ask yourself is how come
11 that was not a part of what Congress did when it
12 added a whole slew of work including Title VII to
13 be applied to Congress? Why did they leave this
14 out? It shows you how much work needs to be done.

15 Yes, in the early '90s, we passed 13 laws
16 including Title VII to make them applicable that
17 long after the 1964 Civil Rights Act was passed to
18 members of Congress. Still Congress is not
19 covered by every workplace law. It is required of
20 other employers and I have a bill pending as I
21 speak in the Congress to bring Congress under
22 every workplace law that it imposes on every other
23 American. (Applause.)

24 And remember, Congress bought itself under
25 Title VII in the early 1990s only after -- here we

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2 go again -- a high profile scandal involving
3 Senator Bob Packwood just as it took
4 Harvey Weinstein and his scandal to spark concern
5 about sexual harassment today and to get us on the
6 House floor last week. So it is a fair question
7 this evening to ask: Are women condemned to await
8 episodic high-profile scandals as a way to get
9 attention to widespread sexual harassment in the
10 workplace of every sector of the American economy?
11 Yes, women have found strength in numbers, not a
12 movement, but individual women one after another
13 coming forward. But in turn, having done that,
14 they have now passed the ball to where? Well, I
15 think the ball is with legislatures like the
16 Congress and enforcement agencies like the
17 New York City Commission on Human Rights and the
18 EEOC. I see New York City has accepted the
19 burden. I can't say the rest. I can't say the
20 other powerful law enforcement actors have as yet
21 done so.

22 So no longer should it be one woman against
23 one powerful man. Anita Hill accusing Clarence
24 Thomas. Actually, it has become several women
25 accusing Roy Moore. That's progress when these

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2 women came forward one after another. And there's
3 not an American even in Alabama that doesn't
4 believe each and every one of them.

5 So what does this represent? Are we seeing
6 something different? I believe there has been a
7 cultural shift. You would not see women coming
8 forward in the way they are if there had not been
9 a cultural shift initiated by women. And you're
10 seeing something else which tells you there's a
11 cultural shift. Men, real men, are apologizing,
12 not denying the sexual harassment which has not
13 been witnessed.

14 Now, we know that there are notorious holdouts
15 like Donald Trump who's been accused of sexual
16 harassment by more than 20 women and continues to
17 deny it. He even denied what he said with -- that
18 was heard by the whole world on television. And
19 the holdout of note today is Roy Moore where half
20 a dozen accusers have cited everything from
21 pedophilia to aggressively seeking dates with
22 teenagers when he was a district attorney.

23 Increasingly, these are an exception to men
24 who are man enough to face up and apologize. This
25 cultural shift should pave the way for what the

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2 country badly needs to have happen next, and the
3 enforcement agencies can play a leading role here.
4 Women are doing their part. For those who have
5 the tools must now step forward as the New York
6 City Commission is doing this evening to do their
7 own part.

8 I don't come this evening, I regret to say,
9 with prescriptions or answers. I don't know what
10 they are. I regret that I won't be able to say to
11 healing what the witnesses have to say so that I
12 could carry it back to Washington. I will be
13 looking forward to a report for how it informs us
14 as to what we ought to be doing, because Congress
15 has just begun to have a series of hearings. You
16 don't even hear a you're welcome. So I have no
17 advice to offer to the states or to New York City.

18 In fact, if you think about it, not only on
19 sexual harassment, but for years now, increasingly
20 members of Congress have been looking to states
21 and cities who are closer to the issues for
22 guidance rather than the other way around. So
23 today the New York City Commission on Human Rights
24 is performing a public service and not alone for
25 New York. They are stepping forward to offer

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2 leadership from where we have every reason to
3 respect most people who are closer to the problem.

4 I am here, though, this evening to applaud the
5 role that New York City is playing as it has often
6 played. I'm going to be -- and that role is
7 looking the problem straight in the eye, then
8 becoming a leader to say to the rest of the nation
9 politely, see, that wasn't so hard.

10 So I thank the chair. I thank the Commission
11 for once again taking on the mantle of leadership
12 and as one member of Congress, let me say, I look
13 forward to following you. Thank you very much,
14 ladies and gentlemen. (Applause.)

15 MS. MALALIS: I'm Carmelyn P. Malalis. I'm
16 the chair and commissioner for the New York City
17 Commission on Human Rights. And I have to say yet
18 again, I'm so incredibly proud to welcome you back
19 to New York City to, Congresswoman Norton. You
20 know, I want to thank you for taking your time out
21 time to leave D.C. and for you to leave D.C. for
22 us tonight means a lot for us, but it also means a
23 lot for this city.

24 I think I just said this is a historic
25 hearing, and you have truly been an inspiration to

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2 me and my staff. I can't tell you how many times
3 your work and your legacy particularly in these
4 types of areas are referenced at the Commission on
5 Human Rights as we aspire to rebuild and
6 reinvigorate the Commission to fulfill its mission
7 that you've set out for in ensuring that all
8 New Yorkers are treated with dignity and respect.

9 I also personally want to thank you for paving
10 the way for me and many other women, especially
11 women of color, in public service. A lot of us
12 here are here because of the work that you have
13 done and I thank you for that. And folks in
14 public service know that no one person can
15 accomplish anything alone in public service. So I
16 also want to take a moment to thank our very
17 important partners here night without whom
18 tonight's hearing would not have been pulled
19 together so quickly or so swiftly. I want to of
20 course thank CUNY Law School and Dean Bilek,
21 Professor Rick Rossein and all of the CUNY law
22 staff for being such gracious hosts. I know that
23 you're all in the midst of wrapping up the fall
24 semester, so we thank you for accommodating us and
25 welcoming us here on such short notice.

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2 I also want to thank the New York Women's
3 Foundation and their staff for being our
4 co-sponsors tonight for providing logistical,
5 financial, and promotional support for this
6 hearing. New York Women's Foundation's
7 extraordinary commitment to economic justice and
8 safety and health for women and their families was
9 evident when it immediately agreed to partner with
10 the Commission on tonight's hearing, to give voice
11 to the diversity of women and other workers we're
12 going to hear from tonight across different
13 industries that have been affected by sexual
14 harassment in the workplace. So thank you.

15 I want to also acknowledge the presence of our
16 public advocate, Public Advocate Leticia James is
17 here. (Applause.) She's the first woman of color
18 elected to citywide office in New York City and
19 she's a fierce and unstoppable advocate for women.
20 I also want to acknowledge my colleague
21 Julie Menin. (Applause.) Julie Menin is the
22 commissioner of the mayor's office of Media
23 Entertainment. She has taken on the fight to
24 ensure that the theater, television, and film
25 industries are also held accountable in New York

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2 City and working with the city in making sure that
3 we make sexual harassment a thing of the past.

4 I also want to give a shout out to
5 Jacqueline Ebanks who's here tonight. (Applause.)
6 Jacqueline is the executive director of the city's
7 Commission on Gender Equity and a very frequent
8 partner for the Commission on Human Rights, so
9 thank you for being here as well.

10 So we're here. It's four years after the
11 first hearing on gender discrimination were held
12 in this country right here in New York City by the
13 Commission on Human Rights. And while it's no
14 longer remarkable that women lead city agencies or
15 the City Council or a public advocate or reach the
16 top tiers of many industries, we are still grossly
17 underrepresented in leadership in practically all
18 sectors. And it is no longer cute in those
19 sectors where the greatest wealth is generated and
20 concentrated in tech, in finance, in media and
21 entertainment to name just a few.

22 The lack of women in leadership in true
23 positions of power has facilitated and contributed
24 to the abuse of power by others that so often
25 leave women victimized, harassed, ostracized, and

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2 isolated preventing them from advancing in their
3 careers or escaping oppressive, often unsafe work
4 environments, and perpetrating a very intentional
5 cycle that serves only those in power.

6 We are here, however, right now experiencing
7 this watershed moment in women's rights movements
8 and the movement for social justice and civil
9 rights where women and men and nonbinary people
10 are bravely coming forward at no benefit to
11 themselves and, in fact, at much risk to share
12 their stories of sexual harassment and assault
13 across industries.

14 The wave of people like Tarana Burke, people
15 claiming the #MeToo, and others breaking their
16 silence has been steady and it's been unrelenting.
17 And it is my hope that tonight's hearing allows
18 even more voices to be heard, even more stories to
19 be surfaced. The power stretches out of existed
20 for so long to allow this behavior to persist for
21 in some cases decades to silence victims, to shame
22 victims, and to make victims believe they are
23 powerless, they are crumbling around us. Sexual
24 harassment is being exposed for what it is. It's
25 an abuse of power, an abuse of privilege. And it

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2 is being exposed with women leading the way.

3 While the entertainment industry dominates the
4 headlines, we know that low wage workers,
5 immigrant workers, domestic workers, LGBTQ
6 workers, and workers of color experience sexual
7 harassment at extremely high rates, and their
8 unique and intersecting vulnerabilities make it
9 even harder for them to assert their rights,
10 protect themselves, and demand justice.

11 We also acknowledge that sexual harassment is
12 not limited to the workplace. It occurs in
13 housing, it occurs on the street, in public
14 transit, in schools, in jails, prisons, in
15 immigrant tension, and in many other contexts.
16 But tonight we have chosen to focus on sexual
17 harassment in the workplace as a starting point,
18 but there are many more stories to tell.

19 We are here tonight to hear from workers and
20 advocates across industries, and despite our best
21 efforts to reach out to as many workers,
22 organizations, and advocates as possible in a
23 short amount of amount of time, we will not hear
24 from all industries where we all know that sexual
25 harassment is particularly pervasive. If you're

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1 asking yourself why isn't someone testifying about
2 the abuses in academia or news media? The answer
3 is likely that there's great hesitation coming
4 forward in speaking about one's own experiences in
5 industries in which people still hope to have some
6 future. This is of course a challenge workers
7 routinely face across all industries. And so
8 tonight we also acknowledge the bravery and the
9 power of the people who will be speaking here
10 tonight and to all who have shared their stories
11 over the past few months.

12 We want to remind you that you may still
13 submit written testimony to the Commission even if
14 you do not wish to speak here tonight. The
15 Commission will consider all written and oral
16 testimony as we formulate a report with
17 recommendations and findings. That written
18 testimony can still be submitted up through the
19 end of this month.

20 I also want to take a moment to note the
21 important involvement of our city's businesses and
22 employers. For true impacting real change cannot
23 be made without their commitment to eradicate the
24 sexual harassment. Indeed, the speed with which
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2 we put together this hearing was in part prompted
3 by the many calls and other queries that the
4 Commission on Human Rights received from New York
5 City's employers. People asking or entities
6 asking how can we do better? What should we be
7 doing?

8 So tonight we want to learn from you on how
9 the City can better address sexual harassment and
10 how we can work to dismantle the systems that
11 allow sexual harassment to continue with impunity
12 and hold harassers and those complicit with them
13 accountable. We want your input on how we can
14 advise businesses and employers to act
15 affirmatively and proactively. The New York City
16 Human Rights Law is one of the broadest and the
17 most protected antidiscrimination and
18 antiharassment protection in the country, and we
19 at the Commission are using it every day to ensure
20 that New Yorkers have access to justice.

21 But we know we can do better. We know we can
22 do more. We are here to learn from you about what
23 you'd like us to do. How can we do things
24 differently? How can we help you? And we look
25 forward to working with all of you towards that.

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2 To that end, I want all Commission staff to
3 please stand or identify yourselves, put your arms
4 up. People in this room should know that we serve
5 you. (Applause.) Please seek out Commission
6 staff members. You have to see us as a resource
7 and as a partner, and for you to do that, you need
8 to actually know who we are. You need to see that
9 there's actually human beings behind government.

10 In addition, we have several of our law
11 enforcement bureau attorneys here tonight.
12 They're over there. (Applause.) They're here.
13 If you have questions tonight, if you feel so
14 empowered tonight and you're considering bringing
15 a claim to the Commission, please come and speak
16 with them tonight.

17 Finally tonight, I'm honored to be joined by
18 my esteemed co-panelists who I'll introduce
19 briefly. Commissioner of the Department of
20 Consumer Affairs, Lorelei Salas. Commissioner
21 Salas has worked for over a decade enforcing
22 New York state labor laws, and now the DCA
23 oversees the implementation of key municipal work
24 laws.

25 Human Rights Commissioner Cathy Albisa.

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2 Ms. Albisa is the executive director of the
3 national economic and social rights initiative,
4 which she's worked for over a decade on human
5 rights abuses including in corporate supply
6 chains, and has led to the creation of the Fair
7 Food Program in the tomato sector which has been
8 lotted for, among other things, being one of the
9 most effective antisexual harassment programs for
10 low wage workers in the country.

11 Human Rights Commissioner Carrie Davis.

12 Carrie is a health and human services leader and
13 social worker committed to amenable change in the
14 areas of HIV, substance abuse, health care, and
15 human rights. She has worked extensively with and
16 served on human rights advisory boards and
17 planning committees for New York City and state to
18 develop guidelines, policies, regulations, and
19 best practices to better address the needs of
20 lesbian, gay, bisexual, and transgender people.

21 Gender Equity Commissioner Beverly Tillery.

22 Beverly Tillery is the executive director of the
23 New York City Antiviolence Project, an
24 organization that works to address and end all
25 forms of violence through organizing and

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2 education, and supports survivors through
3 counseling and advocacy. She's an experience
4 thought leader, advocate, and national organizer
5 with nearly three decades of experience working in
6 social justice movements.

7 We will be transcribing all remarks and will
8 be videotaping and web streaming the entire
9 hearing live on Youtube. As I mentioned, if you
10 have not already done so, we encourage you to
11 submit written testimony to the Commission by
12 sending it via e-mail to policy@CCHR.nyc.gov by
13 December 31. We're going to review all written
14 testimony and oral testimony to inform an upcoming
15 report that we will publish in 2018 the findings
16 and policy recommendations hopefully by industry.

17 Again, we thank you all for being here tonight
18 for this essential public hearing. I want to now
19 open it up to the first panel of individuals here
20 to testify. Thank you. (Applause.)

21 MS. WILLIAMS: Good evening, everybody. And,
22 first, I just want to thank the New York City
23 Commission on Human Rights for holding this very
24 important hearing on sexual harassment in the
25 workplace. Having met Tarana Burke and Anita

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1 Hill, I know I stand on the shoulders of greats.

2 And on that note, in Mrs. Hill's opening
3 statement on October 19, '91, when she testified
4 before the Senate Judiciary Committee, she spoke
5 about her encounter with sexual harassment and the
6 government workspace. She stated that what
7 happened to her and telling the world about it
8 were the two most difficult experiences in her
9 life. Well, my name is Nantasha Monet Williams,
10 and today I say #MeToo.

11 While all industries have grappled with sexual
12 assault and harassment, I find it prevalent to be
13 distinct in high-powered fields such as
14 entertainment, politics, and government. As a
15 person who has spent most of her professional
16 career in government, I have also unfortunately
17 been exposed to the discomfoting and disgusting
18 acts of sexual assault and sexual harassment in
19 the workplace. The media sometimes
20 sensationalizes these experiences, and that is
21 something I deeply wish did not occur. However, I
22 want to publicly condemn the unwanted advances,
23 the elongated stairs, and the hugs which were too
24 tight and lasted too long.
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2 Upon my initial admittance into government, I
3 felt that my quick success was attributed to my
4 diligence and brilliance. I soon realized that
5 many of my colleagues did not feel the same. Some
6 did not see me or appreciate me for my hard work
7 or intellectual contribution. There were those
8 who saw me as eye candy, as possible instant
9 gratification, someone who is young and naive and
10 eager to climb the ranks by any means necessary.
11 "Wet behind the ears" as what they call it. I
12 often thought that maybe it was something I might
13 have said or an outfit I may have worn. This
14 began to strain my working situation. As people
15 who I felt should be trusted colleagues began to
16 make inappropriate comments and sexual
17 suggestions, some subtle and some not so subtle
18 but all wrong and inappropriate.

19 As a woman, it is easy to blame yourself
20 because that is what the culture has taught us.
21 It is easy to be silent and give people a pass
22 because you are afraid that speaking up or telling
23 them "no" may jeopardize your professional growth.
24 This has caused me to be pressured in socializing
25 in ways that I did not want to, and to deal with

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2 conversations which made me uncomfortable,
3 essentially normalizing the behavior.

4 My story as unfortunate as it may be is also
5 unfortunately not unique. As one of the national
6 organizers of the Women's March in Washington
7 early this January, I have traveled to various
8 states and have heard a number of accounts from
9 powerful women who felt less than because of the
10 feelings which surfaced due to unwanted sexual
11 advances, picture messages, and other horrifying
12 occurrences which they experience from their
13 supervisors, their subordinates, and their
14 colleagues alike.

15 I have been told that the right thing to do is
16 to push back and to check folks. Let them know
17 that you will not allow professional and social
18 lives to be nixed and will not allow someone to
19 degrade you through sexual assault and sexual
20 harassment. The truth is that it is difficult to
21 do so in politics and in government. Sexual
22 innuendos and unwanted flirtatious atmospheres in
23 the workplace have been normalized for far too
24 long for both men and women. It wasn't until
25 hearings and #MeToo stories that many people began

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2 to realize how much they, we as a society have
3 actually normalized certain behaviors. That has
4 been my story. Dealing with unwanted
5 conversations, text messages, and e-mails. That
6 has also been the story of so many other people.

7 I think of a very good friend of mine, a young
8 black man in government who has discreetly shared
9 stories with me of him facing unwanted sexual
10 advances by women in the workplace, sometimes
11 physical and sometimes verbal. And when he was
12 denied such advances, having his sexuality
13 questioned and his professional growth and upward
14 mobility threatened.

15 That is why hearings such as this one where we
16 allow women and men to speak their truths is so
17 important. Although, we see that these sexual
18 advances are happening more with women, we know
19 that it is also about power. So that we can shed
20 light and address this disease which plagues our
21 society, so that people all over in politics,
22 government, construction, schools, restaurants,
23 athletics, and all industries know that sexual
24 harassment is not to be accepted and that they are
25 not alone, we all are not alone, it is okay to say

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2 no and I know must be respected. Thank you.

3 (Applause.)

4 MS. JAMES: To the Chair, to the Commission,
5 to the Panel, first let me begin by saying I
6 applaud Senator Gillibrand today for her
7 announcement urging the resignation of Senator
8 Frankel and I join her in that.

9 My name is Letitia James and I'm a public
10 advocate for the City of New York. In the post
11 #MeToo era, the whole world now knows what women
12 have known since we first set foot in this
13 workplace, since we first went to school, since we
14 were old enough to understand the differences
15 between right and wrong.

16 Sexual harassment is pervasive, it's
17 corrosive, it has been a silent roadblock on the
18 road to career growth for generations. Up to
19 85 percent of women report today that they have
20 been sexually harassed at work according to a 2016
21 report by the Equal Employment Opportunity
22 Commission. We know this. What we do not know,
23 what we can never know is what we have lost.

