

Brian Moriguchi: ... to the US Commission on Civil Rights shall come to order. For the benefit of the public who have joined us today, I'll introduce my colleagues and myself. My name is Brian Moriguchi. Members of the committee present here today are Claire Pastore, Rogelio Ruiz, Rachel Sigman, and Christopher Yost. Did I miss anybody who's present?

Star Parker: Star Parker.

Brian Moriguchi: Star Parker, thank you. Anybody else? The members of the committee who are absent today are Javier Gonzalez, Gunner Gunderson, Darryl Hunter, Shenay Franklin Minor, Velma Montoya, Daniel Orner, Alison Dondez Renton, and Mimone Schwartzchild. So we do have a quorum present and will proceed with this meeting. Also present are commission staff Brooke Perry, civil rights analyst, and Angelica Travino, support specialist. And we also have with us the ASL Interpreters. Thank you for joining us.

The US Commission on Civil Rights is an independent bipartisan agency of the federal government charged with studying discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. In each of the 50 states, the District of Columbia and all US territories, an advisory committee to the commission has been established, and they are made up of responsible persons who serve without compensation to advise the commission on relevant information concerning their respective stakes.

Today, our purpose is to hear testimony regarding civil rights implications of AB-5 and the potential impacts of AB-5 on minority groups such as women and people of color within the state. Today's meeting will also include a period for public comment later on in the agenda and will be an opportunity for members of the public to share their perspective and opinions. If you are a member of the public joined online, commission staff will be messaging you to see if you would like to comment. Our chat box is not working, so if you would like to comment, there is a Q&A box in the lower right corner. And if you'd like to comment, just request to make a comment in the Q&A section. For the members of the public who are joined on the phone with audio only, you will be able to indicate with your keypad when we reach that point in the agenda if you would like to make a comment.

At the outset, I want to remind everyone present of the ground rules. This is a public meeting open to the media and the general public. I want to remind everyone that this meeting will be transcribed from a recording for the public record. I ask that you please state your name when speaking. Panelists should limit their initial remarks to around eight minutes. After all the panelists have spoken, Advisory Committee Members will have the opportunity to ask questions. In addition, written statements may be submitted to Brook Peery at bpeery@usccr.gov. They would need to be submitted by October 28th, 2022.

Though some of the statements made today might be controversial, we want to ensure that all invited guests feel welcome and do not defame or degrade any person or any organization. As the chair of today's meeting, I reserve the privilege to cut short any statements that defame, degrade, or do not pertain to the issue at hand. Any person or any organization that feels defamed or degraded by statements made in these proceedings should contact our staff during the meeting so that we can provide a chance for public response. Alternatively, such persons or organizations can file written statements for inclusion in the proceedings. I urge all persons making presentations to be judicious in their statements. The advisory committee appreciates the willingness of all participants to share their views and experiences with this committee. I would now like to begin our meeting by introducing today's panelists. The committee has received full bios for each panelist ahead of today's meeting. Our first presenter is David Lewin from the Berkeley Research Group. David?

David Lewin: Well, thank you very much. Can I be heard? Can you hear me clearly?

Brian Moriguchi: Yes.

David Lewin: Oh, well that's good. Let me make some preparatory remarks. I've been a professor my entire career at two institutions, Columbia University and UCLA, and I'm presently Professor Emeritus of Management, Human Resources and Organizational Behavior at the UCLA Anderson School of Business. I'm also a Managing Director and Head of the Labor and Employment Practice of the Berkeley Research Group, a company that was founded years ago by a University of California Berkeley Professor of Strategy and that provides advisory services and expert work in litigation matters across a range of areas.

In 2019, the Berkeley Research Group was asked to analyze the impact of Assembly Bill 5 on California's gig economy in terms of both earnings opportunities for drivers and the types of services for consumers. And when I say gig economy, I want to also mention or remind some people who I think may know this, and some of you may know it well, the exclusions from AB-5 are far larger than the inclusions of AB-5. All professional services were excluded from AB-5. And interestingly, also excluded were salon workers and journalists. But journalists originally were included in the enabling legislation until many of the leading media outlets in California, The Los Angeles Times, The Sacramento Bee and so forth, lobbied the legislature, arguing that if journalists were included, this would bring about the demise of their papers. And so the legislation, as it was amended at various stages, wound up excluding them. And thus, the legislation was clearly focused on so-called gig economy companies, ride share and delivery companies, food delivery companies in particular.

In 2019, we at the Berkeley Research Group were asked to try to analyze the potential impact of AB-5 on earnings opportunities for drivers and on services for consumers. We agreed to do this, and in doing so, we obtained and

analyzed, aggregated data from Uber, Lyft, DoorDash, Instacart, and Postmates. Our overall conclusion from the research we did and the findings we accumulated was that there would be substantial negative consequences, not positive ones, for drivers and consumers. This is perhaps not all that surprising if one goes back and reviews the history of all sorts of legislation, which sometimes has unanticipated negative consequences and sometimes has, as predicted, positive consequences. In particular, the employment model that's advocated by AB-5 would likely result in a very small proportion of independent contractor drivers actually being hired to serve as employees, and this is in large part because of the business models that these companies use. The operating costs for a conversion to employment from independent contracting would be very substantial.

Getting to more specifics, we found that analyzing data for over a million Californians who served as drivers in 2019 for ride share and food delivery companies, most of them were doing so to provide additional income to them and their families. This included drivers, some who held full-time jobs elsewhere, some who held part-time jobs elsewhere, some, about 15%, who were students trying to earn a few bucks to offset their tuition costs and room and board, and about another 15% consisted of retirees who were looking to make extra income while receiving pension income from their prior employment to help support their families. About 80% of the drivers worked fewer than 20 hours per week. So they were relying on other jobs or other sources of income for their main income, and driving for one or another of these companies was a supplement.

Our estimate was and is that a large majority of the independent contractor drivers would not become employees of the companies given the data, the costs and the analytics that are involved. And there are some other important consequences of this analysis. One is that a sizable proportion of the driver population is people who identify with minority communities and/or identify as persons of color. And the communities that have been disproportionately impacted by job losses during the pandemic would be most likely to be the ones negatively impacted by the conversion from independent contracting to employment of the drivers for these companies. Further, and with respect to consumers, our research indicated that the conversion from IC to employment would result in substantially increased costs to the consumer, ranging between 25% and 35% depending upon the markets that one is talking about. Wait times for ride share would also increase, as would wait times for food and grocery delivery. So these are some of the consequences of AB-5, surely unintended by supporters of AB-5, but that's what our analysis showed.

Now, Proposition 22, which was passed in November of 2020 by a margin, I believe, of 58 to 42%, indicated that the majority of voters wanted the independent contracting relationship to be maintained. And the demographic data indicate that minority communities were more likely than majority communities to vote for Proposition 22. We also have some more recent data

that show the earnings of drivers, let's say, for example, between the third quarter of 2020 and the third quarter of 2021, which indicated that their earnings increased to an average of about \$34.46 per hour, which is a 20% increase over 2019. The demand for the service was there. So these are a few of the findings and implications of the work that we did.

And a final one that I want to mention, which is perhaps particularly instructive, concerns surveys of independent contractor drivers for these kinds of companies. The US Department of Labor, certainly a nonpartisan, well regarded organization, I've worked with them over the years often, has conducted surveys of independent contractors, in which among other things, they ask about the contractors' preference for contracting versus employment and satisfaction with contracting. Very large majority of those surveyed say they prefer the independent contracting arrangement for the flexibility and additional income opportunities. And very large percentages, around 85 to 90%, express strong satisfaction with the independent contracting arrangement. There have been other surveys conducted by other organizations, public organizations and private entities, that basically show the same kinds of findings with different percentages. So that's a little bit about the research that we've conducted in this matter, and I think with the specified time limits I should stop here.

Brian Moriguchi: Thank you very much, Mr. Lewin. And we'll do questions after all the speakers have spoken. Our next panelist is Onyx Black. She is the founder of Artist Revolt. Onyx?

Onyx Black: Hi. I am very grateful to be here. My name is Onyx Black. A little bit about me, I've been doing this type of work, advocacy work or activism work, for the last 20 years. I used to work for a group called Peace Action West. I've worked in education. I've worked for the Master Gardening Program out here in Los Angeles to give fresh fruits and vegetables to marginalized communities. Point being, I am all about [inaudible 00:16:44] the marginalized and doing a good job for my community and other marginalized community. Somebody needs to mute themselves, please. Okay. So that being said, next slide please. Thank you.

What we're going to talk about today is who we are the area of work that we've done, because Artist Revolt has literally devoted a whole year on asking for a choice in AB-5 and getting the information out there about how strippers and other sex workers feel about Artist Revolt. We'll talk about the benefits of independent contractor status, the problems with AB-5. I have a sex worker survey that we had conducted with about 100 different sex workers, or at least about 77% of the people who filled out the survey were sex workers. Next slide, please. Nice.

So who we are? We have about 1,000 followers on Instagram. We have 30 volunteers. We are Black, transgender, large body, undocumented, mostly strippers and sex workers. And Artist Revolt is a collection of marginalized artists

and strippers and sex workers who care about the state of the world. We create actionable solutions to the erroneous injustices that we face due to invisibility. We've produced different campaigns. Currently we are working on efficacy and activism work around a choice in employee status. Next slide, please. So this year so far, we've done tons of things as you can see. We have had congressional visit with Kevin Kiley. We have hosted call-in days, two of those we have a resist spot asking our state assembly members for choice in AB-5 and how detrimental it is to strippers. We have tabled at different events. Like I said, our most current thing, we have a survey of 1,000 strippers and sex workers that we have collected on the negative impacts of AB-5. Next slide, please.

Okay, so benefits. What is beneficial for a stripper or sex worker? Employee status isn't for everybody. Being our own boss is super, super important. More diversity in the workplace. We have noticed that about 50 to 60% of us strippers and sex workers, or I should say exotic dancers, have lost our jobs due to AB-5. We'll go into that a little later. We had as independent contractors hire wages. We set our own rates. There was a larger workforce. As I said, 50% of us got fired. Being our own bosses and having flexible hours also mean that us who have disabilities, us who cannot work all the time, we can navigate that as well. A lot of people who do sex work do have disabilities or mental health disabilities as well. Next slide.

Now, the problems with a AB-5. Like I said, employee status is not for everybody. We want to set our own schedules. Like I said, we cannot set our own schedules. It is not flexible. We are forced to work in a schedule. And most people who are dealing with mental health issues or who are disabled, we need to navigate that. Some days are good, some days are bad. Due to employee status, there is less diversity in the workplace. Due to this, like I said, 50% of us got fired, there are lower wages. Now we cannot set our own rates. Lap dances could be anywhere from \$100, it doesn't matter, to \$40. Now it's whatever the club says. Like we said, now it's smaller strippers or smaller employment status. There's not that many people who are working. Not all strip clubs can afford employee status. People want you to think that it is all these big entities. There are different small mom and pop strip clubs that have unfortunately closed down, so that leads to more of a smaller workforce. That's it. Next slide.

Now, so employee status is not for everybody. Now, what this means, why employee status is not for everybody. Like I mentioned before, we do need more flexibility. As I said, a lot of us have children. A lot of us have to navigate different disabilities. Like I said, several different sex workers are disabled, be it mental or physical. And employee status, it is like having a pimp. Y'all may not think that is, but we have quotas in the strip clubs. So what does that mean? If you have to make \$200 that day and you're not feeling like it, you have to give Joe over there a lap dance. You have to. There's no choice or you get all this money taken from you and you don't make the quota of that day. If you don't make the quota of 160 or make more than that, which we'll go into a little bit later, if you don't make over the 160 or however much the stage fee is or

employee fee is, because these clubs are charging people, you don't make the money.

So you're forced to give people lap dance you don't want to. You're forced to go in VIP with you don't want to. Like I mentioned before, schedules don't work for people who are disabled. With severe disabilities, sometimes you cannot mentally go in, you cannot. I'll speak for myself on that one. Most strippers don't even work 30 hours a week at one club. That is a lot of lap dances, a lot of dancing. I don't know if anybody can dance 30 hours a week. That is a lot. So with that, we don't receive the so-called benefits that these employee status thing are asking for us as well. Not to mention, like I said, smaller places of 50 and less don't even have the benefits that are supposed to be offered to us anyway. Next slide.

Now, more diversity in the workplace. What has happened since AB-5 has come about? We have seen drastic decreases in the diversity since AB-5. Managers prefer who they feel will make more money. They are wrong, because as we all know, every good stripper knows the more diverse the club is, the busier the club is. But that's not the point. The managers are hiring or keeping thin, white passing, able bodied, cis dancing people. That's who's usually selected, which leaves the rest of us out. This has happened more and more since AB-5. And our survey, which we'll talk about a little later, we had one third of the people surveyed said, yes, they were forced in survival sex work since AB-5 came about. Another third stated they declined to state, which means you plead the fifth. So you can make that up on your own.

A lot of people because of this have moved out of state. A lot of people have lost their governmental benefits. There's some people who were independent contractors. They were receiving different Medicare, Medi-Cal for their children. Can't do that anymore. Undocumented cannot work anymore. Felonies cannot work anymore. Just like every other business, most people do not hire people who are felons. They don't hire people who are undocumented. And because of this, like I said, this leaves older strippers out, large body strippers, undocumented, people who have mental health issues, handicaps, and felons. And I'll just say this, this is California. This is one of the most expensive states in the nation. This is not what we need to be viable here in California. Next slide.

So there's definitely been less work, a smaller workplace. Any customer can tell you, Any dancer can tell you when you go into strip club. There's barely any dancers under AB-5 because they can only hire a certain amount. All strip clubs laid off about half of their dancers. Like I said, you can just go around and see this, if you go to strip clubs. An example of this, there was a great place in Orange County called Fritz. They completely shut down because there was a small mom and pop and they actually hired older dancers. It was a place for older dancers to be viable in sex work. And as I said before, sex work has definitely increased. Survival sex work has increased as well. Next slide.

Now, I forgot one other thing before we go into the survival sex work part or the survey: privacy. One of the biggest issues with AB-5 for us sex worker strippers is privacy. Now that we're an under the employee status, you get complete disclosure of where you work, what you do, and it's not safe for us. We live in a very dogmatic, stigmatized world. And what that means is... I even do pole dancing as a pole fitness teacher. I can't let regular jobs know that I'm a pole fitness teacher, let alone being a stripper. We're not able to be viable after this. A lot of people are in college. A lot of people are getting certifications. How do we go to get these other jobs if it's showing where we work? And like I said before, independent contractor status allows us to be more viable. It allows us to be able to have privacy in these things. And if we don't, we're not able to, even if we want to, get out of the sex worker trade.

Going along with this, we did a survey. It was a cross section of 103 different people that we had fill out the survey. You could only fill it out on one device only. We were trying to make it as legit as possible. Most of the cross-section is from California, but some people have moved due to AB-5. So we do have some people from across the states and even a couple of people from out of this nation in different nations. So in the survey, we had 103 people surveyed, 78% of them said that they were sex workers and strippers, 65... Excuse me, and that's not correct. 66% of them were negatively impacted by AB-5, 33% said they had to engage in survival sex work due to AB-5, and 35% declined to state yes or no. With that, we had had asked a question. "If you were negatively impacted by AB-5, what had happened?"

We've had different statements. One is major loss of income after employees status. Another one, my income was affected. I could barely afford to survive now. And on top of that, it made it 10 times harder to get hired at the clubs in Los Angeles as a Black stripper. It changed the atmosphere of the strip club and how we have to work. It's not worth it anymore. Another one. Half of my money has been taken from the club owners, cutting my means by a significant amount. As someone has done this job to prosper while living with PTSD and other mental health issues, I am now struggling and cannot afford to have proper treatment because I'm focused on just surviving all because of the requirements set upon us now that we are considered employees. Also with this, another one, they had to move out of state because resorting to working in California led to more dangerous underground work. Because a lot of the clubs won't let a lot of us in, so the survival sex work is a lot of us working in dangerous clubs that are not even certified or licensed or anything.

