

**Testimony of Lorelei Salas**  
**New York City Department of Consumer and Worker Protection**  
**Committee on Civil Service and Labor**

**Hearing on**  
**Int. 1396-2019 and Int. 1415-2019**

**February 13, 2020**

Good morning Chair Miller and Members of the Committee. I am Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection (DCWP), and I am joined by Ben Holt, DCWP's Deputy Commissioner for the Office of Labor Policy and Standards. We would like to thank the Committee for the opportunity to testify today on Introductions 1415 and 1396, relating to wrongful discharge from employment and fast food employee layoffs, respectively.

DCWP's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. As part of this mission, DCWP serves as New York City's central resource for workers. The agency promotes policies that create fair workplaces, ensuring workers are empowered to realize their rights and protections. Key workplace laws we enforce include Paid Safe and Sick Leave and Fair Workweek, which have helped elevate labor standards for thousands of workers across our City.

**The Fast Food Industry and Fair Workweek**

The bills under consideration today touch upon an industry that we are well acquainted with – the fast food industry. Workers in the fast food industry have historically been confronted with declining real wages and unstable working schedules.<sup>1</sup> However, these workers, more than 67,000 in New York City alone, have continually fought to address these challenges.<sup>2</sup> Most recently, this Administration fought alongside them for a \$15 minimum wage, to end abusive scheduling practices, and to promote full-time employment in the industry.

During the Council's deliberation on the Fair Workweek legislation, the Administration testified to and cited extensive research that highlighted the negative impacts of unpredictable and unstable schedules in the fast food industry.<sup>3</sup> As you may know, unpredictable schedules have negative impacts for both workers and businesses.<sup>4</sup> For workers, this instability makes it hard to work a second job, manage a household budget, go to school, or arrange for child and elder care. For businesses, unpredictable schedules are associated with understaffing at peak business hours

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<sup>1</sup> Fast Food Employment in New York City and State, fact sheet of the National Employment Law Project, June 2015.

<sup>2</sup> "Fired on a Whim: The Precarious Existence of NYC Fast-food Workers," by CPD, 32BJ, NELP, and FFJ.

<sup>3</sup> Administration testimony from Fair Workweek hearing on 3/3/17.

<sup>4</sup> See, e.g., Tacking Unstable and Unpredictable Work Schedules, Center for Law and Social Policy (2014); Amy Traub, Retail's Choice, Demos (2014); The Schedules That Work Act: Giving Workers the Tools They Need to Succeed, National Women's Law Center (2015).

and weak execution of business processes, resulting in poor customer service, reduced sales and lower productivity.<sup>5</sup>

Today, thanks to the Council's passage of Fair Workweek legislation, New York is the largest city in the country to take steps toward ending abusive scheduling practices for fast food workers. Fair Workweek guaranteed fast food workers, at chain establishments of 30 locations or more nationally, two things: (1) greater predictability through advance scheduling and premium pay requirements; and (2) the chance to work full time by picking up shifts before new workers can be hired.

As the agency charged with implementation and enforcement of the Fair Workweek laws, DCWP educates stakeholders, holds trainings and meets with businesses and workers alike to ensure their familiarity with the law. Since 2017, DCWP has conducted more than 550 worker-related educational events. This past December we visited more than 200 businesses, in commercial districts in all 5 boroughs, to educate employers about our Fair Workweek laws. Later this year, we also plan to conduct a citywide public awareness campaign highlighting these protections for both workers and businesses. DCWP also holds fast food employers to account for noncompliance with Fair Workweek, having completed 83 investigations and obtained resolutions awarding \$1.3 million in fines and restitution on behalf of 3,060 workers since the law went into effect, and we are currently pursuing another 34 active investigations. We have filed litigation against prominent fast food brands, such as KFC, McDonalds, and Chipotle, to name a few.

Our enforcement activities focus on ensuring that workers are made whole for past violations of their rights and that workplaces are in compliance with the law going forward. We work together with employers to create a proactive plan for coming into compliance as part of a larger effort to use both education and enforcement to promote a culture of compliance that protects workers and gives employers the information and tools they need to meet their obligations and, in so doing, to reduce future business costs. Fair Workweek is aimed at alleviating the unstable working conditions that are prominent in the fast food industry, which just a short time ago reported a yearly staff turnover of 150%.<sup>6</sup> However, we believe there is still more that can be done to realize these protections and ensure these workers have stability in their lives and the means to support themselves and their families. This leads us to the bills before the Committee today.

## **Introduction 1415**

Too often, fast food workers face the injustice of arbitrary and wrongful discharge. They are discharged or have their hours cut for not smiling enough, for not having the "right hat", or for having nails that are "too long".<sup>7</sup> Moreover, 65% of fast food workers reported being given no explanation at all for their termination. Imagine working hard at your job and one day being fired, losing your source of income, beset with uncertainty, and not knowing why or what caused it to happen.<sup>8</sup> We are also aware that workers are too frequently dismissed in retaliation for

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<sup>5</sup> Williams, Joan C., Lambert, Susan J., Kesavan, Saravanan, et al. Stable Scheduling Increases Productivity and Sales. March 28, 2018. Available at: <https://worklifelaw.org/publications/Stable-Scheduling-Study-Report.pdf>

<sup>6</sup> Leslie Patton, "McDonald's High-Tech Makeover is Stressing Workers Out," Bloomberg News, March 13, 2018

<sup>7</sup> Worker testimony [Harmony Higgins] from Fair Workweek hearing on 3/3/17.

<sup>8</sup> "Fired on a Whim: The Precarious Existence of NYC Fast-food Workers," by CPD, 32BJ, NELP, and FFJ.

asserting their rights under the Fair Workweek laws, a practice that is already illegal but highlights just how precarious fast food work is. For a worker to be able to defend their rights at work by pointing out unlawful practices and reporting violations, it is critically important that they are protected against termination as a reprisal. To that end, 1415 supplements and strengthens the anti-retaliation protections for fast food workers in Fair Workweek laws. In addition, 1415 would give fast food workers greater certainty about their employment – so long as a worker is performing adequately, they will have a reasonable expectation of continued employment. 1415 does not eliminate businesses' ability to remove employees who fail to perform or engage in misconduct; instead it promotes transparency in the workplace and protects employees from arbitrary dismissals for which they are not at fault.

Just cause standards are not new and have been negotiated and arbitrated by employers and unions for more than a century. In addition, the state of Montana has had a statewide just cause standard since 2001 and Philadelphia has a similar protection for parking lot attendants which went into effect in September 2019. 1415 contemplates using similar standards that have been developed over time to assess whether employers have met just cause. We look forward to examining in greater detail how just cause standards have been applied in other jurisdictions and how they might be incorporated into the City's legal landscape.

Still, these cases are likely to be factually complex and are most similar to the retaliation cases we already handle. Retaliatory dismissals represent some of DCWP's most challenging investigatory work and present imminent concern for workers who are out of work and missing a paycheck. For this reason, DCWP utilizes a "fast track" process when employers take retaliatory measures against their workers. This entails conducting a separate, specialized investigation focusing only on the retaliatory firing with strict deadlines for collecting and weighing the relevant evidence. These cases are typically focused only a single complainant, but usually involve competing factual accounts and mixed motivations that take care and time to sort out.

Overall, Introduction 1415 builds on Fair Workweek's ideals of enhanced predictability and job quality by giving fast food workers increased job stability. We support this goal and believe there is a strong factual record demonstrating just how important this would be for fast food workers in New York City.

### **Introduction 1396**

Introduction 1396 ensures that employers have the ability to make business decisions based on reasonable, objective economic circumstances: it sets forth parameters for layoffs of fast food employees when a business has a "bona fide economic reason" for doing so. DCWP believes that this is a sensible complement to the goals of just cause standards in balancing an employee's right to more predictable employment with an employer's legitimate business needs to adjust staffing levels.

There are existing legal frameworks for assessing business' financial condition and whether layoffs are factually supported. Under the federal National Labor Relations Act and other laws,

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legal tests have been developed to examine economic health that can be used and built upon for 1396.

### **Conclusion**

An arbitrary or wrongful dismissal is all too common, much more common than we should expect. In fact, in one poll, 90% of workers expected that they were protected from being fired for an arbitrary reason, such as their supervisor simply disliked them.<sup>9</sup> We know that this is not the case for fast food workers without protections such as those contemplated in Introductions 1396 and 1415.

In supporting just cause standards, our priority is to ensure it is a protection that is embraced by workers, is reasonable for businesses, and is effectively enforced. While this innovative and groundbreaking policy builds upon Fair Workweek enforcement and our anti-retaliation measures, it will require additional personnel to perform outreach, implementation, intake, investigations, and litigation in order to ensure businesses understand how to comply and to protect workers who are illegally dismissed. Under the Fair Workweek laws, workers have available to them a combination of agency-led and private enforcement, which is an approach that has leveraged our existing enforcement model. The bills today include three distinct enforcement options – administrative enforcement, a private right of action, and a DCWP-overseen arbitration process. DCWP does not currently administer an arbitration system. We would like to work with Council to understand how this process would work, and what resources and expertise are needed for it to be implemented effectively. Additionally, we would like to work with Council, through the legislative process, to ensure there is clear guidance on items such as “bona fide economic reasons” for termination, and “just cause” to facilitate clarity and flexibility for businesses. We note that the Law Department is currently reviewing the bills as well.

In closing, both Introduction 1396 and 1415 help provide workers increased stability in both their working and personal lives. We look forward to working with the Council on these bills and other progressive policies that ensure New York City remains at the forefront of workers’ rights issues in our country. Once again, thank you Chair and Members of the Committee for the opportunity to testify today and I am happy to answer any questions you may have.

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<sup>9</sup> Pauline T. Kim, “Bargaining with Imperfect Information: A Study of Worker Perceptions of Legal Protection in an At-Will World.”



**TESTIMONY BEFORE NEW YORK CITY COUNCIL**  
**COMMITTEE ON CIVIL SERVICE AND LABOR**

**JESSICA WALKER**  
**PRESIDENT & CEO**

**THURSDAY, FEBRUARY 13, 2020**

Good afternoon. My name is Jessica Walker and I am the President and CEO of the Manhattan Chamber of Commerce which represents the business community across the borough. As an organization we work to advance economic empowerment, particularly for the courageous entrepreneurs and business owners who put everything on the line to follow their creative ambitions, pursue financial freedom and "spread the love" by employing others. Indeed, their success is integral to maintaining New York City's strong economy.

We strongly oppose Intros. 1396 and 1415. The legislation is singling out and needlessly picking on one industry, which is bad enough. But what's more is that what you are suggesting here is terrifying for small businesses who fear they may be the next targets of an expanded version of this dangerous legislation.

First of all, I want it to be stated very clearly that employers never want to eliminate jobs. There is no joy derived from laying off employees. I say that because these bills seem premised on the notion that employers everywhere are just firing people or laying them off with no strategic thought about the health of their business or the possible impact it might pose on the employee. That is false. It is never fun.

But the reality is that sometimes a business has to make these tough decisions in order to thrive. Tying an employers' hand here could unfairly hurt the business.

The process laid out in Intro 1396 does just that. It puts the onus on an employer to prove that layoffs are for "bona fide" economic reasons, as narrowly defined in the bill. If they do lay people off it must be done by seniority even if that means they will lose their best employees. They may be forced to go to arbitration which is a time-killer and takes them away from their business. And the bill opens them up to lawsuits.

Intro 1415 is equally unworkable. It prohibits employee termination for reasons other than "just cause." It forces businesses to use a confusing disciplinary process to determine what rises to the level of their definition of "just cause." Once again, employers may find themselves in timely arbitration or court as a result of this law.

There are legitimate reasons for an employee's termination other than "bona fide" economic reasons or "just cause" as narrowly defined in this legislation.

Let me give you an example: When a new member of the City Council takes office they rarely retain all of the staff of their predecessor. Why? It's hardly ever about economics or just cause. And those holdover employees certainly have more seniority than anyone new that's brought in. Would you want to spend your precious time sitting in arbitration for days in order to justify why you need to make staff changes? No, you want the best team surrounding you to help you move forward. And there is some subjectivity in that as an employer because you have a certain vision for what you want your workplace to feel like, you want all employees to get along and work well together, you want your employees to be onboard with your agenda, you may want greater strength in certain skill sets that are lacking, etc.

Eroding any employer's ability to make these strategic staffing decisions is simply wrong. And it could be extremely damaging to a business (e.g., suppresses revenue if I can't hire a better salesperson to replace the current salesperson who has mediocre skills; takes precious time away from the business to go to arbitration or court; could suppress morale and productivity in the workplace if an unruly employee is allowed to stay on while I have to spend months in arbitration; may force me to layoff someone I don't want to simply because of seniority).

This would be tying an employer's hand and taking away the critical (albeit hard) choices that must be made to keep a business viable, which is already not an easy thing to do.

Of course, all employers must adhere to anti-discrimination laws already in place that prohibit wrongful termination on the basis of any protected class or as retaliation.

Moreover, these bills could have a detrimental impact on employees. If it becomes next to impossible to discharge employees then the hiring process will become that much more rigorous. Employers will take fewer chances on candidates who are untested, come unrecommended or have even a hint of red flags, which will further shutout a whole swath of people who don't have a long work history and are simply trying to get their foot in the door to prove themselves. It would take us in the wrong direction.

For these reasons, we urge the Council to halt these bills. Thank you.



## In opposition to Intros 1396 and 1415, regarding fast food layoffs and just cause

Good afternoon. My name is Kathleen Reilly and I am the NYC Government Affairs Coordinator for the New York State Restaurant Association. We are a trade group that represents food and beverage establishments in New York City and State. We are the largest hospitality trade association in the State, and we have advocated on behalf of our members for over 80 years. Our members represent a large and widely impacted and regulated constituency in New York City. They also represent one of the last strongholds for the brick and mortar landscape, as New York City contends with the transformative impact of e-commerce and changing consumer behavior. To ensure the continued viability of the restaurant industry, New York City must prioritize a fair and healthy business environment so these hardworking New Yorkers can continue earning their livelihoods.

We are here today to discuss the numerous concerns we have with Intros 1396 and 1415, which focus on layoffs and other terminations in the “fast food” or quick service restaurant industry. The first of these proposals, Intro 1396, requires layoffs or reduction of hours for fast food employees be carried out in order of reverse-longevity. The second proposal, Intro 1415, requires a fast food operator to have and document “just cause” before letting an employee go or reducing their hours by more than 15%. In the cases of both proposals, there is a mechanism for arbitration, and if cases are found in favor of employees, damages, backpay, and lawyers’ fees would be awarded.

Intro 1396, regarding fast food layoffs, is the best place to begin because we feel it poses somewhat more straightforward challenges. As written, Intro 1396 would require a fast food operator to prove to the City, with their business records, a “bona fide economic reason” in order to conduct layoffs. Then, the operator must strictly conduct layoffs in order of reverse longevity – that is, the last person hired would have to be the first laid off, and so on.

First of all, to require a private business to prove anything to the City as a condition for making an internal HR decision like layoffs is an immense overreach of government. Furthermore, by being required to prove evidence of financial hardship, the City prevents operators from being forward-looking, and conducting layoffs or “staffing down” to prevent financial hardship before it hits. The language requires showing “the full or partial closing of operations or technological or organizational changes to the business, resulting in the reduction in volume of production, sales, or profit.” The word **resulting** tells us that businesses will be forced to take a demonstrable hit to justify layoffs, rather than practicing good business sense and preempting the hit by conducting layoffs.

