



Testimony to the
Senate Finance Committee and Assembly Ways & Means Committee

**By Ady Barkan, Staff Attorney
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Chairman DeFrancisco, Chairman Farrell, Jr., and members of the committees,

Thank you for scheduling this important hearing.

My name is Ady Barkan and I am an attorney at the Center for Popular Democracy, where I work with progressive elected officials and community organizers from around the country to pass and enforce laws that protect workers and strengthen our economy by expanding the middle class. The Center for Popular Democracy is a proud member of the New York Coalition to End Wage Theft.

I graduated from Yale Law School in 2010. Many of my classmates went to work at major law firms representing the nation's most powerful corporations. But I was lucky enough to win a fellowship that permitted me to go work alongside the members of Make the Road New York. The members of Make the Road are brave, ambitious immigrants who came to this country to toil as cooks and cleaners and construction workers and caregivers so that they can support their aging parents and build a better life for their young children.

As an attorney at Make the Road, I represented workers who were treated unlawfully by their bosses. These members worked very long hours and received illegally, outrageously low wages. Some were paid \$5 per hour, some were never paid overtime, and some were never paid at all – particularly in the construction industry, bosses promised wages that never materialized, and then they disappeared.

We know that my clients were not unique. As the National Employment Law Project has explained, “[a] growing body of research – national studies, industry and regionally-specific studies, and government reports – documents a broad and worsening wage theft crisis in the United States.” The wage theft epidemic exists across dozens of industries, including retail, restaurant, and grocery stores; caregiving such as home health care and domestic work; manufacturing, construction, and wholesale; janitorial and security building services; and personal services like dry cleaning, car washing, and beauty salons.

To combat these ills in New York State, a broad coalition of workers, advocates, and elected officials came together in support of legislation that increased penalties for wage theft, gave

workers better information about their rights, and empowered the Department of Labor with new tools. I vividly remember the day of November 30, 2010, when you bravely shepherded the Wage Theft Prevention Act to passage through the Assembly. I was at Make the Road New York's Queens office that day, meeting with my clients about their cases. When the news came down from Albany, the whole building erupted into cheers and embraces. We were so proud of what our members and our allies here in this room and on this committee had accomplished. With the enactment of the new law, New York State became a national leader – it showed the way forward for states around the country.

The harsh reality, however, is that laws don't enforce themselves. Many employers do not know about their obligations and many others do not care to comply with those obligations. Wage theft happens because the unemployment rate is too high, because workers need jobs, and because employers can get away with paying illegally low wages.

The Department of Labor is the primary agency tasked with enforcing the law, and it has full authority to conduct investigations, evaluate the evidence, and issue orders of restitution for victims. But it does not have the resources it needs. The statistics are stunning: There are approximately 15,000 open cases, investigators are each responsible for approximately 130 cases, and workers often have to wait five years to receive the wages that were owed to them. That's right. Five years. I've seen it happen to my own clients.

It doesn't have to be this way. New York is a state of tremendous wealth. Just as we prioritize the funding of our police departments and our district attorneys and our attorney general's office, we need to prioritize the enforcement of laws that protect working class New Yorkers from theft. Enforcement of wage and hour laws is a wise investment in our economy: the Center for American Progress has recently highlighted the strong empirical evidence showing that when workers are treated fairly and prosperity is more broadly shared, our economy grows faster and becomes more resilient.

We ask that you provide funding in the budget for the DOL to hire an additional 200 investigators to return staffing to the levels from the 1960s and 1970s.

The Wage Theft Prevention Act was the first act of an inspirational and heroic performance. We have had a three year intermission, during which we've learned that the first act was not enough. It is time to come back and finish the story. New York State needs to invest in its workers, in its law-abiding businesses, and in the rule of law. In the second act of this story, New York State should ensure that the Wage Theft Prevention Act is enforced. Please, fund the Department of Labor fully; help workers expeditiously recover the wages that were owed to them in the first place. Proper enforcement of the law will deter violations, it will empower workers on the job, and it will protect honest businesses from illegal conduct of competitors. Funding enforcement of this law is a crucial step towards strengthening the rule of law, building a culture of mutual respect, and creating a prosperous and equitable economy that creates genuine opportunity for all.