



Employment Law Unit
199 Water Street, 3rd Floor
New York, New York 10038

Direct Dial: 212-577-3465
Direct Fax: 646-616-4465
E-mail: hvpfitsch@legal-aid.org

Blaine (Fin) V. Fogg
President

Steven Banks
Attorney-in-Chief

Karen Cacace
Supervising Attorney
Employment Law Unit

**HEARING OF THE COMMITTEE ON CIVIL RIGHTS
NEW YORK CITY COUNCIL
June 30, 2011, 10 a.m.**

Good morning, my name is Karen Cacace Pfitsch and I am the Supervising Attorney for the Employment Law Unit at The Legal Aid Society.

I am here to speak in favor of Council Member Rose's proposal to remove the four-employee requirement from the New York City Human Rights Law. This change will have particular import for many clients of The Legal Aid Society who are currently outside the City's discrimination protections because their employer has fewer than four employees. At the Legal Aid Society, we have seen numerous cases in which employers had only two or three workers and treated them each very differently because they are in a protected category. For example, in two cases on behalf of domestic workers, employers employed one white worker and one or two Latina workers and provided the white worker with significantly better terms and conditions of employment compared to the Latina workers, even though they all performed the same work. The employers also routinely made derogatory comments about the Latina workers. For discrimination based on race, these workers may have a claim under the pre-Title VII Civil Rights Statute 42 U.S.C. section 1981. However, this discrimination is currently legal under New York City law, and if the discrimination was based on an illegal motive other than race these workers would have no recourse.

Domestic workers now have a cause of action for sexual harassment under the State Human Rights Law thanks to the Domestic Workers Bill of Rights. However, the City Human Rights Law is expressly designed to be more expansive than the State law and has significantly more favorable standards and remedies. Other employees whose employers have fewer than four employees are vulnerable to hostile work environments, have no right to accommodations for disabilities, and are vulnerable to discrimination based on criminal record and other protected categories in the city law. We strongly urge you to make this much-needed change.

We have a former client of The Legal Aid Society here to provide her perspective as someone currently left out of protection in the City Law. I'd like to introduce Angelica Hernandez.

Angelica Hernandez

My name is Angelica Hernandez. I am a member of Domestic Workers United and a former client of The Legal Aid Society. I am here to speak in favor of the proposal to assure that the City's discrimination laws cover all employees and remove the four-employee requirement.

This is a good proposal because it will especially benefit domestic workers. Unfortunately, often our employers don't see us as employees because we work in the house. Discrimination and sexual harassment are common. Now, because of the Domestic Workers Bill of Rights, we have protection against sexual harassment. However, under the City law, we don't have that protection. We also have no right to accommodation for disabilities, or protection from other kinds of discrimination.

In my case, my employers hired me and another worker from another country to work as nannies. They treated me differently. I was discriminated against because of the country I am from. They paid her more and gave her time to rest and time to sleep while they treated me like the "girl," the "servant."

The change in the law that you are considering today will also help expand protection against retaliation, which is critical for domestic workers. Threats and intimidation are common. Many immigrant domestic workers stay in abusive situations because their employers tell them that they could be reported to Immigration if they make any claim. Many workers do not have information about their rights and continue working in fear. It is difficult to stand up for yourself when you are in the middle of the situation.

It is very important to extend the discrimination law to cover all employees for these reasons. Thank you for your consideration and I hope you take this action.