As written, Intro 1396 does not take the job description, job performance, availability, intention to progress at the business, or any number of relevant factors into account when dictating which staff members must be laid off first. We would think it goes without saying, but all of these factors play a major role in determining the most effective method of conducting layoffs. For the sake of demonstration, here are just a few examples of the bizarre way Intro 1396 would play out in practice.

If a business has four counter workers and two line cooks, they know they need the line cooks most, and the work at the counter can likely be best consolidated. Unfortunately, the line cooks are the two newest, and must be laid off first. Another business has recently hired an excellent counter worker – it seems like she’s as efficient as two people combined! Unfortunately, rather than laying off the worker who comes in to clean part-time, which the owner could pick up instead, the excellent counter worker must be laid off first because she is newest. Another business recently hired a local mom, who expressed interest in taking advantage of trainings to work up to a manager position. The operator is excited to have her on the team! The operator also has a student on staff, who has expressed plans to leave at the end of the summer when he goes back to school. In the meanwhile, he’ll be unavailable for all weekend shifts because of another job he works. Unfortunately, the operator has to lay off the mom before the student, even though she had long-term hopes and was available for any shift, because she is the newest.

One final detail of this legislation that is poised to unleash chaos is that a reduction in hours by 15% is counted as a layoff. In a 40-hour work week, 15% of a schedule is 6 hours, which could easily be less than one full shift. As it stands, Intro 1396 does not clearly require a permanent reduction in hours, or even a long-term reduction in hours. As written, any time an employee is scheduled for one less shift than expected, they would be arguably entitled to bring a claim. In a business model with many moving pieces, different employee availability from week to week, and seasonal changes to business volume, it is harsh and baseless to begin punishing an employer over a discrepancy of 6 hours.

The second proposal is Intro 1415. This “just cause” legislation requires employers to prove a failure to complete work tasks or misbehavior that is “demonstrably and materially harmful to the fast food employer’s legitimate business interests,” and failure to respond to progressive discipline. Employers would hold the burden of proof, and if challenged, would have to prove just cause through written documentation, using non-hearsay evidence, and referencing no disciplinary action that is more than one year old. If they are unable to satisfactorily prove themselves innocent, the business can expect punitive measures including fines, damages, and backpay.

The purported need for this legislation has centered on a series of troubling and serious anecdotes. For instance, at the rally held in favor of this legislation last year, one woman gave a testimonial about reporting wage theft to her supervisor, and then having her hours cut. There is a reason that the crowd, and the public, respond strongly to stories like these: they reflect behavior that is illegal and wrong. Wrongful termination and retaliation are illegal, and when bad actors do these things, it reflects negatively on the entire industry. From the perspective of NSYRA, workers like the woman who testified at that rally should be protected and supported by the City, so that cases of wrongful termination or retaliation are properly addressed, and justice is achieved for them.

Now, what we cannot support is conflating the illegal acts of wrongful termination and retaliation with the rights of employers under at-will employment. New York is an at-will state, which means at-will employment is part of state labor law. In at-will employment, an employer has the right to hire people and let people go at their discretion, which allows them to best adjust to their business needs. With some of the strongest labor protections in the country, New York State labor law already protects employees from discrimination based on a protected class, as well as retaliation for reporting a violation of labor law – wage theft or sexual harassment, for example. These protections go hand-in-hand with at-will employment, so that employees and employers are both put in a position to make a living. With that established, we cannot condone the tactic of taking

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wrongful termination and retaliation anecdotes and using them as a justification for legislating away at-will employment altogether for the fast food industry. NYSRA has a series of alternative suggestions about how to best address existing illegal behavior, which we will return to, but first we'd like to explain some of the negative consequences that our city will experience if this legislation is passed.

First and foremost, this will impact hiring decisions for hourly-wage fast food workers. The fast food industry is currently able to extend opportunities to so many New Yorkers, many of whom may face educational, language, or other barriers to different kinds of employment. Playing that role in the community, where their business is the first door many people knock on, is something the fast food industry has embraced whole-heartedly, with many companies offering resources, trainings, educational opportunities, and more to help New York's most vulnerable workers succeed. That is the current picture – but if Intro 1415 is passed, each and every hire will have to be reimagined as a potentially costly liability. Each new hire, if things do not work out for whatever reason, is poised to cost employers thousands of dollars and countless hours in an onerous and unbalanced arbitration process. Under that city-imposed limitation, employers will be forced to be risk-averse in their hiring decisions, and may refrain from hiring additional workers altogether.

This brings us to point two: automation. Employers in the fast food industry are more broadly in the business of hospitality, and the warmth of human hospitality cannot be easily replicated. That being said, we know the Council is already aware of the rising trend of automation. When employers are forced to see employees as a potential liability, forced to imagine the costs associated, they may also feel forced to adopt automation more rapidly. For a City that has audibly questioned how to protect jobs that are at risk of automation, it seems especially counterintuitive to single out those exact same jobs and make them decidedly riskier for employers to fill.

Finally the third unwelcome consequence: employers may pack up shop and choose to leave New York City altogether. After experiencing a deluge of new labor and regulatory laws, being regularly singled out for the most intense and punitive legislation, facing down even more on the pipeline, operators may decide that it's simply not worth it to keep struggling for those single digit margins. Think of the cumulative impact of the earliest \$15 minimum wage, predictable scheduling laws and their penalties, paid sick and family leave, regular changes to menu labeling, and trash/recycling/organics source separation, taken alongside the threat of joint employer legislation, mandated paid vacation, and more, truly just to name a few. With these operators will go all of the jobs they had provided the community, and our city will feel the loss.

Outside of the bigger picture forces at play, and the impact we expect to see from legislating away at-will employment, there are also more specific issues with the language and mechanism set out in Intro 1415. Easily the most troubling is that the employer holds the burden of proof when an employee brings a claim against them. This language makes the employer guilty until proven innocent, and it goes against the standards of American justice. Once again, we take issue with considering a 15% reduction in hours as equivalent to a dismissal. It does not reflect the realities of scheduling in this industry, and it is overly punitive.

There are also unnecessary limits to the evidence employers can use in clearing their name: they are prohibited from referencing disciplinary issues that are more than one year old, and from referencing hearsay evidence. This would prevent an employer from using drawn out, but ongoing, patterns of misbehavior as evidence, or from using an informal complaint (ie not in writing) from a customer who had experienced rude or disrespectful treatment, for instance. Furthermore, the vague language in the proposal adds to the uncertainty and risk for employers, who are forced to guess how the enforcing agency will interpret terms that may seem perfectly

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obvious to them. For example, the proposal states that an employee who does something **egregious** could be fired on the spot. When an employer's brand, business, reputation, and personal investment are on the line, behavior like swearing at a customer, using discriminatory language, or pushing a customer would surely qualify as egregious in the employer's eyes. But given that they will have the burden of proving themselves innocent if questioned, they will be caught in an extremely difficult and unfair position if the enforcing agency differs in their interpretation of "egregious."

Despite all of the many concerns we have brought forward about the impact of Intro 1415 as currently drafted, we really do understand and agree with the goal of protecting employees from wrongful termination and retaliation. We appreciate the bravery of workers who have shared their experiences and exposed some of these illegal acts. It seems clear to us that the workers who have been victimized here did not feel that their existing protections and recourse were enough. In some cases, perhaps workers were not aware of what would qualify as retaliation or wrongful termination. Or maybe they did know, but they didn't feel that they had access to recourse under the law. In either case, the enforcement of our laws is lacking when those protected do not feel protected.

If information and awareness is the main issue, we would suggest an educational campaign focused on helping employees recognize wrongful termination and retaliation. Maybe this could take the form of a subway ad campaign, much like the one recently used to advertise the rise in minimum wage. Maybe it should take the form of city-certified training materials, like those created for sexual harassment training. Maybe, to think creatively about it, we could harness the efforts of the census count, which ought to reach each and every New Yorker, and include informational materials about wrongful termination and retaliation with that outreach.

If instead, access to legal recourse is the main issue, perhaps the City should put together a public fund and public resource center focused on wrongful termination and retaliation cases, similar to the recently passed tenant legal assistance. Maybe the City provides a step-by-step guide on discussing, and documenting, claims of retaliation with managers, so that employees can best communicate their rights and put themselves in the best position to pursue further action.

These suggestions truly get to the heart of the problem – wrongful termination and retaliation – without unnecessarily hamstringing the HR decisions of good actors. Beyond that, these kinds of protections could help **all** workers of New York City. There is no reason that fast food employees should be the only ones better situated to combat wrongful termination and retaliation, and I'm sure workers across all sectors share some of the current frustrations with information and access. To make a positive change in our city, combat the problems being brought to the table, and actually protect all workers rather than just one industry, let's consider how some of these suggestions could be implemented.

In conclusion, NYSRA has a number of concerns about the impact of Intros 1396 and 1415 as currently drafted. Requiring private businesses to prove their economic state to the City as a condition for conducting layoffs is a completely inappropriate overreach, and requiring the newest worker to be laid off regardless of any other factor is senseless. Legislating away at-will employment for the fast food industry would create unwelcome outcomes for hiring, the trend of automation, and business flight from New York City, and considering employers guilty until proven innocent is hugely problematic. Nevertheless, NYSRA is sympathetic to the goals of protecting workers and ensuring they have the resources and information necessary to recognize and rectify illegal workplace behavior. We have suggested just a few ideas of how this goal could be

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accomplished in a way that is both broader in the coverage of all industries, and more targeted at bad actors. We truly hope the Council is receptive to the business community feedback on these proposals, and recognize that we speak for countless New Yorkers who are unable to take time away from running their businesses to be here in person this afternoon. We are eager to be part of the conversation moving forward, both in pinpointing the problems that need to be addressed and formulating the most effective solutions. Thank you for your time, and we look forward to working collaboratively with the Council on these issues.

Respectfully Submitted,

Kathleen Reilly

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New York State Restaurant Association

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**FOR THE RECORD**



**Testimony on Introduction 1396-2019 and Introduction 1415-2019**

**Keith Stephenson, Director of State and Local Public Affairs, National Restaurant Association**

My name is Keith Stephenson and I am the National Restaurant Association's Director of State and Local Government Affairs. The National Restaurant Association is the leading business association advocating for the restaurant and foodservice industry nationwide, representing more than 15.1 million employees - nearly 10 percent of the nation's workforce - with one million locations across the country. The restaurant industry employs nearly 685,000 New Yorkers at over 50,000 establishments. We join our partners from the New York State Restaurant Association in opposing Introductions 1415-2019 (Just Cause) and 1396-2019 (Fast Food Employee Layoffs).

**THE RESTAURANT INDUSTRY AT-A-GLANCE**

We are often the first job individuals look for in order to learn on-the-job skills and training which will help them advance in the restaurant industry and beyond.

In fact, many franchisee owner/operators – many of whom are immigrants or first generation Americans - began their career as hourly employees working behind the counter and pass on their restaurants to their children. Most important, they are residents of New York City, and your constituents. They vote, get involved in their local communities, and raise their families here.

The following are real facts that explain why the restaurant industry is truly the "American Dream" industry.

**Diversity and Opportunity**

*American restaurants are more diverse than any other sector of the economy*

- 48 percent of industry employees are minorities compared to 36 percent across the rest of the economy.
- 25 percent of restaurant employees are Hispanic
- 12 percent of restaurant employees are African American
- 7 percent of restaurant employees are Asian
- 3 percent of restaurant employees belong to more than one race
- 40 percent of restaurant businesses are majority-owned by minorities compared to 29 percent of businesses across the rest of the economy
- 40 percent of managers and supervisors are minorities—more women and diverse leaders than any other category of business in the country.

## Restaurants are Community Cornerstones

*From valuable skills as a first job, or a career path to upward mobility and opportunity, or as a second chance, restaurants have more minority leaders and owners than any other sector.*

- 9 in 10 restaurant managers started in entry-level positions
- 8 in 10 owners say their first job in the restaurant industry was an entry level position
- 1 in 3 Americans got their first job experience in a restaurant
- American restaurants are a leading “second chance” employer for those returning to work after incarceration
- 90 percent of restaurants are small-and family-owned and have 50 or fewer employees.

Despite being THE American Dream industry, the quick-service industry remains under constant attack by the New York City Council. The cumulative impact of new laws and regulations such as the “Fast Food” Minimum Wage, Paid Sick Leave, Predictive Scheduling, and Menu Labeling, to name a few, were hastily implemented without the involvement and input of the industry. Where the industry did weigh-in on proposed policies, they were ignored.

Multiple studies demonstrate that the cumulative impact of those new laws is hurting New York City’s newest entrepreneurs. Quick-service restaurants, which are small businesses, are doing everything they can to keep their doors open, and hire and retain workers.

A report by the Center for an Urban Future entitled the *State of the Chains, 2019*, found “a year-over-year decrease in the number of chain store locations for the second consecutive year, and the largest overall decline since this study began [12 years ago].”<sup>3</sup> The data shows these laws and regulations are hurting businesses and jobs, as do the first-hand accounts of restaurant owners, operators, and employees. In the last three years alone, New York City has lost 148 chain food and beverage establishments. The closure of 148 restaurants amounts to the elimination of approximately 10,000 jobs in the city (calculated according to average number of employees per restaurant).

### **AT-WILL EMPLOYMENT AND WRONGFUL TERMINATION ARE SEPARATE ISSUES**

We have heard many of the testimonials being used to justify the need for these proposals. Fortunately, these workers are already protected by federal law, as well as existing New York State labor law, and New York City’s Human Rights Law. In fact, New York State and New York City have the nation’s most comprehensive human rights law. We urge these workers to file complaints to the appropriate law enforcement and city agency for further investigation when necessary. Bad actors should be held accountable.

In addition, as you know, New York is an at-will employment state, as are most states in the U.S. This means that employers have the right to hire and let go employees to meet their business needs. If a restaurant closes its doors, they cannot hire any employees.

Int. 1415-2019 proposes to eliminate at-will employment. This is yet another case of government overreach since laws protecting employees already exist. We do, however, support better educational outreach from the City to our workers in order to better inform them of their rights, and what to do when they believe their rights have been violated.

## Policy Consequences

The elimination of at-will employment will have three major negative impacts on the quick-service industry in New York City:

1. **SEVERELY LIMIT HIRING:** The purpose of at-will employment law is to provide businesses with the tools they need to control their costs in order to stay open. This proposal would force employers to hire fewer workers because it unfairly places more liability on employers. It also forces restaurant owners into an arbitration process, which presumes an employer is guilty-until-proven-innocent.
2. **HURT EMPLOYEES:** If businesses are unable to terminate employers who are unreliable, disruptive, and disrespectful to customers and peers, other team members' work experience will suffer. If they have to spend their shifts correcting mistakes or dealing with their coworker's bad behavior, good employees are more likely to quit. It is unfair to create a hostile and unpleasant workplace for all workers because owners cannot remove the few underperforming employees.
3. **CLOSE RESTAURANTS:** As noted in the Center for an Urban Future report statistics above, quick-service restaurants are actively decreasing in number throughout the City. We hear story after story about how small restaurant owners in New York City no longer intend to expand their number of restaurants because of their inability to handle all the new laws and regulations placed upon them by New York City. This negatively affects employers, employees, vendors, etc.

## Vague and Ambiguous Language

In addition to the policy consequences detailed above, the proposed legislation utilizes vague and ambiguous language which will make it impossible for a restaurant operator to comply with.

