

1 DIVISION OF LABOR STANDARDS AND STATISTICS  
AT THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT  
2  
STAKEHOLDER PRE-RULEMAKING EXCHANGE AND KICKOFF,  
3 "SPEAK," MEETING

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4  
TRANSCRIPT OF PROCEEDINGS  
5 August 28, 2019

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7 Proceedings had on Wednesday,  
8 August 28, 2019, at 633 17th Street, Conference Room  
9 12A, Denver, Colorado 80202, commencing at the hour of  
10 1:08 p.m., before SCOTT MOSS, Chairman; ERIC YOHE,  
11 Director of Outreach; SAIDA MONTOYA, Claims  
12 Investigation Manager; EVAN GRIMES, Senior Policy and  
13 Direct Investigations Manager; LIZ FUNK, Labor  
14 Standards Director; HILDA GEHRKE, Interpreter between  
15 English and Spanish; and Members of the Public.

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## 1 P R O C E E D I N G S

2 SCOTT MOSS: So, as I said, the rules are out  
3 on the table for how we're proceeding today. I'll give  
4 just the abridged version for anyone who didn't pick up  
5 a copy.

6 We're asking folks to limit their comments to  
7 about three minutes. If you want to speak for up to  
8 five, we will try to accommodate that, subject to  
9 whether there's an exceptionally long line of folks  
10 waiting to speak at any point.

11 If you can, when you speak, give your name,  
12 your job, your affiliation, your role. To the extent,  
13 however, you want to speak anonymously, just give as  
14 much information as you can so that your comments can  
15 be transcribed when we go over the transcript, because  
16 the whole meeting is being transcribed, as our public  
17 call noted.

18 If by the end of your three or five minutes  
19 you are still wishing to say some of what you came to  
20 say, what we're offering is that there are pads in the  
21 back of the room, so write down your remainder of what  
22 you were going to say, and just note the time that  
23 you're starting to write so we can flag it to the  
24 portion of the transcript, and write as much of your  
25 name, role, and job as you indicated in your oral

1        comments, and that will just be deemed a continuation.

2                We'll literally scan those and treat them the  
3        same as the transcript. So they will be no less part  
4        of the record if you have to continue after the three-  
5        or five-minute mark.

6                Please speak in a clear and slow voice so the  
7        reporter, Wendy, can not get carpal tunnel over the  
8        course of the time here trying to keep up.

9                And we are allowing photo, audio, and video,  
10       but with the proviso that that will be for folks at the  
11       podium or forward, i.e., us. So if you wish to give  
12       your comments on an anonymous basis, you're entitled to  
13       under Wage Protection Act, Rule 4.7, as the rules note,  
14       but then just give your comments from where you're  
15       sitting. Just speak a little more loudly then.

16                If you need a Spanish interpreter, you have  
17       Hilda over there to help out. So just let us know that  
18       you need that or let Hilda know, and then we'll proceed  
19       with the English comments being transcribed, but you  
20       can give your comments in Spanish.

21                And, again, the transcript will just be in  
22       English, but that will be available if anybody wants it  
23       translated.

24                If you have any questions about any rules or  
25       you need anything, outside at the table will be either

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1 Michael Primo or Jose Lopez from our division. You can  
2 ask them.

3 If there's anything you need to ask of me,  
4 feel free to write a note on one of the pads or on the  
5 paper in back and bring it up to me. I just ask that  
6 you do it after a speaker's done speaking, not in the  
7 middle of remarks so I'm not distracted from whoever's  
8 speaking because I want to hear everything that's being  
9 said.

10 And generally -- those are the rules.  
11 I appreciate everyone coming. We do want to hear what  
12 people are thinking about the wage order.

13 Here with me from the division are Liz Funk,  
14 Labor Standards Director; Evan Grimes, Senior Policy  
15 and Direct Investigations Manager; Saida Montoya,  
16 Claims Investigation Manager; and Eric Yohe, Director  
17 of Outreach.

18 We will not all be here all day. I will.  
19 But people will be coming in and out, just as in any  
20 public hearing. But, again, that's why we have the  
21 transcript. The transcript will be read by everyone  
22 relevant.

23 And I assure you, just as the written  
24 comments are being read by the division, so are all  
25 comments here. This is the policy team we wanted here

1 for the start of the meeting, so for those of you who  
2 showed up at the start, I appreciate that.

3 I will mention, if any of you are interacting  
4 with anyone who might be coming later in the day, as of  
5 6:00 p.m., there will be more procedure to get up here  
6 into the building. You'll have to stop at security,  
7 and we'll have someone downstairs to escort you up with  
8 a badge to get in, just after-hours building procedure.

9 So if you know anyone coming a little later,  
10 it's fine if they want to show up after 6:00, and we'll  
11 have someone stationed downstairs, but there's some  
12 value in their own convenience of getting here a tick  
13 before 6:00 p.m.

14 And with that, we'll start. I do have some  
15 requests to go early from folks who have other  
16 personal, professional time commitments. So the first  
17 six folks I'm going to call on, just in no  
18 particular order, other than my getting the request,  
19 we'll start with Jason Wardrip.

20 JASON WARDRIP: (Start time 1:12 p.m.) Good  
21 afternoon, everybody. My name is Jason Wardrip.

22 THE REPORTER: Spell that for me, please.

23 JASON WARDRIP: W-a-r-d-r-i-p. I am the  
24 current business manager for the Colorado Building and  
25 Construction Trades Council. I cover 24 different  
26

1 local unions and 14 different crafts in the state of  
2 Colorado, representing thousands and thousands of  
3 workers and work included.

4 I'm here to just make a couple of comments.  
5 I'll keep it short. There's no way I'm making three  
6 minutes. There's other people that are a lot better at  
7 that than I am.

8 SCOTT MOSS: Now you can go to five.

9 JASON WARDRIP: I'm not doing that either.  
10 So don't sweat that. So one of the things  
11 that kind of shocked me when I started hearing about  
12 the antiquated wage order as it was written was it  
13 shocked me that people don't get that the construction  
14 has breaks excluded in it. And that kind of blew me  
15 out of the water.

16 I've negotiated many, many contracts prior to  
17 coming to the building construction trades as working  
18 for the Sheet Metal Workers prior to that for ten  
19 years, and I negotiated probably 50 contracts.

20 And every time they came to us and said,  
21 "Hey, we really want to eliminate the morning break,  
22 because we don't have to have it," and I thought, What  
23 about the people that have diabetes?

24 What about those people that have to maintain  
25 your equipment or run your equipment or run a scissor

1 lift 110 feet in the air, or a boom lift -- what  
2 happens if they have a problem with their blood sugar?

3 It blows me out of the water to think that  
4 they wouldn't have that opportunity to be able to eat  
5 something to make sure that they would not endanger  
6 themselves or others running the heavy equipment in  
7 construction.

8 And then, as we heard from more people as we  
9 talked to them, talking about coming into the union,  
10 they often told us about stories that their contractors  
11 absolutely refuse to allow them to have a break because  
12 they didn't have to, some of them being diabetics.  
13 That bothers me a lot.

14 And, you know, I spent ten years fighting for  
15 that. And today I'm here to tell you that construction  
16 should never be excluded from break time.

17 The other thing that bothered me, also on  
18 heavy equipment and safety, is that it blows me out of  
19 the water that they could have somebody come in on a  
20 Sunday, after working 50, 60 hours, and working the  
21 other 12 hours, and not have overtime pay.

22 In this world that we live in in Colorado,  
23 who can afford to not work overtime if it's offered?  
24 Even at some of the wages that we make.

25 But then to have to come in and have to work  
26

1 straight wages? On a Sunday? You know, religious or  
2 not, that's the day I give to my family. I think it's  
3 outrageous that anybody would have to be required  
4 without overtime to work on a Sunday. And then there's  
5 no recourse. Nothing they can do about it.

6 So I support changing those parts, and many  
7 other parts, but those are the ones that concern my  
8 crafts that I represent. And I would look forward to  
9 you guys, you know, considering supporting that as  
10 well. That's what I have for y'all today.

11 SCOTT MOSS: Thank you.

12 JASON WARDRIP: Thanks, guys. (End time  
13 1:16 p.m.)

14 SCOTT MOSS: Next, we'll go with Nina  
15 Disalvo.

16 And, Wendy, can you do a time stamp for the  
17 time when each person starts?

18 THE REPORTER: I can, yes. It's  
19 automatically included on the transcript.

20 SCOTT MOSS: Okay. Great.

21 NINA DISALVO: (Start time 1:16 p.m.) Hi.  
22 My name's Nina Disalvo. I'm a strategic advisor with  
23 Towards Justice.

24 THE REPORTER: Could you spell your last name  
25 for me, please.

26

1           NINA DISALVO: D-i-s-a-l-v-o. And first, I  
2 just want to say, thank you guys so much for this  
3 opportunity to engage with you and to talk about some  
4 of these important issues.

5           My remarks today are just meant to complement  
6 what Towards Justice submitted in writing more  
7 substantial. But these are just a couple of additional  
8 thoughts that I had.

9           Today, only 7 percent of Colorado workers are  
10 eligible for overtime pay, which is down from around  
11 62 percent in the 1970s.

12          SCOTT MOSS: Sorry. What was the percent?

13          NINA DISALVO: 62 percent in the '70s. And  
14 without overtime protection, the 40-hour work week is  
15 quickly eroding. It's not only high-powered  
16 professionals like lawyers and doctors who put in 68-  
17 or 70-hour work weeks; it's also gig workers. It's  
18 office managers. It's food service managers. It's  
19 retail team leaders. It's nonprofit organizers.

20          All of these people really have to work more  
21 than 40 hours in order to be professionally  
22 successful. And that's not okay.

23          Excessive work time is bad for public health.  
24 It's bad for the environment. It's bad for personal  
25 relationships, and it's bad for business.

26

1           Turnover and burnout reduce productivity and  
2           create all sorts of hidden costs for organizations,  
3           including increased gender inequity. We need a  
4           statewide effort to end that race to the bottom on  
5           workplace hours.

6           No individual business or nonprofit  
7           organization can do this alone while remaining  
8           competitive. So we need statewide change that would  
9           not only restore overtime rights for individual  
10          workers, but it would also strengthen the nonprofit  
11          sector.

12          It would enhance gender equity. It would  
13          improve public health, and it would reduce carbon  
14          emissions in our state.

15          So talking a little bit about the gender  
16          equity point, restoring this 40-hour work week would  
17          help gender equity across our economy. The erosion of  
18          this 40-hour work week means that it's increasingly  
19          difficult to be professionally successful in any role  
20          without putting in long hours.

21          Workers with caretaking responsibilities have  
22          more difficulty putting in extra hours, especially  
23          those who must be on call at home to care for children  
24          and for adults or other family members.

25          In a society that traditionally places more  
26

1        caretaking demands on women, normalization of extended  
2        work hours disproportionately disadvantages women.

3                I think we can also strengthen our nonprofit  
4        sector by protecting the 40-hour work week. Our  
5        nonprofit sector is plagued by turnover. That turnover  
6        undermines our ability to provide the sophisticated  
7        thought leadership that we need on a variety of issues  
8        across our state.

9                Overtime protection would go a long way  
10       toward building a sector that can attract and retain  
11       talent while ensuring gender equity in our  
12       organizations.

13                Protecting the 40-hour work week is also  
14       incredibly important for public health and individual  
15       worker health. Studies show that working long hours  
16       increased the risk of heart disease and a decline of  
17       cognitive function.

18                Working long hours also substantially  
19       increases the risk of stroke, as well as the likelihood  
20       of smoking, excessive drinking, and weight gain.

21                People who routinely put in more than 11-hour  
22       days more than double their chances of major depression  
23       compared to employees who typically work about 8 hours  
24       a day.

25                Finally, there are a few -- talking about,  
26

1 sort of, the potential environment impacts of restoring  
2 the 40-hour work week, there are sort of few  
3 immediately available, wide-reaching steps for  
4 beneficially impacting the planet crisis. But numerous  
5 studies have shown that lowering the number of hours we  
6 work would help reduce our impact on the environment.

7           A 2018 United States study shows  
8 positive association between working time and higher  
9 state level carbon emissions. International research  
10 exhibits parallel findings that longer work hours are  
11 associated with increased environmental pressures,  
12 including fossil fuel, energy consumption, and carbon  
13 emissions.

14           As of 2006, it was estimated that if  
15 Americans chose to take advantage of the --

16           THE REPORTER: Could you slow down your  
17 reading, please.

18           NINA DISALVO: Sure. As of 2006, it was  
19 estimated that if Americans took advantage of  
20 their higher level of productivity by shortening the  
21 work week or taking longer vacations, the United States  
22 would consume some 20 percent less energy.

23           Finally, these changes to restoring the  
24 40-hour-week, we need these changes now. The  
25 consequences of the race to the bottom on working hours  
26

1 are extreme. They must be addressed urgently. We've  
2 waited for over two decades for an update to the way  
3 coverage categories and to the minimum salary that must  
4 be paid to workers, exempt from overtime.

5 We hope your agency takes swift and decisive  
6 action to improve working conditions for Colorado  
7 workers as soon as possible. Thank you so much. (End  
8 time 1:21 p.m.)

9 SCOTT MOSS: Thank you. Next we'll take  
10 Jimmy Burds.

11 JIMMY BURDS: (Start time 1:21 p.m.) Good  
12 afternoon. My name is Jimmy Burds, B-u-r-d-s, new  
13 owner of Colographic. We make -- provide fleet  
14 graphics and signs. And our business was founded in  
15 '79, been around 40 years. And I have 15 people  
16 working for me.

17 I'm here, one, as a business owner that wants  
18 to do the best thing for my employees. We strive to  
19 always do that. And I would like, you know, a level  
20 playing field for those of us who are trying hard.

21 And I'm also here as a member of Good  
22 Business Colorado. I've been asked to speak on behalf  
23 of the organization a little bit today.

24 Good Business Colorado is the business voice  
25 advocating for a strong economy, thriving communities,  
26

1 and a sustainable environment. We're a nonprofit -- or  
2 nonpartisan statewide organization with over 160  
3 businesses and members who collectively employ  
4 thousands of people.

5           Because our members believe in a fair  
6 workplace with livable wages, we support broadening of  
7 the Colorado Minimum Wage Order. Currently, minimum  
8 wage law is limited to specific groups. It's confusing  
9 because there are many businesses that may interpret  
10 the laws in different ways.

11           I honestly don't know if I fit in that or  
12 not. We pay enough that we don't worry about. But I  
13 don't know. So therefore, Good Business Colorado  
14 would request that all businesses in Colorado be  
15 covered by the Minimum Wage Order.

16           Explicitly stating that all workers are  
17 covered by the Colorado Minimum Wage Order also levels  
18 the playing field for businesses who are already  
19 instituting these practices. This creates fair and  
20 healthy competition between businesses based on quality  
21 of service.

22           We believe clear, comprehensive minimum wage  
23 law is the right thing to do for the hard-working  
24 people of Colorado and the businesses that want to do  
25 right by their employees and Colorado law.

26

1           We want to prevent exploitation of workers  
2 and make sure that they are fairly compensated. At  
3 Colographic, we've seen the difference that it makes in  
4 the lives of team members when people are treated  
5 fairly.

6           All of our team members are provided a  
7 hundred percent of their health insurance premium. We  
8 share profits, and we match a hundred percent  
9 what they put into their IRA.

10           We have a team of dedicated people that work  
11 to improve every day. Every team member has a lot of  
12 autonomy, so we don't -- you know, they take breaks  
13 when they know they need breaks, and they're very  
14 productive.

15           I always turn to the old adage, "I don't pay  
16 you to think. I pay you to work." I always joke with  
17 them, "I don't pay you to work. I pay you to think."  
18 When people have, you know, some breaks and some time  
19 and -- they are more creative, and they will do a  
20 better job. And thinking is how they get that done,  
21 not just doing stuff for hours on end.

22           So just in conclusion, I'd like to say Good  
23 Business Colorado requests that Colorado Department of  
24 Employment use their authority to extend the coverage  
25 of the Colorado Minimum Wage Order to cover all workers

26

1 and all industries. Thank you.

2 SCOTT MOSS: Thank you. I actually have one  
3 follow-up question. And I may for some of you. And  
4 feel free to not give an answer if you don't have one  
5 on the spot.

6 But speaking just as yourself, as a business  
7 owner, I appreciate your comments on coverage. On the  
8 other posted issue about minimum salary to be overtime  
9 exempt, do you have any thoughts on what, if anything,  
10 might be an appropriate number, that you would support a  
11 salary minimum to be overtime exempt?

12 JIMMY BURDS: Well, I can answer for me.  
13 As I looked at the numbers, I played around with  
14 it because I like math. I think it fits. At  
15 first, I thought it could be lower, but I think that  
16 two and a half is good.

17 And the only problem you might run into is  
18 there's going to be a weird area when somebody's making  
19 \$55,000 and they're doing 10 hours of overtime a week,  
20 they could easily be thrown into a salary management  
21 position, where they take on more and make less. So I  
22 don't know what you'll do with that math. But I  
23 thought that could be a little funky right around that  
24 area.

25 SCOTT MOSS: Thank you. Appreciate that.

26

1 And just so the record's clear, by two and a half, you  
2 mean the two and a half times the minimum wage number  
3 that comes to \$62,400 a year?

4 JIMMY BURDS: That is what you were talking  
5 about, correct?

6 SCOTT MOSS: Correct.

7 JIMMY BURDS: Yeah. Yeah. Yes, I do.

8 SCOTT MOSS: Thank you.

9 JIMMY BURDS: That was two and a half. Isn't  
10 that the correct number?

11 SCOTT MOSS: If it's 52 weeks of labor, yes.

12 JIMMY BURDS: Okay. Thank you. (End time  
13 1:26 p.m.)

14 SCOTT MOSS: Thank you. And next, we'll have  
15 Raphael Quinto Rios.

16 (No response.)

17 SCOTT MOSS: Or we won't. That's fine.  
18 Next, we'll have Marilyn -- Winokur? Did I pronounce  
19 that right?

20 MARILYN WINOKUR: (Start time 1:26 p.m.)  
21 Yes, Winokur. Good afternoon, everybody. My name is  
22 Marilyn Winokur, W-i-n-o-k-u-r. I live in Denver, and  
23 I'm currently on the steering committee of the Colorado  
24 Industrial Areas Foundation, soon to be known as  
25 Coloradans for the Common Good. I'm also a former CEO  
26

1 of a health care technology company, which had 350  
2 employees at the time that I left.

3 Coloradans for the Common Good is a  
4 broad-based, diverse organization of 21 and growing  
5 nonprofit organizations that include congregations,  
6 labor unions, civic and neighborhood organizations, as  
7 well as other non-profits. We work together to  
8 advocate for social justice issues which are important  
9 to our members.

10 And over the past few years, we've had over  
11 2,000 one-to-one and small group meetings with people  
12 all over the Front Range to find out what keeps them up  
13 at night. And that's, of course, one of the reasons  
14 I'm here.

15 As you know, the Minimum Wage Order has not  
16 been substantially updated in 20 years, and workers  
17 across the state cannot and should not have to wait any  
18 longer for these basic workplace protections.

19 The cost of living, especially housing, has  
20 risen and continues to rise dramatically. Workers need  
21 to be paid fairly for the work they do so that they can  
22 afford to reside and thrive in Colorado and add to our  
23 growing economy.

24 I strongly believe that all workers should  
25 and would benefit from the protections of the Minimum  
26

1 Wage Order. In addition to being paid minimum wage,  
2 they should be given workday breaks and be entitled to  
3 overtime pay for working more than 40 hours per week.

4 This includes the most vulnerable among us,  
5 agricultural workers, construction workers, and other  
6 classes of workers who are not currently eligible for  
7 these protections.

8 Under Colorado law, many salaried workers  
9 classified as managerial, professional, or  
10 administrative can be forced to work as much as their  
11 employers require or demand without getting paid  
12 overtime.

13 This means that a shift manager at a  
14 restaurant can be forced to work 60 hours a week for  
15 \$35,000 a year, or a white collar administrative  
16 employee can be required to work 70 hours a week for  
17 \$50,000 a year, all without receiving a cent of  
18 overtime pay.

19 And as was said before, workers with  
20 caretaking responsibilities, most often women, are  
21 often forced to choose between their employer's demand  
22 for more time at work and therefore any kind of career  
23 advancement or time that they spend with their  
24 families.

25 This policy leads to hundreds of thousands of  
26

1 Colorado workers being overworked and underpaid. This  
2 is not good for Colorado families, and it's not good  
3 for business. Productivity and morale both suffer when  
4 employees are stressed and overworked and underpaid.

5           So as a matter of federal law, exempt,  
6 salaried employees have a minimum salary of only  
7 \$23,660 per year. The Obama Administration proposed  
8 increasing the minimum salary to what would have been  
9 \$51,000 on January 1st, 2020, but the Trump  
10 Administration gutted that proposal and has proposed  
11 now a minimum salary threshold of \$35,308.

12           Some states have stepped up to fill the void.  
13 Washington State's labor agency recently proposed that  
14 its minimum salary for exempt workers be set at 2.5  
15 times the minimum wage, and that same standard makes  
16 sense in Colorado, which means that employees have to  
17 earn \$62,400 per year before they can be exempt from  
18 overtime, which is 2.5 times the minimum wage of \$12 an  
19 hour.

20           So let's be clear, this doesn't mean that  
21 employer has to pay that amount of salary. It only  
22 means that employees are entitled to overtime pay if  
23 they work more than 40 hours a week and don't already  
24 earn that threshold of 62,400 a year.

25           So as the daughter of an immigrant father,  
26

1 expanding the Minimum Wage Order is important to me  
2 because it's unfair that some workers are protected  
3 while others are not.

4 I believe that the current exclusions mostly  
5 impact minorities, immigrants, and other lower-paid  
6 workers who have little bargaining power and are taken  
7 advantage of by too many employers. Immigrants are too  
8 often threatened with loss of job or worse, such as  
9 deportation, if they complain about their pay, their  
10 hours worked, the fact that they don't get breaks, and  
11 other kinds of poor working conditions. And I believe  
12 this is grossly unfair and immoral.