24 How many women were forced to quit jobs or
25 pushed out of careers they excelled at? How many

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2 women left entire industries? How many women have
3 shelled their ambitions, their hopes and their
4 deems? Lost their livelihoods because of
5 retaliation? How many billions of dollars in
6 productivity were lost due to toxic workplaces?
7 How many inventions were never invented and
8 companies never started and ladders never climbed
9 and glass ceilings never cracked? We just don't
10 know. We will never know.

11 What we do know is that sexual harassment
12 pervades every industry at every income level for
13 every race and sexual identity across the
14 political spectrum from the White House to the
15 halls of Congress. And one New Yorker who
16 contacted my office was harassed at a restaurant
17 job by co-workers because of her sexual
18 orientation. The ongoing harassment caused her so
19 much stress that she had a panic attack and
20 blacked out at the restaurant. Her doctor told
21 her that it was likely the high state of anxiety
22 that caused her to black out. She received a
23 large bill from the hospital she cannot afford to
24 pay which has increased her anxiety levels even
25 more. This is the one of the millions of untold

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stories.

So we have a responsibility to do better to protect workers like this, New Yorkers whose jobs are at risk, whose health is at risk, whose financial security and futures are at risk. You can't live in a world where the only way harassers are held accountable -- are accountable is if they are famous enough to merit news coverage. Until women are paid the same for the same work, until women's health care is simply viewed as health care, until we can stop counting on one hand the number of women in board seats, in CEO positions, until maternity leave is a right and not a privilege, until every women I know has more stories of empowerment than harassment, gender equity will continue to be important. We need to hold companies and individuals accountable even if their names aren't splashed across the front page.

We need to get rid of forced arbitrations that women are harassed and viewed, they are free to speak out and seek legal remedies in court and this horrendous behavior can be put to a stop. We need more transparency and oversight, overdisclosure agreements which are often used to

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2 cover up sexual harassment or sexual
3 discrimination, and we also need more women to run
4 for office. We should consider mandating at least
5 one dedicated HR professional for all companies
6 over a certain size. We should also have
7 diversity officers and diversity trainings at all
8 city agencies including the department of
9 education.

10 I strongly commend the Chair and the New York
11 City Commission on Human Rights for their
12 extremely progressive stance on what constitutes
13 sexual harassment and the record level monetary
14 damages they secured for complainants who were
15 subjected to sexual harassment in the workplace.

16 But since I was invited to come here and make
17 suggestions, I would add the following to my
18 praise. CCHR should do more outreach both to the
19 broad public and employment attorneys that might
20 be less familiar with the Human Rights Law and let
21 them know that CCHR is very much open for
22 business. I would also recommit focusing on
23 additional staffing for the next round of agency
24 budget request. And every violation of the human
25 rights law is important and time sensitive, but

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2 rapid resolution of workplace, sexual harassment,
3 and discrimination is among the most pressing.

4 I also suggest dedicating more resources to
5 offering substantive training on sexual harassment
6 and help to small and midsize organizations
7 seeking to develop clear antiharassment policies.
8 This includes non-for-profit as well as for-profit
9 organizations. This sort of training offered by
10 large firms can be costly prohibitive for a lot
11 smaller midsize employees out of CCHR is well
12 suited to help fill that void possibly alongside
13 small business services.

14 Finally, it would be great to do more with
15 bystander training so many careers can be saved
16 and only victims didn't feel so alone. I was
17 heartened to see that Time Magazine's person of
18 the year on the silence breakers seeking out
19 against sexual harassment instead of keeping quiet
20 about these assaults and unlawful acts, but they
21 spoke out and spread the word to harm others and
22 try to stop future attacks.

23 I want to thank the Commission for holding
24 this important hearing today to show these other
25 women and workers that the government is here to

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2 protect them and to ensure that justice is done
3 and that perpetrators are stopped. I would be
4 remiss if I didn't thank the Commission today for,
5 again, inviting us to the forum, one of my
6 heroes, Congresswoman Holmes Norton, who I
7 studied law school along with the late
8 Congresswoman Barbara Jordan. To her and to all
9 of those whose shoulders I stand on and the
10 countless women who are here in this room, we will
11 not tolerate, we will not normalize sexual
12 harassment from the White House, again, to the
13 halls of Congress and we will not allow our rights
14 to be eroded in Washington. We do that in honor
15 of the women's whose faces were flashed on the
16 screen before us. They include Mrs. Coretta Scott
17 King, the late Shirley Chisholm and Gloria
18 Steinem. It is in their honor and their tradition
19 that we will continue to fight to resist. Thank
20 you. (Applause.)

21 MS. MENIN: Good evening. I'm Julie Menin,
22 Commissioner at Mayor's Office of Media and
23 Entertainment. And I really want to thank the
24 New York City Commission on Human Rights for
25 hosting this important and incredibly timely

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2 hearing on sexual harassment in the workplace and
3 thank you for the opportunity to testify this
4 evening.

5 So as everyone who keeps up with the news
6 these days knows the media and entertainment
7 industries have been rocked by multiple reports as
8 sexual harassment, misconduct, and even assault on
9 the part of famous and powerful men in recent
10 months, weeks, and days, and we obviously feel
11 there will be more to come in that regard.

12 Many are calling this a watershed cultural
13 moment and one that is empowering women and other
14 victims of sexual misconduct to speak out about
15 experiences that were once kept secret and swept
16 under the rug. The fact that victims are breaking
17 the silence about these horrific events is clearly
18 a crucial first step. But quite honestly, now the
19 question is now what? At the Mayor's Office of
20 Media and Entertainment we have been acutely aware
21 of the underrepresentation of women in the film
22 and television industry since well before this
23 season of bombshell revelations. As we believe
24 this underrepresentation particularly in positions
25 of power in the film and entertainment industry as

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2 well as in the news media is deeply intertwined
3 with the problem of sexual harassment and
4 misconduct.

5 For the last 20 years, according to a recent
6 white paper by the Women's Media Action Coalition,
7 the percentage of women in key positions in the
8 top 250 films has remained exactly flat at
9 17 percent, never having reached more than
10 19 percent. This is despite the fact that women
11 make up 50 percent of film school graduates. In
12 prime time television, the numbers are honestly
13 not much better. Women have not succeeded in
14 breaking the 30 percent mark in key positions.

15 This lack of women in decision making and
16 green lighting positions has everything to do with
17 the kinds of stories that are told and how women
18 are represented on the ubiquitous screens that we
19 and our children are increasingly watching.

20 Only 29 percent of leading characters in top
21 grossing films are women despite the fact that we
22 are 51 percent of the population. Women of color
23 are even more scarce on screen. Of the leading
24 characters who are women, only 4 percent are
25 African-American, 4 percent are Latina, and

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2 2 percent are Asian. With men doing the lying
3 share of the creating and greenlighting of shows
4 and movies and men dominating so many writers
5 runs, women are frequently portrayed in
6 stereotypical and often highly sexualized fashion.

7 Women are rarely depicted in positions of
8 power on screen. A third of women that are on
9 screen and on TV are often times, according to
10 studies, shown in provocative clothing, while just
11 8 percent of men are. The Women's Media Action
12 Coalition reportedly found that female actors
13 actually peak, what they're calling peak, at
14 age 30, meaning that that is a prime time when
15 they're offered the most role. Where their man
16 counterparts are so-called peaking at age 46.

17 There are twice as many male characters over
18 50 as women on TV and on screen. Also, female
19 characters also get killed off more frequently
20 than men. This misrepresentation of women and
21 the, quite frankly, obsessive attention to women's
22 looks over their intelligence or their abilities
23 has dire consequences for all of us certainly.
24 But most particularly especially for girls and
25 women who are forming their identities and their

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2 aspirations. It is no stretch to say that it
3 contributes in no small part to culture of sexual
4 harassment.

5 Quote, media creates consciousness and is what
6 gets put out there that creates our consciousness
7 and determined by men who are not going to make
8 any progress. That quote was by Jane Fonda and
9 she said it in a documentary called
10 Misrepresentation, or more succinctly from the
11 same film, You Can't be What You Can't Say.

12 Men also dominate the news media across all
13 platforms according to the Women's Media Center's
14 latest report on the status of women in media. It
15 found that 20 of the nation's top news outlets,
16 men produce 62.3 percent of news reports analyzed
17 during a study period, while women produce
18 37.7 percent of news reports. Additionally, in
19 the broadcast news sector alone, work by women
20 anchors, field reporters, and correspondence
21 actually declined falling to 25.2 percent of
22 reports in 2016 from 32 percent in prior years.

23 A little more than a year ago in September
24 2016, our office announced a five-part initiative
25 targeting the underrepresentation of women both on

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2 and off camera. We became the first municipal
3 agency in the country to address the stubborn
4 gender inequity problem in film and television.
5 The initiatives included a \$5 million fund that
6 will provide direct grants to support film and
7 projects by, for, and about women; pitch workshops
8 for women filmmakers and film financing contracts
9 connecting women filmmakers with financing for
10 their projects; and a screenwriting contest for
11 scripts written by, for, and about women. And two
12 finalists in that competition have now had their
13 pilot episodes made by diverse women-led crews at
14 the Feirstein Graduate School of Cinema. And one
15 of those two pilots will be Green series on NYC
16 Life which is our flagship channel.

17 And speaking of NYC Life, we've created an
18 inspiring block of programs featuring women. We
19 created a new show called 'Her Big Idea' profiling
20 women entrepreneurs. It's our highest rated show.
21 And we also greenlit a new series called 'The
22 Vanguard' featuring women in media.

23 Clearly there is demand to see strong women in
24 decision-making roles. If you film it, they will
25 watch. Much more -- and I'm wrapping up. Much

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2 more needs to be done -- I'm sorry, last
3 sentence -- much more needs to be done and can be
4 done with change a narrative of women working in a
5 male dominated and media entertainment field.

6 To quote Katie Couric: The media can be an
7 instrument of change, it can awaken people, and
8 change minds, but it all depends on who's piloting
9 the plane. Thank you. (Applause.)

10 MS. HONG: Hi, good evening. My name is
11 Amy Hong and I'm an attorney with the Legal Aid
12 Societies in Employment Law Unit. We want to
13 thank Commissioner and Chair Malalis and the
14 partners and the Panel for hosting this hearing as
15 it's very timely.

16 Victims of sexual harassment should know that
17 civil rights agencies support them and can
18 reenforce your employer that any unwelcomed sexual
19 behavior will not be tolerated. At the Legal Aid
20 Societies Employment Law Unit, we represent low
21 wage workers, primarily immigrant workers who have
22 various claims against their employers in state
23 and federal court and as well as in the local and
24 state and federal agencies.

25 The flood of sexual misconduct allegations in

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2 recent weeks has come largely from women in white
3 collar professions. However, low wage workers are
4 often the most vulnerable workers, and are,
5 therefore, less likely to speak out. Low wage
6 workers can't afford to lose their jobs.

7 Moreover, often low wage workers don't speak
8 English and don't know the procedure for reporting
9 abuse. Sometimes they are immigrants and their
10 status to be in this country is dependent on their
11 employer. Sexual harassment is about an imbalance
12 of power between the harasser and the victim. And
13 the more vulnerable the worker, the more egregious
14 the sexual misconduct can be.

15 In a case of mine, the facts are
16 straightforward. My client is a single mom and
17 sole supporter of her young child, worked as an
18 officer manager in a small office and endured a
19 campaign of harassing, sexual, harassing physical
20 behavior by her direct supervisor and owner of the
21 company. Her boss hit her on the buttocks,
22 likened her to a cartoon character from a
23 newspaper depicting a highly sexualized woman
24 which he hung by the office copier, and publicly
25 compared her to a swimsuit model in the swimsuit

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2 addition of Sports Illustrated. He also hugged
3 her and licked her neck. He would offer to rub
4 her chest when she had a cough and say that sex
5 helps with headaches and offered to help her with
6 that.

7 Time and time again my client would respond to
8 her supervisor's harassment by saying "no thank
9 you, please don't say those things to me. That's
10 disrespectful." Despite her objections, her
11 supervisor continued his behavior. She endured as
12 much as she could because her livelihood was on
13 the line, but eventually she quit her job feeling
14 powerless in her position and unable to stop her
15 supervisor from harassing her.

16 This is just one example of the many clients
17 we represent who want to work in peace but are
18 sexually harassed in the workplace. Many of them
19 are afraid to complain because it would be at the
20 cost of potentially losing their employment and
21 their ability to support their families.

22 In this particular case, the client came
23 seeking assistance claim insurance, was unfamiliar
24 about what her rights were to be freed from sexual
25 harassment in the workplace. We had to educate

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2 her about what the options that were available to
3 vindicate her rights as many low wage workers do
4 not have access to such information when the
5 harassment begins. And we know that the
6 Commissioner has done a great campaign -- public
7 campaign to educate workers about their rights in
8 the workplace, and we encourage the Commission to
9 continue that and to specifically allocate and
10 increase resources to target employers where there
11 are higher incidents of sexual harassment or
12 vulnerable low wage workers.

13 Also, in this case described, the harasser was
14 our client's supervisor, HR rep, owner of the
15 company all wrapped into one. Thus, he was the
16 individual with the ultimate power in the
17 workplace. Our client had nowhere to complain to
18 her -- nowhere to complain to her employer outside
19 of her perpetrator.

20 A victim of sexual harassment should have
21 multiple avenues in which to file a safe
22 complaint. Ideally, employers should be required
23 to provide different points of contact and a range
24 of methods for a victim to complain, even
25 anonymously if they wanted to. However, for a

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2 small employer in the case I just described, there
3 are not many places where a victim can safely
4 report. Because of this problem, we encourage the
5 Commission to develop a hotline specifically for
6 sexual harassment victims who are still on the
7 job. This would provide employees with a method
8 of complaining and their ability to ask for
9 immediate assistance.

10 Once an internal complaint is made, a company
11 should do an investigation to the allegations.
12 However, for small employers, a thorough and fair
13 investigation is unlikely. The Commission can
14 step in and conduct investigations and response to
15 complaints received on its hotline. Although the
16 Commission already conducts investigations
17 involving violations of the Human Rights Law, we
18 would encourage the Commission to develop a
19 specific unit to handle harassment and retaliation
20 complaints on an expedited basis, especially for
21 those who are still on the job. Early
22 intervention can stop further harassment from
23 continuing in the workplace and can save a job by
24 preventing any retaliatory behavior.

25 The Commission could of New York State's

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2 Department of Labor as a model for their
3 antiretaliation unit steps in right away to warn
4 of repercussions for violations of the law.

5 Again, this would only be current employees of
6 investigation or intervention occurs on an
7 expedited basis.

8 The employment laws are designed to protect
9 workers. They are useless unless they are
10 enforced. Although resource consensus sexual
11 ramification should filed and litigated, funding
12 should be made available to the Commission and
13 legal services organizations to pursue these cases
14 for low wage workers. We would encourage the
15 Commission's affirmative litigation unit to also
16 litigate egregious sexual harassment cases in
17 court on top of the City of New York. In
18 addition, we would encourage to -- we would
19 encourage the Commission to allocate additional
20 resources to mediation programs so that where to
21 resolve this can be done promptly.

22 While the City of Human Rights Law provides
23 some of the protections of any law in the country,
24 it excludes one group of workers, employers less
25 than for employees. Thus an employer with less

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2 than four employees can sexually harass their
3 employees without any accountability. The City
4 should not allow this type of discrimination and
5 should eliminate the four employee requirement for
6 coverage under the Human Rights Law which many
7 jurisdictions have done.

8 Further, the city could enact legislation that
9 would require any sexual harassment cases that
10 settle after a complaint is filed to be approved
11 by the Court or the Commission. Like unpaid wage
12 cases under the Federal Fair Labor Standards Act,
13 settled cases involving sexual harassment claims
14 should be publicly available. This will increase
15 awareness and potential claims for employees and
16 deter harassment by employers.

17 We thank you for hearing us and these
18 suggestions.

19 MS. MALALIS: One, I'm wondering if the Legal
20 Aid Society, to your knowledge, have you seen any
21 changes in, say, the past few weeks specifically
22 on sexual harassment?

23 MS. HONG: You know, I don't monitor the -- we
24 do have a hotline which is live and active where
25 you reach a live person three days a week, and I

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2 don't monitor that. You know, we have been seeing
3 more over time, but I wouldn't be able to quote
4 you any statistics at this time, but I can get
5 back to you with that information.

6 MS. MALALIS: Great. And I'm also wondering
7 how often the Legal Aid Society has to turn people
8 away because of the statutory limit of four
9 employees or more?

10 MS. HONG: I don't know that information, but
11 I can get back to you as well.

12 MS. SALAS: Just a quick question For this
13 unemployment insurance issue.

14 MS. HONG: That's right.

15 MS. SALAS: How common is it that you have low
16 wage workers come to you for issues like that,
17 then you find they are --

18 MS. HONG: It's very common. You know,
19 they'll come to us and they say, you know, oh, I
20 need some sort of monetary assistance to get me
21 through this firing or this layoff, you know,
22 until I find my next job. They come and they, you
23 know, are experiencing difficulties in their
24 application for unemployment insurance and they're
25 denied. We represent them in a hearing. And many

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2 times, you know, we uncover many violations of the
3 employment -- various employment laws and it's,
4 you know, our job -- we work with them, we educate
5 them, we talk to them about what the law states,
6 what their rights are, and what their options are
7 in pursuing their claims in court or within the
8 local or state, federal agency.

9 MS. MALALIS: Thank you.

10 MS. ALBISA: I was going to ask you if you
11 have any further suggestions around retaliations
12 as one of the, you know, biggest obstacles --

13 MS. HONG: Sure.

14 MS. ALBISA: -- moving these cases forward.

15 MS. HONG: Right. And we in the employment
16 law unit, we file and work closely with the State
17 Department of Labor and they have recently
18 developed this antiretaliation unit. And the
19 director of the unit, you know, when we bring a
20 complaint to her and we say, this is what's going
21 on, these are the threats that are being made,
22 this is what's happening in the particular
23 workplace, she will get on the phone and she will
24 make a phone call to the employer and she will
25 say, this is what the law is. You know, if you

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2 continue to behave in this way, you know, that
3 would be considered retaliation and there's
4 consequences of that.

5 I mean, I think she's been very effective and
6 that's something where I think it scares
7 employers, right, to receive a personal phone call
8 from an agency, and I think this is something that
9 the Commission could do to step in right away
10 especially, you know, on behalf of workers who are
11 in the job, you know, you can really make a
12 difference in saving the job, right?

13 MS. DAVIS: My question's more general to all
14 the people who've spoken so far. But for victims
15 of this, how can we support them as they go
16 through this process? Because it feels, to me,
17 like that's one of the major barriers other than
18 financial support, but emotional support, this is
19 probably a very re-traumatizing process for them
20 to experience.

21 MS. HONG: Yeah, it takes a lot of courage for
22 victims to speak out. You know, they're talking
23 about their personal experiences and it's hard for
24 them to pursue, you know, their claims publicly.

25 But I think, you know, on the other side of

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2 that, you know, victims are often empowered, too,
3 you know, knowing that the law is on their side
4 and they can vindicate their rights. And I think
5 that's where the enforcement is really important
6 and the civil rights agencies can stand behind
7 them and show their support. Thank you.

