

**Testimony presented by Laine Romero-Alston,  
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**to the Health, Labor, and Consumer Affairs Committees for the  
hearing on "The State of Wages & Working Conditions of Restaurant Workers, and Its  
Impact on the Public Health"  
March 2, 2005**

Good afternoon members of the Health, Labor and Consumer Affairs Committees. I appreciate the opportunity to testify today and commend this effort to understand the state of wages and working conditions of New York City's restaurant workers. My name is Laine Romero-Alston and I am the Director of Research and Policy for the Community Development Project of the Urban Justice Center. As the primary researchers for the study that served as the basis for the Restaurant Opportunities Center's groundbreaking report *Behind the Kitchen Door: Pervasive Inequality in New York City's Thriving Restaurant Industry*, we want to emphasize some of the most concerning findings of the report and speak specifically about issues of considerable complexity that the industry currently faces.

It is important to underscore the general finding of the research, as highlighted through previous testimony, that across the board the industry is plagued with serious and dangerous problems related to the prevalence of below poverty wages<sup>1</sup>, lack of supportive benefits<sup>2</sup> and opportunities for mobility in the industry<sup>3</sup>, and pervasive employment and labor violations, such as minimum wage and overtime wage violations<sup>4</sup>. These "low road" practices have serious implications for the workers in the industry; but also put the health and safety of the public at risk, as our research found that workers who reported employment law violations at their place of work were also much more likely to report workplace practices that could have harmful effects on the health and safety of customers<sup>5</sup>.

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<sup>1</sup> 80% of workers we surveyed made less than poverty level wages.

<sup>2</sup> 90% did not receive health insurance from their employers and only 27% reported having any health insurance at all. 84% did not receive paid sick days and 70% did not get paid sick days.

<sup>3</sup> 60% do not receive regular raises, 71% of never been promoted in their current job and another 71% reported that they did not move up from their last job to their current one. 67% reported that they do not receive the training from their employer needed to be promoted.

<sup>4</sup> 13% reported minimum wage violations, 59% reported overtime wage violations, 57% reported working more than 4 hours straight without a paid break, and 19% of tipped workers reported that management illegally takes a share of their tips.

<sup>5</sup> For example, 66% of workers who experienced many labor violations did not receive health and safety training as compared to 34% of workers who experienced few violations. Moreover, 38% of workers who experienced many

Of further concern is the prevalence of discrimination based on workers' race and/or national origin. While we recognize that our study just begins to scratch the surface of understanding discrimination in the industry and further research is warranted, it is clear that it plays out considerably on three levels:

1) *Disparate impact of poor workplace quality and conditions on immigrant workers and workers of color.*

Our research indicates that workers' positions in either the front or the back of the house largely determine their earnings, benefits, working conditions and opportunities for training and advancement. Front of the house workers generally earn higher wages and have greater opportunities for advancement, while back of the house workers occupy the lower paid positions, work longer hours, are less likely to receive training needed to be promoted, and are subject more often to minimum wage violations. Analysis of industry data shows us that there are significant differences in demographic characteristics of workers occupying front and back of the house jobs, as workers of color are disproportionately relegated to back of the house positions and white workers are predominately employed in front of the house positions. Given these racial disparities, the impacts of difference in conditions of employment between front and back of the house positions fall most heavily on workers of color.

2) *Discriminatory hiring and promotion practices.*

Through the interviews with employers and workers, we saw concerning patterns of discrimination in hiring and promotion. Employers consistently said that they seek "attractive individuals", often referring to students and actors, for better paying and better quality front of the house positions, while they looked for "work ethic" for back of the house positions. "Work ethic" often translated into individuals who are willing to work long hours for lower wages and perform tasks others are not willing to do under poor working conditions. Such preferences clearly have discriminatory impacts, as it appears based on the racial make up of the industry that white workers are more often perceived to be more "attractive" than workers of color. The fact that back of the house positions are overwhelmingly workers of color and immigrants suggests

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labor violations reported frequently working with restaurant was understaffed as compared to 11% of workers who experienced few violations. 18% of workers who experienced many labor violations reported doing something due to time pressure that might have harmed the health and safety of the consumer, compared to 3% of those who reported few labor violations.

that employers' hiring decisions are based on racialized perceptions of who possesses the type of "work ethic" they are referring to or who is willing to accept the type of work conditions these jobs offer.