For example, "Wrongful Discharge" not only includes termination, it also includes a reduction in hours by 15%. Reducing an employee's hours is necessary in certain situations due to the seasonality of the restaurant business, the financial needs of the restaurant, and any number of other factors. Additionally, work hours are already legislated under the new Predictable Scheduling Law, which mandates an employer must provide a written "Good Faith Estimate" of hours. An employer is already obligated to convey in writing a worker's hours upon hiring. This vague language, which conflicts with existing law, will guarantee a restaurant owner is in non-compliance with the law, which will lead to costly and unnecessary litigation.

In another example, the definition of "progressive discipline" utilizes subjective language to describe a disciplinary system. Language such as "reasonable response," "satisfactorily perform...job duties," and "disciplinary measures ranging from mild to severe," is subjective and wide open to interpretation. Again, this will guarantee a restaurant owner is in non-compliance with the law, which will lead to costly and unnecessary litigation.

The out-clause provision states that "nothing herein shall preclude an employer from terminating a fast food employee immediately for a sufficiently *egregious* failure or *misconduct* constituting just cause."

This language begs practical questions such as:

- What types of disciplinary measures will be considered appropriate?
- How long does an employer have to wait before letting a worker go for under-performing in his or her role?
- How will an employer know what is and is not egregious behavior? For example, what if a worker curses at a customer? Is this egregious behavior? Will there be rules which define good, bad, and egregious behavior?

### **Introduction 1396-2019: Fast Food Layoffs**

This proposal would essentially force restaurants - which are private entities by law - to become business partners with New York City.

When opening a small restaurant, private individuals and entities bear all of the risks and responsibilities inherent in “keeping the doors open.” This is hard enough in a highly competitive marketplace such as New York City. There is also the added burden of complying with myriad federal, state, and local laws and regulations (some of which are unreasonable). Failing to successfully manage one or more of these challenges may result in a restaurant closing its doors. This in turn results in fewer jobs and less tax revenue.

Int. 1396-2019 proposes another unreasonable layer to this already complicated matrix by forcing a private restaurant operator to prove to the City – which has no legal interest or financial risk in the business – why they have a “bona fide economic reason” to lay off workers. As discussed above, the reason why New York is an at-will employment state is to provide employers with the right and flexibility to hire and let go workers to meet the demands of their businesses BEFORE becoming insolvent. Again, if a restaurant closes its doors, they cannot hire any workers.

This proposed legislation will foster restaurant insolvency by controlling a restaurant’s operations.

For example, the highest demand periods for an ice cream shop are the spring and summer months. If the restaurant operator can’t cut back worker hours during the fall and winter, they likely won’t make it until the high demand season.

#### **No Regard for Specific Jobs**

In addition to the fact that city government does not have the business experience to make such determinations, in the event they do enable a restaurant to lay off some of its workers, they will also require who is laid off and when – regardless of their position, experience, job performance, availability, or any other number of factors.

For example, a restaurant has five cashiers, three line cooks, and two cleaning crew members. The business owner knows that laying off one cashier and one cleaning crew member is the best decision for his or her business because the owner can help on the register and stay after hours to clean, and knows that without prompt food service, they will lose customers and money. However, Intro 1396-2019 forces them to let go her two most recent hires, which happen to be two of the line cooks.

Under this proposal, this restaurant would fail because it would either have to (1) keep all the employees, which they cannot afford and sinks their business into further economic hardship; (2) be forced by government to lay off two line cooks, won't be able to meet customer demand, and will lose customers and sink their business into further economic hardship; (3) take out a second mortgage, sell their home house, and/or take out a high-interest bank loan, placing themselves in further economic hardship; (4) or close the restaurant and lose the time and money they invested, leave all of their employees without jobs, and create yet another an empty storefront in New York City.

Additionally, this legislation also does not account for the lives of individual employees, and the flexibility they desire. An employer may employ a college student who has told him that, in three months, they are graduating and has secured another job. The business owner also employs someone who was recently hired. Despite knowing that this college student is leaving the business in three months, the business owner is forced to fire the new employee because they are the most recent hire, even though they plan to be there for the long-term.

It is for these, and many other reasons, we oppose Int. 1396-2019.

We continue to receive questions and concerns from local quick-service restaurants including, but not limited to:

- When will the Council stop attacking us?
- Why do they keep focusing on our industry?
- Why don't they care about my testimony or seek my input before passing a new law?
- Don't they know I will have to close if this keeps happening? My employees and I have families to provide for!

Unfortunately, we do not have answers for them.

We hope that this testimony provides insight to your business constituents, a thorough explanation of why these bills will exponentially hurt both owners and employees, and alternative approaches that would seek to weed out bad actors rather than hurt an entire industry.

The National Restaurant Association and our members are available and welcome the opportunity to discuss any questions or provide additional information. We sincerely hope we can work together on viable solutions to address the concerns of the Council and bring news back to restaurant employers that their voices were heard.

Thank you for the opportunity to testify and I hope you consider the views of America's small and family-owned businesses.

**Keith Stephenson**

Director, State and Local Public Affairs

National Restaurant Association

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FOR THE RECORD

**Testimony before the  
Committee on Civil Service and Labor of the New York City Council**

***Employment Rights for Fast Food Workers***

**February 13, 2020**

**James A. Parrott, PhD  
Director of Economic and Fiscal Policies  
Center for New York City Affairs at The New School**

Good afternoon, Mr. Chairman, and members of the Civil Service and Labor Committee. My name is James Parrott, Director of Economic and Fiscal Policies at the Center for New York City Affairs at The New School. Thank you for the opportunity to testify on Intro 1415 and Intro 1396 that would expand employment rights for fast food workers.

New York City's restaurant industry has prospered in recent years with strong sales resulting from rising household incomes and a booming tourism sector. Annual sales are about \$23 billion. The fast food restaurant segment has been the fastest growing with employment rising by 30 percent over the past six years, reaching nearly 80,000 workers today. Nearly half (47 percent) of the city's fast food jobs are in Manhattan. Average wages are highest in Manhattan, where industry job growth has been twice the national pace since 2013.<sup>1</sup>

Even as the minimum wage has risen at historic rates since 2013, the number of fast food jobs in New York City climbed twice as fast as overall private employment. Industry fears about job losses and generally adverse effects of the rising minimum wage were not borne out by economic reality. Nor have there been dire consequences from the introduction of fair work week legislation over two years ago.

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<sup>1</sup> Lina Moe, James Parrott, and Yannet Lathop, *New York City's \$15 Minimum Wage and Restaurant Employment and Earnings*, Center for New York City Affairs at the New School, August, 2019.

While inflation-adjusted wages for New York City's fast food workers have risen at an annual rate of 5.2 percent from 2013 to 2018, the 2018 average annual wage of \$23,500 was still under the federal poverty level for a four-person family and about 25 percent less than the NYC.gov poverty threshold.

The two bills before the Committee today are exemplary of the leading role New York City has been playing in recent years in bolstering fundamental employment protections for low-paid workers at a time when the national government has turned its back on workers. Just cause protections are common sense, fair to employers as well as workers. These protections will help workers struggling to support their families in high-cost New York City.

These bills inject essential elements of fairness into the workplace, allowing workers a semblance of economic stability and due process. Nothing in these bills imposes an undue burden on employers—they mainly serve to elevate the importance of professional management practices that business schools hold up as the model for high-performing businesses. Enactment of these bills also makes a much-needed and important public statement reminding us of the dignity of all workers.

# # #



**Testimony of Clara Wheatley-Schaller on behalf of The NY NJ Joint Board of Workers  
United, SEIU**

**NYC Council Committee on Civil Service and Labor**

February 13, 2020

Good afternoon Council Member Miller and members of the committee. Thank you for the opportunity to submit testimony today. My name is Clara Wheatley-Schaller and I am the Political Coordinator at the NY NJ Joint Board of Workers United, SEIU.

Workers United represents thousands of retail and manufacturing workers in New York and is actively organizing nail salon workers. Nail salon workers and fast food workers face many of the same unstable and exploitative working conditions. We are testifying in solidarity with fast food workers and in support of “Just Cause” protections (Intro 1415 and Intro 1396).

Fast food workers are often fired arbitrarily, which throws their lives into disarray and sows chaos throughout unstable workplaces. This sudden loss of income can often mean the difference between having a stable address and being homeless. A 2019 report by the Center for Popular Democracy, Fast Food Justice, The National Employment Law Project, and 32BJ found that fast food employers terminate workers with alarming frequency and that many workers are denied even a basic explanation when terminated. This throws workers into poverty and forces thousands of New York families to live in constant uncertainty and fear.

Currently workers have no legal recourse if they are fired without just cause. New York City does not have to continue to tolerate this abuse of one of its most vulnerable workforce. Our city has been at the forefront of addressing injustices in the fast food industry and should continue to lead by enacting “Just Cause” legislation. This policy would hold giant fast-food chains accountable, address a severe power imbalance, and bring stability and security to more than 67,000 fast food workers. “Just Cause” would not only positively impact fast food workers, but it would also benefit fast food companies and customers, who would be able to count on better-trained and more experienced staff. This legislation would also bring stability and security to communities across the city and benefit taxpayers, who currently have to pick up the tab for these arbitrary terminations in the form of unemployment benefits, food stamps, and shelter costs.

We thank Council Member Lander and Council Member Adams for recognizing the need to protect fast food workers and encourage the City Council to continue to lead on this issue by passing both passing these two important bills.

Thank you.

**Testimony of M. Patricia Smith**

National Employment Law Project

**In Support of Int. 1396 & Int. 1415  
Extending “Just Cause” Employment  
Protections to New York’s Fast Food  
Workers**

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**Hearing before the New York City Council**

Committee on Civil Service and Labor

City Hall

New York, New York

February 13, 2020

**M. Patricia Smith**  
Of Counsel

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**National Employment Law Project**  
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(202) 579-0644  
psmith@nelp.org

Thank you for the opportunity to testify today in support of Int. 1415 and Int. 1396. My name is Patricia Smith and I am a former Commissioner of Labor here in New York and was Solicitor of the U. S. Department of Labor in the Obama Administration. I am currently of counsel to the National Employment Law Project.

By way of background, in this country most employers can fire their employees for almost any reason, or for no reason at all — which means employees can be fired on a whim with no warning and no process. That’s because most workers in the U.S. are “at will” employees under the law.

The problem of unfair firings is especially common in New York’s fast-food industry—a fast-growing sector that disproportionately employs Black and Latino New Yorkers. In a recent survey, fast-food workers who lost their jobs with little notice and for no good reason reported facing food insecurity, eviction, loss of childcare, or having to drop out of school.<sup>1</sup> These harms hurt families and ripple across communities.

The pair of bills before you would set some minimum standards for terminations in the fast-food industry. They would modify the default “at will” employment system to require that workers be given notice of any job-performance problems and a chance to address them before losing their jobs. The bills would protect workers from being fired for arbitrary or capricious reasons. They would also require that layoffs be justified and use “reverse seniority,” meaning the most junior employees are laid off first.

Industry opponents have objected that such standards are unprecedented and would stifle business. But in fact, there is extensive precedent in both the U.S. and abroad for setting minimum

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<sup>1</sup> National Employment Law Project, Center for Popular Democracy, SEIU 32BJ & Fast Food Justice, “Fired on a Whim: The Precarious Existence of NYC Fast-food Workers” (Feb. 2019), available at <https://populardemocracy.org/sites/default/files/Just%20Cause%20Complete%20Final%20-%20Web%20V2%20FINAL.pdf>

fair process standards, often called “just cause,” before workers can be fired. Many other industrialized economies, including some Canadian provinces,<sup>2</sup> require notice and good reasons, before a worker is fired. In the U.S., Montana<sup>3</sup> and Puerto Rico<sup>4</sup> have long had “just cause” employment standards. Last year, Philadelphia adopted legislation similar to the current New York City proposal for parking lot employees, after workers came forward with stories of arbitrary firings and abusive treatment.<sup>5</sup>

Under a just cause system, employers are asked to use “progressive discipline”—which simply means warning employees first about performance problems and giving them coaching and a chance to address them, before imposing discipline, including discharge. Under progressive discipline, employers retain substantial latitude to manage employees and of course can still immediately fire workers for egregious misconduct.

Moreover, in New York and across the country, there is a well-established body of human resources rules and legal standards for how “just cause” employment should operate. They’ve been developed in the context of unionized workforces—since virtually all union agreements require just cause before an employee can be fired. In fact, the standard is common in employment contracts for CEOs

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<sup>2</sup> Society for Human Resources Management, “To Fire Employees in Canada, You Need a Reason and Notice - There is no at-will employment in Canada,” (May 30, 2019), available at <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/global-canada-termination-notice.aspx>

<sup>3</sup> American Constitution Society, “Just Cause in Montana: Did the Big Sky Fall?,” (Sept. 2, 2008), available at [https://www.acslaw.org/issue\\_brief/briefs-2007-2011/just-cause-in-montana-did-the-big-sky-fall/](https://www.acslaw.org/issue_brief/briefs-2007-2011/just-cause-in-montana-did-the-big-sky-fall/)

<sup>4</sup> Society for Human Resources Management, “An Overview of Puerto Rico Employment Law,” (Dec. 5, 2018), available at <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/overview-puerto-rico-law.aspx>

<sup>5</sup> City of Philadelphia, “Why Philly’s new “Just Cause” law for parking workers is so important,” (Sept. 11, 2019), available at <https://www.phila.gov/2019-09-11-why-phillys-new-just-cause-law-for-parking-workers-is-so-important/>

and other executives, where most typically are guaranteed lavish severance packages if they are fired unless the company can show there was just cause for the firing.

What is a "just cause" standard? In 1964, professor and arbitrator Dr. Carroll Daugherty developed a seven-part standard upon which the discipline or discharge of an employee is analyzed, and this standard is still commonly accepted and used by arbitrators and courts.<sup>6</sup> These principles generally correspond to the standard set forth in the just cause bills that are before the committee today.

They include:

1. NOTICE—The employee must have adequate notice of rules and expectations. Exceptions may be made for certain conduct, such as insubordination, or stealing employer property, that is so serious that the employee is expected to know it will be punishable.
2. REASONABLE RULES OR ORDERS—The employer's rule or order must not be arbitrary, instead it must be reasonably related to efficient and safe operation of the employer's business.
3. INVESTIGATION—The employer must make a sufficient effort to discover whether the employee did, in fact, violate or disobey a rule of management.
4. FAIR INVESTIGATION— The investigation must be fair and objective. For example, were all possible observers of the alleged rule violation interviewed or were only management witnesses interviewed.
5. PROOF— The investigation must produce substantial evidence or proof of guilt. While this standard is not as rigorous as one courts apply in civil cases, the employer must have real evidence, not guesses.
6. EQUAL TREATMENT— The rules, orders, and penalties must be applied evenhandedly and without discrimination. If enforcement has been lax in the past, management cannot suddenly reverse its course and begin to crack down without first warning employees of its intent.
7. REASONABLE PENALTY—The discipline, including discharge must be reasonably related to the seriousness of the offense and the past record.<sup>7</sup>

Just cause also helps mitigate treatment that is technically prohibited but goes unenforced.

Although some forms of mistreatment—like being fired for complaining about discrimination or

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<sup>6</sup> In re Enterprise Wire Co. and Enterprise Independent Union, 46 LA 359 (Mar. 28, 1966).