But rent is real. And as you all know, the homeless problem in California is proliferating and after quarantine has been even worse. So how are we viable with this in AB-5? Another person just straight out said, sex work. They've just started doing more survival sex work. Another person had to work with customers I didn't want to because of fear of losing my job and the quotas of being fired. Like I said, a lot of the managers are pimps now. So it goes on and on. I can actually mail this whole survey to you all so you can have it. Another

one: loss of my work and opportunities in California; I am undocumented. And so the list goes on and on, about 100 different people. And out of this, we had 85% of the people that filled out the survey were marginalized as well. So this was different marginalized groups from many different backgrounds, POCs, queer, LGBTQIA community, the physically disabled community, large body community, and etcetera.

So with that, that's pretty much all I have to say about this. I just want to say thank you so much for letting me have this time, because I've been to speak... Oh yeah, that's our email and that's our website. You can follow us on IG. But I'm grateful for this time to speak. This is my third different commission meeting. And one thing that bothered me is hearing about all of us marginalized people and nobody on the panel representing black people, large body people, transgender, undocumented. I didn't see anybody who looked like me, but everybody was talking about me. So I appreciate having this visibility.

Also, I just want to also put that there has been no real research on how strippers feel about this. Even the media, they are blowing up 15 strippers in a tiny little place in Southern California, not understanding that the huge picture of all strippers here in California are suffering. We don't want to be employees. We want to be independent contractors. Us marginalized want to be independent contractors having a choice. Even the person before me just spoke saying the most marginalized want this and it's no different with strippers. And that's all I have to say. Thank you so much for my time.

Brian Moriguchi: Thank you, Ms. Black, and please do send Brooke the survey results. We would greatly appreciate that. Again, if you are from the public and would like to speak during the public comment portion, please check the Q&A box in your lower right corner and advise us that you would like to speak during public comment. For the record, I'd like to acknowledge that we do have a couple of other committee members that joined us, Velma Montoya and Daniel Orner. If I've missed anyone else, please feel free to speak up. Our next panelist is Esther Hermida, Spanish interpreter. Esther?

Esther Hermida: Thank you for the opportunity of speaking here today. I'm here to speak for myself and on behalf of the thousands of independent translators and interpreters in California. I'm a professional interpreter and certified by the California and Federal Court. I'm a Cuban-born US citizen who arrived in the United States as a refugee. Like so many children of immigrant families, I spent my formative years helping my non-English speaking parents communicate, which made me feel awkward since I barely knew English myself. Ironically, I found my calling. Once I passed a state court exam, I immediately began freelancing. 30 years later, I'm still at it and can't think of a better way to earn a living. I became a contractor for the California State Courts from 1993 to 2003. I turned down an employment offer from the Los Angeles Superior Court in 2003 because working as a freelancer increased my opportunities to provide language access in a wider range of fields.

Translators and interpreters are usually freelancers. And as a self-employed Hispanic woman, I conduct business with federal and state courts. I help individuals who contract my services for private matters. I donate my time when I see a need. I travel, present at industry conferences, and mentor colleagues. I collaborate with my peers and share work opportunities, and I help direct clients by selecting the best interpreter for their needs. I provide services to direct clients in language service companies alike. By being selective in the kind of work I accept, I have been able to accumulate vast experiences that benefit the community. It was devastating to read how AB-5 affected all professional freelancers and independent contractors, a detriment to all of us. A law meant to correct the misclassification of workers has severely affected a longstanding profession. A law that aims to protect underpaid, misclassified workers-

Esther Hermida: ... a law that aims to protect underpaid, misclassified workers is discriminating against those of us who dare break away from traditional jobs. Our profession consists of close to 75% women; most are women of color. AB5 has created a barrier to these women of color who have realized their potential outside the confines of a traditional job.

Freelancing is a necessary and customary practice in our field, but it suddenly became illegal, creating a hostile working environment for small businesses and the self-employed. We lost contracts, as out-of-state clients felt uncertain and afraid of the consequences. Job offers became scarce, and many California companies doing business in California moved out of state. Those that didn't leave retained the services of interpreters outside of California to perform the work that should have been covered by one of us here. I find it unconscionable that the B prong of AB5 does not allow freelancers to do business with our own peers and language service companies unless we're employees of each other.

AB5 cast its nets wide and far, but unlike a fishing boat where the fish is sorted by class, AB5 offered no such relief and we were all misclassified. From early June 2019 and from a year after AB5 became law, we worked hard on educating our legislators about our niche profession and how our work is a service to the community. Even after getting a partial exemption for interpreters thanks to AB2257, we are still not considered a business-to-business service, nor professionals. This contradicts a 2006 memorandum prepared by the US Equal Opportunity Commission, which determined that the court interpreters are in the professional category.

Although it may not be evident or intended, AB5 has burdened us, the freelancers, to prove that we are the professionals and in business for ourselves. The people we serve will be harmed if we're forced to become employees of the many language service companies we provide services for. For instance, independent contractors often volunteer in our communities. Hundreds of hours were logged in by volunteers, which would be impossible to do as employees, as freelancers have the flexibility to forego payment during working hours to assist our community. AAPT, or the American Alliance of Professional

Translators and Interpreters, polled our members as to their pro bono work. Our members donated thousands of hours ensuring civil rights for many minorities. A letter listing the many organizations where this work was performed was submitted to you last night.

The latest compensation survey published by the American Translators Association shows that volunteers donated between one and 50 hours in 2019; another 4% volunteered between 51 and a hundred hours. That same survey of 739 US-based translators and interpreters shows that 19%, the largest concentration of language professionals, were located in the Western United States, which includes California. More than two-thirds of respondents were female, and more than 44% were over 55 years of age. The survey also shows freelance interpreters' and translators' gross income, which reflects the general trends in our field. We make well over minimum wage. We are not part of the gig workers' economy. I'd like to drop this link to that survey in the chat or in the Q&A after my presentation.

The freelance certified court and healthcare interpreters in the private sectors are an integral part of the justice and healthcare systems. Our autonomy is crucial to remain neutral. We need to be available at a moment's notice, and not at the whim of an employer. As professional minorities, we are at a disadvantage when the government imposes the B-prong mandated employment. As a result, we not only have to worry about keeping up with our professional skills, but we need to keep up with the ever-changing legal landscape for independent contractors. It's overwhelming, and it places a heavy load on individuals dedicated to providing excellence in language services.

Despite being unrepresented in Sacramento, we were able to obtain a partial exemption through AB2257 as mentioned before, with thanks to the thousands of translators and interpreters who advocated for our profession. As a result of a united front against AB5, California interpreters and translators came together to create the American Alliance of Professional Translators and Interpreters, known as AAPTI, to represent the interests of freelancers and independent contractors. Interpreters and translators throughout the US of A have joined our alliance.

AAPTI can reach our legislators and be the much-needed collective voice, but AAPTI alone cannot remedy the consequences of AB5. Minorities should be encouraged to grow and foster the economy the best way they can, which quite often means freelancing and working as independent contractors. A review from the US Department of Labor in the adverse effects of AB5 is urgently needed. Rather than replicating its mistakes at a national level, the impacts of AB5 must be viewed as a cautionary tale and never be repeated.

In closing, I want to thank the members of the California Advisory Committee to the US Commission on Civil Rights for their work on this matter. On behalf of my

colleagues, thank you once again for the opportunity to provide these comments.

Brian Moriguchi: Thank you very much, Ms. Hermida. Our next presenter is Matt Schrap from the Harbor Trucking Association. Matt?

Matt Schrap: Good afternoon, commissioners. Appreciate the opportunity here to have a chance to talk about some of the challenges that the trucking industry has felt since the passage of AB5 going back almost four, four and a half years at this point in time. My name is-

Christopher Yost: Mr. Schrap, could you speak up? It's difficult for us to hear you.

Matt Schrap: Sure, of course. I'm sorry about that, Mr. Yost. My name is Matt Schrap. I'm the CEO of the Harbor Trucking Association. We are a nonprofit drayage organization representing motor carriers who move containers to and from maritime ports on the West Coast. While we have membership that services many different gateways throughout the country, our main focus is here on the West Coast, specifically in California within the ports of Los Angeles and Long Beach, as well as Oakland. As many of you know, the ports of LA and Long Beach handle close to 40% of all the imported goods that come into the United States. Right now in LA-Long Beach, we have close to 21,000 vehicles that are registered to do business there on a daily basis, of which 15,000, close to 16,000 of them, would be considered active or in service.

Our organization, not only do we represent some of the largest motor carriers in the country, both of whom can be asset-based who own their own equipment, or non-asset-based carriers who contract with smaller fleets, we also have a program known as the Trucker Advantage program, which is primarily geared towards a single-truck, small fleet owner-operator.

Within our membership mix, we've had pretty consistent responses to AB5, and while of course the injunction had been lifted on June 30th, or excuse me, the Supreme Court rejected hearing the case by the California Trucking Association against the State of California on June 30th, the Supreme Court denied the writ, and on August 29th the injunction was in fact lifted. So, we have not seen a robust enforcement effort on AB5 primarily because it's had an injunction on the bill since it was implemented starting in the beginning of 2019. After two and a half years, we've seen no exact enforcement efforts, but there has been a tremendous amount of activity by trucking companies both large and small in order to comply with AB5.

One thing that is painfully obvious in all the conversations that I have with small fleets is that those who have chosen to be owner-operators do not want to be employee drivers of other trucking fleets. With the ABC test, and especially the B prong, prevents very little opportunity for peace of mind for drivers who want to continue as independent contractors or independent truck fleets who

contract with other trucking fleets, whether it's through the driver chat rooms that are on Facebook or Instagram or even TikTok for that matter, or some of the direct conversations I've had with these drivers, the overwhelming response is typically they do not want to be employees.

At this point in time, the only pathway for individuals who would like to maintain their independence is to go and seek out their own operating authority, which has costs associated with it such as insurance, permitting and business licenses that were not necessary previously due to the model that was known as the leased-on owner-operator model, which has been the industry norm since deregulation in 1980; that these individuals were able to contract with another overlying motor carrier and utilize the operating authority issued by the DoT of that overlying motor carrier, which would prevent them from needing to get their own authority.

While the actual securement of the authority isn't necessarily cost-prohibitive, it's the insurance that goes along with the need to... demonstrating that you have insurance in order to receive your own operating authority from the federal government. In a leased-on owner-operator relationship, many times smaller motor carriers were able to enjoy a captive insurance product, or just by virtue of volume and larger premium output by overlying motor carriers, so these smaller fleets who are operating under the authority of these overlying motor carriers would see much lower-cost insurance.

The estimates that I've seen now for an independent formerly leased-on owner-operator to moving into their own trucking fleet, if they are in fact one truck, one fleet; if they have more than two employees, obviously you need to start looking at workman's comp, but if you're just one truck, one person, one fleet, so to speak, you could be seeing costs exceeding \$30,000 to \$50,000 additional per year just in expenses relative to insurance, and again, operating authority and other business licenses that are necessary.

While the previous model of the leased-on owner-operator had not been without its challenges, especially in California, which is evidenced by the many misclassification claims that were brought before the Employment Development Department and the Department of Industrial Relations, that this day and age you have a much more sophisticated owner-operator who understands the value that they're bringing to the supply chain, and the contracts that they were entering into with these other overlying motor carriers were reflective of that.

Now, you have a situation where you can no longer be a leased-on owner-operator. You need to go get your own operating authority, and even then, because of the way that the works within the ports and intermodal railyards for the making of appointments, with the interchange for use of equipment, for the concession or registration agreement down in Los Angeles or the Port of Long Beach respectively, you have a little bit of uncertainty as to whether or not the contracting entity is going to be held to a violation of the ABC test just by virtue

of having a contract with another motor carrier. We have not seen enough robust enforcement to determine exactly what standards are going to be applied to these individual motor carriers and their subsequent broker-partners or other motor carrier partners. Even as the solicitor general had alluded to in the opinion that was requested by the Supreme Court prior to denying the California Trucking Association's writ, was effectively that we don't know how this is going to impact the industry, because it hasn't been enforced.

But I can tell you firsthand, many companies have already taken steps to prevent their owner-operators from continuing on in the same relationship, and have basically said to them, "You have two choices. You can either go secure your own operating authority insurance and everything else that goes along with it, lose the benefits of utilizing the underlying motor carriers' insurance, lose the benefits of potential fuel discounts, lose the benefits of parking, lose the benefits of tire discounts, and move out on your own as a bona fide trucking company, or you can become an employee." Overwhelmingly, these small fleets have chosen to go down the pathway of attempting to secure their own operating authority, despite the fact that their costs are going to be increased significantly, and there still is no clear legal pathway for the companies who they are contracting with as to whether or not you will be subject to any type of enforcement action from a enforcement entity within the state of California.

Even the state governor's office has alluded to the fact that there's no way to determine how exactly this enforcement matrix is going to pan out until someone is either cited or sued, which gives small fleets a little bit of consternation when contracting with overlying motor carriers, because they're not sure if their partner carriers are going to be held to a different standard than they were before, subsequently resulting in hundreds of thousands of dollars of potential fines.

The one thing about the leased-on owner-operator model, although it was not without its challenges previous, is that it did provide an opportunity for individuals to enter into the marketplace and exercise their entrepreneurial rights to help build a business. Some of the largest trucking companies in the country were started with one person and one truck. Now, that pathway is much more difficult to navigate, primarily because AB5 has set up this entry standard that says you cannot essentially be a leased-on owner-operator, you need to have your own authority. And again, the challenge becomes getting that insurance, where you need years of driving history, at least two years depending on who that particular insurance carrier is, in order to secure that insurance in order to secure your operating authority. So, it's made it very difficult for some of these folks to maintain the lifestyles they've become accustomed to if their costs are going up by upwards of \$50,000 just by merely needing to secure their own operating authority.

There are many questions, and of course there are many perspectives, on how exactly AB5 is going to essentially impact the overall supply of drivers, but when

coupled with a lot of the air quality mandates that are coming forth here in California specifically, there is concern that we'll lose a large portion, up to 20, 25% of total available capacity, due to these rules specifically. While individuals, again, have had the opportunity to be employees either currently through their current relationships or previously through the hundreds of jobs that were available to truck drivers to become actual employees, the fact of the matter is that these jobs went unfilled because people preferred the freedom of being the independent owner-operator.

How this pans out in the future will remain to be seen. It's going to be a function of how aggressive the State of California is with their subsequent enforcement activities, or with some of the private plaintiff's attorneys seeking out damages for misclassification on these overlying motor carriers who are trying to contract with now authority-holding small fleet owner operators in order to continue the business.

I would hope that there are some good questions. I know we have Eric Tate, who's scheduled to go after, who's someone who has been within this industry for many years. I think hopefully we'll have a good discussion and there will be some good questions from the Commission. Obviously, there is no shortage of challenges with AB5 in its implementation, but right now, for better or worse, a lot of the uncertainties surrounding the enforcement matrix moving forward has given many pause, sent owner-operators to other states where they don't have to deal with these type relationship mandates, or the air quality standards for that matter. We have had people leave the industry, we've had a handful of people take on employment jobs, and the remaining have looked at securing their own authority.

So, we look forward to additional questions, and I truly appreciate the opportunity of being here to explain some of the challenges that the trucking industry in California has faced as of late.

Brian Moriguchi: Thank you, Mr. Schrap. I want to put on the record that another committee member is present; Gunnar Gundersen is with us today as well. Our next panelist is Eric Tate from the International Brotherhood of Teamsters. Eric?

Eric Tate: Thank you very much. I appreciate the opportunity to speak here today. The AB5 is something that has been borne out of what's going on at the ports, as Matt just discussed prior to me, and on a lot of issues I think Matt and I agree. It'd be nice if the Harbor Trucking Association along with the California Trucking Association sat down with the Teamsters and allowed us to talk about some of these issues here, because I think there are solutions that can be put forth in fixing this problem, so that there aren't additional lawsuits and there aren't additional strikes and so forth that have been going on in the ports for the last 10 years, and I think it'd be beneficial to both sides if we had those conversations.

I'm hearing from all these other industries that are getting caught up in the AB5, and it's unfortunate that it's come to that, but as Matt said as he spoke, there's been a lot of lawsuits over in the ports, truck drivers, that today they may think that being an independent contractor is the greatest thing since sliced bread, but then when all of a sudden they can't pay for the truck anymore because they're paying for things that they wouldn't have to pay for as an employee, they end up losing that truck.

And there was problems when they gave these trucks to the trucking companies, and these trucking companies illegally leased out these trucks and allowed them to lease them back to these workers, and when the worker could no longer pay for the truck because the expenses got too high, they took the truck back and they leased it to somebody else. Great business for the trucking company. If I could resell the same truck over and over again to a different driver, I'd make a lot of money doing that at the same time as still having that asset. Meanwhile, the truck driver is bankrupt. He's out of the industry, and he's got to find a way to feed his family going forward.

There are several ways for a driver to own his truck and be an employee and work in this industry. I've had truck drivers for over four years now working at a company that own their truck and they've been classified as an employee. It's a two-check process. They get a payroll check at this company, just like there's some workers that drive a company asset and there's workers that have a private asset. They get a paycheck for the hours that they work, and then they get a paycheck for their asset, which pays for the maintenance on the truck and so forth, tires and insurance and registration.

I have a new company that has just come in that is doing it a little different than they're doing it. They do it on a per-piece basis of paying for the work. They do a move, and out of that move a portion of it goes towards the wages, and another portion that goes towards the truck. It's still a two-check process. They pay taxes on the wage portion, and the other portion is a reimbursement. That seems to be working as well, a little different model than what they had at the company that I've had for several years.

And then now, and this is the conversations that we should be having with the California Trucking Association and Harbor Trucking Association, the company can set rates for each move; the driver can now be able to select their work, which gives them that independence that they have today. Out of the rate, the company pays the taxes on an hourly basis for the amount he does, but they deduct the taxes from the driver. The company has the precalculation on the payroll taxes based on each trip, so that the employee only will see the net amount of the work they're doing. So, they still have the feeling of working and getting the full amount, and taxes not coming out of that. Then in the background they roll up those taxes and pay them as they should, as the employee should, and actually as any worker should. Then the driver doesn't feel the pinch of taxes being deducted from their pay.

I think this model here is most advantageous to the workers. I have a lot of drivers that are out there that are asking for this model to be put into place. There's a company that's putting it together, and I'm sure there will be several other companies that want to do the same thing. But through discussion there's always solutions to problems, and I think that had we had an opportunity to sit down and talk about these things rather than going to court and fighting, filing lawsuits, challenging it at the Supreme Court, wasting time with all those different things, we probably could have had solutions years ago and kept money in the pockets of the companies as well as in these workers' pockets, rather than spending it on court cases.

I want to thank you for the opportunity to speak. I don't want to go into it in any more detail than I have, but I do understand there's people that have issues with AB5, but I think that the solution is not to go back to what there was before, because the reason why AB5 has come about is because there was people on the other side of the coin that were losing their jobs as well. It was illegal before AB5, and AB5 is just a solidification of what was already illegal, because we've sued and won over hundreds of millions of dollars for the actions that are taking place at the Port of LA-Long Beach and Oakland. Thank you for the time.

Brian Moriguchi: Thank you very much, Mr. Tate. Our next panelist is Julie Gutman Dickinson from Bush Gottlieb. Julie, go ahead.

Julie Gutman Dickinson: Thank you very much. Good afternoon. I want to thank you for the invitation to participate in today's panel. My name is Julie Gutman Dickinson. I am a managing partner at the law firm Bush Gottlieb, where I represent labor unions and workers, many of whom are misclassified in wage and hour claims. I have been a labor and employment lawyer for over 25 years vigorously advocating for the rights of workers, most of whom are low-income immigrants and people of color. I've spent a good part of the past decade working with Teamsters like Eric Tate and with workers in Southern California to improve the wages, benefits, and conditions of employment of drivers who make up the commercial trucking workforce and who are mostly immigrants and people of color.

The most insidious legal hurdle that we've had to fight is worker misclassification. For the past four decades, since trucking was deregulated in the 1980s, thousands and thousands of these drivers, the vast majority of whom are from Black and brown communities, have been misclassified as independent contractors and ruthlessly exploited in an industry that has often been described as sweatshops on wheels, modern-day sharecropping, indentured servitude.

When we look at why so many trucking companies have misclassified drivers as independent contractors, the answer becomes quite clear: It's for profit. Numerous trucking companies have been getting away with breaking the law for profit, making money off the backs of workers, off the backs of taxpayers

and off the backs of high-road employers who are playing by the rules. Even after multiple judgements against them for misclassification, there are many trucking companies that find it cheaper to pay out the judgments and settlements and continue to operate outside the law, rather than reform and properly classify their drivers as employees. These companies become repeat offenders that continue to perpetuate the evils of misclassification.

The consequences have been devastating. First, misclassification leads to a race to the bottom, because law-abiding companies can't compete. Second, misclassification harms the state through lost taxes and increased social safety net costs without any contributions by the misclassifying employers. And third, misclassification harms workers, the vast majority of whom are from minority communities, by depriving them of wages, benefits, and other basic employee rights; protections, including wage and hour protections such as minimum wage, overtime, paid sick leave and family medical leave under the FMLA, unemployment, disability, workers' comp, occupational health and safety protections, anti-discrimination protections regarding age, gender, race, and disability that are protected when you are an employee. And these workers who are misclassified are deprived of the right conferred on employees but not independent contractors to organize, to form a union and to collectively bargain for better terms and conditions under the National Labor Relations Act.

Ironically, at the same time that we've worked to raise the minimum wage to bring hard-working members of our communities of color out of poverty, there remain thousands of misclassified drivers working below the current minimum wage, and some weeks even receiving negative paychecks. I have seen it with my own eyes. I have seen settlement statements from drivers at several companies where they have negative 220 one week, negative 300 another week. It is difficult to imagine. After 40, 50, even 60 hours of work a week, can you imagine? It is not uncommon for drivers to receive negative paychecks where they actually owe money to the trucking companies, because the money they received from their labor for the week was less than what was necessary to cover payments for their truck lease, fuel, repairs, parking, maintenance, insurance, and other items that the company unlawfully deduct from drivers' paychecks because they are illegally misclassified as independent contractors rather than employees, and deprived of a fair day's pay for a hard day's work, much as Eric Tate just described to you. Then this problem is exacerbated several times over when misclassified drivers are sick and can't work, or in the case of the pandemic where misclassified workers were denied basic protections altogether. It truly is modern-day sharecropping, indentured servitude.

Even before the ABC test of AB5, there was no question that the majority of purported independent contractor truck drivers were actually misclassified and should have been treated as employees. I've worked with hundreds and hundreds of low-income immigrant workers and people of color, including women, at several dozen of the different trucking companies in Southern

California, and have brought claims in state and federal court and before multiple state and federal agencies in conjunction with Eric Tate and others, from the NLRB to the DOL to the EDD to the DLSC. From state to federal court, in each and every case that we've brought, the judges, the hearing officers, the arbitrators have uniformly found that these workers are employees who are misclassified as independent contractors and entitled to the full protections and benefits of their true employee status.

The problem is that the California Borello test that was completely the law preceding ABC, it's complicated, it's burdensome. It has 11 factors, and employers have learned how to rely on insignificant facts to twist and convolute the Borello test even further and overload the record, resulting in delays, extensive length of hearings, longer periods for briefing, extending the time it takes adjudicators to render decisions, even though the outcome almost uniformly was a finding of employee status at the end. But as we know, justice delayed is justice denied.

The AB5's ABC test, by contrast, it's simple, it's clear, it streamlines the process for all. It also provides for the pursuit of injunctive relief in the courts to get quicker reclassification determinations. AB5 deters the evils of misclassification. It encourages proper classification of workers as employees because of the significant liability that attaches, and now the strong likelihood that companies will be forced to reclassify if they don't do so on their own. AB5 brings timely economic justice to workers, particularly women, immigrants and people of color. And economic justice promotes racial justice, as we know that workers' rights and civil rights are intimately intertwined.

As Eric Tate alluded to, we're already seeing a number of trucking companies starting to reclassify, particularly in light of the Ninth Circuit decision finding AB5 is not preempted under federal labor law in the commercial trucking industry. And as Matt alluded to, the US Supreme Court made a decision...

Julie Gutman Dickinson: ...not to even touch the Ninth Circuit's decision, so it is the law of the land. And while AB5 simplifies and streamlines and makes everything easier, it does not limit the ability of people to work as bonafide independent contractors. And in the truck trucking industry, there can be bonafide independent contractors. It is very difficult, as Matt pointed out, because they have to have operating authority to work on their own and directly solicit work from cargo owners. But to the extent, there are folks like that out there. The AB5 does not prevent them from continuing to operate as independent contractors. There's built-in protections in AB5 with business-to-business exception. But this is not the norm. This is not the norm. The vast majority of drivers labeled independent contractors are completely dependent on their employers.

But before I turn back to that, briefly, I'd like to hone in on one prime example of the industry's perversion and co-optation regarding the concepts of flexibility and its relationship to control. To begin, the ability to choose not to go to work

for a day or 10 days without any pay and without any safety net support, like unemployment insurance or worker's compensation insurance, is not flexibility. Similarly, the ability to decide when to make yourself available for work is not flexibility if you're not actually functioning as an independent business and are dependent on a middleman, like a trucking company, or an app like Uber or Lyft that has control over the work available to you and the pay you receive from your work. True flexibility comes from robust worker protections, which establish a safety net, provide for paid time off for workers, and guarantee schedule flexibility.

This is particularly true when we are dealing with the most vulnerable communities in our country who lack the real bargaining power. In the trucking industry, for example, you are most likely to encounter drivers who are working 12 to 14-hour days, the maximum allowed under federal law, while barely making more than the minimum wage after expenses are factored in, sometimes having weeks with negative paychecks, as I mentioned. That's not flexibility. The fact that the worker could then decide, "I'm going to take a day off to care for family," or, "I'm too tired to work another 14 hours today," cannot be enough to deprive this worker of any protections under the law. After all, every employee should have that basic level of flexibility of their jobs and should be guaranteed paid time off.

Moreover, even if we accept that workers have some level of scheduling flexibility ... does exhibit some level of control over their jobs, it's a perversion of every single version of employee status test for employees to claim that this is the primary control that the employee status test is concerned with. It is clear that the concept of control for employee status purposes is much broader, and the law is primarily concerned with the aspects of control that more directly speak to important business decisions and a worker's ability to operate independently, and build profits not just for the hours they work, but from the business decisions that they are allowed to make. I mean, that's why aspects of control, such as wages, control over customer relationships and interactions, control over the assignment of work, control over discipline and termination, control over operating authorities or licenses necessary to operate, control over decisions regarding the services being offered, and control over pricing for customers should be and are given more weight under any employee's status test.

And the reasons why trucking companies in good companies like Uber and Lyft focus on flexibility over scheduling is because they know that they, themselves, retain control over all these other aspects of the employment relationship. On top of perverting the concept of control under relevant employee status tests, employers and industry groups have spent a tremendous amount of resources in an effort to convince workers and the public, and even legislators at times, that there's a binary choice between worker flexibility and employment protections. This is truly an outright lie. Nothing in any employment law would prevent any company from providing employees with any level of scheduling

flexibility it wishes to offer. In fact, technology makes it even easier for companies to exercise indirect control over scheduling as a way to both meet their business needs and give workers some say in scheduling and flexibility.

Even trucking companies and good companies who claim they provide complete scheduling flexibility do not actually do so because they use indirect ways to ensure they have workers they need available at the times they need to run their businesses. Companies like Uber and Lyft would fail if consumers could not reliably expect to open their phones and find a ride within a reasonable time. So Uber and Lyft control work shifts indirectly through technology, analyzing historical and minute-to-minute needs, and utilizing incentives and surge pricing to ensure employees are available at certain times. They could continue to do so even if they treated their workers as employees and provided them some level of scheduling flexibility, the myth about the lack of flexibility. Likewise, trucking companies also require such control because they make commitments to their customers about when cargo will be moved or delivered, yet they rely on indirect control by deciding when to offer work to drivers, by deciding when dispatchers are available to assign work to drivers, by deciding exactly which routes to offer each driver, and by using monetary incentives to ensure drivers are working when the company needs them.

Companies could continue to do this even if they correctly classify their drivers as employees and provided them with the same level of scheduling flexibility. I'd like to just turn back for a minute to the fact that most truck drivers labeled as independent contractors are completely dependent on their employers and have been misclassified. AB5 does make it easier for these dependent workers, the vast majority of whom are immigrants and people of color, to assert their rights and for the state to prosecute the companies who are exploiting these workers. With regard to commercial trucking, trucking companies have spent years trying to avoid AB5 and have had years to prepare for its implementation. Now, they must be held to account and cannot be allowed to claim surprise or delay enforcement any further.

As Eric Tate pointed out, an option is to be an employee and to be an owner driver, or to be a fleet driver. There are so many options. And the groups who are going to benefit most from proper enforcement of the law are low-wage, minority workers across trucking and transportation industry, in particular, and across the economy as a whole, such as low-income women or workers of color in the janitorial industry, the hospitality industry, childcare providers, home care attendance, the list goes on. Economic employment rights are civil rights, and AB5 is therefore an important civil rights tool that will help decrease inequality and empower the communities that need it most. There is no question that groups like undocumented workers, and former prisoners, and individuals with disabilities, and individuals with families and women, and people of color generally are discriminated against in the workforce, and that many employers impose policies that harm these groups of workers.

But the answer is not to condone and legalize a subclass of employment that will deprive these workers of basic employment protections, in exchange for some modicum of control over their schedule. The answer is to enforce existing laws to prevent discrimination against these groups and to pass legislation that provides all workers the dignity of some control over their schedules and some flexibility to deal with life's emergencies. In unionized workforces, the power to bargain for more flexibility and other conditions, and to find other ways to strengthen employment laws and continue the legacy that California has established as a defender of workers' rights. That should be our priority.

In conclusion, African-American, Latino and civil rights leaders of all races have long tied civil rights to economic equality and justice, and the growth of good jobs. As Matt pointed out, talking about the supply chain crisis, it wasn't a shortage of drivers. It was a shortage of good jobs, that the misclassification, the wild, wild west, is what drove the crisis. So we need economic equality and justice and the growth of good jobs, and that is what AB5 is all about. Eliminating AB5 would be a huge step backwards for civil rights and employment rights. Thank you.

Brian Moriguchi: Thank you, Ms. Dickinson. I just want to remind the public, if they would like to comment, to click on the box in the lower right corner that says Q&A and request to be put in the queue. Thank you to all of our panelists. We greatly appreciate your time. I'm going to open this up now to the committee members. What I'll do is I'll address each committee member in a roll call style so that everybody has an opportunity to ask at least one question, and then we can do follow up questions as time permits. Let me start with Christopher Yost.

Christopher Yost: Thank you, Brian. I appreciate it. I'm going to liberally interpret your invitation as a question for each of our presenters as opposed to one question all up. So Dr. Lewin, based on your expertise and extensive research, how has AB5 disproportionately and negatively impacted minority drivers?

David Lewin: Well, to the extent that conversion to an employment model would result in far fewer individuals actually serving as drivers, and that's what our estimate suggests under the employment model compared to the independent contractor model, and if you accept the fact that the data show that large proportions of the drivers for these ride share and food delivery companies are members of minorities, then that conversion would have a negative effect upon them. And to the extent that there are far fewer drivers, there are far fewer services that are going to be provided, including to minority communities. Not only to minority communities, but including them. So I think if you consider the workforce composition aspect of those who drive for the companies we're focusing on here, or that certainly AB5 focused on, the effects could be negative and quite substantially negative.

Christopher Yost: Thank you. I appreciate that. Ms. Black and Ms. Hermida, I don't have questions for you, but I really did appreciate your presentations. I thought they were

thoughtful and well-articulated. Mr. Schrap, I have a question about your presentation. Can you tell us, among your Harbor Trucking Association's membership, how many truckers are minority and women, and do you find that your members don't want to be represented by the Teamsters? And as you address those issues, is there anything you'd like to say in response to Mrs. Dickinson's presentation?