13 The current wage order must be expanded to  
14 include and protect more workers. This protection  
15 would reduce workplace injuries caused by overworked  
16 and underpaid employees, improve family, children's  
17 lives so that workers could spend more time with their  
18 children, or at least provide more for them. And it  
19 would improve worker productivity due to better job  
20 satisfaction.

21 And employers who do not pay minimum wage or  
22 overtime and who do not give breaks and other wage  
23 order benefits, from my perspective, are practicing  
24 either conscious or unconscious wage theft.

25 This places an unfair burden not only on  
26

1 poorer families but on Colorado taxpayers, so we in  
2 good conscience need to support these workers with  
3 social services and/or charitable works.

4 So I urge the CDLE to do what's right and  
5 improve/expand worker protections in Colorado. Thank  
6 you very far.

7 SCOTT MOSS: Thank you. Thank you,  
8 Ms. Winokur. I appreciate that. Just two follow-ups.  
9 Just to make it clear on who you're speaking for.

10 MARILYN WINOKUR: Yes.

11 SCOTT MOSS: Yes.

12 MARILYN WINOKUR: I'm speaking mostly for  
13 myself. The Colorado Industrial Areas Foundation is  
14 taking up this issue, but it hasn't yet approved it.  
15 So I'm speaking for myself.

16 SCOTT MOSS: And are you able to say what  
17 health care company it was that you were CEO of? I  
18 understand that --

19 MARILYN WINOKUR: I'm not affiliated anymore.  
20 It was years ago. But I ran a company that was pretty  
21 large at the time.

22 SCOTT MOSS: Great. Thank you.

23 MARILYN WINOKUR: Thank you. Bye-bye. (End  
24 time 1:33 p.m.)

25 SCOTT MOSS: And next, the last person who  
26

1 had signed up and RSVP'ed in advance was Desiree  
2 Westlund. Then we'll just take volunteers from the  
3 audience.

4 DESIREE WESTLUND CINDRIC: (Start time  
5 1:33 p.m.) Good afternoon. My name is Desiree,  
6 D-e-s-i-r-e-e; Westlund, W-e-s-t-l-u-n-d, and Cindric  
7 is C-i-n-d-r-i-c. And I am the deputy director with  
8 United for a New Economy. And we are a grassroots  
9 organization, a multiracial organization that works on  
10 issues of economic justice, particularly housing and  
11 workers' rights issues.

12 And this week, I have been knocking on doors  
13 in Adams County and the cities of Westminster and  
14 Commerce City and talking to folks about rising rents  
15 and housing costs and the fact that wages are stagnant.

16 So currently, in Westminster, to be able to  
17 afford a one-bedroom apartment, you need to be making  
18 \$26 an hour for a one-bedroom apartment for that to  
19 represent 30 percent of your income, which is what the  
20 recommended standard is, that you should be paying  
21 30 percent of your income for housing.

22 In Commerce City, that's \$24 per hour that  
23 you need to earn for a one-bedroom apartment. Granted,  
24 there are families that are more than one income, but  
25 they tend to need larger apartments.

26

1           As we have been having conversations in the  
2 community, we are encountering workers from the  
3 construction industry, from the landscaping industry,  
4 as well as farm workers. That might be surprising to  
5 imagine farm workers living in urban settings, but the  
6 way that our economy works, in Commerce City, as we're  
7 door knocking and talking to families, that is often  
8 the case.

9           The Minimum Wage Order, as others have said,  
10 has not been updated in many years and really does not  
11 resemble the economy that we are currently working in.  
12 That includes housing costs, but it also includes the  
13 way in which people are working.

14           And our request to you all, as you are  
15 considering updating it, is ensuring that the Minimum  
16 Wage Order actually responds to the current economics  
17 that families are facing in the state of Colorado.

18           As was already stated, in the '70s,  
19 60 percent of workers were under the threshold, and now  
20 we're looking at 7 percent.

21           In addition, the categories of workers that I  
22 just named that are our members that I'm engaging with  
23 on housing issues are working in industries that are  
24 also not covered, don't have access to breaks, and have  
25 to work excessive hours, are not able to spend time  
26

1 with their families, and are consistently having to  
2 move housing and not have housing stability, which  
3 impacts their health and the health of their families.

4 Overtime protections should be the rule, not  
5 the exception. If they're working more than 40 hours,  
6 they should be entitled to time and a half, and they  
7 should be entitled to overtime and breaks. Thank you  
8 for your time.

9 SCOTT MOSS: Thanks. If I could ask one  
10 follow-up. I appreciate your comments. If you could  
11 speak to, if you know from talking to folks, if you  
12 could just elaborate for the record, how folks who come  
13 to be living in Commerce City can be working in an  
14 agricultural area, where maybe rents or housing prices  
15 are lower, but they might not be able to live there?

16 DESIREE WESTLUND CINDRIC: Yes. So in  
17 Commerce City particularly, so I will say we have not  
18 encountered, that I know of, farm workers in  
19 Westminster. Commerce City continues to be somewhat  
20 agricultural in particular parts of it.

21 And we often find that families are living in  
22 mixed situations. So folks will go for a period of  
23 time and do seasonal work and then return, or they will  
24 send money to family in Commerce City. So I would just  
25 say family -- it depends on each family and what their --

26

1 circumstances look like. (End time  
2 1:37 p.m.)

3 SCOTT MOSS: Thank you. I'll ask folks to  
4 raise their hand if they want to speak. If there are a  
5 lot, we might ask to set up a line. But if there's  
6 just a couple, we can just take hands. Who's  
7 interested in speaking now?

8 Yes. In the blue jacket, you had your hand  
9 up too? No? Okay. Carry on.

10 MELISSA MCCOLLISTER: (Start time 1:38 p.m.)  
11 Hi. How are you? My name is Melissa McCollister, and  
12 I am a business agent in the United Food and Commercial  
13 Workers, Local Number 7.

14 THE REPORTER: Hang on. Say that again  
15 slowly, please.

16 SCOTT MOSS: Also, if you could spell your  
17 name.

18 MELISSA MCCOLLISTER: Oh, I'm sorry. Spell  
19 my name, or . . .

20 THE REPORTER: And say the whole thing again  
21 slower so I can get it. Thanks.

22 MELISSA MCCOLLISTER: Okay. Melissa  
23 McCollister, M-c-c-o-l-l-i-s-t-e-r, with the United  
24 Food and Commercial Workers, Local Number 7. And I do  
25 have a coworker who is going to speak on this as well.

26

1           One of the things that I wanted to talk about  
2 was raising the wage for the salary. We  
3 have -- we represent grocery store workers. And one of  
4 the things we come up against every time we have a  
5 contract is, as we bargain with these major  
6 corporations, is that they try to remove department  
7 managers from the bargaining unit and pay them a salary  
8 wage.

9           Already in these stores, the store managers  
10 and assistant store managers are salaried. So if this  
11 were to happen, the companies would have department  
12 managers working 50 or 60 hours a week and may not  
13 receive overtime benefits, which would take away hours  
14 from our hard-working, well-paid union members, taking  
15 money out of their pockets and benefiting only these  
16 big corporations.

17           If the overtime exemptions were to be a  
18 higher rate, it would force the companies to pay these  
19 department managers, if they had been taken out of the  
20 bargaining unit, a higher salary in wages and  
21 force them to pay the overtime if they were required to  
22 do so.

23           So ultimately, these changes help represent  
24 our members who desperately need these protections.  
25 Thank you.

26

1           SCOTT MOSS: Thank you. Actually, a few  
2 follow-ups to that.

3           MELISSA MCCOLLISTER: Sure.

4           SCOTT MOSS: Based on your knowledge of the  
5 industry, if you know, could you name the job  
6 categories of supermarkets that are often deemed exempt  
7 from overtime?

8           MELISSA MCCOLLISTER: As far as -- none of  
9 our bargaining unit members are salaried at all. So  
10 none of them are. But they do try to do that every  
11 contract, every three, five years when we  
12 bargain a contract, the company does try to pull some  
13 of the bargaining unit members out of the contract.

14

15

16           SCOTT MOSS: Would that be things like  
17 department or unit managers?

18           MELISSA MCCOLLISTER: Yes. Mostly --

19           SCOTT MOSS: Could you name some of those?

20           MELISSA MCCOLLISTER: A deli department  
21 manager, meat department manager, bakery department  
22 manager, front-end supervisor. Pretty much any  
23 specific department manager.

24           SCOTT MOSS: And then do you know about how  
25 much -- and this can be a range and rough -- the

26

1 assistant managers or store managers will make at the  
2 entry level?

3 MELISSA MCCOLLISTER: I don't.

4 SCOTT MOSS: That's fine.

5 MELISSA MCCOLLISTER: I don't. Sorry.

6 SCOTT MOSS: And at one point, you mentioned  
7 that it takes away work when there's overtime. Could  
8 you elaborate what you meant by that?

9 MELISSA MCCOLLISTER: Well, if  
10 there's a department manager that's a salaried -- if  
11 it's at a salaried wage, they could work 50 or  
12 60 hours -- they could work more hours than the 40 that  
13 they work now, which would take away the hours for the  
14 bargaining unit workers because if they were working 20  
15 additional hours --

16 THE REPORTER: Speak slower, please. If they  
17 were working 20 additional hours . . .

18 MELISSA MCCOLLISTER: Sorry. That would take  
19 those 20 hours from the clerks.

20 SCOTT MOSS: And is that because an assistant  
21 manager will sometimes be doing some duties that clerks  
22 and others would do?

23 MELISSA MCCOLLISTER: Yes.

24 SCOTT MOSS: And are there other folks who  
25 will be an assistant manager; that is, will a store  
26

1 have more than one, such as assistant manager or night  
2 manager or shift manager, like that?

3 MELISSA MCCOLLISTER: I'm sorry?

4 SCOTT MOSS: When there's a store, is it  
5 usually there's one store manager and one assistant, or  
6 multiple of each when the shift --

7 MELISSA MCCOLLISTER: It depends on the  
8 company. There are often one store manager and  
9 multiple assistant managers.

10 SCOTT MOSS: Okay. And that depends on how  
11 many hours they work, in part?

12 MELISSA MCCOLLISTER: It depends on -- are  
13 you talking about the whole store, like, store  
14 managers of the store, or are you talking about the  
15 department managers?

16 SCOTT MOSS: Or assistant manager, or if  
17 there's a shift manager, like a night manager who runs  
18 the place when the main store manager's out?

19 MELISSA MCCOLLISTER: It depends on the  
20 company, and it depends on the size of the store.

21 SCOTT MOSS: Thank you.

22 MELISSA MCCOLLISTER: Yeah. Thank you. (End  
23 time 1:42 p.m.)

24 SCOTT MOSS: Anyone wishing to -- I'll take  
25 any other volunteers. Anyone wishing to -- yes, sir.

26

1           DON NEWELL: (Start time 1:42 p.m.) Good  
2 afternoon. My name is Don Newell, and I am a U.S. Army  
3 veteran, certified pharmacy technician, and a business  
4 agent for United Food and Commercial Workers, Local 7.

5           We are the largest private labor union in  
6 Colorado, and we represent most of the industries in  
7 the state, including grocery, manufacturing of food,  
8 meat processing, health care, and cosmetology.

9           SCOTT MOSS: I just realized I should ask both  
10 of you. Melissa, are you both speaking for the local?

11          MELISSA MCCOLLISTER: Yes. Yes.

12          DON NEWELL: Yes.

13          SCOTT MOSS: Thank you.

14          DON NEWELL: This issue before us today  
15 impacts a great deal of our members, as well as other  
16 workers across our great state. All too frequently, we  
17 hear about employees missing rest and meal breaks or  
18 being held much past their scheduled shift, with little  
19 or sometimes no compensation for the impact on their  
20 livelihoods or health.

21          As a trained health care professional, in my  
22 own respect, I can tell you that I see people every day  
23 whose dietary and sleep requirements are much lower on  
24 the list of priorities than being able to simply  
25 support their family in this economy.

26

1           The stress being put on the human beings of  
2 Colorado's workforce is also  
3 increasing the probability that they'll use tobacco or  
4 alcohol to cope with these situations, or something  
5 even worse, such as prescriptions and illegal  
6 narcotics, which, sadly, we see in our communities  
7 daily.

8           Lack of time and money leads to poor diet and  
9 exercise habits that they're increasing the risk of  
10 heart disease, stroke, Type 2 diabetes, et cetera, and  
11 these mental strains are contributing to a significant  
12 height in problems such as anxiety, depression, and  
13 suicide.

14           Our members, friends, and neighbors need  
15 those critical workplace protections so that  
16 out-of-state corporations are not allowed to abuse our  
17 Colorado working families. Thank you.

18           SCOTT MOSS: Thank you. A follow-up  
19 question. You could answer, Melissa, if you want to  
20 weigh in. You mentioned, again -- Melissa maybe  
21 mentioned this -- subunit managers, whether deli or  
22 bakery or meat or the front-end managers, supervisor --  
23 do you know whether there are any stores, and perhaps  
24 nonunion stores that aren't your members, where those  
25 folks are deemed exempt? Have you seen or heard of

26

1 those?

2 DON NEWELL: I have heard of some of them,  
3 yes.

4 SCOTT MOSS: So that would be those subunit  
5 managers are considered exempt in some stores?

6 DON NEWELL: They are.

7 SCOTT MOSS: Okay. And, Melissa, have you  
8 heard of such things too?

9 MELISSA MCCOLLISTER: Yes.

10 THE REPORTER: Would you spell your last name  
11 for me, please.

12 DON NEWELL: Don Newell, N-e-w-e-l-l. (End  
13 time 1:45 p.m.)

14 SCOTT MOSS: Who else is interested in  
15 speaking? Yes.

16 EDDIE BUSTAMANTE: (Start time 1:45 p.m.)  
17 Good afternoon. My name is Eddie Bustamante. I  
18 represent the Laborers International Unit of North  
19 America, Local 720. We represent construction craft  
20 laborers all across the state of Colorado.

21 And what I have to say here  
22 today is, one, I think it's absurd that we're even  
23 having this conversation in 2019 and not having all  
24 workers protected under these basic Minimum Wage Order  
25 protections and what -- how this affects our members,

26

1 our construction workers, it creates corners to be cut  
2 by non-law-abiding contractors, for example, really  
3 cheating, you know, a lot of people out of work, a lot  
4 of -- cheating a lot of people out of this path to the  
5 middle class.

6 And there's already enough safety concerns on  
7 construction projects, for example, fatigued bodies  
8 and fatigued minds should not be one of  
9 them. These workers should be sharpened.  
10 They should be getting their meal rest.

11 This is something that, you know, our members  
12 of Local 720 are protected under collective bargaining  
13 agreements, of course, but again, this is a  
14 matter of, again, leveling the playing field for  
15 contractors that, you know, follow the laws and treat  
16 their members -- their construction workers fairly,  
17 and, you know, not exploiting them, like we've  
18 seen in many cases from members who have  
19 come from nonunion job sites, nonunion contractors.

20 And sometimes we're talking big, big  
21 contractors that land big commercial jobs. And, you  
22 know, we hear these success stories on how they join  
23 unions and -- you know, sometimes it doesn't  
24 even have to be on the big, big construction projects,  
25 right? Regular residential work is being done.

26

1           And there's so many -- you know, many, many  
2 people in the middle class, lower middle class being  
3 exploited, immigrants being exploited. I just don't  
4 think there should be any excuse as to why any workers  
5 shouldn't be covered under these basic  
6 rights.

7           And, you know, talking from a personal point,  
8 from a younger generation, that's --  
9 it's another big concern is, you know, that these  
10 contractors cut so many corners, and it really just --  
11 like it was said earlier, these stagnant wages, right?  
12 People my age, we can't afford to stay and live  
13 in these neighborhoods that we grew up in. You know,  
14 these neighborhoods that were really filled with  
15 culture at one point are -- now we're being driven out.

16           This displacement of workers is absolutely  
17 insane. People, you know, were affected -- directly  
18 affected through our membership, directly affected  
19 through our families.

20           I mean, I grew up in Denver alone, and I can  
21 probably count on one hand, two hands the amount of  
22 friends that I still have that live in this area.

23           So, again, you know, this is just a piece of  
24 the puzzle, putting these people under these basic  
25 protections. That's all I have.

26

1           SCOTT MOSS: Thank you. Let me just ask a  
2 follow-up, if you don't mind. You mentioned safety  
3 concerns. What kind of construction do you work in?

4           EDDIE BUSTAMANTE: So we represent  
5 construction craft laborers. So among the trades, we  
6 like to say we're the first ones on the job and the  
7 last ones on the job. We do a lot of the cleanup work.

8           We do a lot of the tendering to a lot of the  
9 other trades -- electricians, carpenters, you know,  
10 operators, and things like that. I  
11 think it's safe to say our members are involved  
12 throughout the process of a construction site.

13           So, like I said, what we see on the  
14 nonunion -- as well as these -- you know, like  
15 the day laborer areas, the wages that they give and the  
16 fact that, you know, they have loopholes to go  
17 through, it just, it's not right.

18           SCOTT MOSS: And, last thing, if you remember  
19 any, or you've seen any or heard of any that you're free  
20 to tell us about, any safety problems you've seen that  
21 come up with a worker working long overtime, given the  
22 problem of, as you mentioned, fatigued bodies and  
23 fatigued minds? Any you remember?

24           EDDIE BUSTAMANTE: Not that I remember, but  
25 we have -- you know, as political director, or, you

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1 know, not on the job sites as much. But we  
2 definitely have, you know, staff and stewards on the  
3 job sites that, you know, are able to probably attest  
4 to some stories from workers who have come from  
5 nonunion contractors.

6 SCOTT MOSS: Thank you.

7 THE REPORTER: Can you spell your last name  
8 for me, please.

9 EDDIE BUSTAMANTE: B-u-s-t-a-m-a-n-t-e. (End  
10 time 1:50 p.m.)

11 THE REPORTER: Thank you.

12 SCOTT MOSS: Who else would like to speak?  
13 Any takers?

14 (No response.)

15 SCOTT MOSS: Okay. Well, I'll add that if  
16 anybody has any follow-up thoughts on any questions  
17 I've asked about different types of managers or  
18 examples of the problems I just spoke about with  
19 Mr. Bustamante about injuries because the number of --  
20 you mentioned health concerns with overtime that you've  
21 heard about or seen, feel free to come up and  
22 elaborate, whether you intended to speak or if you  
23 already spoke and might be able to elaborate.

24 One good thing about this process of having  
25 folks in the room is that folks can jump in and respond

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1 to each other's comments or elaborate. So if anyone  
2 wants to elaborate specific examples would be  
3 interested in hearing them.

4 Otherwise, I'll just wait, and if anyone has  
5 anything to say, feel free to jump in. Any takers?  
6 Anyone want to give a comment, follow-up, et cetera?  
7 Yes. Thank you.

8 JOE PIMENTEL: (Start time 1:51 p.m.) My name  
9 is Joe Pimentel.

10 SCOTT MOSS: Can you say that again?

11 JOE PIMENTEL: Joe Pimentel, J-o-e,  
12 P-i-m-e-n-t-e-l. I'm just speaking as a labor  
13 construction worker. It's very important when we're  
14 out there working that we have our break time and we  
15 have our proper hours because, as you've seen not too  
16 long ago, there was a gentleman that was driving on the  
17 highway, and he slammed into a bunch of cars.

18 That's because somebody was overworked,  
19 didn't have his break times. He was probably on the  
20 clock, wasn't making the wages that CDL drivers should  
21 be making because he was probably working for a  
22 contractor and cutting corners, like everybody else  
23 says.

24 So when you don't take your proper breaks or  
25 you ain't getting treated right at work and stuff like

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1 that, and you got to do it on your time, you're taking  
2 time away from your family.

3 I can speak on that for myself. When I get  
4 home sometimes, my kids ask me to help them with their  
5 homework. But you're tired. You got to take the --  
6 you know, you got to do the stuff that we do after our  
7 work.

8 And what upsets me a lot is that, what I see  
9 all the time out there is these temp agencies are  
10 taking advantage of workers. Everybody's trying to get  
11 the job done. Everybody's out there trying to make it  
12 happen. Everybody's cutting corners, like they said.

13 And I see it firsthand. I'm out there at job  
14 sites. I'm an organizer, so I'm at union job sites,  
15 nonunion job sites. I see everything that everybody's  
16 talking about here, some of these people.

17 But what it is is, in the construction field,  
18 we're out here in downtown Denver, where you see all  
19 those cranes. There's people walking around. There's  
20 heavy trucks. There's concrete trucks.

21 All this equipment is so heavy, so if you're  
22 not sharp on it, you can't stop that truck if  
23 somebody's coming and you're down and you're not on  
24 your break.

25 I've been there, where we're about to have  
26

1 lunch, and we're waiting for a concrete truck to come  
2 in and didn't show up on time. We gotta stop what --  
3 we gotta stop eating because that concrete  
4 truck is here, and this has to be poured, and  
5 they're expecting -- so we have to stop eating, so  
6 you're out there eating -- you have to eat as you're  
7 working to get the job done. And if we don't do it, we  
8 don't get paid.

9           You know how that goes. So you got  
10 that pressure on you. You got your family that's  
11 depending on you to come home. And our motto at our  
12 local is to work safe, come home safe. And that's what  
13 we fight for. And that's what our contracts  
14 what we fight for is for safe work, for people to have  
15 a better wage, to feel good, to be able to  
16 take their family out on the weekends and enjoy that  
17 because us, as laborers, we are the first ones there at  
18 the job and the last ones out.

19           And people don't really see that because  
20 everybody's busy. But without us, nothing's going to  
21 get done. These roads ain't gonna get done. These  
22 buildings ain't gonna get done.

23           So if we're out of shape or if we're sick, if  
24 we can't come to work, or if we're just there just  
25 trying to get by for the boss to see us, we're not

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1       there one hundred, so we're gonna endanger the life of  
2       our own workers, people on the streets.

3               And that's how these accidents are starting  
4       to happen. They have flaggers. They're holding these  
5       signs that are -- they're not paying them the right  
6       wages. So these guys they have flagging are supposed  
7       to protect the -- I just have so many -- it's 'cause I  
8       have so much -- and they have to protect these people  
9       and the workers.