<sup>7</sup> Ibid.

wage theft—are illegal, it’s hard for most workers to enforce those rights since most can’t afford to hire a lawyer. And even if they could, it’s far too easy for employers simply to say they fired the worker for any other reason, or no reason at all, and escape responsibility. But under just cause, where an employer must articulate a job-related reason for firing a worker, it becomes much more realistic for workers to assert their rights on the job.

Just cause protections also offer broader benefits for workers and our economy. One major problem facing workers today is the fact that, despite more than a decade of economic growth and record low unemployment, paychecks for most workers have not been increasing except when the minimum wage goes up.<sup>8</sup> One big reason is job insecurity, which prevents workers from bargaining for better pay on the job. When workers know they can be fired for just about any reason, they understandably fear displeasing their employer by asking for more. Moreover, higher job security has been associated with higher worker productivity, which is good for businesses.

Ensuring that workers receive notice, a good reason, and fair process before losing their jobs protects families and communities and is good human resources policy. The City Council’s proposed just cause protections for fast-food workers are a good place to start.

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<sup>8</sup> National Employment Law Project, “Minimum Wage Increases Reverse Post-Recession Wage Declines for Workers in Lowest-Paid Jobs” (Feb. 7, 2020), available at <https://www.nelp.org/publication/minimum-wage-increases-reverse-post-recession-wage-declines-workers-lowest-paid-jobs/>



# New York Taxi Workers Alliance

*National TWA, AFL-CIO, Intl. Transport Workers' Federation*

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Testimony of Zubin Soleimany, New York Taxi Workers Alliance  
New York City Council, Committee on Civil Service and Labor: Intros 1396 and 1415  
Scheduled for February 13, 2020

Good afternoon Chair Miller, and Committee members. My name is Zubin Soleimany and I am a staff attorney with the New York Taxi Workers Alliance (NYTWA), the 21,000-member strong union of drivers of yellow cabs, green cabs, and black cars.

The NYTWA is proud to stand with our brothers and sisters working in the fast food industry, SEIU 32BJ, and Fast Food Justice to strongly support Intros 1396 and 1415. The goals of these bills, to create a just cause standard for terminations, clear standards for progressive employee discipline, and clear written explanations for terminations, are essential to economic security for fast food workers.

For NYTWA and our app-based driver members, the struggle of fast food workers to not only establish a right to decent wages, but to build upon these rights and create real economic security through Intros 1396 and 1415 is a familiar one. Like fast-food workers, app-based FHV drivers are predominately immigrants and people of color, working at low wages, but who have both won laws or rules providing a \$15 an hour minimum wage or earnings standard. But for all these workers, a \$15 minimum wage or TLC pay regulations can't provide economic stability when your boss, whether it's Chipotle or Uber, can simply fire you for a bad reason, for no reason at all, or slash your full-time schedule in half overnight.

Drivers know too well the economic insecurity of unfettered and arbitrary terminations and schedule reductions. NYTWA members have been fired upon mere allegations of misconduct without no meaningful and impartial opportunity to contest the accusations against them. Like fast food workers, drivers often don't even receive a basic explanation when they're fired. Typically, drivers will be told they are merely being deactivated for unspecified "safety reasons;" in such cases, since drivers don't even know what the allegations are, or what trip they relate to, it is impossible to defend against such charges.

Likewise, many drivers toil with uncertain and irregular schedules. In recent months, FHV companies have tried to dodge the purpose of the minimum driver pay rules by forcibly logging off drivers from the apps, reducing their hours and income, based on the number of trips a driver has performed in a recent period. A trip home to visit family or a week out with the flu can be the difference between being allowed to work a full-time schedule and finding yourself locked out of the app and not earning enough to make a car payment, or to avoid eviction.

It should not be the case that, in our City, people who make some of the largest private companies in the world function, can simply be tossed aside without a reason, or any due process. New York has the opportunity to create economic stability for fast food workers: if the \$15 minimum wage offered the promise of a decent income for fast food workers, Intros 1396 and 1415 help secure that promise. We urge you to pass these bills, and look forward to seeing the Council take similar steps to fulfill the promise of the minimum payment rules for for-hire vehicle drivers.

Thank you for the opportunity to comment on the pending legislation.

Zubin Soleimany  
Staff Attorney  
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Zubin Soleimany  
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**Testimony of Kyle Bragg**  
**President, 32BJ SEIU**

**New York City Council, Committee on Civil Service and Labor**

**Int. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Kyle Bragg, President of 32BJ SEIU.

Thank you for holding this hearing and for considering these two important pieces of legislation introduced by Committee Member Adams and Council Member Lander. Combined, Intro 1396 and 1415 will give fast food workers in New York City “just cause” protections from arbitrary firings, cuts in hours and layoffs.

In short, these bills will give fast food workers the respect they deserve.

The fast food industry is rife with management practices that treat workers as disposable commodities. A report issued last year by the Center for Popular Democracy and the National Employment Law Project found that 50% of surveyed fast food workers in New York City reported losing their job on unjust terms, including being fired or being forced to quit.<sup>1</sup>

You’ll hear today from workers who have suffered from these practices first hand. Men and women who work for companies that are worth billions of dollars but whose managers see fit to fire workers on a whim or reduce their hours to a point that they can’t make enough to survive.

No one should be treated like this when they go to work.

Workers should at the least be able to expect that if they are doing something wrong on the job, their boss will let them know about it and give them a chance to improve. It is also reasonable for workers to expect that if their company does face bona fide economic headwinds – their years of service will be recognized in the order that any layoffs occur. That is what these bills seek to ensure - the basics of fair management practices that millions of Americans take for granted.

Fast food workers have won some remarkable victories in recent years including a \$15 minimum wage and, with the help of the City Council, fair scheduling laws. Even with these advances though, the threat of a downward economic spiral remains a risk for fast food workers while their employer is able to fire them or cut their hours without any legitimate reason.

I ask you today to listen to the stories of fast food workers today and then to stand with them in their fight for dignity on the job by giving these bills your strongest possible support.

In hearing the workers stories it will also be evident that breaches of existing City laws, including paid sick and fair scheduling, is endemic in the fast food industry. I also ask that you support the adequate resourcing of the Department of Consumer and Worker Protection so that it can ensure that the advances workers achieve here before the council translate into real and felt change in their daily lives.

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<sup>1</sup> See "Fired on Whim: The Precarious Existence of NYC Fast-food workers" (pg. 5) available at: <https://www.nelp.org/publication/fired-on-a-whim-the-precarious-existence-of-nyc-fast-food-workers/>



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is NETTE CUMBERBATCH, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is MARCOS MORILLO, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Marisol Ruiz, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Incoronata Christenson and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is David Harrison, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Tracey Mounter, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Betty Duncan, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Betty Duncan



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Selena McKay, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Selena McKay



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Jabari Elshami, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Vladimir Clair-Jeune, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Rasmus Harryson, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Glenise V. Bernard, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Glenise Bernard



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is ANDREA Bundy and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Olivia Burke, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Olivia Burke



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Rachael M. Smith, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Roselio Brown, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Vaughan Wilson, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

A handwritten signature in blue ink that reads "Vaughan Wilson". The signature is written in a cursive style and is positioned above a horizontal line.



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Suzanna Collier, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

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Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Alberto Grant Sr., and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is JOSAFATHICIANO, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

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Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Marion Remon, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Jordan Weiss, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Jordan Weiss



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Geoffrey Benjamin and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Geoffrey Benjamin



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Andrew Plass, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

A. Plass



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Joann Donahue, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Joann Donahue



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is ALBERT STEWART, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

A handwritten signature in blue ink that reads "Albert Stewart". The signature is written in a cursive style and is underlined.



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is KHATTAK SHAHZAD, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is P. CHANDHURY, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

P. CHANDHURY



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Jose n Rodriguez and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Edwin Cappa, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Joyce Phillips, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Michael Catala, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Denzyl Prince, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

Denzyl Prince



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is CANDICE BRAYTON, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Hudson Williams, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

A handwritten signature in blue ink that reads "Hudson Williams". The signature is written in a cursive style and is underlined.



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is Nesrin Tabaru, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is INDERA SINGH and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

I. Singh



February, 12<sup>th</sup> 2020

New York City Council  
250 Broadway  
New York, NY 10007

To the New York City Council:

My name is DANON MACK, and I am a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely,

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Timothy Lebrón. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Wanda Soverbi. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



A handwritten signature in blue ink, appearing to read 'Wanda Soverbi', is written above a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Robert Murray I'm a 32BJ member.

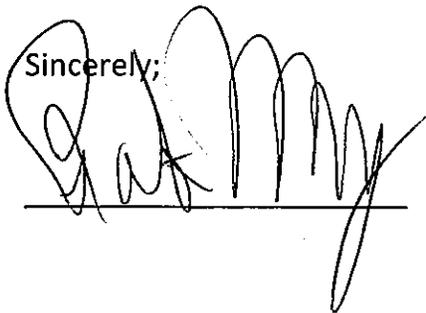
I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read "Robert Murray", written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Sean Reilly. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Bryce Moreno. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



February, 13<sup>th</sup> 2020

To the New York City Council:

My name is DANUTA KLOSINSKI. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Danuta Klosinski

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Matte Reyes. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Matte Reyes

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Eduardo Zevallos. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



A handwritten signature in blue ink, appearing to read 'Eduardo Zevallos', is written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Mike Bradley. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Mike Bradley

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Zamir Khan. I'm a 32BJ member.

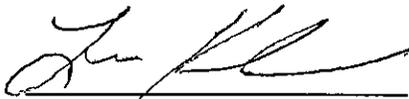
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Martina Perez. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

  
\_\_\_\_\_

February, 13<sup>th</sup> 2020

To the New York City Council:

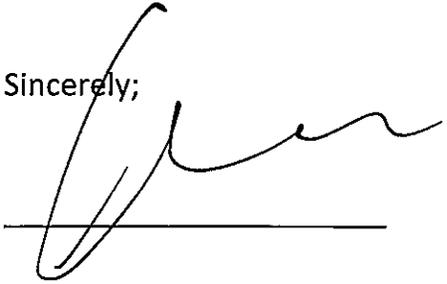
My name is Elizabeth Salomon a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;  


February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Rebecca Breslaw. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

  
\_\_\_\_\_

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Luz Mate. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Luz Mate

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Andrew Lang. I'm a 32BJ member.

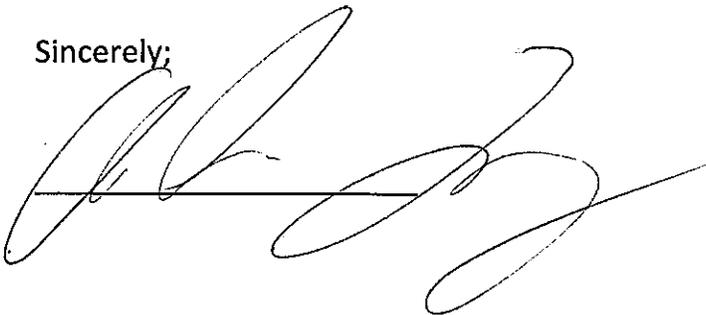
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read 'Andrew Lang', written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Michelle Galaza. I'm a 32BJ member.

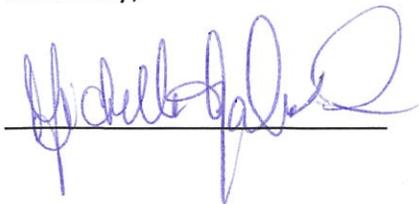
I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



A handwritten signature in blue ink, appearing to read 'Michelle Galaza', is written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Cirilo Grullon. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Ethan Felder. I'm a 32BJ member.

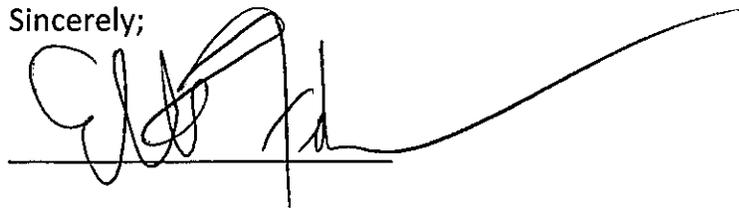
I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read 'Ethan Felder', written over a horizontal line. The signature is stylized and extends to the right with a long, sweeping tail.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is NINA MAST. I'm a 32BJ member.

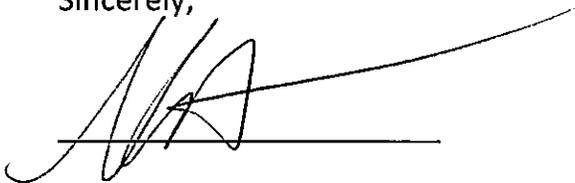
I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read 'NINA MAST', is written over a horizontal line. The signature is stylized and cursive.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is SHEA BARRY. I'm a 32BJ member.

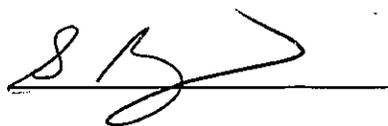
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read 'S BARRY', is written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Pedro PERAZA. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



A handwritten signature in blue ink, appearing to read 'Pedro Peraza', is written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Jose Rodriguez. I'm a 32BJ member.

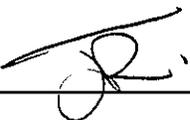
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



\_\_\_\_\_

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is William Labrada. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

William Labrada

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is William Zapata. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

William Zapata

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Raquel Garcia. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Raquel Garcia

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Mike Cassaday. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Michael  
Cassaday

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Kenny Hernandez. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read 'Kenny Hernandez', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Jessica L Ortiz. I'm a 32BJ member.

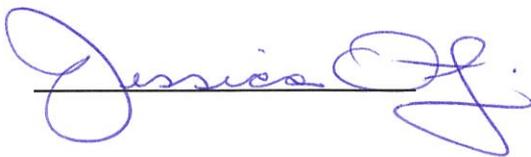
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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in blue ink, reading "Jessica L Ortiz", written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Tracy Mowbray. I'm a 32BJ member.

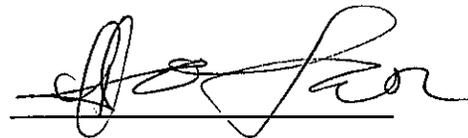
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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read 'Tracy Mowbray', is written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Arhuna Wenzel. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

Arhuna Wenzel

February, 13<sup>th</sup> 2020

To the New York City Council:

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- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



February, 13<sup>th</sup> 2020

To the New York City Council:

My name is AHMAD MUSTAFA. I'm a 32BJ member.

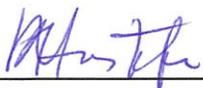
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Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

  
\_\_\_\_\_

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is JORGE E. ARBOLEDA I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;

A handwritten signature in black ink, appearing to read "Jorge E. Arboleda", written over a horizontal line.

February, 13<sup>th</sup> 2020

To the New York City Council:

My name is Anoaa Bonete. I'm a 32BJ member.

I think Fast Food workers need just cause protections. In my job I have these protections and I know the low wage workers who need it the most cannot accept further delays. The Fast Food industry makes billions of dollars a year and workers need basic protections.

Just Cause legislation for Fast Food workers would:

- Prohibit employers from firing an employee for any reason other than the employee's failure to perform job duties or misconduct in the workplace that harms the employer's legitimate business interests.
- Require that progressive discipline is utilized, allowing workers to receive opportunities to correct the behavior before being fired.
- Require employers to provide a written explanation to any fast food employee they terminate.