Matt Schrap:

Well, I'll start with the last part first. With all due respect to Ms. Dickinson, we've been hearing those same things now for years. I would challenge her if she's seen some recent negative settlement checks to bring those out. Because yes, those did exist in the unlawful leasebacks that were going on, that resulted in many misclassification claims have subsequently been eliminated now, because you would have to be, and I use this term loosely, crazy to lease back a truck in California. It is not something that overlying motor carriers engage upon. We have owner-operators that I've worked with directly that make as much as \$5,000 per week. The problem with AB5 is that it removes that ability, that choice, to be an independent entrepreneur. I've always said this, that if these men and women wanted to be employee drivers, there are plenty of employee driving jobs that are available, both union and non-union. That is the bonafide fact.

Additionally, I never said that the "supply chain crisis" was caused by a shortage of drivers, and that line about, "It's a shortage of good jobs," also not true. We are in a situation where we're in an extremely unproductive industry within drayage movement at the ports of LA and Long Beach. You have turn times that can go ... That's when you enter into a marine terminal property ... and exit out could be in excess of five to seven hours. Also, contrary to some of the narrative out there, you have independent contractor drivers who are paid by the load, who are compensated for waiting time. So really, there's a lot of "he said, she said" that goes on in all of this, but the industry has evolved. And as far as our organization is concerned, we have union companies. We have Teamster member companies. We have women-owned companies. We have over 400 some odd owner-operators. I believe the last count was 403 individual owner-operators as part of our Trucker Advantage Program.

And I will have to say, I don't know the exact demographics, but on average you're looking at close to three quarters of all drivers down in the LA/Long Beach ports, at least being of Latino descent. You have multiracial, biracial, African-American, White or Caucasian, Asian Pacific Islander. All of which, because of our membership diversity, are represented within our motor carrier members that are part of the HTA. We don't discriminate, so to speak, on what type of business model a company would be running. We really try to seek out, for membership, those type of companies who are above board, that are doing the right things by their drivers because they know that without their drivers, their businesses fall apart. And I think that it's critical for us to understand that while AB5 was couched in the idea of worker protection ... and I have a tremendous amount of respect for Mr. Tate, we've had some very brief

conversations. I look forward to more, Eric, moving forward ... that when we think about how this industry is currently made up now, are there bad actors in every industry?

Of course. That is just the unfortunate reality that we're dealing with. But in trucking, because of all those misclassification suits that Ms. Dickinson had referred to, you have people acting much differently than they did previously. AB5, for us, wasn't necessarily about worker protection anymore, as it was about creating more employee jobs, which effectively, potentially, would lead to some type of unionization. For us, again, we do not discriminate along those lines. We have even the largest Teamster employer in the entire world as part of our organization. For us, it's about freedom of choice, and what AB5 does is it really limits the ability for these independent, subcontracting, owner-operators to remain as such.

Brian Moriguchi: Chris, I'll come back to you. But I want to make sure everybody gets a chance to ask questions and other panelists, too, may want to chime in as well. So I'll come back to you, Chris.

Christopher Yost: Thank you, Brian.

Brian Moriguchi: Rachel Sigman, do you have any questions?

Rachel Sigman: Yes. Thank you, Brian. And I echo Christopher's gratitude to all of the speakers. All very interesting and compelling testimony here. I wanted to just follow up on Christopher's question as well. For any of the speakers, if they can talk a little bit more specifically, if they have statistics or more specifics about the groups that are most impacted, and any sort of disparate or disproportionate impacts among those groups. Any more specific information, that's really the heart of what we're looking at here. Details are very helpful. And then I also wanted to just briefly ask, Ms. Dickinson, that you had mentioned, which I found very interesting, the false choice about flexibility, the sort of myth about lack of flexibility under employment models. I was wondering if you could just talk a little bit more about why that myth exists or where it comes from, and what might be some solutions to better educating employees or potential employees about their rights or their options available as employees? Thank you.

David Lewin: Could I try an answer to the first question you raised?

Rachel Sigman: Please.

Brian Moriguchi: Sure.

David Lewin: Well, I think I observed earlier ... The composition of drivers for the rideshare and food delivery companies includes mostly people who work part-time or full-time in other jobs, students, and retirees. It has very substantial proportions of people of color, minorities, okay? If conversion to employment status were to

happen and the companies who make the decisions about employment decide that it isn't economically feasible to have anything close to the number of drivers that they had under the independent contracting arrangement ... and last year that was 1.3 million, or so, drivers ... then the negative effects will fall disproportionately on people of color, minorities, students, and retirees. And I want to emphasize those last two groups because they're not classified as minorities, but the student population that drives is heavily minority and, otherwise, is looking to supplement income, and those are usually from low-income families.

And retirees, who most of them are receiving some kind of either retirement income or social security, or both, they still may want to supplement that income because so many of them these days have other family members living with them. So the idea that somehow employment is the only model, it's a bad thing. And under AB5, that's what it says, basically. It's a bad thing. These negative consequences could well fall highly disproportionately on people of color and other groups that I've just identified. One size fits all in a work context is, in the modern economy, not a suitable approach in my judgment. It might have been in one at one time.

Most of our enabling labor legislation, the National Labor Relations Act, the Occupational Safety and Health Act, ORSA, even the Civil Rights Act, presumed there was only one model of work. Well, today, we see more than one and independent contracting is one of those models. It's not for everybody. It's not for every company. It's not for every government, by the way. And if you look at government agencies' use of independent contractors, you might be surprised at the extent to which that is happening. So I think a little bit more nuanced approach to this whole issue is perhaps warranted.

Brian Moriguchi: Thank you.

Onyx Black: I would like to speak, as well. Onyx, or Ms. Black as you call me.

Brian Moriguchi: Yes, go ahead.

Onyx Black: The question was what communities do we represent? I did say this in the survey, but I do want to reiterate. I represent thousands of different sex workers and strippers from can babies to escorts to full service, mostly strippers. Strippers, we do vast, a lot of that. In that, I represent mostly marginalized. So large body, dark-skinned, disabled, transgender, undocumented, folks with felonies and things like that. With our survey, we surveyed 103 people. 66% were unhappy with AB5 and have been negatively impacted. Out of that, 77% of them were sex workers and strippers, and out of that, 72% of them were marginalized. And in those marginalized groups, like I specified before, were BIPOC/POCs, queer/LGBTQIA, physically or mentally disabled, large body, undocumented, and people with felonies. That's all I got.

Brian Moriguchi: Okay. Thank you very much. Ms. Hermida? I'm sorry. Yeah, I'll come back to you, Ms. Dickinson.

Julie Gutman Dickinson: Okay.

Brian Moriguchi: Ms. Hermida?

Esther Hermida: Yes, thank you. In my field, interpreters and translators work as contractors with multiple companies, as many as 40 of them, different ones, because each language service companies that have the money, they have the means to market the business, the language service companies. And they also have the money to bid on government contracts, okay? These government contracts are not given to the individual translators and interpreters. These are given to companies and then they look out and they search for the qualified interpreters and translators to provide those services. We are highly skilled interpreters. It's not just any bilingual person that can handle that kind of work, particularly in the courts. The courts' subcontracts, and they're not under AB5, of course, but anybody else who works in the private sector is. And it is unfair because our skills are always, also needed in the private sector.

Now, these are also certified interpreters who are certified by the state of California. I'm talking about the court interpreters. We are certified by the state of California to provide services to people that are limited in their language skills, okay? So this is what we do. We work in the private sector, but a lot of our work is legal related. We work for the county providing the interpreting services, and a lot of this work comes through agencies, language service companies, who enter into a contract with the interpreters. Now, if we work as an employee of every single one of these language service companies, it would be extremely difficult.

Then, we would have to pay for ... Sure, they can just deduct the taxes, but we won't work long enough with them to have health insurance, all these claims that AB5 protects. We work for multiple companies. And it's interesting because the Dynamex lawsuit actually excluded from the class action all those who had multiple companies, who worked for different companies. They only admitted into the class a very limited number who were working strictly with one company. That is not the case for interpreters and translators.

Brian Moriguchi: Thank you very much. Ms. Dickinson.

Julie Gutman Dickinson: Yes, thank you. I want to go back to address a few of the questions. First, I just wanted to start very briefly by addressing what Matt had said about AB5 and about people not wanting to be employees and how it's a bad thing. But what I want to make really clear is, first of all, the issue ... In the trucking industry, AB5 is important because streamlines a process that's wasted all kinds of time and money and energy of employees, of unions, of trucking companies of the state. It's streamlining the process for this determination. For years and years, we

have won every case under the Borello test, which is a stricter, more complicated test. We've won finding employee status. Same thing at the NLRB, there's even a stricter test under SuperShuttle. In other words, it's harder to show employee status.

Every court, every agency, every case I've done, we have won, and there are hundreds of other cases out there, too. I have talked to hundreds, maybe thousands of drivers, and they recognize the exploitation, the modern-day sharecropping, the indentured servitude of this industry. They want to be employees. And there's an option to be an owner-driver or to be a regular employee. I can get you the numbers, I'm not sure if it's permitted to submit some studies after this hearing today. Because we can definitely do that, but I don't want to be quoted on the side. But the workforce, the vast majority is people of color. It's mostly Latino, but there's a sizable African-American, Asian population. What AB5 does is it helps bring justice to people of color, immigrants who have been exploited, and helps to make sure they have the wage an hour protections, the anti-discrimination protections, that they have the right to form a union, so it's a complete myth.

And yes, Matt, I can show you checks from this year, negative paychecks on that point. And also, the idea that the supply chain crisis I just want to deal with ... There were some over 800 companies. It's the wild, wild west down in Southern California. People were in misclassifying with impunity. These jobs, now ... Eric Tate and I have seen it. There are companies coming around and they're doing it. They're converting to employee status or giving employees the option or being owner-drivers or not, and it's all working. It can be done. This is the law of the land. This law helps, tremendously, low-income people and workers of color.

Then, to address the question that was raised, a very good one about flexibility. Yeah, it is a complete myth and I think it applies in the rideshare, Uber. It applies in the port. It applies, I think, to almost any industry. There's been this big focus on flexibility of schedules. Well, I can tell you there are work places where people are working part-time or full-time, or have various schedules. That is something that can be decided by an employer. And if you have a union ... Eric Tate has done that. We've done that ... you can negotiate. I've done that many times. You negotiate flexibility and schedules. There's also avenues to do whatever's needed in California law to increase that. There are already so many laws that provide for sick leave, invocation, and paid time off and FMLA. It's built in.

I feel like what ends up happening is the folks who are misclassified as independent contractors and they get sick, they get hit with something with their family ... We saw this during the pandemic with misclassified drivers. A lot of them died because they still went to work and there was no PPE. There was no sick leave, and they had weeks where they weren't working, but they still had payments. That's where a lot of the negative paychecks came in during the

pandemic, too. So I do think more education out there, understanding this idea of scheduling flexibility. You know what? Uber, Lyft? They could just as easily say these are employees and do exactly what they're doing.

They are employees in my view. They have the control. They have control over their wages. They have control over the customer relationships. They do this indirectly, as I was talking about, through their historical, minute-to-minute analysis of trends and giving incentives, surge pricing to ensure employees are available. They do that. Flexibility is something you can have in an employee workforce. It is a complete myth that you can't have that unless you're an independent contractor, and we need to educate on that.

Brian Moriguchi: And to answer your comment about submitting links to any data or surveys, we would greatly appreciate that from all of our panelists if you have links to surveys. It helps us a lot. Rogelio Ruiz, do you have any questions?

Rogelio Ruiz: Yes, I do. Thank you, Brian. I have one question. I just want to move things along, but I also wanted to thank all of the panelists today. Obviously, a lot of passion on both sides of this issue. These panel discussions get deeper and more interesting each one we have, so thank you all. I just have a very quick question for Mr. David Lewin. I believe you were asked earlier how AB5 has disproportionately impacted ethnic minorities, if at all. And I believe your response, Mr. Lewin, was to say that your study indicated that it would result in far fewer individuals serving as drivers for Uber and Lyft, et cetera. I have two questions. First, what year was your study taken? And secondly, in your study, did you separately measure or analyze or forecast the impact on ethnic minorities, or were you looking at the overall pool of potential drivers in that industry?

David Lewin: The data we analyzed were from 2019. Our report was written in April of 2020. So the data that we used, or the most recent data that we used, were for the year 2019. Second, we did look at the demographic composition of the driver pool, with respect to the five companies that I mentioned, and that's how we were able to forecast ... it was a forecast ... that if there was a conversion from IC to employment, the effects, mainly the reduction in the number of people who would be driving, would fall disproportionately upon minority drivers. Now, the fact that Proposition 22 was passed in the fall of 2020, as you all know, at least up until now, preserved what the voters voted for. And the data, even adjusting for the pandemic, show that the number of people driving for these companies, 2019 to 2021, let's say, increased quite substantially from about a little over a little over \$1,000,000...

David Lewin: ... to about \$1,370,000, and a substantial proportion of those drivers are from minority groups. So that's what our forecast was, and that's what the most recent data show. We are doing a current piece of work in which we're trying to update the analysis that we did two years ago.

Rogelio Ruiz: Okay. Brian, may I ask a follow-up question?

David Lewin: Yeah, as far as I'm concerned.

Rogelio Ruiz: So I just want to make sure I understood what you just said, or understood correctly what you just said. So your original study based on 2019 data was the forecast that AB5 would result in far fewer individuals serving as drivers in this industry. But as you've updated the data through 2021, there are more drivers in that industry now than there were pre-COVID?

David Lewin: Well, I think that's what I just said. But remember that Proposition 22 kept, at least for now, the independent contractor relationship intact so that the actual effects of AB5, as opposed to the forecasted effects of AB5, you'd have to do a laboratory study to try to figure that out. Since Proposition 22 was supported, the independent contractor relationship continued, and that's what the data show about it. But because the voters didn't vote against Prop 22, we don't have an empirical test of the actual impact of AB5 on the quantity of people who are doing driving. It wasn't supported. Now, if the lower court decision is the recent one upheld by the appeals court, and AB5 is found to be unconstitutional, then we'll see what happens. We'd have to then take a look at future data, but that's what the data to date tell us.

Rogelio Ruiz: Great. Thank you.

David Lewin: You're welcome.

Julie Gutman Dickinson: You mean if Prop 22 is found unconstitutional?

David Lewin: Yes.

Julie Gutman Dickinson: Yeah. Yeah. But can I just ask one quick... Just a follow-up. But to me, these studies must reflect this myth that you're going to lose all this flexibility. If Uber and Lyft operated the same way and gave the flexibility, but just properly classified its employees, it seems like the studies are fallacious because people... If what they want is the quote flexibility, they'd have that built in. So I don't buy those studies.

David Lewin: Well, I'm not going to comment about the flexibility, others will do that. The reason I'm not going to comment about the flexibility is, in my opinion, one of the main findings of our work had to do with quantity of employment versus quantity of independent contracting. And in our estimates, a very large majority of independent contractor drivers wouldn't be working as employees. The company's economic models don't support that. So whether it's flexible or not, that has to do with, are you working? If you're working, flexibility is an important issue. I do want to add one thing to this discussion, which hasn't been mentioned. I didn't mention it, and I wasn't inclined to do so, but I think I will. In

the three years or so prior to the enactment of AB5, the state of California, EDD was one of the departments.

The Department of Finance was another one, and other entities within the state put out written statements saying that because of independent contracting... And I think they were focused on gig economy companies, but it wasn't always clear. Because of independent contracting, the state of California was losing, and this is documented in our work, \$7,000,000,000 a year. Basically, in foregone payroll taxes. Some of you have probably seen those statements before. When we started our work on this independent contracting, visa vie employment matter, we looked for the substantive basis of that \$7,000,000,000 a year. We checked everything we could find that was in written records, including assembly hearings. We talked with several agency heads. We did a lot of digging to try to find out, what's the source of that number?

