

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS,  
JOINTLY WITH COMMITTEE ON SMALL BUSINESS

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Chairperson

ROBERT E. CORNEGY, JR.  
Co-Chairperson

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## A P P E A R A N C E S (CONTINUED)

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## A P P E A R A N C E S (CONTINUED)

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Chief Financial Officer

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Director

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[background comments]

CO-CHAIRPERSON CORNEGY: Good morning everyone. My name is Robert Cornegy; I'm the Chair of the Committee on Small Business. Today we're joined by the Committee on Consumer Affairs, chaired by my good friend and borough compatriot, Council Member Rafael Espinal, to examine the implementation of the City's Earned Sick Time Act. In particular we'll be focusing on the administration's campaign to educate employers about their obligations under the new law and whether future implementation plans will ensure fair enforcement, especially with respect to micro- and immigrant-owned businesses.

In February, the Council passed Local Law 7 to amend the Earned Sick Leave Time Act that was passed in 2013 to require businesses with five or more employees to provide them with a minimum of five paid sick days per year. I joined my colleagues as a co-sponsor because I recognize that nobody is immune to from illness and injury; that sooner or later almost everyone is a caregiver for a family member and that when sick people go to work they risk making other people sick as well and that under the system we had, it was usually those who could least afford a

day without pay who were forced to give up a day's wages to deal with medical issues.

When we heard the bill in the Civil Service and Labor Committee, it was originally drafted to require newly regulated small businesses to comply with the law on April 1st, the same date by which businesses covered by the 2013 law were required to comply, less than two months away. Small business owners and advocates testified that since the passage of the Earned Sick Time Act in 2013 the City has done nothing to educate businesses about their obligations under the law because Mayor Bloomberg refused to implement it. While small business advocates knew that Mayor de Blasio was committed to expanding paid sick leave to cover their employees, they complained that they had no reason to expect that they would be required to comply on such short notice. We heard their concerns and amended the bill; their employees would still begin to accrue sick time on April 1st, which was the effective date of the 2013 law and they could begin to use their sick time beginning July 1st, but the newly covered businesses would be given a six-month grace period, until October 1st before they would be subject to

penalties for noncompliance. Even so, I remain concerned about whether the City's efforts have been sufficient to prepare small businesses to meet the law's recordkeeping and notice requirement and the rules for which types of medical verification an employer can require an employee to provide. I've heard that even businesses with computerized payroll systems have struggled to integrate the earned sick accrual into those systems and I am concerned that micro businesses, whose systems are generally less sophisticated, may wish to comply but have difficulty doing so. Moreover, I wanna be sure the DCA's plan for reaching business owners directly is comprehensive enough to reach into mom and pop operations across the city, especially within populations of non-English speakers. With October 1st marking the end of the law's grace period and the beginning of the enforcement phase of implementation, now is the time to examine the effectiveness of the City's education efforts and to ensure that micro- and immigrant-owned businesses have all the information they need in order to make the paid sick mandate meaningful to their employees.

I wanna recognize the members of the Small Business Committee who are present; I think I saw Council Member Peter Koo, Council Member Carlos Menchaca and Council Member Vallone; thank you so much. My Legislative Director, Dinah Shaw Gross and the Committee staff Policy Analyst, James Subudhi and Committee Counsel, Jeff Campagna. And I'd like to now let the Chair of the Committee on Consumer Affairs offer his opening remarks.

CHAIRPERSON ESPINAL: Thank you, Councilman Cornegy. And I think it's pretty cool that the Chair of Consumer Affairs and Small Business both come from Brooklyn and we've been seeing a big boon happening with small business.

Good morning everyone and welcome to today's Consumer Affairs Committee hearing; today we will be discussion jointly with the Committee on Small Business the progress of mayoral agencies tasked with implementation of the Earned Sick Time Law, which was passed by the Council in 2013 and expanded and amended earlier this year. This is very important legislation; expands and protects the right of working New Yorkers to sick time in order to care for themselves and family members who fall ill,

making our city a stronger and healthier place for us all.

In February of 2014 the City Council amended the Earned Sick Time Act and in doing so, expanded the protections available to employees as well as the number of businesses captured under the law from its original language, which passed last session.

After hearings on the Act in the session in which concerns were raised about whether or not the newly-included businesses would be prepared to comply with the law in the near future; the bill was amended to include a six-month grace period for businesses with fewer than 20 employees and manufacturers, which would not have been required to comply with the Act under the law passed last session. The grace period also included a care [sic] period for any violation of the law during the first six months of its enactment. This grace period ended October 1st. So the Mayor's Office and DCA agreed to a positive awareness campaign for both employers and employees. According to the FY14 Mayor's Management Report and DCA's press releases, DCA has reached out to hundreds of thousands of businesses and



individuals through a combination of direct outreach, mailings and during routine inspector visits.

According to DCA, the agency also has attended 150 town hall meetings, conducted an advertising campaign on subways and buses, which I think we're part of with Commissioner Julie Menin, and brochure blitz of 120 subway stations.

The Committee looks forward to learning more about DCA's education efforts and enforcement since the law has taken effect, as well as DCA's plans for implementing the law going forward. Thank you.

I also would like to recognize my new Committee Counsel and the Policy Analyst, Izzy [sp?] Martinez.

CO-CHAIRPERSON CORNEGY: Good morning. I really want to say thank you to Commissioner Menin, who promised that she would be here at 10:30 and is here a full 15 minutes early; I wanna thank you for that and it is so great to see somebody who I really admire who will be testifying first this morning, our Borough President, Gale Brewer, who was the lead sponsor of the Paid Sick Bill in late 2013, and did I mention it's somebody I really admire.

[background comments]

GALE BREWER: And I love that you ride your bicycle, so. [laugh] So good morning and I'm sorry I'm late; I'm the... I apologize... [crosstalk]

CO-CHAIRPERSON CORNEGY: Wait; I'm sorry, I'm sorry...

GALE BREWER: swear in...

CO-CHAIRPERSON CORNEGY: Yes. Do you affirm to tell the whole truth, the whole truth and nothing but the truth in your testimony before this Committee and to respond honestly to Council Members' questions?

GALE BREWER: I do. Thank you.

CO-CHAIRPERSON CORNEGY: Thank you.

GALE BREWER: So good morning and thank you for the opportunity to testify today on the implementation efforts of the Earned Sick Time Act. As you both kindly mentioned, it's legislation that I introduced as a City Council Member and which was recently expanded and signed into law this past February my Mayor de Blasio and I always joke and say those of us who supported it got all the hell and de Blasio got all the credit, but [laughter] just so you

know, I appreciate this hearing, but we all worked together.

The expanded Act has been in effect, as we all know, since April 1st, which according to an analysis by A Better Balance, which deserves much of the credit of the work of putting this entire effort together, now provides, according to A Better Balance, 3.4 million private sector workers in New York City with the right to a paid day off when they or a family member become ill. This includes, as we know, 1.2 million New Yorkers who had no access before to paid sick time; this is an accomplishment that all of us in New York City should be proud of. Our work on this law, however, is far from over; we now must turn our efforts to ensuring that the law is implemented and enforced as seamlessly as possible and in a manner that is fair to employers and employees both. In particular, we have to be sure that small business owners, as the Chair of the Committee stated, are fully and accurately informed about the law. By most accounts, implementation and enforcement has gone smoothly, thanks to the Agency; small business owners have sought clarification on the law's requirements to ensure that they are

compliant and they are asking both the agencies and their business associations.

The smooth implementation of the Act undoubtedly owes much to the excellent work of Commissioner Menin and the staff at the Department of Consumer Affairs. Since April 1st of this year, when the law went into effect, the Commissioner and DCA have implemented a well-designed and well-run outreach program to educate employers and employees about the law, and I'm sure she'll tell you about the extensive advertising campaign on subway, television, radio, internet and whenever you're holding on a City line, which I am often holding on a City line. The Agency reports that it has distributed -- and I don't know if this completely up-to-date -- 1.5 million pieces of information in 26 languages, far more than the seven mandated by the law, and has educated hundreds and hundreds of attendees at many meetings and events, many of which I've been at, and the staff answers questions, I've been to domestic worker forums, I've been to restaurant worker forums and many others and the questions are answered very specifically and with information that they wouldn't have otherwise.

1                   So here in the Borough President's Office  
2  
3 we have conducted extensive outreach, held trainings  
4 to small businesses and employees in our borough to  
5 ensure that people understand the law. We sponsored  
6 information sessions in the five boroughs with the  
7 Public Advocate and with the local business  
8 improvement districts. So I know that also on July  
9 15th we all went to a day of action -- you just can't  
10 do enough of all this information. [cough] I'm  
11 sorry. But the main people to thank are really A  
12 Better Balance, Make the Road, Community Service  
13 Society... thanks... and all of these groups that have  
14 been complimenting the City with their own public  
15 education campaigns.

16                   For example, recently was launched an  
17 outreach campaign to ensure that employers and  
18 employees are fully versed in the rights,  
19 requirements and the responsibilities of the Act  
20 being specific. July 30th, 2014 was the first day  
21 employees could begin using their earned sick leave  
22 and Consumer Affairs' efforts to enforce the  
23 provisions of the law are now well underway and some  
24 data has become available. This joint hearing  
25 provides one opportunity to assess that data, the

effect on the public education campaign, the effect of how positive it's been and initial efforts at enforcement.

As of most recently, October 27th, DCA informed us that -- just lost my place there -- sorry... where'd that just go... that there are over 240 total valid complaints, nearly all of which have been or are successfully mediated. Although implementation of the Act is clearly keeping the staff at the Agency busy, the Agency does not appear to be inundated with baseless complaints as feared by some of the law's critics. To ensure a smooth startup, I understand that the Agency has requested additional staff who would be dedicated to the administration of this enforcement and I fully support such a request to OMB.

Overall, the seamlessness seems to be taking place; I have spoken personally with many business leaders and organizations regarding their concerns about implementation and enforcement. Our business owners certainly still have complaints with Earned Sick Leave; these complaints seem to be less about the spirit and intention of the law and more about confusion, as the Chair of Small Business

1 indicated, over specific rules and how the law  
2 applies to specific industries. Most employers I  
3 speak with seem to make sure they are in compliance  
4 and to that end, business groups are undertaking  
5 their own outreach to ensure that their member owners  
6 know the law. The work that DCA and advocacy and  
7 business groups have done has gone a long way toward  
8 overcoming many of the dire predictions, and believe  
9 me, we had them. However, a couple of issues remain.  
10

11 One issue involves temp agencies with  
12 government contracts. It is unclear to some of these  
13 businesses whether workers under these contracts are  
14 employees who are covered by the law. One reading of  
15 the DCA rules is that they are covered; perhaps more  
16 targeted outreach to temp agencies with government  
17 contracts would clarify their uncertainty and concern  
18 and ensure that workers from temp agencies under  
19 government contracts know their rights and receive  
20 the benefits to which they are entitled.

21 Another issue, and which I've testified  
22 before, involves workers whose workplaces lack a  
23 clear Earned Sick Leave policy and who are not  
24 maintaining an adequate record of their employment.  
25 Without documentation, workers have difficulty

1 providing how many days of earned sick pay they are  
2 entitled to. To address this issue, our counterparts  
3 in San Francisco looked into national research that  
4 has shown that workers use on average three days of  
5 sick pay each year. San Francisco has officially  
6 adopted this three day average as a standard metric  
7 to help address instances where, when recordkeeping  
8 is incomplete, workers are denied the days they have  
9 earned. San Francisco's three day metric is a  
10 commonsense solution I would urge DCA to evaluate, as  
11 problems of inadequate recordkeeping have begun to  
12 arise here as well.

14           Employers also report confusion on the  
15 part of employees as to when they must request an  
16 earned sick day. Some small businesses report that  
17 some employees do not show up for work or contact  
18 their employer and later claim the absence as a sick  
19 day. DCA has created clear rules on this subject --  
20 an employer can deny an employee the right to payment  
21 from earned sick day if the employee did not provide  
22 notice to the employer at the same time as his or her  
23 absence; however, some small businesses may also be  
24 unaware that they are required to educate their  
25 employees about everyone's rights and



responsibilities under the Act. This is one aspect of education for employers and employees that DCA and advocates need to stress.

With the law in its infancy, regular evaluations will be needed for the foreseeable future, but the smooth rollout and relatively small number of problems reflect not only the practical soundness of the law and the goodwill of employers and employees, but the work of all those who helped create the Act and the excellent work of DCA. We have much to be proud of and so does the City Council.

Thank you again for the opportunity to testify and I look forward to continuing the work all needed to be party to on the implementation of the Earned Sick Leave Act. And thank you very much for those who supported it here; I will tell you, we went to such depths to pass it that we even contacted the wonderful son of Council Member Koo, who is an absolutely phenomenal emergency room doctor -- just want you to know that. Thank you very much.

CO-CHAIRPERSON CORNEGY: Thank you, Borough President. So I'm going to ask questions, just a question and then pass it to the Chair of DCA

1 and then my colleagues will join in, but I'd just  
2 like to make a statement prior. Some people  
3 questioned the necessity for this particular  
4 oversight hearing, based on the fact that the  
5 implementation only started in October, but there was  
6 a need in this Committee to move away from the idea  
7 of a gotcha hearing and we understood that a January  
8 gotcha hearing would have put some small businesses  
9 in jeopardy, so evaluating the metrics used now and  
10 working out the kinks could ensure that this was  
11 evenly spread out and that we were doing the right  
12 thing and that businesses and individuals could  
13 actually benefit from it. So this is kind of a move  
14 away from some things that have been done in the past  
15 in this Committee and a move towards really trying to  
16 have a smooth implementation of a program that we  
17 believe the City could benefit from, so... [interpose]

18 GALE BREWER: Congratulations to you; I  
19 totally agree. Thank you.

20 CO-CHAIRPERSON CORNEGY: Thank you. So  
21 my first question is; in your opinion, what specific  
22 steps should the administration take to ensure that  
23 the law is evenly enforced, and in some of your  
24 remarks, both now and in the past, you've mentioned  
25

1  
2 it, but if you could just at this point give us some...  
3 [interpose]

4 GALE BREWER: Well I think the  
5 administration is doing a great job in such a huge  
6 city that no amount of information getting out in  
7 different ways is not helpful, because the languages  
8 are challenging; I mean I'm somebody like you; have  
9 been to many of the small businesses in the borough,  
10 they have different managers, they have unbelievable  
11 numbers of languages and so I think that this issue  
12 of, that I mentioned, the documentation needs to be  
13 monitored very carefully, because, you know if you  
14 have a small business you don't always have what you  
15 need in terms of paperwork, so how you deal with that  
16 and still, as we both want, keep the small businesses  
17 alive and well, is something that needs to be  
18 monitored carefully and I think there will be other  
19 law coming up that will be challenging to enforce  
20 that I know you're considering and so this could be a  
21 good place marker and bar to see how we deal with the  
22 issues under paid sick days and then you can have  
23 other laws that get passed that will in fact use the  
24 paid sick day as a model. So I think this is an  
25 issue, the paperwork is an issue and I think this

temporary situation, I didn't get into details; DCA is aware of it, needs to be looked at carefully. So there are some businesses that have a particular way of doing business and doesn't necessarily fit into an easy way to keep the metrics and I think that's where we need to pay attention.