Thank you for your consideration. Again, I want to strongly state my support for Intros 1415 and 1396 - Fast Food workers in NYC need just cause protections now!

Sincerely;



\_\_\_\_\_

## **Testimony of Gavin Florence**

### **New York City Council, Committee on Civil Service and Labor**

**Int. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members, my name is Gavin Florence and, until recently, I worked at Chipotle Mexican Grill.

I am here to say that workers like myself need the protections provided in the Just Cause legislation that was introduced almost a year ago in the City Council.

On November 6th, I was returning from vacation and scheduled to work when my flight was delayed. I called my Assistant General Manager and told him I was going to miss my shift. He told me it was fine and that he had found another coworker to cover my shift.

The next day, November 7<sup>th</sup>, Chipotle emailed me telling me I was fired. I was shocked.

Immediately, I called my General Manager who told me that he fired me because I missed my shift without giving notice – a “no-call no-show.” He said the Assistant GM, never told him that I called ahead and that his failure to communicate this was my fault.

Even if I had missed my shift without giving notice, Chipotle does not consistently terminate workers for this offense – I know several coworkers who have done a “no-call no-show” multiple times without punishment.

Since being fired, I have struggled to pay my rent and tuition towards graduate school where I am studying law.

My unfair termination by Chipotle has set me back financially. Under the Just Cause legislation, Chipotle would not have been able to use an inconsistently enforced rule to fire me. If they disputed the facts of my case, I would have access to a fair arbitration system to resolve my employment status. Instead, I am worried about losing my housing.

Right now, fast food workers have few protections against capricious managers: we need Just Cause. Committee members, I ask that you support this legislation and stand with us as we ask the council to pass it into law.

## **Testimony of Melody Walker**

### **New York City Council, Committee on Civil Service and Labor**

#### **Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My Name is Melody Walker.

I worked at the Chipotle store at 55<sup>th</sup> Street and 3<sup>rd</sup> Avenue for a little under a year until I was fired without just cause in August 2017. My story explains why you need to pass the bill this bill into law.

I'm a single mum. I have two daughters aged 8 and 17. When I started at Chipotle I was working 23 hours a week before being moved up to regularly work between 30 and 35 hours. I did my job well and made sure I arrived early for my shifts. I was hopeful that it would be a stable job with an income I could support my family with.

Things changed when a new manager took over the store. He cut existing workers' hours, including mine, while bringing on new workers from other stores. It seemed clear to me that we was trying to drive out workers who had been at the store before he arrived.

My hours were cut to as low as eight per week. Things were so bad that I had to go on unemployment while I was still working. It is crazy that anyone should have to get public benefits while working for a company that makes billions of dollars a year.

When I was fired it happened on the spot during a shift. The manager told me that I was not smiling while I was at the counter. I was shocked. There were not even customers in the store at the time.

If this law had been in place and my manger acted as he did, I would had the right to challenge my hours being cut and my firing. Instead I had no protection. It took me months to get another job and put my family's life back on track. I had to get public assistance again to help pay my bills.

I don't want anyone to have to go through what I did. I ask to you to support this bill and give fast food workers protection again unfair treatment. Thank you.

**New York City Council, Committee on Civil Service and Labor**  
**Intro. 1396 and 1415 of 2019**  
**February 13 2020**

Good afternoon, Chair Miller and other members of the Committee on Civil Service and Labor. My name is Alyssa Peterson and I am a Liman Fellow for Worker Justice at the Center for Popular Democracy. I am here to present testimony from Ana Maria Archila, who serves as Co-Executive Director at CPD.

We thank you for the opportunity to testify today.

CPD is a high-impact national organization that builds organizing power to transform the local and state policy landscape. We do this work through deep, long-term partnerships with leading community-based organizing groups nationwide. The victories of fast food workers in New York City in recent years is a perfect example of what can be accomplished through the approach that we champion. Fast food workers organized to win a \$15 minimum wage and brought about Fair Workweek laws here in New York City.

Each of these victories has moved fast food workers further towards their goal of transforming the industry into one that gives workers the dignity and respect they deserve.

This goal will always be undermined, however, while fast workers remain “at-will” employees who can be fired at any time, without explanation. Workers toil under the constant threat of an arbitrary termination that may send their family reeling into homelessness, force them to drop out of school, or otherwise disrupt their economically fragile lives without warning.

Together with the National Employment Law Project, and SEIU 32BJ, CPD issued a report last year that detailed the precarious working conditions faced by fast-food workers. Our survey of 539 New York City fast-food workers found that 50 percent had been fired, laid off, or compelled to quit a fast-food job due to intolerable working conditions.<sup>i</sup> Sixty-five percent of these workers reported that they were denied even a basic explanation when they were terminated.<sup>ii</sup>

This is a workforce that is already vulnerable. Two-thirds are women, two-thirds are immigrants and 88% are people of color. This, combined with the threat of dismissal and a business model that tolerates exceptionally high work place turnover, contribute to the proliferation of abusive employment practices. Our report detailed separate data and survey results showing that 90% of fast food workers experienced wage theft, 78% had been injured on the job, 73% had sustained multiple burn injuries and 40% of women working in fast food reported unwanted sexual behavior at work.<sup>iii</sup>

Yes, many of these abuses are prohibited by other laws. But when employers can fire workers on a whim – without giving any reasons at all – it’s all too easy for them to discriminate or retaliate against workers who stand up for their rights.

## **Testimony of Jeremy Espinal**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

**FOR THE RECORD**

My name is Jeremy Espinal and I am a fast food worker.

I love working at Chipotle and I want it to succeed in its aspiration to be a different, fresher food provider serving the public.

But, while I care about Chipotle, I get the impression that the feeling isn't mutual.

Chipotle treats me as something disposable and it feels like the company doesn't care about me as a person.

I have worked at Chipotle for about two years. I have been a leader in my Chipotle workplaces, fighting for better working conditions for me and my co-coworkers. I have spoken out about how our poor working conditions have the potential to affect food safety, as well as poor training and understaffing, especially during lunch and dinner rushes.

And that has made me a target. Chipotle supervisors cut down the hours I am able to work and pushed me out of one restaurant.

In 2019, a general manager at the Chipotle where I was working at the time cut my hours from 25 hours a week to 11 hours a week.

This happened after I had spoken to him and told him I was done with my semester at school and that I was free to pick up more hours. This supervisor, meanwhile, hired seven new workers without ever offering more hours.

This has not only affected me but most of my coworkers.

I fight so hard because I want Chipotle to be a better employer, for Chipotle to treat me and my co-workers like human beings who deserve better treatment.

If we have 'Just Cause,' if the burden of proof is on our employers to show why they want to get rid of us, it may level the playing field somewhat.

That is why I am here today.

**Testimony of Jahaira Garcia**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

My name is Jahaira Garcia. I am a 21-year-old fast food worker from New York City. I am also a full-time student with a double major in Biology and Psychology at City College.

Last year, after I led a delegation to talk about problems in the workplace, my manager cut my hours in half.

My paychecks from working as a takeout supervisor at Chipotle support my two sisters, my father and me.

If we had 'Just Cause,' my manager would have some explaining to do.

To give you an idea of the scale of the problem, we have more than 80,000 fast food workers in New York City, most of them women of color, working at more than 6,000 fast food restaurants.

A lot of you may have heard that almost eight years ago (way before my time--I was 12 years old then), New York City fast food workers went on a strike, thereby igniting the "Fight for \$15 and a Union" movement.

We won the \$15 minimum wage but we are still fighting for the Union part.

After we won \$15, we fought for and won the Fair Workweek Law to regularize our hours and give us access to more hours.

Then, this year, with the help of 32BJ SEIU, NELP and others, we are fighting for a "Just Cause" law in New York City.

Right now an employer can either cut our hours drastically or terminate our employment for no reason at all.

That, in a nutshell, is the problem that we are facing.

We simply do not have any control over our lives.

That is what we are fighting to change.

**Testimony of Luz Perez**

**FOR THE RECORD**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Luz Perez and I used to work for Chipotle Mexican Grill. I am here today to ask for your support in passing just cause protections.

I started working at Chipotle in September 2018. I am a part-time student and a full-time mom. When I first interviewed for my job, I explained to my manager that I could work 5 set days per week, and that I needed off on Tuesday and Saturdays to accommodate recurring doctor's visits and my class schedule. My manager said she understood and assured me I would be scheduled to work full-time. This was far from the truth. The closest I ever came to working full-time was 32 hours - both times because I picked up shifts from a coworker on vacation.

Within a month of starting at Chipotle, in October 2018, my manager began to schedule me on Saturdays. When I reminded her of our initial conversation, she got upset with me and accused me of giving her the wrong availability. My manager refused to adjust the schedule, telling me that it was set 3 weeks in advance and could not be changed. I was forced to call out for Saturday shifts or find coverage through a coworker.

By December 2018, my hours dropped to 20. When I asked about the decrease, my manager called me "irresponsible" and "lazy," referencing the Saturdays I could not work the previous month. I felt disrespected and deeply upset that my manager spoke to me this way. I am a single parent, and I take pride in working hard to take care of my son while also going back to school. I was honest and transparent about my schedule when I was hired Chipotle, but my manager did not hold herself to the same standard.

Just cause legislation would bridge this gap and offer workers like me protection from arbitrary and destabilizing cuts in hours that can undermine our efforts to raise our families in New York City.

Please support these bills and the families whose livelihoods depend on them.

**FOR THE RECORD**

**Testimony of Princess Wright**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Princess Wright and I worked at a McDonald's store on Atlantic Avenue in Brooklyn until I was fired unfairly two days before Thanksgiving last year.

Firings without cause are rampant in the fast food industry. I have seen co-workers fired because the manager was in a bad mood, or in one case because the manager said she created "bad vibes".

In my case I had changed my schedule to accommodate a shift change at the manager's request. I then had a personal emergency where my landlord was arrested and left her infant daughter in my care.

I called my manager well in advance of the shift to let him know I couldn't make it to work. He was understanding over the phone, but when I came in for my next shift, he fired me, citing a list of write-ups I had never seen before.

I was stunned and left without a job or a means to support myself.

Workers like me need some protection and that starts with our employers being required to demonstrate real, serious, work-performance issues before termination or reducing our hours.

In New York City fast food workers, including thousands of women of color like me, are doing everything that society asks of us — getting up before dawn or working overnight; commuting long hours to work; doing dangerous, physically demanding work; and missing meals with families.

It might be easy to overlook us and see what we do as dead-end jobs being done by teenagers looking for pocket money. But I am living proof that you can work in fast food and live a life of purpose. I will graduate this June with a degree in criminal justice, another vital step in my ambition to become a lawyer.

My passion is to fight for justice wherever it is needed. I ask you to support our call for justice today by supporting this bill and giving fast food workers the dignity and respect we deserve.

**Testimony of Sparkle Brown**

**FOR THE RECORD**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Sparkle Brown. My 6 months of working at Chipotle on Flatbush Avenue in Brooklyn ended 2 years ago when I was unfairly fired.

The entire time I worked at the store I felt I was discriminated against me for being African American. Things started to get bad when one of my colleagues was promoted to become a manager.

One day, while I was working the grill, my manager began to critique my performance, saying I wasn't doing it right and that I wasn't trained properly. She asked me who I was trained by. I told her that she had in fact trained me. I said if I wasn't doing it right was there more training I could take. Instead my manager gave me a manual and made me sign that I had received it.

Shortly afterwards, the manager and general manager began to complain about how I spoke and my interactions with customers. This was despite no customers complaining and other employees congratulating me on my work.

On a day store was slow and I was leaning on the counter and the general manager accused me of not wanting to be at work. She said if I didn't want to be there, then I should leave. I went to HR to file a complaint about discrimination I believe I was subject to.

A week later, while at work, I was called into the office by the manager and general manager. I was told by them both that I moved too slowly and they thought I didn't want to be there. They said they didn't like my "vibe" and that they heard I "went to corporate".

Because of these reasons, they said I was terminated.

I couldn't believe that I could be fired for what felt like petty reasons that were fueled by their bias against me. I had never even had a write up before. I asked them to confirm that they were firing me because of my "vibe" and because I went to HR and they both said yes.

Since being fired I've found a new job but the experience has made me extremely distrustful. I'm asking you to restore my faith that people can have power and be treated fairly by passing this bill into law.

**Testimony of Rey Cruz**

**FOR THE RECORD**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Rey Cruz and I worked at Dominoes on 181<sup>st</sup> street as a delivery rider for 4 years until I was recently fired in January 2020.

Delivery riders take on a lot of risk in order to deliver food and make money for fast companies. To do the job we need to buy our electric bikes that cost around \$2,000, and every day we risk our safety riding on New York's busy streets. If our bike gets stolen. We can't work. If we get hurt, we can't work.

I work to support my wife and my son. The hours I had at Dominoes meant things were always tight financially. After paying rent I didn't have much left over each month. I would have to say no when my son would ask me if I could buy him a new toy.

The week that I was fired my wife was sick and wasn't able to look after our son. He's nine years old but his disability means that he isn't able to speak well. It's hard for him to communicate with people he doesn't know, so needed to look after him.

I called the store to let them know that I wasn't able to make my scheduled shifts on Saturday, Sunday and Tuesday. Over the phone I was told this was ok. On the Wednesday I went into the store to speak to the manager about the situation with my family. This was when he told me that they didn't need my help anymore.

Losing my job has been hard on my family. I've found a part-time job at a deli. They treat me well but the hours aren't enough to cover our expenses.

Fast food workers need the council to pass this law. We are the people that make these companies millions of dollars. We need respect. When workers have no protections against being fired or having their hours cut, managers don't need to treat workers fairly. Instead of dealing with situations, like workers personal needs, through good management practices, they just fire workers and hire new people.

I don't want my former colleagues and other fast food workers to be treated like I was. I ask you to support this law to give fast food workers the dignity they deserve and to help them support their families without fear that they can be fired at any time. Thank you.

**Testimony of Freddy Flores**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Freddy Flores and I worked at Chipotle from September 2019 to January 2020.

Like a lot of workers here today, I was terminated with no fair process and without any reasonable grounds. We need you to pass the just cause bill to end these practices in fast food restaurants.

While I worked at Chipotle I also had a second job working construction to make sure I earned enough each week to pay my bills.

My manager at Chipotle understood my situation and had said to me that they were prepared to be flexible. If I was ever going to be late or miss a shift I just had to let them know.

On the Monday of the week I was fired my eye became irritated and swollen while I was working at my construction job. It was so bad that I had a hard time seeing. I let my manager at Chipotle know as soon as I could that I wouldn't be able to make my shift.

On the Tuesday my eye was still swollen. I went to the emergency room to have it treated. Unfortunately there was a long wait so I went to the pharmacy to buy some medication. This worked, but not in time for me to make my shift. I called my manager before my start time and told him I couldn't make it.

My next scheduled shift was Thursday. When I arrived to start work my manager told me that I was fired for missing the two shifts earlier in the week.

Like a lot of people, fast food workers juggle a lot in their lives, like multiple jobs, families and study. But fast food workers are treated as more disposable than other workers. After I was fired I found out that I had earned sick time that I could have used for the shifts I missed. If the employer had acted fairly, not only would I have not been fired, I would have been paid for the time I missed.

I'm pleased to be here today with other workers to ask you to support this bill and give fast food workers the protections they deserve.

