



To: New York City Commission on Gender Equity, New York City Commission on Human Rights, New York City Department of Consumer and Worker Protection, and the New York City Bar Association

From: MARRISA SENTENO, ALLISON JULIEN – NDWA’s New York Co-Directors (Marrisa@domesticworkers.org, Allison@domesticworkers.org),

Re: Testimony Submitted for New York City’s Public Hearing on Pay Equity

Date: September 19th, 2019

I. Background: About the National Domestic Workers Alliance (NDWA)

The National Domestic Workers Alliance (NDWA) is the nation’s leading voice for dignity and fairness for the millions of domestic workers in the United States. Founded in 2007, NDWA works for the respect, recognition and inclusion in labor protections for domestic workers, most of whom are women. The alliance is powered by 60 affiliate organizations, plus our local chapters in Atlanta, Durham, Seattle and New York City, of over 20,000 nannies, housekeepers and direct care workers in 36 cities and 17 states.

NDWA leads several campaigns and coalitions to advance the rights of domestic workers by advocating for increased labor protections, racial justice, gender equity and humane immigration policies.

We have a NY Chapter with over 3000 participants and a NY Coalition of over a dozen affiliate members which are active community based organizations that have domestic workers as part of their membership base. Our New York Chapter focuses on organizing local domestic workers, campaigns, workforce development and enforcement of domestic worker rights.

At NDWA, through our NY Chapter’s labor rights enforcement campaign our domestic worker leaders have spoken to well over 1000 workers in the past year, screening over 250 of them for workplace violations, and support about 100 workers seeking justice in cases that are brought forward our monthly legal clinic in 2018 alone. We collect the stories and experiences of what domestic workers experience in the workplace in NYC.

II. New York Domestic Workers win a Bill of Rights

The NYS Domestic Worker Bill of Rights was signed into law on August 31, 2010, marking the culmination of a six-year grassroots organizing campaign led by Domestic Workers United and the New

York Domestic Workers Justice Coalition. The first legislation of its kind, the Bill of Rights closed gaps in labor laws that had left domestic workers with fewer rights than other workers in the state, and added new protections. It has inspired a national movement and Hawaii, California, Massachusetts, Oregon, Connecticut, Illinois, Nevada, New Mexico and Seattle have also passed new protections for domestic workers in the past 9 years. We have launched a Federal Bill of Rights to address the lack of protections at a national level.

III. NDWA New York Organizing Team's current role in helping to enforce domestic worker rights

In the past 4 years, NDWA has worked with our local affiliates to explore the following strategies in pursuit of a more worker-led, community supported enforcement process.

1. Prioritize leadership development among domestic workers that prepares and utilizes them as key actors in supporting peers through the enforcement process. In 2015 we began to develop the Groundbreakers leadership program, in which cohorts of 4-6 worker leaders from different organizations and communities are trained in systematic worker outreach and as worker rights enforcement navigators. The latter training equips them with the knowledge and skills to facilitate community education workshops, issue spot & identify when workers have potential cases, complete full a pre-intake interview, and peer coach workers partaking in a legal clinic for the duration of their case. We have trained 26 Groundbreakers thus far.

2. Work collaboratively with government agencies who share values and vision alignment, to explore how to leverage our collective resources and mechanisms to increase our capacity to bolster enforcement as a system, and not just an instance. On the part of government agencies this could look like offering up agency-supported outreach efforts, research, public hearings and events, and ability to lend additional staff capacity or services provision.

In turn we strive to establish community-based organizations that work with domestic workers and employers are central to government enforcement processes. Our organizations provide invaluable expertise and skills and there is a formal role for us beyond outreach and joining government-led efforts. They are often the first and most complete support that a worker is able to encounter when coming forward with egregious violations such as sexual harassment. They need the best support possible to provide the best care for domestic workers in order to move forward with a claim and to support their needs while mitigating negative consequences as a result of filing claims.

We have had success in collaborating with the city's Division of Paid Care to produce three city wide domestic worker convenings. The last of which, was a regional convening hosting over 250 domestic workers and advocates from New York and New Jersey. These types of collaborations can help us spread the word to domestic workers of their protections under anti-sexual harassment laws. We have helped develop a pilot for a mediation clinic within the Department of Consumer and Worker Protections to help domestic workers and employers address certain kinds of wage disputes that can be

resolved without harming the employer employee relationship. We have engaged in a series of coordinated outreach and domestic workers information sessions to improve access to the city's services.

3. Strengthening sector-specific knowledge among government enforcement agency investigators is very important. Key to this is helping investigators understand and practice how to work with very vulnerable populations, and to gather and assess evidence in a fair way. This is of course in confluence with supporting workers to understand the enforcement process, having a realistic perception around timeline and expectations for follow-up, and ensuring the power differential between their employers and them are mitigated, or eliminated if possible during the investigation. This is of particular importance in enforcing anti-sexual harassment law in the workplace. There is no human resources department that a worker can turn to when filing a complaint of an offending employer.

4. Work towards developing metrics for measuring the progress in domestic worker rights enforcement efforts, and surfacing patterns in systemic violations and barriers to successful enforcement.

IV. What we are seeing on the ground about gender pay equity and domestic work

Domestic workers are unique in the pay equity gap because historically domestic workers have been excluded from basic labor rights protections. When most of our country's labor laws were being designed, domestic workers were deliberately left out. Workplace standards like a minimum wage, overtime pay, or protections against sexual harassment in the workplace were rarely extended to domestic workers, if at all.

All of these exclusions created a breeding ground for exploitation and inequity, where issues like wage theft, sexual harassment and lack of safety on the job have become a rule rather than an exception.