CO-CHAIRPERSON CORNEGY: Thank you. And then my second question is; the City of New York is so large and there is a rolling kind of roll of small businesses that drop off the roll and that are added to roll and conceivably, since the time that the law has been implemented, thousands of new businesses have joined the roll; what would you think would be the methodology correct for engaging those new business who hadn't even been on the rolls or identified when the first outreach took place?

GALE BREWER: Well to the credit of New York City, between the small chambers, not the big ones, but the small chambers, the BIDs obviously are aware, but there are often bodega associations; deli associations that are in particularly in the communities that aren't served by the BIDs or the chambers and I think that's one way to do it; it is not an easy task to reach small businesses in the

1 City of New York; having tried to do it over the  
2 years. So the subways, flyers; it's almost as if  
3 you're doing another organizing campaign on a regular  
4 basis. But I think the good news is, once we've done  
5 it for paid sick days, like I said; there'll be other  
6 ways, if we change the fines schedule and so on, that  
7 we can use this as a model for making sure people  
8 know about it in the future, but you have to use all  
9 methods of public relations.  
10

11 CO-CHAIRPERSON CORNEGY: And to your  
12 point about the reporting and accounting, when we had  
13 a workforce development hearing, oversight hearing,  
14 one of the things that was reported to this Committee  
15 was that 4 percent of the individuals in workforce  
16 training are degreed individuals and what we ask is  
17 that if we could tease out those with accounting and  
18 bookkeeping backgrounds and instead of sending them  
19 to sit in the parks in Parks and Rec for their  
20 workforce development...

21 GALE BREWER: Uhm-hm.

22 CO-CHAIRPERSON CORNEGY: That they could  
23 actually be used to help small businesses with this  
24 accounting portion. So I'm gonna be reaching out to  
25 your office to see how we can implement that.

GALE BREWER: That would be phenomenal.  
That will be absolutely phenomenal, very talented.

CHAIRPERSON ESPINAL: Good morning,  
Madame Borough President.

GALE BREWER: Good morning.

CHAIRPERSON ESPINAL: You know, I think  
we seen that... you know, we have experienced that DCA  
has done a great job in doing outreach, we've seen  
mailings, we've seen flyers, they teamed with City  
Council and they have outreach; what metrics do you  
believe the administration should use to demonstrate  
the efficiency of their outreach?

GALE BREWER: Well I think that, you  
know, how many complaints come in and how ones that  
have some basis as the ones that are baseless,  
because in other cities -- I was very familiar --  
obviously, when we were passing the bill we had all  
the other cities on speed dial, you know, trying to  
see what their complaints are, and generally, in  
cities across the United States, all issues can be  
resolved administratively, which is what we hope  
happens here in the City of New York; that was our  
experience in the other cities. So if that continues  
to be the situation here, you know, if somebody's

1 missing a piece of paper that can be worked out,  
2 there was a miscommunication about when the doctor's  
3 law, doctor's note came in, etc.; if that can be done  
4 locally, then I think that would be a good example so  
5 you're not getting, you know massive numbers of  
6 employees who feel that they've been discriminated  
7 against or employers who feel that somebody's taking  
8 advantage and taking off every Monday, which is what  
9 we were told. So you know, the question is; are they  
10 resolvable administratively and then if they are,  
11 then I think the outreach is there. So that would be  
12 what I would look at.

14 CHAIRPERSON ESPINAL: Okay, great. Thank  
15 you.

16 CO-CHAIRPERSON CORNEGY: I'd like to  
17 acknowledge Council Member Koo.

18 GALE BREWER: We do like your son,  
19 Council Member.

20 COUNCIL MEMBER KOO: Yeah. Thank you.  
21 Borough President, thank you for your public service,  
22 you know, being in the City Council and now you're  
23 the Borough President of the greatest borough, right,  
24 of New York City. [interpose]

GALE BREWER: Thank you; I agree with that.

COUNCIL MEMBER KOO: Manhattan is the biggest borough because it has the biggest businesses and all the big corporations are in Manhattan and at the same time there's a lot of small businesses -- bodegas, you know, mom and pop stores. So my question is; have you experienced any complaints about like, people... companies, usually when they hire and employee they put them on probation, right, a lot of companies, three months, so are they entitled, if the employee quits or gets discharged after three months because they aren't up to the standard; can they come back and claim paid sick time or...

[crosstalk]

GALE BREWER: No.

COUNCIL MEMBER KOO: during the period, can they use it?

GALE BREWER: No, because the paid sick time takes a while to kick in, so your... [crosstalk]

COUNCIL MEMBER KOO: Yeah, I know. [sic]

GALE BREWER: probation period, you wouldn't kick in by then. So that was thought about



1  
2 a lot. In other words, how long should people have  
3 before they're able... [interpose]

4 COUNCIL MEMBER KOO: Well about six  
5 months probation, yeah.

6 GALE BREWER: accrual. Yeah, that's  
7 about what it is in terms of accrual, you can't take  
8 it until you have been there longer and you have to  
9 earn it, that's why it's called the earned paid sick  
10 days; you don't walk in on a Monday and you start... on  
11 Tuesday you can take paid sick days. So that's why  
12 the bill, after much, much thought, has a buy-in  
13 period. So there is a very... I have not heard that as  
14 a complaint, and I will tell you, as you know, the  
15 larger companies have always had bucket approaches  
16 where you can sometimes have your days off, personal  
17 days, vacation days, paid sick days all part of the  
18 same; you could choose, I want a paid sick day or I  
19 want a vacation day. [background comment] It's the  
20 smaller companies, to be honest with you, that have  
21 not had any policies along these lines and I think  
22 that's probably where we're getting most of the  
23 administrative questions are the smaller companies.  
24 I mean we even put in, as you know, the domestic  
25 workers; domestic workers got a few days from the

1 State and now three days from the City, so they have  
2 total of five days. So these smaller enterprises... I  
3 don't know how it works in a bodega, I mean whether  
4 you get a probation period; my guess is you start on  
5 Monday and you have to be behind the deli counter and  
6 start to work. And those are the kinds of companies  
7 that we heard from originally were nervous about, you  
8 know, how they were gonna do the administration and  
9 so on. We have to be honest with you; another topic  
10 that small businesses wanna look at is how the  
11 payroll companies -- smaller, larger -- how the HR  
12 people include it as part of their computerized  
13 payroll system. And I've heard some questions about  
14 that; you might wanna ask more about that. Again,  
15 these are things that can be worked out, but I've  
16 heard more about that than I have about the probation  
17 period.  
18

19 COUNCIL MEMBER KOO: My other question  
20 is; what about those agencies, you know who hire per  
21 diem workers to work for accounting firm or for  
22 hospitals, they're working per diem...

23 GALE BREWER: Right.

24 COUNCIL MEMBER KOO: and the agencies pay  
25 them and... [interpose]

GALE BREWER: Right. I mean, I did mention that in my testimony [background comment] as something that needs to be looked at and it's particularly challenging when you, maybe as a hospital where you are in a sense paid by government. In one case we have a situation where it's a state contract, but she's a city, New York company, right, and they are per diem workers, and to be honest with you, we haven't quite figured out how her company fits into paid sick days. So I'm being honest, there are still issues to be worked out and that is one of them.

COUNCIL MEMBER KOO: Well the third concern I have is just that other people's concerns is that their accounting methods -- a lot of the smaller firms, they don't have professional accountants, they don't know how to calculate accrual -- you know, 30 hours you get one hour -- it seems simple, but it's really complicated... [interpose]

GALE BREWER: Well you know as a business person, you know extremely well -- I mentioned your son, but I think you know a little bit about this also.

COUNCIL MEMBER KOO: I know about this, but a lot of people don't know about this.

GALE BREWER: I know. I mean I can tell you that -- again, this was thought about; I think that the City agencies are helping and we've also been pushing to give as much technical assistance to those who don't hire... small businesses don't have an HR person, small businesses may not be using any kind of a company to do payroll and so it is on them and I think the agency, Department of Consumer Affairs, has been trying to be very helpful when giving people as much information as possible, and again, I'm hoping, to be honest with you, that this can help in ancillary ways, other kinds of legislation that the City Council Might pass that impacts businesses and way in which small businesses can improve their business practices because they're getting help from City agencies on HR issues. I've heard that the agencies are really helping; everyone wants this law to work and so there's extra effort going into the ancillary support that wouldn't be just on paid sick days.

COUNCIL MEMBER KOO: Thank you, Borough President.

GALE BREWER: Thank you very much.

CO-CHAIRPERSON CORNEGY: AT this time I'd like to acknowledge the gentleman from Queens, Council Member Vallone.

COUNCIL MEMBER VALLONE: Thank you to the Co-Chairs, good morning, Madame President.

GALE BREWER: Good morning.

COUNCIL MEMBER VALLONE: My only... not the only, but the concerns I had when we passed the amendment were always for the businesses under 15, [background comment] I've checked with them; I am still concerned now. And the questions and the comments I'm hearing today the bugs that need to be worked out and issues that have kind of popped up seem to fall into those categories and the grace period has now expired. So trying to minimize the impact while companies are still trying to work this out that have never really dealt with this before, do you think there should be any steps to possibly to extent the grace period for those smaller companies while these glitches are kind of worked out so I mean, gets enough time to smooth before, 'cause my questions for the Commissioner after is concerning about the looming, you know, fines and violations,

1  
2 'cause as Peter and I hear all throughout Queens, the  
3 number one complaint from small businesses is they  
4 can't handle the fines, so I'm very worried about...  
5 [crosstalk]

6 GALE BREWER: No, I'm...

7 COUNCIL MEMBER VALLONE: the enforcement  
8 aspect at this point while there's still some ironing  
9 out needs to be done. [interpose]

10 GALE BREWER: I'm a big supporter... I mean  
11 when I was on the Council, we had a lot of hearings  
12 on the ABC... you know, that issue and the fines that  
13 ensued and I'm a big believer in as much education  
14 as possible. I do think that this law, much more so  
15 than ABC, has had an unbelievable amount of public  
16 relations and public information, but there can never  
17 be enough and I think the issue that you and Peter  
18 have raised regarding how you do your HR and how you  
19 do your payroll still needs ironing out. So  
20 education, if that's where education needs to be  
21 taking place and that's where a fine might ensue,  
22 then I think more education is absolutely needed.  
23 You can do it, I thought, in some kind of an  
24 information basis 'cause you're still gonna have bad  
25 actors, so you wanna have a, you know, a stick at the

1 same time. So I mean I hope that some discretion  
2 will be used, yes. But I also think we can do...  
3 [crosstalk]  
4

5 COUNCIL MEMBER VALLONE: Yeah, I agree  
6 with you on the bad actors; I mean whether we talk  
7 about landlords or businesses or anyone... [crosstalk]

8 GALE BREWER: Right, you want bad actors...

9 COUNCIL MEMBER VALLONE: those are the  
10 ones that I have no sympathy for...

11 GALE BREWER: Right...

12 COUNCIL MEMBER VALLONE: if they're gonna  
13 continue to abuse, but it's...

14 GALE BREWER: Right.

15 COUNCIL MEMBER VALLONE: it's those first  
16 time offenders that may be just not quite sure and...  
17 [crosstalk]

18 GALE BREWER: Right.

19 COUNCIL MEMBER VALLONE: I'm hoping  
20 there's a leniency... [crosstalk]

21 GALE BREWER: I'm hoping that there'll be  
22 a situation where people have information -- A Better  
23 Balance, you should know, which is a phenomenal  
24 organization, many languages can be gotten there, but  
25 they're doing an amazing job also of doing education.

1 So there are a lots of groups out there doing the  
2 kind of education like I've never seen in all my  
3 years, because people want this law to succeed. So  
4 I'm hoping that, as I said, with more education,  
5 particularly for those that you described, they'll  
6 get other aspects that can improve their business out  
7 of this discussion.  
8

9 COUNCIL MEMBER VALLONE: Thank you and I  
10 appreciate the comments on the grace period too; I  
11 think that might be something we wanna discuss.

12 GALE BREWER: I agree.

13 COUNCIL MEMBER VALLONE: Thank you.

14 CO-CHAIRPERSON CORNEGY: I'd like to  
15 acknowledge my fellow Chair, Rafael Espinal, from  
16 Brooklyn.

17 [laughter]

18 CHAIRPERSON ESPINAL: One more question...

19 GALE BREWER: What's with this Brooklyn  
20 thing you know?

21 [laughter]

22 CHAIRPERSON ESPINAL: Brooklyn's hot.

23 [laughter] But in your testimony you mentioned that  
24 in San Francisco they adopted a three-day average  
25 metric, so if a business doesn't have their books in



order, an employee would automatically get three sick days; have you heard of any pushback from the small businesses; is three days too short; is it too long?

GALE BREWER: Well you know, again, this was our experience during the time when we were advocating for the law and three days... because we did hear, as you can imagine, a lot of pushback; people are gonna take every Monday, every Friday, you know that kind of discussion and they're gonna take their five days no matter what and what we learned was, people do take it when they're sick and they actually don't take it when they're not sick; we heard that and that's what we heard from San Francisco, so that's where you get your three days. I mean what I think I'm trying to say is, it was our experience, basically, that people are loyal employees, they wanna keep their job; if they're a bad employee, they're probably bad on other things too, but three days was the average and it was pretty much across the country. So what we're saying is -- we're trying to also blow the myth of this law is going to be improperly utilized by employees and I think that's what we're trying to say.

CHAIRPERSON ESPINAL: Alright. Thank you.

CO-CHAIRPERSON CORNEGY: Madame Borough President, I wanna thank you again for your service... [crosstalk]

GALE BREWER: Thank you very much. Thank you very much.

CO-CHAIRPERSON CORNEGY: At this time I'd like to call the administration, Julie Menin, the Commissioner. There we go. Oh, Amit, uh-huh, [background comments] Marla Tepper... [background comments] Amit Bagga, I'm sorry. [background comments]

JULIE MENIN: Okay, thank you so much. Well first of... [interpose]

CO-CHAIRPERSON CORNEGY: Wait, Commissioner, I just wanna taka quick second to... [interpose]

JULIE MENIN: Oh, yes. Yes.

CO-CHAIRPERSON CORNEGY: to affirm. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this Committee and to respond honestly to Council Member questions?

1 JULIE MENIN: Yes, I do. Alright.

2 [background comment] Well thank you so much. Good...