10              But some of these guys that they're using,  
11       they're unqualified to protect the workers and the  
12       public. And not only on that, they been working, like,  
13       late hours. They don't get no breaks because they have  
14       to report to the next job.

15              And these temp agencies don't care about  
16       them. They just care about the -- you know, getting  
17       them out there, sending them out to that contract, and  
18       they ain't asking you how many hours you had of sleep,  
19       are you good? They just want to gotta get you to that  
20       job because someone's waiting for you.

21              So they have this flagger that's supposed to  
22       be protecting these guys who have a family and have to  
23       go back home, and also protect the public, half  
24       asleep, holding the sign, like that. You know what I  
25       mean?

26

1           And that's what's important to you guys to  
2           make those laws so these people can't get into those  
3           types of fields of work. It has to be some kind of --  
4           I have the words in my head. But, I mean, like I say,  
5           I'm speaking like a civilian, like a worker that's out  
6           there.

7           And I got Eddie Bustamante, who knows how to  
8           speak for us and talk for us. But we try to share  
9           everything that goes on, but there's so much. But if  
10          you guys can make those laws, you guys will make a big  
11          difference in everybody, and the whole -- everybody can  
12          just -- it could be a better place for everybody.

13          People can hold their heads up high when  
14          they're at work, and during that traffic, there won't  
15          be no more road rage. You know, I mean, because people  
16          want to go to work. People go to work because they  
17          have to. You know what I mean? Because of their  
18          families.

19          But people should love to come to work, just  
20          like you guys love to come here. But, I don't  
21          know. I love my job. I love what I do. I love to  
22          come to work because my job is putting people to work  
23          and fighting for better wages.

24          And we just got -- our fights, everybody's  
25          here fighting for, other people think it's just unions.

26

1 No, our fights are for everybody in the state of  
2 Colorado for us to have a better wage.

3 I mean, I could talk to you guys about this all day,  
4 but I just couldn't leave this room not saying  
5 something after hearing everybody, and then after you  
6 made it easy for us to come up and  
7 speak on stuff.

8 So I'm just speaking for the workers that are  
9 out there. We're the first ones on the job, the last  
10 ones to leave. Now we have to move farther. I have to  
11 report to downtown Denver at 7:00. I have to get up at  
12 5:45, and if I'm not on that freeway by 6:10,  
13 I'm screwed.

14 And I used to live up the street. I can't  
15 afford to live there no more. You know what I mean?  
16 And I'm building and doing roads that you drive, we all  
17 drive and we all benefit from.

18 So I just think that they should help the  
19 workers out a little bit, people that are here, because  
20 without us, ain't nothing gonna happen. If we're not  
21 here, they're just gonna put an individual for a lower  
22 pay who's not going to give you a hundred percent of  
23 your work. I mean, that's all I got to say. I'm  
24 sorry. Thank you.

25 SCOTT MOSS: No, thank you. You

26

1 mentioned that Eddie spoke, but I very much appreciate  
2 you coming up, and that's why I'm --

3           JOE PIMENTEL: Thank you so much for -- like  
4 I say, there's a lot of times we come to these things,  
5 and we leave, like, Oh, I should have said this or I  
6 should have said that, or things like that.

7           And it's just trying to educate people, you  
8 know. And, like, if you guys have any questions, I  
9 mean, I'm out in the field every single day. I'm out  
10 every single -- I see everything that's going on right  
11 now. I see the changes that are happening.

12           And I just hope you guys tonight -- you know,  
13 you guys all have family. You guys travel on these  
14 roads. These buildings. We just want everything to be  
15 built a hundred percent the American way. You know,  
16 keep it all and save (inaudible).

17           SCOTT MOSS: Yeah. Can I ask you just a  
18 couple of follow-up question?

19           JOE PIMENTEL: Sure thing.

20           SCOTT MOSS: You mentioned flaggers, and  
21 I just want to make sure I heard it right, are you  
22 saying that flaggers are often temps?

23           JOE PIMENTEL: Yes. The flaggers are from  
24 temp agencies. Before, they used to be construction.  
25 But now, there was loopholes, like people mentioned,

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1 where these people get into this construction now.

2 But some of those people don't have the  
3 training that we have. For example, for those temp  
4 agencies, they want you to get there two hours early to  
5 take a training that requires more than two hours.

6 You're protecting -- you're supposed to stop  
7 traffic. Two hours is not enough for that kind of  
8 work. And then on top of that, they don't drug test  
9 some of these people. Some of these people need to be  
10 there one hundred percent because our workers need to  
11 go home to their families.

12 SCOTT MOSS: Do you know if the two-hour  
13 training is paid?

14 JOE PIMENTEL: No.

15 SCOTT MOSS: Sorry. I asked that wrong.

16 JOE PIMENTEL: No, you just show up, and you  
17 tell 'em you're looking for a job  
18 as a flagger. They'll sit you down, put a video on.  
19 Watch the video. They wait for a contractor to call,  
20 and they send you off to work, and they give you a stop  
21 sign and just tell you what to do.

22 SCOTT MOSS: So that is unpaid time, the two  
23 hours; is that right?

24 JOE PIMENTEL: From talking to the  
25 workers -- because I talk to them and try to get them a  
26

1 better wage and benefits and stuff and --

2 I build relationships with them.

3           You know, I go back out and talk to them, see  
4 how they're doing, make sure they're safe, try to get  
5 them, like, better stuff. You know, if they're on  
6 drugs, I try to get them into a rehab and let them  
7 know, you know, I'm here to help you, dude, because  
8 this -- some people just give up on them right away.

9           SCOTT MOSS: And do you know about how many  
10 hours a flagger may work?

11           JOE PIMENTEL: Some of these flaggers --  
12 depends on the job site. If a contractor just wants  
13 them for four or five hours, they'll be there. If it's  
14 12 hours, 15 hours -- sometimes they'll come do an  
15 8-hour shift, go get their day pay, and then come back  
16 and do another shift. It all depends on what they want  
17 to do and what the needs are.

18           SCOTT MOSS: So sometimes 12 or 15 hours in a  
19 day?

20           JOE PIMENTEL: Yeah, sometimes 15 hours. I  
21 mean, I met guys that done, like, a 20-hour shift. And  
22 then they have to be back there the next day. And it's  
23 just uncalled for. You know what I mean?  
24 I mean, these guys deserve a little break.

25           But they just need those hours, you know? So

26

1 they are not looking at that safety issue. They're not  
2 looking about the sleep. They just know they need that  
3 money.

4 SCOTT MOSS: And have you seen any accidents  
5 when folks are fatigued, either flaggers or on the  
6 construction site?

7 JOE PIMENTEL: I heard from other flaggers  
8 out on the job that, you know, a flagger passed away,  
9 someone upset, you know, and ended up crossing the  
10 construction barrier and whatnot.

11 I have been at job sites where we have a  
12 street closed off, and traffic still comes through, and  
13 we're like, Get out of the way. So it got to the point  
14 where we put our road equipment on the highway to  
15 protect us.

16 And it's just people trying to get by, you  
17 know, and I've been in the situation when there's  
18 traffic and you're trying to get home, and it's, like,  
19 Jesus, why here? And stuff like that. You know what I  
20 mean?

21 SCOTT MOSS: Thank you. Appreciate it. Liz  
22 may --

23 LIZ FUNK: We would just like to take you up on your  
24 offer to contact you, so if you would sign in.

25 JOE PIMENTEL: Yeah, of course. (End time  
26

1 2:00 p.m.)

2 SCOTT MOSS: Any other comments, either  
3 elaborating or following up? Go ahead. It's kind of  
4 like in class, where you can get a second cookie after  
5 everybody gets a cookie.

6 THE REPORTER: Could you remind me of your  
7 name, please.

8 NINA DISALVO: (Start time 2:00 p.m.) Hi.  
9 My name is Nina Disalvo, again, and I'm with Towards  
10 Justice. I want to let you know that we have two  
11 foundations who wanted to submit some comments to you  
12 all. I'm happy to email them in, or I'm happy to read  
13 them out. I just -- what works best for you?

14 SCOTT MOSS: How long are they?

15 NINA DISALVO: Page and a half.

16 SCOTT MOSS: Why don't you read them in.

17 NINA DISALVO: Sure. So they say, "We  
18 understand that your office is engaging in an informal  
19 pre-rulemaking information gathering process to gather  
20 stakeholder feedback on the Colorado Minimum Wage  
21 Order."

22 SCOTT MOSS: Sorry to interrupt. These are  
23 from whom?

24 NINA DISALVO: These are from the Buck  
25 Foundation and the Longmont Community Foundation.

26

1           SCOTT MOSS: They both signed on the same  
2 comment?

3           NINA DISALVO: The same comment.

4           SCOTT MOSS: Great. Thank you.

5           NINA DISALVO: Yeah. They say that they  
6 "understand that you're particularly interested in  
7 whether Colorado should implement a minimum salary  
8 required to be paid to employees covered by the  
9 exemptions in Section 5 of the Minimum Wage Order.

10           "We are foundation leaders supporting the  
11 success of Colorado's vibrant civil society. For the  
12 reasons described below, we believe a minimum salary of  
13 2.5 times the minimum wage would reset expectations for  
14 workers in a way that benefits the nonprofit sector and  
15 the communities it serves.

16           "Without statewide overtime standards, 50-  
17 and 60-hour work weeks have become the norm in many  
18 non-profits across Colorado. This is true not only for  
19 highly paid executives or those with unique  
20 professional skills. Instead, it is true for  
21 organizers, administrative staff, low-level managers,  
22 and those making far below the median wage in our  
23 state.

24           "That doesn't make sense. We need statewide  
25 rulemaking to end the race to the bottom on worker  
26

1 hours. Restoring the 40-hour work week would reduce  
2 turnover, which is a significant and growing concern  
3 for Colorado non-profits.

4 "A 2016 article identified, quote,  
5 'attraction and retention of talent,' unquote, as a key  
6 challenge for non-profits and noted that employees have  
7 become dissatisfied with low pay, despite feeling a  
8 high sense of satisfaction with the mission-driven  
9 work.

10 "We're always sorry to see talented staff  
11 members move on from the organizations we fund,  
12 especially in pursuit of higher wage. Finding, hiring,  
13 and training new employees is a substantial investment.

14 "Although employees move on for a variety of  
15 reasons, burnout is an important factor, especially in  
16 the emotionally exhausting world of mission-driven  
17 work. Reducing turnover would make our foundation  
18 dollar more efficient, and we could accomplish more  
19 with the same level of funding.

20 "We believe we could reduce turnover by  
21 reducing work hours and paying employees for all the  
22 hours they work if statewide rulemaking supported our  
23 effort. Restoring the 40-hour work week would also  
24 help ensure gender equity at our partner organizations.

25 "The erosion of the 40-hour work week means

1 that it is increasingly difficult to be professionally  
2 successful without putting in long hours. Workers with  
3 caretaking responsibilities have more difficulty  
4 putting in extra hours, especially those who must be on  
5 call at home to care for children, older adults, or  
6 other family members.

7 "In a society that traditionally places more  
8 caretaking demands on women, normalization of extended  
9 work hours disproportionately disadvantages women and  
10 undermines our efforts to promote gender equity in our  
11 organizations.

12 "Despite making up the majority of the  
13 workforce in nonprofit jobs, women make up the minority  
14 of top executive positions, and a meaningful wage gap  
15 exists even in this women-dominated industry.

16 "We want the talented caregivers in our  
17 organizations to be able to succeed at work while  
18 dedicating appropriate time to their personal lives.  
19 We can do that with the help of statewide rules.

20 "The minimum salary for overtime exemption  
21 under Section 5 should be high enough to require the  
22 statewide reset in workplace culture that we need to  
23 remain competitive while treating our employees fairly.

24 "We propose setting the minimum salary at 2.5  
25 times the minimum wage. This is consistent with the

1 new standard in Washington and how the minimum  
2 salary responds to inflation in the same way that our  
3 minimum wage does under the Colorado Constitution.

4 "Today, 2.5 times the minimum wage is about  
5 140 percent of the median wage in our state. It makes  
6 sense that someone earning less than one and a half  
7 times the median wage be entitled to overtime pay when  
8 they work overtime hours.

9 "A minimum salary for overtime exemption  
10 under Section 5 of the Minimum Wage Order would rein in  
11 the race on the bottom on employee hours. If workers  
12 are entitled to overtime pay, employers will engage in  
13 a thoughtful analysis of business necessity when  
14 keeping employees beyond 40 hours in a week or  
15 12 hours in a day.

16 "That analysis would reset incentive  
17 structures statewide, making employees happier,  
18 reducing turnover, and giving us a better shot at  
19 gender equity in the workplace.

20 "We appreciate your consideration of these  
21 important issues. Signed by the Buck Foundation and  
22 the Longmont Community Foundation.

23 SCOTT MOSS: Thank you.

24 NINA DISALVO: Thank you. (End time  
25 2:06 p.m.)

26

1           SCOTT MOSS: I'll ask if Hilda can translate  
2 into Spanish, interpret the following. In case anyone  
3 is waiting to hear it in Spanish, anyone can speak to  
4 follow up on anything that was said or say anything,  
5 even if you weren't planning to. Thank you.

6           THE INTERPRETER: (Speaking in Spanish.)

7           SCOTT MOSS: Anyone else ready to speak?

8           ADAM HARRISON: (Start time 2:06 p.m.) Good  
9 afternoon. I'm Adam Harrison. I'm here representing  
10 the Colorado Plaintiffs' Employment Lawyers  
11 Association.

12           And my comment at this point is that the four  
13 industries listed in the wage order make no sense,  
14 should be abolished, and the agency should on an  
15 individual basis look at whether industries should be  
16 exempted, as opposed to only including four industries.

17           While the four industries are each described  
18 in a little bit of detail, it's so easy to find  
19 ambiguity there that I have done hundreds of hours of  
20 litigation, which has been great for my firm and which  
21 for us as litigators is great for us to bill the hours  
22 to look at whether or not someone actually fits into  
23 either service or support or happens to fit into  
24 medical.

25           But other than advantaging the

1 attorneys, other than wasting a lot of court time, the  
2 industries as listed are not useful and don't help  
3 anybody.

4 I'll give you a very quick example. I  
5 litigated in both state and federal court over the  
6 course of about seven months last year. The question  
7 of whether an individual who only worked with  
8 food, who only handled food, whose only job  
9 was to move food from one place to slightly another  
10 place, and all they did was food, whether they fit into  
11 food and beverage. That is somewhat nonsensical.

12 To another extent, I'd like to support the  
13 proposition that's been made today that a salary, when  
14 someone's called salaried and therefore not entitled to  
15 any overtime, they should receive a salary in fact.  
16 They should receive a salary indeed.

17 There's some attempt to do that at the  
18 federal level, but it's clear to all of the states  
19 within enlightened humans running them now that the  
20 federal government and Congress and our  
21 federal courts are probably not going to help people  
22 who work.

23 And so the more enlightened states are moving  
24 towards a better salary basis. The salary basis test  
25 should be set at 2.5 times the minimum wage. That is a

1 salary indeed. And if you're going to -- roughly,  
2 I'm going to call that \$62,000.

3 If you're taking a single woman -- if you're  
4 taking a hardworking person who needs to care for a  
5 household away from their children for  
6 70 hours a week, which companies can continue to do if  
7 they choose, then she either needs to make overtime, or  
8 she needs to have something that would really be called  
9 a salary.

10 And I support the call to make that two and a  
11 half times the minimum wage for an annual income.

12 Thank you.

13 SCOTT MOSS: Thank you. I just have some  
14 follow-ups.

15 ADAM HARRISON: Yes, sir.

16 SCOTT MOSS: You mentioned the case in which  
17 you had to litigate the food and beverage category,  
18 whether someone's covered. In your experience, either  
19 cases you have, or just cases you've seen in  
20 researching other cases, was that a very uncommon thing  
21 to have to litigate whether someone's covered within  
22 one of the four coverage categories, or have you seen  
23 that come up in a number of cases?

24 ADAM HARRISON: If the other side  
25 has any money to hire an attorney, they will take

1 that to us in almost every case. Another example is  
2 that we are currently at the dispositive motion stage  
3 in a case where the entity is called such-and-such  
4 health.

5 They are litigating with us, or there's an  
6 entity on their behalf fighting about whether they are  
7 actually part of -- actually, whether they actually do  
8 health. So it comes up all the time. It is extremely  
9 common, and it's extremely time-wasting.

10 SCOTT MOSS: And just to make sure that  
11 record's clear on that, you said in "almost every case"  
12 it comes up all the time when an employer has attorneys.  
13 Is what you're saying that, when an employer has  
14 attorneys and they can afford to litigate it, in almost  
15 every wage case under Colorado law, there's dispute  
16 about a coverage category?

17 ADAM HARRISON: Yeah. So they're informally  
18 between the attorneys, or formally. Often, it comes up  
19 in the guise of a 12(b)(6) motion to dismiss for there  
20 not being a legal claim, which will delay justice for  
21 everybody to, depending on the court, six months or a  
22 year. But it comes up either formally or informally.

23 SCOTT MOSS: And I won't ask you to quote  
24 your own hourly rate as an attorney, but I know that  
25 lawyers know other hourly rates out in the market

1 because there are motions for attorneys' fees that the  
2 other side will file. There's sometimes published  
3 averages.

4 Can you tell us, ballpark, for the experienced  
5 head or senior attorney on any case in an employment  
6 dispute, what's the common range of hourly rates  
7 for those attorneys?

8 ADAM HARRISON: \$300 for a very inexperienced  
9 person, to 7- or 800 for the higher-paid employment  
10 lawyers on the employer side.

11 SCOTT MOSS: Thank you.

12 ADAM HARRISON: And ballpark hours? My  
13 typical case, where I would have to fight a motion to  
14 dismiss, we're probably looking at putting a good 50 or  
15 60 hours just into the issue of whether the employer  
16 fits under the category at one of those rates. And so  
17 that money adds up quickly.

18 SCOTT MOSS: And just one follow-up on that.  
19 I know that's for just researching that issue on the  
20 motion early in the case, that it be dismissed, but in  
21 a wage case that goes all the way through to a verdict  
22 or an appeal, what would be a rough ballpark, if you  
23 know, of how much in attorneys' fees on either side  
24 could such a case could cost?

25 ADAM HARRISON: I can't speak to that

1 personally. I would estimate that if you continued --  
2 that if there continued to be a fight all the way to  
3 the appeals court, which there are every year in either  
4 federal or state court, to my knowledge, every year one  
5 of the appeals courts is looking at whether food is  
6 food or health is health, you're  
7 probably looking at a couple hundred hours on that  
8 issue within the entirety of that litigation,  
9 all the way up to the last appeal.

10 SCOTT MOSS: And as a compound to kind of the  
11 last question, I'll quiz you on fees about it. Is it  
12 common or uncommon for one side's attorneys' fees to  
13 reach six figures, over a 100,000, in a wage case?

14 ADAM HARRISON: Unbelievably common.

15 SCOTT MOSS: Thank you.

16 ADAM HARRISON: Thank you. (End time  
17 2:13 p.m.)

18 SCOTT MOSS: Anyone else, either with your  
19 own comments or following up on someone's?

20 PATRICIA MADSEN: (Start time 2:13 p.m.)  
21 Good afternoon. My name is Patricia M-a-d-s-e-n,  
22 Madsen. I'm a retired lawyer.

23 I'd like to talk to you about a memory of  
24 work that I did -- well, in junior high. So it tells  
25 how long ago it was. It was junior high, not middle

1 school.

2           In western Iowa, there's an industry to  
3 develop hybrid seed corn. I was on the crew to  
4 detassel corn. They plant two different strains  
5 together, and then the tassels have to be pulled out of  
6 one of the strains so that the cross will be proper.

7           They hired mostly teenage girls because  
8 teenage boys wouldn't put up with it for more than a  
9 week. All day, we would stand like this, walking down  
10 a row with our arm up and slide it down to get a grip  
11 on the tassel, and then pull it up, with a little jump  
12 because I was short, because if we broke the tops of  
13 too much corn, then we'd be fired.

14           Your hand was like this all the time 'cause,  
15 you know, stalks of corn grow pretty close together.  
16 And your arm was like this all the time, and at the end  
17 of eight hours, I hurt. For the first week, my hand  
18 was like this because the corn, when it was wet, would  
19 do little cuts.

20           SCOTT MOSS: Just for the record, when you  
21 say "like this," you mean your hand was up and your  
22 fist is clenched?

23           PATRICIA MADSEN: Yeah. Fingers were bent.  
24 I couldn't unbend them without, you know, massaging,  
25 soaking.

1           To get to this work, our mothers turned us up  
2           at the crossroads of a couple of gravel roads, and --  
3           oh, I don't know, an hour or two before dawn. It was  
4           hard on them too.

5           And we were taken to work in a truck that had  
6           benches that might or might not have been fastened  
7           down, and didn't have anything in the back, so when the  
8           truck stopped, a cloud of dust poured in. We didn't  
9           have any protection against that dust. So we breathed  
10          it in.

11          I go over this because I am told that those  
12          trucks are still going on, the benches still aren't  
13          reliably fastened down, the dust still blows in the  
14          back. When we were in the field, with luck, there was  
15          a container of water at the end of the row, if that was  
16          important enough for somebody to deliver.

17          If you had to go to the bathroom, you just  
18          hoped that a male supervisor couldn't see you because  
19          the bathroom was a row of corn. I'm told that a row of  
20          something is still the bathroom. And female employees  
21          still have to hope that a male supervisor is not  
22          around.

23          I did this work over 50 years ago. I have  
24          never in my life worked as hard as I worked those three  
25          summers, for well under the minimum wage, for other

1 kinds of workers.

2           If any of this corn had gotten to a corn  
3 canning plant, those workers would have gotten minimum  
4 wage. But those of us who were messing with stuff in  
5 the field, we were young, we were seasonal, we were  
6 agricultural. We didn't come close to minimum wage.