**Testimony of Isis Harvey**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

**FOR THE RECORD**

Good afternoon Committee Chair Miller and Committee Members. My name is Isis Harvey and I am here today to ask for your support for the just cause legislation.

I used to work at the Chipotle at 1 Metrotech until I was fired this past year. They claimed I was fired for having multiple write-ups, but during my time at Chipotle, I only had one. When I asked them to provide proof, they told me they did not have to give it.

If we had just cause protections, I would have had multiple options to contest my firing and my managers would have had to prove they had a fair reason to fire me.

What I experienced was disrespectful and unprofessional. I am asking you to support just cause protections and help to pass this bill into law.

**FOR THE RECORD**

**Testimony of Edwin Cabrera**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Edwin Cabrera and I have worked as a delivery driver for Dominoes in Washington Heights since 2007.

I am happy to work hard. I have two children, a boy who's 15 and a girl who is 11, who rely on me to provide for the family. For a long-time I regularly worked more than 40 hours a week, sometimes up to 60.

A little over a year ago things changed. Management started to cut workers' regular hours. Mine were reduced to between 25 and 30. We were told it was because of increases to the minimum wage, but I don't think there is a fair explanation. Business is strong, people still love Pizza, and a company like Dominos can afford to pay decent wages without cutting peoples hours.

I've had to get a second job at a nearby Italian restaurant to make sure I have enough work and income each week. Having two jobs with two schedules makes it more difficult for me to be there when my children need me. I've missed special moments and don't get to spend as much time with them as I used to.

Companies like Dominos should provide family sustaining jobs – this means fair wages and enough hours. This bill would protect workers from companies unfairly cutting their hours. It would allow companies to make changes for bona fide economic reasons – but at least they would be required to follow a fair process and prove through their business records that the changes are warranted.

Thank you for your time and I ask you to stand up for working families by support this bill.

**Testimony of Sonia Martinez**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**FOR THE RECORD**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members, my name is Sonia Martinez.

I am appearing here today to ask you to support the just cause legislation that will protect fast food workers like me from arbitrary firings and cuts in hours.

I have been working at Chipotle for seven years. I used to receive around 34 – 36 hours each week. Then, my hours were cut to as low as 12 hours. When I asked why, they said business is slow, despite the fact that they continued to hire new workers.

Cuts to my hours have severely impacted my life. Medicine for my high blood pressure costs \$200 alone, and there have been times I simply could not pay for it because I was not working enough hours.

If we had just cause protections, my manager would not be able to cut my hours by more than 15 percent without giving me a fair reason. I would feel safer knowing that I will work enough each week to consistently pay for my medication.

Fast food workers with health issues like me need just cause protections. I ask you to please support these bills.

**Testimony of Araceli Garcia**

**FOR THE RECORD**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Araceli Garcia. I am here to tell you why fast food workers like me need just cause protections against unfair firings and reductions in hours.

I work at Chipotle at 504 6<sup>th</sup> Avenue. I have been working at Chipotle for over 6 months. In my time working at Chipotle, my hours have fluctuated, ranging from 25 to 30 hours per week. In the last two months however, my hours have stayed at 25 a week.

This reduction has had a big impact on my life. I have a baby and rely on having a stable schedule and enough hours to be able to take care of her. My mom takes care of my daughter while I am out, and my inconsistent hours and schedule makes it difficult for her to schedule her own appointments.

I need to be able to support my family and offer my child stability. If the City Council passes the just cause law, my employer will no longer be able reduce my hours this much without a reason.

My coworkers and I are asking you to support these bills. Families like mine cannot wait any longer.

**FOR THE RECORD**

**Testimony of Brianna Augustin**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Brianna Augustin. I work at the Chipotle on 1379 6<sup>th</sup> Ave.

Last summer, I found out I was pregnant- my expected due date is February 2020. Since then, I have been working to save up money for my maternity leave so I can care for my newborn baby girl when she arrives. I used to receive from 30 to 40 hours each week. Although there was some variation, I was close enough to full time that I could make do. Recently though, my General Manager cut my hours down to 25 to 28 each week. She never gave me a reason for this cut.

The reduction in my income has made me very nervous for my financial situation come February. New York State's paid family leave program is tied to average weekly pay. This means the reduction in my hours will translate to a reduction in the benefits I will receive once my daughter is born. What should be the happiest moment of my life has increasingly become a source of financial stress.

I am far from the only fast food worker struggling to care for a child. We need the Just Cause legislation to protect us from arbitrary and destabilizing cuts in hours that, while unrelated to our work performance, can have a devastating impact on our ability to provide for our loved ones.

Committee members, after hearing stories like mine, I want to know whether fast food workers can count on you to support the Just Cause legislation.

**Testimony of Franchesca Sylvain**

**FOR THE RECORD**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Franchesca Sylvain.

Thank you for your time this morning listening to workers share their stories. I'd like to tell you about my experience working at Chipotle last year. Like all the workers you've heard from today, my story could have turned out differently if I'd had the protections that this bill would give workers.

I applied for a job at Chipotle because I thought it would be a great place to work. I loved the food and it always felt like a positive environment as a customer.

When I started in July 2019 at the store in Kips Bay I was given a good faith estimate that I would be working 40 hours a week. I was extremely happy with this. I am a young person that has overcome a lot. The job meant I could support myself and pursue dream to be an artist.

Unfortunately things started to go badly at Kips Bay. I experienced a number of racist incidents and had to ask a regional manager to be transferred to another store. Despite the situation and the hour long commute, I was still dedicated to work for Chipotle. I

I was moved to the Fulton Street store and had problems from the outset with my hours. In my first week there I was still on the Kips Bay system. This meant my manager had to manually enter my hours. When I wasn't paid correctly I had to bring it up with her and ask it to be fixed. I believe this put me on her bad side and made me a target.

My good faith estimate was adjusted at Fulton Street down to 32 hours a week. Overtime however my hours decreased even from this, often as low as 10 hours a week. I was also put on shifts that were just short of the length required to have break Over thanksgiving I was not given any hours at all. I felt as though my manager was trying to get me to quit by limiting my hours and making my work time as difficult as possible.

During a shift on December 5<sup>th</sup> my manager pulled me into the backroom and told me I'd given a customer too much rice. I felt like this was continuation of the unfair treatment I was experiencing. My manager said I could quit if I didn't like it. In the stress of the moment I agreed.

Since I finished at Chipotle I've struggled to find another job to replace the income I had. I work for a food delivery company but it doesn't provide the consistent work I need.

**Testimony of Kojo Ocran**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Kojo Ocran and I used to work for Chipotle Mexican Grill. While there, I suffered through arbitrary and unexplained cuts to my hours – cuts from which the Just Cause legislation would have protected me.

I started working at Chipotle in April 2019. When the summer began, I went to my manager and told him that I had complete availability – I wanted full time hours to save up for college in the fall. Starting in June, I worked 35 plus hours until early August when my manager cut my hours to around 28. My manager tried to frame it positively, saying Chipotle would guarantee me at least 25 hours a week, but failed to provide any explanation for why my hours were cut.

I had budgeted earning \$5,000 over the summer, but because of the reduction in hours I only earned around \$4,500. This loss of earnings meant that I had to take out another loan to have money to pay for an MTA pass and textbooks. Because I had hit the cap for federally subsidized loans, I had to sign for an unsubsidized loan – meaning the government doesn't pay interest while I'm in school – for \$2,000. That loan is accruing interest right now.

Chipotle cut my hours by 20 percent. If I had been protected by the Just Cause legislation, they would have been required to prove that I had failed to perform my job duties to cut my hours by his amount. Instead, I will be graduating with more than \$2,000 dollars in additional student debt.

I ask each of you to support the Just Cause legislation and help to pass it into law. Every delay just means more workers experience stories like mine.

**New York City Council, Committee on Civil Service and Labor  
Intro. 1396 and 1415 of 2019  
February 13 2020**

**FOR THE RECORD**

Good afternoon, Chair Miller and other members of the Committee on Civil Service and Labor. My name is Alyssa Peterson and I am a Liman Fellow for Worker Justice at the Center for Popular Democracy. I am here to present testimony from Ana Maria Archila, who serves as Co-Executive Director at CPD.

We thank you for the opportunity to testify today.

CPD is a high-impact national organization that builds organizing power to transform the local and state policy landscape. We do this work through deep, long-term partnerships with leading community-based organizing groups nationwide. The victories of fast food workers in New York City in recent years is a perfect example of what can be accomplished through the approach that we champion. Fast food workers organized to win a \$15 minimum wage and brought about Fair Workweek laws here in New York City.

Each of these victories has moved fast food workers further towards their goal of transforming the industry into one that gives workers the dignity and respect they deserve.

This goal will always be undermined, however, while fast workers remain “at-will” employees who can be fired at any time, without explanation. Workers toil under the constant threat of an arbitrary termination that may send their family reeling into homelessness, force them to drop out of school, or otherwise disrupt their economically fragile lives without warning.

Together with the National Employment Law Project, and SEIU 32BJ, CPD issued a report last year that detailed the precarious working conditions faced by fast-food workers. Our survey of 539 New York City fast-food workers found that 50 percent had been fired, laid off, or compelled to quit a fast-food job due to intolerable working conditions.<sup>i</sup> Sixty-five percent of these workers reported that they were denied even a basic explanation when they were terminated.<sup>ii</sup>

This is a workforce that is already vulnerable. Two-thirds are women, two-thirds are immigrants and 88% are people of color. This, combined with the threat of dismissal and a business model that tolerates exceptionally high work place turnover, contribute to the proliferation of abusive employment practices. Our report detailed separate data and survey results showing that 90% of fast food workers experienced wage theft, 78% had been injured on the job, 73% had sustained multiple burn injuries and 40% of women working in fast food reported unwanted sexual behavior at work.<sup>iii</sup>

Yes, many of these abuses are prohibited by other laws. But when employers can fire workers on a whim – without giving any reasons at all – it’s all too easy for them to discriminate or retaliate against workers who stand up for their rights.

**FOR THE RECORD**

**Testimony of Carmelo Policao**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Carmelo Policao and I have worked at Dominoes for 13 years. I work on the store on 181<sup>st</sup> Street.

Things have changed over the years that I have worked at Dominoes. The minimum wage has gone up, and thanks to our campaign for fair scheduling laws, we now get our shifts in advance.

But something that hasn't changed is that workers still have no protection against unfair firings and from having their hours cut. It makes me constantly worried about losing my job and being able to support my family.

Just a few weeks ago after midnight on Superbowl Sunday, my colleague was fired after he told the manager that he needed a second person to help if he was going to get through the dishes that needed to be cleaned. The job normally requires two people and the manager had two do it after my colleague had left the store.

Personally I have experienced a loss of hours. For a long time I worked 33 hours a week but last summer my hours were cut to 25. That's a quarter less. The store said it was because the store wasn't as busy. My hours were cut just after I had taken paid sick time to look after my son Jose Miguel while my wife was sick. I think that may have been the reason. I still haven't got my hours back.

The loss of income has made it harder to pay my rent. I'm always uncertain if I'll make it each month. I need the income from more hours. I would get a second job but the schedule that I have from Dominoes constantly changes, making it impossible even with advance notice.

Please pass these laws to help workers like me feel secure on the job and to trust that we will be able to take care of our families.

## **Testimony of Melody Walker**

**New York City Council, Committee on Civil Service and Labor**

**Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My Name is Melody Walker.

I worked at the Chipotle store at 55<sup>th</sup> Street and 3<sup>rd</sup> Avenue for a little under a year until I was fired without just cause in August 2017. My story explains why you need to pass the bill this bill into law.

I'm a single mum. I have two daughters aged 8 and 17. When I started at Chipotle I was working 23 hours a week before being moved up to regularly work between 30 and 35 hours. I did my job well and made sure I arrived early for my shifts. I was hopeful that it would be a stable job with an income I could support my family with.

Things changed when a new manager took over the store. He cut existing workers' hours, including mine, while bringing on new workers from other stores. It seemed clear to me that we was trying to drive out workers who had been at the store before he arrived.

My hours were cut to as low as eight per week. Things were so bad that I had to go on unemployment while I was still working. It is crazy that anyone should have to get public benefits while working for a company that makes billions of dollars a year.

When I was fired it happened on the spot during a shift. The manager told me that I was not smiling while I was at the counter. I was shocked. There were not even customers in the store at the time.

If this law had been in place and my manger acted as he did, I would had the right to challenge my hours being cut and my firing. Instead I had no protection. It took me months to get another job and put my family's life back on track. I had to get public assistance again to help pay my bills.

I don't want anyone to have to go through what I did. I ask to you to support this bill and give fast food workers protection again unfair treatment. Thank you.

## **Testimony of Gavin Florence**

### **New York City Council, Committee on Civil Service and Labor**

#### **Int. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members, my name is Gavin Florence and, until recently, I worked at Chipotle Mexican Grill.

I am here to say that workers like myself need the protections provided in the Just Cause legislation that was introduced almost a year ago in the City Council.

On November 6th, I was returning from vacation and scheduled to work when my flight was delayed. I called my Assistant General Manager and told him I was going to miss my shift. He told me it was fine and that he had found another coworker to cover my shift.

The next day, November 7<sup>th</sup>, Chipotle emailed me telling me I was fired. I was shocked.

Immediately, I called my General Manager who told me that he fired me because I missed my shift without giving notice – a “no-call no-show.” He said the Assistant GM, never told him that I called ahead and that his failure to communicate this was my fault.

Even if I had missed my shift without giving notice, Chipotle does not consistently terminate workers for this offense – I know several coworkers who have done a “no-call no-show” multiple times without punishment.

Since being fired, I have struggled to pay my rent and tuition towards graduate school where I am studying law.

My unfair termination by Chipotle has set me back financially. Under the Just Cause legislation, Chipotle would not have been able to use an inconsistently enforced rule to fire me. If they disputed the facts of my case, I would have access to a fair arbitration system to resolve my employment status. Instead, I am worried about losing my housing.

Right now, fast food workers have few protections against capricious managers: we need Just Cause. Committee members, I ask that you support this legislation and stand with us as we ask the council to pass it into law.

## **Testimony of Yeral Martinez**

### **New York City Council, Committee on Civil Service and Labor**

#### **Intro. 1396 and 1415 of 2019**

**February 13 2020**

Good afternoon Committee Chair Miller and Committee Members. My name is Yeral Martinez.

I worked at the Chipotle Store at 4009 Broadway for over three years before I was fired in October 2019.

During this time I believe I experienced a number of things that shouldn't happen in the workplace – being underpaid for shifts and not getting paid overtime when I worked more than 40 hours in a week.

It was also clear to me that managers were determined to stop workers from talking to one another about their rights. One of the managers even said “Chipotle pays a lot of taxes to the City to do whatever it wants to the workers and no one cares what Chipotle does to you”.

I was fired the day after I called out sick due to back pain. The pain had started on my previous shift. I tried to leave work when the pain started but the managers wouldn't let me sign off. When I was fired I told my manager that it was wrong and that I had paid sick time I could use. The apprentice manager showed me a write up from two months earlier from being late and the manager said that she didn't need any reason to fire me.

Before I lost my job I was living in a shelter with my wife and son. We were about to move out to an apartment. After I was fired I couldn't sign the paper work to move in. I have been looking for work since I was fired and we're still in the shelter.

We need these laws to pass. Fast food workers are afraid of being fired and being unable to care for our families and we're too scared to take any time off. Please support these bills and show us that New York does care how companies treat their workers.