Well, that number is not real, and the source we finally identified that was used in part by the state was a 2012 report on a federal commission on independent contracting in the US. So that commission was appointed in the Obama administration, and actually it was chaired by one Joseph R. Biden, interestingly enough. If you go and read that commission report, it does use a \$7,000,000,000 figure. But that figure is for 10 years, not one. It's for the nation as a whole, not California. And it's for all independent contracting, not just gig economy companies. So if you start with what turns out to be, I'll be generous, an inflated estimate of what California was losing by having this independent contracting arrangement as opposed to an employment arrangement, it gives you some perspective on the argument. I didn't mention a piece of our analysis that wasn't advertised for this session.

We also did two estimates of the impact of converting from independent contracting to employment on the fiscal status of the state, on revenue flowing to the state. And this depended very heavily on the estimated proportion of drivers who would be employed, so that's a debatable estimate. We found that the tax revenue flowing to the state would be about a \$1,000,000 a year higher under independent contracting than under the employment relationship. One MS estimate was a little over \$100,000,000. One was about \$120,000,000. Now, that pales in comparison to \$7,000,000,000, but there's no support for the \$7,000,000,000. And the sign, a plus sign versus a minus sign, is plus on the independent contracting. That is not something that is currently being discussed at all, but it was part of our work because we wanted to tease out as best as we could the financial implications given what state authorities has been saying about this matter for several years prior to AB5.

Brian Moriguchi: So, David, can you forward us the link to those studies that you did, including the fiscal one? Is that public information?

David Lewin: Well, let me check with BRG, but I think if you go on our website you'll find the study right there.

Brian Moriguchi: Okay. All right. Thank you.

David Lewin: Yeah.

Julie Gutman Dickinson: Yeah. We can respond to the numbers that you challenged, David. And I mean, I just think, though it's common sense and knowledge. We know if workers are misclassified, that the companies are making money by not having to pay payroll taxes. Not having to play into unemployment, workers comp, and the like. And I just want to say your comment about, well, you're not sure the business model would support employee's test. I mean, what was it, \$225,000,000 that you all spent on this Prop 22 campaign? I mean, I think unless jobs are going to be good quality jobs, who wants to support exploitative jobs that many of these workforces where they misclassify perpetuate?

Brian Moriguchi: We are also aware that a lot of these are theories, and projections. And we take that into consideration while we look at the data, but I appreciate that. Star Parker, do you have any questions?

Star Parker: Yes, thank you. An incredibly informative panel, and I am glad that all would be there, and really appreciate their contributions. Especially as the Department of Labor here in Washington DC are looking to change their rules regarding some of these same issues. And I do have a question for Ms. Dickinson, that one characteristic entrepreneurs, independent contractors, gig workers is an understanding of postponed gratification. Actually, it's a two part question.

One, I want her to elaborate on what she means by share cropping because she has mentioned it, I've stopped counting at four. And I suppose as one that has a history in share cropping, my grandfather, one generation out of slavery, share cropped to where today my immediate family owns more than a 100 acres in South Carolina. Which is incredibly thriving, and making most of us very wealthy. But also, that extended family out of South Carolina, and other places that also share cropped coming out of slavery in my own personal family.

We can now talk about 500 acres. So I want an elaboration of why she's seeing that in such a negative when she keeps throwing this term. But the major question would be, do you believe that the minorities that we're discussing, that you are insisting need to go work for someone, have the capacity to understand that they're entrepreneurs? That they want to postpone gratification. That they need more, maybe, deeper understanding about buying their own health programs, and knowing what all the instruments of being an entrepreneur entail in terms of paying their share of the payroll taxes, et cetera? Or do you really think that all minorities, Black, Latino, [inaudible 01:52:57] have to work for an employee?

Julie Gutman Dickinson: Okay. Yeah. Let me respond on-

Star Parker: Employer. Employer. Do they lack the capacity to be entrepreneurs, independent contractors, gig workers to appreciate what they're doing to build generational wealth? Even if it means this term that you keep using share crop as if they're indentured servants when they sign up to do independent work? Are you saying that they don't understand this agreement, and they don't have the capacity to understand it? And therefore, they must work for someone, or are you saying that-

Julie Gutman Dickinson: No, I'm not saying that at all.

Star Parker: ... you don't believe that they should be able to be independent contractors, gig workers, and should then be forced to work in a union shop?

Julie Gutman Dickinson: No, I'm not. No one should ever be forced to work in a union shop. There's laws that you have to have a vote on whether you want to unionize, and you need a majority. And I'm not saying that they shouldn't be allowed. I'm saying when we're talking about the commercial truck driving industry in southern California, for example, I'm saying it's not whether they shouldn't be allowed to be independent contractors. It's that my view is almost every truck driver in southern California, in the harbor area in commercial trucking, is an employee not an independent contractor by law.

Whether it was the Borello test, whether it was the SuperShuttle test, or now whether it's AB5. Now AB5 helps us enforce more quickly, and saves the state, and all of us money because it's efficient, and we have an injunctive provision. So by modern day share cropping, what I was referring to... And the workers refute to this too, and they call it those words. We will get you. There was a USA Today article that talked about indentured servitude, and sweat shops on wheels, and modern day share cropping.

By that term, what we were talking about here were folks who were being... They were being sometimes deceived by these companies. They're being told they're independent contractors. They have to pay lease payments on their trucks. They have to pay for their fuel. They have to pay for their repairs. They have to pay for their insurance, and there are literally weeks, months, they're out sick. They still have to pay their lease payments. If their truck breaks down, they have to... So there are weeks where they owe money.

So they can get into this cycle where they owe so much money to the company. They're in debt, and that's where the concept comes from. By any means, I'm not saying what... Regardless if you're a person of color, or not, everybody has the right to choose how they want to proceed. I think the bottom line is the laws that protect employees are structured to protect against anti-discrimination wage, and our protections, workers comp. All kinds of broad protections, and this whole issue has been around since the 1930s. I mean, the Fair Labor Standards Act was the misclassification of piece rate garment workers who work from home. The vast majority-

Star Parker: Okay. Okay. May interject?

Julie Gutman Dickinson: Yes.

Star Parker: Okay. First of all, my question goes beyond just the truckers. I mean, AB5 is affecting a whole lot more industries than just truckers. But I guess what I'm not understanding more deeply, you're talking about the employer and employee. But AB5 is impacting people that are not employees, and many of them as we've just heard through testimony, don't want to become employees. So I think my question is, is there an assumption being made that they should have to be employees because they don't have the capacity to understand that they're not sharecroppers? That they're not indentured servants? Are you-

Julie Gutman Dickinson: No.

Star Parker: I'm wondering, do you think that the truckers who now AB5 is forcing to become employees, that-

Julie Gutman Dickinson: That's not true.

Star Parker: ... they don't understand? That they're not free-

Julie Gutman Dickinson: They were already employees.

Star Parker: They're not free-

Julie Gutman Dickinson: They were already employees.

Star Parker: Wait, wait, wait. But that they don't have the capacity to understand that if this is not the scenario you want, that they have the ability to get another job? When you use words like indentured servants, and sharecroppers it confused me because now we're talking about situations beyond your choice. Beyond your ability to say, "I want otherwise," especially share cropping. It's why I brought my family's history into this question. So I'm getting lost in some of the language because we're a free country. And that person who decides whether they want to work for a particular company under whatever arrangements that company and they have come up with... I'm just wondering, are you saying that they really didn't have the capacity to understand what field they would work in-

Julie Gutman Dickinson: No. That's not what I'm saying.

Star Parker: ... or that they have no other choice but to work in that industry as a free person? So that-

Julie Gutman Dickinson: Well, when they are choosing to work...

Star Parker: ... it's more like an indentured servant, and there's share cropping.

Julie Gutman Dickinson: Well, if you looked there's 100s, and 100s of misclassification cases in the ports. And everyone I've been involved with, they've been found to be employees. And one of the big complaints that 100s, and 100s of workers that I have talked to have said is they've made these payments on their trucks, but they have all these huge repairs. They have all these fees from insurance. They have all these fees from-

Star Parker: And they're forced to do this. You're saying [inaudible 01:58:40]-

Julie Gutman Dickinson: Well, once they get into that. For example, what I'm saying is once they're into that structure, they've already signed agreements. They have a truck they have to pay off-

Star Parker: So they can't get out.

Julie Gutman Dickinson: So they're feeling-

Star Parker: So you're telling me...

Julie Gutman Dickinson: But that's what they're feeling. I'm not sure if they can, or can't-

Star Parker: No, I'm not talking about feelings now. I'm talking about law.

Julie Gutman Dickinson: But economically, they-

Star Parker: Let's talk about the law. By law, you're saying that they needed the protection of AB5 because now that they're under contract to fix their own trucks as they drive, that they're now indentured servants. That they can't get out. It's what happened to Blacks when they were indentured servants, that they could not then get out of slavery. Is that what you're telling me-

Julie Gutman Dickinson: No. I'm sorry. No. No.

Star Parker: ... the scenario is with truck drivers?

Julie Gutman Dickinson: That's not what I'm saying. No. Let me just explain with truck drivers. Truck drivers have been employees under the Borello test. They didn't need AB5 to be employees. The law has been clear. Now, truck companies have still misclassified them with indentured servants-

Star Parker: But wait-

Julie Gutman Dickinson: ... but more recently they've stopped. Because of AB5-

Star Parker: ... I'm lost in the share copper analogy.

Julie Gutman Dickinson:... they've stopped. The share in the share crop analogy-

Star Parker: I'm lost in the share crop, and indentured servant-

Julie Gutman Dickinson: Yeah. I mean... I'm trying to say it again.

Star Parker: ... analogy because those words are specific. They're specific. They have exact meaning, and I'm now asking you because this would be a very complicated study for us to continue if you're telling me that there are drivers that are stuck in situations that they cannot get out of it. That were exactly liked what we had in our country history of indentured servants, and sharecroppers. Is that what you're saying, or is this just language you're using to make a case?

Julie Gutman Dickinson: No. Those were examples. They're quoted in the USA Today-

Star Parker: Are they being forced? Are they being forced?

Public: Is there going to be an opportunity for public comment? I'm a driver.

Star Parker: Are they being forced-

Brian Moriguchi: Yes, there is-

Star Parker: ... to drive.

Brian Moriguchi: ... later public comment.

Star Parker: Are they being forced?

Julie Gutman Dickinson: Well, there are [inaudible 02:00:24]-

Speaker 2: I'm Erica [inaudible 02:00:25], I'd like to be on with that.

Star Parker: Like a mafia situation where once you're in the deal, you'll never get out because the interest is so high. Is that what I'm hearing? So use the term share cropping, and indenture servants.

Julie Gutman Dickinson: With all due respect-

Speaker 2: I can explain that at some point.

Julie Gutman Dickinson: Yeah. I'll just finish real quick. I'm sorry there was a misunderstanding with what I said. These terms in the literature, and we'll submit studies and stuff. The problem with port trucking over the last many years is that, yes, there have been situations where people are so in debt that they feel like they have to keep working to pay it off, and the whole point of that is they really are being misclassified as employees when they're independent contractors. Their

employer has so much control. I mean, it's clear now with AB5, it just makes the process more streamlined, and more quick. It saves money, but there's no question under every other standard in port trucking, they've been employees.

Brian Moriguchi: Okay. Unfortunately, we're going to have to cut this discussion off because we have to go to public comment, and I'm going to... I know we still have Daniel, Velma, Gunner, and myself. What I'm going to ask of the rest of the committee is if you could just present a question. We're not going to get answers, but that question will be relayed. Well, the answers to those questions the panelists can then submit in writing back to us, and you can also submit it later if you don't have a question right now. But if you have a question, go ahead and pose the question, and we'll ask the panelists to please submit a written response. Daniel, do you have a question?

Daniel Ortner: Sure, I do. Thank you, Brian. And thank you to all the panelists who did, I think, a phenomenal job presenting today. This is to several of you, but specifically Ms. Hermida, I think you'll have an answer to this. But several others might as well. It's come up several times in this panel, and other panels, the impact of the loss of potential of gig workers, or other service, or interpreters, or other services that are typically done under independent contracting. The impact that's going to have on those that receive those services, like the communities that depend on interpreters.

Which are, I would imagine, overwhelmingly minority communities in that instance, or those that depend on independent drivers, gig workers, and others. I wonder if any of you could provide more data, and more... Either [inaudible 02:03:03], or data, or both ideally about the impact that AB5 has had on those that receive and benefit, or rely on the services that independent contractors typically provide. Interpreters, gig workers, truckers, any of these industries. What impact is it having on those that perceive these services, and benefit from in the independent contracting economy?

Brian Moriguchi: Thank you. Velma Montoya, do you have a question?

Velma Montoya: Yes. I have a question for [inaudible 02:03:37], Onyx Black, and Esther Hermida. I am wondering whether any group they're associated with applied for exclusion from AB5, and if so, what happened?

Brian Moriguchi: Okay. And we're going to ask for the response-

Velma Montoya: Thank you.

Brian Moriguchi: ... in writing. So if any of those groups that you represent had applied for exclusion to AB5, and what happened? Gunner Gunderson, do you have any questions?

Gunner Gunderson: No. I don't at this time but thank you everyone for their testimony. It was very informative.

Brian Moriguchi: Okay. And then, I'm going to pose a question to the panelists as well. You've heard arguments from the other side. My question to you would be, is there a solution? Because ultimately, we're looking to solve problems. Knowing the position that maybe the problems that AB5 may have created, is there a solution to it, or is there a solution to the benefits of being an employee, and the protections that come with that? Is there a way to maintain an independent contractor flexibility, and still incorporate those protections? But so, I will submit those in writing asking you guys to respond in writing to that question. So I want to thank all of you guys. I'm going to now turn this over to the public comment section. I'm going to turn this over to Brooke to run the public comment section. Brooke, go ahead.

David Lewin: Yes, there is. Prop 22 was the app-based rideshare and food delivery industries solution to AB 5. The measure, which was approved by 59% of California voters, maintains an app-based drivers' status as an independent contractor while providing traditional benefits of employment, like guaranteed hourly earnings (120% of local minimum wage), health care, occupational accident insurance, etc. While some AB 5 proponents argue that Prop 22 isn't working, independent analysis strongly refutes this and we know that drivers are earning upwards of \$34/hour in California. Not only do drivers overwhelmingly prefer their status as independent contractors, but drivers are also making more while maintaining their flexibility. Similar models could be used for other industries.

Brooke Peery: Hi, everyone. So we have quite a few people signed up for public comments today. We already have 20 people signed up, and I suspect a couple more will come through. So because of that, we're going to be really strict on our three minute timeline. I'm going to share a timer on the screen that'll have a three minute countdown, so make sure you can see it. And I'll give you about a 15 second grace period, but after that I will mute your mic, and go on to the next commenter. I also want to let everybody know that we accept public comments at all of our committee meetings. So if you can't stay late today, that's okay. We understand, and we invite you to attend our next meeting on October 12th. We also accept public comment through written testimony, and it can be any length submitted in any format. So with that, I'm going to go for our first public commenter, which is going to be Bernadette King Fitzsimons. Bernadette, you have the floor.

Bernadette King...: Thank you very much, Brooke, and thank you to everyone for the time to give a comment. My name is Bernadette, I'm a research analyst at SCIU. United Healthcare Workers West, SCIU UHW, is a healthcare justice union representing more than 100,000 healthcare workers, patients, and healthcare consumers. United to ensure affordable, accessible, high quality care for all Californians

provided by valued, and respected healthcare workers. SCIU UHW members have experienced firsthand the exploitation of worker misclassification. On demand healthcare companies have attacked the traditional employment model, and eroded scopes of practices for licensed healthcare workers. Healthcare jobs, which ones included the protections, benefits, and rights of employment in recent years had become exploitative contract gigs. And we at UHW have seen a lot of research to support the fact that misclassification is particularly harmful to people of color. As women, immigrants, and low wage workers of color are overrepresented in misclassified work.