7           And they had us. There wasn't a lot else for  
8 us to do. Over 50 years. Haven't worked that hard  
9 since, haven't paid that badly since. Fifty years.  
10 Just can't be right.

11           SCOTT MOSS: Thanks. If you don't mind, I  
12 have a couple of follow-up questions. At the time, did  
13 you know you were getting paid less than a minimum wage  
14 that was in a law somewhere?

15           PATRICIA MADSEN: We took what they gave. We  
16 had -- no, we did not have any. I was 13 or  
17 14 when I did this work. Our parents were farmers. We  
18 didn't have a clue.

19           SCOTT MOSS: And at the risk of asking the  
20 obvious, you spoke English?

21           PATRICIA MADSEN: Oh, yeah. Yep. We were  
22 all white, all local, all, you know, in the  
23 neighborhood. I venture to say that Mr. Garst, whose  
24 firm we worked for, I doubt, if he had teenage  
25 daughters, if they would have detasseled corn.

1           SCOTT MOSS: And I suspect I know the answer,  
2 but did you ever complain about the wages or working  
3 conditions?

4           PATRICIA MADSEN: No. What else would  
5 we have done? We would have had to babysit to get our  
6 hands on a little cash, but it wouldn't have been that  
7 much cash. They had us. We were very young  
8 in a place where there wasn't much work.

9           SCOTT MOSS: And have you seen anyone be  
10 fired from that job?

11          PATRICIA MADSEN: Well, I hadn't seen them,  
12 but the boys -- they would have a girls' crew and a  
13 boys', and the girls' crew would last the season, but  
14 the boys' crew would last less than a week because boys  
15 didn't put up with this crap.

16          I'm sure some of them were fired. Some of  
17 them just walked. A couple of people, for not being  
18 careful about the corn, you know, they were sacked.

19          SCOTT MOSS: So that's if there was breakage  
20 while doing the work, when you were having to reach  
21 above your head for most of the day, sometimes there  
22 would be breakage, and people would be fired for that?

23          PATRICIA MADSEN: Yeah, if there was too much  
24 of it.

25          SCOTT MOSS: And you hadn't ever heard anyone  
26

1 complain about the wages or working conditions?

2 PATRICIA MADSEN: No. I don't think we would  
3 have dared.

4 SCOTT MOSS: And were any of you union  
5 members?

6 PATRICIA MADSEN: Oh, no. No. I grew up in  
7 what is now Representative  
8 Steven King's district. I don't think the word "union"  
9 would have gone over well.

10 SCOTT MOSS: Thank you.

11 PATRICIA MADSEN: Thank you for doing this.

12 (End time 2:19 p.m.)

13 SCOTT MOSS: Who else would like to speak?

14 JOSE PENA: (Speaking in Spanish.) (Start time 2:19 p.m.)

15 SCOTT MOSS: Oh, we need Hilda.

16 Jose Pena: I was going to ask for a  
17 translator. I speak English, but I want to do it in  
18 Spanish. I feel more comfortable.

19 SCOTT MOSS: (Speaking in Spanish.)

20 JOSE PENA: Jose Pena.

21 SCOTT MOSS: (In English) Hilda, if you  
22 could explain, if he wanted to do one or two sentences  
23 at a time, please, to make it easier to translate.

24 THE INTERPRETER: I just did.

25 SCOTT MOSS: Oh, okay. Thank you.

1                   JOSE PENA: (Through the interpreter.) Hi.  
2                   My name is Jose Pena. I just want to make one comment.  
3                   Regarding safety, I would like to add a little bit more  
4                   to what my coworker said, what  
5                   Bustamante was mentioning before.

6                   I would like to give you an example because  
7                   you asked if we have examples of safety, and I would like  
8                   to add a little bit more about that.

9                   I don't know if you heard about this, but I  
10                  believe it was this year, a company that was working in  
11                  Boulder, one of their workers was deceased, passed away.  
12                  And the reason why that happened was lack of safety and  
13                  lack of training.

14                  So this company was working in a basement,  
15                  and they were trying to install a pipe, and it was very  
16                  deep. They were doing it with a safety box or  
17                  trenching shoal. When they do that, the worker  
18                  has the risk of being injured because of the dirt will  
19                  collapse, and that is same thing what happened.

20                  SCOTT MOSS: If I could jump in. If you  
21                  could explain more about what a safety box is.

22                  JOSE PENA: (Through the interpreter.) A  
23                  safety box is a metal box that you use when you are  
24                  digging, to make, like, trench so they can work inside.

25                  SCOTT MOSS: So they're inside the box?

26

1                   JOSE PENA: (Through the interpreter.)  
2           They do a trench, and then they install this box to  
3           hold the walls.

4                   SCOTT MOSS: Okay.

5                   JOSE PENA: (In English) So that's what the  
6           trench box is, or trench or sometimes it's  
7           not a box. It's hydraulics, and they hold the walls in  
8           place that will not cave in.

9                   SCOTT MOSS: Sorry to interrupt.

10                  JOSE PENA: (In English.) No, that's fine.  
11           And sometimes -- I'm just trying to do it in Spanish  
12           because sometimes I feel more comfortable. But it's a  
13           little complicated to explain in English.

14                  SCOTT MOSS: Oh, it's a hundred percent fine.  
15           If you're more comfortable in Spanish, we'll have it  
16           done with an interpreter. That's what Hilda's here  
17           for.

18                  JOSE PENA: Okay. We'll just go back and  
19           forth. (Through the interpreter.) What will happen  
20           is, when a worker doesn't have a training, and they  
21           just told him, "Go work in there," they don't have that  
22           training, they don't know what kind of risk they're  
23           going into.

24                  And that is why it's so important to be  
25           trained. And the class name for that particular

1 training is trench ensuring. And I just wanted to give  
2 that example. It was just one example. And,  
3 unfortunately, the consequences in that example were  
4 fatal.

5 JOSE PENA: (In English) A Hispanic male  
6 just deceased because of that action from the company.  
7 They don't have the right equipment, or a lot of times,  
8 they try to cut corners to do the job faster.

9 So it's one of things, you know, that we need  
10 to protect. As a union member, I have been through a  
11 lot of jobs in our contracts, which always, always have  
12 the trencher in place. And this is one of those deals  
13 that you can save a life.

14 And it's unfortunate,  
15 that this doesn't take into the consideration the  
16 workers. And the sad part about this, they kill  
17 somebody, and the state, or whoever is in charge of it,  
18 Department of Labor or whoever it is, they go and just  
19 say, "You gotta pay a fine."

20 They'll do it again. So that's -- we need to  
21 stop that -- because that's not acceptable.

22 SCOTT MOSS: Thank you. Just a question, to  
23 follow up. What type of work do you do?

24 JOSE PENA: I'm labor, member of Local 720.  
25 I worked in the field for, like, ten years. Then I

1       become a project coordinator for 11 years. Now my  
2       position is businesses. And so -- we basically see a lot  
3       of jobs every day. We see the difference, you know,  
4       like day and night. Union, nonunion.

5                I mean, I don't have nothing against  
6       nonunion, but they need to implement safety for the  
7       workers.

8                SCOTT MOSS: And either in visiting sites or  
9       when you were a project coordinator or in the field,  
10      did you ever see any safety risks that seemed like they  
11      were worse because someone was working long hours, or  
12      was this just throughout the day?

13               JOSE PENA: Well, you know, not so much the  
14      long hours, you know, because even our members,  
15      sometimes they work long hours. But, you know, with  
16      the proper breaks.

17                I mean, long hours, they're fine as soon as  
18      they give you some breaks between those long hours.  
19      And one of those things that I've been seeing in the  
20      job sites, you know, sometimes, we go talk to the guys,  
21      the foremans, the superintendents, they ask our guys to  
22      take a little break and get some water, and they even  
23      offer us water. "You want water?"

24                They carry cold water, you know, bottled  
25      water, pretty much. So they even offer.

26

1 sometimes we have to carry the water with us, or they  
2 nice sometimes. Offer us some water, "Hey, here."

3 SCOTT MOSS: Why do you see breaks as  
4 important?

5 JOSE PENA: Because you can rest. You know,  
6 when you work long hours, you need a little break to --  
7 break and drink plenty, all that, especially when  
8 it's hot. It's one of those things that we've been  
9 seeing in our job sites.

10 And that's the reason sometimes  
11 that we visit job sites, see how the guys doing. A lot  
12 of times, you know, we can see what's going on. And  
13 contractors are aware. They know that. Something is  
14 not right, we let them know.

15 And nonunion, they just want further action.  
16 They don't care if the guys are tired. They don't.

17 SCOTT MOSS: Yeah, and I was gonna ask -- I  
18 know you mentioned -- that's good to hear that there's  
19 sites where the foreman and others will offer water and  
20 breaks. Have you seen sites where breaks aren't  
21 offered or allowed?

22 JOSE PENA: Not in our contracts, no, but we  
23 see in somewhere, if they nonunion, sometimes they  
24 work, you know, not side-by-side, but sometimes they  
25 have no break. We can see the guys.

1           SCOTT MOSS: You're saying more in the nonunion  
2 sites, there might not be breaks?

3           JOSE PENA: Yeah. Uh-huh. Yeah. Most of  
4 our -- hundred percent of contractors, they do breaks  
5 and lunch and all that. The other guys, a lot of  
6 times, 15 minutes for lunch, and that's it. And ten  
7 hours per shift.

8           So on our side, if you were holding  
9 eight hours, they give you another 10-minute break, and  
10 so they are rested more. That's why the guys,  
11 they were more capable of working long hours.  
12 Sometimes, on our side, the guys, we're so tired  
13 because no breaks. So . . .

14           But, yeah, I just want to give you that.  
15 And, you know, and I hope that you take that. And I  
16 will appreciate that. Thank you so much. And thank  
17 you for translating for me. So thank you.

18           SCOTT MOSS: Thanks very much.

19           JOSE PENA: Thank you. (End time 2:31 p.m.)

20           JAMES GLEASON: (Start time 2:31 p.m.) Good  
21 afternoon, everybody. Long day, right? Hope you're  
22 getting breaks.

23           My name is James Gleason. I'm a resident of  
24 Fort Collins, Colorado. Been a carpenter for 42 years  
25 and member of Carpenters Local 555, an organization

1       founded on principles of promoting the eight-hour day,  
2       and founder PJ McGuire was instrumental in founding the  
3       holiday we now know as Labor Day.

4               I want to thank the CDLE for affording the  
5       community and not just associations the ability to have  
6       input on transparent rulemaking.

7               I speak today regarding the Colorado Minimum  
8       Wage Order and the current rules excluding construction  
9       industry from the Colorado Minimum Wage Order.

10              I would encourage the CDLE to adopt rules  
11       applying the Minimum Wage Order to all industries, and  
12       exclusions only available when demonstrated that lack  
13       of rule application would not be harmful towards  
14       developing and maintaining a viable workforce.

15              The construction industry, according to the  
16       Bureau of Labor Statistics, in 2016 employs directly  
17       6.2 percent of the workforce in Colorado. The  
18       construction industry is also -- in that same study,  
19       the BLS, is projected to grow 12.4 percent by the year  
20       2026.

21              Beginning in the late '90s, about the same  
22       time construction was excluded from the Minimum Wage  
23       Order, what used to be a traditional workforce of  
24       employees employed by general contractors and  
25       subcontractors in Colorado began to shift to a work

1 force employed by labor brokers and temp agencies.

2 This led to misclassification of employees,  
3 wage theft, and disregard for any rules and regulations  
4 governing the minimum wage, overtime compensation,  
5 meals, and break times.

6 You will hear from workers employed in the  
7 construction industry their concerns that they're  
8 expected to work 50 to 70 hours a week, with no premium  
9 time, over 40 hours in a week or 12 hours in a day.

10 I myself have spoken to many workers on job  
11 sites and have witnessed these conditions firsthand.  
12 No meal time or break times afforded them during long  
13 hours of physical exertion, performing work critical to  
14 the building industry.

15 The situation can cause fatigue, anxiety, and  
16 over a prolonged period of time, even depression,  
17 leading to overall bad health, burnout, and sometimes  
18 on-the-job injury to themselves and others, not to  
19 mention impact on family life.

20 These workers deserve protection from  
21 exploitation like any other industry. Will this  
22 eradicate the abuse? Not completely. But it will  
23 curtail the abuse that has become so prevalent in  
24 today's construction industry.

25 Enforcement of the Minimum Wage Order in

1 construction will also level the playing field for the  
2 law-abiding employers who are at an economic  
3 disadvantage when competitively bidding projects.

4 As a participant in Governor Hickenlooper's  
5 Joint Enforcement Task Force on payroll fraud and  
6 employee misclassification in the construction  
7 industry, we looked at current conditions concerning  
8 employment practices in the construction industry.

9 During one period in 2018, it was determined  
10 that 19 employers, some of whom who weren't even  
11 registered with the Colorado Department of Labor and  
12 Employment, misclassified almost 1,700 employees.

13 The task force concluded -- this is a  
14 quote -- that "The use of labor brokers, and  
15 consequently misclassification, is a problem with  
16 carpentry and interior systems work taking place at  
17 large-scale commercial and mixed-use projects in  
18 Colorado."

19 My knowledge and experience in the  
20 construction industry, over 42 years, leads me to  
21 conclude that roughly 99.9 percent of those 1,700 were  
22 not being compensated correctly for overtime or offered  
23 adequate meal and rest breaks. They had no place to  
24 turn to enforce protections under the law for just  
25 compensation and breaks.

1           I would like to see CDLE extend those  
2     protections to workers in all industries, including  
3     construction, and not force them to seek legal  
4     representation to get relief in other ways.

5           Workforce development is crucial in  
6     supporting increased demand in the construction  
7     industry, which is predicted to grow, as I said  
8     previously, 12.4 percent by the year 2026.

9           Having a healthy and productive workforce is  
10    vital to supporting all industries and beneficial to  
11    Colorado. When employees are asked to work long hours,  
12    there's little opportunity for skill advancement and  
13    continuing education. Workers burn out or leave for  
14    industries where conditions are better.

15          Think of a 19-year-old entering an industry  
16    where conditions require long hours, daily and weekly,  
17    without adequate compensation or any breaks to  
18    reenergize. It would not be long before you burn out  
19    or seek better conditions elsewhere.

20          In closing, I request that the Colorado  
21    Department of Labor and Employment extend the Minimum  
22    Wage Order to cover all industries, including  
23    construction. Thank you.

24          SCOTT MOSS: Thank you. Couple of questions,  
25    if you don't mind.

1           JAMES GLEASON: No problem.

2           SCOTT MOSS: First, could you tell us, if you  
3 know, what types of jobs are covered in the carpenters  
4 union local?

5           JAMES GLEASON: Okay. Could be drywall. It  
6 could be concrete forming. Could be millwright work  
7 and the powerhouses out at the airport. Could be  
8 acoustical ceiling work. Could be hanging doors and  
9 hardwood. Pretty expansive, the trade jurisdiction.  
10 Carpentry covers a lot of classifications.

11          SCOTT MOSS: Thank you. And then, were you  
12 in construction in the late '90s in Colorado?

13          JAMES GLEASON: Yeah.

14          SCOTT MOSS: Do you have an idea, or did you  
15 hear at the time, why construction came to be excluded  
16 from the Minimum Wage Order then?

17          JAMES GLEASON: I have no idea. As a matter  
18 of fact, it's really hard to trace where that came  
19 from. But it just excluded it. The task force has  
20 looked into that a couple of times. I know there's  
21 letters on file from associations requesting that it be  
22 not included in a Minimum Wage Order.

23          SCOTT MOSS: And then there's one argument I  
24 did see, that in the late '90s that federal law  
25 is sufficient to cover workers. That's the federal

1 Fair Labor Standards Act on minimum wage and overtime.  
2 In your experience, has federal law on minimum wage and  
3 overtime been sufficient to address the problems you've  
4 talked about?

5 JAMES GLEASON: It's been helpful, but not  
6 efficient because of U.S. Department of Labor, the  
7 staffing requirements and other things that it takes --  
8 it's almost -- as in the case of Diversified Builders  
9 Incorporated, who cheated their workers of overtime  
10 pay, as well as other things, not even unemployment,  
11 that they took two and a half to three years to get the  
12 kind of closing on that case.

13 That was just one case involving roughly 48  
14 employees. So it's a long process. And the federal  
15 government is, you know, with budget cuts and other  
16 things, they're not staffed adequately to support.

17 Maybe in the '90s they would have had  
18 adequate staffing. But anybody who's lived in Colorado  
19 since the '90s knows every industry has grown  
20 substantially since the '90s. So their resources  
21 aren't there to do this stuff.

22 SCOTT MOSS: And I know there is no right to  
23 meal or rest breaks under federal law.

24 Last question I had: These health effects or  
25 accidents that, you and others have alluded to, can be

1 worse either with long hours or no breaks. Have you  
2 seen any accidents, or heard of or seen anyone with  
3 health problems, that seem traceable to long hours?

4 JAMES GLEASON: Yeah. There's Skyhouse  
5 Denver, 19th and Broadway, large-scale project. A  
6 drywall contractor. There was a woman who was injured  
7 doing cleanup, and also she was a taper or finisher in  
8 drywall. She was injured.

9 But one of her reasons was that she was  
10 substantially overworked because she had been required  
11 to work a minimum of ten hours a day, and she had also  
12 been juggling her kids back and forth between child  
13 care, and I would venture to guess that was probably a  
14 hard contributor to her eventual injury.

15 And we hear all the time of people getting  
16 hurt on projects, you know, whether it be a back  
17 injury, a shoulder injury. If you're lifting drywall  
18 for 10, 12 hours a day without a break or a meal break,  
19 and being driven to do it, chances are it's going to  
20 happen.

21 And anything that industrial psychology or  
22 (inaudible) agrees that productivity decreases after  
23 six and a half hours, and the longer you work, the less  
24 productive you'll be and the more likely to  
25 suffer an injury because of you're not thinking

1 correctly, and you have your mind on other things.

2           So fatigue sets in. You're more likely to  
3 cause an accident, not only injuring yourself, but  
4 potentially other coworkers if the incident is severe  
5 enough.

6           SCOTT MOSS: And just to follow up, you  
7 mentioned 10-hour days. The 10-hour days that  
8 that injured worker worked, is that exceptional  
9 in your experience in either drywall or other  
10 related construction, or is that something that a  
11 number of workers have?

12           JAMES GLEASON: This day and age, it's pretty  
13 common. Because of the constraints, as far as access  
14 to a labor force, there could be quite a few people who  
15 work 10, 12 hours a day, sometimes four days a week to  
16 seven days a week, depending on where you're at at the  
17 project.

18           SCOTT MOSS: Thank you.

19           JAMES GLEASON: As union members, we have  
20 contracts that deal with that. Anything over eight  
21 hours a day is time and a half. Anything over 40 hours  
22 in a week is time and a half.

23           We allow for four 10-hour days if  
24 need be, schedule out (inaudible) help. It's governed,  
25 and, you know, it's a lot easier to focus on the stuff

1 when you get time and a half after eight hours or if  
2 it's 10 or 12 hours.

3 And most people aren't getting these  
4 standards. And these standards are being driven by  
5 labor brokers who supply labor strictly. They don't  
6 bid jobs. They supply labor on an hourly basis.

7 And I can tell you that if you're billing  
8 70 hours a week at \$24 an hour, you're not paying any  
9 time and a half. And those workers, to tell you the  
10 truth, they've sort of given up a lot of times of  
11 expressing concerns because nobody really looks at it  
12 severely enough that they would actually take  
13 something, and resolution takes time.

14 So as this investigations deal I talked  
15 about, I brought that up, is that this classification  
16 issue has created that environment and feeds it because  
17 if you're misclassified, chances are the reason you're  
18 being misclassified is to avoid paying overtime, giving  
19 breaks.

20 THE REPORTER: Can you spell your last name  
21 for me, please.

22 JAMES GLEASON: G-l-e-a-s-o-n.

23 SCOTT MOSS: And last follow-up. So you  
24 mentioned 70 hours a week. Have you heard of workers  
25 working 70 hours a week in construction?

1 JAMES GLEASON: Oh, yeah. All the time.

2 SCOTT MOSS: And there are employers that do  
3 pay overtime, perhaps because of union contracts; is  
4 that right?

5 JAMES GLEASON: Yeah.

6 SCOTT MOSS: And in the workplaces where  
7 overtime is paid by union contracts, do you see  
8 employers requiring lighter hours because it will cost  
9 more to work overtime?

10 JAMES GLEASON: Lighter hours? I'm not  
11 understanding.

12 SCOTT MOSS: Well, when -- the employers that  
13 do have to pay overtime by contract --

14 JAMES GLEASON: Yeah.

15 SCOTT MOSS: -- do they require lower hours  
16 per week, less overtime?

17 JAMES GLEASON: Yep. Oh, yeah. And you're  
18 more productive if you're not working as much overtime.  
19 Plus, it's, if you have to pay time and a half, you may  
20 end up having to go back to an owner and charge him  
21 extra because of that.

22 Labor rates are set according to hours  
23 worked. So if an owner's requiring you to  
24 remodel this floor in two weeks, and you have to work  
25 seven 10s, chances are you're working 70 hours.

26

1           If you got collective bargaining, you're  
2     paying after eight in a day and 40 in a week at time  
3     and a half. A lot of employers that do this  
4     standard remodel work don't pay overtime. Strictly  
5     seven 10s.

6           So it puts a legitimate employer at a  
7     disadvantage when bidding that work because they know  
8     they have to factor in the overtime hours in the cost,  
9     whereas some employers that are employing people  
10    through labor brokers and other avenues, they don't  
11    have to.

12           SCOTT MOSS: Just one more question. When  
13    federal law does apply to overtime, do you find  
14    in your experience that workers working over 40  
15    hours a week do pursue their federal rights to  
16    overtime and then win overtime for their and others'  
17    work going forward, or is there some barrier to them  
18    doing so?

19           JAMES GLEASON: Usually, it's a documentation  
20    issue or other things, or a barrier would be not being  
21    able to get resolved, or taking two and a half years to  
22    get that issue resolved. Financially, that might put  
23    burden on it.

24           But they're not -- they're generally  
25    apprehensive because termination could happen, other

1 things. There's threats and other things involved.