8 MS. PERO: Hi, good evening. Commissioner
9 Malalis and Members of the Commission on Human
10 Rights. I'm Simone Pero, President of the Board
11 of Directors of New York Film and Television,
12 NYWIFT. Been a longtime professional in New
13 York's media and entertainment industry. On
14 behalf of NYWIFT, we greatly appreciate you for
15 today's hearing and appreciate the opportunity
16 to offer testimony.

17 NYWIFT is the (inaudible) entertainment
18 association for women in New York advocating for
19 equality in the movie industry and supports women
20 in every stage of their careers. With more than
21 2,200 members of both men and men, our workforce
22 recognizes women's achievements, professional
23 programs and providing grants and scholarships.
24 NYWIFT is part of a network of 50 women worldwide
25 representing more than 10,000 members. We have

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2 been making a positive impact on women's careers
3 for 40 years and our work is now more critical
4 than ever.

5 Although we've been recently shaken by
6 numerous high profile sexual harassment incidents,
7 to NYWIFT and to so many of our members, this type
8 of behavior, while it's appalling, it's anything
9 but breaking news. Such stories of gender,
10 sexism, harassment have been pervasive and
11 occurring for decades in our industry no matter
12 what our job, level, or position.

13 Frankly, there's little discrimination when it
14 comes to who can be harassed. For us, sexual
15 harassment is ubiquitous. It happens on film and
16 television locations, in edit suites, in screen
17 cinemas, at client meetings, in corporate
18 boardrooms, at trade conventions, business/social
19 events and office settings. It can range from a
20 subtle unwelcome overture to the most overt
21 offense. Add in the fact that working in
22 entertainment typically brings long hours and
23 weekends and spending extensive amounts of time
24 with co-workers and crew in sometimes casual and
25 close settings. Plus our business by its nature

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is people facing and largely based on interpersonal relationships and power dynamics. It's also highly where competition is high for a limited amount of jobs.

While this industry may be distinctive, the challenges and concerns of our culture and the reporting system of sexual harassment is not. Many times if an inappropriate or abusive behavior incident occurs, there's a longstanding culture of silence and an unsupported reporting system that significantly deters women from coming forward. Fear of retribution from managers and peers involves job opportunities and career advancement are powerful deterrence. In addition, women's pay and equality has also led to a collection of women being treated differently on the job, undervalued, and often sexualized making harassment a vicious part of the cycle.

Therefore, today we submit three action steps to lead to systemic and cultural change and to secure our rights to work in a hostile free environment. First, acknowledging that a large portion of the production of the related work force throughout the New York tri-state area are

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2 employed as freelancers is imperative. These
3 freelancers also work for a small to midsize
4 productions in noncorporate work environments.
5 Therefore, we advocate for the development of the
6 fundamentals. Written standard operating
7 procedures around sexual harassment that covers
8 all types of crew and staff. These SOPs would
9 include an effective and improved reporting
10 structure, an investigative body and a much needed
11 enforcement system. We also propose creating a
12 toolkit of education and training resources and an
13 onset of sexual harassment policy posting with a
14 resource member.

15 Second, we propose mandatory sexual harassment
16 training for all managers. This prevention and
17 reporting focused training would be empathetic to
18 those disclosing and take into account
19 psychological, cultural, and social factors that
20 play a very large role in the prevalence to sexual
21 harassment. It would facilitate a broken line of
22 proactive communication among employees and be
23 interactive and relevant to the experience of
24 working in film and television.

25 Third, we propose the creation of large

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2 citywide public service announcement campaign that
3 provides the resource to educate and raises
4 widespread awareness of the issue. As one of the
5 most prominent public advocates for women in
6 New York, NYWIFT would welcome the opportunity to
7 work with the city on the creation of production
8 (inaudible) using our vast talented women writers,
9 directors, cinematographers, editors, and so on.

10 Additionally, we recommend the creation of a
11 task force to expand our strategies and solutions
12 representing a diverse mix of women and men from
13 all media and entertainment labor organizations
14 across the city, perhaps even as part of a
15 committee within larger state municipal
16 organization.

17 So in sum, although sexual harassment and
18 discrimination have been a problem from time and
19 memorial and there's a rightful outrage at the
20 present moment, a seismic shift is occurring on
21 how women, all women, are perceived and treated in
22 our workplaces. Our approach is to encourage
23 dialogue, provide tools and knowledge, and to
24 foster compassionate, conclusive communications.

25 So as responsible citizens of New York and

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2 representatives of the most influential industry
3 in our culture, we encourage an open, holistic
4 approach and to up level our discussion around
5 this issue. We welcome the opportunity to work
6 with you and to ensure that all women in media and
7 entertainment work in healthy, equitable, and safe
8 environments. Thank you. (Applause.)

9 MS. MALALIS: Just a few questions. You know,
10 I admit that I'm not as familiar with your
11 industry as I am with some background, not as
12 familiar with film and television.

13 You know, prior to kind of this current
14 historical moment, have there been attempts by
15 industry groups to create some method of -- I
16 mean, it seems widespread, everything we hear in
17 the media, we what read, it seems so widespread in
18 the industry. It always sounds like this dirty
19 little secret everybody knows about is there.
20 Have there been other industry attempts by, you
21 know, not-for-profits in film and television to
22 create something to address this that have just
23 been kind of, you know, put under the radar or put
24 down? I ask this question just because I
25 personally am not familiar with any history of

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2 folks trying to come around in your industry to
3 address this even though it's so widespread.

4 MS. PERO: Right. Right. And what has
5 happened -- and I will get back to you with more
6 specifics on organizations. But the net
7 television networks, studios, so the large
8 corporations have been addressing it through human
9 resource departments and their policies and
10 procedures. But what we are also seeing is that
11 so much of production happens on smaller -- in
12 terms of the freelance environment, and those
13 systems are not in place, so that's where there's
14 been a disconnect.

15 But then also even if there are these policies
16 on larger productions and corporations, this
17 industry has been just ramped with whisper
18 network. And fear of retribution is tremendous in
19 the entertainment industry and whether you've --
20 we've had stories of -- countless stories of my
21 peers that have reported to their supervisors, and
22 the person that did the harassing was to then --
23 just moved over to another production, and so
24 we've heard many, many examples of that. And so
25 that whole cycle hasn't fully been addressed.

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2 And this is why we're here today to really
3 work with you and also say that we like to help in
4 this discussion.

5 MS. MALALIS: Thank you. (Applause.)

6 MS. KAMBER: Good evening. Thank you for the
7 opportunity to testify today. Thank you,
8 Commissioner Malalis, for your vision and your
9 leadership in this event. My name is Martha
10 Kamber. I'm the CEO and President of the YWCA
11 Brooklyn which is the largest and oldest
12 organization serving women and girls in Brooklyn
13 and the only YWCA represented in the borough.

14 I'm going to talk specifically today about the
15 impact of sexual harassment on young women and on
16 women in STEM careers. To start, I wanted to say
17 that nothing I'm seeing in public discourse
18 surprises me, and I imagine it probably doesn't
19 surprise most of you either. In almost -- my
20 almost four decades as a women's rights advocate,
21 I don't think I've ever seen or met a woman who
22 was not harassed in the workplace. It's just that
23 now famous affluent white women are coming
24 forward.

25 The #MeToo as many of you know was started

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2 more than a decade ago by an African-American
3 woman named Tarana Burke. And while I'm happy
4 it's been revived, let us not forget the millions
5 of nameless women who have suffered in silence.
6 So for all of us who never walked the red carpet,
7 whose stories were never heard or believed, and
8 who couldn't risk reporting inappropriate behavior
9 for fear of losing their employment, this is our
10 moment, too, and thank you, Tarana. She is my
11 person of the year.

12 At YWCA Brooklyn, we provide leadership and
13 college access programs for young women of color.
14 We serve over 300 girls from 40 different high
15 schools throughout the borough, and I can tell you
16 definitively that sexual harassment does not start
17 in the workplace. It starts in school. Our girls
18 are everything you would imagine, smart,
19 confident, savvy, and ambitious. They have bright
20 futures ahead of them and they know it, but their
21 lives are more difficult because every day in
22 school, in the subway, and on the street, they're
23 subjected to humiliating sexual harassment and
24 frequent unwanted touching. Their bodies are
25 analyzed, graded, and critiqued. This daily abuse

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2 erodes their confidence, makes them feel ashamed,
3 embarrassed, and ultimately impacts their
4 self-esteem and later choices in life.

5 For more vulnerable girls and those with prior
6 experiences with physical and sexual abuse, this
7 is especially devastating. Women have been
8 cultured that normalizes this behavior which is
9 then internalized by young women and girls. In a
10 2014 study in *Gender and Society*, states
11 objectification sexual harassment and abuse appear
12 to be part of the fabric of young women's lives.
13 They have few available safe places. Girls are
14 harassed and assaulted at parties, in school, on
15 the playground, on buses, and in cars.
16 Overwhelmingly described as "normal stuff that
17 guys do" or "tolerating what just happens", young
18 women's sexual desire and consent are largely
19 absent. Sex was understood as something done to
20 them.

21 This problem is so pervasive that the YWCA
22 Brooklyn's Young Women's Social Justice Council
23 recently won a choice award for a documentary that
24 they're making working to -- addressing the over
25 sexualization of girls and young women. The topic

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1 was their choice.

2
3 Ironically, when I recently met with the
4 Department of Education, officials told me there
5 is no sexual harassment training or curriculum for
6 New York City public school which serves over
7 one million students. Meanwhile, a recent study
8 of high school students found that 37 percent of
9 all girls experience sexual harassment in school.
10 This doesn't change once young women get to
11 college either. In fact, one in four women will
12 be sexually assaulted while in college. It's
13 worse for women studying in STEM fields which are
14 more traditional dominated by men.

15 A 2014 survey found that 26 percent of women
16 conducting scientific field research had been
17 sexually assaulted. In academic field
18 experiences, harassment and assault were commonly
19 experienced by women respondents during trainee
20 career stages. Women trainees were the primary
21 targets of harassment or assault. Their
22 perpetrators were predominantly senior to them and
23 professionally within the research team.

24 A 2017 article in American Scientists state a
25 slew of scandals and lawsuits over the past

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2 several years have demonstrated that scientists
3 are guilty of sexual harassment, have repeatedly
4 been allowed to continue their careers enabling
5 them to find new victims. Focusing on headline
6 making cases may avert attention from the
7 underlying issues, institutional intolerance --
8 institutional tolerance for the patterns of
9 behavior, legal or illegal, that create an
10 unwelcoming environment for women and
11 underrepresented minorities and an incentive
12 structure in academic science that resists
13 changing this atmosphere. And we wonder why there
14 aren't more women in STEM careers? Young women
15 are often targeted for harassment specifically
16 because they're more vulnerable and the impact
17 this can have on their career trajectory is
18 devastating.

19 A 2017 study indicates that harassment
20 experienced by young women knocks many off course
21 during the formative career stages. Sexual
22 harassment plays a prominent role in shaping early
23 career trajectories for women and because victims
24 of sexual harassment feel uncomfortable and unsafe
25 in workplaces, sexual harassment often acts as a

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1 push factor for women to leave their jobs.

2 Exiting harassing workplace especially early on in
3 a woman's career can have a significant impact on
4 her ability for advancement as she may experience
5 gaps in employment or subsequently be unable to
6 find comparable work. Even more detrimental to a
7 woman's career opportunities than a lapse in work
8 is the loss of access to professional networks and
9 the sacrificing the firm's tenure.

10
11 In closing, this is now a precedented
12 watershed moment for women in this country, but I
13 have to say that I'm alarmed from the discourse in
14 the media and press and Hollywood and even in
15 Congress is focusing on the men who have
16 perpetuated this violence. I'm not interested in
17 discussing gradations of abuse or which forms of
18 harassment are worse or what level of punishment
19 is appropriate. What I want to talk about is how
20 we're going to change a culture that allows and
21 even encourages abusive behavior by men in power,
22 a culture that is so pervasive it conditions --
23 starts conditioning boys and girls from a very
24 young age, a culture that wastes the human
25 potential of half of the citizens of this country.

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2 Thank you. (Applause.)

3 MS. TILLERY: I wanted to ask a question.

4 Thank you for bringing the young girls and women
5 into this space. I think it's really important.
6 And I was really struck by what you said at the
7 beginning about how -- you know, thinking about
8 how young women who are first entering into the
9 workforce have already normalized, in some cases,
10 a decade of harassment.

11 And I'm curious what you've seen or if you're
12 seeing anything in the Y that is helping to
13 empower young women and girls to speak out that
14 will help them later on when they get into the
15 workplace?

16 MS. KAMBER: We think about it a lot because,
17 you know, they're going off to college and they're
18 not going to be at the YWCA anymore, and so they
19 have to be well equipped to handle this kind of --
20 and even know that this may be coming.

21 I think that it's really important to start
22 telling a different story. So this isn't
23 normative, right? It's not the way it's supposed
24 to be. And it's not just boys will be boys. I
25 think that having safe places where girls can

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2 congregate with other girls and having this
3 conversation -- actually, the commissioner came to
4 speak to our girls and they were very interested
5 in how she got to where she is and what her story
6 was.

7 We do a lot of bringing women of color in to
8 talk to the girls about their own experiences,
9 which are very similar to the girls are having
10 now. And now we're really trying to do an alumni,
11 you know, even if it's something like FaceTiming
12 so that as the girls go away to college, are able
13 to keep them connected and continue to talk about
14 these issues.

15 To be quite honest, we really provide the
16 platform and the girls do the rest. And they've
17 been doing these speak-outs with their friends
18 that we're not even involved in. They organize
19 it, 60 kids come, they talk about, you know, how
20 they're feeling about -- they talk about Trump,
21 they talk about what's going on in the country.
22 And I feel like providing that platform is really
23 important. It really is. And also just providing
24 a different narrative.

25 MS. SALAS: Do you have any specific

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2 recommendations or ideas for what the city can do
3 to get to these young women -- so not just enforce
4 the law, but actually arm these women with the
5 tools they need, change that narrative?

6 MS. KAMBER: I have to say that I'm kind of
7 stunned at how pervasive it is. I talked to a
8 high school in New York City one year, and I have
9 an all girls health class, and it was one of those
10 high schools that was, like, a last stop high
11 school for girls, students who have dropped out of
12 other schools. And I expected them to be really
13 challenged academically, and they weren't. And
14 when I talked to them, why did you -- you're a
15 great student, why did you drop out? They have
16 all -- 100 percent of those girls have been
17 sexually harassed. They were the first to develop
18 breasts or to develop. They were, you know,
19 constant tormented, bullying, a lot of body image
20 stuff.

21 I think in terms of the city, you know, I
22 think that -- I think it's much more pervasive
23 than we realize. It's on the street, it's in the
24 subways, in schools. I think it's really
25 important for us to just let people know this is

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2 not okay and that there are places that you can
3 report this kind of behavior. School is a
4 problem. High school is a problem. And I don't
5 know what we can do about that. But if there's a
6 way to work with the Department of Education,
7 that's important. Public transportation is a
8 problem. So, I'm sorry, I don't have better
9 suggestions. Did you have a question?

10 MS. ALBISA: I just have one question. This
11 is one agency, I think it's multiple agencies,
12 maybe grapple with this. If you were to just, for
13 the record, what would be your opinion that the
14 first steps that the DOE should be taking?

15 MS. KAMBER: I was really surprised to hear
16 that they don't do any training with teachers and
17 students around sexual harassment, so that would
18 be where I would start. You know, we have to
19 teach girls that this is wrong at a young age and
20 we have to teach them to fight back, and we have
21 to teach boys at a young age to respect girls and
22 women, and that's really where it starts. I think
23 education is the key and I think starting young.

24 MS. DAVIS: I do have a question. Maybe
25 there's other teachers here about this. Do you

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2 consider -- would you have a safe person that
3 these girls can come to?

4 MS. KAMBER: Absolutely.

5 MS. DAVIS: I mean, I think -- I wonder if
6 there's a public ally. One of the other speakers
7 mentioned a bystander program. I think that
8 there's some value in making us all responsible
9 for this.

10 MS. KAMBER: I love that idea, having safe
11 people to come to. I was surprised at how -- you
12 know, we brought in -- we started our program with
13 just a couple of girls and they started bringing
14 their friends and they started bringing their
15 friends, so they went through 300 girls. They're
16 really hungry for a safe place that girls focus
17 where they can explore these issues with each
18 other and with trusted adults. Thank you.

19 (Applause.)

20 MS. SUSSMAN: Thank you everyone for your
21 testimony so far. I just -- I'm Dana Sussman,
22 Deputy Commissioner of the Commission. I just
23 want to remind folks that we do have unfortunately
24 a three-minute limit on testimony and many folks
25 lined up to testify, so I appreciate your

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2 attention to the time limit and apologize that we
3 are running a little bit behind. Thank you.

4 MS. RAMBO: Well, first I'd like to say thank
5 you to the New York City Commissioner on Human
6 Rights for creating this space for us to address
7 this very pressing topic. The recent headlines
8 have made it abundantly clear that no industry is
9 immune to sexual harassment, but it can be
10 especially pervasive in a male dominated or
11 traditionally male environments. My name is
12 Leah Rambo and my testimony today is based on my
13 29 years of experience of working within the
14 construction industry.

15 Currently, I am a training director for one of
16 the building trades in New York City. And to many
17 it may seem like this is a new epidemic because
18 we're hearing so much about it in the news. But
19 for women who work in my industry, this is not new
20 at all. There was a very similar hearing to this
21 that I spoke at about 25 years ago at City Hall,
22 and unfortunately not a whole has changed.

23 Today I'm going to speak to you from my
24 29 years of experience just within my industry.
25 I've been subjected to rumors of sexual exploits,

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2 rumors of sexual orientation, I've been grabbed,
3 kissed, slapped on the butt, subjected to lewd and
4 vulgar remarks around me, towards me, and simply
5 cannot count the amount of unwanted sexual
6 advances. And these might be considered to be
7 mild for many in my industry because there
8 certainly have been women that I know of
9 personally that have been raped within the
10 industry and even one of my sisters, a carpenter,
11 Allie Hicks (phonetic), who paid the ultimate
12 price when she was killed on the job by one of her
13 male co-workers.

14 So the real question here is not does it
15 happen? We know it does. But how do we stop it?
16 And I think one of the ways that we stop it is to
17 start with training and comprehensive policies and
18 guidelines on how to prevent sexual harassment.
19 How to report it when it happens. And it's
20 imperative that the education happens at every
21 construction site and during every phase of the
22 construction project.

23 Training must include antibullying, respectful
24 and professional work environments, inclusive
25 worksites. Safety is a prime concern for

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2 construction industries. Sexual harassment should
3 be considered as a safety hazard. A recent study
4 out of Columbia showed that the majority of
5 construction site accidents certainly was shortly
6 perceived by sexual harassment in some form
7 occurred right before the accident. One of the
8 byproducts of sexual harassment is impaired
9 concentration. Well, in my field, when you're
10 working with power tools, heavy equipment, and
11 when you work on a ladder, a scaffold, and enter
12 the building, then it now becomes a matter of life
13 or death.

14 Our jobs should require to have safety
15 training, OSHA, carts, you cannot walk on a job
16 without it. You have a minimum of training,
17 ten hours, four hours of scaffolding. And the
18 same type of diligence should be pursued towards
19 the topic of sexual harassment. It should require
20 that all workers receive this type of training,
21 antiharassment, antibullying. And because it's so
22 pervasive in the industries where it's male
23 dominated, it's also very important that the
24 government is dedicated to increase the number of
25 women in industries like mine where it's very male

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2 dominated. In our industry, it's based on money.
3 People respect fines. Just like OSHA's fine, the
4 same thing should happen in the case of sexual
5 harassment. Thank you again for giving me this
6 opportunity. (Applause.)

7 MS. CASTRO: Hello, my name is Carey Castro,
8 and I'm a union carpenter, a member of the United
9 Brotherhood of Carpenters. While it's not easy to
10 be a woman in a male dominated field, I've been
11 experiencing sexual harassment in the workplace
12 since the time I got my first job at the age of
13 13 nearly 30 years ago. My first job was working
14 in a supermarket where a manager would send me to
15 the stockroom in the basement and then follow me.
16 Multiple times he tried to kiss me and finally I
17 let him for fear of losing my job. He said if I
18 was nice to him, I could be assistant manager
19 within a year. I remember being confused and
20 naively flattered. Years later, thinking back
21 to that time, I realized how predatory his
22 behavior was as a 32-year-old trying to seduce a
23 13-year-old, and that was just my first job.

24 There was the owner of a grocery store, later
25 his son. There was the owner of a roofing company

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2 and his partner who's a VP of a prominent New York
3 City real estate company who promised to turn my
4 job permanent if I met him at a hotel across the
5 street, et cetera, et cetera. I am embarrassed to
6 admit that in the early days I was flattered to
7 think these men were attracted to me, older,
8 powerful men, and it is almost exclusively men in
9 a power position.

10 When I became a tradeswoman, I wondered how
11 long it would take to be harassed by someone on
12 the field, and it took less than a week. It was
13 demoralizing and disheartening and I wondered how
14 a first-year apprentice on her first job can
15 navigate these waters without being labeled "one
16 of those." And while I did take a stand and yet
17 another tradesman who propositioned me, that was
18 just my first job site.

19 With harassment now in the spotlight, I
20 usually hear men saying "now I'm afraid to say
21 anything to women." And I usually ask if it's
22 really that hard to not say anything inappropriate
23 to or around women or whether they'd be okay with
24 it being said to their wife, mother, or daughter.
25 So far this has been met with silence or with an

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1 under the breath rumble.

2 About a year ago, I had an open, honest, and
3 very personal discussion someone who works in my
4 industry about seemingly harmless dick jokes.
5

6 Pardon my language. I told him that it's not that
7 women can't handle adult jokes. It's just that so
8 many women have had to endure not only harassment
9 but innuendo and jokes for so many years that,
10 quite frankly, we are tired about hearing and/or
11 thinking about your dicks. Again, pardon my
12 language.

13 Recently in light of what's in the news, he
14 and I revisited the topic and he claimed that he
15 now understands what I was talking about. Though
16 last week, I heard him make reference to his
17 "member" in front of me and to another
18 tradeswoman. I shot him a look and he apologized.
19 Angrily I told him: "You just couldn't frigging
20 help yourself, could you? I guess you understood
21 what I told you, but you didn't care." He
22 sheepishly apologized and walked away.

23 We obviously all have a long way to go with
24 the struggle, and I can only hope that we can keep
25 this discussion in the forefront long enough to

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2 invoke real long-term change. Thank you for your
3 time. (Applause.)

4 MS. SALAS: Thank you for sharing. At any of
5 the jobs that you held where you experienced
6 harassment, did you ever feel like there was
7 someone you could go to, like within the company?

8 MS. CASTRO: No. No.

9 MS. DAVIS: So your role, your job as a union
10 carpenter, how precarious is that job, in other
11 words, how much are you dependent on favor of your
12 supervisors?

13 MS. CASTRO: For me personally, I don't
14 think -- I haven't personally felt like my job was
15 threatened or that I needed to do something to
16 keep my job. Although, I did feel like I needed
17 to keep my mouth shut as far as any instances in
18 order to not be labeled as something, yeah.

19 MS. DAVIS: Thank you. (Applause.)

20 MR. TREXLER: Hi, my name is Jeff Trexler, and
21 I'm Associate Director of The Fashion Law
22 Institute, and I want to thank the Commission both
23 for myself and on behalf of our founder,
24 Professor Susan Scafidi, who's also here today.

25 This is an incredibly important issue. We

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2 have a clinic that offers free legal advice to
3 everyone in the fashion industry, and I can tell
4 you that this is a concern that affects everyone
5 from designers, models, people -- and other
6 people, service personnel throughout the industry.
7 It is truly a universal concern. And to
8 understand why, I think it would help for a minute
9 to sort of maybe step out of this hearing and
10 imagine that you're at a fashion show. And
11 fashion's very glamorous -- a very glamorous
12 industry, but I want you to look through the
13 lights and think about the people. So back stage
14 you'll have makeup artists and hairstylists,
15 you'll have freelance designers who are helping
16 them with clothes and design assistants. You go
17 out front and you'll see the designers and you'll
18 see models walking the runway, but you also see
19 tradespeople putting together the stage and the
20 whole event. You'll have journalists,
21 photographers, a DJ, videographers, even lawyers
22 all of whom are exposed to harassment, but not all
23 of them are confident that they have any recourse
24 if something should happen.

25 So, for example, a designer typically is one

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2 to be employed, so they have a certain degree of
3 security protection under state law, but they're
4 thinking, if it's a small business and there's a
5 lot of small businesses in fashion, what about
6 federal law? What about city with the four
7 employee threshold? So they're concerned there.

8 A lot of the other people are going to be
9 freelancers, and if they've heard that there's a
10 certain degree of protection under New York City's
11 Human Rights law, they're uncertain what kind of
12 protection. Are they attached to a business?
13 What kind of freelance? What kind of independent
14 contractor are they? What's their recourse?
15 There's a lot of confusion. There's a lot of
16 uncertainty. And you are in a position to change
17 that by once and for all establishing that civil
18 rights are for everybody, that equal protection is
19 for all, that our rights come not from who hires
20 us, but from who we are. And by establishing
21 protection for all independent contractors, for
22 all employees, for all professions, for all
23 industries, you'll provide a level of security
24 that we just simply do not have.

25 And it's important -- a couple things I want

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2 to add. One, I think it's important to do this
3 for everybody, not select professions, not select
4 industries. Differential treatment is a dangerous
5 prospect because it can exacerbate confusion, and
6 also you have the risk particularly when focusing
7 on things that people are more famous, you get
8 more attention, privileging certain areas of an
9 industry that are largely white and it can create
10 some imbalances that can be very problematic.

11 Two other things I want to mention. One, the
12 fashion industry already does a fair amount of
13 work to have equal treatment, and another thing
14 they do is auditing procedures but even -- and
15 some procedures include sexual harassment. This
16 can be effective across the board, across
17 industries, across professions as a means -- as
18 incentive to follow the law.

19 So if we could have some sort of mandatory
20 reporting mechanism put in place, maintain the
21 complainant's privacy. How many complaints do you
22 receive? How are they disposed? Are you paying
23 settlements? Are the complainants still with you?
24 What happened to the harasser? That sort of basic
25 information.

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2 We don't recommend -- just two more points. I
3 don't recommend banning NDAs, which I know --
4 non-disclosure agreements -- which I know a lot of
5 people have suggested, because for a number of
6 people, there's still this concern about stigma,
7 which we've talked a lot about today, stigma and
8 negative career consequences.

9 And that's the last thing I want to mention to
10 you. The more you can do to prevent retaliation,
11 the more you can do to prevent people not being
12 able to be hired, because there's this fear, the
13 ones they report, they will never be in fashion
14 again. That will be great for our industry.

15 It's important for you, whatever you can do to
16 reduce stigma, to reduce negative consequences,
17 and also to encourage employers to hashtag hire a
18 troublemaker. So thank you so very much.

19 (Applause.)

20 MS. SALAS: So the mandatory report would be
21 something city law required?

22 MR. TREXLER: I think city law should be,
23 because one of the things I think I've come to
24 appreciate in all the years in working in the
25 fashion industry, New York City is the fashion

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2 capital of the world, it's one of the global
3 fashion capitals. And fashion companies pay
4 attention to what you do here.

5 So the amendments that you put in place, they
6 will be paying attention, not just for what they
7 do in the city, but throughout the country and
8 indeed throughout the entire world. So, for
9 example, mandatory reporting definitely should be
10 part of the city -- the Human Rights law. Think
11 of it what you do -- like non-profits have to have
12 certain mandatory public reporting. Publicly
13 traded companies have to have certain reporting.
14 There are standards like The Higg Index and some
15 other things in fashion where you actually have to
16 audit for these questions and account for them so
17 to score what you get.

18 If we can do that for every business, every
19 non-profit, it would make a difference because
20 then you can't hide it anymore. Then people know
21 what you're doing.

22 MS. ALBISA: I just have one follow-up
23 question on that. We've done work on low wage
24 workplaces and unfortunately what we find is the
25 more abusive the environment, the fewer cases get

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2 reported, right? So it could be a sort of, what
3 you call it, false-negative instead of
4 false-positive. Any thoughts on that? You know,
5 the more repressive the environment, the less
6 you're actually going to have the need to report.
7 Any thoughts on that?

8 MR. TREXLER: Fashion has been working in
9 this -- in labor reform for decades. There's a
10 big spotlight on it, there's been major incidents,
11 factor fives going back to triangle. And what we
12 found is that the more we put in place, forms of
13 auditing and reporting, the more people are going
14 to speak up. One of the speakers mentioned
15 hotlines. There's a number of companies
16 throughout the city have put in hotlines where
17 workers can do reporting, and once those are in
18 place, there is an uptick.

19 So I think once you establish it as a norm, as
20 a public social norm or public, you know, legal
21 norm, that this reporting exists, their mechanisms
22 are doing it, people are paying attention to it,
23 that will encourage people to speak up. Thank you
24 so much. (Applause.)

25 MS. ZIFF: Hello, my name is Sara Ziff and I'm

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1
2 the founder and Executive Director of the Model
3 Alliance, a labor advocacy organization in the
4 fashion industry.

5 Too often models are treated as objects and
6 not as legitimate members of the workforce who
7 deserve to be able to work with the same dignity,
8 respect, and basically hold protections other
9 workers enjoy under New York's sexual harassment
10 and employment laws. As a model who started
11 working at 14 years old, I have had a good career.
12 That said, my peers and I have experienced
13 inappropriate demands including routinely being
14 put on the spot to pose nude and provide sexual
15 favors. In some cases, models are being treated
16 more like escorts with their agencies sending them
17 to known predators and putting them in
18 compromising situations that no child, no person
19 should have to deal with.

20 Essentially, all working models operate under
21 fixed term exclusive contracts to their agencies
22 who exert a great deal of control of their working
23 lives. The agencies then contract with a client,
24 a brand, a magazine, and the like for the model's
25 work. Because the primary purpose and activity of

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2 the modeling agencies is to obtain this employment
3 for their models, they should be treated as
4 employment agencies under New York state law,
5 which would subject them to that necessary
6 licensing and regulation. Instead, though, these
7 agencies call themselves management companies
8 creating a huge loophole through which they evade
9 this closer look by the government.

10 Further, modeling agencies in New York argue
11 that models are independent contractors, not
12 employees. Under current federal and New York
13 state law, independent contractors are not
14 afforded the same protection from sexual
15 harassment in the workplace as employees.
16 Although New York City law protects independent
17 contractors against sexual harassment, because of
18 the multilevel structure of hiring in the modeling
19 industry, we're concerned that the city law
20 generally does not apply to models either.

21 When a company directly hires an independent
22 contractor, the company can be sued for violating
23 the Human Rights law. However, when a client
24 contracts with a modeling agency to hire the model
25 and the modeling agency sends this model to the

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2 client, we're worried that multilevel contracting
3 will bar the model from bringing a claim against
4 the company.

5 There has for too long been a history of
6 institutional acceptance for, at a minimum,
7 recklessly ignoring sexual harassment by both
8 agencies and clients. Models should have the same
9 recourse as employees to sue employers. She
10 should have a direct mechanism for making
11 complaints and should be assured that courts are
12 willing and able to hold the agency and the client
13 for joint employers responsible for the abuses she
14 suffered. Regardless of how a model is
15 classified, it is imperative to maintain a safe
16 and fair working environment, especially
17 considering most of these girls are just children.

18 The modeling industry deserves a closer look
19 from government regulators. The perceived glamour
20 of the industry and gaps in the law should no
21 longer be viewed to models a safe workplace or
22 appropriate recourse if abuse occurs. We deserve
23 no less than any other segment of New York City's
24 workforce. Thanks. (Applause.)

25 MS. SWITZER: Hi. Thank you so much for

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2 having me. I'm just going to take you through
3 some instances where I've been harassed. My name
4 is Lauren Switzer and I have worked as a model in
5 New York for the last six years. I'd like to
6 share two accounts of abuse that I experienced
7 firsthand.

8 Recently I booked a runway show for a famous
9 French fashion designer in New York along with 30
10 other models, both men and women, who were mostly
11 teenagers. The head of our agency, a woman, was
12 present as well. The client had us stand in a
13 semicircle, then ordered us to strip. We all
14 looked at each other confused by her request. She
15 said it again, strip. Our agent affirmed her
16 request and said, everyone get in your underwear.
17 As an older, more experienced model, my heart
18 broke for the young girls in the room that might
19 think this is normal. I was embarrassed and
20 confused with all the males present, including the
21 male translator, the models proceeded to take off
22 their clothes. I was shocked and in disbelief.
23 Once we were stripped down, she sized up the
24 girls' bodies and commented on their problem areas
25 in front of everyone. She went around the room

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1 pointing at the bigger breasted women and tapped
2 their butts saying "too big, not professional."
3
4 The young girls started developing tears in their
5 eyes. I was angry, but trying my best to remain
6 calm and professional. Agents are meant to have
7 our best interests at heart, but in this case, my
8 agent was complicit. The abusive behavior -- and
9 enabling abusive behavior is demanding that you
10 comply.

11 At another recent incident during a shoot, a
12 male photographer would drop inappropriate,
13 suggestive comments. While I was wearing a choker
14 necklace he said, God, there's something to be
15 said about something tied around a woman's neck.
16 He would also say, you have the sexiest legs I've
17 ever seen. He moaned in a sexual way every time
18 he took a photo. I felt gross and unsafe. My
19 fear of offending anyone was greater than the urge
20 to defend myself in the moment. The stylist then
21 brought out a sheer top. When I politely
22 explained that I wasn't comfortable wearing a
23 see-through top, both the male stylist and
24 photographer said, I should be okay with showing
25 my body, and that I was ruining the Chanel.

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2 Giving in to pressure on set to do any kind of
3 nudity, be it implied or fully nude, left me
4 feeling helpless and exposed. The photographer
5 then asked for my number while we were still on
6 set. I declined which led to an uncomfortable
7 tension for the rest of the shoot. I returned
8 home feeling ashamed and fooled. I had expected
9 to be safe and protected and I was trying to be
10 professional and do the job.

11 Having to dodge unwanted sexually charged
12 comments and requests are routine in the modeling
13 industry. Modeling is demanding and requires my
14 full attention. Having to protect myself from
15 harassment is exhausting and should not be part of
16 my job. Most models are not treated with basic
17 decency and respect because we are often seen as
18 bodies. We should have laws and regulations in
19 place protecting our rights. The perpetrators of
20 sexual harassment and mistreatment are not
21 punished because there are no clear rules or
22 regulations set in place regarding sexual
23 harassment.

24 It would be helpful to have models sign
25 contracts before the job explicitly agreeing to

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2 anything involving nudity or any kind of sexual
3 tension beforehand so that they don't feel
4 pressured to spontaneous demands that make them
5 uncomfortable and feel powerless. Fortunately, we
6 have the Model Alliance, so there should be a
7 human resources department where that can prevent
8 this abuse from happening in the first place,
9 where we can report any misconduct that takes
10 place. Our agencies are supposed to be safe
11 havens, but in my experience, reporting harassment
12 to them has done nothing and only led to tension
13 between myself and the agency.

14 The modeling industry, if you think about it,
15 is a breeding ground for abuse and sexual
16 harassment. You have young girls, you have
17 foreign girls, you have girls that their visas are
18 held by their agencies, and then you have big
19 high-powered people. There needs to be a place
20 where we can go safely and complain about this
21 stuff, and these people need to be held at the
22 same -- in the same regard, in the same way
23 punished as any other workforce. For some reason,
24 the glamour of modeling gets in the way of
25 anything when it comes to that.

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2 There should be a place established where
3 models can voice their concerns and questions.
4 Many models get harassed and assaulted and have
5 nowhere to go to talk about their traumatizing
6 experience. Thanks for listening.

7 MS. TILLERY: I have a question. This could
8 be for you or for Sara. I was curious -- thank
9 you for sharing. I was curious about -- we've
10 mainly been talking about women, but men in the
11 modeling industry as well and what you're seeing
12 with men?

13 MS. SWITZER: Yeah, well, in my experience and
14 we'll let Sara go, too, I dated a male model and
15 he was proposed to do sexual favors for a very,
16 very prominent designer, and the designer offered
17 him, you know, a lifetime of success in his
18 career, all this stuff, and when he didn't take
19 it, he was -- he doesn't have a career anymore, so
20 that's...

21 MS. ZIFF: And I would just add -- thank you
22 for that question. So for the last six years I've
23 run grievance reporting service at the Model
24 Alliance all on a volunteer basis by the way, and
25 I hear from just as many men as women, not just

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2 models, photo assistants and the like, who I think
3 will be coming forward shortly with allegations
4 against prominent people in the industry.

5 But, yeah, it's -- I think it's always the men
6 have it harder because there's a stigma when it's,
7 you know, the abuse is coming from other men.

8 MS. TILLERY: Thank you.

9 MS. DAVIS: I just want to thank you and
10 everyone here who has spoken from their personal
11 experiences so far. It's very powerful and very
12 difficult and I really appreciate it. Thank you
13 very much for that. (Applause.)

14 MS. RAGHU: Good evening. My name is
15 Maya Raghu and I am the Director of Workplace
16 Equality at The National Women's Law Center in
17 Washington, D.C. Thank you for holding this
18 important hearing and for the opportunity to
19 submit testimony.

20 In this critical moment of national reckoning,
21 we need to ensure that we move beyond just
22 responding to sexual harassment to rethinking our
23 laws and our systems and our culture to ensure
24 prevention through real long-lasting change. As a
25 national legal organization that has worked for

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2 45 years to advance women's equality, we then
3 consider various policy initiatives to help create
4 that change around sexual harassment. I want to
5 highlight some of them here and there are further
6 details in my written testimony. These
7 initiatives would allow individual harassers
8 accountable to promote greater transparency
9 regarding the extent of harassment in the
10 workplace and encourage prevention practices.