We at SCIU UHW believe that AB5, and the ABC test expands the benefits, rights, and protections of employment to our members who have suffered the exploitation of misclassification. When employers properly classify their workers as employees, many workers have been able to transform low wage and precarious work into good quality stable jobs through collective bargaining. The research overwhelmingly shows that employees from marginalized groups stand to gain the most by unionizing their workplace. As data shows that union contracts have been shown to significantly reduce wage gaps for women, Black, and Latino workers. On behalf of SCIU UHW I strongly urge the California Advisory Committee, to the National Civil Rights Commission, to formally acknowledge that by adopting the AB5 test and strengthening the legal test for employment, California has made it easier to target misclassification, and maximize the number of workers who benefit from labor and civil rights protections under California law. Particularly women, and workers of color who need these legal protections the most. That's all I have today. Thanks very much for the time.

Brooke Peery: Great. Thank you. Next, we'll have Ilana Turner.

Ilana Turner: My name is Ilana Turner, and I'm a PhD candidate at the University of Minnesota. Although, I am from California, and I currently live here. I've been conducting research on California exotic dancers experiences working under AB5 for the past three years. I'd like to raise two concerns. Hey, kids. Be quiet. I'd like to raise two concerns about the discriminatory impacts of AB5 in the stripping industry that I'm finding in my research. First, club's responses to employee status disproportionately push dark skin, Black, and Latina dancers, older dancers, disabled dancers, and those with caregiving responsibilities out of the industry. Consequently, some of the most marginalized dancers were rendered jobless, which means they are still outside the protection of labor rights. This is especially true for dancers who transitioned into criminalized forms of sex work where they're not only excluded from labor rights, but also subject to cercarial state violence.

Second, dancers still working in the industry report intensified workplace discrimination. As well as gendered and racialized labor exploitation, harassment and abuse. It's easy to attribute this discriminatory impacts to individual club owner decisions. However, the reasons are also structural. Clubs

responded to their new employer responsibilities by restructuring the industry to maximize profit. This included reducing the number of dancers on the roster, and filling limited spaces with dancers who skewed wider, younger, and thinner. Clubs implemented quota, and commission systems that ensure they will recoup the cost of employment through dancer's earnings. Clubs are requiring stricter scheduling, which pushed many disabled dancers, and primary caregivers out of the industry. In short, club's responses to AB5 reproduced forms of employment discrimination that many dancers have previously turned to stripping under independent contractor status to avoid. While AB5 and employee status did not require clubs to implement these policies, nothing prevented them from doing so.

The dilemma AB5 presents between accepting unprotected work outside of labor rights, or creating more joblessness for some of the most marginalized workers, exposes the limits of what protective legislation can do to create inclusion and equality within an economic system that is premised on exclusion and inequality. From my perspective, there's no easy fix to this problem. It requires immediate intervention to support workers who were harmed in the transition to employee status. In the long-term, this study and previous research point to several policy directions. I cited them and described them in my written comment, but I want to touch on two here. First, research suggests taking a universal approach to labor rights rather than the binary model we're currently working within, and this may help resolve some of the contradictions AB5 presents. Second, labor justice in the stripping industry specifically will require broader policy changes such as decriminalizing all forms of sex work, and decriminalizing undocumented status. I encourage the advisory committee to listen to workers who've been harmed by AB5 in order to craft labor policy that is truly capable of benefiting all workers. Thank you.

Brooke Peery: Great. Thank you. Next, we'll hear from Madeline Rios. Madeline? Madeline, are you still with us? All right. We're going to move on to-

Madeline Rios: No, I am here. I'm here. I couldn't unmute. May I start?

Brooke Peery: Oh, go ahead. Yeah.

Madeline Rios: Thank you.

Brooke Peery: Yeah. Go ahead.

Madeline Rios: I am an interpreter, and translator. I am certified by the California Judicial Council in the administrative office of the US Courts. As well as the American Translator's Association, and I hold a master's degree in interpreting and translating. And I'm a former university instructor of translation. In other words, I am not a gig worker. I want to first draw attention to the letter regarding pro bono services. It was submitted by APTI, and please note that these services heavily focus on services to immigrants, refugees, indigenous peoples, the

LGBTIQ+ community, and the disabled. And we're able to provide these services specifically because it is we, and not an employer that decides the extent to which we're able to take time off and such purposes.

When ABC was being promoted, agencies using the employee model were promoted as good even if they hire non-certified interpreters, and translators at low wages part-time with no benefits. And we actually saw recruitment ads hiring employees with no requirements whatsoever other than passing a health screening, a background check, and being a high school graduate. So this means that the employee only model actually encourage the use of incompetent personnel to serve marginalized communities. Certified interpreter contractors often... I'm sorry. Certified independent contractors often lost their contracts at much higher pay, and with greater control of their own practice who were working for an average between 6, and 40 language service agencies. And this actually means that the promises of healthcare insurance, et cetera, would never apply to us even under an employee model. Indeed, we are sometimes contacted for a single assignment per year, such as a specialized conference.

For freelancers, the B prong of AB5 created problems of loss of work, control over one's professional work, loss of business related tax deductions, the jeopardizing of our intellectual property. I would also note that myself as an interpreter with a hearing disability, I provide my own accommodations in order to interpret properly. And it would be unrealistic to expect a company through which I interpret only occasionally to provide those expensive accommodations. It is essential to allow independent contracting for professional translators, and interpreters in order to ensure competent language services for our communities. As well as for the sake of the interpreters, and translators themselves. The majority of whom are women, and/or people of color. Thank you.

Brooke Peery: All right. Thank you. The next person we'll hear from is Chris Edstrom. Chris, go ahead.

Chris Edstrom: Oh, there I am. I unmuted. It's a little difficult. My name is Chris Edstrom. I am a home care provider in Madeira, California, and I can relate to a lot of the experiences that I've heard about here today of exploited and marginalized workers. I myself am a white male, so I don't know what exploitation feels like. But I am married to a woman of color, and she has. I've had to witness that. People who are trying to survive in the growing gigified economy that we seem to be encouraging, they basically have the same needs, dreams, aspirations of other non-disposable workers. And they deserve the same...

Chris Edstrom: ... other non-disposable workers and they deserve the same protections as those workers. I urge this committee to recognize the humanizing, economic, albeit imperfect, benefits that Assembly Bill 5 has brought to our fellow workers, especially those workers who have traditionally been ignored or forgotten. Thank you.

Brooke Peery: Thank you. Next, we're going to hear from Michael Muñoz. Michael, go ahead.

Michael Muñoz: Hi, can you hear me? Awesome. Thank you. Good afternoon. My name is Michael Muñoz. I'm the director of the Clean and Safe Ports Campaign for the Los Angeles Alliance for a New Economy. I'd like to thank you for the opportunity to address the commission. LAANE has been working to address the abuses of the portage industry for over 15 years. The truck drivers at the Long Beach and Los Angeles ports are overwhelmingly people of color and immigrant workers. These drivers have suffered the impact of misclassification for decades. The idea that AB 5 violates the civil rights of workers of colors is a gross misrepresentation of the intent and the impact of AB 5. First, AB 5 did not change the rules. It only simplified the enforcement. Second, the companies complaining about AB 5 are complaining because they have been getting away with violating the law for years.

They're concerned that they're going to get caught now. As it should be obvious, it's not enforcement of labor law that hurts truck drivers. It's being misclassified as independent contractors and having to shoulder the burden of paying the operating cost for these trucking companies who are enriching themselves at the expense of the drivers. From predatory loans to wage step, these drivers have money taken from their pockets on a weekly basis. What's holding truckers back? It's misclassification. It's not AB 5. Owners who profit for misclassification will always try and convince you that they have the best interest of the workers at heart. But we know from decades of experience that this is not true. We urge the commission to see the reality and support AB 5 for what it is, a simple tool that will help state investigators determine if a workers and employee are truly an independent contractor. That's it. Thank you very much.

Brooke Peery: Great. Next, we're going to hear from Juan Islas. Juan.

Juan Islas: Hi, [inaudible 02:18:36]. Thank you for the opportunity. My name is Juan Islas and I've been driving for around 17 years. This time, I'm driving for XTV. Before, XPO, for around five years and I've been fighting against this company for misclassification. Right now, it's a little confused about AB 5. AB 5 is not bad for us. It's good. But the companies are using to make the people not understand what means AB 5. AB 5 is to end this misclassification so that companies can stop stealing wages. Many people say that we make money but, end of the week, we have to pay a lot of money to pay diesel, insurance, maintenance, registration. The company, they still make their money. That's the way the company's being stealing our wages. For long time, they stopped... I mean, they keep stealing our wages and that's why they don't want AB 5. It's misclassification what it hurts our drivers and my coworkers. That's why we be fighting to make these components stop stealing are wages.

ADB, NNRP, they know we are employees the way the company treat us. We have to stop. That's why I'm fighting because I got a coworker, they're already retired and they don't have any money to sustain your family. They have to

keep working when they are old to be at home. I don't know, you guys. I don't know the XPO pay 29 million about misclassification or for stealing wages. What I want to know you guys that I'm going to keep fighting and waiting for the election to be a union. Thank you for the opportunity.

Brooke Peery: Thank you. Our next speaker is going to be Diamond Brandon. I do want to remind everybody though to please use the Q&A box if you'd like to be added to the queue. Raising your hand will not work. I need you to message me in the Q&A box and I will respond, letting you know your spot in the queue. Diamond, go ahead.

Diamond Brandon: Thank you. Hello, my name is Diamond Brandon and I'm speaking on behalf of the California Labor Federation in support of AB 5. As an entity established to develop national civil rights policy and enhance enforcement of federal civil rights laws, it is your duty to uphold efforts that support the progress of civil rights. Worker misclassification is a threat to black and brown communities, to workers, and it is designed to dismantle our country's framework of regulating and enforcing civil and labor rights. When bad employers purposely take advantage of workers from marginalized, low income communities, by misclassifying them, they are stripping critical anti-discrimination and wage protections from those workers who need it the most. Misclassification is exploitation and to glaringly close to this country's history of taking advantage of the labor people of color without any protections, representation, or guarantee of compensation. Employees are legally protected from discrimination based on their race, skin color, national origin, religion, their age, gender identity.

Employees are legally protected from discrimination based on... I'm sorry. Employees are protected when exercising their civil and labor rights in the workplace and they have legal recourse if they face retaliation. They are afforded the right to receive equal pay for equal work. AB 5 simply codified a legal standard that makes it harder for employers to misclassify their employees and to take these essential civil and labor rights away. Given the enormous financial incentive for employers to misclassify and the ease by which they had gotten away with it for decades under the previous Borello Standard, it would be irresponsible of this committee not to acknowledge that the State Supreme Court's Dynamex decision and AB 5 implemented necessary legal reform to target one of the biggest threats facing workers' rights.

California is a national leader in strengthening workers' rights, but misclassification renders every labor and employment civil rights law passed by the legislature useless if employees' rights can so easily be stripped away with no consequence. Ending misclassification is more than economic justice. It is the evidence that we need that civil rights and labor rights are one and the same. When you go against them, the people who lose are the ones who have been impacted the worst all along. Misclassification is rampant, and low wage labor

intensive industries and workers in these industries deserve the basic protections that employment status will provide. Thank you for your time.

Brooke Peery: Thank you. Next, we're going to hear from April.

April: Hi, my name's April. I'm an erotic dancer in the Bay Area. In December of this year, I'll be graduating with my Bachelor's Degree in Social and Behavioral Science. I specifically study sex work and recently completed a participant study on the effects of FOSTA-SESTA. AB 5 has immensely impacted the independent contracting economy and the gig economy and, in my opinion, not for the better. AB 5 has not resolved the issues it was intended to resolve and has actually had negative consequences, especially to erotic dancers and other adult entertainers here in California. I'm speaking out today to ask for a revision of AB 5 that allows erotic dancers and other freelance performers to have the choice to be an independent contractor or to be an employee. The reverberation of the law has been heavily felt in strip clubs and bikini bars all over the state of California.

When we are reclassified as employees on January 1st of 2020, strip club managers and owners in California immediately enacted exclusionary hiring practices that disproportionately affected people of color, LGBTQ entertainers and immigrants. The need for additional documentation that is required of employees has forced our most vulnerable performers into unsafe and underground work. Additionally, clubs have cut their rosters in half or more to keep their profits in up. Many of these cuts violate anti-discrimination laws and uphold racism, transphobia and xenophobia. Most marginalized dancers did not have any input in the forming of AB 5 and have been unable to escape the harm it has caused. As a result, thousands of dancers are without work. California strip clubs and bikini bars have passed the financial burden of having to pay a wage onto us, the entertainers, by forcing new ways for us to pay club fees and dance fees that we previously paid to dance any given night.

An example is clubs taking a percentage or an amount of every dancer's private dances or sales to pay back the wage that the club is forced to pay us due to a AB 5. Some clubs cap the takings at a certain amount and others take a flat percentage of all sales, typically 50% or more. If you sell \$100 worth of stuff, you take home \$50. I do agree that an employment classification has its benefits, especially for people who work consistently with the same club, production company or studios. Having sick pay, vacation pay, and unemployment benefits, as an option can be beneficial in the right circumstance, but it is not beneficial to everyone in these industries. We want to have a choice to either be an independent contractor or employees. Legislators have no real understanding of the industry and the harms AB 5 has caused many dancers, especially oppressed workers in California, and we just want to have the choice to be an employee or an independent contractor. That's it.

Brooke Peery: Thank you, April. Our next commenter will be Ashley.

Ashley: Hi, my name is Ashley Madness. I am a sex worker and a community organizer with Sex Workers Outreach Project Los Angeles. We do peer-to-peer, sex worker to sex worker outreach in L.A., including work with policy, research, community building, [inaudible 02:27:55], everything. One component to our work is outreach to street-based sex workers. Another component of our work is research that relates to sex workers. We're involved in having sex worker-led research that involves a sex work community. On that note, I want to note that all of the research on this issue appears to be in this Zoom call. It's all in front of you. There is not going to be a currently published survey or study of how AB 5 impacted strippers than the one that Onyx has right now. There's not going to be a better academic version than what Alana is going to publish hopefully and the information Alana can send you.

Anecdotally, and based on my experience here in Los Angeles, there was an immediate impact in terms of more sex workers working on the street who had immediately come from previously having strip club jobs. It's sort of a permeable barrier between working in a strip club or working on the street. It's a similar job as anywhere there's money and a horny guy, you can be doing sex work. The reality of sex work really does not fit well into an employee type classification because, fundamentally, you're always going to have options outside of wherever your main place you go are, because anywhere you run into a man could be a place where you make a new client for some kind of sexual service of some kind, even if it's just flirting over drinks for 150 an hour. But in terms of unintended impacts or very predictable impacts that had more serious consequences than people realized, it increased in folks working on the street and a lesser ability of folks to work in strip clubs means a lot more people have to be working in situations that are unsafe in order to make ends meet.

We've been hearing, and all I have is anecdotal stuff of more violence from the police, as well as from clients, and from third parties like managers and pimps because there's a lack of steady employment and a lack of ability to work some of these other avenues that people use to be able to work. People having to [inaudible 02:30:13] options. Whenever you force people to go to a next best option like this, it's a level down, not a level up. I would really encourage folks to try to support independent contractors. If independent contractors had rights, benefits, and privileges the same way that employees do, they can't be funded by the one employee, but just find an alternate funding model and alternate ways to support the rights of independent contractors and for independent contractors to be able to organize with each other. It shouldn't be such a stark divide like this. That's the real problem with this test and why so many of these conversations are frustrating. Thank you.

Brooke Peery: Thank you. Next, we'll hear from Ceola Luna.

Ceola Luna: Hi. I am Ceola Luna, a member of the Rideshare Drivers United, but I'm speaking as a driver. I'm misclassified as an independent contractor. I drive for Lyft and I do not control pricing. I don't even know what customers are charged and I do

not have anything to do with the algorithm. I can't support myself being an independent contractor because of the loss of benefits as not being labeled an employee. I have to pay my own taxes. I have to pay my own health insurance. I have to pay for worker's comp. I have to pay for maintenance on my car, on my vehicle. We have an algorithm put together that says that average drivers make between six and \$10 an hour. It seems like we make \$30 or something an hour, but once we deduct all that stuff that we have to deduct and plus maintenance, and this does not include car insurance, life insurance, car rental, car registration, car note, and any other miscellaneous charges that are not outside of the maintenance.