3 [interpose]

4 CO-CHAIRPERSON CORNEGY: I'm sorry; you

5 all... you have to all do it at one time... [crosstalk]

6 JULIE MENIN: Okay, sure.

7 CO-CHAIRPERSON CORNEGY: I'm learning;

8 I'm a new Council Member... [crosstalk]

9 JULIE MENIN: a group.

10 CO-CHAIRPERSON CORNEGY: and everybody do

11 it at one time. So raise your right hand. Do you

12 all affirm to tell the truth, the whole truth,

13 nothing but the truth in your testimony before the

14 Committee and to respond honestly to Council Member

15 Questions?

16 JULIE MENIN: Yes, we do.

17 [collective affirmation]

18 CO-CHAIRPERSON CORNEGY: Thank you.

19 JULIE MENIN: Thank you. Well good

20 morning, Chairman Cornegy, Chairman Espinal and

21 Members of both the Small Business and Consumer

22 Affairs Committee; I'm Julie Menin, the Commissioner

23 of the Department Consumer Affairs and I am delighted

24 to be joined by my colleagues, Marla Tepper, our

25

General Counsel, and Amit Bagga, our Deputy Commissioner of External Affairs and Kristen Lasky, our Executive Director of the Paid Sick Leave Division. We are also joined by Greg Bishop, who is Deputy Commissioner of the Department of Small Business Services and I wanna thank Mr. Bishop for being here today to represent SBS and for the work they've done to help our agency in terms of outreach on paid sick leave and also want to thank their commissioner, Commissioner Maria Torres-Springer.

First of all I wanna thank Borough President Gale Brewer, who you heard from earlier. I wanna thank her for her partnership and for her testimony in support of our efforts and most particularly for her hard work and dedication on the issue of paid sick leave over many, many years, because obviously it's because of her leadership as well as the Paid Leave Coalition that were instrumental in making the original law a reality in the first place. I greatly appreciate the opportunity to speak with you about DCA's implementation of a law that is of deep important to Mayor de Blasio, as well as to Speaker Melissa Mark-Viverito and their leadership obviously in making the

expansion of law as well as the Council's leadership a reality.

New York City's paid sick leave is being implemented in a scale quite frankly that is significantly larger than any other city and DCA is very proud to be the agency that is responsible for implementing and enforcing the law, as well as a national leader in the scope of its outreach efforts, which I'm going to outline shortly. It is DCA's mission to empower and protect consumers, as well as to educate and engage businesses, and implementing the Paid Sick Leave Law has awarded the Agency the opportunity to do just that. Now only would the 80,000 businesses that we license, which cut across 55 different industries, but also with hundreds of thousands of businesses in all five boroughs as well as the one million employees that paid sick leave affects.

Paid sick leave is beneficial to employers, to employees and to the public and the City as a whole. It leads to healthier employees with better moral, it leads to less employee turnover and lower healthcare costs in the long term. And I'm just gonna deviate from my prepared testimony for one

minute because I wanna make sure that Members of both Committees know I am a former small business owner, so I speak also from personal experience on this.

We also know that in other cities where paid sick leave has been successfully implemented job growth following implementation has been very strong, demonstrating that paid sick leave does not have a detrimental impact on businesses, so let me talk about that for a minute. The Wall Street Journal has reported that in Seattle, which first began implementing their version of paid sick leave in September 2012, job growth stood at 5.4 percent as of August 2013, out-pacing the national average of job growth during the same period of time, which stood at 3.4 percent. To convey these messages, as well as to educate business owners about their obligations under the law and to inform employees of their rights, DCA has conducted outreach to both employers and employees about paid sick leave with an unprecedented \$2 million campaign and I'm very pleased to share the results of our efforts to date.

DCA's approach to raising awareness about Paid Sick Leave Law has really been informed by several different factors. DCA's obligation to

effectively implement the law, of course, the broad scope of the law and demographic information about both employers and employees. Utilizing resources that have been assigned to the Agency for the purpose of raising public awareness, DCA mounted a major, multi-lingual advertising campaign earlier this year that included transit, outdoor, print, radio and television advertising. The Agency's also engaged in significant direct outreach efforts, such as presenting at hundreds of events, joining forces with sister agencies to disseminate information, engaging in direct contact with employers and working with dozens of industry groups; not-for-profits, advocates, elected officials and other stakeholders, to raise awareness about paid sick leave. We are very confident that our efforts to date have been effective in educating businesses about their obligations and notifying employees of their rights under the Paid Sick Leave Law and we are very much focused on furthering these efforts moving forward, as well as hearing input from all of you.

Let me speak for a minute about more specificity in terms of advertising. To fulfill the goal of beginning to effectively implement a law that

provides a fundamental right to sick leave to so many New Yorkers, DCA launched its transit and outdoor advertisements in March of 2014. These advertisements began running just before a key date in the timeline of the law's implementation and that was of course April 1st, which was when the law went into effect and eligible employees began to accrue sick time. Between March and August 2014, DCA ran 3,000 subway car and 3,000 bus advertisements in two phases, as well as 260 subway station advertisements about paid sick leave in English and in Spanish. DCA also ran advertisements in bus shelters and on payphone kiosks beginning in April. Running such a large number of advertisements in mass transit enabled DCA to communicate both with employers and employees, as subways and buses are clearly a primary mode of transportation for literally millions of New Yorkers. In the weeks before and after another key date in the timeline of the law's implementation, July 30th, which is when eligible employees could begin using sick time they'd earned, DCA ran print, radio and television advertisements in a multitude of different languages to ensure that we reach as many New Yorkers as possible, including the City's many



immigrants who are literally the backbone of business communities, we placed printed advertisements in 10 English language community newspapers and 14 newspapers that are either printed in foreign languages or have primarily immigrant readerships. In addition to these newspapers, wrap advertisements, which are literally wrapped around the front and/or back covers of newspapers, ran in AM New York, Metro New York and the Daily News, bringing the total of newspapers in which we ran advertisements to 27.

Furthering the Agency's goal of reaching immigrant small business owners and employees, the Agency featured radio advertisements in seven languages -- Spanish, Bengali, Cantonese, Mandarin, Korean, Russian, and of course in English.

Lastly, to reach New Yorkers through as many different media outlets as possible, DCA ran television advertisements in both English and Spanish during the month of August, which was the month immediately following the date on which one could begin to use accrued sick time. These advertisements were not only featured on network television channels, but also on cable, on NYC media channels, as well as on Taxi TV. While we know such

advertisement is an effective tool to communicate information about paid sick leave, such efforts must of course be complimented by making educational and implementational tools easily accessible and by speaking directly to as many New Yorkers as possible. To this end, the Agency has engaged in language-accessible outreach and education, so I'm going to now move to that topic.

SBS estimates that approximately 40 percent of the City's businesses are owned by immigrant entrepreneurs and that 1 in 2 employed New Yorkers is an immigrant. It is precisely for these reasons that DCA has prioritized language access in the development of resources and in the structure of our outreach efforts. To ensure that employers and employees have access to all the information they need, no matter what language they speak and to further Mayor de Blasio's goal of ensuring City agencies serve all New Yorkers, DCA far exceeded the Paid Sick Leave Law's mandate to provide the Notice of Employee Rights in seven languages and we went to actually 26 languages, including English, on our website. In addition to providing this notice in 26 languages, DCA has also provided two additional

documents -- the Paid Sick Leave: What Employers Need to Know and Paid Sick Leave: What Employees Need to Know -- in the same languages, from Arabic to Albanian, from Hindu to Haitian Creole, information about paid sick leave is now available for easy access and downloading. Additionally, recognizing that important nuances can sometimes be literally lost in translation, DCA, through its own multilingual staff and with the assistance of the Mayor's Office of Immigrant Affairs, conducted native speaker reviews of all the translated documents, ensuring that the information provided was both clear and correct.

Effectively publicizing any new initiative requires a production of printed materials that can be easily read as well as distributed. To accomplish this goal, DCA designed and printed a slim brochure that features the most basic and important points about paid sick leave for both employers as well as employees.

Our continue emphasis on language access is evidenced in this brochure, which contains information in English, Spanish, Chinese, Korean, Russian, Haitian Creole, Bengali and Arabic,

languages spoken by some of New York City's largest or fastest growing immigrant and small business owning communities.

Naturally, the resources we have developed can only enable us to accomplish our task of raising awareness about paid sick leave if we were able to effectively distribute them. And so I am proud to report that DCA, through its staff, its many, many partners and through volunteers, has disseminated in total more than 1.5 million pieces of literature just since April of this year, with the largest percentage of materials being provided to employers. Through October 22nd of this year we have mailed or distributed 592,000 copies of Paid Sick Leave: What Employers Need to Know, 469,000 copies of the Notice of Employee Rights, 77,000 copies of Paid Sick Leave: What Employees Need to Know, and 425,000 copies of our Paid Sick Leave brochure. All of DCA's patrol inspector carry paid sick leave materials with them at all times when they conduct inspections and our Licensing Division has distributed over 26,000 copies of What Employers Need to Know to our licensees. The Agency also plans on mailing information to 400,000 businesses and not-for-profits

1 within the coming month. DCA has distributed  
2 materials at over 350 events across the five  
3 boroughs, 78 of which have been employer-focused  
4 events; these events have included presentations at  
5 all 59 community boards, presentations before dozens  
6 of industry groups, ranging from the Bodega  
7 Association to the New York Hospitality Alliance;  
8 community events, such as street fairs and NYCHA  
9 Family Days, as well as specific trainings for multi-  
10 branch businesses, such as Gregory's Coffee and  
11 Ricky's Cosmetics, just to name a few. Seventy-five  
12 of the events we've attended or hosted have taken  
13 place in Spanish and 239 of the events have taken  
14 place in boroughs outside of Manhattan. Because of  
15 these and other outreach efforts, DCA has had over  
16 209,000 unique hits just to our paid sick leave  
17 portion of our website.

18  
19 As we are keenly aware that often the  
20 most effective forms of outreach and education are  
21 individual conversations, as well as the conveying of  
22 information through of course trusted community  
23 leaders, the Agency has devised an outreach strategy  
24 that utilizes both methods of engagement. For  
25 example, DCA's Paid Sick Leave staff who speak

1 Mandarin, Cantonese, Spanish, Korean, Bengali,  
2 Haitian Creole and Russian have engaged in robust  
3 door-to-door small business outreach, walking many of  
4 New York City's commercial corridors and speaking  
5 directly with business owners about the law. In  
6 fact, Esther Lewis, who is a bi-lingual Haitian  
7 Creole and English speaker, who is in our Paid Sick  
8 Leave Division and she's one of our regional field  
9 directors for Brooklyn East and Queens South, has  
10 personally visited 92 businesses on Fulton Street in  
11 Bed-Stuy in just two days earlier this month.

12  
13 In addition to such outreach, we have  
14 worked with community leaders and advocates, such as  
15 Michael Lambert, the Executive Director of the Bed-  
16 Stuy Gateway Business Improvement District and the  
17 leadership of Make the Road New York to host events,  
18 conduct trainings and distribute information to their  
19 respective networks and constituencies.

20 Many of these partners also participated  
21 in DCA's July 16th Paid Sick Leave Day of Action,  
22 which I might add is the first of its kind held by  
23 any city agency and I wanna thank all the Council  
24 Members; the Borough President, we had so many  
25 partners in this initiative; it was really tremendous

1  
2 and we had over 1,400 volunteers at over 150 subway  
3 stops around New York City. What was really exciting  
4 about the Day of Action is in those four hours, which  
5 we were out at subway stops we distributed more than  
6 350,000 pieces of literature, the brochures that I  
7 mentioned earlier, in those four hours, so it was a  
8 very exciting day.

9           The subway stations at which volunteers  
10 were placed were not chose at random, but rather  
11 through a data-driven process that enabled DCA to  
12 identify the probability that populations living near  
13 those stations would likely benefit from access to  
14 sick leave. The Agency also benefited from  
15 significant support from the office of Speaker  
16 Melissa Mark-Viverito, several members of the  
17 Council, Borough President Brewer and their staffs,  
18 many of whom participated in the Day of Action.

19           I would like to thank all of you for your  
20 support of our efforts on that day and to us one of  
21 the most exciting things was that so many New Yorkers  
22 captured the activities through social media that  
23 #paysickleave was a top trend on Twitter that day.

24           We take great pride in our Day of Action,  
25 which not only informed New Yorkers of those rights,

1 but also was an execution of Mayor de Blasio's vision  
2 of having City agencies engage New Yorkers as  
3 directly as possible and as actively as possible.  
4 Many of our sister agencies have joined us in this  
5 endeavor and the City's residents have been  
6 benefitting from our collaborations.  
7

8           So now I'm gonna switch gears and talk  
9 about interagency collaboration. I wanna take this  
10 opportunity to highlight our partnership with SBS, as  
11 well as some additional City agencies. SBS has  
12 provided key support to DCA in our outreach and  
13 education efforts. SBS has distributed information  
14 to more than 150 community-based organizations and  
15 over 91,000 small businesses in New York City through  
16 a variety of different channels. In addition to  
17 sending a targeted email blast to more than 3,300  
18 businesses that employ between 5 and 19 employees,  
19 SBS has also been including information about paid  
20 sick leave in its bi-weekly E bulletin that reaches  
21 approximately 80,000 subscribers across the city.  
22 SBS has also shared information via email with its 69  
23 business improvement district executive directors who  
24 have, by SBS' estimation, distributed information to  
25 more than 85,000 business in all five boroughs. A



all of SBS' Seven Business Solution Centers where SBS offers a range of business services, including courses, pro bono legal assistance, access to incentives, financial assistance, trainings and technical assistance, SBS has been distributing paid sick leave materials target to employers. More than 30 SBS and Business Solutions staff members have received training to deliver information about paid sick leave to the more than 8,700 business owners who utilize the Business Solution Centers every year. SBS has also assisted with communications, featuring paid sick leave on its website as well as on its Twitter and Facebook pages, which have a combined following of over 10,000. Lastly, SBS representatives have spoken about paid sick leave at town hall meetings they have attended throughout the City, many of which were hosted by members of the City Council, as well as members of the New York State Assembly and Senate. We greatly appreciate all of the efforts undertaken by SBS, and agency that has been crucial in assisting DCA raise awareness of an initiative that is of course of high priority for both the administration and the City Council.

In addition to our collaboration with SBS, DCA has continued to leverage the extensive reach of other sister agencies to inform employees and employers about paid sick leave. The Health and Hospital Corporation and the Department of Health are two agencies with natural connections to paid sick leave and both have been central to our outreach efforts. HHC, which serves a population we believe will greatly benefit from access to sick leave is distributing 46,500 Paid Sick Leave brochures in all of its clinics and hospitals. HHC is also running DCA's public service announcement on video monitors in waiting areas of emergency rooms at its hospitals. Additionally, DCA staff members have been presenting on paid sick leave at HHC Advisory Council meetings and will be working with HHC to train the agency's financial officers on paid sick leave so that they can counsel patients and their families about their rights on sick leave.

The Department of Health, which has obviously a natural interest in assisting DCA with our efforts, as the Paid Sick Leave Law can facilitate positive public health outcomes, they are distributing paid sick leave materials in all of

their licensing and permitting communications processed by DCA's Licensing Center. The Agency is also including an article about paid sick leave in its Food Matters newsletter, which is sent to thousands of New York City food service establishments. Paid sick leave materials are also being disseminated at the Bureau of Child Care Offices, Health Academy offices and in the homes of New York City families who are visited by or sent materials by staff of the early intervention services and the Nurse Family Partnership Program. Earlier this month DCA presented on paid sick leave to outreach staff at the Department of Health's Bureau of Maternal, Infant and Reproductive Health. Finally, the Department of Health has worked with DCA to include questions about paid sick leave in a panel survey of low-income New Yorkers that it is conducting. This survey will help us better gauge respondents' general awareness of the Paid Sick Leave Law and inform future outreach and advertising strategies.