Workers and employers alike reported that mobility from back of the house to front of the house is largely unheard of in the industry. While factors commonly cited by employers as principal barriers to mobility, such as lack of English proficiency or education, do play a role, our research found that they do not account entirely for the disproportionate levels of workers of color in the back of the house and the lack of ability to break the "glass ceiling" between the sides of the house. Rather, we found that race remained a determining factor with respect to restaurant workers' occupations.

Finally, our study showed that significant proportions of workers believed they were passed over for a promotion based on race or immigration status.<sup>6</sup>

### 3) *Verbal abuse and discipline.*

Over a third of workers (34%) reported experiencing verbal abuse, and a significant portion of those believed that race, immigration status or language was a motivating factor for that abuse.<sup>7</sup> In addition, nearly a quarter (23%) of workers reported that they or a co-worker had been disciplined more often or severely than their co-workers and, again, concerning levels believed that race, immigration status or language were reasons for that treatment.<sup>8</sup>

Finally, I would like to take a moment to highlight some of the main findings that came out of the interviews with employers that provide a more comprehensive understanding of the problems workers face in the industry. The good news is that we found that there are employers who seek to create and uphold a "high road" for the industry, many of whom are running very successful and respectable establishments in the City. It is important to emphasize that 20% of workers surveyed were making a living wage. These employers deserve recognition and support. Our study found, however, that many more employers, while they might espouse supportive workplace policies in theory, do not implement them in practice. While our research

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<sup>6</sup> 23% of workers reported that they or a co-worker had been passed over for a promotion. Of those, 37% said they believed race was a factor and 33% believed immigration was a factor.

<sup>7</sup> 44% reported that race was a factor, 28% reported that immigration status was a factor, and 41% reported that language was a factor.

<sup>8</sup> 37% reported that race was a factor, 31% believed immigration status was a factor, and 30% said that language was a factor in the discipline.

with employers was limited in scope, it was critical in identifying some of the constraints they face and the context in they try to run a business, which have significant affects on workers' wages and workplace conditions. Of particular importance are the following:

- Market volatility brought about by factors beyond employers' control such as weather, economic downturns, and changing tastes require significant flexibility on the part of restaurant employers.
- High costs such as rent, licensing fees and insurance premiums, as well as intense competition, high failure rates, and significant start up capital requirements put significant pressure on employers- many of whom turn to labor costs to meet their bottom line as one of the only non-fixed costs.
- The majority of employers interviewed set targets for labor costs well below the national averages. While employers recognized workers' dependence on wages and overtime to earn enough to meet basic needs, they also reported a policy of keeping wages low and overtime pay to a minimum.
- Worker productivity and low employee turnover are both important to profitability. While employers recognized that providing decent workplaces and wages to employees was critical to keeping turnover down, the need to push productivity created a tension in their day-to-day business that have the potential to result in "low road" practices, such as understaffing that forces longer and more unpredictable hours for their workforce and this negatively impacts workers and increases employee turnover.
- Many employers stated that they would like to offer their workers benefits, particularly health insurance, but most said that it was impossible due to prohibitive costs.
- Examples of employers successfully running a business, while providing decent wages and benefits to their workers illustrate that the "high road" is possible. However, restaurants following this approach are undermined by those who take the "low road".

Therefore, based on the findings of *Behind the Kitchen Door*, we support the following recommendations:

- Policymakers should consider initiatives and incentives that will assist and encourage employers to pay living wages and provide basic workplace benefits.

- Workers suffering from egregious violations of labor and health and safety codes must be protected through the enforcement of current health and safety and labor laws.
- Policy options to ensure career mobility for workers of color and to address discrimination based on race and ethnicity should be developed.
- Model employers' practices should be upheld and promoted.
- Collective organizing among restaurant workers should be supported.
- Resources should be allocated and support provided for further research around problems facing the industry.

Thank you for your time. I trust that the findings of this important study will be seriously considered and incorporated into your efforts to address the problems workers face and improve the industry for all its stakeholders.