It's even less than six to \$10 an hour. If I don't work, I don't have money. If I'm ill or if I cannot work or if I need repair on my vehicle or I'm unable to provide, and I just had a baby recently, so I had to take off time. I saved up the money to take off, but I can't go to workers' comp or EDD to get help. I'm just without income. Basically, Uber and Lyft have a fleet of vehicles that they do not provide capital over and they don't help us drivers to take care of their fleet. We don't have any control over what we're paid so we're definitely not independent contractors. Thank you for your time. Thank you for listening.

Brooke Peery: Thank you. Next, we're going to hear from Fernanda Flores.

Fernanda: Hello. Can you guys hear me? Okay. Hi. Good afternoon. Fernanda Flores, political director for the International Alliance of Theatrical Stagehand Employees, Local 122. Since 1905, IATSE specializes in providing well-trained, professional, and reliable technicians for everything involved with production in Southern California. Currently, we represent 1500 stagehands here in San Diego. As a union in the gig economy, AB 5 has brought justice to California's most vulnerable workers. It offers workers the long overdue recognition and dignity needed on the job. Since the effect of AB 5 and the ABC test, these independent contractors, now classified workers, have since unionized and either have already won contracts and/or are currently in the final stages of negotiating their contracts. One example of this is the Moonlight Theatre here in North County, San Diego. Contracts that have nearly doubled their wages gives Americans paid sick leave and vacation, a robust healthcare and retirement benefits package.

Truly, the nature of our industry as stagehands is extremely dangerous. Having workers' comp liability is critical to the livelihood of workers. This empowers workers, gives them a voice on the job, autonomy, and a dignified paycheck. I'll also mention that during the pandemic, which it had effect on everyone, specifically our event industry, 100% of our workers were unemployed. Because of the well-managed healthcare trust funds in place, the union was able to cover 100% of the healthcare costs for all of our members during a year and a half of the pandemic, a benefit that our members, former independent contractors were so grateful for. Finally, it is important to note that while IATSE continues to recruit and train our youth to succeed in this industry, strengthening the legal

test for employment and adopting the ABC test ensures a pathway to quality lifelong union careers and our commitment to protecting the future American workforce. Thank you.

Brooke Peery: Thank you. Next, we're going to hear from Reyna Hernandez. I heard from Reyna before the meeting started that she'll has her own interpreter with her for Spanish, so she's been granted six minutes to give her comment. Reyna, go ahead.

Reyna Hernandez: Yes. You can listen?

Brooke Peery: Yes, we hear you.

Reyna Hernandez: Okay. [Spanish 02:35:20].

Speaker 3: My name is Reyna Hernandez and I have driven for Uber and Lyft since December 2015.

Reyna Hernandez: [Spanish 02:35:32]

Speaker 3: I also organized with Mobile Workers Alliance, which is a part of our coalition of 24,000 drivers in California that fight for fair pay benefits and a union for ride-share and delivery workers.

Reyna Hernandez: [Spanish 02:36:05]

Speaker 3: I am here today to urge all of you to acknowledge the importance of Assembly Bill 5, AB 5, to protect workers of colors and women like me.

Reyna Hernandez: [Spanish 02:36:31]

Speaker 3: I know first-hand what it means not having the basic protections that employees receive. Because companies of low pay or gig companies spent a record amount of money to pass Proposition 22, ride-share and delivery workers like me don't have access to basic protection like compensation if we get hurt at work.

Reyna Hernandez: [Spanish 02:37:23]

Speaker 3: If I get sick, I don't have paid sick days so I have to choose between providing food for my family and care for my children or going to work when I am not well.

Reyna Hernandez: [Spanish 02:37:48].

Speaker 3: AB 5 also protects many other workers that face misclassification, many of whom are women and immigrants like me, from janitors to home care or domestic workers.

Reyna Hernandez: [Spanish 02:38:19].

Speaker 3: Migrant workers like myself are the backbone of care and service industries in this country.

Reyna Hernandez: [Spanish 02:38:36].

Speaker 3: But I hope that we can also be seen as mothers, as providers of care, and as people that deserve to be protected from corporations that try to cut expenses to maximize their earnings.

Reyna Hernandez: [Spanish 02:39:16]. Thank you.

Speaker 3: I urge the committee to see how important AB 5 is to protect women and workers of color like myself. Thank you.

Brooke Peery: Thank you. Next, we'll hear from Nathaniel Tate.

Nathaniel Tate: Hello, my name is Nathaniel Tate. I am an organizer with the Center on Policy Initiatives in San Diego. The movement to defend and advance labor and civil rights are fundamentally inseparable. This ongoing battle to rein in the widespread of misclassification of employees is critical to our collective fight for economic and racial justice. In 2019, AB 5 codified California Supreme Court's landmark Dynamex decision in state law making it harder for companies to misclassify California workers as independent contractors. Powerful corporations spent more than 200 million on Prop 22 ads to convince California voters to overturn AB 5 for the ride-share industry. They promise that passing Prop 22 would bring greater prosperity and stability to workers, especially workers of color. But instead, Prop 22 has had disastrous consequences for app-based workers. A study released by the PolicyLink and USC Equity Research Institute this week analyzing the effects of Prop 22 found that drivers median take home earnings are only \$6 and 20¢ per hour, significantly low than federal minimum wage, let alone California minimum wage, and definitely not enough for families to thrive in California.

We support a AB 5 because workers who perform the core duties of a business should have access to all the benefits that come with that employment status. The pandemic has underscored that workers should have access to sick leave, workers' comp, and unemployment benefits. The pandemic has showed us that when the rights are denied, it is black and Latinx workers and families that suffer the most. Misclassification is especially harmful to people of color because it is pervasive in the labor-intensive, often dangerous occupations, where women, immigrants, and workers of color are already overrepresented and underpaid. This includes industries like janitorial services, trucking and transportation, warehousing and logistics, hospitality, home care, and construction. We must protect Californians and our economy by supporting AB

5 and ensuring that corporations do not exploit and misclassified workers to increase their profits. Thank you.

Brooke Peery: Thank you. Next, we'll hear from Robert Moreno.

Robert Moreno: Thank you. I believe Prop 22 is to protect Uber business models, not the drivers. During the fight for AB 5, we knew that if not stopped, Uber would absorb the medical, construction, grocery, education industries. After Prop 22, Elverson delivery drivers were fired and switched them to app-based companies. As did a couple of school districts in San Diego County and medical staff at a private state present, the interpreter mentioned for 40 contracts would be affected. Not sure if she's just opened up her own LLC and added herself [inaudible 02:43:08]. Oh. I'm sorry.

Added herself to her own payroll and pay into the system. I'm sorry. Not true. If she just opened up her own LLC and edit herself onto her own payroll and pay into the system, she will literally be a boss and her own boss. She will still be able to manage contracts and, the same way, take vacations when she wants and manage her prices the way she wants with her clients. This would be even better for truckers. The majority of those who are against AB 5 didn't pay into EDD but asked for PUA, which was funded by tax funding by workers...

By workers and companies funding via payroll tax. Companies like Uber guided drivers out to apply for PUA and PPP. Taxpayers have to subsidize... I see benefits to those who don't want AB 5. As a driver, I don't have control of prices. Uber and Lyft can tell us that they charge the passengers \$82, when in actuality, charge Lyft passenger \$100 dollars. I was paid \$48 from that. If you want to see screenshots and the phone number of the passenger who is willing to testify, I can give you that. We are all sent to pick up passengers that are 17 minutes away, without pay, to only drop them off nine minutes away. Who makes money there? The company. As an employee, I'm covered for the whole 26-minute ride plus benefits that my previous coworker mentioned and the miscellaneous. FYI, a fellow driver was murdered by a passenger here in San Diego. Uber did not help in any of the costs. The family had to pay for the emergency services, burial, her bills, and the car note. As an employee, we should have those rights. Thank you.

Brooke Peery: Thank you. Next, we'll hear from our 15th speaker, Amaris. Amaris, go ahead.

Amaris: Hello. My name is Amaris. My parents are immigrants and I'm a hair stylist by trade and I also volunteer with Artist Revolt with Onyx Black. The comment I want to make today was in regards to the myth of flexibility that was mentioned earlier and discuss actually the myth of employment. Data that I gathered was from what I hear from my clients behind the chair and from what I hear volunteering with Onyx as well. I hear many employees complain about their high healthcare copays, unions that have failed many California teachers in getting the proper raises that they need, managers that are not held

accountable. Even when you're sick, how many of us work from home instead of actually taking the day off? While you do have rights as an employee, ultimately your employer needs to have the financial means and genuinely have the empathy to provide proper wages in healthcare for their employees.

How many employees do we know right now that are still suffering because of the increased cost of living? As an independent contractor, I can raise my prices whenever I need. In addition, small business owners are not given enough assistance to live out their American dream. We are told, "Have a dream. Have a passion. Build your business." I also hear many pole dance studios that open out of love and passion, that all these... AB 5 is just putting more costs on these business, on the strip clubs, and all the small businesses that started from the heart to live out their dream. We also heard how AB 5 is making these employers put the cost on their employees instead. We heard how the strip clubs are passing the cost to the dancers and accepting the cost on their own. Being an employee doesn't give you a guarantee that things will get better.

I think AB 5 started the discussion on what needs to be done, but the worker rights go beyond employment. The state has failed to provide accessible healthcare, affordable accessible healthcare for independent contractors and small businesses, for small businesses to be able to provide the healthcare for their employees. It was only when the pandemic hit, the independent contractors were finally able to receive unemployment. Independent contractors pay taxes as well. I believe that the issue is beyond AB 5. I think we all, regardless of our employment status, need to have more support from our state, from our government, more healthcare, more benefits so we can basically choose and really live the life that we want.

Brooke Peery: Thank you. Next, we'll hear from Edgar Ortiz.

Edgar Ortiz: Hi, good afternoon. Thank you for the opportunity to address the committee today. My name is Edgar Ortiz and I'm the Economic Justice Policy Analyst for the California Immigrant Policy Center. We're a statewide policy advocacy organization that uplifts the humanity of California's immigrant communities by transforming systems to achieve racial, social, and economic justice. On behalf of the CIPC, I'm here today to speak in support of AB 5, which is instrumental for protecting immigrant workers across California, regardless of immigration status, from the worker injustices brought on by misclassification, which is just an extension of a longstanding pattern of systematic racism, whereby low income workers of color and immigrants in the United States have long been relegated to a sort of second class employment status, from PAG food and domestic workers being excluded from the National Labor Relation Act, to garment companies paying up per piece rate to their workers rather than the living wage.

It's no coincidence that misclassification is rampant in industries which are largely comprised of immigrant workers, including, but not limited to,

construction, janitorial, and trucking work. Also, non-coincidentally, industries such as these are notorious for low wages, hazardous working conditions, and stifling worker voice through retaliatory threats of reporting them to immigration enforcement and other threats. The passage of AB 5 was an important step in curbing misclassification by clarifying the process, which we understand now as the ABC test, by which workers should be considered employees entry to this such, while, at the same time, holding unscrupulous employers across the state accountable for when they do misclassified workers.

Unfortunately, Prop 22 sought to repeal key provisions of this bill, specifically for app-based transportation and delivery workers. A recent study, which was earlier referenced to, which was conducted by the National Equity Atlas, showed that app drivers in California have lost out on approximately \$11 in hourly net earnings since the passage of Prop 22, which right now leaves median net earnings at about \$6 and 20¢ each hour for workers in this specific industry. Without AB 5, workers who have low control over their work and make egregiously low wages are shut out from workplace protections and benefit-

Edgar Ortiz: You'll see low wages are shut out from workplace protections and benefits and have no recourse when they face exploitation and discrimination from their employer, or as the driver who was speaking earlier mentioned, sometimes from customers. For immigrant workers, unfortunately, this adds further insult to injury, as they're twice as likely as their US citizen counterparts to work in low wage jobs and are much more susceptible to wage theft and retaliation. Furthermore, a lack of access for many immigrants to safety net program such as unemployment insurance, federal stimulus payments, and food assistance, along with the low wages and lack of benefits that are ubiquitous for misclassified workers disrupts their ability to provide for themselves and their loved ones. Instead of flexibility, misclassification only promotes occupational segregation. And for this region, we encourage you to support AB five, which is critical to addressing misclassification and safeguarding the labor and civil rights of all California's workers. Thank you for your time.

Brooke Peery: Thank you. Our next speaker is going to be Lashawn Hicks. I think we might have lost Lashawn. Lashawn, are you here?

Lashawn: I'm here.

Brooke Peery: Oh, okay. Go ahead then.

Lashawn: Yes. My name is Lashawn Hicks. I'm a Uber driver and a caregiver. I don't have anything written down because I just found out about this last night. So basically, what I'm hearing is that AB5 and contracting, it's confusing and no one really understands what it covers, but what I'm hearing is that it's not giving us what we need as people. None of us are getting paid what we should be getting paid at any level. They've been underpaying all of us for a very long time. We

need something that's going to protect all of us. We just can't throw everybody in a basket and say, "This is what you got to do." We got to think about our future of our children. We got to think about our parents that maybe leaving us soon or going to a convalescent home. A lot of these things we cannot afford because corporations find whatever they can, whatever rule or law they can, to use against us to take every dime from us.

A lot of us don't own anything. We have a lot of debt, and it shouldn't be like that. So I encourage the committee to do whatever they can to help the people. The people need your help. It's not about if you're a stripper or if you're an ASL worker or whatever you do; if it's a legal job, if they say it's legal, then we're supposed to have protection, but they find whatever they can to put more money back in their pocket. And I agree with everything that's been said from everybody. We have to come up with something that's going to work. This independent contracting, and they say independent contracting, and they still treat us like employees. So if we're good employees, then they'll treat us like independent contractors. When is enough enough guys? We need everybody to get involved. Young, old, disabled, deaf, whatever the case may be, we need everybody. That's all I have.

Brooke Peery: Thank you. Next we'll hear from Ruth Silver Top.

Ruth Silvertop: I am the supervising attorney at the Worker's Rights Practice at the Catherine and George Alexander Community Law Center at Santa Clara University Law School, and I also supervise the legal advice line there. We see many clients who have been misclassified. As a matter of fact, misclassification is rampant. The vast majority of our clients are low income, predominantly immigrant workers in industries ranging from janitorial to home care to hospitality and construction. My most recent case was of a worker in an assisted living facility who was misclassified. Just today, the Labor Commissioner's office cited Angel Connection Nursing Care and Angel Connection Nurses Services for improperly classifying 66 home healthcare workers, and they were cited for 1.8 million dollars. As Labor Commissioner Lilia Garcia Bauer said, when workers are misclassified as independent contractors, there is a damaging domino effect that affects all levels of our economy.

According to a report commissioned by the US Department of Labor, as many as 30% of workers are misclassified, and it is a huge financial burden of payroll taxes that are placed on the worker that employers ordinarily cover. And employers avoid paying workers comp, unemployment premiums, on behalf of workers. Workers lose pay. Federal and state governments lose revenue, and law-biting employers who properly treat their workers as employees are at a cost disadvantage relative to employers who cheat by misclassifying workers.

And AB5 is an easy, straightforward test that cracks down on decades of widespread misclassification that's disproportionately impacted workers of color and deprived them of employment protection such as equal pay for equal

work, sick pay, COVID sick pay, right to receive minimum wage and retaliation protections. California is not an outlier. 33 states in the Department of Labor use the ABC test. Enforcing this law benefits women and workers of color in the industries that misclassify workers. This is also a civil rights issue too, because employees who are misclassified are deprived of the benefit of the discrimination laws as well. I urge the commission to acknowledge the benefits of AB5. Thank you.

Brooke Peery: Thank you. Next we're going to hear from Brisa Johnson.