11 So, first, the City Human Rights Law should be
12 amended to allow employees to hold individual
13 harassers accountable to improve access to
14 justice. Federal law does not permit victims to
15 hold individual harassers, whether a supervisor,
16 co-worker, client, or customer directly and
17 personally accountable for sexual harassment. And
18 if an employer chooses not to make -- take action
19 against the harasser, the harasser may suffer no
20 consequences for the behavior. Expanding
21 liability to individual workplace harassers and
22 with the City Human Rights Law, even to people
23 without an ownership interest, supervisory
24 authority who are not company officers would help
25 ensure that meaningful remedies are available to

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1 victims who've experienced sexual harassment.
2 Several states already permit victims to do this
3 under their state antidiscrimination laws. And in
4 fact, California made this change via statute
5 instead of by court decision.
6

7 There's also much the Commission could do to
8 improve transparency regarding the extent of
9 harassment by a company. And here I want to echo
10 an earlier speaker and say the Commission should
11 consider making publicly available the type and
12 number of discrimination charges filed against the
13 company, whether the charges were dismissed or
14 resolved, and information about the nature of the
15 resolution such as if it was settled for a
16 monetary amount. Such information can be made
17 available on the Commission's website that members
18 of the public could conduct searches by company
19 name. What we see is that individuals often
20 accept employment with a company without knowing
21 discrimination and harassment are a particular
22 problem in that workplace. And once employed,
23 they're often reserved by employment agreements
24 from discussing issues which really create
25 horrible barriers to coming forward and report.

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2 So the city could also a pilot a transparency
3 initiative requiring contractors, prospective or
4 current, to report regularly on the type and
5 number of discrimination complaints or lawsuits
6 and how they were resolved and there was a similar
7 at the federal level which unfortunately has now
8 been rolled back.

9 But the City Law could also prohibit the use
10 of non-disclosure and other secrecy clauses in
11 employment contracts. So even though it's
12 forbidden by federal law to prohibit employees
13 from discussing employment conditions including
14 harassment, those are also part of employment
15 contracts for forced arbitration clauses, for
16 non-disparagement clauses, or requiring employees
17 to waive their rights to discuss or report a
18 violation of their civil rights laws.

19 So policy initiatives that prohibit these
20 restrictions could really lift the veil of secrecy
21 that helps high predatory behavior and really
22 encourage employers to engage in preventative
23 practices, and that is my last point. To go to
24 Chair Malalis's opening remarks, you mentioned
25 that businesses have been asking you about how

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2 they could do better. Well, preventing sexual
3 harassment before it occurs should be a priority
4 for any employer in the public or private sector.
5 And New York state employees working for all
6 executive branch agencies must participate in
7 training on sexual harassment, and some states
8 have gone further and extended that into the
9 private sector for government contractors. So the
10 city could institute mandatory training
11 requirements for businesses operating in New York
12 City or in the alternative and at a minimum, they
13 should require that all city employees employ the
14 city contractors with the sexual harassment
15 training.

16 And finally, the Commission should develop
17 guidelines and practices for employers to follow
18 that they could develop and implementing training
19 and effective policies and other prevention
20 practices because there's a real derivative of
21 information right now and we, and I know others,
22 are getting calls from all kinds of employers
23 including non-profits who want to do better but
24 don't have the tools to do that. And someone else
25 mentioned the EEOC task force report from last

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2 year, and I would just recommend that to you so
3 that you can have as many recommendations about
4 training and prevention practices that employers
5 can use. Thank you. (Applause.)

6 MS. BAKST: Good evening, my name is
7 Dina Bakst. I'm Co-Founder and Co-President of
8 A Better Balance, and thank you so much for
9 convening this important hearing. And to
10 Commissioner Malalis, under your leadership, the
11 Commission has shown extraordinary dedication to
12 enforcing the City Human Rights Law of New York.
13 So grateful for your leadership.

14 A Better Balance was founded with a goal of
15 promoting fairness in the workplace, ensuring that
16 women and mothers have fair and equal wages they
17 deserve. I'm proud to work along to advance many
18 of the pioneering to these issues of the City of
19 Fairness Act and the City Caregiver Law to more
20 recently History Ban Law.

21 I just wanted to offer a few -- I want to talk
22 about the devastating consequences of sexual
23 harassment can have particularly on low wage
24 women. I know we've heard a lot of it in a very
25 powerful form already. But at ABB, we hear every

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2 day on our free legal hotline from women, low
3 income women, about harassment and discrimination.
4 And women like our client Louisa who worked in a
5 kitchen in New York City making \$10 an hour, and
6 one of her supervisors repeatedly touched and
7 groped her, but she never reported it because she
8 was afraid she would lose her job if she told
9 anyone. Then when Louisa became pregnant, she
10 asked her supervisor to stop touching her because
11 she did not want him to harm her baby. After
12 that, he began constantly ridiculing her for being
13 pregnant, and weeks later Louisa was fired after
14 she requested one day off to attend a prenatal
15 appointment.

16 Louisa's story demonstrates the multiple
17 interconnective forms of harassment low income
18 women face on the job every day and the impossible
19 choice they are forced to make in order to earn a
20 paycheck. We know Louisa's not alone. This is
21 widespread in all these industries that we've
22 heard from as well as domestic workers, restaurant
23 workers who are forced to rely on tip wages, tips
24 in order to make a living on minimum wage and the
25 construction industry. We've heard 88 percent of

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2 women working in construction experience sexual
3 harassment in the workplace, a factor that
4 contributes to women's low workforce participation
5 just 2.6 percent nationally.

6 So a few key recommendations that have not
7 already been mentioned. Businesses who receive
8 our city and state's hard earned tax dollars
9 should not sexually harass or discriminate against
10 women, but we know they do. For example, women
11 who leave construction sites, which we've just
12 heard, say harassment is the key reason. Yet
13 billions of dollars worth of New York City and
14 state contracts go to construction services. We
15 can and must do better on board and retain women
16 in these higher paying jobs. And step one,
17 New York should strengthen contract the
18 non-discrimination requirements by explicitly
19 requiring antiharassment and sex discrimination
20 provisions including training requirements in
21 state and city contracts. Moreover, the state or
22 city should be permitted to terminate the contract
23 and to bar the employer from future public
24 contracting opportunities if the contractor has
25 been found to be in violation. There are models

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2 from other industries and committees like the LGBTQ
3 committee, and I think that we should really, you
4 know, use this contracting reporting tool to
5 really, you know, get at the harassment and sex
6 discrimination more broadly.

7 Again, as my colleagues have talked about
8 expanding the City Human Rights Law to cover
9 domestic workers, proactively investigating
10 industries with rampant sexual harassment,
11 fast-tracking sexual harassment complaints and
12 working with the City Council to develop new
13 policies to protect vulnerable employees really
14 looking to strong antiretaliation provisions. And
15 I do think there could be specific work to be
16 done, like, for example, housekeepers, 49 percent
17 of housekeepers survey -- a Chicago survey said
18 that guests had exposed them, flashed them, and
19 answered the door naked. And so, you know, and
20 Chicago responded to this by just passing an
21 ordinance that required hotel workers to provide a
22 panic button to any worker who works alone in
23 rooms with other employees present, but it also
24 required -- policies encouraged reporting sexual
25 harassment, making procedures clear. And this is

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2 interesting, allowing workers to immediately stop
3 working in dangerous settings and to be reassigned
4 to different work areas. We need to rethink what
5 retaliation means and affirmatively prevent and
6 secure the safety of working women. And just
7 strengthening sexual harassment training for
8 employees, ensuring that independent contractors
9 are aware of their rights, employers -- you know,
10 again, as my colleague Maya pointed out, you know,
11 in California, employers are provided -- are
12 required to provide two hours of mandatory sexual
13 harassment training to supervisors within
14 six months and at least every two years, and the
15 training must be interactive. It's not just,
16 like, cookie-cutter training, and include the
17 remedies that are available to victims, and that's
18 a good example.

19 We have a strong remedy here at the
20 City Commission, and workers need to know and
21 employers need to know what those remedies are. I
22 will conclude there. Thank you so much.

23 (Applause).

24 MS. KAUFMAN: Good evening. My name is
25 Alanna Kaufman and I'm an attorney at Emery,

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2 Celli, Brinckerhoff & Abady, a civil rights firm
3 in Manhattan. A significant portion of my
4 practice involves sexual harassment and gender
5 discrimination in the workplace.

6 Recently the media had shed significant light
7 on sexual harassment by high profile individuals,
8 men with money and fame and influence. As we've
9 heard so many times this evening, sexual
10 harassment is not perpetuated only by people
11 needs. Power is relative. Just as Harvey
12 Weinstein empowered actresses and women working in
13 Hollywood. Male supervisors in other industries
14 have power over the women they work with every day
15 and whose livelihoods they control.

16 Last month my law firm filed a sexual
17 harassment and gender discrimination obtained by a
18 woman named LaDonna Powell who worked for several
19 years as a security guard for a major security
20 company at JFK Airport. Her experience there is
21 harrowing. As the complaint describes, LaDonna's
22 supervisors repeatedly propositioned her for sex
23 in exchange for a better promotion and shifts.
24 She was told that back in the day, she would be,
25 quote, bent over in the security booths. She was

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2 shown videos of women pole dancing and asked if
3 she knew how to dance like that. And she was even
4 shown videos of her supervisors engaging in sex
5 acts with other female employees.

6 The message could not have been more explicit.
7 Have sex with a supervisor and get ahead or refuse
8 and be retaliated against. LaDonna chose the
9 latter. Instead of acquiescing to her
10 supervisor's demands, she reported them to senior
11 management and human resources. In response, her
12 hours were cut and she was isolated and demeaned
13 and ultimately terminated.

14 What happened to LaDonna is the same thing
15 that happens to countless women every day in
16 industries that are not bathed in media light.
17 Male supervisors had the authority to control her
18 career trajectory, her schedule and her
19 livelihood, and they tried to exploit that power
20 for sex.

21 Since LaDonna's complaint was filed, numerous
22 other women from that same security company have
23 contacted our law firm with similar stories about
24 what happened to them. Many said that harassment
25 by the same individual supervisors have been going

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2 on for years and nothing had changed because the
3 women who spoke up were fired or forced to resign.

4 It raises the question: What can be done?

5 Many things. First, I urge the Commission to
6 publicly state that women may file complaints with
7 the Commission and receive individual damages even
8 in instances where an arbitration agreement may
9 prevent them from filing in court. This sends the
10 message to women and employers alike that sexual
11 misconduct will not be shielded from the public
12 view.

13 Second, I urge the Commission to issue damages
14 awards that are commensurate with awards that
15 women would receive if they brought their claims
16 to court. The sends a message that the Commission
17 is serious about this issue and it creates a
18 strong deterrent for would-be harassers and their
19 employers. There must be financial motivation for
20 companies to stop harassment before it takes
21 place.

22 Finally, we have to keep talking about this
23 important issue. As I've learned from my
24 experience representing LaDonna, the more we talk
25 about sexual harassment, as she tells me, the more

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2 women will feel safe coming forward. I applaud
3 the Commission for holding this hearing and for
4 its work on gender-based harassment in the
5 workplace to date. Let's continue to make
6 progress for LaDonna who is here today, and I
7 thank her for letting us hear her story and for
8 women like her across New York City. (Applause.)

9 MS. SENTENO: Good evening. Thank you for
10 having me here tonight. My name is Marrisa Senteno
11 and I am the enforcement program manager for the
12 National Domestic Workers Alliance.

13 NDWA leads several campaigns and coalitions to
14 advance providing for domestic workers by
15 advocating for increased labor protections, racial
16 justice, gender equity, and humane immigration
17 policies. And the New York Bill of Rights
18 includes domestic worker protection against
19 harassment and discrimination by changing the
20 previous law protecting workers in places of
21 employment from four or more to one or more
22 employees. Currently for discrimination, it still
23 lies at four or more, but we are protected under
24 the sexual harassment protections. It's key since
25 previously like most domestic workers did work in

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2 a one employer, one employee situation.

3 So in the past three years, NDWA has worked
4 with local affiliates to explore the following
5 strategies and pursue a more work-related
6 community supported enforcement process. We
7 prioritize leadership development amongst domestic
8 workers that prepares and utilizes them as key
9 actors and supporting peers through enforcement
10 processes. We work collaboratively with
11 government agencies who share values and vision
12 alignment and to explore how to leverage our
13 collective resources and mechanisms to increase
14 our capacity to bolster enforcement as a system
15 and not just as in an instance.

16 And in turn, we strive to establish
17 community-based organizations that work with
18 domestic workers' employers who are essential to
19 government enforcement processes. Our
20 organization is to provide invaluable expertise
21 and skills and there is a formal role for us
22 beyond outreach and joining government-led
23 efforts. They're often the first and most
24 complete support that a worker is able to
25 encounter when coming forward with egregious

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2 violations such as sexual harassment. And our
3 affiliate organizations need the best support
4 possible to provide the best care for domestic
5 workers in order to move forward with their claims
6 and support their needs while mitigating negative
7 consequences as a result of filing cases.

8 We've had successes in collaborating with, for
9 example, the City Division of Paid Care to produce
10 citywide domestic worker convenings. And it's an
11 example of places where we can continue these
12 collaborations to help domestic workers understand
13 what their rights are under domestic worker law
14 and sexual -- anti sexual harassment law.

15 Even with these strategies in place and
16 continued collaboration with city, state committee
17 organizations, we're seeing that it still takes a
18 very long time for workers to know who to turn to
19 and who to trust. Domestic workers have a very
20 hard time admitting that their workplace rights
21 have been violated. They have an even harder time
22 sharing accounts of sexual harassment, but
23 continue living with the trauma and fear every day
24 of their past experiences.

25 We're committed to complete screening of

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2 potential workplace violations that includes
3 sexual harassment violations in the workplace.
4 It's not enough for us to wait for a worker to
5 come forward when we can be in the practice of
6 asking in a culture sensitive and supportive way
7 of potential harassment violations. We're finding
8 that when some workers have decided to come
9 forward, they do so in relation to a different
10 complaint of a workplace situation. They use a
11 lesser offense to test the waters of how well they
12 can trust our support and our process. So for
13 domestic workers, it's almost never only a sexual
14 harassment claim. It's the insult that was added
15 to injury.

16 Unfortunately, while a worker has several
17 years, six years in New York state to file a
18 complaint, the statute of limitations runs out
19 much sooner for a sexual harassment claim. So one
20 year a barely enough for a worker to build the
21 stamina, support, and understanding of their
22 rights to come forward. And at that time, the
23 time that is required to distance themselves from
24 a job that can very well affect her ability to
25 find another job because of the culture of

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2 reference checking and domestic work, this
3 includes the threat of retaliation, threats to
4 immigration status and threats to personal safety
5 and we have workers who come forward several years
6 after the fact. This needs to change.

7 So domestic workers work under hypervigilance
8 and they know that every step they make is being
9 surveilled. Many workers are afraid to make phone
10 calls to any agency because they have a fear of
11 being recorded on the job. Others are held
12 accountable for every action they make and have
13 very little personal time to make phone calls and
14 seek information or visit a city agency or any
15 organization seeking help.

16 So there are ways that the city and state
17 agencies can be more accessible to domestic
18 workers who work long hours and odd schedules.
19 The thought of taking time from work is paralyzing
20 and in the eyes for a worker -- in the eyes of the
21 employer is a punishable offense. So now is the
22 time to act towards more aggressive enforcement of
23 domestic worker rights to prevent sexual
24 harassment in the workplace. And as an
25 organization where there's thousands of domestic

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2 workers in New York City, we know firsthand how
3 important it is to listen to the voices of sexual
4 assault especially in the national conversation
5 around sexual harassment.

6 We know that the barriers to stop seeing
7 workers coming forward really are around their
8 lack of knowledge of their rights. Many employers
9 do not consider their home as a workplace and thus
10 aren't aware of their obligations under the law.
11 And when domestic workers do know their rights,
12 the next challenge is getting them to file a
13 complaint with the department, with the
14 appropriate enforcement agency in a timely manner
15 in order to meet the statute of limitations.

16 We also know that there needs to be an ease of
17 access to seek information support and support to
18 file claims for -- with domestic workers who have
19 little or no free time. In addition, domestic
20 workers face a myriad of barriers that often
21 dissuade them from filing altogether and enforcing
22 their rights such as retaliation due to
23 immigration status or fear of losing a job or a
24 home if they happen to be a live-in worker. And
25 once they file, the next challenge is navigating

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2 the adversarial process required by the
3 administrative agency charged with enforcing their
4 protections.

5 So as some solutions -- or policy solutions to
6 remedy these barriers, we'd like to ask the
7 administrative advocacy staff and the city and
8 state enforcement agencies charged with enforcing
9 the antidiscriminatory and harassment laws to be
10 trained in investigating and adjudicating domestic
11 worker cases in particular including alternative
12 investigatory strategies and minimize or curb
13 retaliation. For example, agencies can interview
14 or conduct mediations by phone in order to protect
15 workers from retaliation. Funding for legal aid
16 and advocacy organizations including the expansion
17 of enforcement by local and state federal agencies
18 that should partner with community organizations,
19 worker centers to identify cases. And we wait
20 often on what they're doing the preliminary
21 investigation and are helping workers to file
22 their claims in the first place.

23 Worker leaders and worker centers should be
24 seen as an equal partner with enforcement agencies
25 in investigating claims and providing worker

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2 support throughout the process. City funds could
3 be allocated through social and housing services
4 that must be provided for domestic workers to
5 mitigate the negative consequences of filing
6 claims. And I personally think that there also
7 should be funding to help address the mental
8 trauma that comes with having to file a claim and
9 having had experienced sexual harassment.

10 That is all I have for tonight. Thank you.

11 (Applause.)

12 MR. TABLADA: We're going to take a quick
13 three-minute bathroom break for folks, so please
14 go ahead.

15 (Whereupon, a short break was
16 taken.)

17 UNIDENTIFIED SPEAKER: So this is continuation
18 MARRISA'S testimony. This testimony is through an
19 interpreter, so it'll be she and I. I'll do it in
20 Spanish and she'll do her part.

21 (Speaking Spanish.)

22 MS. CONTRERAS: Good evening. My name is
23 Daniela Contreras and I have been a domestic
24 worker periodically since the age of 16. I am
25 currently an organizer with the National Domestic

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2 Workers Alliance. Right now we are going through
3 a very important cultural moment from the #MeToo
4 campaign to the women who have been brave enough
5 to come forward publicly and talk about the abuse
6 they have suffered at the hands of people in
7 power. Sexual harassment is not only a problem in
8 Hollywood, it is in our entire society.

9 (Speaking Spanish.)

10 MS. CONTRERAS: In the last two years, I have
11 had the opportunity to meet and talk with more
12 than 500 women. I have been able to listen to
13 an infinity of stories of struggling women and
14 workers. Unfortunately, most of these stories are
15 full of pain, fear, trauma, and silence. It is
16 the intimacy within the workplace that makes many
17 employers take advantage of the situation. To
18 achieve that these women share their stories
19 requires a long process since it is not easy to
20 get their trust.