2 SCOTT MOSS: So your impression is that, if I  
3 understand right, federal law hasn't resolved the  
4 problem of these long hours?

5 JAMES GLEASON: No. As all (sic) it was  
6 there. I know Towards Justice brought a lawsuit on the  
7 Skyhouse project, and that was under FLSA then with the  
8 lawsuit. And they recovered almost 640- to \$800,000 in  
9 wages, back wages for nonpayment of overtime.

10 SCOTT MOSS: And when you mentioned  
11 documentation, you're talking about workers'  
12 immigration status?

13 JAMES GLEASON: Yeah.

14 SCOTT MOSS: Thank you.

15 JAMES GLEASON: Construction is, always has  
16 been a majority immigrant population.  
17 There's new immigrants working in the field. And  
18 that's where it's at. Not at all times do they have  
19 correct documentation or are they here legally, but  
20 they're here and they work. Some of them worked 20 to  
21 30 years. (End time 2:46 p.m.)

22 SCOTT MOSS: Thank you. We'll take more  
23 comments, but first we'll take a 10-minute break now.  
24 Convene back at 5 minutes to 3:00. Thank you.

25 (Break from 2:46 p.m. to 3:01 p.m.)

1           SCOTT MOSS: Back on the record. I think you  
2 were waiting, sir.

3           VICTOR GALVAN: (Start time 3:01 p.m.) My name is Victor  
4 Galvan.

5 I've been a lifelong resident of Colorado.

6           SCOTT MOSS: I'm sorry. Can you spell your  
7 last name.

8           VICTOR GALVAN: Galvan, G-a-l-v-a-n. I've  
9 been a lifelong member of this community here  
10 in Colorado, grown up here in Denver. I think I was  
11 lucky to enter the workforce pretty early and learn  
12 what it meant to really work for your money.

13           You know, for me, that inspiration came from  
14 my mom having to raise three kids on her own and just  
15 feeling proud to contribute to my family.

16           As I came into my adolescence, one of the  
17 things that inspired me was community organizing. So I  
18 got into community organizing very early in my life  
19 through an organization called (speaking Spanish.)

20           The one thing that I love about this work is  
21 that you get to fight for what inspires  
22 you on a daily basis. But I think the nonprofit  
23 industry also has a pretty dark side a lot of people  
24 don't talk about.

25           And I think it's a fine line between working  
26 passionately for something that you love, but people

1 that are willing to exploit that to get as much work  
2 out of you as possible.

3 And people always talk about this term  
4 "burnout" as a way to chalk it up to, you know, just  
5 too much work or work being too hard or too difficult  
6 on the person that, eventually, they just kind of leave  
7 the field.

8 But I definitely do think that having  
9 people who work as salaried workers and work  
10 with no end in sight, and I think that that has become  
11 a custom in the nonprofit field, something we like to  
12 call the nonprofit industrial complex.

13 Now, I specialize in civil engagement, which  
14 means that we routinely do campaigns throughout the  
15 year that invests itself in activating voters and  
16 citizens within their community to engage government,  
17 issues, and policies that they want to see change.

18 Through this work, it means a lot of hours  
19 spent, not only planning, creating strategy, but  
20 sometimes getting out to the doors and knocking, up  
21 until 8:00 p.m., and, you know, wrapping up things,  
22 you know, to 9:00, 10:00 p.m. at night.

23 This part of the work is very important. And  
24 it's dear to my heart because I've seen it produce some  
25 of the most important pieces of legislation that have

26

1 impacted my community's lives, and even my own. But  
2 through that same veil of passion and disregard for  
3 obstacles, I see a lot of burnout in this industry,  
4 organizations taking advantage, again, of that passion  
5 and working salaried employees for 68,  
6 70 hours without extra compensation.

7           And when this proposal was brought up  
8 to me through Towards Justice and some of the  
9 educational work that they do through our coalition, I  
10 specifically, you know, was impacted by this because I  
11 know that so many of our brightest and youngest  
12 employees have been victims of this abuse, that they  
13 are considered salaried employees and are not  
14 compensated for the time and for that dedication that  
15 they put into work that is absolutely important.

16           But at one point, that coin  
17 has turned, and, again, passion turns to exploitation.  
18 And I would really urge the Colorado law to guarantee  
19 overtime for everyone, including managerial,  
20 professional, and administrative workers, unless those  
21 workers make more than 2.5 times the minimum wage. And  
22 that's assuming that a \$12-an-hour minimum wage, that  
23 would be \$62,000 per year.

24           These are talking points that, you know, I've  
25 been given, but they really, I think, would set an

1 expectation on this industry that I think does a lot of  
2 good in the community. And I think, as it relates to  
3 driving folks to continue to engage the community, even  
4 in work like this, to affect policy, we need to  
5 consider the people who are working for those issues.

6 A lot of times, I like to target folks that  
7 are directly impacted by the issue because it motivates  
8 them and drives them. But in no circumstance do I want  
9 to see that person exploited for their passion for that  
10 work. Thank you.

11 SCOTT MOSS: And, actually, some follow-up  
12 questions, if you don't mind. So just to clarify --  
13 to clarify whoever you're speaking for, you mentioned  
14 talking points that folks helped with, but these  
15 are all your views you're expressing?

16 VICTOR GALVAN: Absolutely.

17 SCOTT MOSS: And, I mean, they're based on  
18 your experience in the industry?

19 VICTOR GALVAN: Yes, sir.

20 SCOTT MOSS: Okay. Can you describe the  
21 type of work that folks will do working overtime? I  
22 know you mentioned doors, but can you describe a  
23 range of types of jobs at nonprofits or organizing  
24 that folks do in the nonprofit sector?

25 VICTOR GALVAN: I think the broad category in

1 this workforce is the title "organizer."  
2 But a lot of times, those people  
3 become, you know, political analysts. They become  
4 campaign strategists. They become development, you  
5 know, workers.

6 They are, you know, asked to do a  
7 range of jobs. And I think it absolutely helps develop  
8 that individual in a lot of places that they  
9 sometimes may not want to be developed.

10 But it really ranges. It's a huge range  
11 under that category of "organizer" because  
12 those people are essentially given a goal to, you know,  
13 change a policy. And under that goal, you  
14 know, it is a range of jobs.

15 SCOTT MOSS: That's helpful to know the range  
16 of what I'd call, perhaps, upper-end jobs, like analyst  
17 or development or whatever. But are most community  
18 organizers doing things like door-knocking, petition  
19 drives out in the field?

20 VICTOR GALVAN: Absolutely. Yeah.

21 SCOTT MOSS: And when you mentioned  
22 development, is development fundraising for the  
23 nonprofits?

24 VICTOR GALVAN: Yes, sir.

25 SCOTT MOSS: So the nonprofits have folks

1 doing their fundraising who are working over 40 hours  
2 without overtime?

3 VICTOR GALVAN: Oh, yes.

4 SCOTT MOSS: And how big are these nonprofits  
5 in number of employees? I know there's a range, but if  
6 you can give me how big they run or how small they run.

7 VICTOR GALVAN: Yeah. That's hard to say  
8 because during those moments of campaigning, you know,  
9 a staff of five can end up becoming a staff of 50,  
10 depending on the funding and resources that come in.

11 And I'd actually also like to add that this  
12 also creates a competition, almost a race to the bottom  
13 of, like, how many doors, how many  
14 people you can reach at the lowest price.

15 We really try to, as the Colorado Immigrant  
16 Rights Coalition, we really like to put value in  
17 the employee first. And when I first started in this  
18 work and started actually creating the budgets and  
19 asking for the funding, some of our  
20 funders were actually shocked at the price tag.

21 And that shock insulted me because I felt  
22 like I was advocating for the bare minimum of what  
23 people should be paid for this work. You know, for us,  
24 it was \$15 an hour, you know, and absolutely  
25 willing to pay overtime when we had to but keeping in

1 mind, like, what it costs to knock on a certain number  
2 of doors.

3           You know, that outrage at the ticket  
4 price, I think, it only goes to show that so many  
5 nonprofits are willing to exploit their employees in  
6 order to hit a mark.

7           SCOTT MOSS: And when you said "funders were  
8 shocked at the price tag"? Did I get that right?

9           VICTOR GALVAN: Yes.

10           SCOTT MOSS: Do you mean that funders were  
11 shocked at how much a nonprofit that does pay its  
12 workers well will spend in campaign costs, because they  
13 may be used to donating less to other nonprofits that  
14 pay less?

15           VICTOR GALVAN: That's exactly right.

16           SCOTT MOSS: And does that hurt the  
17 fundraising of the nonprofits that pay the workers  
18 well?

19           VICTOR GALVAN: I think it absolutely does.  
20 But I think it also feeds into a competitive nature of  
21 where nonprofits are trying to, you know, meet  
22 the status quo. (End time 3:10 p.m.)

23           SCOTT MOSS: Thank you. Appreciate it.

24           THE REPORTER: Could you say -- what was the  
25 name of the coalition again?

1                   VICTOR GALVAN: Yeah. So  
2 I'm the director of federal campaigns of  
3 engagement at the Colorado Immigrant Rights Coalition.

4                   SCOTT MOSS: Are you speaking for yourself or  
5 for the coalition or both?

6                   VICTOR GALVAN: I'm speaking for myself.

7                   SCOTT MOSS: Thank you. Give me a second.  
8 Next, sir.

9                   REV. BRAD LAURVICK: (Start time 3:11 p.m.)  
10 Good afternoon. I'm Reverend Brad Laurvick,  
11 L-a-u-r-v-i-c-k, and I serve the people of Denver with  
12 Highlands United Methodist Church, though I am here  
13 speaking as an individual.

14                   I'm here today to implore you to make needed  
15 changes to Colorado's work order. I serve a community  
16 that is made up of people from all occupations, each  
17 one of them working hard to make a difference in the  
18 world while providing for themselves and their  
19 families.

20                   Many could never make a hearing like this  
21 today because if they're not working, they're not  
22 making ends meet. So I'm here to offer my voice as an  
23 ally and advocate.

24                   As an employer and an exempt employee myself,  
25 I understand the need for non-hourly workers. Such

1 classification has appropriate use when it's not an end  
2 run around providing a livable wage. To get 50, 60,  
3 even 70 hours of work with a week from someone making  
4 barely more than minimum wage being paid for only 40 is  
5 unconscionable.

6           We recognize the importance of a minimum  
7 hourly earning when we established a minimum wage. We  
8 shouldn't see that undone. We must not shy away from  
9 the justice of fair compensation for those who just  
10 aren't punching a clock.

11           I watch the people I serve pour out their  
12 energy to better the world, only to barely make ends  
13 meet for themselves and have nothing left to offer when  
14 they get home.

15           On a more personal level, I watched my father  
16 work from early morning till long into the night for  
17 years making a pittance when his salary was divided  
18 across his total hours.

19           I also ask your action to bring breaks to  
20 those currently overlooked by technicalities and  
21 loopholes in the current order. My heart falls at the  
22 thought of workers being denied breaks from long days,  
23 short breaks, enough to be safe, enough to care for  
24 oneself. People being denied the chance to eat as they  
25 do work the rest of us rely on.

1           There are many complicated problems our world  
2 faces right now, but this is not one of them.  
3 Clarifying the language and eliminating these  
4 carve-outs so all workers have their basic human needs  
5 met is as possible as it is straightforward.

6           It's not only just; it also increases safety  
7 for workers and the general public. It's important to  
8 me that you on this panel see community members and  
9 community leaders from outside what are often assumed  
10 to be the immediately impacted industries, that we're  
11 here and that we're speaking for those changes.

12           We are invested in the well-being of all of  
13 our neighbors. Our state and our economy are cared for  
14 by the hard work of people who deserve our respect and  
15 admiration. They also deserve fair compensation and  
16 the dignity of a break.

17           Please, fix Colorado's wage order and  
18 overtime salary thresholds. Thank you.

19           SCOTT MOSS: Thank you, Reverend. If you  
20 don't mind, I have a couple of questions. I know  
21 you're speaking just as yourself, but to clarify --

22           REV. BRAD LAURVICK: Yes.

23           SCOTT MOSS: -- the background because that's  
24 informative as these comments get read by the rest of  
25 my division afterwards. Are you the -- I don't know

1 the title -- the chief executive of the church?

2 REV. BRAD LAURVICK: I'm the senior  
3 pastor, yes.

4 SCOTT MOSS: Okay. So functionally, the head  
5 of all the employees?

6 REV. BRAD LAURVICK: Yes, indeed.

7 SCOTT MOSS: How many employees are there?

8 REV. BRAD LAURVICK: Let's see. Nineteen.

9 SCOTT MOSS: Okay. And just your own view --  
10 I understand your opinions about coverage -- do you  
11 have a sense of, just your own opinion, about a minimum  
12 salary to be overtime exempt? You mentioned your dad  
13 working a salary that had been divided, didn't quite  
14 cut it, in your view.

15 Do you have a sense about a number, or range,  
16 that you think would be fair as a minimum salary to be  
17 overtime exempt?

18 REV. BRAD LAURVICK: I'm one who does agree  
19 with that two and a half times the \$12. So that  
20 \$62,500 number. I think that begins to create space  
21 for people to live and exist, and it also holds  
22 employers to a higher level of accountability for, is  
23 draining this person's life worth it to me financially?

24 And it helps bring some of that into question  
25 for people to decide what that looks like, if they have

1 to pay more for what they're impacting employees. (End  
2 time 3:15 p.m.)

3 SCOTT MOSS: Thank you. Who else would be  
4 interested in speaking? Gentleman in the green shirt,  
5 and then the blue shirt. Anyone else? One, two,  
6 three, four, five, six -- anyone else in line? Great.  
7 I will try to get back to the creeping 3- to 5-minute.

8 JOE DERAS: (Start time 3:16 p.m.) Thank  
9 you. My name is Joe Deras, D-e-r-a-s. I work for the  
10 International Union of Painters and Allied Trades. We  
11 are a union that represents painters, floor coverers,  
12 drywall workers, and glass workers.

13 For the last five years, I've worked in the  
14 capacity as organizer, and lead organizer now. And in  
15 those five years, I've seen and talked to workers who  
16 work 50, 60 hours a week.

17 And I was present earlier when the gentleman  
18 from the carpenters' union, Jim Gleason, talked about  
19 the issue of misclassification.

20 It's something that we see all the time,  
21 especially within the residential industries,  
22 we see a lot of workers who are misclassified or told  
23 that they are independent contractors and made to work  
24 50, 60 hours a week without any overtime, many times  
25 without the breaks, just getting an hour, half an hour

26

1 of lunch.

2 And the human  
3 cost associated with that is great. I've seen families  
4 who because of this informal way of working are unable  
5 to pay for living expenses or aren't able to pay for  
6 their rent or their food or their children's medical  
7 needs.

8 I've sat in the living rooms of workers as  
9 they tell me that that week they weren't paid on time  
10 because the company just wasn't paid from the  
11 contractor.

12 And I believe that, like when we see issues  
13 of overtime and we see issues of breaks not being  
14 given, it means that there are bigger problems on the  
15 site.

16 And so, at the very least, I believe that if  
17 the Colorado Department of Labor and Employment is able  
18 to endorse the wage law for all workers, that there's  
19 some remedies and sometimes alleviating some of that  
20 hurt from those work.

21 So I urge the CDLE to up that limit on  
22 overtime to two and a half times of minimum wage and to  
23 make sure that all workers are covered by the wage law.  
24 Thank you.

25 SCOTT MOSS: Question. Were you always an  
26

1 organizer, or was there a job you had in the industry  
2 before?

3 JOE DERAS: No, I've always been an  
4 organizer.

5 SCOTT MOSS: And you mentioned hearing James  
6 Gleason's comments. If you remember, would you say  
7 you, in your experience working in a similar industry,  
8 would agree with any, some, or all parts?

9 JOE DERAS: Yes.

10 SCOTT MOSS: You agree with all?

11 JOE DERAS: Yes. (End time 3:19 p.m.)

12 SCOTT MOSS: Thank you.

13 CRANE FRIEDMAN: (Start time 3:19 p.m.) Hi.  
14 My name is Crane, and I worked with Towards Justice  
15 this summer.

16 SCOTT MOSS: Are you okay giving your other  
17 name, or --

18 CRANE FRIEDMAN: Yeah. Yeah. My last name  
19 is Friedman, F-r-i-e-d-m-a-n. And I drove up today  
20 from my college, which is located in Colorado Springs,  
21 to speak with you about a couple of things, but first  
22 of all about my experience hearing from workers about  
23 fear of retaliation to make public comments.

24 So with Towards Justice, one of my  
25 responsibilities was traveling around the state and

1 talking to workers about this proposed rulemaking  
2 process and everything like that. And I wanted to  
3 relay my experience hearing from workers about how they  
4 were, in some cases, scared to speak up because of fear  
5 of retaliation surrounding their immigration status.

6 I remember at one event, a community event,  
7 someone told me that the police officer that was there  
8 at the community event had ties to ICE and was  
9 known in the local community to be affiliated with ICE  
10 in some way. And -- so someone from the community told  
11 me that, you know, workers may not be coming to this  
12 because they may be afraid.

13 On another occasion, I went to a job site,  
14 and I was speaking with a worker who told me that -- or  
15 he kind of joked in Spanish that, 'If I sign this, is  
16 this going to make me vulnerable to deportation?'  
17 And he was very reluctant to speak to me because of  
18 that.

19 So I just want to relay that, if not for this  
20 fear of retaliation, I think we may have gotten even  
21 more comments and even more support for expanding the  
22 Minimum Wage Order coverage and for raising the minimum  
23 salary exemption.

24 SCOTT MOSS: Thank you. And I appreciate  
25 your work. I know you gathered a number of comments.

1 I will mention, to the extent that anybody knows anyone  
2 who's thinking of coming, even in the next several  
3 hours because we made the hours until 7:00 p.m., to let  
4 folks come after work, viewing maybe the 1:00 p.m.  
5 hour as when folks come over lunch, but we do have a  
6 binding rule in place that we can assure  
7 confidentiality. Folks can testify anonymously.

8 I know folks may feel vulnerable anyway, and  
9 I completely understand that. But we do have a rule  
10 that one can speak anonymously. We view wage rights as  
11 applying, regardless of immigration status.

12 And the division will not voluntarily  
13 provide any person or entity information about the  
14 immigration status of someone offering information  
15 to us.

16 So I just wanted to make that clear, but I  
17 completely understand what you're saying. Thank you.

18 CRANE FRIEDMAN: And then is it all right if  
19 I just make one more quick thing?

20 SCOTT MOSS: Sure.

21 CRANE FRIEDMAN: So I just want to say that,  
22 as a young person, as a college student, I want my  
23 voice to be heard on the issues personally as well.

24 And I just want to say that I encourage the  
25 CDLE to put all industries in the Minimum Wage Order,

1       rather than the vague couple of categories that exist  
2       now. And I also encourage the CDLE to set the minimum  
3       overtime exemption salary at \$62,400, or two and a half  
4       times the minimum wage of \$12 an hour. Yeah. That's  
5       about it.

6               SCOTT MOSS: Well, let me ask you this: Did  
7       you read the Minimum Wage Order in your organizing  
8       work?

9               CRANE FRIEDMAN: Yes.

10              SCOTT MOSS: Okay. And I know you talked to  
11      a lot of workers, and clearly you're in college, you  
12      know, highly informed, knowledgeable in the field.  
13      When you talked to workers, was it clear to you which  
14      folks were covered or not covered by industries that  
15      are listed, like commercial support, or health and  
16      medical, or food and beverage?

17              CRANE FRIEDMAN: No. No, I wasn't. And  
18      there's especially a lot of confusion about, for  
19      example, I think service is one of them, and it's, you  
20      know, if you sell something, then you might  
21      be considered under that, but if you sell something to  
22      someone else who sells something, then you might not  
23      be. You know? So there's a lot of confusion about  
24      that. And I think that is something I noticed for  
25      sure.

1           SCOTT MOSS: You know, just in your own  
2 reading, or in talking to workers?

3           CRANE FRIEDMAN: I would say in both. Yeah.

4           SCOTT MOSS: Thank you.

5           CRANE FRIEDMAN: Okay. Thank you. (End time  
6 3:23 p.m.)

7           SCOTT MOSS: And who was next?

8           KJERSTEN FORSETH: (Start time 3:23 p.m.)

9 Hi. My name is Kjersten Forseth. It's difficult to  
10 spell. I can spell it for you.

11          THE REPORTER: Spell it, please.

12          SCOTT MOSS: Please do.

13          KJERSTEN FORSETH: It's K-j-e-r-s-t-e-n, and  
14 the last name is Forseth, F-o-r-s-e-t-h. I'm  
15 testifying on behalf of the Colorado AFL-CIO. The  
16 Colorado AFL-CIO is Colorado's Federation of Labor  
17 Organizations and is one of the largest advocacy  
18 organizations in the state, representing 185 local  
19 union affiliates and over 130,000 members.

20                 Our mission is to promote organized labor, to  
21 educate our members and the public about the labor  
22 movement, and to encourage the active involvement of  
23 our members in the communities.

24                 The Colorado Minimum Wage Order needs  
25 modernization to meet the demands of a rapidly growing

1 economy with stagnant wages. Specifically, the wage  
2 order excludes all industries and selectively brings  
3 some under the protections, rather than including all  
4 industries and carving out a select view based off of  
5 those industry needs.

6 The federal government in most states use  
7 such an inclusive approach for determining the coverage  
8 of minimum wage, overtime, and rest and meal breaks,  
9 and so too should Colorado.

10 The Colorado wage order has meal and break  
11 requirements, which are not required under federal law,  
12 but the wage order only applies to employers in the  
13 retail service, food and beverage, commercial support  
14 services, and health and medical industries.

15 The wage order should apply to more  
16 industries than just these four, which do not represent  
17 the full range of business in Colorado. More workers,  
18 particularly those in manual labor, should receive two  
19 breaks and a lunch break during the workday to ensure  
20 they are allowed proper rest and nutrition during the  
21 day.

22 For this reason, we are urging the division in the  
23 alternative to the broader inclusionary rule of  
24 coverage to specifically include the construction  
25 industry, broadly defined to include landscaping,

1 renovation, demolition, and other closely related  
2 businesses in this list of covered industries.

3 The wage order also provides for overtime pay  
4 for workers over 40 hours in a week or over 12 hours in  
5 a day or consecutively. These protections, which are  
6 greater than federal law, should also apply more  
7 broadly to the Colorado workforce. An inclusionary  
8 rule of coverage would serve this purpose.

9 Another way that the division can broaden the  
10 coverage of the wage order is to implement a minimum  
11 salary amount for the exemptions to overtime in  
12 Section 5 of the wage order and to set a minimum salary  
13 amount that only exempts the highest-earning workers in  
14 the state from the overtime rule.

15 Many employees earning far less than the  
16 median American salary, approximately \$60,000 annually,  
17 are classified as exempt and routinely work more than  
18 40 hours every week without receiving overtime for  
19 these hours. We heard that from the campaign worker  
20 earlier.

21 Many of these employees should receive  
22 overtime for their additional hours of work  
23 that they do now. Therefore, we support the division  
24 setting a salary threshold that is close to the median  
25 Colorado salary, approximately \$69,000, as possible,

1 and which in no event lower than the federal threshold  
2 for this exemption, which will rise to \$35,000 --  
3 (inaudible; coughing.)

4 THE REPORTER: Excuse me. Please say that  
5 number again.

6 KJERSTEN FORSETH: Which will rise to \$35,308  
7 annually next year. The Colorado AFL-CIO request the  
8 department take up rulemaking on a wage order to  
9 evaluate and find a more inclusive approach to wages,  
10 overtime, and breaks, and to set minimum salary for  
11 exemptions to its overtime requirements. Thank you.

12 SCOTT MOSS: Thank you. I have one follow-up  
13 question. So I understand that comment to be arguing  
14 for as close to 69,000 as possible. Just to try to pin  
15 it down, would the preference of the AFL-CIO be 69,000  
16 itself, or were you thinking more of a range?

17 KJERSTEN FORSETH: I think we would stick  
18 with probably the broader, as today, which was around  
19 the 62-5, the two and a half times, which I think is  
20 appropriate. But, you know, the closer we can get,  
21 obviously, to the salary would be great.

22 SCOTT MOSS: Thank you.

23 KJERSTEN FORSETH: Yeah. Is that it? (End  
24 time 3:27 p.m.)

25 SCOTT MOSS: Yes. Thank you.

1           JARED MAKE: (Start time 3:27 p.m.) Good  
2 afternoon. Jared Make, M-a-k-e. Thanks for the  
3 opportunity to speak today. I'm a Denver-based senior  
4 staff attorney with A Better Balance. We are national  
5 women's rights and legal advocacy organization,  
6 dedicated to promoting fairness in the workplace.

7           Our organization is deeply concerned with the  
8 steady erosion in access to overtime and other fair  
9 working conditions around the country and the related  
10 normalizing of long hours at low pay that interfere  
11 with our personal and family needs.

12           Based on our experience advocating for and  
13 representing low wage workers, we strongly urge CDLE to  
14 modernize Colorado's Minimum Wage Order by setting the  
15 overtime salary exemption threshold at 2.5 times the  
16 minimum wage and extending the orders protection to  
17 more industries and occupations.

18           The value of the overtime threshold has  
19 severely eroded over time, and it now leaves many  
20 low-wage workers and their families behind. In  
21 particular, modernizing the overtime threshold will  
22 benefit women in the workplace, especially single  
23 mothers and women of color, and help to address the  
24 gender pay gap.

25           Women make up a majority of low-wage workers  
26

1 in the United States, with women of color  
2 disproportionately represented. As I detailed in the  
3 written comments I submitted, research shows that  
4 single mothers would especially benefit from an  
5 increase in the overtime salary threshold, with higher  
6 rates upon increase of new overtime eligibility among  
7 single mothers than among single women overall, married  
8 women without children, and married mothers.

9 Through our free legal hotline and clinic, A  
10 Better Balance hears regularly from individuals who are  
11 working increasingly long and rigid hours while  
12 struggling to afford child care, put food on the table,  
13 and care for loved ones.

14 Under state overtime threshold that  
15 sufficiently reflects inflation and Colorado's cost of  
16 living, more Coloradans will be fairly compensated for  
17 working more than 40 hours a week.

18 In addition, some workers who are struggling  
19 to balance their work and family needs will no longer  
20 be required to work involuntary overtime, which will  
21 allow them to better meet personal needs or care for  
22 loved ones.

23 A Better Balance also urges CDLE to broaden  
24 the wage order to cover all workers unless there's an  
25 explicit exemption. We firmly believe that a rule of

1 universal presumptive coverage with any exemptions  
2 explicitly stated will lessen litigation and lead to  
3 more clarity for both workers and employers.

4 In particular, we urge coverage of  
5 construction, agricultural, and domestic workers, who  
6 too often face labor violations, work long and  
7 punishing hours and are denied safe and fair working  
8 conditions.

9 Expanding protections for workers in these  
10 industries is also a gender equity issue. For example,  
11 women make up 9 percent of construction work, but they  
12 often face difficulty progressing to specialized or  
13 management positions that provide higher wages.

14 And domestic workers, who are  
15 disproportionately women of color, are too often  
16 subject to abuse while working for low pay. So CDLE  
17 should take the necessarily steps to ensure equal  
18 treatment for these workers under the wage order.

19 Finally, A Better Balance is concerned that  
20 the occupational exemptions, especially for  
21 administrative, executive, and professional workers,  
22 are used by some employers to avoid paying fair wages.  
23 Many workers who could be classified under these  
24 exemptions still receive low wages and face financial  
25 hardship.

1           And as a nonprofit organization dedicated to  
2 work-life balance, we also feel that it is important  
3 for us to advocate for coverage of nonprofit employees,  
4 who are often asked to work extra hours without  
5 sufficient pay at a cost to their personal and family  
6 well-being.

7           So, in short, CDLE has an opportunity, in our  
8 opinion, to promote greater financial security, gender  
9 equity, and work-life balance by modernizing the wage  
10 order, specifically by guaranteeing overtime unless a  
11 worker makes more than 2.5 times the minimum wage, and  
12 including more occupations, sectors, and workers.  
13 Thanks for your time and consideration.

14           SCOTT MOSS: Thank you. Just one follow-up  
15 question. If you know, about how many employees does A  
16 Better Balance have overall?

17           JARED MAKE: Yeah. So it looks like it's  
18 actually changing this week. We just lost two fellows  
19 and have four people starting next week. So, the math,  
20 we are approaching 20. So 18 to 20.

21           SCOTT MOSS: Thank you.

22           JARED MAKE: Sure. (End time 3:32 p.m.)

23           SCOTT MOSS: Was there anyone else? Yes.

24           TYLER JAECKEL: (Start time 3:32 p.m.)

25 Hello. My name is Tyler Jaeckel -- it's

1 J-a-e-c-k-e-l -- and I'm from the Bell Policy Center.  
2 We're an organization that does policy research and  
3 advocacy to ensure that every Coloradan has an  
4 opportunity.

5 And I'm here to continue to recommend two  
6 overall changes in the Minimum Wage Order. But before  
7 doing so, I also just want to thank you for the  
8 opportunity to participate in this process. It has  
9 been great to have employees from across Colorado  
10 businesses and nonprofits be able to voice their  
11 opinion on this critical need.

12 But the two overall changes that we're  
13 recommending are, one, updating Colorado's overtime  
14 threshold to two and a half times the minimum wage to  
15 better reflect the historic intent of the salary  
16 threshold of only exempting highly paid, bona fide  
17 executive professionals and administrative employees,  
18 and secondly, aligning Colorado's wage order with most  
19 states across the country by having Colorado's wage  
20 order presumptively cover everyone and ensure that all  
21 employees can benefit from minimum wage, rest and meal  
22 breaks, and overtime.

23 On the first point, I just really want to  
24 talk through that overtime requirements are, one,  
25 fundamental to establishing clear standards across

1 industries and ensuring that all employees are treated  
2 fairly.

3           When these requirements become outdated and  
4 meaningless, business that value employees' time or  
5 want to ensure their employees get the pay they deserve  
6 have to compete with businesses  
7 that will do anything to reduce their bottom line, even  
8 if it is not in the long-term benefit of their  
9 business.

10           Thus, updating Colorado's overtime salary  
11 threshold is important to both ensuring that employees'  
12 time is respected and to also creating a fair and  
13 competitive economy in Colorado.

14           Today, less than 7 percent of employees  
15 receive overtime protection. That is compared to over  
16 63 percent in the '70s. The intent of the Fair Labor  
17 Standards Act was only to exclude bona fide executive  
18 administrators and professionals from overtime  
19 exemption. This should only be a small subset  
20 of employees, not the vast majority of employees that  
21 it is today.

22           The proposed Trump Administration rule falls  
23 extremely short of being an adequate measure of who  
24 should be exempt from overtime protections. Based upon  
25 the FLSA's original intent, we believe a recommended

1 threshold of two times the minimum wage is very modest  
2 and actually does not even fully implement the original  
3 intent of the FLSA. Nonetheless, which think it is an  
4 appropriate standard for Colorado and a good start.

5 As we've outlined in our written comments,  
6 there are multiple justifications for this standard,  
7 the first being bona fide executive administrators and  
8 professionals should be paid more than the average wage  
9 to reflect their additional duties, skills, and added  
10 responsibilities they have in the workplace.

11 2.5 times the minimum wage would be about  
12 140 percent of the median wage in Colorado.  
13 That is less than the 1970s level, which is about the  
14 equivalent of about 157 percent of the median wage.

15 Also, the standard is close to the  
16 40th percentile of salaries in the western centers  
17 region, our region, a standard that was used during the  
18 Obama Administration's rulemaking process back in 2016.

19 Finally, based upon review of salaries and  
20 occupations in Colorado, this standard is well below  
21 what the salary of occupations that are likely to be  
22 categorized as executive, administrative, or  
23 professional.

24 So overall, we feel it's a modest increase  
25 but an important increase for Colorado to go to a

1 threshold of 2.5 times the minimum wage. We also  
2 believe that presumptive coverage under the minimum  
3 wage is essential for Colorado. It is  
4 inappropriate for our hundreds of thousands of  
5 Coloradans, if not more, to be exempt without  
6 justification. Happy to take any questions.

7 SCOTT MOSS: Only one clarification. I know  
8 that, in your written comments today, you've advocated  
9 2.5 times. At one point, you said two times. Did you  
10 mean to say 2.5?

11 TYLER JAECKEL: Meant to be 2.5 times.

12 SCOTT MOSS: Clearing up the record there.  
13 Thanks.

14 TYLER JAECKEL: Thank you. (End time  
15 3:36 p.m.)

16 JON ALVINO: (Start time 3:36 p.m.) Hi. My  
17 name's Jon Alvino, J-o-n, no H, last name A-l-v-i-n-o.  
18 I'm a business representative for the Sheet Metal, Air,  
19 Rail, and Transportation Union Local 9, representing  
20 approximately 1,500 active sheet metal workers,  
21 retirees, and their families.

22 And I'm here today to talk about the Colorado  
23 Wage Order and protection for all Colorado workers. I  
24 believe that work is just a simple exchange of one's  
25 time for money and that all workers should be

1 compensated for their time.

2 For example, after a worker puts in, you  
3 know, an eight-hour day for pay, if they're asked to  
4 work over those standard eight hours, they should be  
5 compensated, time and a half, or -- for overtime, the  
6 sacrifice that they're making.

7 As a representative of a  
8 building and construction trade, I find it absolutely  
9 mind-blowing that some construction workers,  
10 agricultural workers, and manufacturing workers aren't  
11 entitled to overtime under current state law and in  
12 some cases aren't even allowed to have state-mandated  
13 rest and meal breaks.

14 To me, this is an obvious safety risk because  
15 of a fatigued, hungry, tired worker is going to lack  
16 focus and energy, and therefore, they're going to be a  
17 risk to themselves and others around them.

18 Additionally, if  
19 current state law mandates overtime for some workers  
20 and not others, we're creating barriers to equality  
21 within labor.

22 Closing out, I just ask that this body level  
23 the playing field and value all labor in a dignified  
24 and equal manner, and I would ask that you honor every  
25 individual's precious resource. Thank you for your

26

1 time. Thanks for letting me speak today.

2 SCOTT MOSS: Thank you. And I know you're a  
3 business representative. Did you do work in the  
4 industry before this?

5 JON ALVINO: Yeah, absolutely. Up until two  
6 years ago. I'm an elected official, so  
7 two years ago I had tools on. I'm running up  
8 for election in another two years. If it doesn't work  
9 out or if I don't get reelected, that's exactly what  
10 I'll do. I'll put the tools back on.

11 SCOTT MOSS: Doing what kind of work out in  
12 the field?

13 JON ALVINO: What I do with sheet metal is we  
14 build commercial HVAC systems. So I help keep  
15 buildings like this cool in the summer and warm in the  
16 winter.

17 SCOTT MOSS: And how long  
18 have you been doing that kind of work?

19 JON ALVINO: Six years prior to getting  
20 elected. I got into the apprenticeship program.

21 SCOTT MOSS: Okay. And in your experience  
22 either doing work and being on work sites or talking to  
23 workers in your union or elsewhere, have you seen or  
24 heard examples of long hours causing injuries or ill  
25 health effects?

1           JON ALVINO: I wouldn't say necessarily  
2 personally. Statistically speaking, though, I believe  
3 there's OSHA reports out there that could  
4 dictate such.

5           I mean, again, working union, we're covered  
6 by a collective bargaining agreement, so all our -- you  
7 know, our contracts, you know, sets the standard  
8 and lets us know what the expectations are for both the  
9 employee and the employer.

10           And so when it comes to stuff, like the  
11 reference I made, that eight hours pay for, you know,  
12 eight hours of work, anything beyond eight we're  
13 getting our time and a half, anything beyond 12 we're  
14 getting double time, so being that I haven't worked in  
15 a nonunion sector that's not covered by contract, I  
16 don't have any direct relationship with that.

17           SCOTT MOSS: That's great. What kind of  
18 hours did you work?

19           JON ALVINO: Typically, you were doing  
20 a straight eight. So you're there at 6:00 a.m.,  
21 probably off by 2:30, with, you know, one break  
22 in the morning, half hour for lunch, and if you're  
23 you're doing anything over ten, you get a second  
24 break in the afternoon, either that or, in some cases,  
25 knocking off 15 minutes earlier and trying to get those

26

1 taken care of.

2 SCOTT MOSS: And did you have days longer  
3 than eight hours or weeks more than 40?

4 JON ALVINO: Absolutely. Absolutely.

5 SCOTT MOSS: What was your experience with  
6 whether there's any effect on your own abilities, or  
7 alertness, or what have you, for long days or  
8 weeks?

9 JON ALVINO: Definitely, well, when you're  
10 given the time to take the breaks, get nourished, you  
11 know, make sure you're hydrated, what have you, it's  
12 been -- I always equated it to you can't run a car without  
13 fuel.

14 So if you're not taking the time to do those  
15 things, take your breaks, eat, you know, literally, I  
16 mean, in the construction trades, I say it all the time  
17 to a lot of guys that you're an athlete out there.  
18 Gotta take care of yourself, take care of your body.  
19 And that means having adequate rest, whether it's, you  
20 know, when you're away from work or during those  
21 rest breaks.

22 SCOTT MOSS: That's great. Thank you.

23 JON ALVINO: All right. Thank you.

24 Appreciate the time. (End time 3:41 p.m.)

25 SCOTT MOSS: Who else is interested in

1 speaking? Keep your hand up, and we'll start a line  
2 going. I'm going to start to give the three to five  
3 minutes. Thank you.

4 ALFONSO ALEGRIA RODRIGUEZ: (Start time 3:42 p.m.)  
5 Hello. (Speaking Spanish.)

6 SCOTT MOSS: Hilda, can you help, please.

7 ALFONSO ALEGRIA RODRIGUEZ: (Through the  
8 interpreter) My name is Alfonso Alegria Rodriguez.

9 THE REPORTER: Ask him to spell it, please.

10 OTHER SPEAKER: (Through the interpreter.)  
11 The name is A-l-f-o-n-s-o. Last  
12 name is A-l-e-g-r-i-a. And the other  
13 last name, R-o-d-r-i-g-u-e-z.

14 I have an issue with a company named Excel  
15 custom drywall. The company doesn't want to pay me an  
16 amount of 11,500 because of the owner has been telling  
17 that he doesn't have money to pay me.

18 The companies they owe, they haven't pay him  
19 back, and I've been going back and forth with him for  
20 over three months now.

21 I work in the department building located at  
22 80th and California, and also in the one locate in  
23 3303 in Boulder, and neither of those job sites want to  
24 pay me right now. I'm still struggling with that  
25 issue.

1                   And the problem right now is that I don't  
2                   have money to pay my rent. I don't have money to do  
3                   transportation. And I come here with you to see if you  
4                   can help me resolve these issues with the company of  
5                   Excel Drywall Company, and the name of the person is  
6                   Mike Corwin. That's it.

7                   SCOTT MOSS: I appreciate that. Actually, if  
8                   you want to talk about your situation, Evan can talk to  
9                   you now. Thank you.

10                  (Evan Grimes and Alfonso Alegria Rodriguez  
11                  left the room at 3:45 p.m.)

12                  SCOTT MOSS: Who's next? You can come down.

13                  MIKE DEERING: (Start time 3:45 p.m.) Good  
14                  afternoon. Mike Deering, D-e-e-r-i-n-g, Southwest  
15                  Carpenters. I'm a specialty rep.

16                  I was just going to give a quick example of  
17                  exploitation. If a worker's promised \$170  
18                  per day, cash, under the table for hard labor, in an  
19                  eight-hour day, that would be \$21.88 an hour. In a  
20                  10-hour day, that would be \$17.50 an hour. Many of  
21                  these workers are working 12- to 14-hours days, which  
22                  would be 14.58 to 11.66 an hour.

23                  But without breaks and overtime, right? A  
24                  lot of these guys are doing that. If a worker's rate  
25                  of pay is \$21.88 an hour, if they usually

26

1 work 60 hours, that would be roughly \$220 a week that  
2 they'd be losing, close to \$220 an hour (sic) without  
3 the overtime rate.

4 That equals \$11,500 a year. That's a lot of  
5 money. That's a lot of rent for -- I think the rent  
6 platform is a thousand dollars a month on that rate.  
7 That there alone just that they're losing.

8 We brought a bunch of carpenters with us.  
9 They've experienced a lot of that, a lot of loss  
10 of pay and stuff like that.

11 I just wanted to give a quick example of how  
12 much money that really is, once it adds up,  
13 just for that time and a half rate, what you lose out  
14 on.

15 SCOTT MOSS: Thank you. And what job  
16 types have you seen that sort of pay arrangement in?

17 MIKE DEERING: Drywall, mostly.

18 SCOTT MOSS: And is that common or uncommon  
19 in drywall?

20 MIKE DEERING: It's pretty common in drywall  
21 nowadays. Yep. (End time 3:47 p.m.)

22 SCOTT MOSS: Thank you. Thank you.

23 ANTONIO MORALES: (Start time 3:47 p.m.) My  
24 name is Antonio Morales. I am working for the Excel  
25 Drywall Custom. And I'm working for the Excel

1 for five months. I start working in the March 19th.

2 No pay, nothing for me.

3 SCOTT MOSS: You've been paid nothing since  
4 March?

5 ANTONIO MORALES: Nothing, no.

6 SCOTT MOSS: Okay.

7 ANTONIO MORALES: The boss, he say he no have  
8 the money. So I don't know what happened. I'm working  
9 too in Boulder. He said not pay nothing to us. I  
10 working, start in Boulder, June 22nd. We, couple of  
11 days, not pay nothing.

12 SCOTT MOSS: Do you do drywall?

13 ANTONIO MORALES: Yeah. I'm a finisher  
14 there. Yeah.

15 SCOTT MOSS: And is that project continuing?

16 ANTONIO MORALES: No more.

17 SCOTT MOSS: Would you mind speaking to  
18 someone? We can bring you down.

19 Yeah. If anybody else either -- in that  
20 situation or has a specific individual claim, Evan can  
21 take you to someone. We'd love to talk to you about  
22 that.

23 ANTONIO MORALES: Okay. Thank you.

24 (Evan Grimes and Antonio Morales left the  
25 room at 3:48 p.m.)

1           SCOTT MOSS: Who was next?

2           JUAN SALAZAR: (Through the interpreter) My  
3 name is Juan Salazer, J-u-a-n, S-a-l-a-z-a-r. I start  
4 working with Excel Drywall.

5           SCOTT MOSS: Just to make sure, can you hear  
6 with her facing away?

7           THE REPORTER: I can hear pretty well. Thank  
8 you.

9           JUAN SALAZER: (Through the interpreter.)  
10 And the date is 6/25/2018. I work 2880 California  
11 Street and 550 Park Avenue. I used to work 80 hours  
12 every two weeks.

13          SCOTT MOSS: How many hours?

14          JUAN SALAZER: (Through the interpreter).  
15 Ninety hours. Eighty hours every two weeks and  
16 sometimes 90. They never give us overtime. And they  
17 hire me as a framer -- framer, drywall, and they still  
18 owe me six weeks from April 8th of 2019 to May 14th of  
19 2019. And they owe 173.5 hours.

20                 And they were supposed to be paying me \$25  
21 per hour. The supervisor that hired me, his name is  
22 Nestor. And I keep calling the company, but they  
23 haven't paid me yet.

24                 I have message, this message, and  
25 also, they corroborate what they have been telling me.

1 And Nestor told me that the owner of the company was  
2 going to claim bankruptcy and they were not going to  
3 pay us if I put a complaint. So I don't know.

4 SCOTT MOSS: Thank you. I could have you  
5 speak with the investigator who will handle this.

6 (Evan Grimes and Juan Salazer left the room  
7 at 3:51 p.m.)