Brisa Johnson: Hello everybody. My name is Brisa Johnson and I'm the director of the San Diego Black Worker Center. We are an organization in San Diego, working to build a more equitable economy for black workers across diaspora, advancing the black worker justice movement through organizing people and improvement of job quality. I'm speaking today to urge members of California Advisory Committee to recognize how vital AB5 is to protecting workers across California, especially those who have already been taken advantage of due to systemic racism. Historically and currently, all of us know a story where human beings have been taken advantage of by systems, taken advantage of by managers, taken advantage of by corporate companies, human bodies. And we know that black people built this country with free labor in slavery, and anyone working to dismantle worker protections under AB5 is working to continue that historic route and is working against the interest of the most underrepresented communities and underserved communities, including black lives.

AB5 creates protections and fairness for workers who employers have exploited them and taken advantage of them in their most vulnerable, including women and black and brown communities like myself. AB5 is so critical to the advancement of all working people by holding employers accountable to fair wages, labor rights, and civil rights for all of their workers, regardless of what their skin color is, what their sex is, or what they identify as. Misclassification has robbed millions of workers and employment law protections, and deprives, federal and state governments of billions and tax revenues, if we want to bring up the financial aspects of it.

The Black Worker Center believes in upholding AB5 and the protection it grants to misclassified workers. It is important for us to step forward for marginalized workers in California, including black workers, the ones that we represent. So on behalf of the Black Worker Center, I truly urge you to reinforce AB5 and the protections for misclassified workers and to help us, please, hold employers accountable to create and ensure a safe and equitable workspace for workers in California; because the reality is, if you were impacted and not getting your fair wages and access to quality healthcare and paid sick days, you would be in the same position we are right now, advocating for AB5. But these are human rights that have been granted to the committee. They aren't issues that they have to deal with on an everyday basis, but our people are still suffering from lack of human rights. So, please, support human beings by supporting AB5.

Brooke Peery: Thank you. Next for going to hear from Laila Aziz, who I think has dropped off the call. Layla, are you still here? We're going to go to... Oh, Laila, are you still with us? Great. We're going to go next to Rick Bates.

Rick Bates: Hello, good afternoon. My name is Rick Bates, on behalf of more than 6,000 hospitality workers that make up UNITE HERE Local 30 in San Diego. Today, I'm calling in to advocate for workers' rights; and more specifically, to support AB5, which serves to protect those rights, rights of workers who are doing the core work of any particular employer or business. I would say more so, particularly since the pandemic, hospitality and service industry workers rely on the strength of AB5 to keep from being displaced from their jobs and from losing all the rights and benefits that come with those jobs. Before the pandemic, unionization rates in the travel, tourism, and hospitality industry right at an all time high, resulting in the production of more middle class and family sustaining jobs with benefits, retirement programs, and safe working conditions. And as we all know, the pandemic forced the tourism industry to shut down.

Workers were laid off, but when it was time to recall workers, not everybody came back. And part of that was because some employers saw this as an opportunity, an opportunity to misclassify their hospitality service workers, hiring them as contractors, especially in our event centers and using app based platforms to facilitate this, like Instawork and others. We are, literally, watching in real time these jobs and these industries just being stripped of their protections against things like wage theft, access to paid sick leave, and workman's comp, and especially the right to organize to improve their working conditions. Literally, nothing has changed in these jobs, other than the fact that they are losing these rights because they're being misclassified. AB5 is a protection against this sort of attack on worker's rights, and it continues to play a critical role in California, especially after the pandemic, as we work towards an equitable economic recovery. Thank you.

Brooke Peery: Thank you. So we just have four speakers left, and I believe only three are present. So thank you for everyone who's stuck around. We're almost to the end. Next, we're going to hear from Satomi Rash-Zeigler. Go ahead.

Satomi Rash-Zei...: Hi, can you hear me? Hello. Can you hear me?

Brooke Peery: Yes, go ahead.

Satomi Rash-Zei...: Okay, wonderful. My name is Satomi Rash-Zeigler, and I'm the managing director for the San Diego and Imperial County Labor's Council. I'm also the president of the Coalition of Black Trade Unions of San Diego County. On behalf of the nearly 300,000 working families we represent in the southern border region, we would like to convey to today's honorable committee that the necessity through which AB5 was passed. For years, many employers have shirked their responsibilities and gained the system by using loopholes and misclassifying their employees. And as you heard from previous speakers, this

practice disproportionately impacts workers of color by depriving these workers of protections that they are legally entitled to; protections such as the right to unionize, the right to equal pay for equal work, recourse against wage threats. I mean, the list is really ongoing. The labor movement and the civil rights movement have historically been inextricably and intertwined.

Going back to the days of Dr. Martin Luther King Jr. who marched on Washington for jobs and freedom. This fight is rooted in the understanding that there cannot be racial justice without economic justice, which is why we as labor continue to fight in this ongoing battle to reign in the widespread misclassification of workers. This is critical for our collective fight for economic and racial justice. So the movements to defend an advanced labor and civil rights are, like I said, fundamentally and inseparable, which is why the labor movement feels so strongly about upholding AB5. We strongly encourage this commission to support AB5 and the basic protections it provides historically misclassified workers. Thank you.

Brooke Peery: Thank you. Next, for going to hear from Beverly Yu.

Beverly Yu: Thank you. Good afternoon everyone. Beverly Yu on behalf of UDW. UDW represents over 155,000 providers in the California Care Economy. UDW has worked with medical interpreters since 2010, documenting issues in the interpreter and services industry, and advocating for statewide language access program for Medicaid recipients. I would like to raise important considerations for the interpreter's services industry in California that highlight the need for strong independent contractor regulations such as AB5. Misclassification is an ongoing and widespread problem in the interpreter services industry. This is an industry built by the labor of women of color, most of whom are immigrants, who are professionals with years of education in building and providing interpretation and language translation services in a medical environment. Majority of workers in contact with our organization, more than 300 workers, report wage theft, misreported hours, and companies that take months to pay hours worked. Most companies in the industry require interpreters to work set hours with set requirements in violation of the state independent provider standards directly impacting a majority women of color workforce.

In the medical interpretation industry, misclassified interpreters are often exposed to life threatening illnesses and have no access to worker's compensation or unemployment insurance. Medical interpreters often report high levels in security and fear of work as misclassified workers in a medical environment with patients. Lack of standards for interpreters who are often sourced from Craigslist and other informal sectors is a dangerous problem in a medical environment where life and death decisions are often made. Patient safety requires medical interpreters to have consistent training and standards that are hard to maintain and independent contractor relationship. We cannot underscore enough that employment status protects workers civil and labor rights. We strongly urge the committee and your recommendations on AB5 to

the US Civil Rights Commission that you acknowledge by adopting the ABC test and strengthening the legal test for employment. California has made it easier to target misclassification and maximizes the number of workers who benefit from labor and civil rights protections. Thank you very much.

Brooke Peery: Thank you. Next, we're going to hear from Erica Mighetto. Erica, go ahead.

Erica Mighetto: Hi, my name is Erica Mighetto. I appreciate the opportunity to speak today. I'm a driver, a student, and a single mom. And although I'm not a person of color, I have spoken to thousands of drivers over the over two years I have served as a director on the board at Ride Share Drivers United. We serve over 20,000 members in California who support AB5 in a union. We are among 5,000 drivers who have filed wage claims in California because we know that after all of the expenses that we pay to do this job, we don't make more than minimum wage. If drivers are being exploited, and they are, it's because we don't have the safety nets and protections AB5 provides. As one of the other panelists mentioned, Borello is complicated, but a AB5 and Dynamex are as simple as ABC. If you don't pass ABC, you're not an independent contractor.

Drivers want flexibility, yes, but there's no reason that we shouldn't have flexibility in addition to benefits, a wage floor, and a union. We need a union to help us fight for a contract that would prevent billionaires from paying us less than minimum wage. I'm adamantly in favor of AB5. And I wanted to address a couple of things that the panelist said. There was a lawyer, I think of Uber, that said 7 billion in taxes isn't true and about share cropping. I personally, have been driving for five years. I've given over 10,000 rides. And I will tell you that I have paid to go to work. In this industry, what drivers are forced to do is take out a loan on the equity of their vehicle to get cash flow. And what ended up happening was, I blew my clutch out and was forced into it.

And yes, I was forced. I didn't have two weeks to go to find a job. I was forced to go into this rental program, where I was forced to pay \$250 a week to go to work. So I understand the history of share cropping and that it's shaky ground to stand on, but that is absolutely what is happening to thousands of drivers in the state of California. When the pandemic hit, because we didn't have the benefits of unemployment protections, we were rendered homeless and we were homeless for two years because it took so long for those other safety nets federally to be put into place for people like me and my husband and our family. So it's very, very true that that's what we're doing. We're paying to go to work and we don't have those protections. So, I, and a lot of the people that I work with, I've talked to 2,000 drivers of the years and more, we support AB5 and we'd like the opportunity to have the union. Thank you.

Brooke Peery: Thank you. Next we're going to hear from Mike Robinson. Mike, are you still with us? Okay. I believe Mike has dropped off the call. We're going to move on to Tyler Sandness. Tyler, go ahead.

Tyler Sandness: Thank you. So my name is Tyler Sandness. I'm a staff person for a Rideshare Drivers United and a former Lyft driver. And honestly, this whole debate summed up is just that labor law is being clocked back to a hundred years before the labor movement even got started in this country. What Lyft and Uber and companies that mis-classify are doing are saying that labor law is too hard for them to follow, that they can't make a profit doing it. But in doing so, they are exploiting the most vulnerable people in our society. They're exploiting people that don't have savings. They try to corral people with promises that they are going to make so much money, when in reality so much of the cost falls onto the drivers themselves. We just worked with Policy Link on a study that got referenced earlier this meeting, where drivers, when you do the actual breakdown of costs, over 50% of what a driver makes goes directly into making up for the depreciation of their vehicle, the gas, the maintenance, and then on top of that, making up for the loss social safety nets that they would receive as employees but are conveniently excluded from by the companies, by being classified as independent contractors.

And, of course, you can see why the companies would want this. They want to maximize their profits. They want to ensure that they have the least amount of liability as possible, to make sure that they can show their shareholders they're making a profit from it. But they're doing so at the expense of Californians, of the very people that make their business. Drivers are the front end of the business. They're the customer facing part of the business. They provide the material stuff that actually makes the business go. It's individual cars that they own or rent and are fiscally responsible for, but have no control over their pay flow. There's no negotiation that occurs between ride share drivers and the companies. Every driver I've talked to, I've asked that same question, Do you negotiate your rates with the companies? Do you have any control of your pay?

And the answer is always the same. It's no. And yet, they are denied the basic protections that employment would give them, all the while saying that you're an independent contractor with no real economic independence. I really do hope that this commission takes this issue incredibly seriously because it's an issue that doesn't just affect us here in California. It's an issue that's across this whole country. Lyft and Uber are trying to spread this model to every state that they can; to Massachusetts, to New York, to even international borders like Canada. And so it's really important that our institutions stand up for working people now and put an end to this kind of misclassification that's becoming a cancer in our labor force, because the alternative is a really bleak future. A future where the social contract between workers and the companies they work for is severed, where workers only can provide the limited time they have to these companies in exchange for providing some basic security, but with where companies can view their relationship to that as well. Sucks to be you. We only give you as much as we're going to give you, and if you don't like it, you don't need to work here anymore. And if you starve, well, that's not their concern. Thank you so much for your time.

Brooke Peery: Thank you. Next we're going to hear from Darioush Mubarak. Go ahead.

Darioush Mubara...: Afternoon. My name is Darioush Mubarak, and I'm a member of We Drive Progress along with thousands of other gig workers who are trying to form a union. I've been driving for gig companies since 2014. I've done ride share for Uber and Lyft and food delivery with the Grubhub, Uber Eats and Postmates. Like many immigrants, driving for gig companies is my main source of income. Many of us are drawn to this work because the companies make it easy to sign up. There are also probably sub bonuses as well. But many of us who are new to America or who don't speak English are also easy targets for these companies. Because we may not speak English or are afraid to get into trouble, we are not able to speak up, whether that's for being unjustly kicked off the gig platforms so that we cannot drive for work anymore or for decent wages or protections that we need to be safe on the job.

Many gig drivers came to America to live a life and provide more opportunities for our families. AB5 five helps immigrants achieve that by making sure that companies don't take advantage of that dream and are following the laws that protect workers. Unfortunately, Prop 22 has made it easier for gig corporations to not pay their workers the state minimum wage or paid sick days, among other benefits. On top of that gig corporation, push the cost of the businesses to us drivers, and we have only seen our pay go down over the years. I look forward to when the unconstitutional law that is Prop 22 is gone. I urge this committee to look at what gig drivers are facing and learn how important it is to have laws like AB5 to protect workers. Thank you.

Brooke Peery: Thank you. And our last comments here today will be Tyler. Tyler, go ahead.

Tyler V: Hi, my name is Tyler Vahivereves. I've actually been working for Uber and Lyft since October, 2014. So the way they keep telling me is like, congrats. You're at almost past eight years. I would think after serving eight years in my community, you would get a pay boost. What ended up happening after all this time is a drop. I've been losing money ever since I started. I ended up not signing a contract, per se, through Uber and Lyft. I bought a 2016 Ford Fusion, which I still own. I've eventually learned to maintain it myself. During the pandemic, all I could do was pretty much learn, so I taught myself how to maintain my car. I have 311,000 miles on this car. I don't know how much longer it's going to give me, but just the thought alone kind of scares me, knowing that I'm a single dad and I got to provide for my kids, not even earn a minimum wage.

I've survived the way I have because I know how to manage my money well. But at the same time, I am one of the few drivers, part of my RDU group, that actually know what they're doing when it comes to this. But being part of this group and being able to speak up and at least put my 2 cents in, it has helped out. Hopefully, you guys can take our testimony seriously and see that working for Uber and Lyft, the way they do it, the way that promotions or the way they

click beta is the way my friend has put it, when it comes to promotions or even bonuses, where they make you go, where you think you're going to get money, and then when you get there it just disappears. They're just pretty much pulling the carrot from the rabbit, right? So, when it comes to Uber and Lyft, hopefully this ABC law ends up changing it and they're able to pay us a fair wage, because like I mentioned to you, I tend to manage my money well.

I even survived the pandemic with the help of unemployment, which we were luckily included in. But before that, I was surviving off my own money that I actually managed. Because at the end of the day, if they don't provide taxes, they don't provide unemployment, labor law, civil rights, or any of the stuff that you would get as an employee, by the time it's time to retire, kind of like the truckers even mentioned, we are not going to have anything. I hate to say it that way, but at the end of the day, you will survive off of what you have, what you've made, what you've done.

But if this country is the way it's supposed to be in its freedom and labor laws and civil rights that we have; as independent contractors, we don't have that. We don't have any of that. So I urge you guys to help us try to get these companies to pay their part, to help us make our minimum wage at least, something Prop 22 supposedly guaranteed us, which I get weekly and the way I make my money, I make more than what they claim prop 22 has paid us, so they never compensate you for anything. And my time looks like it's up. Thank you.

Brooke Peery: Thank you. Thank you for everybody who stayed and for all the people who gave us such rich comments and shared their perspective with us. Again, if anybody would like to submit additional information, they can do so through email. Then, all of our meetings are open to the public, so I encourage you to attend future meetings as well. Brian, I'm going to turn it back over to you to adjourn.

Brian: Okay. I also want to thank all the panelists and all the members of the public for attending. I also want to thank our sign language interpreters, Susan and Laura. We greatly appreciate your help in the meeting, as well as Maria, the Spanish interpreter. The transcript and other materials will be available within 30 days following this meeting. If you provided your email address when you joined, we will send you follow up information regarding how to access those materials. We will also notify you when the committee is meeting for follow up discussion and when the report will be available. The record will remain open until Friday, October 28th, 2022. If anyone would like to submit written comment, please send by email to Brooke Peery at bpeery@usccr.gov. Thank you all for attending, and I appreciate you sticking with us to the end. And the meeting is adjourned. Thank you very much.

Tyler V: Thank you, Brian.

Brooke Peery: Thank you everyone.

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