## **Just Cause Hearing**

**2/13/2020**

### **Angeles Solis, Make the Road New York**

My name is Angeles Solis and I am the Lead Organizer with the Workplace Justice Team at Make the Road New York.

As organizers and advocates of improving the fast food and other low-wage industries, we educate workers about their rights and how to protect them. Let me tell you the first thing we hear when talking to workers about meeting after their shift, or inviting them to come to a meeting or even to testify at a hearing like this... Many say, "I am scared I'll get fired."

Every day, immigrant workers come through our doors with stories of exploitation: wage theft, harassment, discrimination and injuries on the job in unsafe conditions.

Many of them are forced to accept these work conditions for fear of losing their jobs if they complain.

This is compounded by the fear that management can fire them, cut hours, or even use immigration status to threaten workers- especially those who speak up. .

The multi million dollar fast food corporations have enabled a culture of fear and instability for thousands of its employees because of the "at will" model. And puts at risk thousands of hardworking people in our communities, people working to put food on the table for their own families.

One of those people is Juana. Juana was a member leader in the Fight for \$15. She worked the morning shift at McDonalds - from 6AM to 2PM. She picked up her daughter at daycare by 3PM, dropped her off at her sister's just to go back to work at a Wendys for the night shift. She would get off around 10 o'clock, when she could finally head home. She shared a bed with her sleeping five year old because that was when, according to her - she had the most time with her.

Even after years working in fast food, Juana lived with the chronic stress that she could lose her job any day.

I will never forget this story she shared. Halfway through a ten hour shift - she ate some extra chicken nuggets on a break. When management saw, they yelled at her so much so that she had to lock herself in the bathroom because she had a panic attack. And then she washed her hands, washed her face, and went back to cleaning the grill.

Juana worked two fast food jobs because she had a daughter to support, a daughter who needed to see her strong. And her story is just one of many in an industry majority **staffed by women, immigrants and people of color.**

Right now, bosses hold power over their employees and fire them for any reason.

With Just Cause, they will be required to report their reason for termination or reducing hours.

Right now, wage theft, racial bias, xenophobia and sexual harassment can and do thrive under at “at will” model.

With Just Cause, fast food employees don’t have to live in fear of putting up with it. And with it, will be empowered to speak up.

Our labor laws are only as strong as the power we put behind them.

Just Cause is about basic employer accountability.

The New York City Council has an opportunity to enact life-changing legislation for 67.000 people and we are here to ensure it will happen.

Thank you.



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**Testimony in Support of Int. 1415-2019 “Wrongful discharge from employment”  
and Int. 1396-2019 “Fast Food Employee Layoffs” Submitted by Sherry Leiwant,  
Co-President, A Better Balance  
February 12, 2020**

My name is Sherry Leiwant. I am Co-President of A Better Balance, a legal advocacy organization whose mission is to promote equality and expand choices for men and women at all income levels so they can care for their families without sacrificing their economic security. We are a national organization drafting and helping to pass laws around the country guaranteeing workers paid leave, protection against pregnancy discrimination and laws on fair scheduling. Here in New York, we have been at the forefront of successful efforts to pass laws in New York City and New York State that protect workers with families such as the New York City paid sick time law that guarantees millions of workers the right to take time off with pay when they or a family member is sick, the Pregnant Workers Fairness Act which insures that pregnant workers can receive reasonable accommodations when needed to keep them healthy and on the job; paid family leave at the state level which gives workers the right to up to 10 weeks of time off with pay when they have a new child or need to care for a seriously ill family member and fair workweek legislation that outlaws abusive scheduling practices in the retail and fast food industries. In addition to our advocacy to craft laws supporting workers and their families, we maintain a hot line for workers to call for information about their legal rights.

We submit this testimony in support of Int. 1415 that would make discharge of a fast food employee – the ultimate sanction for workers in low wage jobs – less arbitrary, laying down clear rules for when this devastating penalty can be leveled against a worker. Every day we hear from workers who have been fired for no reason, often in violation of discrimination or leave laws. The hardship that such dismissals impose on workers and their families is enormous often leading to homelessness or food deprivation not only for



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the worker but also for her family. It is time for our city to place limitations on when such a tremendous hardship can be imposed on workers by their employers.

This law would lay down common sense rules for when an employee can be dismissed. It would prohibit employers from discharging a fast food employee unless there is failure to perform his or her job or for misconduct on the job giving employers a wide berth where dismissals that are necessary can still be done. It would require progressive discipline so that a worker can correct behavior that the employer finds unacceptable and would prohibit termination for breaking a rule the worker was not aware of. And it would establish a consistent level of due process where workers are given a written explanation of why they are terminated and given an opportunity to resolve disputed terminations.

The United States is unique among advanced economies in its concept of “at will” employment that permits termination of workers for any reason or no reason at all and requires no process to protect workers when they are dismissed. Most other countries regulate employment and do not permit firing workers for no reason as you can in the U.S. If an employer operating in Europe wants to terminate an employee, specific legal procedures must be followed and there must be a reason. Although specifics vary from country to country in the European Union, it is consistent that a worker cannot be dismissed without cause and that there are specific procedures laid out to guarantee that the dismissal was proper within the law. This guarantee of job security except where there is real cause for termination leads to a better work force. It also means that workers can support themselves and their families without being forced to turn to public benefits saving the taxpayer money as well.

The wrongful discharge bill is complemented by Int.1396 that requires that any layoffs necessary for economic reasons with respect to fast food employees be done for proven



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economic reasons occur in reverse order of seniority which ensures that there is no “layoff loophole” available to employers to circumvent the just cause protections.

New York City has led the way in progressive policies to guarantee fairness in the workplace. It should enact this important protection for the workforce that serves us our food and provides service to our families but is currently vulnerable to arbitrary loss of their livelihood. Thank you for the opportunity to submit this testimony.



**Testimony of Clara Wheatley-Schaller on behalf of The NY NJ Joint Board of Workers  
United, SEIU**

**NYC Council Committee on Civil Service and Labor**

February 13, 2020

Good afternoon Council Member Miller and members of the committee. Thank you for the opportunity to submit testimony today. My name is Clara Wheatley-Schaller and I am the Political Coordinator at the NY NJ Joint Board of Workers United, SEIU.

Workers United represents thousands of retail and manufacturing workers in New York and is actively organizing nail salon workers. Nail salon workers and fast food workers face many of the same unstable and exploitative working conditions. We are testifying in solidarity with fast food workers and in support of “Just Cause” protections (Intro 1415 and Intro 1396).

Fast food workers are often fired arbitrarily, which throws their lives into disarray and sows chaos throughout unstable workplaces. This sudden loss of income can often mean the difference between having a stable address and being homeless. A 2019 report by the Center for Popular Democracy, Fast Food Justice, The National Employment Law Project, and 32BJ found that fast food employers terminate workers with alarming frequency and that many workers are denied even a basic explanation when terminated. This throws workers into poverty and forces thousands of New York families to live in constant uncertainty and fear.

Currently workers have no legal recourse if they are fired without just cause. New York City does not have to continue to tolerate this abuse of one of its most vulnerable workforce. Our city has been at the forefront of addressing injustices in the fast food industry and should continue to lead by enacting “Just Cause” legislation. This policy would hold giant fast-food chains accountable, address a severe power imbalance, and bring stability and security to more than 67,000 fast food workers. “Just Cause” would not only positively impact fast food workers, but it would also benefit fast food companies and customers, who would be able to count on better-trained and more experienced staff. This legislation would also bring stability and security to communities across the city and benefit taxpayers, who currently have to pick up the tab for these arbitrary terminations in the form of unemployment benefits, food stamps, and shelter costs.

We thank Council Member Lander and Council Member Adams for recognizing the need to protect fast food workers and encourage the City Council to continue to lead on this issue by passing both passing these two important bills.

Thank you.

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
New York, NY 10007

Dear Speaker Johnson and Chair Miller,

I am a Dunkin' franchisee and I write on behalf of myself, and my organization to oppose Intros. 1396-2019 (fast food employee layoffs) and 1415-2019 (Just Cause).

While well-intended, these bills will cause harm to the very core of my business – of which my employees are the foundation – and have unintended consequences. I implore the Council to stop pursuing legislation that creates such a hostile business environment in New York for small business owners like myself.

**Intro 1415-2019 – Just Cause**

Intro 1415-2019 seeks to “prohibit fast food employers from terminating the employment of a fast food employee without just cause”. As someone who has employed New Yorkers for years, I can attest that I value my employees and invest considerable time, training, and resources into every new hire.

Our employees are the face of our business and therefore one of the most important parts of the Dunkin' business model. We maintain high standards and train employees in customer service, food safety and health procedures, often times providing people with their first jobs.

Intro 1415-2019 requires that any time one of my employees is unable to maintain standards, I must jump through administrative hoops to be able to let that employee go. The legislation is also vague in its interpretation of what constitutes Just Cause. The legislation states that “Nothing herein shall preclude a fast food employer from terminating a fast food employee immediately for a sufficiently egregious failure or misconduct constituting just cause,” but “egregious” is a subjective term. For example, is using foul language within earshot of customers considered egregious; or is showing up to shifts repeatedly late egregious; or is treating a customer differently based on gender, race, or sexual orientation considered egregious? Managers must make human resources decisions in the interest of the *entire* team and each of our customers.

This legislation fails to account for the human aspect of the service industry. Good attitude is the foundation of good customer service. If an employee is consistently rude to customers, how do we document that on paper to the satisfaction of a government agency? What types of “progressive disciplinary” measures are acceptable and for how long?

This legislation would force Managers at Dunkin' restaurants like mine to keep on their staff employees who may:

- cause food and beverage safety and health issues;
- cause scheduling issues that impact fellow employees and customer satisfaction;
- provide poor customer service overall or to specific groups of customers;
- bully others or create a hostile work environment; or
- or any other number of other scenarios.

In addition, it creates uncertainty for employers and invites increased litigation, which is costly and time consuming.

**Intro 1396-2019**

Intro 1396-2019 dictates the order in which employers must lay off employees and mandates that a "bona fide economic reason" must be proven. This legislation seeks to micromanage the human resource process and create a one-size-fits-all approach. There is no such solution to running a small business, especially a restaurant. Circumstances are constantly changing and our employment policies need to reflect these changes.

This legislation will limit my ability to hire seasonal staff when necessary because I'd be unable to adjust staffing without risking costly arbitration, as outlined in the bill, if others disagree with my business decisions. This will not only affect the other employees who have to work short-staffed, but my customers who will wait in longer lines. Basing layoff practices solely on the date of hire, as proposed, is poor practice for both employees and my small business. It does not allow for performance-based decision making, and will only serve to hamper my ability to run my small business.

**In summary, the New York City Council should not pass these bills that only will serve to micromanage small businesses and create a punitive system of increased fines and litigation that will kill our businesses and lead to more vacant storefronts.** I welcome the opportunity to meet with you and your colleagues to discuss what it takes to own and run a small business.

Sincerely,



(Dunkin Donuts)  
269 8th Ave  
New York, NY - 10011

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

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Sincerely,

Amul Modi

*A. B. Modi*

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
New York, NY 10007

Dear Speaker Johnson and Chair Miller,

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**NEERAJ AHLUWALIA**  
**Franchisee, Dunkin Brands**



February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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Chair, NYC Council Committee on Public Service and Labor  
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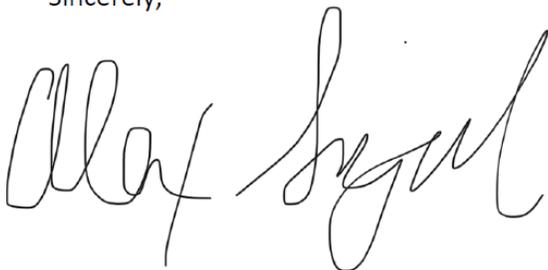
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Sincerely,

A handwritten signature in black ink, appearing to read "Alay Syed". The signature is fluid and cursive, with the first name "Alay" written in a larger, more prominent script than the last name "Syed".

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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Sincerely,

Hemang Champaneria



2/10/20

Email: [hemangc@gmail.com](mailto:hemangc@gmail.com)

Cell: 212-882-1363

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
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Sincerely,

**DALJEET AHLUWALIA**  
**Franchisee, Dunkin Brands**



February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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250 Broadway  
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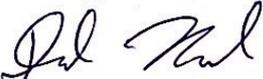
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Sincerely,

  
Daniel Novick  
Westside Donut Ventures

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
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Dean Marino  
COO Salz Group

February 6, 2020

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Speaker  
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City Hall  
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Daniel Greenstein



February 6, 2020

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Speaker  
New York City Council  
City Hall  
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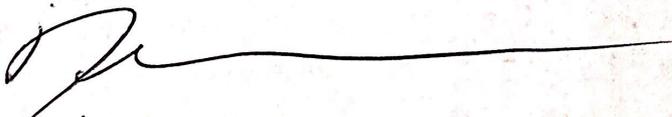
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Sincerely,



HOWARD NOWICK

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
New York, NY 10007

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**JASJEET AHLUWALIA**  
**Franchisee, Dunkin Brands**



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City Hall  
New York, NY 10007

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Sincerely,



**MICHAEL MEACHAM**

Director of Operations

LaGuardia Airport

Terminal B

3<sup>rd</sup> Floor Room 3629

Flushing, NY 11371

**D:** 929.300.5437 **M:** 619.876.2719

February 6, 2020

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City Hall  
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*Sachin Parikh*  
SACHIN PARIKH  
201 286 5606

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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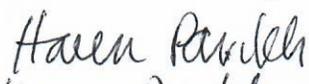
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PRABODH PARICH

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Shanaz Quereshi  
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cell: 718 473 7444

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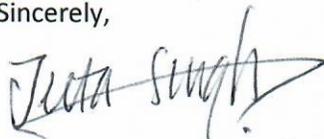
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Jeeta Singh

T: 347 738 0122

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Sincerely,



AYIESHA SELWANET

203.313.2694

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
New York, NY 10007

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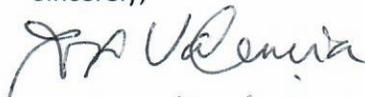
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Sincerely,

  
REX VALENCIA  
7189168818

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
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Joumana Lollobrigida  
516 4585662

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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Chair, NYC Council Committee on Public Service and Labor  
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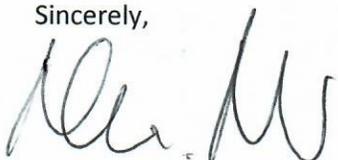
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ATUNRA NEGISHI  
7185946320

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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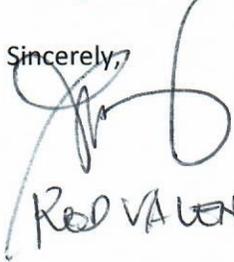
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Rod VALENCIA

718 8462371

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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Chair, NYC Council Committee on Public Service and Labor  
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Lee Novick  


February 6, 2020

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New York City Council  
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Anthony Pellizzi Jr.