DCA has also collaborated with several other City agencies, including HRA, the Department of Youth and Community Development, Department of Parks

1 and Recreation and DOE on the distribution of  
2 materials. DPR is helping DCA reach an important set  
3 of beneficiaries of the Paid Sick Leave Law --  
4 domestic workers -- who have access to an additional  
5 two days of sick leave under New York City's law and  
6 DPR has granted DCA permission to distribute  
7 materials in city parks, which many domestic workers  
8 frequent with children they are looking after.  
9 Speaking directly with domestic workers is central to  
10 our outreach efforts, as the employers of domestic  
11 workers are not of course brick and mortar businesses  
12 and therefore can oftentimes be harder to reach. DCA  
13 also collaborated with DOE in June of this year to  
14 insert 20,000 flyers in both English and Spanish into  
15 the backpacks of students at several schools and  
16 neighborhoods with high concentration of residents  
17 likely to benefit from new access to sick leave.

18  
19 In addition to our extensive advertising  
20 and outreach, DCA has made specific tools and  
21 resources available to businesses to assist them with  
22 compliance. So I'm gonna talk for a minute about  
23 business tools and resources.

24 Since July 16th of this year the doors of  
25 our Paid Sick Leave Division, which is on the 11th

1 floor at 42 Broadway, the building that also houses  
2 our Licensing Center, have been open for business  
3 five days a week. Both employers and employees can  
4 come in to obtain information and ask questions about  
5 compliance, as well as to file complaints.

6 Recognizing that many of New York City's small  
7 businesses might not have formal human resource  
8 departments or timekeeping tools, we have developed a  
9 beta-tested, easy to use, downloadable, Microsoft  
10 Excel document that businesses can access on our  
11 website to help them keep track of their employees'  
12 hours, as well as keep track of their accruals. The  
13 document contains built-in formulas that  
14 automatically calculate the number of hours an  
15 employee has accrued based on the number of hours  
16 worked. As I am sure the Members of the Committees  
17 are aware, under the Paid Sick Leave Law eligible  
18 employees accrue one hour of sick time, paid or  
19 unpaid, depending on the size of the employer, for  
20 every 30 hours worked. The document easily allows  
21 employers to track hours on a daily, weekly or bi-  
22 weekly basis. To ensure this tool can be used by as  
23 many businesses as possible, DCA is planning on  
24  
25

translating the document into several different languages.

As I have previously stated, DCA's Paid Sick Leave outreach team also goes door to door in commercial corridors throughout the City, speaking directly with business owners and managers about paid sick leave. Just in the last several weeks our staff members have spoken directly with more than 200 business owners on Mott and Mulberry Streets in Manhattan's Chinatown, Fordham Road and Third Avenue in the Bronx, as well as 5th Avenue and Fulton Street in Brooklyn. We will be expanding these efforts to ultimately reach thousands of businesses in all five boroughs.

Based on questions and feedback we've received from both employees and employers, DCA has published an extensive frequently asked questions document, from which most inquiries can be answered, significantly decreasing DCA's response time to questions. Naturally, more complicated questions are referred to attorneys in our Paid Sick Leave Division. DCA updates the frequently asked questions with new questions and answers on a rolling basis, as

there are often questions asked that we believe might be relevant to a large number of employers.

We know that our extensive advertising and outreach efforts are working, as we have received over 7,700 inquiries about paid sick leave just over the last several months. Our statistics to date demonstrate that New Yorkers know to call us with their questions as well as their concerns.

DCA plans to run additional public advertising campaigns in the coming months. Television advertisements will be on the air in November and December and advertisements in 19 foreign languages in community newspapers will be run the last week in November as well as the first week in December. We will also be airing radio advertisements in several languages. The Agency will likely run an advertising campaign from February through June of 2015 as well. We anticipate this campaign will also include transit, outdoor, print, radio and television advertising and we will expand into online advertising.

Our outreach staff continues to develop and foster new partnerships that enable the Agency to effectively communicate information about the Paid

1 Sick Leave Law, evidenced by our new collaboration  
2 with the Queens Library system. In the coming weeks,  
3 all of the Queens Library branches will begin to  
4 feature paid sick leave materials and DCA outreach  
5 staff will begin speaking at events hosted by the  
6 branches. Additionally, DCA staff will provide  
7 training to Queens Library staff so that library  
8 staff can answer very basic questions that they might  
9 receive from visitors who avail themselves of our  
10 materials. Our mission to educate New Yorkers about  
11 paid sick leave extends into our enforcement of the  
12 law, which is aimed at protecting employees' rights  
13 and ensuring that businesses are given the  
14 opportunity to engage in mediation before more  
15 aggressive actions are pursued. So I'm not gonna  
16 turn to our enforcement efforts and give an overview  
17 of that.

18  
19 To execute Mayor de Blasio's vision,  
20 which seeks to ensure that all employees' rights are  
21 protected and also that businesses are given the  
22 opportunity to come into compliance before fines are  
23 assessed, DCA has adopted a very focused and fair  
24 approach to enforcement of the Paid Sick Leave Law.  
25



1                   The Agency is charged with receiving and  
2                   investigating complaints regarding non-compliance and  
3                   we work with employees and employers to resolve  
4                   complaints in the quickest and least costly way,  
5                   which is clearly through mediation. Mediation is  
6                   always our first approach. In cases of retaliation,  
7                   there can however be a chilling effect over a  
8                   workplace that can prevent others from exercising  
9                   their rights to sick leave. In such cases, DCA sends  
10                  investigators to the workplace as soon as possible.  
11                  Even in cases of retaliation, all employers are  
12                  afforded multiple opportunities to resolve complaints  
13                  and come into compliance before charges are issued.  
14                  We also use mediation as another means of educating  
15                  employers about their responsibilities under the law.  
16

17                  When mediation fails or when a complaint  
18                  alleges serious employer misconduct, DCA is obligated  
19                  to pursue a robust investigation. Even when an  
20                  investigation is initiated, DCA will pursue  
21                  opportunities to resolve the complaint before charges  
22                  are issued and again before a hearing is held.  
23                  Employers that come into compliance and provide their  
24                  employees full access to sick leave can avoid the  
25                  maximum penalties under the law.

1                   An employee can file a paid sick leave  
2                   complaint with the Department of Consumer Affairs by  
3                   coming into our office and speaking with an  
4                   investigator, by calling 311, by completing a  
5                   complaint intake form and mailing, emailing or faxing  
6                   it to our office. We even follow up with employees  
7                   who inquire about filing a complaint on social media,  
8                   and we've received a number of those; I myself have  
9                   received some. [background comment] Through all of  
10                  these channels we have received a total of 355  
11                  complaints to date.

12                 When an employees files a complaint, a  
13                 DCA investigator gathers all the relevant information  
14                 from the employee so the Agency can determine if it  
15                 has jurisdiction and cause for an investigation.  
16                 Once it does so, it accepts a complaint as a case on  
17                 its docket. As of October 22nd of this year we have  
18                 244 docketed cases. The vast majority of docketed  
19                 cases, 60 percent, have alleged a failure to provide  
20                 the required Notice of Employee Rights; 29 percent  
21                 have alleged a failure to pay for sick time used and  
22                 14 percent have alleged a failure to accrue sick time  
23                 correctly. Almost 8 percent of the docketed cases to  
24

1  
2 date have alleged retaliation or a threat of  
3 retaliation.

4           Once a complaint is docketed, DCA  
5 notifies the employer of the allegation made against  
6 them and gives the employer 30 days to respond to the  
7 allegations. Employers are required to include all  
8 documentation within this period of time,  
9 demonstrating their compliance. There are special  
10 circumstances, such as with complaints alleging  
11 retaliation, when DCA is permitted to access or  
12 receive employer records with only two days of  
13 advance notice. I will speak more about  
14 investigation into allegations of retaliation  
15 shortly, but now return to the example of a non-  
16 retaliation complaint.

17           Within the initial 30-day response period  
18 given to an employer, DCA makes several attempts to  
19 mediate the complaint. In the original notice to the  
20 employer, it instructs the employer how to contact  
21 the investigator assigned to the case if the employer  
22 would like a speedy resolution through mediation.

23           Additionally, the DCA investigator makes  
24 at least two attempts by phone, by email; oftentimes  
25 in person, to engage the employer in mediation. In

all of these communications, DCA stresses that if mediation is not successful, the employer must still provide a response and all documentation by the 30-day deadline. If an employer fails to mediate the complaint by the 30-day deadline, DCA reassigns the case to a different investigator for the investigation phase of the complaint's lifecycle.

Even before DCA serves a Notice of Hearing, which is the Agency's official charging document, DCA will offer an employer an opportunity to resolve the complaint with reduced or no penalties. I am pleased to report that in the 70 cases we have already closed at the time that we prepared this testimony, all had been resolved without DCA issuing charges against the employer and DCA has been able to recover back wages and sick leave pay in two closed cases.

There will be cases where employers fail to come into compliance with the law and DCA will not hesitate to issue Notice of Hearing against those employers and we've recently in fact issued our first Notice of Hearing against two employers.

Once DCA issues a Notice of Hearing, an employer has two choices -- either the employer

1  
2 settles the violations with the Agency or the  
3 employer decides to take the case to a hearing at the  
4 DCA Administrative Tribunal. In either case, an  
5 employer may face penalties, the payment of  
6 restitution and injunctive relief, although the  
7 penalties will be reduced if an employer chooses to  
8 settle the complaint.

9           It is our sincerest hope that very few  
10 cases reach the hearing stage of the complaint  
11 lifecycle. DCA's goal is always to reach fast, fair  
12 and cost-efficient outcomes for both employers and  
13 employees through mediation or other facilitated  
14 resolution.

15           As is expected, the Agency has found that  
16 certain industries are targets of employee complaints  
17 more than others. To date, the highest percentage of  
18 cases, 35 percent, are filed against employers in the  
19 professional service industries, which includes  
20 security services firms, property and real estate  
21 management companies and temporary employment  
22 agencies. The retail industry and healthcare  
23 industries, including medical and dental offices, and  
24 home health agencies receive significant percentages  
25

of complaints as well, 18 and 13 percent respectively.

As enforcement and outreach are intrinsically related, we are utilizing our complaint information to inform outreach strategies moving forward. DCA is in the process of working with appropriate industry groups and specific employers to facilitate education and the distribution of information and is of course open to any suggestions that the Council might have in that regard.

We believe that our outreach and implementation efforts to date constitute good news and that our efforts have been very well received. The number of inquiries we have received, the number of cases we are mediating, as well as the excitement of stakeholders as diverse as industry groups, advocates and government agencies to partner with us, are all indications of this.

I am very proud of the work that our Paid Sick Leave Division has done in a very short amount of time and I should note that many other divisions within our agency have proactively lent great support. I am confident that the Agency's efforts to date have laid a strong foundation for the successful

1  
2 implementation of the Paid Sick Leave Law in the long  
3 term.

4           As we look ahead to continued outreach  
5 and implementation efforts, we seek to be responsive  
6 to businesses and protective of employees. We  
7 continue to learn every day about areas in which we  
8 can hone our outreach efforts and we welcome feedback  
9 and input from the Council. DCA is committed to both  
10 maintaining its balanced approach to enforcement by  
11 always beginning with mediation, as well as  
12 aggressively pursuing those employers who repeatedly  
13 violate the law or engage in retaliation against  
14 employees.

15           Once again, we are very proud to be  
16 implementing this historic law, one that is  
17 beneficial to all New Yorkers.

18           Thank you so much for the opportunity to  
19 testify today and we'd be delighted to take any  
20 questions that you might have for us.

21           CO-CHAIRPERSON CORNEGY: Thank you so  
22 much, Commissioner. I would like to preface my  
23 questions by saying that you're a regulatory agency  
24 and the amount of outreach that you put into this is  
25 certainly a movement away from the way business as

usual has been in the City and I wanna say first and foremost I appreciate that.

JULIE MENIN: Thank you.

CO-CHAIRPERSON CORNEGY: So one of the first questions that I have for you -- I'll ask some questions; then I'll share with my Co-Chair from Consumer Affairs.

The concern has been greatly that the small businesses that are of other languages haven't been given the same opportunity through materials to dissect the law. So you know, my first question would be, what groups did you work with to reach non-English workers?

JULIE MENIN: Okay. Well I'm really glad you're asking that question because as I stated in our testimony, the law mandates that we provide materials in seven languages; we decided on our own accord to go to 26 languages, well above and beyond what the law provides, so we have been working with community groups, immigrant groups; small business groups all across the City to get the materials out in a multitude of different languages and that is quite frankly why when we hired outreach staff we made sure that our outreach staff spoke a multitude



of different languages so we can be as responsive as possible in that regard. And Amit, do you have anything to add on that?

AMIT BAGGA: I think the Commissioner has really captured comprehensively the nature of the different languages that we have been featuring in our outreach staff. To answer your question about some of the groups that we worked with; we partnered very closely with Make the Road New York; obviously they have a very large Spanish-speaking constituency, as well as smaller nonprofits across the City; one that comes to mind is Adhikaar, which the main Nepali-speaking group based in Queens and many others across the five boroughs.

JULIE MENIN: And it's also why we targeted our advertising outreach so greatly to community newspapers, immigrant-owned newspapers and why we're doing advertisements... [crosstalk]

CO-CHAIRPERSON CORNEGY: I'm sorry, Commissioner; for the record, I just need everybody, when they speak or answer questions... [interpose]

JULIE MENIN: Oh...

CO-CHAIRPERSON CORNEGY: not you; Amit...  
[crosstalk]

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JULIE MENIN: to identify...

CO-CHAIRPERSON CORNEGY: just... just for the record, just identify yourself and your office that you're representing.

AMIT BAGGA: Amit Bagga, Deputy Commissioner of External Affairs with the Department of Consumer Affairs.

CO-CHAIRPERSON CORNEGY: And for the record, I know who you are, Amit, but just for the record. Thank you. [laughter]

JULIE MENIN: So I was just saying that in terms of our advertising, one of the things we felt was so important, and we're gonna continue to do this in our upcoming advertising campaigns, is focus largely on community, ethnic, immigrant-owned newspapers and we do our ads in a multitude of different languages, so we really try to be very targeted in that approach.

CO-CHAIRPERSON CORNEGY: So part of the reason I ask and for specifics is because a lot of the members of the Council may be able to suggest to you either organizations that would be helpful or publications that would be helpful. So I wanna reiterate again that this is not a gotcha hearing;

1 the expected outcome for me as the Chair of Small  
2 Bsuiness of this hearing would be to see what we  
3 could do better in places that we could do it better.  
4 So that's... I know that you guys have made a movement  
5 away from the way that you do business; I'm trying to  
6 do the same thing, so.

8 JULIE MENIN: And we greatly appreciate  
9 that, so that if Council Members have any specific  
10 ideas in terms of communities that they feel need  
11 additional outreach, we would love to hear that. And  
12 I'm just gonna turn it over for a minute to Kristen  
13 Lasky, who's Executive Director of our Paid Sick  
14 Leave Division, to also talk a little bit about  
15 language access and outreach.