Domestic workers in NY are mostly immigrant women of color and the exclusions from rights stem from institutionalized racism and the legacy of slavery. There is no real parity to domestic work because it is a role held almost exclusively of low wage women and their undervalued labor.

In a report published by the Department of Consumer and Worker Protections, they laid out that home-based paid care work is a rapidly growing field of employment in New York City and across the country. This is particularly true of home-care workers and we know that housecleaning and nannying are fields of work that are both essential work and also not going to become automated in the near future.

Of the over 3000 domestic workers who are participating in our NDWA NY Chapter we have learned that domestic work is so very often intergenerational. This work is passed down from mother to daughter and then again to granddaughter. So many of our members have done the work their mothers have done. So many of them have expressed that this is work they do not wish for their daughters to do. The reason being that they understand it to be highly undervalued and extremely overworked. When we think about why are domestic workers are so underpaid in comparison to other labor done by male counterparts, we have to think how care work itself is valued.

Care work is seen as women's work, work that in the home is traditionally unpaid and gendered in terms of responsibilities. Care work was also the basis of building capital in our society when it was done originally by enslaved people, enslaved women in particular who were forced to do unpaid reproductive care. When that work turned to paid work by women of color, that same work was also excluded from most labor protections. It will be ten years since the passage of New York's historic bill of rights for domestic workers and we at NDWA have worked very hard to address implementation and enforcement of these rights. That is not nearly enough time or resources to undue generations of wage disparity amongst domestic workers.

We see that over a lifetime of work domestic workers lose out on income that is passed down to the next generation. In order to help their mother pay the bills, girls and teenagers enter the domestic workforce to help their mother clean homes, care for children, care for siblings, care for elders. There is no career ladder for which domestic workers can climb. Each job is a start from zero in which the youngest and the oldest of domestic workers are paid even less due to their perceived inexperience or age. There is no race to the top for domestic workers, and no place for promotion in the industry.

Exploitation is a standard domestic work reality. This comes in the form of real wage theft for example non-payment of overtime work, non-payment of all hours worked as a live-in or homecare worker and theft of wages as house cleaners. This also comes in the form of pernicious over work. Women are taxed to work hard for every minute they are in the home. It can start off as a position that is advertised as child care but then quickly moves into the addition of housecleaning, cooking, laundry, pet care because these are tasks that can be done while the children are napping, or playing. This means that workers are never allowed a moment of rest, and rest taken is a strike against a domestic workers work ethic. Imagine what it looks like for domestic workers to be allowed breaks? It is deemed unacceptable. All those stolen minutes of rest breaks and lunch breaks and late nights add up in a lifetime. A sitting nanny is labeled as a lazy nanny. A housecleaner not working on her hands and knees is not efficient, and a homecare worker getting a full night's sleep is neglecting her charge.

So we see that for domestic workers time does not get compensated in the same way as for other types of labor. Time is also stolen when they are not allowed to see their doctors for health care, when they can't take time off to recuperate from giving birth or being sick, when they take time to grieve or celebrate life. Usually this time taken is in the form of a lay off or firing. And when a domestic worker has to start a new job she starts over again, at a lower salary without paid time off. She has to prove herself over time to be worthy of a raise or extra days off. There is no way to accumulate wealth over a lifetime of experience and work. Domestic workers start off as low wage and underpaid and end their careers the same way.

Equalizing pay in the care industry is about more than making men and women's wages the same, it's about shifting the way we think about care and the women who care for us. And by improving the material conditions for the whole sector with fair and living wages and benefits that meet the needs of their families. All jobs should be dignified jobs no matter who you are or what you do.

VI. Current successes in collaborations

The creation of the Division of Paid Care and the collaborations with the Department of Consumer and Worker Protections has really been instrumental in helping to bring domestic worker issues to the forefront to the discussions of labor, immigration, justice and women's issues in New York City.

Domestic workers are becoming more aware of the different agencies that are part of New York City's administration and in the different ways they can engage with them. We have collaborated on convenings, outreach, focus groups and surveys with city agencies. We are piloting a mediation clinic for domestic workers to address certain types of wage conflicts. We are developing co-enforcement models that are in line with and inspire other progressive cities across the country. Over the past four years of regularly participating and providing expert testimony in city hearings have also helped to inform policies that attempt to address certain injustices for domestic workers.

VII. Looking forward Recommendations for addressing inequities in pay for domestic workers

What we need to consider is that domestic work is the true backbone and there needs to be an infrastructure of support to caring for those that care for us. When you address the systemic and societal undervaluing of domestic work and care work you start to really address some of the main root causes of the gender pay inequity.

- 1) Pass the inclusion of domestic workers in the Human Rights Law against discrimination in the workplace Intro. 339.
- 2) Pass the Paid Personal Time with the inclusion of domestic workers to have 10 paid personal days a year Intro. 800.
- 3) Provide a safety net of social services, mental health services, improved health care access targeting domestic workers especially and public charge rulings have decreased participation in the life saving programs.
- 4) Provide community service support and extended care support targeting domestic worker families, this means extended hours care for domestic worker children and domestic worker families like aging parents or ailing family members.
- 5) Increased funding to the Division of Paid Care so that they can help build that framework of support and culture shift. Increased funding to the commission on human rights and the Department of Consumer and Worker Protections to be able to develop further co-enforcement strategies and partnerships with NDWA and its affiliates.
- 6) Advocate for paid family leave for domestic workers and thinking ahead of how to support domestic worker employers in planning for the paid family leave of domestic workers.
- 7) Include domestic workers in the proposal for retirement benefits plan
- 8) Commit to culture shift around the practices of overwork and exploitation of domestic workers and systemic undervaluing of their role in our society and city.