21 (Speaking Spanish.)

22 MS. CONTRERAS: One, as an organizer takes on
23 the role of a psychologist, mother, friend, woman,
24 or sometimes even victims. Adding to the
25 situation the fact that these workers suffer from

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2 racism, discrimination over their immigration
3 status, all of this complicates even more the
4 possibility of filing a complaint and obtaining
5 justice.

6 (Speaking Spanish.)

7 MS. CONTRERAS: While listening to their
8 stories of harassment, many of them, the moment
9 arrived for me to say that I had also been a
10 victim of sexual harassment in one of my first
11 jobs as a nanny.

12 (Speaking Spanish.)

13 MS. CONTRERAS: I was 16 years old when this
14 happened. One day I was in the house where I
15 worked when the father came home and went to take
16 a bath. All of a sudden I heard him calling me,
17 and when I went to see what he needed, he opened
18 the door to the bathroom and exposed himself to
19 me. I was embarrassed by the incident and I was
20 very fearful, so I took the child to another room,
21 but when he came out of the bathroom, he began
22 touching me and tried to abuse me in the presence
23 of the child.

24 (Speaking Spanish.)

25 MS. CONTRERAS: Fortunately, it was just in

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2 that moment a neighbor began knocking on the door
3 and I managed to go out running from the house.
4 Because of fear and embarrassment, I was silent
5 about this for many years and I have never told
6 anyone and I tried to forget about it completely.
7 But all of these cases that have been coming to
8 light had made me see that this is the moment that
9 I have been waiting for.

10 (Speaking Spanish.)

11 MS. CONTRERAS: Today I feel that I have done
12 justice by that 16-year-old girl and for the
13 thousands of women that are unfortunately going
14 through all of this -- this whole situation day by
15 day. We need more laws that protect domestic
16 workers at the local and federal level.

17 There is another testimony. The person's name
18 is Teresa Guzman who has given her testimony.

19 MS. GUZMAN: My name Teresa Guzman and I've
20 been a worker -- a domestic worker for eight
21 years. The reason why I am sharing my experience
22 is because the voices of female workers in sectors
23 such as ours up until today have not been part of
24 thing conversation and the barriers to talk about
25 this topic have been immense.

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2 I want to share an uncomfortable situation
3 that is somewhat embarrassing for me. Some years
4 ago, I had a case of sexual harassment. I was
5 cleaning the apartment of a single man, a little
6 older, and every time I went to his house, he
7 would always be there. He would sit and he would
8 watch me while I would work, and he would always
9 find a way to cause his private parts to brush
10 against my body. Sometimes he would insinuate
11 that he would like to go to bed with me and he got
12 to the point where he showed me a condom and asked
13 me if I knew how to use it. I always prevented
14 not to understand what he was saying because he
15 was speaking English, and he would always insist
16 on taking me home after work but I would always
17 say no. One time I had to accept because I had an
18 emergency at home.

19 The situation had gotten so uncomfortable for
20 me that I commented on it one day to my sister
21 about what was happening at work and my sister
22 would give her support to my economically so that
23 I could leave the job since I am a single mother.
24 And I am the only form of support that my children
25 have. When I told him that I would no longer work

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2 for him, he then became very upset. On several
3 occasions when I would return to my home from my
4 new job, I would find him outside of my house.

5 Because of the fear that I felt because of the
6 harassment, I had to move from home. I also knew
7 that if at some point I would need to ask for
8 help, the possibility that I would actually
9 receive it would be minimal since he was a police
10 officer. It would have been my word against his.
11 Unfortunately, I didn't know where to go for help
12 or whom to turn to and I would walk around fearful
13 all the time praying that I would never see him
14 again.

15 I hope that my testimony serves so that these
16 cases come to light and so that domestic workers
17 will no longer be as vulnerable to this type of
18 harassment. (Applause.)

19 MS. MALALIS: I have some questions for you or
20 MARRISA. How often in New York City do you get
21 reports or complaints of sexual harassment, but
22 you're stymied by the four employee minimum?

23 MS. SENTENO: So for sexual harassment, I've
24 been working on cases for the past two, year and a
25 half, three workers have come forward with sexual

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1 harassment claims. They were stymied by the
2 statute of limitations in particular. And for
3 discrimination, I've had three other workers who
4 were stymied by the four or more limit.
5

6 MS. MALALIS: When four or more obstacle, do
7 they file on the state division or go to court on
8 state law?

9 MS. SENTENO: No. What happens mostly is they
10 will prioritize cases -- prioritize. It's almost
11 never just the one offense and will look for
12 whatever is the most, like, clear-cut process for
13 a different monetary fund usually around overtime
14 pay stubs.

15 MR. ROJAS: Good evening. I would like to
16 thank the commission for having my colleague
17 Electra Yourke and myself be here today from the
18 Equal Employment Opportunity Commission. My name
19 is Michael Rojas and I'm in charge of outreach and
20 education for the EEOC New York District.

21 Though this topic dominates headlines, it's
22 not news to the EEOC or to the uncounted millions
23 of women who have experienced harassment. Under
24 the leadership of Congresswoman Norton, the EEOC
25 issued the first guidelines on sexual harassment

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2 in 1980. And in 1986, the Supreme Court declared
3 that workplace sexual harassment violates
4 Title VII of the Civil Rights Act of 1964.

5 In the years since, the EEOC has received
6 charges of sexual harassment across all industries
7 and job categories from the agricultural fields to
8 the retail establishments to the boardrooms. The
9 headlines scream of harassment by high-profile
10 celebrities, but we investigate on behalf of the
11 everyday white collar and blue collar victims
12 whose stories are not heard and sometimes not
13 told.

14 Nearly one-third of charges filed by women
15 invoke some type of harassment and about
16 14 percent specify sexual harassment. We know
17 well that this figure does not represent the full
18 extent of these violations and does not include
19 sexual harassment reported by males. Studies show
20 that sexual harassment is unreported -- is highly
21 unreported.

22 More specifically, through the EEOC's select
23 task force on harassment in the workplace report
24 that was talked about earlier today which was a
25 15-month study that was created -- that was

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1 highlighted through our -- two of our
2 commissioners and our acting chair. It reported
3 earlier this year that 40 percent of women
4 interviewed through this study said that they
5 experienced some type of unwanted sexual attention
6 or sexual coercion. Yet only 6 to 13 percent of
7 individuals who experienced harassment filed a
8 formal complaint. Why? Our report identifies
9 specific risk factors for sexual harassment
10 including cultural language differences, young
11 workforces, companies that protect high value
12 employees, and reflect significant power
13 disparities. Victims fear termination, loss of
14 promotion, retaliation, or worse, including
15 further physical or emotional abuse and that these
16 events go unreported and unpunished.

18 So what can be done? Aside from the obvious
19 legal and moral issues, there's a compelling
20 business case for stopping and preventing sexual
21 harassment. Not just the cost of settlements, but
22 the loss of productivity due to low employee
23 morale, distorted and negative employee
24 relationships and high turnover.

25 What else must be done? Correction must start

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2 at the top. Whether it's a large corporation or a
3 small office or retail outlet, it has to start
4 from the top. Employees must know that their
5 complaints will be heard and acted upon, which is
6 important for employers to do. What our office
7 designs a remedy for finding of sexual harassment,
8 we require the adoption of a complaint process
9 with monitoring requiring management to accept its
10 responsibility for maintaining a lawful workplace.
11 We require the training to be tailored to the
12 specific workplace be interactive and maximize
13 staff engagement. We also added a bystander
14 intervention training to be included.

15 The EEOC has developed these new training
16 programs and are already delivering them to
17 employers. Currently we already have training set
18 with several New York City agencies as well.
19 Train over a thousand employees over the next
20 couple of months.

21 We hope that our efforts will contribute to
22 this tragically delayed public response to this
23 epidemic of sexual harassment. Thank you.

24 (Applause.)

25 MS. SPROTZER: Good evening. My name is

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2 Elizabeth Sprotzer. I'm a staff attorney on the
3 workplace justice legal team at Make The Road New
4 York. Thank you so much for the opportunity to
5 share this testimony regarding sexual harassment
6 in the workplace and the critical importance of
7 the city working to address the issue. Make The
8 Road New York is a non-profit community-based
9 membership organization with over 22,000 low
10 income members dedicated to building the tower of
11 Latino and working class communities.

12 Our workplace justice team represents hundreds
13 of low wage immigrant workers each year to enforce
14 their rights under labor and employment laws. We
15 routinely represent workers in sexual harassment
16 cases, but we only know the stories of women who
17 have overcome many obstacles to share their
18 stories. You can only imagine the extent of the
19 unreported abuse.

20 It is critical, as many have said today, that
21 the stories of low income, immigrant, and
22 undocumented women who work behind the shadows, in
23 the back of restaurants, retail, factories, homes,
24 and actually make this city run are heard. And
25 that we recognize the unique set of risks that

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1
2 they face in coming forward to report abuse.

3 Approximately 3.3 million New York City
4 residents are foreign born immigrants comprising
5 nearly 40 percent of the city's population.

6 52.8 percent of the foreign born population in
7 New York is comprised of women. Immigrant women
8 in low wage industries like restaurant services,
9 manufacturing, domestic work, retail, clothing,
10 and cleaning face many levels of abusive working
11 conditions which go beyond sexual harassment
12 including low pay, unsafe working conditions, and
13 sexual harassment and abuse by their supervisors
14 and co-workers, but few women come forward to
15 report it.

16 As others have cited, a 2016 EEOC report
17 states that approximately 90 percent of victims of
18 harassment in the U.S. report never taking formal
19 action against their employer. Typically our
20 clients -- and that statistic counts the
21 workplaces that actually have procedures and
22 policies in place for reporting harassment.

23 Typically our clients' workplaces do not have
24 antidiscrimination policies or formal procedures
25 for reporting sexual harassment. Employers

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2 typically tell me, we tell everyone in the first
3 day to treat each other with respect. That's the
4 extent of the policies they have. Furthermore,
5 immigrant women in low wage jobs face additional
6 obstacles in coming forward to expose abuse
7 including limited job opportunities, language
8 barriers, lack of access to information, fear of
9 retaliation regarding their immigration status.

10 It's not uncommon for employers to retaliate
11 and threaten workers' job security, wages, and
12 deportation if they come forward. We've also seen
13 several cases by employers' attorneys have been
14 embolden and raised our clients' immigration
15 status in an attempt to intimidate them against
16 moving forward with their case.

17 One of our members, Maria, was subjected to
18 severe sexual harassment by her supervisor at her
19 retail job, which included repeated touching,
20 aggressive sexual advances, offensive comments,
21 and threats. Her supervisor would routinely
22 corner her in a private area of the store where
23 she worked and forcibly touch her despite her
24 repeatedly telling him to stop. He reminded her
25 that the owner was on his side and no one would

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2 believe her if she spoke up. He threatened her
3 that he would call Immigration.

4 Maria was still working for this employer when
5 she first came into our office. She told us she
6 needed a job to support her family, but she prayed
7 that her supervisor would stop. She was terrified
8 about what he would do if she complained, and she
9 did not even know who to complain to or even know
10 that this was against the law. Her employer had
11 no antiharassment policy or complaint procedure in
12 place. Eventually the supervisor fired Maria
13 after she continued to refuse his advances.

14 Subsequently another employee, the woman --
15 that another employee had suffered similar abuse
16 under this supervisor and that this employee did,
17 in fact, complain about the harassment to higher
18 management. Unfortunately, just as the supervisor
19 warned her, management did nothing to investigate
20 the employee's claims. She, too, was fired and
21 left unemployed for months as a single mother.

22 I just want to point out that low income
23 immigrant women also face additional hurdles to
24 being taken seriously when they come forward.
25 We've seen multiple women who reported incidents

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1
2 of sexual harassment to the police but found the
3 police and the prosecution to doubt and devalue
4 their experience and failed to move cases forward.

5 Transgender women of color face additional
6 marginalization. One of our clients, Nadia, was
7 working as a dish washer when she was
8 transitioning. After she told her supervisor, he
9 started to grope her and corner her. Nadia
10 thought she had no alternative but to stay working
11 in the restaurant because no one would hire her
12 because of her gender identity. Our legal team
13 was able to represent her and her claims and
14 secure a union certification from the New York
15 City Commission on Human Rights based on the abuse
16 suffered.

17 We commend with the Commission for all it's
18 doing to protect the rights of workers across this
19 city and to enforce the great laws that are in
20 place. We urge the Commission to expand coverage
21 to domestic workers in private homes who are
22 especially vulnerable and also to continue to
23 expand outreach, education, and enforcement
24 efforts to low wage workers in the communities of
25 which they live. Thank you. (Applause.)

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2 MS. VARELA: Good evening. My name is
3 Nathalia Varela. I work for Latino Justice as
4 an attorney. National Civil Rights Organization
5 engage in advocacy and impact litigation. On
6 behalf of the Latino community, I would like to
7 thank you for the opportunity to address you
8 today on the important issue of sexual harassment
9 in the workplace. In particular, how Latinas,
10 immigrant women, low wage workers face unreported,
11 unwanted sexual harassment, assault, various forms
12 of gender-based discrimination throughout New York
13 City.

14 As many people have pointed out today,
15 immigrant women are particularly vulnerable, so I
16 don't want to repeat too much of what --
17 especially what has just been said. However, I
18 would like to share some examples with you as
19 well, which is despite -- but also let you know
20 that despite the passage of domestic workers civil
21 right in 2010, we have repeatedly seen domestic
22 workers complain to us of wage theft, no overtime
23 pay, no days off, a week, despite being entitled
24 to one week -- one week under the amended law.
25 Minimal to no sick or vacation leave and of course

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1
2 being exposed to sexual harassment. We are
3 concerned that the hard fought amendment of the
4 Human Rights Law as well as the Labor Law as well
5 as the Bill of Rights are not being used as often
6 as they could be to protect domestic workers from
7 abuse.

8 For example, one of our clients is a domestic
9 worker based in Queens who worked for nearly
10 seven years as a part-time live-in nanny and
11 housekeeper for a family, caring for the children
12 and the house. She was forced to sleep in tight
13 quarters and often in the children's room tending
14 to them all hours of the night. She experienced
15 nearly daily harassment by her employer, the
16 mother of the children, who would call her
17 insulting names and use vulgar language to speak
18 to her. She gave her sexually elicited gifts that
19 were demeaning and offensive and made sexually
20 laced comments or accusations. With no one to
21 turn to, no one to complain to, and particularly
22 no time outside of the house and away from her
23 employer in addition to her own financial
24 responsibilities to her family, she felt forced to
25 put up with the sexual harassment and she never

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1 would have ordinarily accepted.

2
3 Other clients have come forward with similar
4 stories of working in factories or restaurants
5 where they've been exposed to supervisors who made
6 sexually explicit or made comments to them on a
7 daily basis. All are low wage Latina immigrant
8 workers who work long hours in often hostile
9 conditions. All are low wage Latina immigrant
10 workers. And one client was pulled into a corner
11 by a supervisor who claimed he wanted to speak to
12 her about giving her a promotion. When he made
13 illegal, sexual, and intimate propositions that
14 were turned down, he retaliated by changing her
15 work schedule which made it impossible for her to
16 tend to her family obligations, like picking her
17 kids up from school. This retaliatory act was
18 ironically used as an excuse by the employer as
19 how they responded to her complaint as an attempt
20 to separate her from the supervisor by punishing
21 her while leaving him with the same salary, title,
22 schedule, and access to other employees.

23 We're concerned about our immigrant workers
24 because a current antiimmigrant client -- climate
25 where employers use a worker's immigration status

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1
2 as both a sword and a shield. Employers feel
3 boldly to discriminate openly against workers by
4 harassing them, making comments, withholding
5 wages, or subjecting them to unsafe or unsanitary
6 workplaces all while reminding them that they
7 should be grateful.

8 When workers speak up or exert their rights,
9 employers retaliate by threatening to call
10 immigration officials where they could face
11 deportation proceedings. Because of the kind of
12 deep fear that many immigrants, including many of
13 our clients, currently feel, they hesitate to
14 assert their rights and challenge sexual
15 harassment and abuse.

16 I would like to skip to our suggestions, which
17 is to encourage training on how to work with
18 immigrant workers and looking at the very small
19 details as to how sensitive to give your address,
20 your information, and these people who are
21 investigating who are doing the intakes
22 understanding that and thinking about it
23 throughout the process of the investigation. It's
24 very simple. They fill out these forms and then
25 it gets handed over to the employer and they never

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1
2 had their home address before. It subjects their
3 entire family to potential retaliation.

4 In addition to that, developing social service
5 works for -- or social services for these workers.
6 Once they come forward, it's important because a
7 lot of these people don't have medical insurance
8 and they have no other way of healing. But
9 additionally, it also serves for the purposes of
10 litigation because usually when you get an injury,
11 the only way to improve injury is to have some
12 sort of documentation of what has happened to you.

13 Third is coordinating with other agencies to
14 enforcement of antiretaliation laws. The New York
15 Labor Law has tons of antiretaliation laws, and
16 being able to coordinate. Often when you have
17 workers come to speak with us, it's not just, you
18 know, sexual harassment actually comes afterwards.
19 It's usually I still haven't received my wages.
20 So figuring out some sort of collaboration about
21 how to coordinate retaliation laws would be
22 wonderful.

23 Also, holding info sessions in immigrant
24 communities. And finally, it's very hard to try
25 to convince people to bring litigation or to

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2 exercise their rights knowing what's going on in
3 the courthouses right now. We encourage you to
4 please speak up about how this affects your work
5 and how it affects our work. You have powerful
6 voices. We are a force to be reckoned with and we
7 really would appreciate your support in providing
8 some security in getting these immigrant workers
9 into the courthouse. Thank you so much.

10 (Applause.)

11 MS BERGER: Hi, good evening. My name is
12 Laura Berger, and I'm an attorney at the Immigrant
13 Justice Project at the City Bar Justice Center.
14 The City Bar Justice Center is a non-profit legal
15 services arm of the New York City Bar Association
16 and our mission is to address the justice gap in
17 New York City, and we draw upon our relationship
18 with the private bar to leverage pro bono legal
19 services on behalf of low income New Yorkers. I'm
20 also a member of the City Bar Association on the
21 Law Committee. Through policy reports and
22 programming, our committee addresses issues
23 pertaining to gender and the law and ways to
24 reduce barriers to gender equity in healthcare for
25 work based on civic life.

1 PUBLIC HEARING

2 I'd like to thank the Commission for drawing
3 attention to the important issue of sexual
4 harassment in the workplace. Earlier this year,
5 the City Bar Justice Center created an
6 antiharassment and discrimination project in
7 response to the increase in discriminatory
8 harassment against minorities in the city
9 following the 2016 elections. Our legal hotline
10 has seen an uptick in calls concerning
11 discriminatory or sexual harassment based on
12 gender, and our callers are often referred to the
13 Commission or pro bono counsel in order to fully
14 explore their legal rights.