16 KRISTEN LASKY: Do I need to state for  
17 the record [background comment] my name? Kristen  
18 Lasky, Executive Director of the Paid Sick Leave  
19 Division at the Department of Consumer Affairs.  
20 Thank you so much for this opportunity.

21 I just wanted to point out, of the events  
22 that we've conducted where we've presented on the  
23 Paid Sick Leave Law, and we've conducted over 350 of  
24 those, 21 percent of those were conducted in Spanish,  
25 so about 17 members of our staff are Spanish speakers

1 and so we have a huge core that we can send out to do  
2 presentations in Spanish. Additionally, we've  
3 conducted 12 presentations in either Mandarin or  
4 Cantonese; we also have a Korean speaker and we've  
5 done three presentations in Korean; Bengali, two  
6 presentations and Russian two presentations as well,  
7 and we spend a lot of time identifying candidates for  
8 our staff that have language capabilities for this  
9 purpose, to be able to reach the communities that we  
10 think are most impacted by the Paid Sick Leave Law.  
11 So if working with you we could identify additional  
12 groups to send our staff out to for outreach events,  
13 we would welcome that.

15 CO-CHAIRPERSON CORNEGY: Thank you. So  
16 while we're celebrating the robust numbers of  
17 materials that have been disseminated, I'm getting  
18 texts and Tweets about, you know, about saving the  
19 planet, so if you could simultaneously speak to us  
20 about your online efforts at outreach as well,  
21 please.

22 JULIE MENIN: Absolutely. So in terms of  
23 online outreach, I mentioned before, and we think  
24 this is really emblematic of the interests that  
25 people have in paid sick leave; we have 209,000 hits

1  
2 to our website, just our paid sick leave part of the  
3 website. We have both the Notice of Employee Rights  
4 and the notice of the employer's responsibilities;  
5 it's all on the website. We have our frequently  
6 asked questions; our rule-making is all on our  
7 website. As I mentioned before, we are very active  
8 in terms of using social media to raise awareness  
9 about paid sick leave, which was what Day of Action  
10 was obviously largely focused on, and we are going to  
11 continue that as well and we think it's a point well  
12 taken that we obviously wanna make sure that we  
13 utilize online resources whenever we can. I don't  
14 know, Kristen... [crosstalk]

15 CO-CHAIRPERSON CORNEGY: Somebody just  
16 reminds me that no good deed goes unpunished,  
17 [laughter] so.

18 KRISTEN LASKY: I do have some statistics  
19 about the materials that we have on our website and  
20 the multitude of languages, and just to repeat what  
21 the Commissioner testified earlier about, we have the  
22 required Notice of Employee Rights in 26 languages  
23 and I can tell you downloads for that -- in Spanish,  
24 those have been downloaded 2,376 times; Chinese,  
25 1,255 times; French Creole, 1,163 times -- and I

could go on and on, but I don't think you wanna hear all 26 of those. We also, in addition to the Notice of Employee Rights, we have prepared two-page, back and front, documents, one for what employers need to know and one for what employees need to know; again, those are in 26 languages. We've created PowerPoint presentations that summarize the key points of the law and those are in a multitude of languages, it's not all 26, but it's at least five languages that we have the PowerPoint and can get the PowerPoint presentations in those other languages. So we are working hard to make sure that there are online resources that are available in many languages. We are about to get back from our translation vendor the complaint form that currently is only in English, but that will now be in seven additional languages.

CO-CHAIRPERSON CORNEGY: So thank you. And as a testament to the fact that we at Council have a new Council that works together and collaborates, we are going to hear from the gentleman from Queens, [laughter] [background comment] Council Member Vallone before the Co-Chair.

COUNCIL MEMBER VALLONE: Thank you to my brother Chairs and Commissioner, thank you for your

1 testimony; I'm very heartened by the mediation  
2 language that was thrown throughout there and I  
3 appreciate that.  
4

5 Way back when this was passed, and I  
6 think I speak with Council Member Cornegy, who echoed  
7 when the bill was passed his concerns, we're really  
8 for the small guys, for the under 15 companies that  
9 got amended into a statute that hadn't even gotten to  
10 effect yet, so we were very concerned about how that  
11 rollout was gonna happen, but you made a big effort  
12 today to talk about mediating. But the process that  
13 you outlined, is that the same for every phone call?  
14 So if someone's calling from a Fortune 500 company or  
15 somebody's calling from a company of five employees,  
16 is the process the same or is it handled differently?

17 JULIE MENIN: We always wanna treat every  
18 business equally and fairly. Your question about a  
19 Fortune 500 company, we're unlikely, quite frankly,  
20 to get those kinds of inquiries because many of those  
21 companies are already providing five days or more of  
22 either personal or paid vacation time, and that is  
23 really an area that we are very focused on outreach,  
24 because... [interpose]  
25

1  
2 COUNCIL MEMBER VALLONE: The point, so  
3 it's really specifically about the smaller company.  
4 So if I'm calling from a company with 15 or less,  
5 'cause that's where all my questions are, I'm not  
6 gonna help the repeat offenders; I'm not gonna help..  
7 [interpose]

8 JULIE MENIN: Uh-huh.

9 COUNCIL MEMBER VALLONE: the bigger  
10 companies; somebody who wants to have a chilling  
11 effect of retaliation, all those folks should be  
12 ready to get and get their fines; it's the smaller  
13 company that you're getting the call from for the  
14 first time; is that claim handled the same as all  
15 other claims...? [crosstalk]

16 JULIE MENIN: Well first of all, we  
17 always wanna try to mediate, and so for the business  
18 that has 10 employers, the business that has 6  
19 employees, we wanna try to bring them into compliance  
20 as quickly and as cost-effectively as possible and  
21 that is why, to answer your question, we have always  
22 focused on mediation; we're not looking at trying to  
23 assess fines right away and I'd be remiss if I did  
24 not say that one of the top priorities of the Mayor  
25 and one of the top priorities for myself is to reduce



1  
2 fines categorically and that is why several months  
3 ago we rolled out 24 reforms to reduce fines by  
4 approximately \$5 million in the upcoming fiscal year;  
5 this is \$5 million that we're reducing our fines;  
6 that \$5 million is gonna go back into the pocket of  
7 small business owners to hire more staff, to do more  
8 marketing and promotion, and I'll just let Kristen  
9 also say a couple words about your question.

10 KRISTEN LASKY: I'm looking at my  
11 complaint data to show the percentages of complaints  
12 we've received from those businesses with fewer than  
13 20 employees and of the 245 complaints we have  
14 accepted as valid complaints we've docketed, we have  
15 no complaints for businesses with fewer than 5  
16 employees. We have received 82 complaints for  
17 businesses between 5 and 19 employees; that  
18 represents 33 percent of our complaints. But  
19 interestingly, if you look at our closed cases, and I  
20 can speak more anecdotally to our experience, 41  
21 percent of our closed, resolved cases are those  
22 complaints that the employer has fewer than 20  
23 employees. So there's a greater rate of resolution  
24 and I think anecdotally that's what I would say, that  
25 generally the small businesses, through the mediation

1 process, they want to comply; they just didn't either  
2 have the information or the tools to do so and in  
3 that mediation process we're giving them that  
4 information and we're also giving them the tools. So  
5 I can speak to one case particularly where the  
6 employer was not accruing time for his employees and  
7 he was a little overwhelmed by that responsibility,  
8 as many people have raised that concern here today;  
9 we were able to work with him, using our timekeeping  
10 tool that we offer to employers and show him how he  
11 could track the time his employees work, which he  
12 wasn't doing before and employers are supposed to do  
13 that. So it's a tool that is enabling him not just  
14 to comply with our law, but other labor laws and to  
15 track the usage of sick leave. It automatically  
16 calculates the accruals and the carryover from year  
17 to year. He was very, very happy with being able to  
18 use that tool at no cost to him and ensuring that his  
19 employees then were able to access the rights that  
20 they should, under this law. [interpose]

22 COUNCIL MEMBER VALLONE: So those 40  
23 percent, none of them resulted in hearings?

24 KRISTEN LASKY: None of them.  
25

COUNCIL MEMBER VALLONE: Which is great, 'cause there's a six-month probation period, so I'm happy about that. [laughter]

The other part of it was, of the 200 I guess that are active in the 40 percent of the small business, mediation is critical, so I thank you for that, 'cause I think that's, coming from Queens, that was the number one, all I heard, everywhere I went. Could've given \$100,000 to the library; they wanted to talk about fines [sic] for small business, so... and that's what Rob and I get all the time [sic], so working that, if you can continue that, and I know the Borough President spoke before; has there been any talk of extending the probation for the smaller groups or you're happy with the way it's progressing now?

JULIE MENIN: We have not heard a lot of feedback on the probation, extending the period, so we always obviously welcome input on that, but what we've actually found is that once employers are aware of the law, we can usually very quickly and efficiently bring them into compliance.

COUNCIL MEMBER VALLONE: Okay and I think you. And the last thing, I was trying to find the

forms; I'm pretty good at it and I can't any of them on the Consumer Affairs site, I went into the Business Toolbox, I went everywhere, so the forms for the employers to help them get the timetables and all that, if we can maybe make those a little bit more accessible, that'd be great.

KRISTEN LASKY: Sure, we'll make sure it's easier to get to from the DCA website; we actually have our own page and it's NYC.gove/paidsickleave.

COUNCIL MEMBER VALLONE: There we go; that's where I'm gonna find? [background comment]  
Thank you... [crosstalk]

CO-CHAIRPERSON CORNEGY: Thank you, Council Member Vallone. And to his point though, I grew a little concerned when you said that the smaller number of complaints of five and under was zero; I wonder if that's a function of it being zero or a function of lack of knowledge on behalf of employees at five or under or a fear factor of employees five or under... like so, for example, a larger company I find anecdotally is less likely an employee will be scared to institute some action; five and under, where you're really in there with the

1 employer, you know you may be a little bit more  
2 concerned about [background comment] making a  
3 complaint, 'cause you work probably shoulder to  
4 shoulder with that person. So I just wonder if that  
5 zero number is a function of it being zero because  
6 it's zero or because there's either... that's an  
7 uneducated demographic about paid sick or there's a  
8 fear factor associated [background comment] with it.

10 JULIE MENIN: And that's one of the  
11 reasons why in all of our outreach materials we're  
12 also focused on the between 1 and 4 employees,  
13 because we want the message out there that if you're a  
14 small business or a not-for-profit and you have  
15 between 1 and 4 employees, you have to provide unpaid  
16 sick leave, and we think that it's very important to  
17 get that message out there as well, so we'll  
18 obviously pay close attention to that.

19 CO-CHAIRPERSON CORNEGY: I'm sorry;  
20 without further ado, my Co-Chair, Rafael Espinal.

21 CHAIRPERSON ESPINAL: Thank you, Co-  
22 Chair.

23 When the law was passed I had concerns,  
24 because it was a little ambiguous on the fact that,  
25 you know, noted that DCA will be the enforcement

1 agency, it spoke about also expanding that, if it  
2 were necessary. Do you feel that DCA... I know you've  
3 done a great job in expanding DCA and creating an  
4 office specifically for paid sick leave; do you feel  
5 that DCA currently can continue tackling paid sick  
6 time?  
7

8 JULIE MENIN: Yes, absolutely.

9 CHAIRPERSON ESPINAL: Okay.

10 JULIE MENIN: And we're delighted to be  
11 doing that and we think it dovetails very nicely with  
12 the consumer protection work we do, the licensing  
13 work we do with small businesses, so we think it fits  
14 in very well with our core mission.

15 CHAIRPERSON ESPINAL: Okay. Great. And  
16 you know, as noted earlier, I think you guys have  
17 done a great job [background comment] in outreach;  
18 everywhere I turn I always see [laugh] an  
19 advertisement or a flyer somewhere; do you feel that  
20 the outreach you've done to businesses is on par with  
21 what you've done to the average working New Yorker?

22 JULIE MENIN: We feel we've done really  
23 strong outreach to both employees and employers and  
24 it's so important that we continue to do outreach to  
25 both constituent groups, because they both need to...

1 employees need to know their rights; employers need  
2 to know the main tenants of the law and that is also  
3 why we have a very detailed Frequently Asked  
4 Questions portion of our website, because we do get  
5 questions, both from employees and employers and we  
6 wanna make sure everyone know their rights, and it's  
7 also, by the way, why we're continuing to do  
8 advertising; we very strategically did not do all of  
9 our advertising in three months; we spread it out  
10 over time because there are constantly gonna be new  
11 businesses -- you know I spoke to Council Member  
12 Cornegy about this -- there are always gonna be new  
13 businesses that are opening, so we need to make -- as  
14 well as new employees -- and so we wanna make sure,  
15 continually, that we're providing that outreach  
16 effort and [background comment] it wasn't just a  
17 static one-time initiative.

19 CHAIRPERSON ESPINAL: Well what are some  
20 of the difficulties you've experienced in the  
21 outreach efforts to small businesses?

22 JULIE MENIN: Actually, one of the  
23 challenges has been that we wanna make sure the not-  
24 for-profit sector knows that it applies to them as  
25 well; I think that there is a conception that it's

1 focused on small businesses; we wanna make sure not-  
2 for-profits know about that as well, so we've really  
3 ramped up efforts in that regard. We also put on our  
4 website an Employee Certification, because we did  
5 hear from some employers that they wanted to make  
6 sure, particularly right around the holidays, that  
7 employees were not calling in sick on the holidays if  
8 they weren't indeed sick; we wanted to be responsive  
9 to those businesses' concerns, so we put a  
10 certification -- it's really a verification form --  
11 on the website that employers can give to employees  
12 which they sign and that was something that came out  
13 response and requests from the small business  
14 community.

16 CHAIRPERSON ESPINAL: Is there a certain  
17 amount of time that an employee has to give an  
18 employer... [interpose]

19 JULIE MENIN: Reasonable notice.

20 CHAIRPERSON ESPINAL: So reas...  
21 [interpose]

22 JULIE MENIN: So reasonable notice is not  
23 defined in the law, but reasonable notice -- I mean  
24 obviously, if someone comes down with the flu they  
25 can't provide a week's notice; however, if someone



has a child that is having surgery or they're having surgery done, generally there could be more reasonable notice that could be required.

CHAIRPERSON ESPINAL: Okay. So the two employers you spoke about earlier that you noticed -- you sent them a Notice of Hearing; what was the issue with that; were they aware of the law; was it something that they just failed to comply with the law just because they wanted to?

KRISTEN LASKY: In those two instances the employers just failed to respond to the allegations of the complaint and then to document the supporting documentation.

CHAIRPERSON ESPINAL: Okay. Last question -- I know you reached out to 400,000 small businesses; is it possible for Council Members to get a list of the businesses you reached out to in their council district?

[background comments]

JULIE MENIN: I'm gonna turn that over Amit to answer.

AMIT BAGGA: Thank you. The 400,000 businesses to which you are referring was through the Department of Finance. The Department of Finance

1 actually held onto the information about who the  
2 businesses and the nonprofits were, but you know,  
3 offered to partner with us in disseminating the  
4 information [background comment] directly to them; we  
5 can pass along the request. [crosstalk]

6  
7 JULIE MENIN: We can pass on that request  
8 directly to Finance, [background comment] so we will  
9 do that later today. [background comments]

10 CHAIRPERSON ESPINAL: Okay. Great.  
11 Thank you.

12 COUNCIL MEMBER FERRERAS: Chairs, I'm  
13 actually meeting with Commissioner Jiha at 2:00  
14 today, so I can pass on the info also.

15 CHAIRPERSON ESPINAL: Okay. And I also  
16 want to acknowledge one of the Members of my  
17 Committee, Julissa Ferreras, from Queens.

18 CO-CHAIRPERSON CORNEGY: Who is the  
19 Finance Chair. [background comments] So what I'd  
20 like to ask though is that I noticed that SBS -- in  
21 the person of Gregg Bishop is present, Deputy  
22 Commissioner -- and I'd like to know if you could  
23 detail your collaboration with DCA in paid sick.

24 GREGG BISHOP: Good morning, Chairs. My  
25 name is Gregg Bishop, Deputy Commissioner of Business

Development at the Department of Small Business

Services. And as the Commissioner talked about in

her testimony and with the team at the table, SBS has

been at the table with DCA from the very beginning;

we worked on how we could help with the outreach.

Part of the outreach was off course working with our

database of businesses, so.. and as you know, SBS also

administers the business improvement districts. So

we not only targeted businesses between 5 and 19

employees that we've worked with, but we also worked

with, at the time, the 69 BIDs -- we just signed one,

so there's 70 -- to also disseminate their

information, which we estimate actually covered about

85,000 businesses. We've also worked with our NYC

Business Solution Centers, so we trained our staff at

the centers to be able to answer at least the first

level information for if businesses that we interact

with had questions about paid sick. We also worked

with DCA with the tool that they actually created for

business and we continue to work with them; we have

the information on our main page of our website,

[nyc.gov/nycbusiness](http://nyc.gov/nycbusiness), and we continue to work to

figure out ways so that we can collaborate. I think

one of the areas I wanna mention where we are also

1 paying attention to is that businesses that have less  
2 than 10 employees are providing additional one-on-one  
3 support, not only to help them comply with HR issues,  
4 but just help them in general, so we are working on  
5 programs to sort of tackle that area; one of them  
6 being also accounting and finance, etc., etc. So I  
7 think, as the Commissioner said, one of the things  
8 that we've noticed with the implementation is other  
9 services that we could offer for small businesses.  
10

11 CO-CHAIRPERSON CORNEGY: Thank you. At  
12 this time I'd like to acknowledge the lady from  
13 Queens, Julissa Ferreras.

14 COUNCIL MEMBER FERRERAS: Thank you for  
15 calling me a lady. [laugh] Thank you, Chair.

16 I actually have a question on  
17 opportunities for public and private partnerships. I  
18 think every small business in our area, not every,  
19 but most, have banking institutions and are receiving  
20 information through their banking institutions; have  
21 you found opportunities to work with some banks that  
22 can help communicate -- and I'm sorry if you've  
23 already said this in your testimony -- but that can  
24 help communicate -- we're in constant communication  
25 with our banks and they seem to know how to find

everybody, especially when you have a late fee,  
[laughter] but government seems to have a challenge,  
although, you know... and I think what we count as  
touch doesn't necessarily mean that it really was a  
touch and you know it's a difference between, I heard  
it on the news or I know this is coming and really  
getting that accurate information, which I think is  
what we're trying to bridge. So are there any  
opportunities that you see in the pipeline where  
we're able to get information through some banking  
institutions; this is something that's coming up, not  
necessarily we wanna scare you, but this is the law  
and you know, how can we [background comment] work  
better in getting this information out?

JULIE MENIN: Absolutely. We're in a  
very unique position because the Office of Financial  
Empowerment is housed within the Department of  
Consumer Affairs, so through OFE we run 30 Financial  
Empowerment Centers around the City with eight  
banking partners and a lot of the banking partners  
run community-based banks, so we've had a tremendous  
amount of dialog with those financial institutions to  
make sure that they are aware of paid sick leave,  
that they're distributing materials about paid sick

1  
2 leave and so it's actually a wonderful opportunity  
3 for us to partner with them, because those banking  
4 partners are focused in particular on the 825,000 New  
5 Yorkers who have no bank account. We actually offer  
6 banking products with our banking partners, so it  
7 dovetails really nicely with the work we're doing  
8 around paid sick leave.

9 COUNCIL MEMBER FERRERAS: And SBS; do you  
10 then, you know, let people know that this is stuff  
11 that's happening, because I think [background  
12 comment] -- in the past -- and I love that you're  
13 both on the same panel -- this is like historic right  
14 now, because it's... you know, the enforcement and the  
15 education never really sat at the same table, let  
16 alone having the Commissioner here. So when you see  
17 these opportunities for synergy, how is that  
18 translating, when in the past that has not been the  
19 culture? So if that hasn't been the culture in the  
20 past, how are small businesses receiving this,  
21 because it's kind of enforcement educating me, but  
22 that's not necessarily where I've gotten the  
23 education piece from in the past, so you know how are  
24 you not replicating efforts now?

1                   GREGG BISHOP: And I totally agree with  
2                   you; it is a new day, I think we have recognized that  
3                   because we all serve businesses and we wanna make  
4                   sure that we do work closely together, and we have  
5                   worked and we've tuned our External Affairs and DCA's  
6                   External Affairs coordinated efforts to make sure  
7                   that we don't show up in the same place that they're  
8                   showing up and it has been a great relationship in  
9                   terms of targeted outreach, so we have our network of  
10                  not only business improvement districts, but NYC  
11                  Business Solution Centers, so if DCA needs us to go  
12                  in a certain area, we are closely coordinating that  
13                  way. I think on the business side of course they  
14                  appreciate the efforts on both agencies to educate  
15                  and I really wanna commend DCA on doing a tremendous,  
16                  a great job in actually educating the businesses and  
17                  continuing to educate the businesses before we get to  
18                  the point where there's a fine.

19                 AMIT BAGGA: Thank you so much. If I may  
20                 just add to that. In our conversations with SBS,  
21                 what we have seen is that SBS has been very  
22                 supportive of the notion that DCA, as the enforcement  
23                 and implementing agency for paid sick leave, is also  
24                 the agency that's responsible for education around  
25

1 this particular issue, and that's because we have the  
2 expertise within the agency to be able to provide all  
3 of the right information all in the same place, the  
4 Paid Sick Leave Division houses within it all of the  
5 enforcement mechanisms as well as the outreach  
6 mechanisms and what we have seen because of that is  
7 that we can communicate directly with business owners  
8 in a way that is much more seamless and much more  
9 effective.  
10

11 COUNCIL MEMBER FERRERAS: Well I'm just  
12 hoping that this makes, at the end of the day, the  
13 lives of small business owners easier, but then also  
14 the employees, that they feel that they're also being  
15 protected, so I commend you for being able to  
16 smoothly transition that, because that has not been  
17 the culture of either one of these organizations in  
18 the past. Thank you, Chairs.

19 CO-CHAIRPERSON CORNEGY: Thank you. I  
20 want to at this time acknowledge the gentleman from  
21 Brooklyn, Dr. Mathieu Eugene. And I'd like to say  
22 I'm extremely pleased at the emphasis that this  
23 administration has placed on reducing fines for small  
24 businesses and I feel confident, especially after  
25 visiting DCA this week, that you've been working hard



1 and strategically to support rather than to punish  
2 small business owners as they adjust to the Earned  
3 Sick Leave legislation. In that vein I have a  
4 question. Department of Health and Mental Hygiene  
5 has a program that allows new restaurant owners to  
6 request educational indiscretions before opening so  
7 they can know they're operating according to and not  
8 begin by receiving and accruing fines. Can you  
9 envision DCA playing a similar role with Earned Sick?  
10 For example, inviting proactive employers to bring  
11 his or her records to determine if they're being kept  
12 properly or have an inspector come out and see if  
13 they're...

15 JULIE MENIN: Yes, absolutely, both in  
16 paid sick leave as well as overall in our regular  
17 inspection duties related to licensing, so outside of  
18 the Paid Sick Leave Division as well; we wanna be  
19 able to do both and we think we can do both, and we  
20 also have for the first time ever a legal ombuds  
21 person, a person that we hired, it's a new position  
22 at DCA, who's available every single day; they're  
23 sole function is just to answer questions about how  
24 to comply with any of our rules, regulations, as well  
25 as laws. We also have available in our licensing

center for the first time an OFE counselor, someone who can provide financial counseling, whether it be to small businesses or whether it be to individuals who are focused on and suffering from debt issues. So we think that there's a lot obviously that can be done and then we continue to use live chat, which we think is a very unique way where business owners can interact with us on really any issue, whether it be paid sick leave or another issue.

AMIT BAGGA: If I may just add to that, I would like to just state that recently we actually had a DCA inspector spend quite a bit of time at SBS and we anticipate that we'll be having another one spending quite a bit of time at SBS, and SBS has facilitated between that inspector and a number of small business owners informal consultations about compliance and so we have begun that conversation with SBS and we look forward to working with them, moving forward, on potentially formalizing that process.

CO-CHAIRPERSON CORNEGY: Can somebody please explain for the record the LanguageLine that's used when an inspector is in a business and it's...  
[interpose]

JULIE MENIN: Yes.

CO-CHAIRPERSON CORNEGY: it's not an English-speaking business and how it works... [crosstalk]

JULIE MENIN: Yes. No, I'd be... I'd be delighted to. So for the first time ever, DCA is conducting inspections in language of choice. So an inspector comes in and they have a laminated card that lists a multitude of different languages and the business owner can point to whichever language they would like the inspection conducted in and then the inspector uses LanguageLine, using a cell phone, and the inspection is done on the spot in the language of choice. Another part of this program, for the first time ever, we have all 41 inspector checklists available online and in a number of different languages and this is really important, and I say this as a former small business owner, is that there were a lot of issues previously where when an inspector would come in, the business owner would say, well what are you looking for and the inspector would tell the business owner, well go look at the law. I mean that is not fair and that is not our policy moving forward; we don't do that anymore, we

now have all the inspector checklists available online for the first time ever, in addition to inspections and language of choice.

CO-CHAIRPERSON CORNEGY: Also, can you speak to me about this very aggressive mandate from your office to... there's an aggressive number that you have of reductions...

JULIE MENIN: Yes.

CO-CHAIRPERSON CORNEGY: for fines...

JULIE MENIN: Yes.

CO-CHAIRPERSON CORNEGY: coming up; if you could just speak about that, please. [interpose]

JULIE MENIN: Absolutely. No, I'd be delighted to. So Mayor de Blasio spoke very clearly and eloquently when he was public advocate and when he was campaigning for mayor and now that he's mayor, about fine reduction, making sure that we are not deriving City revenue on the backs of small businesses for fines that are not warranted or that don't really serve a consumer protection interest. So we took that mission very seriously and we are projecting an approximately \$5 million reduction in fines in the upcoming fiscal year. The way that we're gonna get there and we're completely on target

1  
2 to get there, is we announced several months ago 24  
3 reforms to reduce fines, so we are reducing overall  
4 the number of counts for various violations, and I  
5 can give you an example -- previously if five  
6 different cans of soup did not have the pricing on  
7 it, the business owner would be looking at five  
8 separate violations; we did not think that was  
9 warranted and we did not think that was the right  
10 approach, so we have changed that. Business owners  
11 now, with the new cure law, for the first time ever  
12 this gives DCA unprecedented power to be able to  
13 allow business owners to cure the violation, so  
14 business owners for the majority of signage  
15 violations now have 30 days to cure the violation and  
16 we think this is so incredibly important. Many  
17 businesses are going to see fines reduced by 50  
18 percent; some businesses are gonna see fines reduced  
19 by as much as 90 percent. And so we think these are  
20 very important policy changes that we've made and it  
21 will and it already has led, quite frankly, to a sea  
22 change in terms of the fines assessed.

23 CO-CHAIRPERSON CORNEGY: I believe that  
24 my colleague, Dr. Eugene, has a question. No? Okay.

1                   So those programs, to me, are what I call  
2                   BHAGS, which are big hairy, audacious goals  
3                   [laughter] and we hope and would like to be a part of  
4                   reaching those goals; small businesses are feeling a  
5                   crunch across the city, as you could imagine. I  
6                   think in our first hearing I said to you, or I  
7                   mentioned, were you aware of the way small businesses  
8                   felt about both agencies and I think you were very  
9                   honest then; I think you've demonstrated a commitment  
10                  to kind of changing the way that small businesses  
11                  look at DCA and also SBS, so I think that should be  
12                  commended. [background comment]

13                 So in the interest of wanting to make  
14                 sure that I can get the Commissioner back in the  
15                 building at another time, [laugh] we are going to  
16                 conclude this round of questioning; thank you so much  
17                 for... [interpose]

18                 JULIE MENIN: Thank you so much for the  
19                 opportunity to testify today and for all your  
20                 comments. Thank you.

21                 [background comment]

22                 CO-CHAIRPERSON CORNEGY: So we have our  
23                 next panel, Molly Weston, Andrew Rigie, and please  
24                 25

excuse me if I have pronounced incorrectly your names.

[background comments]

CO-CHAIRPERSON CORNEGY: So in the interest of time in dealing with small businesses, we're gonna combine this panel, so Nancy Ploeger, sorry, Rosina Rubin and Quintana O'Neill.

[background comment] If I can get you all to come up and quickly raise your right hands for this affirmation. [background comments] If I can please ask you to all raise your right hand. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this Committee and to respond honestly to Council Member questions?

[collective affirmation]

CO-CHAIRPERSON CORNEGY: Thank you.

[background comments] Oh, I'm sorry. I'm going to ask Nancy to go first, please with your testimony.

NANCY PLOEGER: Thank you very much and I apologize... [interpose]

CO-CHAIRPERSON CORNEGY: And just... could you state your name and your affiliation for the record? [crosstalk]

1  
2 NANCY PLOEGER: Nancy Ploeger, the  
3 President of the Manhattan Chamber of Commerce and I  
4 appreciate you having us here today and allowing us  
5 to bring forth some testimony from our members and  
6 from our perspective, and I apologize that I do have  
7 to run to another meeting, but my colleagues are  
8 here, Rosina Rubin's one of our members, and my  
9 colleague Andrew Rigie and also, Brooklyn's in the  
10 room, so they will be able to answer all your  
11 questions well.

12 On behalf of our 10,000 members and  
13 subscribers, we again would like to thank you for  
14 allowing us to testify this morning on the Park Sick  
15 Leave Enactment, the City's outreach efforts, our own  
16 Chamber's efforts and feedback on implementation.

17 Our Chamber communicated with our members  
18 and subscribers via website, email; social media  
19 postings as soon as the announcement was made about  
20 the paid sick leave going into effect. We also  
21 informed the leaders of many of our business  
22 organization colleagues and encouraged them to send  
23 the information out to their members and to  
24 businesses in their circles. We provided the  
25 details, the links and reached out to organizations,



such as the Lower East Side EVCC, Washington Heights, Inwood Chamber, East Harlem Business Alliance, Chinatown Partnership, the Bodega Association, the National Supermarkets and we pushed to have the information translated into other languages as quickly as possible through communications with the administration. In addition, we printed and handed out flyers and informed 457 businesses in the 2nd Avenue Subway construction zone, which runs from 68th to 97th, literally going door to door and we've been working with these businesses since the subway construction started in 2010, so we have been keeping them informed of any city agency new regulations and so forth. We also promoted the City's educational events held in Manhattan through our online calendar and our weekly emails and again through our social media.

We believe that the City has done an admirable job with the outreach and we were very glad that the forms and information were translated into so many languages to help spread the messaging to the far reaches of the City and its diverse ethnic communities. Even to the point of Paid Sick Leave, which Borough President Brewer mentioned, there's an

1 announcement on the on-hold telephone message, which  
2 I heard yesterday when I as holding for the Parks  
3 Department, so I was like, wow. So recently we took  
4 a snap poll of some of our member companies regarding  
5 the implementation of the Paid Sick Leave and how  
6 it's affecting their businesses and I have attached  
7 that to my testimony; I'm not going to sit here and  
8 read them all; some of them are very brief comments  
9 and others get into further details about the  
10 implementation and challenges they've having in their  
11 own companies.  
12

13 I also wanted to just mention, which is  
14 not written in the testimony, and Council Member, I  
15 thank you for asking that question, and it's really  
16 ignorance on my part because you addressed the  
17 Commissioners on how new businesses find about this,  
18 and it's great if we keep advertising and so forth,  
19 but they can't keep paying for advertising for the  
20 next 100 years, so again, it's my own ignorance  
21 because I don't know, if you're starting up a  
22 business, where you get this information; is it from  
23 SBS, you go to SBS, they say, this is how you start a  
24 business and is that updated; is the Paid Sick Leave  
25 in that outreach effort? And I think that has to be

1 checked to make sure that DCA, DOH, all of them have  
2 these new mandates within the material that they give  
3 someone who's starting up a new business; not that  
4 just we hope that they hear it from their local  
5 organization or see it on a subway posting. So I  
6 think that's one thing that I'm gonna be sure that I  
7 check on to make sure that that's done.

9 And then the other discussion was about  
10 identifying other potential business sources, like  
11 banks, everybody has a bank. Well not everybody has  
12 a lawyer, not everybody has an accountant, but that's  
13 another good outreach to start to get to these  
14 groups, and then everybody certainly has some form of  
15 payroll, whether they're doing it internally, whether  
16 they're a big company; have an HR department which  
17 we're not worried about because we know they can  
18 handle it, but it's the payroll processes, ADP,  
19 Paychex, the three or four big payroll processing  
20 firms; maybe we need to make sure that they're  
21 onboard about this and that they can help the  
22 businesses who are now taking ADP or Paychex, which  
23 smaller companies tend to do, using their services,  
24 so that they also can be on the other side of it,  
25 informing the business that this is the right way to

2 keep track of this and maybe because that's their  
3 business they can figure out how to help the small  
4 business keep track of it. I think we've kind of  
5 left that thought out of the equation and many, many  
6 small businesses use these payroll services. So  
7 that's just what I would like to add. Thank you.

8 CO-CHAIRPERSON CORNEGY: Well I wanna  
9 thank you for that. It's funny, because I asked that  
10 very same question when I had a chance to actually  
11 visit the Paid Sick headquarters and what they told  
12 me was the ombudsman is responsible for upon  
13 application for a new license or a new... anything in  
14 there, they are pushing that information and as part  
15 of the robust package of information that a new  
16 business gets on startup, they get that information.  
17 So I think we should follow up, you and I both,  
18 Nancy, [background comments] will follow up, but  
19 their answer to that question was that they are right  
20 there on the spot.

21 NANCY PLOEGER: Well I guess... I mean  
22 that's wonderful and that's terrific, but does every  
23 new business see an ombudsman -- easier for you to  
24 say -- [laughter] so I think that's where we have to  
25 worry about where are the cracks so that new

businesses don't, you know, rely on, oh, what's that ad on the subway; I'm supposed to do that?

[background comment] Thank you very much and again, I apologize that I have to go... [crosstalk]

CO-CHAIRPERSON CORNEGY: Thank you again, Nancy. If you could just acknowledge yourself. I guess we'll go in that order.

MOLLY WESTON: Sure and thank you. Good morning. My name is Molly Weston and I'm an attorney with A Better Balance, a legal nonprofit that helps working men and women take care of themselves and their families without compromising their economic security.

Our organization was at the forefront of drafting and advocating for the Earned Sick Time Act and is now working to implement it through both comprehensive outreach efforts and free legal services.

First and foremost, we really want to applaud the Department of Consumer Affairs for their outstanding efforts to promote this law and also thank the Council for their own hard work and leadership in getting the word out, but there is still more to do.

1  
2 Implementing a law that creates a new  
3 legal right for 3.4 million working New Yorkers is a  
4 significant and difficult undertaking. In the seven  
5 months since the law went into effect there have been  
6 substantial strides, but challenges inevitably  
7 remain. A Better Balance has provided legal advice  
8 to nearly 100 callers; from these calls we know that  
9 many employers, especially small businesses, still  
10 need help to learn about and fulfill their  
11 responsibilities under the law. In particular we  
12 have identified three recurring issues the City  
13 should stress in its education and outreach to small  
14 businesses.

15 First, the law required that all  
16 employers distribute a Notice of Rights prepared by  
17 DCA; all existing employees should have received this  
18 notice by May 1st of this year and all new employees  
19 should receive this notice at the commencement of  
20 employment. On call after call we hear from covered  
21 employees who still have not received this notice and  
22 as a result are often confused about or unaware of  
23 their rights.

24 Second, there is considerable confusion  
25 about the law's doctor's note requirements. Under

1 the law, an employer may ask for medical  
2 documentation of the basis for an absence only after  
3 an employee misses three consecutive work days.  
4 However, from our callers, we know that many  
5 employers are still asking for doctor's notes after  
6 as little as one missed day. For many low-wage  
7 workers these requests are not only illegal; they're  
8 impossible, as seeking medical treatment and  
9 documentation every time they or their family members  
10 have the flu or other common ailments is cost  
11 prohibitive.  
12

13 Third, employers need to understand the  
14 circumstances under which preexisting leave policies  
15 discharge their obligations under the law. Time  
16 available under existing policies, such as PTO,  
17 rotation policies or sick time policies only counts  
18 towards the law's requirements if it can be used for  
19 all the same purposes and under all the same  
20 conditions as ESTA time. In practice, many workers  
21 report that their employers are not allowing them to  
22 use this time in the way the law requires. For  
23 example, giving demerits for the use of sick time.  
24 Our written testimony explores these points in  
25 greater detail.

1                   In conclusion, we want to stress the  
2  
3   tremendous progress that has been made under the law.  
4   Every day working people in this city are now able to  
5   take the time they need when they or their families  
6   are ill or in need of medical care without fear of  
7   losing their paycheck or their job. Moreover, when  
8   no one needs to go to work sick or send their child  
9   to school sick because of a lack of paid sick time,  
10   we all benefit from a healthier community. The  
11   Earned Sick Time Act is a landmark piece of  
12   legislation to be proud of and we look forward to  
13   working with the City to promote and enforce it to  
14   its full effect.

15               CO-CHAIRPERSON CORNEGY: Thank you. I  
16   can say that my office definitely looks forward to  
17   working with you to make sure that this and other  
18   barriers to this being successful we can mitigate, so  
19   thank you.

20               ANDREW RIGIE: Good morning; my name is  
21   An... or I should say good afternoon; my name's Andrew  
22   Rigie; I am the Executive Director of the New York  
23   City Hospitality Alliance; we are a trade association  
24   that represents eating and drinking establishments  
25   throughout the five boroughs. I wanna thank you all



1  
2 for holding today's hearing; I know some have said  
3 that it was a little bit early to hold a hearing,  
4 since the law was just implemented, but I do think  
5 this goes to the overall culture which we as a  
6 business trade group really encourage to keep an eye  
7 on the laws and regulations impacting our local  
8 restaurateurs and make sure that it remains in the  
9 forefront of issues to be discussed and not just  
10 discussed somewhere down the road or just to pass  
11 along.

12               So I wanna let you know, in preparation  
13 for the implementation of the Paid Sick Leave Law,  
14 the New York City Hospitality Alliance disseminated  
15 tons of information, different memos, membership  
16 alerts, to our members; we hosted several seminars on  
17 compliance for the restaurant community; some of  
18 them, actually several of them were in partnership  
19 with the Department of Consumer Affairs. On the  
20 effective day of the law, April 1st, we actually  
21 hosted a seminar in partnership with Consumer Affairs  
22 and Manhattan Borough President Gale Brewer was a  
23 keynote speaker; believe it or not, we had I think  
24 225 restaurant people in a room at one time, which is  
25 remarkable, trying to get three restaurateurs in a

1  
2 room at one time. So it goes to show that the  
3 industry is very interested in knowing what their  
4 obligations are under the law, regardless of what  
5 their opinion of the law is itself. And we think  
6 that the City and we wanna applaud all of you,  
7 commend you, Department of Consumer Affairs in the  
8 outreach.

9 We do believe, again, it is a little bit  
10 early to have a better understanding and a  
11 comprehensive review of the law's impact on the  
12 restaurant community, from both an operational and a  
13 financial perspective, but I do wanna take this time  
14 to highlight some of the issues that have come up and  
15 been reported from our members and hope to continue  
16 to be able to work through them, especially with the  
17 spirit of business education and outreach.

18 So first we understand that the  
19 Department of Consumer Affairs takes the position  
20 that an employee must affirmatively request paid sick  
21 leave and this has presented several issues for our  
22 members.

23 First, employees don't always request  
24 sick leave and sometimes even accuse employers of  
25 violating the law when they do not see paid sick

1 leave on their paycheck. There have been a few  
2 reported barriers with employees that do not speak  
3 English very well and what an affirmative request is.  
4 When some employees call out they're not always able  
5 to speak with a manager on duty and again,  
6 affirmatively say, I am taking paid sick leave. Also  
7 in some of these cases an employee may call in and  
8 leave a voicemail versus speaking with a manager or  
9 an owner and in that voicemail they may say they're  
10 not coming in, but again, not affirmatively  
11 requesting a paid sick leave day.

12  
13 There have been a few cases, although  
14 limited, where some employees have somewhat taken  
15 advantage of the system, using a loophole knowing  
16 that if they're not affirmatively requesting it they  
17 can take a day off without any consequence.

18 Finally, employers do not know how to  
19 allocate time when the employee is out of work but  
20 does not affirmatively request paid sick leave.

21 Second, the timing of paid sick leave  
22 requests has been problematic; some employees who no-  
23 call or no-show only request paid sick leave when the  
24 employer tries to find out why the employee did not  
25 come into work, but it's the fear of retaliation and

the prohibitions against asking for a doctor's note that are preventing employers from challenging employees over the misuse of paid sick leave. So this in some cases has created a race for an employer to write up an employee for a no-call or no-show before the employee actually requests the sick leave.

Third, the amount to be paid to employees for paid sick -- and this may be a little bit more specific for the restaurant and nightlife industry, because often what happens, if someone's working an evening shift, the employee is scheduled to work until close at a restaurant and nightlife establishment and this means that there is not an actual firm closing time. So for example, how many hours should an employer pay the employee -- when the last employee leaves, when the last employee in the same position leaves or the average time that closing employees leave? So we could really use some guidance on that issue.

Also, the use of paid sick leave in time blocks. So as we know, the employer can set the minimum increment for the use of paid sick leave at no less than four hours per day; however, there is an issue using paid sick leave in time blocks.

1  
2 Currently the employer cannot require that employees  
3 use paid sick leave in an hour or a 30-minute time  
4 block, thus an employee can come in to work after  
5 4.12 hours of paid sick leave and if the employee had  
6 10 hours banked at the time, the employer must keep  
7 records that the employee has 5.88 hours left and  
8 this, as you can imagine, can be really challenging,  
9 especially for a small business owner trying to do  
10 all of this recordkeeping; it also can make planning  
11 and covering shifts pretty difficult too.

12 But generally, I just want to thank you  
13 for holding today's oversight hearing; we really  
14 thank you, all the elected officials, for their work;  
15 we wanna commend Department of Consumer Affairs,  
16 under the leadership of Commissioner Menin; she has  
17 really done a terrific job and their whole team has,  
18 being out there, letting employers know what their  
19 responsibilities are, being responsive to questions  
20 and focusing on an outreach, education and mediation  
21 first approach. We look really forward to the  
22 Hospitality Alliance to continue to work with the  
23 City on Paid Sick Leave and we hope and believe that  
24 it will be continue to be addressed in a very fair  
25 and equitable manner, both for the employers and the

employees. So wanted to thank you again and happy to answer any questions.

CO-CHAIRPERSON CORNEGY: Thank you, Andrew. I just wanna say that any movement that we've gotten on behalf of small businesses [background comment] have come out of this type of dialog and recommendations from the actual business owners and their alliances. So the cure period [background comment] came out of a robust conversation with many members of organizations, so this is the exact right way to go and we'll probably be meeting with your office again...

ANDREW RIGIE: Perfect.

CO-CHAIRPERSON CORNEGY: to get these recommendations. So thank you.

ANDREW RIGIE: Yes, thank you.

CO-CHAIRPERSON CORNEGY: Oh and I would be remiss if I didn't on the record thank A Better Balance for their promotion of First Foods and especially their partnership with my office, which has the only public lactation station in the state, so thank you again for your support.

ROSINA RUBIN: Good afternoon. My name is Rosina Rubin; I am the Chief Financial Officer of

2 Attitude New York Chauffeured Transportation and I  
3 sit on the Board of the Manhattan Chamber of  
4 Commerce, although I moved my business to Long Island  
5 City in July, so I would imagine I will be joining  
6 the Queens Chamber shortly. I thank you for taking  
7 the time for this today and I welcome the opportunity  
8 to share the impact of this bill on my business and  
9 my employees and I appreciate the questions that  
10 you've asked here this morning because I've learned a  
11 few things while I sat here and listened.

12 My husband started Attitude New York 28  
13 years ago and I joined him in 1990; we hired our  
14 first full-time employee in 1993, at which time we  
15 also began our Employee Benefits Program, including  
16 health insurance, 401(k) and paid time off. We  
17 currently have 70 employees and operate 24/7/365. At  
18 the time of the bill's passage, our salaried workers  
19 were receiving six sick/personal days annually, which  
20 could be used for sick time, extra vacation,  
21 attending a school play, celebrating a family  
22 member's birthday or just about any reasonable  
23 request for time off and we... [interpose]

24 CO-CHAIRPERSON CORNEGY: I'm sorry; does  
25 it say that in the policy?

ROSINA RUBIN: Uhm... [interpose]

CO-CHAIRPERSON CORNEGY: At the job, it says you can actually attend the child's play?

ROSINA RUBIN: Yes.

[laughter]

CO-CHAIRPERSON CORNEGY: Oh. Thanks.