8 SCOTT MOSS: (Speaking Spanish.)

9 SCOTT MOSS: (In English) Can you relay that  
10 message, please, Hilda.

11 THE INTERPRETER: (Speaking Spanish.)

12 SCOTT MOSS: Thank you for saying that  
13 better. Who's next? Yes. You can come up. I'm  
14 sorry. The woman -- were you next? I'm sorry. Okay.  
15 I lost track. Yes. Go ahead. I'm sorry. The queue  
16 only works if I remember the queue.

17 ALEXIS SANCHEZ: (Start time 3:53 p.m.) Hi.  
18 Good afternoon. My name is Alexis Sanchez, and I am  
19 with the Direct Action Team.

20 SCOTT MOSS: Is it Alexa or Alexis?

21 ALEXIS SANCHEZ: Alexis.

22 THE REPORTER: Speak up a little louder.

23 DAVOR CABRERRA: And I am with the team as  
24 well.

25 SCOTT MOSS: And what's your name?

26

1           DAVOR CABREREA: Davor.

2           ALEXIS SANCHEZ: So the Direct Action Team is a  
3 group of community volunteers committed to helping  
4 workers in the Denver Metro area with wage grievances,  
5 specifically wage theft. We serve a range of service  
6 industry workers, such as construction workers, but  
7 that also entails day laborers, landscapers and others.

8           The team consists of law students, attorneys,  
9 professionals from the Korbel Institute of Denver  
10 University, as well as students, professors from the  
11 University of Colorado-Denver, and longtime community  
12 activists, construction workers themselves, and many  
13 more.

14           That is in partnership with -- (speaking  
15 Spanish) -- Joseph Korbel School of International  
16 Studies, the task force, Towards Justice, law firms,  
17 and other organizations of which they've worked  
18 collaboratively with to develop strategies that address  
19 systemic barriers that target an extremely marginalized  
20 sectors of today's workforce, construction workers.

21           And so the term "wage theft" includes the  
22 many ways workers are denied wages and benefits  
23 protected by federal and state labor laws. Examples of  
24 wage theft include underpayment, illegal deductions or  
25 improper deductions, misclassification, denied

1 overtime, and outright withholding of wages.

2           And a study done by Professor Galemba  
3 with the Korbel Institute found that many of these  
4 construction workers are largely  
5 foreign-born. There's large community within the  
6 construction workers' industry that are migrant workers  
7 who are living check-to-check, right?

8           And that figure looks to be about 88 percent  
9 of those that were reached out to on the daily work  
10 orders, where they pick up workers that are then hired  
11 on to these construction work sites.

12           So in recognition of the fact that day  
13 laborers hired into these construction work  
14 sites, these workers exhibit strong seasonal  
15 variations, in terms of exploitation, and under current  
16 political climate, the Direct Action Team, along with  
17 other organizations in the community  
18 -- excuse me -- advocating for  
19 workers' rights, such as Colorado Legal Services,  
20 recognize that, due to this climate, workers are being  
21 threatened with ICE, and so -- in retaliation for these  
22 workers seeking out compensations of their wages that  
23 they are owed.

24           Another tactic that employers are  
25 using to try and withhold wages is asking for things

1 such as Social Security numbers, in full knowledge of  
2 the fact that these workers that they have hired to be  
3 subcontractors on these work sites do not have such  
4 documentation before the work is commenced, but then  
5 asking for that documentation, in full knowledge of  
6 that after the worker is done.

7           And so consequences of these exploitations of  
8 these workers is that these workers are then left  
9 without pay, right? And so they are left without being  
10 able to meet the needs of their families and without  
11 being able to pay rent. And so, in turn, this creates  
12 more poverty within the community and more  
13 homelessness.

14           Among other tactics, we are  
15 now seeing with these wage theft cases that contractors  
16 are asking subcontractors to sign these informal  
17 contracts, where subcontractors are asked to wait a  
18 period of two years after the work is completed to seek  
19 out any recourse, whether that be legal recourse or  
20 other recourses to try and seek out compensation of the  
21 wages that are due, knowing in full knowledge that that  
22 overexceeds the statute of limitations of the two years  
23 that the workers have to file a wage claim case.

24           And overtime hours, these construction  
25 workers are reporting to us that they're working 12-,  
26

1 13-, 14-, 15-hour work days and not receiving overtime  
2 pay.

3           And so tracking down wage payment overall can  
4 be very difficult within the construction industry as  
5 well, just due to the way that the work is delegated in  
6 these industries from owner to contractor to  
7 subcontractor.

8           We are also seeing where employers are  
9 employing other tactics, such as issuing  
10 checks -- excuse me -- with insufficient funds, and of  
11 which -- when a check is issued with insufficient  
12 funds, that costs the worker more than just the unpaid  
13 wages, but also overdraft fees with the institutions  
14 that they bank with. And this, in turn, creates a  
15 space for more reluctance from the demographic of the  
16 workers employed in the construction industry.

17           THE REPORTER: Can I ask you to read that  
18 slower, please. I'm not keeping up with you.

19           ALEXIS SANCHEZ: Sure. Within the industries  
20 to trust and access banking institutions. This is a  
21 widely recognized issue, recognized by organizations  
22 such as the Consumer Financial Protection Division,  
23 with the Denver Office of Financial Empowerment and  
24 Protection of Human Rights and Community Partnerships.

25           We have things such as video and audio  
26

1 evidence of retaliation on behalf of these  
2 employers, threatening ICE, asking for Social Security  
3 numbers, and still we are unable to get these workers  
4 their wages that they are owed.

5 Oftentimes, we also see that workers continue  
6 to work out of need, so they will go, you know, months  
7 at a time, as you're hearing the testimonies of the  
8 other workers that are in the room, and they're going  
9 months at the time without get paid and still working  
10 out of necessity.

11 And, again, that's because a lot of the  
12 workforce, a large demographic is foreign-born. It's  
13 migrant workers who are living check-to-check.

14 DAVOR CABRERRA: Then I would like to say,  
15 from personal experience, from the painting --

16 SCOTT MOSS: Could you speak up.

17 DAVOR CABRERRA: I would also like to speak  
18 from my personal experience in the painting industry,  
19 where before, when I was working there, and I was  
20 denied my wages, and I had to come to the Direct  
21 Action for help, I had no knowledge of what resources  
22 or what laws I could use against people who owed me  
23 money.

24 So in there, I also saw a lot of workers  
25 coming here to you guys and telling you

26

1 guys about their experiences but still not having the  
2 resources to go up until now.

3 I see that, if you guys could, like,  
4 definitely push this more to change the law so that  
5 these people cannot take advantage of people who have  
6 not even any knowledge of how to protect themselves can  
7 be really helpful to a community as well.

8 SCOTT MOSS: And you said you work in  
9 painting?

10 DAVOR CABRERRA: Yes.

11 SCOTT MOSS: And what was your name, if  
12 you're comfortable giving it?

13 DAVOR CABRERRA: Davor Cabrerra.

14 SCOTT MOSS: And Davor is your first name?

15 DAVOR CABRERRA: Yes.

16 SCOTT MOSS: And how do you spell that?

17 DAVOR CABRERRA: D-a-v-o-r.

18 SCOTT MOSS: And when Alexis mentioned 12- to  
19 15-hour days, in your experience, have you personally  
20 or seen others work 12 hours or more?

21 DAVOR CABRERRA: Oh, yes. Worse. There are shifts  
22 till dawn some days, from dusk till dawn.

23 SCOTT MOSS: So 12 to 15 hours is common?

24 DAVOR CABRERRA: (Nodded head up and down.)

25 SCOTT MOSS: Are there breaks within that?

26

1           DAVOR CABRERRA: There's supposed to be, but  
2 they don't often take them because  
3 you're often, like, mean-mugged by their employers.

4           SCOTT MOSS: They're often what?

5           DAVOR CABRERRA: Mean-mugged. Mean-mugged by  
6 their employers. So they're stared at by their  
7 employers so that they don't feel comfortable taking a  
8 break. Or they will definitely get told by their  
9 supervisor that they're not to take a break because  
10 they will have a lunch where they can take a break.

11          SCOTT MOSS: And you were in painting?

12          DAVOR CABRERRA: Yes.

13          SCOTT MOSS: And can you tell me, were you in  
14 painting of commercial construction?

15          DAVOR CABRERRA: Yes, like apartment  
16 complexes and the like.

17          SCOTT MOSS: And the other workers you're  
18 talking about who are working those hours, 12 to 15,  
19 are they in painting or in other areas of construction?

20          DAVOR CABRERRA: Painting, all sorts of  
21 construction.

22          SCOTT MOSS: What other types of jobs? Name  
23 some.

24          DAVOR CABRERRA: Remodeling. The big  
25 construction sites themselves, where they have to,  
26

1 like, build huge skyscrapers as well.

2 SCOTT MOSS: And one last question for  
3 Alexis. I know you mentioned Professor Galemba's  
4 study. We've read it, and she submitted it as a  
5 written comment. Did you read it?

6 ALEXIS SANCHEZ: Did I read it?

7 SCOTT MOSS: Yes.

8 ALEXIS SANCHEZ: Yes, I did.

9 SCOTT MOSS: And, if you remember, do you  
10 agree that some or all or parts of it are accurate in  
11 your experience talking to workers in the industry in  
12 Colorado?

13 ALEXIS SANCHEZ: Absolutely. So a lot of the  
14 way that she gathered that research was through  
15 outreach work, where students were going to day labor  
16 corners where these workers were gathering and getting  
17 work in these construction industries  
18 specifically.

19 And so it's based off the experiences that  
20 these workers have relayed back to the students that  
21 are going out and visiting these corners. And so most  
22 definitely.

23 SCOTT MOSS: So does that mean you're saying  
24 that all of it comports with your experience and what  
25 you've heard?

26

1           ALEXIS SANCHEZ: Yes.

2           DAVOR CABRERRA: And my experience.

3           SCOTT MOSS: And your experience, sir?

4           DAVOR CABRERRA: Yeah.

5           SCOTT MOSS: Thank you. Davor, just to  
6 clarify, do you know the study as well?

7           DAVOR CABRERRA: Yes, sir. I worked with  
8 them. Yes. I work with them. I'm part of the Direct  
9 Action Team. (End time 4:01 p.m.)

10          SCOTT MOSS: Great. Thank you. Who was  
11 next? We'll take a 10-minute break after.

12          MARIE RAMOS: (Start time 4:02 p.m.) My name  
13 is Marie Ramos, and for the last six years I have been  
14 going 30 minutes north of here. And I work with the  
15 Spirit of Christ Migrant Ministry.

16                 And what we do 30 minutes north of here is we  
17 take donations of clothing and food out to the migrant  
18 farm workers.

19                 In the last six years, I've witnessed a lot  
20 of things that just, like, horrified me. And I'm  
21 probably not telling you guys anything you don't  
22 already know. But in the U.S., there are few  
23 protections for farm workers in general.

24                 I'm talking mainly about the agriculture an  
25 dairy business here because that's who I've worked with

1 for the last six years. Farm workers are not subject  
2 to the national relation laws that grew out of the  
3 1930s. Farm workers are not protected under the labor  
4 relation laws. Farm workers are exempt from many  
5 protections under the Fair Labor Standards Act.

6 They are not entitled to overtime pay or  
7 mandatory breaks for rest or meals. There are few  
8 labor protections for farm worker children.

9 And I have run into teenage children  
10 working out there.

11 Most farm workers are excluded from minimum  
12 wage laws and other labor protections, including the  
13 overtime pay for workers that work for more than 40  
14 hours a week.

15 Farm workers are not protected from  
16 retaliation. This is a real problem 30 to 40 minutes  
17 north of here.

18 They are not entitled to receive attorney  
19 fees under the Migrant and Seasonal Ag Worker  
20 Protection Act. Many farm workers on small farms do  
21 not even have access to toilets and handwashing  
22 facilities and drinking water. I personally caught one  
23 farm worker getting water out of an irrigation ditch to  
24 drink.

25 There is a lack of transparency. The Fair

1 Labor Standards Act is supposed to protect all workers  
2 with respect to federal minimum wage and overtime pay,  
3 even undocumented workers. However, workers have  
4 little or no way to enforce their rights.

5 It's just unbelievable to me that we would  
6 treat anybody, any human being, the way I've seen these  
7 people treated.

8 When I go out there in May, when  
9 they first start arriving, I go through the housing. I  
10 look at it. I visit with the farm workers. The  
11 housing is all cleaned up. Their beds are there.

12 By the time August comes around, there's  
13 sleeping bags all over because they keep adding more  
14 and more workers without any beds.

15 I've seen these men work from sunup to  
16 sundown seven days a week. They give them Sunday  
17 afternoons off and that's about it. These guys and  
18 these women are totally isolated. And it's  
19 just a real big problem. And they're so afraid of  
20 retaliation.

21 And the one other thing I want to bring up is  
22 the mode of transportation that some of these farms are  
23 using to get these migrant worker farm workers out to  
24 the field. I have pictures with me.

25 But twice in the last six years, I've seen

1 these men, these human beings, transported in box  
2 trucks with very little ventilation, 15 to 20 men per  
3 truck in 94-degree weather, and at 1:00 in the  
4 afternoon. Wouldn't put my dog in those trucks.

5 So I just really want to bring this to your  
6 attention, what's going on 30 minutes from this  
7 building.

8 SCOTT MOSS: Thank you very much. I have a  
9 couple of follow-ups because -- I appreciate you  
10 sharing all this. The box trucks you're talking about,  
11 just to get the record clear on this, those are  
12 enclosed box trucks?

13 MARIE RAMOS: Yeah. They're something like  
14 American Furniture would use to haul Furniture.  
15 (Presenting pictures.)

16 SCOTT MOSS: Thank you. I'll put these --  
17 this is the same picture?

18 MARIE RAMOS: Yeah.

19 SCOTT MOSS: I'll ask this be attached to the  
20 record.

21 (Exhibit 1 was marked for identification.)

22 MARIE RAMOS: I don't know,  
23 there's a vent hole here, and there's a vent hole up  
24 here, at the top of the back of the truck.

25 SCOTT MOSS: Is it okay if we attach this to  
26

1 the record?

2 MARIE RAMOS: Of course.

3 SCOTT MOSS: Thank you. And you mentioned  
4 someone had to drink from an irrigation ditch. Would  
5 that worker have been able to take a break to get clean  
6 water?

7 MARIE RAMOS: It was in the middle of  
8 nowhere.

9 SCOTT MOSS: Nowhere near anywhere with clean  
10 water?

11 MARIE RAMOS: No.

12 SCOTT MOSS: And do you know anything about  
13 how workers go to the bathroom when they're, as you put  
14 it, in the middle of nowhere working?

15 MARIE RAMOS: Go out in the field.

16 SCOTT MOSS: And these fields, what  
17 are in these fields that they're working on?

18 MARIE RAMOS: Corn, onions, cabbage,  
19 potatoes.

20 SCOTT MOSS: So you've heard from these  
21 workers they have to go to the bathroom in the fields  
22 with the corn, onions, and cabbage?

23 MARIE RAMOS: Yes.

24 SCOTT MOSS: Okay. And you mentioned working  
25 sunup to sundown. Is that common from your experience

1 with these workers?

2 MARIE RAMOS: Yes. Very common during  
3 harvest.

4 SCOTT MOSS: And forgive my knowledge  
5 of sunup and sundown. How many hours would you  
6 estimate that workday is, about?

7 MARIE RAMOS: Twelve to 14.

8 SCOTT MOSS: Okay. And have you seen any  
9 health problems with workers working those long hours?

10 MARIE RAMOS: We see multiple health  
11 problems, like broken legs, people healing from  
12 sprains, back problems, just -- you  
13 name it. I mean, I've gone to Walmart. I've got  
14 Tylenol for people. I've bought Band-Aids. I've  
15 bought first aid. You know, it's just -- it's bad.

16 SCOTT MOSS: And do you see or have the  
17 workers indicated that the length of the hours are  
18 related to either some of these injuries or how they  
19 heal?

20 MARIE RAMOS: No workers have ever really  
21 complained to us. They're afraid. You can see, in  
22 that picture I gave you, that picture, we confronted  
23 that farmer. And at first, he was very worried. He said,  
24 "Oh, my bus broke down with the windows in it, so I had  
25 to put them in that truck to take them where they

1       were." And he apologized. He said it would never  
2       happen again.

3               And in the next breath, he said, "This is a  
4       legal vehicle to take these workers to work." He was  
5       scared to death that I would send that somewhere to be  
6       published, and he would lose his business.

7               The farmers from Brighton -- I work  
8       from Brighton up to north of Platteville, and they're  
9       getting away with a lot up there.

10              SCOTT MOSS: And do you know the hourly  
11       rates -- that these workers get, the daily  
12       rates?

13              MARIE RAMOS: No.

14              SCOTT MOSS: Have any of them indicated it  
15       was more or less than the minimum wage?

16              MARIE RAMOS: No. (End time 4:10 p.m.)

17              SCOTT MOSS: Okay. And, thank you. We'll  
18       take a 10-minute break and come back at 4:20. Thank  
19       you.

20              (Break from 4:09 p.m. to 4:31 p.m.)

21              SCOTT MOSS: Back on the record. We have a  
22       gentleman in the back who said he has a time  
23       constraint, so we'll start there.

24              EAN THOMAS TAFOYA: (Start time 4:31 p.m.) Is  
25       this the typical form, where you'd like the name on the  
26

1 record and the whole thing?

2 SCOTT MOSS: If you could, yes. And if you  
3 could speak as loudly as you can.

4 EAN THOMAS TAFOYA: Sure. My name is Ean  
5 Tafoya. I'm a resident of Denver, and I'm here  
6 speaking on behalf of the Colorado Latino Forum. I am  
7 the cochair of this nonprofit.

8 LIZ FUNK: Spell your name for us.

9 EAN THOMAS TAFOYA: Ean, E-a-n. My last name  
10 is T-a-f-o-y-a.

11 LIZ FUNK: Thank you.

12 EAN THOMAS TAFOYA: So the nonprofit that I  
13 work for is Colorado Latino Forum, and our mission is  
14 to improve the economic, social, political, and  
15 educational strength of Latinas and Latinos, and we're  
16 proud to be part of this coalition and excited that you  
17 can --

18 THE REPORTER: Okay. I need you to speak a  
19 lot slower. Thank you.

20 EAN THOMAS TAFOYA: Okay. We are really  
21 excited that you've made this so accessible for people,  
22 which I really appreciate. I was here earlier, and I  
23 heard all the accommodations that you were  
24 making for people, and I think that's really great.

25 There's a couple of pieces here. One, you

26

1 know, we want to start by saying everybody deserves a  
2 40-hour work week. I know that there's been  
3 conversation about 2.5 times whatever the minimum wage  
4 is and people having access to overtime or not.

5 I've worked in jobs where people were  
6 salaried, and even in the climate that we're living in,  
7 with the cost of living so high in Denver, you can make  
8 \$60,000, have a high student loan, a car payment, a  
9 house payment, whatever, and it all gets eaten.

10 It's not like \$60,000 is a lot of money in  
11 Colorado anymore. I mean, I think \$35 an hour is what  
12 the Denver Post says the average person has to make to  
13 endure.

14 Now, in regards to -- there should be nobody  
15 who is exempt to any of these standards. And I know  
16 that construction, agriculture is a piece of this right  
17 now. But I do believe state workers, I think everybody  
18 should have access to these rules.

19 Now, I gave a talk earlier at the press  
20 conference, and I think it's scary times right now for  
21 people in the Latino community, obviously, given the  
22 climate of what's happening with our president and the  
23 rhetoric.

24 But here we are in construction and  
25 agriculture, and people -- you just heard testimony

1 before the break of really terrible working conditions  
2 for Latinos and Latinas. The (inaudible) was about  
3 that. My family was united farm workers, and they  
4 fought for those kind of things.

5           The very first Latino legislatures that were  
6 elected here in Denver in Colorado were fighting on  
7 similar worker rights for people in the fields.

8           And so I want to make sure that those people  
9 are definitely included into this process. It's a very  
10 important part.

11           I do want to note that it's really important  
12 for the 40-hour work week for people to have access to  
13 their families for the education, for the free time  
14 they want -- really, for anything they want. It's  
15 their time, and they should be entitled to it.

16           It's good for business. There's a lot of  
17 research out there that shows that people's work ethic  
18 declines the longer they're on the job. And if we're  
19 about growing our economy, which is already doing  
20 great, there's certainly opportunity in there to either  
21 hire more workers, give people the breaks so that they  
22 can be innovative.

23           In my speech outside, I was talking about how  
24 we're here at a cultural revolution with Green New Deal  
25 and the conversation about how we're going to restore

1 our planet and create good jobs at the same time. And  
2 I think this conversation is definitely a part of it.

3 The last thing that I really want to say is,  
4 and this is very typical, whether I'm talking to the  
5 air quality commissioner, or whatever, your board of  
6 people who are working for us are typically white. You  
7 hold the power to affect the lives of thousands and  
8 thousands of Latina mothers and people in your hands.

9 And there's an expression that we have been  
10 taking on here with the Colorado Latino Forum, which  
11 is, "Stop putting us in cages and pay us fair wages."  
12 We are in a position where we need you to be strong  
13 allies for us. So please do that. Thank you. (End  
14 time 4:35 p.m.)

15 SCOTT MOSS: Thank you. Appreciate that.  
16 Who else is interested in speaking? Raise your hands.  
17 Just to start a queue. In the blue, and then the  
18 gentleman holding the piece of paper. Anyone else?  
19 Okay. We'll get a queue going of folks. You can come  
20 up, miss.

21 PAMELA RESENIZ TRUJANO: (Start time  
22 4:35 p.m.) Good afternoon. My name is Pamela Reseniz  
23 Trujano. That's P-a-m-e-l-a; Reseniz, R-e-s-e-n-i-z;  
24 Trujano, T-r-u-j-a-n-o. And I'm the executive director  
25 of Colorado Jobs for Justice.

1 Colorado Jobs for Justice is a long-standing  
2 coalition of community organizations, labor unions,  
3 student activists, and faith groups. We focus on  
4 issues affecting working families and work at the  
5 intersections of movement to support workers' rights  
6 with an economic and racial justice lens.