15 As the previous two speakers mentioned,
16 immigrants are especially vulnerable to harassment
17 and abuse in the workplace. Many of my low income
18 immigrant clients have faced sexual harassment,
19 and the behavior they face from employers and
20 managers runs the gamut from sexual proposition
21 and unwanted touch to rape.

22 The facet of the issue that I wanted to draw
23 your attention to tonight is how immigrants who
24 experience sexual harassment may be eligible for
25 U nonimmigrant status. U nonimmigrant status is

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2 for victims of serious crimes and requires
3 certification of law enforcement or agencies that
4 have investigated authority over criminal acts,
5 and these qualifying crimes can include abusive
6 sexual contact, sexual assault, and rape, all of
7 this may occur in workplace sexual assault cases.
8 And in addition, where the perpetrator tries to
9 prevent the victim from reporting the sexual
10 harassment, they may be committing witness
11 tampering or obstruction of justice which also
12 qualifies them to request U visa status.

13 As one example, a client of mine worked in a
14 restaurant where her boss made many excuses to
15 touch her sexually and made overt sexual comments
16 to her. When other male employees saw this, they
17 also took that as a license to sexually harass
18 her. And after one employee threatened to rape
19 her after work, she said she would call 911 and he
20 threatened to stab her if she did. She decided to
21 quit her job to prioritize her safety and made a
22 report to the, at that time, the State Division of
23 Human Rights and I was able to advocate on her
24 behalf and obtain a U nonimmigrant status
25 certification for her so she could apply for a

1 PUBLIC HEARING

2 U visa.

3 I know that the City Commission on Human
4 Rights already issues these certifications and we
5 are very thankful, but many immigrants living in
6 New York City are not aware of this immigration
7 remedy and fear reporting sexual harassment
8 because of the employment consequences as well as
9 the fear of their immigration status being
10 exposed, so we would like to applaud the
11 Commission for all the work you've done to promote
12 your U certification policy and in this era of
13 increased immigration enforcement, we urge the
14 Commission to ramp up efforts to raise awareness
15 of this process and to share immigration -- or
16 information in multiple languages to immigrant
17 communities so that everyone, regardless of
18 immigration status, can make a complaint to the
19 Commission and feel safe doing so.

20 Thank you so much for your time today and your
21 interest on this important and timely issue.

22 (Applause.)

23 MS. PASARELL: Good evening. Thank you for
24 the opportunity to provide a comment on behalf of
25 Hollaback. I'm Rita Pasarell, Hollaback's Vice

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2 Chairperson, and on a personal note, I'm a former
3 employee of former New York State Lopez who
4 resigned in 2012 following multiple reports of
5 sexual harassment by staff members.

6 Hollaback is a global movement to end
7 harassment and share equal access of the public
8 space. Also, we're a story sharing board, so I
9 want to thank everybody who was here tonight to
10 share their stories and testimonies.

11 The board was created to end harassment and
12 we've expanded to address all forms of public
13 space harassment including online bullying. Many
14 times this harassment is targeted by perceived
15 identity, often gender. Public space harassment
16 is an essential consideration for workplace sexual
17 harassment.

18 First, most of us commute through public space
19 to get to work and what happens in public space
20 can impact the workplace.

21 Second, while at work, we may still be
22 accessing public space, whether it's the physical
23 public space or online public space of the
24 internet.

25 Third, separate traumas may compound each

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1
2 other. Street harassment can be repeat trauma in
3 the workspace commute causing employees to arrive
4 to their jobs feeling anxious and distracted.
5 Personally commutes I've been groped and seeing
6 subway masturbators.

7 In 2012, Hollaback and the Worker Institute at
8 Cornell partnered for a study of street harassment
9 experiences. Reported emotional responses include
10 anger, fear, helplessness, and PTSD. This can
11 affect employees overall well-being impacting
12 punctuality, dependence, productivity, and
13 healthcare costs.

14 Street harassment can impact any subsequent
15 workplace sexual harassment by effecting workplace
16 response or willingness to report to workplace
17 harassment. Online harassment is also very
18 important to the discussion. For many people,
19 online work is professionally required, for
20 example, jobs for writers or in media. Online
21 harassment also causes emotional trauma and it
22 disproportionately targets women discouraging
23 women from writing and earning a living online.
24 This excludes women from professional activities
25 online. Women writers, especially women of color,

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1
2 are giving up writing online as a result. A
3 recent pole of Time writers found that half the
4 women on staff had considered quitting journalism
5 because of the hatred they faced online, although
6 none of men had. Hollaback has developed a set of
7 open source resources for civil society
8 organizations to better protect, to better staff
9 online harassment.

10 Another important consideration that many of
11 the other speakers have mentioned is the role of
12 the bystander for two reasons. Witnessing
13 harassment can cause the bystander their own
14 trauma, but also bystanders can have some
15 important, helpful effects on someone who's being
16 harassed by bystander intervention.

17 In service industries such as hospitality or
18 restaurant work, sexual harassment numbers are
19 reported as particularly high, so the bystander
20 trauma and intervention may be especially
21 important. It's also important to note that an
22 inactive bystander tends to increase trauma. So
23 for that reason, employers should train their
24 staff on bystander intervention.

25 So a few policy suggestions just to summarize.

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2 I mentioned a few of them. Number one is to
3 research the impact of street harassment and
4 online harassment on employees' retention,
5 turnover, productivity, and the direct link
6 between workplace harassment. And also training
7 for employers on how street harassment and online
8 harassment impact their employee jobs including
9 bystander intervention. And finally, the previous
10 speaker had mentioned 311, 911, reports on what to
11 do when they're getting these reports, so
12 additional training there would be helpful as
13 well. Thank you. (Applause.)

14 MS. SALAS: So you mentioned this research on
15 street harassment experiences. Did you publish a
16 report on this?

17 MS. PASARELL: There are several reports. We
18 have two with the Worker Institute at Cornell from
19 2012. The titles of those are Experience of Being
20 Targets of Street Harassment in New York City,
21 Preliminary Findings. You'll see it. You have
22 the testimony, it's Footnote 3. And then there's
23 also another one that is When Street Harassment
24 Comes Indoors, A Sample of New York City Service
25 Agency and Union Responses to Street Harassment,

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2 also 2012, and that looks like it's Footnote 5 for
3 the first time. Thank you.

4 MS. NEUFELD: Good evening. Thank you so much
5 for the opportunity to testify today on sexual
6 harassment in the workplace. You all are hearing
7 and learning so much, but everyone in the audience
8 is also. It's really very powerful to hear the
9 stories from different sectors particularly and to
10 see the intersection. I think we're all trying to
11 find the intersections between these issues and
12 this work. I think you'll know that's what I
13 represent.

14 I'm Bev Neufeld, founder and President of
15 PowHer New York. We're a nonpartisan group.
16 We're 100 organizations working collectively to
17 advance women's economic equality. We work on
18 multiple issues and we are very dedicated to
19 workplace fairness, domestic violence, sexual
20 harassment, reproductive rights. We see the
21 intersection of all those things.

22 Many of our partners spoke already today, and
23 so I will not repeat any of the things that they
24 said. And so, therefore, half the testimony is
25 left which is may be something that you're

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2 welcoming. Be not surprised that I want to talk
3 about equal pay, because I think you'll all know
4 that that's an area that PowHer New York has been
5 leading on. And as we have been studying this
6 hearing so much, all the information that's coming
7 out, other stories, for me and for many of us,
8 we're saying, what is the emotional impact of this
9 work of what's happened to people? 20 years
10 later, 30 years later people still suffer. What
11 we don't have a lot of information on is what is
12 the financial impact? And so there is not a lot
13 of information on that. There's not a lot of hard
14 data. There's a lot of anecdotal information. I
15 think I might be able to share a few things with
16 you.

17 I do want to mention that PowHer looks for
18 concrete solutions. So we worked on the
19 transparency issue in New York state. We just
20 celebrated the passage of the New York City salary
21 history ban, and if anything proves that we needed
22 that, I think today's hearing does prove that
23 women have been suffering from many causes of wage
24 and equity, but I don't think we always consider
25 sexual harassment as being one of the essential

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2 causes. So as we look for, in the future, for
3 solutions to the wage gap, we will definitely
4 focus more on the arguments around sexual
5 harassment and the understanding, and even when we
6 tell companies you want to do better, you need to
7 to look at your sexual harassment rules.

8 I think I can just add to the fact that
9 occupational segregation is definitely one of the
10 ways we try to cause the wage gap. But how
11 discouraging is it to hear the testimony today
12 that I would have given you stats on, but instead
13 we got stories on the construction industry, on
14 STEM. We are pushing our girls to go into the
15 STEM fields, and yet these are hostile and
16 dangerous environments.

17 I think I can also add maybe a little bit to
18 that by a New Yorker Magazine article just a few
19 days ago talks about 20 senior level women in
20 technology. It's called The Elephant in The
21 Valley. 60 percent reported unwanted sexual
22 advances in the workplace. A large majority of
23 those advances were from superiors. A third of
24 them said that they worried about their personal
25 safety. And almost 40 percent said that they did

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2 not report the incident because of fear of
3 retaliation. This is the world we're preparing
4 women to enter, and so how important is it for us
5 to comp out that?

6 We've talked about many of the things we don't
7 need to continue in the tech field. I do have to
8 say we do have proof or knowledge that 50 percent
9 of the women in STEM who have had these
10 experiences leave the field. So think about the
11 trajectory of someone's career, and what happens
12 to, you know, their future economically and how is
13 that translated into the career paths?

14 I don't think today we've talked enough about
15 restaurant workers. And so in the testimony,
16 there are stats that are offered from Rock United
17 and Rock New York, and I have to say that they're
18 shocking. 80 percent of New York tipped
19 restaurant employees experience unwanted sexual
20 behavior in the workplace. 45 percent report say
21 it's a co-worker. The restaurant industry
22 accounts for 7 percent of working women and
23 37 percent of sexual harassment cases. And when
24 you consider that women cannot change their shifts
25 because the night shifts are the good shifts,

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2 that's where you get the best tips. That's why
3 power is supporting the One Fair Wage Campaign so
4 that every shift is going to be a well-paid fair
5 shift. And I don't know what the city can do
6 about that to forward that -- we have good feeling
7 from the state this may happen.

8 So the real life outcome of all of this is
9 that people quit their jobs rather than working.
10 They seek new employment without the benefits of
11 references. They have periods of no work. When
12 we talked about the salary history, it's like how
13 do you explain that you didn't work for a period
14 of time? How can you say that you had sexual
15 harassment issues? And so we're in this #MeToo
16 moment.

17 And I just want to share that the Federal
18 Government in the '80s and then again in the '90s
19 calculated the cost for the Federal Government
20 that their cost of sexual harassment, they came up
21 with the whopping number of \$327 million in costs
22 over a two-year period. This is in the '90s and
23 they haven't recalculated. Things are better.
24 So I guess I wonder how's New York City doing?
25 How much is this costing New York City? That

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2 includes sick leave, job turnover, productivity
3 losses. So I encourage you to help the city have
4 a #WeToo response. That means we're part of the
5 problem, but we're also part of the solution. We
6 will be models for other companies and, you know,
7 for the public sector.

8 We applaud what you're doing. We're here to
9 support you, the PowHer network. We'll do
10 everything we can to promote any of the
11 recommendations. Certainly the contractor
12 reporting is some ways that we've been working
13 through some of the problems with equal pay and I
14 think that is a very good option for New York
15 City.

16 Thank you very much for letting us all talk
17 tonight. It's so important for us to share this
18 information to see how we really are working,
19 sometimes in separate silos, but really on the
20 same issues. Thank you very much. (Applause.)

21 MS. WAGNER: It's an honor and privilege to be
22 in this room both to witness and participate in
23 this historic hearing. I want to just give a
24 shout out to those staff who organized the order
25 of the testimony because I feel like I have such a

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2 rich and vital contents in which to make my
3 remarks.

4 My name's KC Wagner and I'm from the Worker
5 Institute at Cornell. I appreciate not only this
6 opportunity to be part of this historic moment,
7 but with a special appreciation to Eleanor Holmes
8 Norton who was my north star in 1980. In my early
9 days of the movement as a community organizer and
10 counseling director at the Working Women's
11 Institute.

12 As the School of Industrial and Labor
13 Relations at Cornell in New York City, we have an
14 opportunity to work with unions, worker centers,
15 and employers. I'm going to talk very
16 specifically about three models that I have done
17 work with in relation to unions role in leveraging
18 their power and their unique opportunity when they
19 partner with employers.

20 One example is an immigrant-led service acting
21 union that leveraged its role as an employer to
22 create a respectful and equitable workplace run by
23 union values. The second is a construction union
24 that bargained with the Industry Employer
25 Association for required training for supervisory

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2 staff on inclusion and diversity. And the third
3 is a joint labor management work family committee
4 that launched a program to engage men and women
5 and allies on the issue of domestic violence as a
6 union issue.

7 In the first example, the top leadership made
8 a three-year commitment to this training program
9 with an allocation of these sources for staff time
10 and train the trainers model and a commitment to
11 union wide implementation of over 300 staff and
12 then subsequent training of their members who
13 clean our office buildings at night and greet us
14 at the door of our building.

15 The leadership has the courage to allow the
16 Worker Institute to conduct a staff-wide
17 educational needs assessment audit which enabled
18 us to get a witness test of the priority issues of
19 the staff giving the staff a voice in the creation
20 of this training and education program. And what
21 was really remarkable for me about this was
22 identify what they constituted the scope of
23 inappropriate workplace behaviors, what skill
24 building they wanted in the training? What did
25 they want to learn? What did they want their

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2 co-workers to learn? What did they want
3 management to learn? What did they want elected
4 officers to learn? So it was a really good
5 assessment of what would be meaningful in a
6 training program to them.

7 And then finally, an organization of cultural
8 climate. So we all heard about the fact of
9 retaliation and the fear of speaking out and all
10 the options to address and resolve issues. And so
11 I wanted to find out when you were dealing with a
12 co-worker, what options and strategies did you
13 feel were available to you? When it was a power
14 dynamic, what options and strategies were
15 available to you? And we designed and tested a
16 series of pilot trainings, trained 15 designated
17 staff that came from the union campaigns and other
18 leadership positions within the organization and
19 trainers who would then implement this world --
20 program union-wide. And then this model created
21 sustained leadership group to integrate this into
22 Wachodemia (phonetic). It wasn't a one off. It
23 was a three-hour training that was done. It was
24 integrated in the life of the union.

25 The second was a collective bargaining

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2 agreement that was made between the
3 construction -- a particular construction union
4 and the industry employer for a mandatory six-hour
5 diversity inclusion training for all their
6 forepersons and superintendents in order for them
7 to get a certification as a supervisor. In
8 order -- just like Rita was talking about, just
9 like the certification that you need to sustain --
10 I know my time is up, so I won't go into that in a
11 lot of detail. But it was collectively bargained
12 and mandated as we did a series of trainings,
13 frankly, that looked at issues implicit by and
14 allied behavior and using that to hold peers
15 accountable and then leveraging that power within
16 their role as forepersons in safety trainings
17 raising it at the shop floor at the construction
18 site consistently just like they do safety and
19 health.

20 And finally, a joint labor management
21 collaboration that launched a workplace fairness
22 and prevention program on domestic violence that
23 the union workplace issue in a predominantly male
24 work group looking at issues of male privilege,
25 power, linking domestic violence and sexual

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1 harassment, heterosexism, homophobia, bullying,
2 workplace violence, norms of toxic masculinity and
3 violence that allied upstandard behavior. We
4 reached over 1,500 employees and 125 managers on
5 work time that was negotiated through a safety and
6 health collective bargaining agreement. So it was
7 on the employer's dime. And finally at the end of
8 the program, which was overwhelmingly male,
9 5 percent women, in a traditional male work
10 environment, 97 percent of the men polled said
11 that they would be more willing to talk with other
12 men about their role to stop violence against
13 women, and 99 percent of the men polled said that
14 they would be more willing to take a leadership
15 role to stop violence against women.
16

17 So engaging allied behavior, empowering women,
18 but having a workplace that makes this possible
19 thank you. (Applause.)

20 MS. LUSHER: Good evening. My name is LaDonna
21 Lusher. I'm a partner at Virginia & Ambinder.
22 We're a law firm in New York City that represents
23 workers that have been discriminated against,
24 underpaid, and sexually harassed. My firm has
25 counseled numerous employees that have suffered

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2 egregious forms of sexual harassment by their
3 supervisor as well as their co-workers. We have
4 counseled employees that have seen -- been shown
5 pornographic pictures, that had cell phones stuck
6 under bathroom stalls where photos were taken of
7 them in their privacy. Individuals have been
8 groped and grabbed and individuals that have been
9 intimidated into having sex with their superiors.
10 And while we've spoken with employees that -- in
11 all types of industries that have experienced this
12 harassment, I'm going to focus on tech and finance
13 industries tonight because we counsel employees in
14 those areas recently and I thought that that's
15 something that I could speak to the Commission on.

16 One of the things that counseling these
17 employees is that a lot of times they're given
18 assignments on a temporary basis before they
19 become permanent employees which makes them
20 particularly vulnerable to harassment. There are
21 savvy harassers that will target these employees
22 because they know that they're dependent on
23 getting favorable reviews before they get
24 permanent offers of employment. One such employee
25 that we counseled worked for a prominent bank,

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2 analyst, and she was assigned to a supervisor who
3 consistently harassed her throughout her
4 employment. He used her status as a temporary
5 employee to take advantage of her.

6 First, he started out demanding that she
7 accompany him to lunches and dinners, then telling
8 her later that he needed more from her in order to
9 renew her contract. He would grab her breasts,
10 her buttocks when she was alone in her cubicle.
11 He consistently made degrading comments to her
12 about her wardrobe and about the appearance of
13 other women in the office, and he eventually
14 demanded she have sex with him. She gave in to
15 his advances eventually and tolerated this abuse
16 for years because she was fearful that she would
17 lose her job. While this employee finally decided
18 to complain to other superiors of the bank, they
19 dismissed her comments and simply responded that
20 they knew that he acted inappropriately sometimes.

21 This leads to another issue that I believe
22 that temporary employees face and that their
23 complaints are often not taken seriously as
24 permanent employees. Companies know that they can
25 terminate the contract of these employees and

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2 think that they won't be coming back to work
3 there. Alternatively, sometimes the company's
4 response is to transfer the supervisor to another
5 department thinking that this individual isn't
6 going to prey on other employees. That's where I
7 would echo the testimony of other individuals here
8 that talk about mandatory training, that that can
9 go a long way, particularly when companies think
10 and use it as a defense often in litigation that
11 this person, well, we've moved him to a different
12 department.

13 Another area of concern for many tech and
14 finance employees is that they have temporary
15 authorization to work in the United States. And
16 they're, again, fearful that if they were to
17 complain, that that authorization may get revoked
18 or they won't get their employment renewed. So,
19 again, I would echo testimony that you already
20 heard tonight that the statute of limitations
21 should be increased for these employees to make
22 complaints and for all employees. It takes a lot
23 of courage for employees to get up and decide to
24 complaint, and it may take them longer than a year
25 to be able to get that courage. And temporary

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2 employees can often get a permanent job status
3 later on that then they may feel more secure in
4 their employment and that a longer statute of
5 limitations may allow them to then file a
6 complaint.

7 Finally, I will just address another area that
8 was raised briefly, but that's arbitration
9 agreements. More and more as my firm counsels
10 employees, we see arbitration agreements just for
11 daily workplace spaces. And arbitration is
12 important to realize in sexual harassment context
13 because part of the whole #MeToo is that
14 everyone's getting out and telling their stories
15 and it's bringing these issues to light, and
16 obviously the Commission is meeting tonight
17 because there have been so many stories in the
18 news lately.

19 For some of those forced to get a private
20 arbitration, their claims are heard by a mediator
21 and they're not heard in public and open court.
22 And there are often rules that they can't speak
23 about what happens particularly if a settlement is
24 breached. By having mandatory arbitration, it
25 prevents these stories from being heard, and the

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2 harassers know that the company has just paid off
3 the employee and that they aren't subject to any
4 kind of retaliation basically.

5 The thing that we would suggest as far as the
6 mandatory arbitration agreement is that the city
7 could refuse to do work with contractors who have
8 mandatory arbitration agreements with their
9 employees or they could also make it mandatory
10 that sexual harassment complaints are exempt from
11 arbitration, that these employees could then file
12 their claims in court and that these issues could
13 be addressed on a more public basis.

14 These are the suggestions that we have.
15 Again, I'd like to thank the Commission for this.
16 I want to say on a personal note that my firm
17 appreciates the work that the Commission does and
18 that when a client comes into our office that has
19 performed the work in New York City and when they
20 have some type of claim, we know that New York
21 City has the strongest, most liberal laws in the
22 country, and we can evaluate that claim on a
23 different level than we can from someone else that
24 comes in from another area of the country and we
25 appreciate the work that you do. Thank you.

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2 (Applause.)

3 MS. NANAU: Good evening. My name is
4 Daniela Nanau. I'm a longtime Queens resident
5 and for the last 15 years I've worked as an
6 employment and civil rights lawyer. I now have
7 a solo practice located in Central Queens, and I
8 appreciate the opportunity to address you here
9 this evening.

10 Throughout my career, I've represented many,
11 many women who have been subjected to sexual
12 harassment and other types of gender related
13 mistreatment in the workplace, and my clients have
14 come from all walks of life and have worked in
15 every kind of profession imaginable. But I wanted
16 to focus my remarks today before the Commission on
17 some things that we have not heard this evening
18 which are some of the significant challenges that
19 I've observed women in tech and finance, which are
20 two of our most important sectors in our economy
21 face.

22 As opposed to workers in other sectors, people
23 who work in tech and finance are generally better
24 educated, more highly compensated, they spend
25 many, many years and many hundreds of thousands of

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2 dollars preparing for those high-power jobs that
3 they hope they're going to one day get. But
4 according to an excellent report that came out
5 from the U.S. Equal Opportunity Commission last
6 year, women in high-tech only make up 30 percent
7 of the workforce and occupy only 20 percent of
8 executive positions in that sector to date. In
9 financial services, women comprise a larger
10 portion of the workforce, approximately
11 48 percent, but there's still a significant lack
12 of women leaders on top. A recent Harvard
13 business review reported that only 20 percent of
14 women occupy executive committee chairs, only
15 22 percent of women are in board seats, and only
16 12 percent of chief executive officers of large
17 financial firms are women in the United States
18 today.

19 Based on my experience representing women in
20 high-tech and finance, I believe that this gender
21 imbalance, particularly among those people in
22 power in these industries, allow discriminatory
23 conduct in the workplace to thrive unchecked.
24 Sometimes that happens passively, sometimes more
25 actively, that discriminatory conduct is condoned.

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2 But what I've observed is that regardless of how
3 entrenched sexual harassment and other
4 discriminatory practices are in the workplace,
5 when a woman comes forward in tech or in finance
6 and she sticks out her neck and complains, she
7 usually will pay a high price because retaliation
8 is generally swift and certain. In banks, the
9 boom-boom rooms of the '80s and the '90s still
10 exist. They're just a little bit more hidden.
11 I recently resolved a case that actually I didn't
12 even want to settle because the facts of that case
13 were so good and so stereotypical that I really
14 wanted to try the case to educate the public on
15 what's still going on in banks.

16 My client was a young lawyer, fresh out of
17 school, it was her first professional job and she
18 was the star of the department. She got all this
19 extra training and attention and her supervisor
20 told her that she want -- that he wanted to be her
21 mentor and nurture her and groom her, but actually
22 the type of grooming that he had in mind was very
23 different. When he went to take her out to
24 dinner, to celebrate the end of the year and their
25 projects. He plied her with many alcoholic drinks

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2 and at some point he promised that he wanted to
3 share with her confidential bonus information, but
4 they needed to go to his hotel room to do it. And
5 she was so shocked but so trusting of this person
6 who had been like a father to her that she went
7 and he gave her another drink and she suspected by
8 the taste that it might have something in it, that
9 he had actually Roofied her and then he tried to
10 sexually assault her, and she put all this
11 together because she is a brilliant woman in a
12 matter of seconds and ran out of the room and
13 collapsed in front of the hotel room in the
14 street.

15 Subsequently, she went to work, took her two
16 days to think about it, reported the conduct,
17 nothing happened to him, but she went from a
18 rising star to persona non grata and she was out.
19 This is a typical story. And that's why I wanted
20 to try that case and that's why it resolved for
21 100 percent of its value. This happens all the
22 time. It happens in tech, too. Evelyn Powell,
23 she is the patron saint of this for women in tech.
24 She is the example that they look to when they
25 think about coming forward with their complaints,

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2 and I think that while some women in tech have
3 come forward like Susan Fowler who is being
4 irresponsible for the termination of the CEO of
5 Uber and 20 other people being dismissed, and
6 Silicon Valley entrepreneurs have gathered
7 together to call out sexual predators (inaudible)
8 firms.

9 It's still a very entrenched problem, and I
10 think more so in tech and finance because people
11 invest a tremendous amount of time and energy to
12 get to a place in their professional lives and
13 it's very difficult for them to just leave which
14 is ultimately what they have to do when they
15 complain. Thank you so much. (Applause.)

16 MS. ESCOBOSA: Good evening. My name is
17 Leslie Escobosa and I am the training coordinator
18 at the Restaurant Opportunity Center of New York,
19 a chapter of the Restaurant Opportunity Center
20 United. For the past 16 years, ROC has advocated
21 for better wages and working conditions for the
22 11 million plus restaurant workers in our nation,
23 more than 200,000 of whom live and work in New
24 York City. Our industry is one of the largest
25 and fastest growing sectors and a powerful engine

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2 for the country's economy.

3 Although it is fast paced, exciting, and
4 diverse industry with a predominantly female
5 workforce, these women's employment is
6 concentrated in low wage of the forefront of the
7 house position. Sadly, these women are subject to
8 some of the highest rates of sexual harassment on
9 the job of any sector as reported annually to the
10 Equal Employment Opportunity Commission. This
11 harassment can come from customers, managers, and
12 even co-workers.

13 As a former restaurant worker myself, I can
14 attest to the various forms of this behavior which
15 can range from a policy as innocent as requiring a
16 sexy uniform to being expected to put up with the
17 unwanted flirtation and advances from managers and
18 customers for the promise of better or more
19 frequent shifts or higher tips. This can even
20 escalate to unwanted comments, touching, and
21 worse. Long before there was a #MeToo moment
22 being discussed in the media, ROC has been
23 documented the plight of restaurant workers being
24 subject to sexual harassment.

25 Our 2014 report calls the -- the glass floor

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2 explores this issue in details. Most of us have
3 heard the term glass ceiling which describes
4 difficulties for women to climb the professional
5 ladder for better positions. However, ROC report
6 demonstrates that standing on the floor itself has
7 become insecure and stable and horrible for women
8 because of sexual harassment. Women in the
9 restaurant industry stand on the glass floor day
10 after day, a brittle and secure surface that
11 exposes them to sexual harassment for economic
12 survival.

13 A quote from our report reads: A restaurant
14 job is often the first job a young woman obtains
15 whether she stays in the industry her whole life
16 or moves on to another career. Countless young
17 women start out as early as high school working
18 part-time positions as server, busers, hostesses,
19 and runners in the restaurant industry that are
20 notorious for low pay along with sexual
21 harassment.

22 ROC has been working with Futures Without
23 Violence, Connects New York, and others to develop
24 trainings and resources for managers and
25 restaurant workers to create a zero tolerance

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2 policy in their restaurants. ROC New York urges
3 for the passage of One Fair Wage legislations who
4 pay this predominantly female workforce fairly and
5 address the disgusting practice of sexual
6 harassment.

7 In my current position, ROC New York's
8 training programs, I have to prepare future
9 restaurant workers for the world of work. I look
10 forward to the day when the new generations can be
11 introduced to a workplace that is free of sexual
12 harassment and not think that this behavior is a
13 right of passage for an occupational hazard to be
14 experienced if you want to get ahead.

15 I thank the Commissioner and the Commission on
16 Human Rights of NYC for giving us the opportunity
17 to speak on behalf of our membership and many
18 others who are victims of sexual harassment.
19 Thank you. (Applause.)

20 MR. ALLMAN: Good evening. I speak tonight
21 on behalf of assemblywoman Carmen De La Rosa,
22 assemblywoman for the communities of Washington
23 Heights, Inwood, and Marble Hill. First, though,
24 a special thanks to Commissioner Malalis, to all
25 the sponsors, co-sponsors of this evening, and

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1 their staffs who have made this evening happen.

2 I also want to -- having listened to so many
3 people speak, I want to extend an extra thanks and
4 appreciation for learning from all the people who
5 have spoken this evening.
6

7 It is certainly time for us to come together
8 and bring light to an issue that is impacting
9 women in the workplace across the nation. It is
10 true that both New York City and New York state
11 have laws that are meant to protect employees from
12 abuse and discrimination in the workplace. But in
13 light of the fact that harassment continues to be
14 pervasive in many industries, it is time for us to
15 take a good look at how we are protecting women
16 and making them feel safe at home and at work.

17 In recent weeks as I have read the many
18 stories of women who've experienced the
19 unimaginable at the hands of powerful men in the
20 entertainment industry and private sector and in
21 government, I am glad for the moments of awareness
22 and displays of courage that have come through.
23 With that awareness also comes the realization of
24 the many, many untold stories of victims who have
25 felt that they had no recourse to stop the

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1 harassment they are experiencing.

2 It is an awareness that reminds me each day
3 that I am a mother of a three-year-old daughter.
4 She will be a teenager in only ten years and an
5 adult woman making her way through the world not
6 long after that. I want to make sure that we do
7 everything we can so she doesn't experience the
8 harassment and abusive power that so many women
9 have experienced at work and outside the
10 workplace.
11

12 And as so many other speakers have noted
13 tonight, we must also take note of the challenges
14 that poverty presents in protecting women in the
15 workplace and how it plays out in communities
16 across the city. It is often reported that women
17 who feel or are perceived as vulnerable are more
18 likely to experience abuse and harassment.

19 Poverty is a vulnerability that can cause
20 women to feel especially trapped in instances
21 where abuse is present. In my district, about
22 50 percent of residents are foreign born
23 immigrants, 20 percent are living below the
24 federal poverty level, and about 60 percent are
25 considered rent burdened. When we look at the

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2 unemployment rate, 13 percent of residents are
3 unemployed much higher than the citywide average
4 of 9 percent. In communities such as mine where
5 people are struggling to make ends meet and if
6 English may not be their primary language or who
7 maybe newly arrived in this country, we need to
8 ensure that women are not forced to stay in
9 situations where they feel no choice but to stay
10 silent or maintain an abusive work environment for
11 fear of becoming unemployed or underemployed.

12 Employers -- it's worth noting that employers
13 in these communities tend to be smaller and often
14 do not have proper mechanisms for employees to
15 file harassment complaints without reprisals. I'm
16 glad today that you are providing a public venue
17 to have this conversation in hopes of changing
18 this crude reality and know that we've learned on
19 this from many of the previous speakers.

20 I have been shaken by the stories of immigrant
21 women, mostly undocumented or newly arrived,
22 who've experienced abuse in the forms of threats
23 to their immigration status. These are women who
24 work in establishments where they are put on
25 display, where they feel they have no choice but

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2 to put up with being belittled on a daily basis
3 because they make ends meet. And today I ask the
4 Commission to pay particular attention to these
5 communities across their city -- across the city.
6 We know that the loss of a job can lead to the
7 loss of housing, the derailment of the pursuit of
8 higher education, or the loss of needed healthcare
9 benefits which only serve to exacerbate the cycle
10 of poverty. We need to make sure that the
11 reporting of sexual harassment incidents no longer
12 equals a demotion or the loss of a job.

13 I believe tonight that there are three things
14 we need to do to make sure are present in our
15 places of work. First is a zero tolerance
16 environment where employees know that from top to
17 bottom, everyone will be held responsible if they
18 participate in harassing behavior.

19 Second is accountability. Sexual harassment
20 policies must be clear as to what will happen to
21 anyone who participates in or even allows for
22 sexual harassment behavior to happen at work.

23 Third is transparency. We must continue to
24 call out abusers and report these instances for
25 what they are. Secrecy will only breed further

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2 complacency. It is important that we push for
3 independent monitoring in investigating of any
4 instance of abuses or harassment.

5 As I as a legislator get ready to go back to
6 Albany for the 2018 legislative session, the issue
7 of sexual harassment is one my colleagues and I
8 plan to prioritize. There are a number of initial
9 bills being proposed in the assembly, and I will
10 keep my district, our communities, and the
11 Commission and co-sponsors informed as we move
12 these bills forward.

13 Two final notes. As a member of the
14 assembly's Mental Health Committee, I also plan to
15 address the issue of sexual harassment and
16 unintended -- intended and unintended consequences
17 on victims' mental health and to continue this
18 perspective. I welcome input from the Commission
19 and others on any legislative action that
20 addresses this issue as well as issues of the
21 overall state of women and the challenges that we
22 face.

23 Also, although we know that women face the
24 largest number of instances of sexual harassment,
25 I would be remiss if I did not also mention my

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2 serious concern of how sexual harassment and
3 violence have an outsized effect on transgender
4 people, gay men, lesbians, and other vulnerable
5 members of our communities who simply come to work
6 to do a work full and honest day's work.

7 I ask -- and I ask this knowing that as a
8 priority of the Commission -- you continue to look
9 for the input of these groups as you move forward
10 in formulating any plans to eradicate sexual
11 harassment in our city.

12 Again, thanks to the Commission and to
13 everyone for holding this groundbreaking hearing.
14 I look forward to working with you on an ongoing
15 basis and use every fiber of my being as a woman,
16 a friend, a neighbor, as a legislator, and to call
17 out injustice when I see it. And, again, ally and
18 advocate in this fight to eradicate sexual
19 harassment in the workplace. Thank you very much.
20 (Applause.)

21 MS. MALALIS: You had the great distinction of
22 being the last person testifying at this historic
23 hearing. You know, I want to say thank you of
24 course to all the people who've showed up tonight
25 to share their personal stories.

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2 We talk about bravery, courage and
3 discrimination and harassment and its related
4 claims and cases, but it has really been for me,
5 you know, quite an experience to be in government
6 right now and to be able to listen to people share
7 their personal stories in this so very public way
8 and in a space where really the reason you are
9 sharing your stories is to, you know, increase
10 protections, to make lives better, to force and
11 compel government to take more action. So I am --
12 we are forever in your debt for taking that step
13 and making yourself vulnerable in this very public
14 way.

15 I want to also thank the advocates who showed
16 up today to advocate and to share the stories that
17 you have experienced with your clients. Being a
18 former advocate myself, I know that as we go
19 through these cases, we are oftentimes
20 experiencing much of the -- I use the word burden
21 for lack of a better term right now, but the
22 burden of the horror and the indignity and the
23 vulnerability that we have to hear our clients
24 tell over and over again whether it's to
25 government or to different entities just to make

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2 their claims. So I thank you for taking the time
3 out of your busy schedules to do this.

4 I also know that taking on claims of sexual
5 harassment like many other forms of
6 discrimination, it's not easy and it's not cheap.
7 And it is a great -- it takes great commitment and
8 it takes great investment for organizations
9 especially to take on these cases. So I thank you
10 for doing that.

11 I want to thank my colleagues in government
12 who showed up today as well to make their voices
13 heard. I felt very strongly that government needs
14 to be up front in this issue. That there is a
15 very important place for government to take as we
16 are hearing more stories of sexual harassment and
17 discrimination generally, and so I thank you for
18 taking the time to do that and to show up for this
19 hearing.

20 I want to -- I want to thank my staff, folks
21 from the Commission on Human Rights. I came into
22 government almost three years ago for the first
23 time, and I feel daily blessed, again, for lack of
24 a better word, at how I have such committed people
25 on staff, real believers in human rights who

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2 sacrifice time from their families and from other
3 pursuits because they really believe in this work.
4 They are the ones who have made this hearing
5 happened. It would not have occurred if not for
6 them.

7 I want to especially call out my deputy
8 commissioner for policy, Dana Sussman, who's there
9 in the back, and Edwin Tablada who's also in the
10 back also from our policy office who are really
11 instrumental. This hearing absolutely would not
12 have occurred without those two people who are
13 also responsible for putting together the order of
14 the speakers and for really reaching out to make
15 sure we have great diversity of speakers present.

16 And I want to of course thank my panelists.
17 You know, one of the great prides I have in being
18 in public service right now is, you know, the
19 ability to share this, I think, very important
20 moment especially in the local public service,
21 with not only people who really believe in the
22 works that we do in human rights, but people who
23 represent the different communities that we work
24 to provide resources to or strengthen.

25 Representation is very important I think in

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2 government. It's very important in places of
3 power. I am -- this is probably one of the
4 proudest moments of my time in public service that
5 I'm able to share this moment and this public
6 hearing with my fellow commissioners all of whom
7 are also strong, you know, badass women in the
8 fields that they're in who have taken, again, time
9 out from their busy schedules and from their lives
10 to listen to this testimony.

11 We will continue the work that we are doing so
12 that after this hearing, we will be continuing to
13 take in written testimony, again, until the end of
14 the month, so if there are -- but people or
15 entities that could not make it today that were
16 worried that they had missed the deadline for
17 submitting testimony, please do encourage them to
18 do that, and we will be looking at that along with
19 tonight's transcript and meeting to discuss what
20 our report and what our recommendations should
21 include.

22 I thank you again tonight. It's a late hour,
23 but I will now conclude this public hearing on
24 sexual harassment in the workplace. Thank you
25 very much. (Applause.)

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(Time noted: 9:43 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

I, KAREN E. RIGONI, CSR, RPR, a
Notary Public within and for the State of
New York, do hereby certify:

That PUBLIC HEARING is a true record of
the testimonies given.

I further certify that I am not related
to any of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 15th day of December, 2017.

Karen E. Rigoni

KAREN E. RIGONI, CSR, RPR
Commission Number: 01RI6245518
Expires: 07/25/2019

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