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Jeff Polizotto

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Sincerely,



Chris Russell

February 6, 2020

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
New York, NY 10007

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February 6, 2020

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New York City Council  
City Hall  
New York, NY 10007

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Sincerely,



Shahrookh Bodhanwala  
Dunkin Franchisee

2/19/2020

February 6, 2020

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Speaker  
New York City Council  
City Hall  
New York, NY 10007

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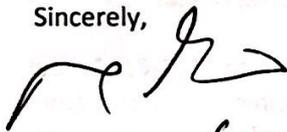
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Sincerely,



Richard Greenstein

Dunkin' Donuts Franchisee

70 stores in NYS - 1000 + employees

February 6, 2020

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SHARON GREENSTEIN

DUNKIN FRANCHISEE IN NYS  
70 STORES 1000 EMPLOYEES

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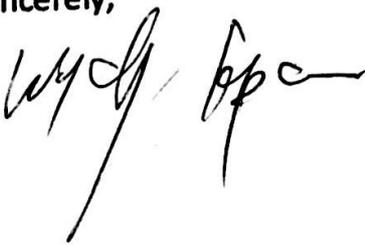
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*Suhel Ahmed*

To: The City Council of the City of New York  
From: SEIU, Local 32BJ  
Re: New York City's Legal Authority to Enact Just Cause Protection for Fast Food Workers

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## Background

Intro 1415 and Intro 1396 are designed to provide a just and transparent process before a fast food worker may be fired. Specifically, they require a fast food employer to have “just cause” or a “bona fide economic” reason before it may fire a worker, and provide a written explanation for the termination. The employer is required to utilize progressive discipline, meaning that workers have an opportunity to correct their behavior before they lose their livelihood, so long as the infraction is not too egregious. The bill also ensures fairness in that the employer must use non-discriminatory discipline standards, apprise its workers of its rules and policies, and conduct fair and objective investigations. Where the employer must lay workers off due to economic reasons, the bill requires workers with more time on the job to be laid off last, correctly rewarding those employees who have a demonstrated commitment to the job and have the most skill and experience. In enacting these important protections, New York City would be joining Montana, Puerto Rico, the Virgin Islands, Philadelphia, and several industrialized countries—all of which long ago adopted just cause statutes—as well as countless corporations that routinely include just cause provisions in employment contracts with executives. And decades of experience in unionized industries where just cause protection is the norm have shown that it provides a workable standard for both employers and employees.

## Legal Authority

### A. The City has Home Rule Authority to Enact the Ordinances.

The City of New York is given broad home rule powers under the State Constitution to “adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to. . . [t]he government, protection, order, conduct, safety, health and well-being of persons or property therein.” N.Y. Const.Art. IX, § 2(c)(ii)(10). And the City has express authority under the state Home Rule law to regulate business and protect workers. N.Y. Mun. Home Rule Law § 10(1)(ii)(a)(12) (granting local government the power to adopt local laws providing for “the protection, order, conduct, safety, health and well-being of persons or property therein [including the] regulation or licensing of businesses and occupations”); *Association of Car Wash Owners v. City of New York*, 2017 U.S. Dist. LEXIS 156441, \*6-7 (S.D.N.Y. 2017), *vacated on other grounds by, Association of Car Wash Owners Inc. v. City of New York*, 911 F.3d 74 (2d Cir. 2018). Pursuant to this authority, New York City has enacted several workplace regulations, like protection against job loss in the successorship context, paid sick and fair scheduling requirements, and bonding regulation in the car wash industry. Like these provisions, just cause protection easily falls within the city’s broad home rule authority. *Id.*

## B. The Ordinances are Not Preempted by State Law.

There is no plausible state law preemption argument since there is no state statute that addresses in any manner, much less a comprehensive manner, just cause protection for workers. New York recognizes three circumstances in which a local law is preempted by state law: (i) a state law conflict with a local law, that is, a state law affirmatively prohibits conduct that a local law would affirmatively authorize or, conversely, a state law affirmatively authorizes conduct that a local law would prohibit, *see, e.g., Matter of Lansdown Entertainment Corp. v. New York City Dept. of Consumer Affairs*, 74 N.Y.2d 761, 762-764 (1989); (ii) a state law addressing a particular subject expressly provides that it preempts local laws addressing the same subject, *see, e.g., DJL Restaurant Corp. v. City of New York*, 96 N.Y.2d 91, 95 and n. 3 (2001); or (iii) a state law creates such “a comprehensive and detailed regulatory scheme in a particular area” that it demonstrates a legislative intent to occupy the field of regulation of that particular area, that is, to assume complete regulatory authority over that subject. *New York State Club Ass’n v. City of New York*, 69 N.Y.2d 211, 217 (1987); *Con Edison Co. v. Town of Red Hook*, 60 N.Y.2d 99, 105 (1983). None of these circumstances are present with respect to the just cause ordinances.

There is no state law that authorizes employers to fire workers without just cause. While courts have noted that New York is an “at-will” employment state, *see, e.g., Murphy v. American Home Prods. Corp.*, 448 N.E.2d 86 (1983), all they mean is that there is currently no state law that protects workers from unjust termination and therefore workers can be fired for any or no reason so long as they are not protected by an employment contract, another state law (e.g., the anti-discrimination law), or the constitution. *Id.* at 305 (“In sum, under New York law as it now stands, absent a constitutionally impermissible purpose, a statutory proscription, or an express limitation in the individual contract of employment, an employer’s right at any time to terminate an employment at will remains unimpaired”).

Neither is there any state law that expressly preempts local just cause ordinances.

And application of the third preemption doctrine—field preemption—is foreclosed by the Court of Appeals’ decision in *New York State Club Ass’n*, 69 N.Y.2d 211, which held that the state Human Rights Law did not forbid New York City from prohibiting discrimination in private clubs and more generally that the state law does not preempt the field of anti-discrimination legislation. If a state law that addresses precisely the same subject matter as a local ordinance—discrimination in employment—and sets forth a detailed regime to address discrimination was not found to occupy the field of employment discrimination, the state legislature cannot be found to have occupied the field of just cause termination having enacted no state law that addresses that topic.

The other state laws that touch upon the employment relationship—N.Y. Lab. Law § 740 (whistleblower law); N.Y. Lab. Law § 500 (unemployment insurance law), and N. Y. Lab. Law § 680 (WARN Act)—likewise evince no intent by the legislature to occupy the field of just cause termination. The whistleblower law narrowly prohibits only terminations that are in retaliation for disclosing to the government illegal conduct by the employer that creates a public danger.

The unemployment insurance statute does not prohibit termination at all but creates a fund to which employers must contribute for the benefit of workers unemployed through no fault of their own. And the state WARN Act requires certain employers to give employees notice of layoffs but does not prohibit layoffs. None of these statutes prohibit or affirmatively permit unjust terminations, or even impliedly prohibit localities from doing so since they fall well short of establishing a “comprehensive and detailed regulatory scheme” in the area of unjust termination.

C. The Ordinances are Not Preempted by Federal Law.

Opponents may also try to claim that the bills are preempted by the National Labor Relations Act (“NLRA”) under the *Machinists* doctrine. But that argument is foreclosed by numerous Supreme Court decisions as well as the Third Circuit’s decision in *St. Thomas - St. John Hotel & Tourism Ass’n v. Virgin Islands*, 218 F.3d 232 (3d Cir. 2000), which squarely rejected an NLRA preemption challenge to the Virgin Islands’ just cause statute.

Under the NLRA preemption doctrine set forth in *Machinists v. Wisconsin Employment Relations Comm’n*, 427 U.S. 132 (1976), local laws that attempt to regulate employer or union bargaining conduct that Congress intended be left open to the “free play of economic forces” are preempted. The type of local laws that courts have invalidated under *Machinists* are those that impinge on the traditional self-help methods of labor dispute resolution, such as strikes, lockouts, and hiring of striker replacements. *See, e.g., Golden State Transit Corp. v. Los Angeles*, 475 U.S. 608, 619-20 (1986) (law conditioning taxicab franchise renewal on settlement of strike preempted); *New England Health Care Employees Union, District 1199 v. Rowland*, 221 F.Supp.2d 297, 323-43 (D. Conn. 2002) (providing state resources to transport striker replacements and strike-related Medicaid payments to nursing homes preempted).

The just cause provisions, in contrast, operate completely independently of collective bargaining and therefore cannot logically be considered an economic bargaining weapon, much less one that impermissibly interferes with a bargaining process. Rather than regulating a bargaining weapon, the just cause bills establish a minimum labor standard, akin to minimum wage and successor employee retention laws, long protected by the courts as a valid exercise of local police power. *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 755 (1985) (rejecting preemption challenge to a state statute mandating minimum mental health benefits); *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1 (1987) (rejecting preemption challenge to state severance pay law); *Association of Car Wash Owners Inc.*, 911 F.3d 74 (no *Machinists* preemption of New York City ordinance providing for a lower bond for car wash business license applicants that are party to a collective bargaining agreement providing for certain protections); *Washington Service Contractors Coalition*, 54 F.3d 811 (rejecting *Machinists* challenge to local ordinance requiring a successor contractor, when taking over an account from the predecessor contractor, to hire the incumbent employees for a minimum period of time during which they may not be fired without cause); *Alcantara v. Allied Props., LLC*, 334 F. Supp.2d 336 (E.D.N.Y. 2004) (same with respect to New York City’s successor retention ordinance). Such standards affect union and nonunion employees equally and neither encourage nor discourage the collective bargaining processes covered by the NLRA. *Id.* While

minimum labor standards impact labor-management relations by setting a floor, and even may impact labor or management unequally, they are not preempted because they do not “regulate the mechanics of labor dispute resolution.” *Concerned Home Care Providers, Inc. v. Cuomo*, 783 F.3d 77, 86 (2d Cir. 2015).

The Third Circuit rejected a *Machinists* preemption challenge to the Virgin Islands’ just cause statute in *St. Thomas - St. John Hotel & Tourism Ass’n*, 218 F.3d 232. Relying on *Metropolitan Life* and *Fort Halifax Packing Co.*, the court held that in establishing enumerated statutory bases for lawful discharge, the statute “neither regulates the process of bargaining nor upsets the balance of power of management on one side and labor on the other that is established by the NLRA” but is instead a minimum labor standard.

Accordingly, like the other crucial workplace protections New York City has enacted in recent years, Intro 1415 and Intro 1396 are well within the City’s legal authority to adopt.

Hon. Corey Johnson  
Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. I. Daneek Miller  
Chair, NYC Council Committee on Public Service and Labor  
250 Broadway  
New York, NY 10007

February 13, 2020

Dear Speaker Johnson, Chair Miller, and Members of the City Council,

We write today because small businesses in New York City are nearing a breaking point. Historically, small businesses and mom-and-pop shops have proved to be a crucial path to the middle class and beyond for so many New Yorkers, including new immigrants. They are a crucial part of the economy, as the City's own data points out that 89% of the over 200,000 businesses across New York employ 20 people or less. These businesses are labors of love as well as the ventures of true entrepreneurs, innovators, and risk-takers.

As advocates for a united business community, we see first-hand how burdensome regulations, unfunded mandates, business costs, and changing retail habits due to E-commerce have created as tenuous a climate for the survival of small businesses as many of us have ever experienced.

There has been a great deal of public hand-wringing around saving our mom-and-pop shops, yet in the past five years the Council alone has passed multiple local laws that directly impact the operations and bottom lines of many small businesses, including franchised quick service restaurants that are owned and operated by small business people.

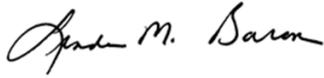
These operations employ and are owned by your constituents - yet their voice has too often been absent, or more alarming, ignored. In the wake of the statewide minimum wage increases, and with little or no consultation, the Council has mandated or is considering Paid Sick and Safe Leave, Pre-Tax Transit benefits, Predictable Scheduling, menu labeling requirements, new sanitation, recycling and delivery requirements, mandatory paid vacation time, and a host of other unfunded mandates that have left businesses reeling.

With Int 1396 and 1415, the Council has now proposed to eliminate fast food employers' ability to manage their staffing levels. Enough is enough. Why has there been no consultation or any data-driven review of the fast food industry? If adopted, the Just Cause and Fast Food Layoff legislation would hamstring fast food employers and lead to job losses as well as business closures.

These bills ignore the fact that existing New York law already proudly protects employees from discrimination and wrongful termination. The bills establish unprecedented legal standards where employers are guilty until proven innocent. They force business owners to engage in lengthy and expensive review processes when making personnel decisions, and they eliminate the business operator's right to protect his or her employees and business interests from disruptive or dangerous co-workers.

We stand with our colleagues in the fast food industry to oppose Intros. 1396 and 1415, and we ask to be included in the conversation moving forward. We care deeply about the business climate in New York City and all that it entails: a vibrant and dynamic economy, opportunities for New Yorkers, and fairness for all. This legislation advances none of these, and we urge you to prevent its passage.

Sincerely,



Linda Baran  
President and CEO  
Staten Island Chamber of Commerce



Lisa Sorin  
President  
Bronx Chamber of Commerce



Melissa A. Fleischut  
President & CEO  
New York State Restaurant Association



Jessica Walker  
President and CEO  
Manhattan Chamber of Commerce



Jeff Hanscom  
Vice President, Government Relations  
International Franchise Association



Randy Peers  
President and CEO  
Brooklyn Chamber of Commerce



Andrew Rigie  
Executive Director  
NYC Hospitality Alliance

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1915, 1396 Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Melody Walker

Address: \_\_\_\_\_

I represent: Fast food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1915 Res. No. \_\_\_\_\_

in favor     in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Alexis Espinal

Address: \_\_\_\_\_

I represent: Fast food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1915 Res. No. \_\_\_\_\_

in favor     in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Carmela Polanco

Address: \_\_\_\_\_

I represent: Fast food workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1915 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Yerick Maldonado

Address: \_\_\_\_\_

I represent: Fast food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1915 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Robin Florence

Address: \_\_\_\_\_

I represent: Fast food worker

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1915, 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: David Cohen

Address: \_\_\_\_\_

I represent: 3235 SEIC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1915, 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/2020

(PLEASE PRINT)

Name: Hope Goto

Address: 122-24 Nellis Street, NY 11413

I represent: 32750 SEIC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1415 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Zubin Soleimany

Address: 31-10 37th Ave Ste 300 LIC, NY 11411

I represent: New York Taxi Workers Alliance

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1915 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Alyssa Peterson

Address: \_\_\_\_\_

I represent: Center for Popular Democracy

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1815, 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Angela Sales

Address: \_\_\_\_\_

I represent: Makes the Road

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1415 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Patricia Smith

Address: \_\_\_\_\_

I represent: National Employment Law Project

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396, 1415 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Keith Stephenson

Address: \_\_\_\_\_

I represent: National Restaurant Assn

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396/1415 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Kathleen Peilly

Address: \_\_\_\_\_

I represent: New York State Restaurant Assn

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: Shawn Richman

Address: 456 Kissel Ave, 51 NY 10301

I represent: Harry Van Arsdale Jr. School of Labor Studies, SUNY

Address: 225 W 62nd St, NYC 10011

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 + 1415 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/13/20

(PLEASE PRINT)

Name: M Patricia Smith

Address: 90 Broad St NY NY

I represent: National Employment Proj

Address: 90 Broad St NY NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1346 Res. No. 1415

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Commissioner Loretta Salas

Address: 42 Broadway, 8th Fl

I represent: Department of Consumer Affairs

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1346 Res. No. 1415

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: 4 Ben Holt, Deputy Commissioner

Address: 42 Broadway, 9th Floor, Dept of Consumer Affairs

I represent: Department of Consumer Affairs

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1346-209 Res. No. 1415-209

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jessica Walker

Address: \_\_\_\_\_

I represent: Manhattan Chamber of Commerce

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms