

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

Committee on Civil Service and Labor

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Chairperson

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

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Sarah Leberstein
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CHAIRPERSON MILLER: Good morning

ladies and gentleman and forgive the Chair's tardiness. The people's business here at City Hall continues. It's starts early and it ends late. So, good morning. I am I. Daneek Miller, Councilman and the Chair of New York City Council Civil Service and Labor Committee. Today's hearing is entitled oversight, the real reality working conditions in nonfiction and reality television industry in New York City. Over the past 10 to 15 years there has been significant increase in television production here in New York City. We are all familiar with the big name shows, Sesame Street, Law and Order, Letterman and Saturday Night Live to name a few. But our city remains attractive to new shows as well--as well, such as Real Housewives of New York City and True Bloods--Blue Bloods. But unknown to many, however is that many people who write these scripts for these one hour dramas and sitcoms are treated very differently from those who are in talk reality and nonfiction shows. As a former union president, it did not surprise me to

learn that television writers for fictional programs represent and make more money and have better benefits and are generally treated better than their counterparts in the nonfiction portion of the industry that are not organized. I've been disappointed by reports of nonfiction writers working extremely long shifts sometimes without days off during the week and without being paid overtime.

Allegations of wage theft have also been brought to this committee's attention in addition lower salaries and lack of benefits to the workers. Today we expect to learn more about the television production industry in New York City which constitutes the seven billions dollars to the local economy. Before we start, I'd like to acknowledge Council Member Dromm, member of the committee I'd like to thank, Matt Carlan [sic] and my analyst Chris Asler [sic] for putting this hearing together. So that being said, I'd like to begin and call the first panel. First panel would be Jeremy Pikser and Lowell Peterson. Could you please begin your testimony by stating your name?

LOWELL PETERSON: Good morning,
Chair Miller and Council Member Dromm and
Council. I am Lowell Peterson, the Executive
Director of the Writer's Guild of America East,
AFLCIO. The Writer's Guild of America East
represents the men and women who write the
dramas and comedies that we all enjoy on
broadcast and cable TV. Our members also write
broadcast news, public television shows,
feature films and digital media programs.
Today, you will hear the tale of two television
industries. Most of our members work in the
part of the industry that provides good
benefits, good pay, good middle class careers.
This morning, you're investigating the other
part of the industry, nonfiction or reality TV,
which is almost entirely non-union. People in
that part of the industry work brutally long
hours without overtime pay, without health or
pension benefits, without paid time off,
without the basic protections they deserve.
It's not that this television industry, reality
TV is weak and impoverished. To the contrary,
more and more hours of cable and network TV are

filled with nonfiction reality shows. The industry is booming, profits are ballooning. Smart investors and production company executives are placing heavy bets that profits will continue to grow. As you will read in the report we're submitting this morning, there have been hundreds and hundreds of millions of dollars in mergers and acquisitions in recent months. For example, the British media giant, ITV recently bought Left Field Entertainment for 360 million dollars plus another 20 percent if certain targets are met. Strangely, ITV can't see it's way clear to pay health benefits for its employees, however. What does this have to do with the city of New York? Everything. Nonfiction television production is growing rapidly in the city. For example, both Left Field and ITV's US reality TV arm are here in New York. We estimate there are about 15,000 New Yorkers working in nonfiction TV. Of those, more than 2,000 are writer producers. We're in communication with most of them. In fact, the WGAE has been working with these men and women in an industry wide campaign to improve working

conditions for about four years. In our review, collective bargaining is the only proven method by which working people can improve their compensation and benefits and win greater dignity on the job and to build sustainable careers. That certainly has been the case in the traditional television industry. In nonfiction we've had some important successes, three collective bargaining agreements, one negotiation still underway and two national labor relations board representation proceedings still underway, but there is far more work to be done. The 2,000 plus writer producers tell us of exhausting work schedules and of intense fears that if they speak up for themselves they'll be fired or more likely will not be hired for their next gig. This is all free-lance employment. People work for a few weeks or months for one company on one show, then face unemployment, and then they're hired by another company to work on another show. You might wonder why I call these creative professionals writer producers. Not everyone realizes that reality TV is actually written.

The shows we watch don't just unfold in real time while the camera is running. Instead, the writer producers carefully craft the story lines. They write the narrative arcs of each episode and season. They write the story beats and the narration. And yes, sometimes they even write the dialogue. Is the nonfiction television industry good for the New York economy? The answer really depends on whether the production companies and the networks that buy the shows that these companies produce are willing to share some of the wealth with the men and women who create the shows. We know from experience. We've been representing writers and writer producers in TV for 50 years. We know from experience that paying employees adequate compensation, providing reasonable benefits, enabling people to build sustainable careers, all that is actually good for business. Creative professionals who enjoy their work and have the ability to keep doing it while raising families and pay the rent are in the best position to do their best work. We urge this committee and City Council as a whole

to listen carefully to the writer producers who describe the awful working conditions they endure. We urge the city to take the production companies and the networks to task. If the city, the companies, the networks and the employees all come together to hammer out basic standards, to craft to a code of conduct that requires reasonable budgets and work schedules, adequate staffing levels, respect for employee's rights to bargain collectively and basic benefits, then the reality TV industry and the people of New York will all prosper. Thank you.

JEREMY PIKSER: Good morning. Good morning. I am Jeremy Pikser, Vice President of the Writer's Guild of America East. As Lowell said this morning, you're hearing the tale of two television industries. You're hearing from men and women who toil in the nonfiction reality show part of the industry, where people work excruciating hours for substandard pay and no benefits. I want to spend a few minutes describing the other television industry, the one where writers and writer producers are

represented by the Writer's Guild. I am a screenwriter. I have written feature films including Bullworth [sic] and War Incorporated as well as some work for television for nearly 30 years. I work under the same national collective bargaining agreement as the people who write scripted dramas and comedies for broadcast and cable television. This contract is a product of decade of effort by thousands of film and television writers and their union and it provides real protections for people who earn their living crafting motion pictures and television programs that people love, and actually the ones they don't love, too. In particular, once a writer earns a certain amount of Guild covered compensation, which is based on the pay for writing one TV episode, he or she gets health benefits for a full year. These are very good benefits with relatively low deductibles, and they are completely free, zero premium. To cover one's entire family, spouse and children costs just 600 dollars for the entire year. And if you work enough years, you get lifetime medical benefits after you

retire. We also have a very strong defined benefit pension plan. Employers are required to contribute to this plan on our behalf, and our benefit formula is very generous. In other words, people who have devoted themselves to crafting scripted television programs or feature films can retire with dignity and with income. The Guild has also negotiated solid initial compensation terms, enough for writers to earn a good middle class living. Our programs are re--when our programs are rebroadcast or sold as DVDs or streamed on the internet, the Guild contract requires the producers to pay us residuals. These residuals are an important source of income that continues through the ups and downs of employment inherit in freelance work and continue long after our initial work on the shows has been completed. If for some reason a production company fails to pay the initial compensations required by the contract or is late with the residual checks or misses a payment to the health and pension funds, the Guild stands ready to intervene. Writers in

scripted TV and film have a voice on the job. We recognize that the economics of reality TV are not the same as those of big network shows, but the fact is that ratings advertising revenues and profits continue to grow and the writer producers who create the nonfiction programs are receiving none of the benefits of this expansion. The WGAE is committed to continue its work with these men and women as they organize to improve their working conditions. We hope that with City Council's help this part of the television industry can become one where people can build sustainable careers doing creative work. Thank you.

CHAIRPERSON MILLER: Thank you so much, gentleman. I have a few questions and I'm sure the rest of the panel does, council does as well. So I just want to begin with, and either one of you could answer if you know. How many people in overall are employed by the industry, the reality TV industry here in New York City?

LOWELL PETERSON: Well, we estimate there are about 15,000 full time equivalent

jobs, which means probably more than 20,000 individuals circling through freelance employment in a given year.

CHAIRPERSON MILLER: In many capacities and professions?

LOWELL PETERSON: Yes, there are-- we've been talking with the 2,000 plus writer producers. There are also crew, on air people, administrative people in the offices. There's a lot of work being done.

CHAIRPERSON MILLER: And do you know the percentage of the total industry that makes up?

LOWELL PETERSON: Not--it's growing. I would say that the scripted film and TV part of the industry certainly in terms of salary and benefits is substantially larger because of the protections that Jeremy was talking about. In terms of the percentage of people working in it, I would--I don't know, but certainly a quarter to a third of the people working at least in television in New York are nonfiction reality folks. And it's growing as a percentage. It has been for the past 10 years.

CHAIRPERSON MILLER: Okay. So to your knowledge, is any portion of the television industry here in these New York City being subsidized or receiving any type of subsidies from any area of the government here in New York State?

LOWELL PETERSON: Well, the scripted part enjoys a hefty production tax credit from the state. The reality side is not included currently in the production tax credit, but I know that executives from reality TV companies have been lobbying hard to be included in the tax credit. It's sort of hard to imagine that happening as long as working conditions are what they are, but they have been pushing for it.

CHAIRPERSON MILLER: And you talked about some of the mergers that have occurred over the past year, what impact do you foresee on that having on the future of the industry?

LOWELL PETERSON: Well, there's two things. I think one is they show that the smart money is making a bet that the industry is going to continue to grow, and money, a lot

more money is going to continue to be made, which bodes well for the overall economics of it. We are concerned about, for example, the ITV purchase of Left Field includes an additional piece of the profit, of the purchase price being based on profit targets. We're worried that that's going to put downward pressure on the people at Left Field to work harder, get paid less so that the profit targets are met. Overall, it's a good sign in the sense that investors are saying, "Yeah, we're bullish on reality TV." In the meantime, without a voice on the job, the people who make the shows are going to face continued downward pressure.

CHAIRPERSON MILLER: So, let me kind of digress and talk about something a little more dear to me, and that is the collective bargaining aspect of it. So it was mentioned that you had been organizing and engaged in a number of organizing drives and had been successful in a number of them as well, and while you have some going ongoing. What has been the result of these organizing drives? Do

you have--have you come to conclusion of any collectively bargained agreements?

LOWELL PETERSON: Yeah, it's been rough. You know, we've as you know, union organizing is always an uphill battle, but we've been working with thousands of writer producers for four years, keeping them in the loop, having meetings, having get togethers, and we when we get through a critical mass at a particular shop, we've been going to the National Labor Relations Board, which is itself a slow and frustrating process, but we've won every election we've run. We have one that's happening right now at Original. I know the big reality nonfiction company. We're waiting for one at Peacock Productions which is owned by NBC Universal. They've been fighting us like crazy at the National Labor Relations Board, but of the elections we've won we've got three contracts, which is great. One contract we're still fighting for is ITV, which again, has plenty of money to go out and buy companies, but not enough to provide health benefits.

CHAIRPERSON MILLER: So are those contracts consistent with industry standards aside from nonfiction and reality?

LOWELL PETERSON: Well, they're not at full scripted rates yet, no, because we don't have enough density, frankly. Until we get more shops, until we get five or six or eight or ten shops we won't have--we won't be able to get up to scripted. And the economics of the industry are different, but there are substantial improvements. We've got minimum compensation terms. At Sharp, a lot of people got pay increases with our contract. All of our contracts provide for company paid health benefits, paid time off. So there are real improvements to the past, at least.

CHAIRPERSON MILLER: And how many contracts, and are you continuing to negotiate contracts? ITV is obviously one that has an open contract now. Or you have yet been able to attain a contract as of yet?

LOWELL PETERSON: Yeah, ITV have been extremely frustrating. We have really strong support at the shop floor level, the producers

and APs have been active. We've got international solidarity. You know, ITV is a British company. All of the British unions and media have strongly supported our negotiations. For some reason, despite the fact they clearly have plenty of money, they haven't been able to see their way clear to agree.

CHAIRPERSON MILLER: Have there been any true good faith negotiations? Do they come to the table?

LOWELL PETERSON: They've come to the table. They've come to the table. You know, as you know, first contract negotiations can be extremely frustrating, but we've made a lot of progress. I don't want to suggest we haven't. But we haven't been able to focus the attention of the executives in London sufficiently to get them to say make a deal.

CHAIRPERSON MILLER: Okay. Okay. So, yeah, this--I have a few more questions, and they're kind of general. I want to leave it to some of the actual panels, but you and I have had a conversation and I think you know more about this industry than anyone that I've

come across as of yet, and I'd hate to allow you to leave and not ask some particular questions, even if it may be outside of your direct purview. So you know, as we move forward and there is obviously the hopes that we can organize the industry, at least the majority of the industry, eventually all the industry and with the mergers and how do you envision the industry with the mergers organizing and collective bargaining five years from now?

LOWELL PETERSON: Well, I mean, the Guild is committed to five years, or 10 years or 20 years. I know Jeremy is on our new members committee and addition to being an officer, we have strong support amongst the scripted writers, you know, the people who are currently covered by contract to help out their brothers and sisters in nonfiction. I think the fact of consolidations shows that this is an industry that's maturing, and maybe 10 years ago it was more of the Wild West and collective bargaining would have been very difficult. I think that collective bargaining would have been very difficult. I think that collective

bargaining will become more and more important to setting a floor and we hope that there won't be substantial employer resistance, but of course you never bet on that. You always assume that you're going to have some resistance. But you know, the fact is that the people who are doing this work are looking at this as a way to try to build a career in television, and as long as the people doing the work want to be represented, it'll happen.

CHAIRPERSON MILLER: I think the question here is, what can the Council do to help you archive those goals in making a better quality of life for so many of the workers within this industry? What are you hoping to accomplish here today?

LOWELL PETERSON: Well, we're very gratified that you are going to listen to the problems that the writer producers face and learn more about the economics of the industry. It's not a part of the television industry that's generated as much attention as the scripted shows, you know. I think a lot of people don't know how important this part of

the industry is to the economy of the city. So the fact that you're investigating it is a very important first step. We do hope that you'll continue to gather the relevant players together. I think the city has the ability to call the networks in and call the production companies in and have them sit down with the employees and with the city and say, "look, what can we do to make this an industry that provides sustainable careers, that provides middle class jobs?" Let's look at production budgets. Let's look at some sort of floor so that the companies that compete will compete on the quality of their shows, not on racing to the bottom on labor costs.

CHAIRPERSON MILLER: Okay, thank you. One more question. Are these production companies generally held on site? Where are they located?

LOWELL PETERSON: Well, a lot of them are owned by multi-national companies or foreign companies. But each production company in New York, both the locally owned ones and the foreign owned ones makes two, three, six or

eight shows per season, and those are all located in New York. Some of them are shot in New York. Sometimes they'll send crews out across the country to shoot footage, but the production is centered in New York. There's also a fairly substantial reality TV industry in LA as well, but New York is a critical center of reality production.

CHAIRPERSON MILLER: Are there studios that produce this work?

LOWELL PETERSON: Yeah. Most of it is not shot on formal sound stages, but yes, there are studios that shoot in New York as well, and all the post-production is here, the writing is here, the organizing of the shows is here. A lot of the network selling components are here.

CHAIRPERSON MILLER: So for, and this is on the other side, but for those non-reality aspects of the industry but in no effect am I correct in that in order for them to receive the subsidies that they do, part of the proviso was that at least 75 percent of the production must occur here in New York City?

LOWELL PETERSON: I think that's right. I think that's right. The law was changed recently to expand into post production and there might be a separate percentage for that, but yeah, the--a lot of the work, and it's been really--the production tax credit has been really successful. That's why you've got the Law and Order shooting here and the big movies shooting here, and they are--they only get a credit on New York based stuff, and they only get a post-production tax credit if they have a certain amount of that work here as well.

CHAIRPERSON MILLER: And as far as I understand, some of those subsidies address issues, and these may be titles that you may or may not represent, but some of the behind the scene, behind the camera work is to ensure that they are, I don't know if prevailing wage, living wages are the correct term to use, but that they are meeting industry standards, and is that correct? That portion of that is dedicated toward that?

LOWELL PETERSON: Yeah, all of the--I have to say that all that work is--behind the

1 scenes stuff is all IATSI, International
2 Alliance of Theatrical and Stage--whatever it
3 is. The union, it's all IA work. It's all
4 union. It's all pension and ben--and health
5 benefit covered. In fact, the technical crews
6 are happy to be fully employed with this
7 production tax credit and they get full union
8 benefits. The talent is all union. The writers
9 are union as well, although not that much of
10 that writing is done in New York. That's a
11 story for a separate day, but that tax credit
12 really goes to support productions where
13 conditions are very much in line with industry
14 standards, and the standards in reality are
15 nowhere near that, and so for now there's
16 certainly no option of a production tax credit.

18 CHAIRPERSON MILLER: So, I think
19 that, and I'll kind of leave you with this,
20 that you mentioned that the executives of
21 reality TV had been lobbying quite heavily to
22 become a part of those subsidies, and again
23 their portion of subsidies, but obviously
24 there's standards that are attributed to that
25 and if they don't meet those standards, that

they certainly could not come before this body.
And if I dare speak for the Administration and
ask considering that this Administration and
this council has put a premium on the value of
working people here in New York City, that that
would be a criteria to make sure that they've
met those industry standards and at the very
least paid those living wages that we come to
expect here in New York City. I thank you so
much for your testimony and look forward to
working with you in the future.

LOWELL PETERSON: Thank you.

JEREMY PIKSER: Thank you.

[applause]

CHAIRPERSON MILLER: Excuse me.

[gavel] Let's just say, here in the council
when we really agree and we really want to
applaud, we do it like this. Okay? And I
would thank you so much for indulging in that.
Thank you. The next panel is Sarah Leberstein
and Reta--I'm butchering this. Renata, is that
Renata Marinaro? Please, again, just state
your names for the record before your
testimony.

2
3 RENATA MARINARO: My name is Renata
4 Marinaro. I'm Director of Health Services for
5 the Eastern Region of the Actor's Fund. The
6 Actor's Fund is a nationwide human services
7 organization that helps all professionals in
8 performing arts and entertainment. It was
9 founded in 1882 to address the human service
10 needs of performing arts workers who faced
11 economic insecurity because of their working
12 conditions and discrimination because of their
13 profession. 132 years later, the stature of
14 entertainment workers is no longer an issue. In
15 fact, the performing arts and entertainment
16 industries are major drivers of New York City's
17 economy, but New York City's entertainment who
18 fuel this economic engine still face a greater
19 level of economic insecurity than other
20 individuals with their levels of education and
21 training. To address this, the fund offers a
22 broad spectrum of programs including
23 comprehensive social services, health services,
24 supportive and affordable housing, employment
25 and training services, and skilled nursing and

assisted living care as well as emergency grants for essential needs. Many professionals in entertainment are self employed or sole proprietors, and thus, don't have the benefit of regular salaries, paid leave, pension plans like 401K or 403B's and employer offered health insurance. Professional unions and guilds such as Screen Actor's Guild/ACTRA [sic] offer health and pension plans, but most performing artists do not qualify. This means that many professionals must either purchase their own health insurance, get it through a spouse or partner or go without, leaving them vulnerable to penalties, illness and financial ruin. In 1998 we created the Artist Health Insurance Resource Center to help our clients identify affordable insurance options. Since 2010, we've been actively educating our community about the Patient Protection and Affordable Care Act, also known as the Affordable Care Act and helping them enroll in these plans. We are the only organization certified in the state of New York as navigators for the arts and entertainment industry and are uniquely

qualified to understand their needs. Since the Actor's Fund last testified in 2012, the health insurance landscape has changed dramatically, losing some features and gaining others. The Affordable Care Act has brought some welcome and necessary changes to the system. The ability to purchase a comprehensive health insurance plan that meets an individual's or a family's needs on a competitive exchange regardless of preexisting conditions, a system of tax credits to make premiums affordable to poor and lower income workers, caps on the maximum amount of money a consumer must pay for medical expenses in a year, and the expansion of Medicaid. These have all had a significant positive impact on our industry. Those who benefit most from the ACA are those whose incomes are below the premium tax credit threshold of approximately 46,000 dollars a year for an individual or a 62,000 dollars a year for a couple. However, these numbers are based on the federal poverty level and do not take into account the higher cost of living in New York City, the higher cost of housing, food

and utilities leaves less discretionary income for the New Yorker and thus makes health insurance less affordable as well, even with the tax credit. Many writers working in nonfiction TV earn more than the subsidy limit and much purchase full cost plans as individuals either on or off the marketplace or exchange. As a side note, sole proprietors are no longer considered small businesses and are ineligible for small business insurance.

Although the state did a good job of mandating comprehensive benefits, deductibles are high and plans can be quite expensive. The average full cost of a bronze level plan, which is the lowest level of coverage and has a 3,000 dollar deductible is in the mid 300 dollars per month range for a single person and roughly double that for a couple. That is a significant additional monthly expense for coverage that will likely only be used for preventive screenings and in the case of a serious health crisis, since the high annual deductible will probably never be met. Gold level plans have a much lower deductible, 600 dollars per year,

but premiums run between 395 dollars and 759 dollars per month for a single person, and 791 and 1,519 dollars per month for two people. For coverage that is comparable to a union plan, the worker would have to choose platinum level coverage. Most platinum plans run in the high 500's to low 600's monthly, but can be as much as 900 dollars per month for a single person or up to 1,792 dollars per month per couple. For a writer making 1,000 dollars a week, such premiums are simply unaffordable. Compared to most union coverage, marketplace plans generally have smaller networks and no out of network coverage. For those who must travel for work or who tour, this can be a serious drawback. For example, a field producer with a marketplace plan who regularly goes on shoots outside of New York would be effectively uninsured, except in the case of life-threatening emergency. In addition, many freelancers and sole proprietors find it difficult to complete the marketplace application. Those whose sporadic or variable income--those with sporadic or variable income

are asked to fill out a revenue and expense report for the prior three months, which is then used to estimate yearly income. However, as anyone with knowledge of the entertainment industry knows, what you made in the last three months is not a reliable indicator of what you will make this year. Writers may work on a show for a few months and then not book another show again for a year or more. Other options that existed in 2012 no longer do. Healthy New York, a program heavily utilized by our community has been phased out. Family Health Plus is no longer enrolling new patients. The Arts Service Organization's TEGET [sic] and Fractured Atlas no longer offer health insurance to new members, and the freelancer's union has had to raise premiums and restructure some of their plans. To recap, although the Affordable Care Act has brought many welcome and significant changes to the health insurance system, freelancers in the entertainment industry in New York are still faced with hurdles to getting affordable comprehensive insurance, including the relatively low subsidy

threshold in relation to New York's high cost of living, limited networks, no out of network coverage, a confusing application and high full cost plans. In conclusion, we thank the City Council for the opportunity to testify. We hope our testimony has given you some insight into the challenges facing freelance writers seeking insurance and we thank you for your efforts on behalf of this community.

SARAH LEBERSTEIN: Good morning, Committee Chair Miller, Councilman Dromm and Committee Counsel, and thank you for the opportunity to testify today on working conditions in the nonfiction and reality television industry in New York City. My name is Sarah Leberstein, and I'm a staff attorney at the National Employment Law Project, NELP, a nonprofit research and advocacy organization based in New York with offices around the country. NELP has a 45 year history of promoting policies to ensure that workers are properly paid and treated fairly on the job. Through our work to raise and enforce standards for vulnerable workers, we have seen how strong

legal protections for workers combined with robust and strategic labor enforcement can go a long way towards ensuring workers get paid what they are owed while simultaneously encouraging greater compliance throughout the affected industries, returning millions of tax dollars to state and city coffers, protecting law abiding companies and bolstering the city's economy. Unfortunately, our work with worker centers and unions has shown us that a growing number of occupations are plagued by endemic wage theft that is short-changing workers of the wages they are owed. Wage theft takes many forms, including being paid less than the minimum wage for all hours worked, working off the clock without pay, getting less than time and a half for overtime hours and being misclassified as independent contractors instead of employees. Wage theft in New York is not incidental or rare committed by a few rogue employers, and increasingly it plagues what are supposed to be middle income growth professions. Film and television production now employs a workforce of 130,000 in New York

having added 30,000 jobs in the past decade. But the industry's potential to provide promising careers and its ability to attract and retain talented young professionals is undermined by these abuses. Among the most common forms of wage theft in this industry are overtime violations. The 2013 survey by the Writer's Guild found that 84 percent of writers and producers work more than 40 hours a week almost every week, 60 percent work more than eight hours every day and 85 percent never receive overtime pay. Significant numbers of workers also experience violations of record keeping requirements that enable wage theft and employer tax evasion. These findings show that certain wage and hour abuses may be even more prevalent in this industry than a lot of low wage sectors. A seminal 2009 report by NELP and our partners on low wage work in New York City found that of the surveyed workers who had worked over 40 hours, 77 percent were not paid the legally required overtime pay by their employer. Employers are taking advantage of legal loopholes and lax enforcement to squeeze

as much labor as possible from the workers while their profits skyrocket. The overtime rules that establish the 40 hour work week have eroded over time leaving millions of salaried workers without the protections of overtime or sometimes even the minimum wage. And even when workers are entitled to overtime, they often believe the employer's claim that they are not and never challenge their classification or the violation. Lax enforcement further encourages abusive employer behavior. The federal government has recently recognized the urgent need to remedy overtime abuses. On March 13th, President Obama directed the Secretary of Labor to begin the process of strengthening the so-called white collar overtime pay protections in the DOL's regulations. The stated goals are to ensure that more workers who have stepped up and are working harder and longer than ever should be paid for that work. Updated rules will also help combat the extreme over-work with which many writer producers struggle and will encourage work spreading, increasing the number of jobs available. Combatting wage theft

will not only help workers, but would also provide a much needed boost to local economies and law abiding businesses and to tax payers as well. When employers rob workers of their wages, bills go unpaid and housing situations are unstable. Workers aren't able to spend as much money to support local businesses in their communities. Law abiding employers are at a competitive disadvantage as compared with firms that illegally depress labor costs. And when employers fail to pay worker's wages, they're also failing to pay the required taxes on those wages, draining millions of dollars from city, state and federal coffers. In just this industry alone, wage theft drained an estimated 240 million dollars in unpaid overtime wages from workers in a six year period. So, remedying wage theft in this industry alone would therefore be a huge benefit to the city on many levels. In conclusion, workers in what used to be promising, stable and middle income jobs are now increasingly facing the same abuses that plague low wage work in New York City and beyond, like fast food workers, car

1 wash workers and domestic workers who we work
2 closely with. Writer producers and the reality
3 television industry are being cheated out of
4 the wages they've earned and stripped of the
5 basic work place protections that they should
6 be able to depend on. While they are organizing
7 unions to advocate for themselves, their
8 employers continue to fight their attempts,
9 sometimes breaking the law to do so. Improving
10 and enforcing labor standards in this industry
11 will help ensure that these jobs are good jobs
12 that can attract and retain talented worker and
13 bolster the city's burgeoning creed of sectors.
14 Thank you very much for the opportunity to
15 testify and I'm happy to answer any questions.

17 CHAIRPERSON MILLER: Thank you very
18 much. I do have a few questions, and I just
19 want to kind of preface it by saying that I'm
20 always concerned when workers from any industry
21 where there's accusations of people being
22 underpaid and I think that there is a regional
23 industry-wide impact and not just on that
24 particular industry, but on workers throughout
25 and I think that we have a responsibility here

1 to make sure that everybody is properly
2 compensated here, at least in the New York City
3 where we have some type of authority. So I
4 think that's where we're trying to get to
5 today, but I have a few questions and obviously
6 they pertain to wage theft and sort of how
7 these things go--how they occur, but I'd like
8 to speak to the independent contractor aspect
9 of it and sort of the differences in--as
10 independent contractors or freelancers, does--
11 what control does the employer or the company
12 maintain over the day to day of that
13 independent or free-lance in terms of wages and
14 benefits, hours and things of that nature
15 there?
16

17 SARAH LEBERSTEIN: I would say that
18 the union is a real expert on this, but from
19 the work that we've done with them and our
20 understanding of how the industry operates,
21 many of these workers should not be exempt from
22 wage an hour and other work place protections
23 that cover anyone who's classified as an
24 employee. In other words, taking into
25 consideration how they do their work, how

they're controlled by the employer, most of these workers are not truly independent business people who are, you know, marketing their services in complete control of their daily work to the extent that they would be classified as independent contractors under the law and fall outside of these important protections. So for example, when a firm tells the worker that they have to be sitting at a desk in the office on such and such a day and working there and accessible all the time and they're not free to do their work in the way that they see fit, generally speaking that worker should be considered an employee and covered by the full range of workplace protections.

CHAIRPERSON MILLER: I would agree with that. Do these freelancers have individually negotiated contracts with any of these employees, to your knowledge?

SARAH LEBERSTEIN: Not to my knowledge.

CHAIRPERSON MILLER: So they have the same standards as the company employees do by--

and or the companies determine what those standards and work rules are.

SARAH LEBERSTEIN: Yeah, in our earlier work with the union, for example, we learned about one company where workers who are classified as an employees were working alongside workers classified, or misclassified as independent contractors, and for all intents and purposes they were doing exactly the same work. The independent contractors didn't have any more say over how they did their work. They weren't negotiating on an equal footing with the company over what they were paid. It was simply that the company thought that they could get away with classifying some portion of their workforce independent contractors and they'd avoid having to pay any of the employer side taxes or to follow workplace laws with regards to that part of the workforce.

CHAIRPERSON MILLER: So this is not unlike many other industries that we see here in New York City that kind of use the independent contract as a shield to do things like not pay their employer portions of taxes

and other things associated with them being an employee in terms of benefit packages as well. In your opinion, is that the case?

SARAH LEBERSTEIN: That's absolutely true. Independent contractor misclassification is very widespread among a variety of sectors and industries, and it's obviously hurting the workers who are earning less when you take into account the taxes that they have to cover, the employer side taxes that are now their burden, who also are many times stripped of workplace protections. It's also having a huge economic impact on the city, the state and the federal government who are losing those taxes.

CHAIRPERSON MILLER: I agree. As well as do they--must they adhere to the same overtime provisions and state laws and so forth as independent contractors? Does that negate them from qualifying as for those state overtime provisions?

SARAH LEBERSTEIN: Well, a worker who is misclassified or classified as an independent contractor would not be entitled to overtime pay. As I understand, I think some of

these, the companies in this industry may also be trying to take advantage of certain white collar overtime exemptions and that's been the subject of a lot more scrutiny now because huge parts of the workforce are missing out on important overtime protections as these laws have really failed to keep pace with the reality of people's work lives.

CHAIRPERSON MILLER: So understanding what we're trying to accomplish here today in terms of investigating their grievance and ascertaining as much information as possible as we can move forward and try to bring some equity within the industry, what mechanisms are in place if someone had information other than where we are today, if someone had information within the industry or if a worker felt that they were being treated unfairly, where would you report that to?

SARAH LEBERSTEIN: Workers can go to US Department of Labor, New York Department of Labor, both of which are extremely under resourced and simply don't have the staff to adequately respond to worker complaints. With

the help of a union, they can seek outside counsel or help in approaching and getting the help of the Attorney General's Office, but I think as you may have been alluding to earlier, any increased authority that the city has to legislate and regulate in the area of working conditions would be hugely important because as you said, this is really a local issue. It's a local industry, and to the extent that we could add any resources to oversight and enforcement of labor laws for workers in the city, that would be a huge step forward towards ensuring that workers' rights are protected.

CHAIRPERSON MILLER: To your knowledge, have there been any suits and or settlements around the area of wage theft within the industry?

SARAH LEBERSTEIN: Within this industry, I'm not certain.

CHAIRPERSON MILLER: Okay. No further questions. Thank you so much for your time and your information.

SARAH LEBERSTEIN: Thank you.

CHAIRPERSON MILLER: So the next panel will be David Van Taylor, Lauren Veloski and Maige Buckley [sic]. I would ask that prior to giving testimony that you state your name and speak into the mic, please.

DAVID VAN TAYLOR: My name is David Van Taylor. I've been making nonfiction television for over 25 years. For two decades I was called a documentary film maker. I helped run a small independent production company that won awards and made documentaries shown around the world. A few years ago, funding from foundations and broadcasters started to dry up and my wife was diagnosed with cancer. Now I am called a nonfiction producer and I work for a series of much larger production companies on freelance gigs that usually last about three months a piece. I'm starting with what sounds like a personal history because it is in fact part of a much larger trend. Fact based story driven TV once a labor of love by dedicated Indies [sic] is now a big business, where each week brings news that a large New York based company has been acquired by an even larger

global corporation in a multimillion dollar deal. In a market-based economy the obvious question is what business model accounts for this transition. I can assure you that large companies have not supplanted indies because they are doing such a bang up job of keeping down overhead. Their offices are usually quite comfortable, as are their executive salaries. What these big companies have figured out rather is how to squeeze the most out of their employees. These companies contract to make programs on ever shorter schedules, which means the producers, associate producers, editors and crews have to work ever longer hours. These companies don't pay overtime for these longer hours. Often they don't give paid holidays. I will either work on July 4th or see my paycheck reduced by one-fifth. When I work on the weekend to meet these ever tighter deadlines, which happens frequently, there's no extra pay for that either. If I don't make the deadline, I will get the reputation of someone who doesn't deliver, and remember, I have to find a new gig every 12 weeks. So that reputation

would be very, very dangerous to my livelihood.

And here's one more big savings for these

companies; as a freelancer, I usually do not

qualify for their benefit plan, so I am

currently paying 1,600 dollars a month out of

pocket on Cobra to insure my family, including

my wife's cancer treatment. When my Cobra

eligibility runs out in eight months, I am not

sure what I am going to do. I love making

nonfiction television. It's creative. I've been

fortunate to make programs that are meaningful,

but to use a New York metaphor, that and 2.50

will get me on the subway. The current

business model of nonfiction television which

depends on squeezing freelancers beyond the

limits of the law and of their endurance is not

sustainable for me, for my co-workers or for

New York City. I hope the colleague will

counsel--excuse me. Thank you for allowing me

to testify. I hope the council will do what it

can to enforce the law and to ensure a

sustainable future for its creative workforce.

CHAIRPERSON MILLER: Thank you.

LAUREN VELOSKI: Good morning and thank you so much in advance for making the time to hear these stories. My name is Lauren Veloski and I'm a producer with 10 years experience in the reality television industry, specifically for the past seven years I've been working as a freelance story producer, which essentially means a writer producer on the edit side of the show. I've had a full spectrum experience with several different production companies, and while my time in reality production has not been exclusively negative, I have seen and lived enough in what's indisputably a beleaguered, exhausted, overworked and by all measures, powerless contingent to see that things must change. I know firsthand some of the most troubling conditions under which my fellow associate producers and producers toil, and I feel obligated to speak to you today on their behalf. What I've witnessed in reality television is a systematic budgeting of time and salary that assumes reality producers will silently endure inhumanely long hours, accept

ballooning hours with no additional pay, even when on the job hours commonly push upwards of 80 hours a week, sometimes in the hundreds, and shoulder and agenda that is profit oriented, company protective and worker exploitative, all under the guise of the production hustle. Make no mistake about it, producers are uniquely driven tribe and they must be. Production is often unpredictable, chaotic and full throttle demanding. A good producer is dedicated and tireless, trained to go above and beyond in service of the show, but this willingness on all our parts to go the extra mile has pretty clearly been repurposed over the years a quick route to exponentially boosted company profits. The boss/employee barter is egregious. We work and give maximum effort with no hope of even basic benefits or sustainable work loads. Too often, the conditions in reality television put producers at risk of personal peril, incurring sickness, injury, incredible stress forsaking any semblance of a work life balance or any hope of healthcare coverage. Maybe most egregiously, many of us suffer rampant, indeed

systematic wage theft, but we are told to be loyal. We are told this is normal and we're intimidated into maintaining allegiance to a time card that almost never tells the truth. Let me give just a couple simple examples from my own work history if helpful. On more than one occasion and on established long-running shows I've been required to sign contracts my very first day on the job that say I agree a typical work day is a 12 hour work day. The exact language from one contract, "Due to the nature of production work, you should anticipate that your work day will typically be 12 hours in duration." As per this lovely sign. If 12 hour work days, Monday through Friday, are in fact the norm, well that pace alone is brutal. What's far more brutal still is that so often my hours and my fellow producer's hours far exceed even 12, pushing to 14, 16, 18 recurringly [sic]. On several occasions I've had to take cabs home from the office at 3:00 or 4:00 a.m. as the sun was rising, even. One one job I incurred more than 600 dollars in total cab transportation which incidentally is

what I pay for healthcare every month. After two months of getting home from the office after the subway had gone to sleep for the night in a desperate effort to keep a unwieldy episode on tract without adequate staff support or resources I did this, and certainly to the serious detriment of my own physical health. None of these late hours are compensated because we are all paid on flat weekly rates. The same is true for weekend days of which there are many all unpaid. On this particular show, the workload insanity was the direct result of an editing schedule that should have been slated for nine or more weeks, but was condensed to only six. After the show was locked, the company I worked for refused to reimburse more than 50 percent of my cab rides home, which meant I was out over 300 dollars in addition to the ordeal of working such a demanding schedule week after week after week. Keep in mind that on the most egregious of these late nights, the sunrise exits, I had worked a 19 hour day. What's more, in the 12 hour standard jobs and in the sunrise exit

example I just gave, my colleagues and I were simultaneously told to fill out weekly timesheets as if we had worked from 10:00 a.m. to 6:00 p.m. every day. Nothing could be further from the truth. And this falsifying of time cards is standard practice. When I've raised concern or confusion about this discrepancy on the job, I've been told that reporting 10 to six on the sheets was non-negotiable. Indeed, most fellow producers just keep their heads low on this and all points of intimidation you learn quickly not to push back. Such rampant abuses fuel a culture of fear, and I've been heartbroken to see on several shows an implicit hushed understanding that we are each highly disposable and can be immediately replaced. I hope this is painting an effective portrait of how reality television so sadly pulls in such monstrous profits and why the pressure remains for them to continue to schedule such impressively lean shows. It's great for the networks, so the network orders more shows. It's great for production companies who continue to lock deals, but it's terrible

for humans, and frankly, it's unconscionable. At this point, the tendency toward exploitation to keep costs low and results speedy is so entrenched, so normalized that labor abuses not only go unchecked, they go unrealized. Wage theft is legally defined a genuine offense. It is theft unqualified, but the typical reality producer has been skillfully coached to not recognize her or his own exploitation and here is where awareness raising and the bolster of your support today and ongoingly a common decency labor practices is so essential. Production companies eager for network deals are the engines of this abuse. These are not bad people, but there are wholly bad business practices. The end result, everyone suffers. Perhaps the fact that reality television does not connote such cultural cache makes this a little less sympathetic. Some of the shows are frivolous and throw-away sure, no kidding, but there is nothing frivolous or throw-away about the people breaking their backs to make these shows happen. These are hardworking people with families, with dreams, without recourse,

without healthcare, without voice. We are here in earnest need of your urgent support. In the grand scheme of poor reality television working conditions, my own experiences are really not so bad. In fact, I've been lucky to work with some productions and executive producers that were great, that went out of their way to create humane conditions, keep communication channels open, adjust schedules or even pay retroactively for overtime hours. So I know it's possible. A sustainable model does exist. Let's make that our goal. Standardized work conditions beyond the reach of threat or intimidation. The alternative cannot continue. I'd love to share with you some excerpt from other producers, many of whom have encountered more harrowing work conditions than I, and I would add that it's of course no coincidence that there are three of us here speaking on record, while the producers making the heartfelt pleas that follow just a small sampling by the way of the deluge chose to remain anonymous, likely for fear of repercussions. From one producer, "There's

little to no regard for people's wellbeing and we're often put into difficult conditions where it's either our safety and wellbeing or our job. I've had to go against my bosses when there were PA's, production assistants, who have worked since 5:00 a.m. and are about to get in a car at midnight and drive three hours through a thunderstorm because there's no budget for their overnight stay. Instead, I booked them into a hotel and incurred the wrath of the extra expense." From another producer, "I recently worked on a home renovation show where I was working 18 hours in the field, an additional three at home at the end of my shift and working conditions were poor. There were no safety precautions taken and we were regularly working in homes that were completely dilapidated. People went through the floor regularly. Things were constantly falling, and if you complained, you were fired." And another, "As an AP, I had to drive very fast to have us catch our plane on a completely ice covered road during a snow storm. We passed several cars that had either pulled over

because the conditions weren't drivable or had wrecked because of the snow and ice. I begged them to let us wait for the next flight, but they refused."

CHAIRPERSON MILLER: Okay, please could you wrap it up please?

LAUREN VELOSKI: Sure, let me just read one more. We had a lot. And another, "In 2011, I was diagnose with brain cancer and thankfully had my own insurance through the freelancer's insurance company. The stress involved with production jobs in reality nonfiction would have made it counterproductive from a health standpoint trying to keep the tumor from progressing, to continue to work in this industry. After taking the necessary time to heal after my surgery, chemo and radiation, the show I was working on at the time of diagnosis had already re-staffed. It's been my dream and long-term career goal to climb the ladder the executive producer level and the television film business. And while I may have been on the right path, it was at the expense of my health, self-respect, sanity and freedom

to enjoy life while also maintaining a career. Nonfiction reality TV takes advantage of their employees' desire to succeed. It's a soul-sucking and depressing business. That's hard for me to say because this was the industry that at one time I was so passionate about." Thank you for your time.

MIDGE BUCKLEY: Hi, my name is Midge Buckley and I've worked for both Writer's Guild--oh, sorry. And I've worked both--oh, my name, Midge Buckley, and I've worked both Writer's Guild and non-Writer's Guild nonfiction and fiction shows. I'm not here to testify. I'm here to read two letters from my esteemed colleagues that couldn't--didn't want to be here because they were scared. Okay, "To the honorable members of the New York City Council. I'm writing this letter anonymously because I have experienced job termination as a result of advocating on behalf of collective bargaining rights and I'm afraid of further black listing. I am a nonfiction writer producer who has been working in New York City since 1997. Today, as a producer of many

episodes of crime and historical nonfiction programs on networks such as Investigative Discovery and the History Channel, I am responsible for creating hour long production shot in the same way that shows like Law and Order are shot, often with scripted dialogue, large casts and crews, elaborate locations and complicated story lines. The one constant through the years has been the budgets per episode, one-tenth of an episode of Law and Order, which have not grown in proportion to the growth in size and sophistication of the productions. Our costs kept low by squeezing the producers and associate producers until their health and wellbeing and career longevity is at risk. An over view of my work experience; in the late 90's as a producer at ABC News Productions, division of ABC News, itself part of a global multi-billion dollar Walt Disney Company, I received no health insurance and was often required to work an excess of 60 or 70 hours a week. This was when I was introduced to the term perma-lance [sic], which is working freelance for one company for years on end

without any employee benefits whatsoever.

During the mid-2000's as a producer at companies like True Entertainment, which is part of the global media empire called End Mall [sic], I labored Saturdays, Sundays and holidays with no overtime pay, often for dozens of hours in excess of the 40 hour week that I was required by the company to indicate on my weekly time card. In fact, defrauding freelance employees of overtime pay and New York City and New York State and the federal government of accurate payroll taxes is common practice on the part of companies that produce nonfiction TV. No one can safely say that fraud per say is an intended part of the business plan of many New York City production companies that is denying producers and writers health insurance, a pension plan, paid holidays or residuals for the shows that we create. Today, after 17 years of writing, producing, directing and supervising hundreds of hours of nonfiction television I have no pension to show for it. I am still expected to work without overtime compensation. I am often responsible for

carrying additional production costs on my personal credit cards while hoping for a timely reimbursement. I continue to purchase my own health insurance. I receive no royalties or residuals. I have no collective bargaining power and have no rights to severance pay should my contract be terminated with or without notice. This is a fact of life for nonfiction producers in New York City. Thank you for your time and consideration." I have one more, okay? Okay. This one's on paper. "I am choosing to submit remarks anonymously today because I have been blacklisted by three separate production companies over the five years that I have been a vocal activist in the campaign to raise standards in the nonfiction television industry. Though I believe that failing to speak out will be more harmful in the long run, I have also learned that speaking out for fairer treatment in the workplace without the support of a union is dangerous for my career. People who work as hard as myself and my colleagues deserve at the very least a reasonable health insurance plan, and this was

initially my primary interest in advocating for raising our industry standards. I say reasonable because I have had firsthand experience that proved to me that the best healthcare option that is available to most of us, the Freelancer's Union, is inadequate. I suffered a serious injury requiring surgery and care while I was covered by the Freelancer's Union insurance even though I was paying 320 dollars a month for coverage, the injury was a financial disaster. I am thankful that I wasn't completely financially ruined and that I fully recovered, but when all is said and done, I spent more than 15,000 dollars on healthcare in addition to my monthly premiums. The nonfiction television industry in New York City cannot plead poverty. Under this new contract, the CEO of Discovery Networks is predicted to bring in 110 million in 2014, over a 100 percent raise from the already cool 49 million he supposedly earned in 2012. I have directed, produced and written several shows for Discovery Networks and their competitors including the History Channel, Bravo, MTV,

MSNBC and National Geographic. For most of my 15 years in the industry I have not received health insurance or benefits. I have worked a handful of 100 plus hour weeks and averaged 60 or 70 hours a week with no overtime pay. I am paid a weekly rate that doesn't increase when I work a sixth or seventh day, although if I work four days I am docked for that day. Yikes. I have been in dangerous situations, tear gassed in South America behind the wheel on too few hours of sleep, improperly outfitted while filming in subzero temperatures in Alaska, and I have been in a prison cell with an uncuffed serial killer while the guard left the room to take a phone call. And that's just to name a few. I have seen these programs that I have put my blood, sweat and tears into aired and re-aired, shown in iTunes, and I haven't seen a dime on residuals. My experience is not uncommon, if anything I've been lucky to get work. I started working in the nonfiction television in New York in the 90's and since then I have seen the standards of the workplace decline each year. Budgets are getting tighter

and the people losing out are the workers like me. I am still expected to produce the same quality of work but in an ever decreasing amount of time and with steadily declining resources. Since I am a freelancer who changes jobs as frequently as several times a year, my reputation and therefore my career depend on continually delivering a superior product. On a day to day basis, that means that when I ask my employer if I can be paid for that sixth or seventh day of work and they say no, I have no recourse. I can't risk being the squeaky wheel. When I'm asked to write a show in half the time that any professional would need to produce a quality product, I have no choice but to work a seven day week. When I am directing a shoot and the talent shows up two hours late, I have to stick around to get the shots we need even though it means working a 20 hour day. I don't have any choice if I want to keep working. When I'm asked to put my safety on the line for a gig, I am literally stuck debating between my career and my safety. So far, luckily, my career is generally won and my safety has been

a matter of luck. Each and every professional in my industry makes these concessions every day and because it's what we have to do to get the job done, but by and by these small concessions as unregulated and unchecked as they are have become acceptable and then now are expected. The end result has been a wide spread decline in standards and wages. I've seen it happen before my eyes over the last 15 years and I don't see it stopping anytime soon. I love what I do and I'm not going to deny that it's a cool job, but cool doesn't pay the rent and cool won't pay my hospital bills. It's not fair that I'm expected to accept these conditions simply because I have a job with some sort of social cache. I'm a skilled laborer who works hard and generates profits, and I should be fairly compensated. The bottom line is that having a cool job doesn't give my employers and excuse to deprive me of basic labor rights, rights which are not even up for question in industries less far--far less profitable than ours. I frequently ask myself, would it be so difficult for a network that's

making a staggering profit margin off of the work I do to guarantee that I will consistently be treated with even the minimal standards that prevail in my industry? Is it so much to have my employers provide basic benefits and grant me the time and resources that I really need to get my job done and do it well, or allow me to keep a reasonable schedule so that I can raise a family? If the employers can't do it themselves, can they at least permit me to join a union that can help ensure the stability of my career as a freelancer? The answer thus far has been no. The only explanation I can come up with is that treating workers like me like human beings would cut into their profits. Nonfiction television as we all know is hugely popular now and it's competing with prime time scripted shows often garnering the same or greater viewership, but the profit margins for the highest tier executives of nonfiction shows are soaring, because while my colleagues working in scripted television receive proper benefits, overtime pay, residuals and support of the unions, we are doing the same work for

1 far, far less. It's the basic business. Our
2 employers are going to ride that gravy train as
3 long as they can and as long as they don't get
4 checked. Is it easy--is it really too much to
5 ask for those of us doing the lion's share of
6 work to be guaranteed basic labor rights? I
7 believe it's not too much to ask, but then
8 again, asking has gotten me blacklisted and
9 standing before you to say this in person might
10 jeopardize my ability to work as a colleague in
11 the industry where I've built my career. For
12 this reason, myself and my colleagues are
13 asking for your assistance. Thank you."

15 CHAIRPERSON MILLER: Thank you for
16 that hardy testimony on behalf of your
17 colleagues, who unfortunately, and very, very
18 unfortunately because of fear and intimidation
19 felt they couldn't be here today. So I have a
20 few questions for the panel, and obviously you
21 guys are within the industry and employed as--
22 would you consider yourself independent
23 contractors, or specifically, how would you
24 classify yourself?

DAVID VAN TAYLOR: I am not an independent contractor. The conditions under which I work, the schedules, everything, the formats are all dictated by people above me, and you know, I have to deliver under those conditions. I'm not an independent contractor.

LAUREN VELOSKI: I actually do a mix of independent contracting work and employee work, but when I'm working for reality TV show, most of the time I'm paid as an employee. Sometimes independent contractor apparently, that's inaccurate, but to clarify, when I'm paid as an employee, I receive none of those benefits. It makes no difference in terms of treatment or my ability to be eligible for overtime or anything like that.

CHAIRPERSON MILLER: You did say that you had spent a great deal of time with one particular company or one production as a freelancer?

LAUREN VELOSKI: Oh, no I've worked for many different companies, usually shorter term.

CHAIRPERSON MILLER: Okay. So, any--
and feel free anyone to answer this question.
It's about the industry and its compensation. I
wanted to talk--I know some mention, a lot of
mention of healthcare. At any time have you,
any of you received any form of healthcare from
a company that you were employed by?

MIDGE BUCKLEY: I've worked two
reality nonfiction shows that were actually
Writer's Guild covered, and so since I started
out in that form of reality TV, then when I
came to New York, that was in Los Angeles, when
I came to New York and I started working
reality TV, I'm like, "you guys, what's going
on?" You know? So some shows are covered,
too, anyway, but that was a long time ago, too.

CHAIRPERSON MILLER: And that's based
on the union contract?

MIDGE BUCKLEY: Yeah, they made--

CHAIRPERSON MILLER: [interposing]
[cross-talk] contract?

MIDGE BUCKLEY: specific individual
contracts with the union, with the WGA.

CHAIRPERSON MILLER: Okay.

MIDGE BUCKLEY: But that's very uncommon.

CHAIRPERSON MILLER: Anyone else?

DAVID VAN TAYLOR: The Cobra that I'm currently receiving is from a health plan that I had while working at a large production company which instituted health benefits or announced health benefits for their employees in the same meeting where they announced that the WGA had filed for a union election in the shop.

CHAIRPERSON MILLER: So, as a result of that, your Cobra is as a result of you being with that company for--and/or pre-existing insurance that you had?

DAVID VAN TAYLOR: Exactly.

CHAIRPERSON MILLER: Okay.

LAUREN VELOSKI: Similarly, I did start out my career at a company where I was staff for a couple of years and I did eventually did receive healthcare there, then it became Cobra and then it expired. So for the bulk of my career as a freelancer, I've been paying out of pocket. I pay 608 dollars a month

from freelancers. I'm lucky to be able to afford to do that, but it's really difficult to maintain, and I'll tell you that most of my fellow producers, most of my friends in production have just completely forgone healthcare. They don't have coverage. A lot of them have not seen a doctor since they say their pediatrician in high school.

CHAIRPERSON MILLER: And your healthcare is an individual plan?

LAUREN VELOSKI: Yeah, I just pay out of pocket myself.

CHAIRPERSON MILLER: Okay. So and other forms of compensation, paid lunch?

LAUREN VELOSKI: You know what they do that's very tricky and very clever? Not so much for producers but for editors and then producers are obligated to sit there along with the editor as they eat their lunch. They'll pay--I work in post-production generally. So the companies will often pay for the editor's lunch so that they're not required to get up and leave the office, which is to say you never get up and leave the office. So no. For editors

sometimes. Editors are protected in a way that producers and writer producers are not, but we are there all day.

CHAIRPERSON MILLER: I'm sorry, for a paid lunch period.

DAVID VAN TAYLOR: A paid lunch, period, yeah.

LAUREN VELOSKI: well, I don't know, because you know, I'm not sure how the math works out when you adjust the hours. I mean, the time card that we fill out, at least that I've always filled out, will say ten to six, and then I have to write in that I took, you know, a lunch break, but I rarely actually did.

DAVID VAN TAYLOR: Does bagel Wednesday count as paid lunch?

CHAIRPERSON MILLER: Paid sick?

DAVID VAN TAYLOR: There was an announcement at my current job that, while I was in the midst of it, that sick days would begin to be accrued because of the new law that was passed by New York State or by New York City. Thank you.

CHAIRPERSON MILLER: By this committee.

DAVID VAN TAYLOR: Thank you.

CHAIRPERSON MILLER: Has anyone else seen at least posted provisions of the new paid sick leave?

LAUREN VELOSKI: I'm completely unaware of it.

CHAIRPERSON MILLER: So are you employed by employer who employs more than five employees?

MIDGE BUCKLEY: Yes.

DAVID VAN TAYLOR: Absolutely.

LAUREN VELOSKI: I'm not currently employed, but I've never been at a company that small, yeah.

CHAIRPERSON MILLER: Okay, so that part--those are the provisions of the New York City Council paid sick leave. So we should talk about that off--afterwards and make sure that everyone is at least receiving that. Paid vacation?

MIDGE BUCKLEY: No, I've never gotten. Paid vacation?

DAVID VAN TAYLOR: No, no, no.

LAUREN VELOSKI: Not as a
freelancer. As staff, I think I may have
accrued some vacation days way back when, but I
think generally it just doesn't even occur to
us that we would get a paid vacation, and most
holidays are not holidays for reality producers
either.

CHAIRPERSON MILLER: So one of the
letters that was read talked about some of the
injuries that had, workers had incurred as well
as someone on stand there mentioned it as well.
So let's talk about worker's compensation in
terms of medical relief as well as any payment
or loss of pay as result of injury which
occurred on the job. Any such in any
individual, of you individuals there or that
you know of?

LAUREN VELOSKI: I'm not really
familiar with that because I don't have a
physical producing job. I'm in the office and
usually safe, but I've certainly heard horror
stories and maybe you can speak on it.

DAVID VAN TAYLOR: I'm pretty sure that, you know, worker's comp was being paid when I'd been working as an employee. You know, the appropriate deductions have been made, but I've never heard of anyone actually filing a worker's comp claim, and I know for instance a producing colleague of mine who literally stepped on a rusty nail in a warehouse where she was shooting and continue dot work the rest of the day in order to meet her schedule and eventually went to a emergency room, but that's just sort of the expectation.

CHAIRPERSON MILLER: Have you ever seen any worker's compensation notices posted on any of the sites or facilities that you work in?

MIDGE BUCKLEY: No, I haven't.

LAUREN VELOSKI: I have, but I think, you know, these sorts of things become irrelevant when the prevailing cultures is that you will continue to work and you will endure no matter what. It feels meaningless when you see those sorts of signs.

CHAIRPERSON MILLER: Okay. Thank you so much for your insight, your testimony.

DAVID VAN TAYLOR: Thank you.

LAUREN VELOSKI: Thank you.

CHAIRPERSON MILLER: And we have one more, bit of a late comer and that is Aphelia [sic]. Okay, please state your name before testifying.

EFTIHIA THOMOPOULOS: Hi, my name is Efhihia Thomopoulos and I am here on behalf of my organization the Association for a Better New York. Thank you for the opportunity to speak here today in support of unscripted and reality TV production in New York City. ABNY is a 43 year old civic organization in New York and our membership represents a broad base of companies, nonprofits, labor unions, educational institution and healthcare providers in New York. We advocate for the policies and programs that make New York a better place to live, work and visit and we support economic development and job creation in all five boroughs. Unscripted and reality TV production create thousands of well paid

jobs in New York City, the kinds of professional and creative jobs we want in our city. These productions also create thousands more indirect jobs for small businesses throughout our city, driving employment in catering, transportation, hotels, restaurants, dry cleaners, coffee shops and more. We should be championing in film and television production as an industry that has been a tremendous boom to New York's economy, fueling the creativity and creating jobs across the economic spectrum. These productions also drive millions of impressions around the country and around the world and are a significant driver of tourism with shows like Sex and the City and Girls, attracting tourists who want to experience the neighborhoods they've seen on the screen. And the visitors keep coming for years and years after the shows are done. The mega New York brand has been successfully used to showcase the talent and creativity of productions made here as well. It's gained global recognition as a strong and meaningful brand because our city is home to the best

talent, the latest technology and the most recognizable scenery. In short, New York is the greatest city in the world and we must continue to support the TV production industry and its workers. Thank you.

CHAIRPERSON MILLER: Thank you. And caught me by a bit of surprise there. I didn't know you were coming. I was about to go into a full dissertation about how disappointed I was that none of the production companies actually showed up today, but they sent you. Great. So are you prepared to answer questions on their behalf?

EFTIHIA THOMOPOULOS: I am not. I was sort of here as a liaison, but I'm happy to take questions down and relay them.

CHAIRPERSON MILLER: Okay. So I was just told that through their lobbyist they will be submitting testimony and not receiving questions. But so we can talk about some of the--I could ask you personally that you sat here and you witnessed some of the testimony of the indu--of the workers and folks involved in the industry. How many of the, to your

knowledge, how many of these production companies actually belong to the association? And can you identify them?

EFTIHIA THOMOPOULOS: NBC is a member. Fox is a member. I have--I'm happy to provide you with a full list of our membership and weed out the production and television companies for you, but I don't have a list, a full list on me.

CHAIRPERSON MILLER: So they would have subsidiaries, subcontractors of their companies working in the reality industry or are you just saying that NBC, Fox purchases productions and programming from these companies?

EFTIHIA THOMOPOULOS: That's right.

CHAIRPERSON MILLER: Do you have an opinion on their treatment of the workers in the industries?

EFTIHIA THOMOPOULOS: No.

CHAIRPERSON MILLER: Okay, thank you so much for coming.

EFTIHIA THOMOPOULOS: Thank you.

CHAIRPERSON MILLER: So, we have surprisingly come to a conclusion of this hearing, but I just have a few statements that I would like to make, and that is that I've spent the greater part of the last two decades of my very young life as an advocate for working people, organized labor, as an organizer and a former union president. I first off find it appalling that the executives of these industries have not shown up to justify their positions, nor justify their ask for millions of dollars in subsidies and tax payer dollars so they can continue to make a lot of money and exploit workers. I am most disappointed because in my hat as a labor leader I think what we do is we bring people to the table and we find resolve, and certainly this is an industry that is valued by the City of New York and the State which is obvious because of the amount of subsidies that they receive from both branches of government, but it's also pretty obvious that this City Council and this Administration values workers, and so we want to have a real intelligent conversation

with all the stakeholders involved that we sit down and we figure out how we make this industry better, that we move forward and that we continue to make this city better. There was a lot of conversation and this hearing received a lot of attention. I have held hearings over the last six months on the same issues three, four, five times at the very least, and they have not received this type of attention. No Parade magazine, no Hollywood Magazine, no New York Time, Daily News, New York Post, nobody really cared about the folks at McDonalds or the airport or the other people that were being exploited through wage theft, lack of benefits, fair compensation and all the rest of that stuff. So what was the hopes of this committee that by doing this it would highlight the plight of working people throughout the city of New York, that all workers suffer the same plight, and through the testimony I was really taken back by some of the conditions that people are working under in this industry, considering that this is a industry that requires highly trained and highly skilled

workers. I come from a world where fair compensation for a fair day's pay is what it's all about. And so we hope that by bringing all the stakeholders to the table we could get to that point. Obviously, that's not the consensus because the people who probably have the greatest impact are not here today to represent themselves and testify. I've also been notified that they would like to meet with myself and members of the committee moving forward. I am certainly willing to act as a liaison. I am certainly willing lend the benefit of my experience and authority of this committee in facilitating any resolve to this present problem that could happen. So, I hope that ultimately that is what becomes of this. But by not showing up is certainly not an indication of your willingness to make this situation better. I don't think that I--it is my hopes that we need to regulate and pass laws to force people to do the right thing. I am a big firm believer in collective bargaining. I am a firm believer in the ability to organize and I will use all the authority of this

council and of this committee to ensure that people have the right to organize and have a right to collective bargaining and that they are not intimidated and where that and those behaviors exist that it will be addressed through the full extent of this council. But that being said, I think that our ultimate goal is to bring resolve to this pressing issue and if that means that we create a code of standard, that we create industry standards that collectively come up with standards of the industry that address issues of wages, that address other areas of compensation, than I am certainly willing to do that, but it is my hopes that it could be done through collective bargaining. And so, this is a very important industry for a lot of reasons. It employs thousands of workers. The city recognizes that it invested millions of dollars in the industry coming here. We want to make sure that it's done right. But most importantly, when you have such a high profile industry in the region that brings such attention, tourists and others to this region, brings workers from all over

the world and all over the country want to come here and be employed and work here in New York City and come here and find out that they're merely going to be exploited is unacceptable. How do we fix that? I think that there is an opportunity to fix that, and if we don't fix that, it impacts industries throughout the region. You know? It's like being somewhere where it's a right to work state. The wages, no matter what your industry is, is low and people have fought too long and too hard to allow that to happen here in New York State and New York City. So I look forward to working with each and every one who has testified here today. I look forward to working with those who have not had the courage to show up here today to bring resolve to this issue, because it's so important to the city of New York and particularly the men and women who have testified here today who have showed great fortitude and courage to come here and put themselves and their careers at risk in speaking out. So with that being said, I want to say thank you for everyone coming out

2 spending your time, showing courage and this
3 hearing is adjourned.

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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 there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 07/01/2014