ROSINA RUBIN: You know, it's good [background comment] and we've made no change to that policy. Prior to the bill's passage, hourly workers, who mostly are chauffeurs, did not have paid time off and our rationale for this was that chauffeurs have a flexible work schedule which is largely of their own making, with hours off and changing from week to week. Shift swapping has long been a common practice at our company and throughout the industry, whether to make up for a missed day due to illness, to accommodate a personal request for time off -- they also like to go see the kids in their school play or play basketball or whatever -- or because most chauffeurs would rather work on busy days and take off when business is slow. We always encouraged our employees to stay home when they were sick and we've never had an issue with finding other hours for them to work.



1                   This bill has a long-debated shift  
2  
3   swapping provision, but our employment attorney found  
4   it to be somewhat hazy and we decided that it would  
5   be too difficult to implement, so we therefore  
6   expanded paid sick time to all of our hourly  
7   employees and as a result, some of our chauffeurs are  
8   now getting both a paid sick day and a makeup shift  
9   in a single week.

10                  The forms posted online by DCA do appear  
11   to be very simple and straight forward, but the  
12   recordkeeping required in order to fill them out can  
13   be time-consuming for small businesses. As the  
14   Commissioner explained this morning, if you can put  
15   in the number of hours that your employees have  
16   worked, the form will do everything else, but it's  
17   the counting the number of hours that can sometimes  
18   be difficult, because the formula whereby hourly  
19   employees accrue one hour of paid sick time for every  
20   30 hours worked is difficult to track, especially for  
21   businesses where hourly employees may not work a set  
22   number of hours each week.

23                  So we use custom designed software for  
24   our business and among its many features, we use it  
25   to run payroll; the average bi-weekly payroll report

1 runs about 32 pages and it breaks out straight time,  
2 overtime, gratuities, commissions, if an employee  
3 refers a client, bonuses, expense reimbursement and  
4 now sick days. I've been working with our programmer  
5 since the day that the bill passed to implement the  
6 necessary recordkeeping; we have invested hundreds of  
7 hours and thousands of dollars; we can now generate  
8 reports that tell us how much PTO time an individual  
9 has accrued, how much has been used and what remains.  
10 For office employees we had to develop a manual  
11 override component so we could input additional  
12 benefit days. The recordkeeping responsibility for  
13 this falls to one terrific hard-working office  
14 manager and me. We have asked our employees to help  
15 us make sure that we pay them properly by filling out  
16 a simple form developed in consultation with our  
17 employment attorney, which was also a not  
18 insignificant investment of time and money.

19 I just wanna add that in terms of letting  
20 our employees know what the rules are, the form  
21 itself contains all of the information that was in  
22 the actual first notice of what they were entitled to  
23 and we've posted it on the same wall where we post  
24 the posters that you have to have for all the federal  
25

requirements and you know perhaps that's something that should be thought about, is making some kind of posting that employers could just have updated and hung up and that would, you know help inform as well as cover people for compliance.

Now we're working on computerizing the tracking of the rollover provision, which has become even more of a challenge. I was recently advised by someone at DCA that no rollover was required if the PTO is front loaded at the beginning of the year as it is for our salaried employees, but it didn't seem right from any perspective to deny that provision to salaried workers and give it only to hourly workers, so at the moment we're still trying to figure out how to make the computer understand that during the calendar year salaried employees can take their PTO for any reason, but only those days left over from an allotted five sick days can roll over to the next calendar year. We also find that most of the benefit is going to a handful of employees, for example, one chauffeur called in zero times sick between January 1st and July 30th; since then he has called out four times. During a conversation about scheduling earlier this week, that particular chauffeur

acknowledged that he has twice put in for a paid sick day when he actually took the days off to run personal errands.

Our chauffeur manager has also come to me and indicated that the staff has made known that they would have preferred that we return our annual bonus pool or the 401(k) match, both of which we discontinued during the financial downturn and hope to reinstate when we can afford it. I also feel it's important to share one last thought with you. When we were given notice of eviction from our space in Manhattan in February of 2013, which was not an unexpected situation, we then spent over a year looking, from the George Washington Bridge to Brooklyn, river to river, before landing in Long Island City. Barely a week went by when we did not seriously consider the option of closing our doors and almost certainly if we were to be starting a business today it would not be a business that employs 70 people in the regulatory environment that exists in New York City.

CO-CHAIRPERSON CORNEGY: Thank you.

QUINTANA O'NEILL: Hi, good afternoon, Chairs Cornegy and Espinal. My name is Quintana

O'Neill and I'm the Director of Economic Development at the Brooklyn Chamber of Commerce; I'm here today delivering testimony on behalf of Carlo Scissura, President and CEO of the Brooklyn Chamber; he sends his personal greetings to you both. You know what the Chamber does, I'm sure, so I'm gonna skip on.

We thank Chairs Cornegy and Espinal for inviting the Chamber to testify at this hearing and commend your efforts on continued dialog to seek ways to provide support to small businesses following the implementation of the Paid Sick Leave Law this past April 2014.

The Brooklyn Chamber was pleased to work closely with the City to provide support to our small business community; before the law's implementation, President and CEO Carlo Scissura released a series of letters and updates and memos on the law to keep our business owners informed. On April 25th the Chamber hosted its own Paid Sick Leave Forum for businesses, with representatives from the Mayor's Office and the Department of Consumer Affairs. On July 16th we participated with the Mayor during the Paid Sick Leave Day, educating both businesses and employees on the new law citywide.

We also thank New York City Council Speaker Melissa Mark-Viverito for providing the Chamber with support to complete a citywide outreach and education campaign on the new Paid Sick Leave Law. The Chamber created a seven-page educational packet that included information on the law, as well as tools for business owners to track employee sick days and time accrued.

I'd like to point out in this seven-page informational packet that we created our own request for sick leave forms and timekeeping records, a tool before DCA had put such things up on their website. So I'd like to think we were an influence in providing those forms to employers.

Through the Chamber's boots on the ground, door to door outreach, the Chamber reached 15 neighborhoods across the five boroughs, covering 180 city blocks and educating over 1,200 businesses citywide, and this was a partnership through the Five Chamber Alliance.

We commend New York City for its dedicated effort in educating our small businesses on the Paid Sick Leave Law; across the Chamber's outreach we found that while some business owners

were familiar with the law, many were not and were not familiar with its effects on their business. I believe and we believe it's imperative that the City continue its educational campaign not just to employees, but to the City's small business employers who could be seriously affected by this law.

Thank you for facilitating this hearing and Brooklyn Chamber looks forward to continuing our work together to educate the City's business community on Paid Sick Leave. Thank you.

CO-CHAIRPERSON CORNEGY: Thank you.

[background comments]

CHAIRPERSON ESPINAL: I have a question for the New York City Hospitality Alliance. You mentioned that the nightlife establishments are having difficulties figuring out how to pay off the sick day because of the hours they work when they're closing.

ANDREW RIGIE: Correct.

CHAIRPERSON ESPINAL: What do you think is the best solution and have you had a conversation with DCA about that issue?

ANDREW RIGIE: We have and one of the reasons we're here today is obviously to further that

1 conversation; unfortunately, our employment counsel  
2 could not be here, so I may be incorrect, but I think  
3 generally there's not a method within the statute of  
4 the law now to consider someone who has kind of an  
5 open ended shift; there's not a firm ending time. I  
6 know that we were participating in some of the  
7 initial hearings over the few years leading up to the  
8 passage of the bill and this was, you know, raised,  
9 but as far as I'm aware, there's nothing in the bill  
10 and some guidance. Because as I said, these are the  
11 three options, you know; do you figure out, is it a  
12 balance, the average of the employees that leave that  
13 evening; is it the last employee, you know the one  
14 thing we'd like is certainty; we just wanna know what  
15 we have to do, what hours we pay for, so.

17 CHAIRPERSON ESPINAL: And when it comes  
18 to keeping record of the time...

19 ANDREW RIGIE: Uhm-hm.

20 CHAIRPERSON ESPINAL: you're saying that  
21 there's some... you know, if someone works 4.12 hours  
22 or whatever the number might be, is there... I mean I  
23 know... how expensive is it for a business to implement  
24 a computerized... like a stat machine?



1                   ANDREW RIGIE: I mean it ranges; some can  
2                   use you know time clocks, which can be a little bit  
3                   quicker, you know less expensive, ranging to the full  
4                   point of sale systems where employees are going in,  
5                   they're clocking in and that is easier, because if  
6                   someone does you know, four hours and you know 16  
7                   minutes, it can better calculate those times.  
8                   Whether or not all of the systems seamlessly will  
9                   export the data into the spreadsheet that was  
10                  developed by the Department of Consumer Affairs and  
11                  the time it takes to do that is another question. I  
12                  think sometimes with the smaller businesses they may  
13                  just be using a sign-in sheet and again, looking at  
14                  the minute that someone comes in and making sure that  
15                  the correct data is put into the spreadsheet takes  
16                  some time; you know it's also people are busy and you  
17                  know like it's... I don't wanna say high stakes, but  
18                  you know an employer's fearful that if they put the  
19                  information in incorrectly that there could be  
20                  enforcement action, and that's one of the reasons  
21                  when it comes to the enforcement that we've really  
22                  commended the City on their efforts to do outreach  
23                  education and mediation before just levying the  
24                  fines... [interpose]  
25

CHAIRPERSON ESPINAL: So do you feel... are you satisfied with the outreach DCA has done to small businesses, especially the ones you represent; have all the restaurants and bars that you represent received notice from DCA through the mail?

ANDREW RIGIE: Through the mail, as far as I know they've received the mailings; we've hosted, I believe with DCA over the past year or so, at least four if not more seminars; we've done additional and separately; we've worked closely with them when they have developed a new time-tracking spreadsheet, as well as the notices; we've disseminated it to our members, so again, I think that they've received the information, it's just a few of the outstanding questions that I raised in my testimony that we could use further clarity on.

CHAIRPERSON ESPINAL: Right. So all the bars and restaurants you represent fall under the 400,000 businesses that they mailed out information to?

ANDREW RIGIE: As far as... Yes, if I... I haven't spoken with everyone, but I know that they [laughter] have received information; I know that we have sent it to us; our email list reaches over 6,000

1 people in the hospitality industry in the city, so  
2 you know, we've hopefully done a good job and we  
3 believe we have making sure people have seen the  
4 information understand it and we'll continue the  
5 efforts; as we said, people will continue to open up  
6 new restaurants; a new manager comes in, they may not  
7 be familiar with the law and that's why it goes back  
8 to reinforcing the point; it needs to be an ongoing  
9 initiative. You know, it's very important at first,  
10 but people are gonna have to comply with the law, you  
11 know in a year, five years, 10 years; 20 years, so.

13 CHAIRPERSON ESPINAL: So what would you  
14 grade DCA for the outreach they've done... [crosstalk]

15 ANDREW RIGIE: You know what I feel about  
16 letter grades...

17 [laughter] [background comments]

18 ANDREW RIGIE: You see... you see our  
19 cranes [sic] out this week about reforming the  
20 restaurant letter grade system. DCA has done a  
21 really, really terrific job and like I said you know,  
22 there's always gonna be questions on these types of  
23 issues and the whole team has been very responsive  
24 and I think at this point when I said all employers  
25 may still have concerns and different opinions, they

2 may not love the law; the fact is that the law is the  
3 law and now you know, we hope to continue to work in  
4 a constructive way with the City to make sure that we  
5 provide the information and are, you know, focused on  
6 outreach and education, mediation first; we don't  
7 need to go to a [background comment] fine first  
8 mentality.

9 CHAIRPERSON ESPINAL: So as Chair of this  
10 Committee, I find it very important to make sure that  
11 the employees are notified and are actually  
12 [background comment] taking advantage of the law.  
13 But at the same time I do believe that our businesses  
14 need to be in an environment where they can foster  
15 and grow and make sure they continue being the  
16 economic engine of New York City. So you know any  
17 way that my Committee and the Hospitality Alliance  
18 can work in achieving that goal, be more than happy  
19 to work with you.

20 ANDREW RIGIE: Very much appreciated.

21 CO-CHAIRPERSON CORNEGY: Thank you. Miss  
22 Rubin, since the last time we met and your accounting  
23 woes, have you been able to rectify them; is there a  
24 suggestion that you have, not only for your business  
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but businesses like yours who are having similar  
issues with the accounting?

ROSINA RUBIN: You know, as things like  
this go, when you do these computer designs, you  
know, this is a program that we've been working on  
since 1999 and you know, every time you sort of put a  
new module into it there's always kinks that have to  
be worked out and you never really know what's gonna  
be funky about it until you actually use it. So you  
know until we actually started imputing real data  
into it for people's sick days, you know we didn't  
realize that there were issues, like the computer  
just kept counting and you know you'd look at how  
many days somebody had available to them and they had  
like 8.38 sick days available to them accumulated  
this year, so that was something that had to be  
fixed. Then came the issue of the salaried people  
who can take their days for any reason and we didn't  
wanna change that and so we created this manual  
override so that we could put in, so I said okay,  
well I'll put in five of them are sick days because  
those are eligible for rolling over and I want the  
computer to know that and I'll put in one personal  
day, but then last week I noticed that I had an

2 employee who had taken four of his days as personal  
 3 days when I was putting it in, 'cause his son  
 4 celebrated his birthday and he took the day off to  
 5 have his son's birthday party and then I said, well  
 6 now the computer still thinks that he has four sick  
 7 days because he hasn't used any sick days, so you  
 8 know, there are just things that we're gonna have to  
 9 figure out how to resolve and the size that our  
 10 company is, it's a matter of going in and manually  
 11 reviewing every person and you know, it's something  
 12 that I'll do when we get to the end of the year, to  
 13 make sure that all the data is right. But we haven't  
 14 arrived at a place where we can input the data and  
 15 know that it's right.

16 CO-CHAIRPERSON CORNEGY: I'm very  
 17 concerned though, because I think that your size  
 18 business represents a great deal of businesses...

19 ROSINA RUBIN: Yes.

20 CO-CHAIRPERSON CORNEGY: in the City of  
 21 New York... [crosstalk]

22 ROSINA RUBIN: Yes.

23 CO-CHAIRPERSON CORNEGY: and if you're  
 24 having that difficulty, you know I can only assert  
 25 that probably other businesses are having some

1 similar challenges. So that's something I'd like to  
2 continue to work with with you, because the minute  
3 that you get that ah-ha moment that you've got what  
4 you need, we're gonna have to pass that around  
5 relatively quickly... [interpose]

7 ROSINA RUBIN: Yes.

8 CO-CHAIRPERSON CORNEGY: and hopefully it  
9 doesn't have a proprietary [laugh] restraints once  
10 you've found that, so... [interpose]

11 ROSINA RUBIN: Well we're thinking of  
12 that... [crosstalk]

13 CO-CHAIRPERSON CORNEGY: I'm sure, as...

14 ROSINA RUBIN: to developing a version  
15 that we can share with people...

16 CO-CHAIRPERSON CORNEGY: Okay.

17 ROSINA RUBIN: that won't have our  
18 proprietary information.

19 CO-CHAIRPERSON CORNEGY: Okay. Thank you  
20 so much again. So I get to bang the gavel and bring  
21 this hearing to a close. Thank you all for your  
22 participation.

23 [background comment]

24 [gavel]

25 [background comments]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 4, 2014