7 We're currently organizing in Denver's  
8 construction industry with a focus on supporting women  
9 and people of color to access apprenticeship programs  
10 and enter the middle class.

11 We understand that your office is gathering  
12 stakeholder feedback on the Colorado Minimum Wage  
13 Order. As explained in this comment, we recommend that  
14 Colorado's wage order cover everyone, so that all  
15 workers in Colorado can benefit from minimum wage,  
16 rest, meal breaks, and overtime.

17 We also recommend that Colorado law guarantee  
18 overtime for everyone, including management,  
19 professional, and administrative workers, unless those  
20 workers make more than 2.5 the time of the minimum  
21 wage.

22 Part of our work involves talking to  
23 unorganized workers about their experiences working  
24 with private contractors during the construction boom  
25 we are seeing here in Denver. Many of them have

1 experienced wage theft, in the form of unpaid overtime  
2 and outright nonpayment.

3 And we have heard of long days in the hot sun  
4 without rest or meal breaks. It's that or clock out  
5 and lose pay when they are counting on every dollar on  
6 their paycheck.

7 Further, many construction workers face  
8 misclassification as independent contractors, meaning  
9 that they're not afforded the protection of actual  
10 employees.

11 Further compounding the issues that they face  
12 in paying high rents and cost of living, that is rising  
13 faster than their wages, if they get a raise at all.  
14 We have also heard from workers who are legally paid  
15 below the minimum wage, which must also change.

16 Colorado law stands out nationally as being  
17 confusing and unjust. And it is long past time for us  
18 to catch up with the times and support the success and  
19 quality of life of all workers in our state.

20 For all of these stated reasons, we are  
21 commenting and requesting that the CDLE use their  
22 authority to extend the coverage of the Colorado  
23 Minimum Wage Order and salary threshold through  
24 rulemaking. (End time 4:38 p.m.)

25 SCOTT MOSS: Thank you. I believe we're

26

1 starting a queue -- a line, so who's next?

2 ADAM HARRISON: (Start time 4:38 p.m.) A kind citizen  
3 allowed me to do this so I can go back to my 2-year-old and my  
4 3-month-old.

5 I have a quick comment as PELA. PELA would  
6 like to second and echo everything that was said by the  
7 carpenters' union and would also like to, from our  
8 experience as litigators, echo everything said by the  
9 Direct Action Team and El Centro.

10 Individually, I would like to point to a huge  
11 hole in the Minimum Wage Order, which is that  
12 currently, the Minimum Wage Order, which is supposed to  
13 give greater rights than just the Fair Labor Standards  
14 Act is supposed to be what employers follow.

15 It says that individuals get 10-minute breaks,  
16 but isn't clear on whether or not there is a monetary  
17 remedy or any remedy whatsoever if that's not followed.

18 I understand from a director within  
19 your department that the CDLE does not  
20 itself focus on breaks in its enforcement. You have to  
21 prioritize, and I fully understand that, and so you  
22 focus on the Wage Claim Act and ongoing after  
23 violations where people aren't paid their agreed-  
24 upon hourly wage rate. I get that. But there have  
25 to be teeth to a law.

26

1           It is not clear whether the person  
2 who's never given a break ever -- and the carpenters  
3 have talked about the importance of breaks. The Direct  
4 Action Team has talked about the exploitation that  
5 results from not having breaks.

6           If an individual is not given breaks, we  
7 would ask that it be clarified under the law that that  
8 person has worked 10 minutes that they were not  
9 supposed to work during every four hours or fractions  
10 of four hours, and that they are thus entitled to an  
11 additional 10 minutes of pay for the day that they are  
12 not given, or the four hours that they're got given a  
13 break.

14           Under the Colorado Wage Act, I believe they'd  
15 also be entitled to penalties if that monetary damage  
16 remedy was included and there were actually  
17 teeth to this law.

18           My main point here is that, without any  
19 remedy and with the department not actively  
20 going after employers who don't  
21 give breaks or enforcing breaks, that 10-minute  
22 requirement becomes absolutely meaningless and not  
23 something that is actual law but merely a soft  
24 suggestion.

25           SCOTT MOSS: Thank you. And just to clarify

26

1       which comments PELA's joining -- you mean the  
2       carpenters and El Centro's written comments?

3               ADAM HARRISON:   The Direct Action Team  
4       has spoken in conjunction with El Centro. I  
5       apologize.  So they've made that comment today  
6       about day laborers, and PELA would also echo  
7       the need to add construction workers with the  
8       order.

9               SCOTT MOSS:   So just to be clear, you're  
10       joining Mr. Gleason's comments today, as well as  
11       Ms. Sanchez and Mr. Cabrerra's for the Direct Action  
12       Team.

13              ADAM HARRISON:  Yes, sir.

14              SCOTT MOSS:   Thank you.

15              THE REPORTER:  Could you please remind me of  
16       your name.

17              ADAM HARRISON:  Adam Harrison, from the  
18       Plaintiffs Employment Lawyers Association, and  
19       individually when it comes to the problem with breaks.  
20       (End time 4:42 p.m.)

21              LIZ FUNK:   Next up is Tim.

22              TIM ADRIAN:   (Start time 4:42 p.m.)  Good  
23       afternoon.  My name is Tim Adrian, A-d-r-i-a-n.  I work  
24       for the United Union of Roofers and Waterproofers  
25       International Union.  I am a market development rep.

26

1           I worked in the field for 24 years before  
2 working in the office. So I have some experience with  
3 a lot of what we've heard here today: Abuses against  
4 workers, workers working too much overtime and not  
5 being paid, or not being paid at all.

6           I'm not here to speak on behalf of all the  
7 union members. I will only speak on my own behalf and  
8 my observations of being out in the field. Everybody  
9 has their own experiences and observations.

10           As far as your protections that are offered  
11 to workers, no class should ever be excluded from  
12 protections. Ever. That shouldn't even be a matter of  
13 question. I'm actually appalled that you don't even  
14 already realize that and insist upon it. This is  
15 something that never should have been up for debate.

16           There have always been people wanting  
17 protections since there has always been labor. But yet  
18 here we are. But I'm very thankful to have the  
19 opportunity to speak, and I really hope that  
20 some good will come out of this today,  
21 that there will be a progressive movement in this  
22 direction and not just fluff.

23           Something I would also like to address that I  
24 haven't heard much comment about here, I do not live in  
25 Colorado state. I travel 50 weeks a year. I don't

1 even work in my own home state. Something that became  
2 apparent to me when I came to Colorado, especially in  
3 construction, I looked after roofers and waterproofers,  
4 and the first thing that I noticed in coming to  
5 Colorado was the massive abuse of subcontracting and  
6 independent contracting and using that as a legal  
7 loophole to manipulate employees, which we know that  
8 they are not contracted workers hiding under  
9 the name of independent contracting -- being paid cash,  
10 not paying in workmen's comp, not being covered when  
11 they get injured on the job, and they  
12 don't have enough money to hire an attorney to go after  
13 the employer.

14           So we all know that employers take advantage  
15 of this. So, again, since we all are aware of this,  
16 why isn't anything being done about it? Why are we  
17 favoring the employers in the situation and not the  
18 workforce?

19           Without us paying taxes, you wouldn't have  
20 government offices. So that's why we're here. I'm  
21 here to speak on behalf of the good guy. That's all I  
22 have to say. (End time 4:45 p.m.)

23           SCOTT MOSS: Thank you very much.

24           LIZ FUNK: Thank you. Now we have Mark next.

25           MARK THOMPSON: (Start time 4:45 p.m.)

26

1 Thank you for the opportunity.

2 SCOTT MOSS: Could you please state your name  
3 and spell it.

4 MARK THOMPSON: You bet. My name is Mark  
5 Thompson, M-a-r-k, T-h-o-m-p-s-o-n. I've been a  
6 carpenter in Colorado for the last 32 years.  
7 Currently, I'm a representative of the Southwest  
8 Regional Council of Carpenters.

9 At age 19, I entered the carpenter's union  
10 apprenticeship program. I've worked for responsible  
11 contractors my entire career. Because of this decision  
12 to only work for responsible contractors, I've not  
13 found myself a victim of an employer that cheats me  
14 out of overtime, break periods, or lunch periods. I've  
15 always had the protection of my union and a collective  
16 bargaining agreement.

17 As a union representative, I speak with  
18 workers, union and nonunion, every day. Workers share  
19 stories with me about being cheated regularly. Because  
20 the construction industry is not included in the  
21 Colorado Minimum Wage Order, these workers find  
22 themselves with nowhere to turn for help.

23 So briefly, I'd like to invite you through a  
24 day of a Colorado carpenter. I invite you to leave  
25 your house early in the morning before your spouse or

1 family wakes up. I invite you to leave the house  
2 between 4:30 and 5:30 a.m. because the project you're  
3 building is 45 minutes to an hour and a half from your  
4 home.

5 Be ready to be productive as the sun comes  
6 up. Invite you to strap 30 pounds of tools to your  
7 hips and get in the hole, ankle deep in mud, or start  
8 climbing a wall of concrete forms.

9 Concrete is on the way, so a decision is made  
10 to work through break in order to button up the wall.  
11 As lunch approaches, so does the concrete truck. So a  
12 decision is made to work through lunch to place that  
13 concrete, align the walls, and ensure there's no  
14 blowout during the concrete pour.

15 As the concrete pour is complete, I invite  
16 you to scramble to the next wall and start the whole  
17 process over because we're doing it all again tomorrow  
18 morning. Concrete is again on the way.

19 Safety is not just a humanity issue, a  
20 dignity issue. Safety is a big part of taking a break,  
21 taking a lunch. Workers that have such a physical job,  
22 they need to take a load off their feet. They need to  
23 clear their head. They need to get some nutrition and  
24 hydrate.

25 Now I invite you to explain to your family at

1 the end of the week why you're so exhausted, why your  
2 paycheck does not reflect any of the overtime that you  
3 have put in during that week.

4 Carpenters build wealth in our communities  
5 and across our state every day. The construction  
6 industry deserves the same protections as other workers  
7 in Colorado.

8 I urgently ask that you please consider  
9 including construction in the Colorado Minimum Wage  
10 Order. Again, I thank you for your time. I thank you  
11 that you've made this a priority and important enough  
12 to go such a long time today to allow workers, whatever  
13 their worker schedule is, to be in here. So thank you.  
14 Count those of you with the signs.

15 SCOTT MOSS: Thank you. I just want to count  
16 those of you with signs, just for a second, if I can do  
17 it.

18 ADAM HARRISON: Since you're doing that, can  
19 I get a picture?

20 SCOTT MOSS: Of what?

21 ADAM HARRISON: The guys holding signs.

22 SCOTT MOSS: Sure. I'll just say, if anyone  
23 wants to be excused from the picture, feel free to step  
24 outside.

25 (Taking photos.)  
26

1           ADAM HARRISON: I've never been in a public  
2 hearing where I could do that.

3           SCOTT MOSS: Does 30 sound right for the  
4 number of you with signs?

5           ADAM HARRISON: Sounds about right. (End  
6 time 4:49 p.m.)

7           SCOTT MOSS: I know you're not the only 30  
8 folks on the job. I give credit to those of you who  
9 came. Thank you.

10          LIZ FUNK: Thank you, Mark. Next up is Dave.

11          DAVE MEFFORD: (Start time 4:49 p.m.) Thank  
12 you for the opportunity to talk. I get very nervous  
13 talking in front of people, I guess.

14          SCOTT MOSS: That's okay.

15          THE REPORTER: Please state and spell your  
16 name.

17          DAVE MEFFORD: Dave Mefford, M-e-f-f-o-r-d.  
18 Shit. I don't think I can do it. Sorry.

19          SCOTT MOSS: You can come up again if you  
20 feel like it later.

21          DAVE MEFFORD: I have something in writing.

22          SCOTT MOSS: Okay. Good. Is it both sides?

23          DAVE MEFFORD: Yes, it is.

24          LIZ FUNK: You can present it in writing if  
25 you have it. Or somebody else could read it for him.

1           RENEE GENOVESE: I'll do it.

2           SCOTT MOSS: Thank you. This is being read  
3 on behalf of Dave Mefford. Thank.

4           RENEE GENOVESE: (Reading on behalf of Dave  
5 Mefford's comments.) "Thank you. Thank you for  
6 allowing me the opportunity to speak with you about the  
7 important issues of overtime pay and breaks."

8           I am speaking on behalf of Dave Mefford, and  
9 he is a proud member of Carpenters Local 555.

10           "I'm fortunate enough to belong to a  
11 brotherhood that works on improving the lives of all  
12 working class people and have never worked an overtime  
13 hour that I was not paid for in overtime wages.

14           "Unfortunately, there are thousands of other  
15 construction workers in our community and in the  
16 construction industry that are taken advantage of every  
17 day by unscrupulous employers. Some of these workers  
18 can work 60 hours a week, all of which are paid at the  
19 straight time rate.

20           "The reason the employers are getting away  
21 with this is because there is no law stopping them.  
22 I'm asking you today to add the construction industry  
23 in your overtime rule.

24           "Without this rule, our middle class is  
25 becoming the impoverished class. When many need to

1 work six or seven days a week just to make ends meet,  
2 that tells me there is a problem.

3 "By changing the rule to include  
4 construction workers, this will help strengthen our  
5 middle class, our economy, and society. Let's do the  
6 math. 60 times 20, 1,200 straight time. 40 times 20,  
7 800 straight time. 20 times 30, 600 overtime. 200  
8 extra a week equals \$10,400 a year increase in pretax  
9 earnings.

10 "All the money we make in our community, we  
11 spend in our community. I personally can't afford a  
12 million-dollar house that we build in  
13 Washington Park. But my wife and I have a nice little  
14 place in Aurora. Our house is full of objects bought  
15 in our community.

16 "If a parent makes an extra \$10,000 a year  
17 without having to work two jobs or six and seven days a  
18 week to make ends meet, this would allow them to spend  
19 time with their loved ones, raise their children.

20 "They will spend that money to get their kids  
21 into sports, rather than having the kids roaming the  
22 streets unattended. That money would be spent on  
23 making those family memories that we all strive for.

24 "By show of hands, who here had a mid morning  
25 break? Who here had lunch today? In our industry, we

1 work eight to ten hours a day, if not more, on a  
2 regular basis. Some workers do this without mandatory  
3 breaks. This makes construction work more dangerous  
4 than it already is.

5 "There is a roofing crew working right now  
6 working in their ninth hour in this 90-degree weather  
7 and won't get a break until the job is done.

8 "I've been in the construction industry for  
9 close to 20 years, and it is very demanding. We work  
10 in the summer. We are exposed to heat stress injuries  
11 that include dizziness and confusion. We take breaks  
12 to allow us to cool ourselves and replenish much-needed  
13 nutrients.

14 "Without both of these items,  
15 there is a chance we won't make it home to our  
16 families. I would hate to be those roofers up on that  
17 roof today, forget to tie off to their fall protection  
18 system, and fall 30 feet off of a roof. This would  
19 greatly change or injure life.

20 "I am asking for all the unprotected  
21 construction workers in our community to add the  
22 construction industry to your overtime and mandatory  
23 break rule. Thank you again for allowing me the  
24 opportunity to speak on these very important issues."  
25 On behalf of Dave Mefford. (End time 4:54 p.m.)

26

1           SCOTT MOSS: Thank you. Thank you,  
2 Mr. Mefford.

3           LIZ FUNK: Next we have Jesus.

4           THE REPORTER: Please remind me of your name.

5           JESUS LOAYZA: (Start time 4:55 p.m.) Sure.

6 My name is Jesus, last name Loayza, L-o-a-y-z-a. And  
7 I'm the outreach and intake coordinator at Towards  
8 Justice. And 50 percent of my job consists of doing  
9 intakes with potential clients. And a lot of those  
10 potential clients come from the construction industry.

11           And besides trying to connect people who come  
12 to us with attorneys who may take on the cases, and the  
13 cases that we tend to take on have to do with  
14 wage theft or any kinds of workplace violations.

15           And we do an intake, right? We ask  
16 them if they receive breaks, if they receive lunch  
17 breaks, if they were paid overtime, and if they were  
18 paid overtime, if they were paid at time and a half.

19           For all the cases that we can't take on, we  
20 try to refer out. That includes workplace  
21 injuries or workers' comp attorneys. And for the grand  
22 majority of those cases that  
23 we refer out to workers' comp attorneys, most of those  
24 people did not receive breaks.

25           And I am here to report to the department

26

1 that this is an issue of safety, 100 percent. Had  
2 these people received those breaks, had their bodies  
3 not been as tired or worn out, maybe they could have  
4 prevented some bodily injury.

5           The second thing that I would like to bring  
6 up is, during the summer we did a lot of outreach, one  
7 of them including to farm workers in Avondale. And  
8 when I asked them, you know, if they would like to be  
9 included within the protections of the Colorado Minimum  
10 Wage Order, one of the farm workers, you know, when I  
11 asked them if they would like to be entitled to breaks  
12 and overtime, and they said, "Do you -- or  
13 wouldn't you want to be included too?" I'm like, "Yes.  
14 Yes. Of course."

15           So there's your answer. Quite frankly, yes.  
16 They absolutely would. Some of them that day in  
17 Avondale did not end up writing a public comment, maybe  
18 out of fear of retaliation by local employers.

19           But I also did hear about farm workers who,  
20 it takes them ten minutes just to get to a bathroom.  
21 And if they can't sneak away from their employers  
22 because, you know, there's a supervisor in the fields,  
23 they will just go in the fields. That is  
24 a real thing.

25           Just, the last thing I want to touch on is  
26

1 the issue of overtime exempt salaried managers.  
2 Whenever people ask me, you know, like people who are  
3 managers, like, "Do I have rights to overtime? I  
4 worked over 50 hours a week." I say, "You know,  
5 depending on, you know, if you're salaried or not,  
6 yeah."

7           That's the reality of the fact. And that is  
8 currently how it is, right? I hesitate to tell them,  
9 you know, think through it. How  
10 many hours can that potential employer be  
11 expecting you to work? Because once you accept a  
12 position, you know, with the pretext of  
13 promotion, it comes with added responsibilities, and  
14 then those overtime hours are completely legal to be  
15 demanded of you.

16           And I've heard of horror stories of how it's  
17 affected time with their loved ones, time to see their  
18 dying ones, and not having time to recuperate from  
19 deaths.

20           So I would bring those narratives  
21 into consideration when you're drafting these rules  
22 because the department has a lot of power right now to  
23 do a lot of good for a lot of people, and they should  
24 use their one shot to improve the lives of overtime  
25 exempt salary workers.

1           SCOTT MOSS: Quick follow-up questions.  
2       When you said, I believe, reporting about workers  
3       perhaps being reluctant to take on a management  
4       position because they'd lose overtime, are you saying  
5       you heard that from workers, or you were advising  
6       them of that point?

7           JESUS LOAYZA: They were asking me,  
8       essentially. And I can't give legal advice. But,  
9       you know, I tell them, frankly, you know, think  
10      it through. Because, you know, and I tell them,  
11      that once you become a manager, there's nothing  
12      wrong with being demanded 50 to 60 hours a  
13      week.

14          SCOTT MOSS: So they were asking if they'd  
15      lose those rights upon becoming a manager?

16          JESUS LOAYZA: Yes.

17          SCOTT MOSS: And also, since you do intake  
18      at Towards Justice, we heard about Towards Justice  
19      litigating a large case about the Skyhouse  
20      construction. When Towards Justice gets an intake  
21      call, and it seems to you like there may be a plausible  
22      claim of violation, do you find you can get an attorney  
23      for all these workers who call?

24          JESUS LOAYZA: Absolutely not. And I'm glad  
25      you raised that point. Previously, there were some

1 nonprofit staff here who talked about burnout. And,  
2 really, it's like drinking from a water hose.  
3 There are too many injustices just happening out there,  
4 and there's not enough attorneys to take on these  
5 cases.

6           And so the best thing that one can do,  
7 I think, in combating wage theft or workplace  
8 violations is keeping people in those positions to  
9 advocate for those rights, to seek some kind of  
10 justice, whether it be through Direct Action, whether  
11 it be through referring them to the appropriate  
12 attorney. It requires people to stay in those  
13 positions long enough and for burnout to be prevented.

14           SCOTT MOSS: And you're speaking for Towards  
15 Justice here?

16           JESUS LOAYZA: Yes. Or, I'm speaking for  
17 myself, and I work at Towards Justice.

18           SCOTT MOSS: Okay. And Towards Justice has  
19 paid employees, not just volunteers?

20           JESUS LOAYZA: Yeah.

21           SCOTT MOSS: Do you know how many employees,  
22 roughly, Towards Justice has?

23           JESUS LOAYZA: Yes. Six. (End time  
24 5:01 p.m.)

25           SCOTT MOSS: And -- thank you.

26

1           LIZ FUNK: Next up, we have Caroline.

2           CAROLINE HANKINS: (Start time 5:01 p.m.)

3           Good afternoon. I'm Caroline Hankins, proud member of  
4           Local 555 Carpenters Union.

5           SCOTT MOSS: Can you spell your last name,  
6           please.

7           CAROLINE HANKINS: Yes. H-a-n-k-i-n-s.  
8           First of all, I want to thank you guys. I'm honored to  
9           be able to be heard here tonight. I wanted to speak a  
10          little bit about the construction industry.

11          We need to be included in the wage order.  
12          Excluding construction, I believe, is discrimination  
13          against hard-working men and women. The exclusion is  
14          only to benefit the developers, not the workers. Every  
15          person matters.

16          I'm from Texas. I came up here in 1991, and  
17          the airport was the first job that I built.  
18          I worked 18 years in Texas. I started the trades when  
19          I was 18. I'm a 40-year veteran.

20          I've been in Colorado, Denver, for 28 years.  
21          I'm grateful to have moved from Texas to here for the  
22          job opportunities that I had. I never had any breaks  
23          in Texas. So when I came here to Colorado, it was just  
24          amazing the change that I came to.

25          I'm a farmer. I grew up a dairy farmer in

1 Texas. So I'm speaking on behalf of the farmers as  
2 well. That's my roots and my heritage.

3 But I just want to ask that we could please  
4 be heard and do something about this. It's time for  
5 change. And I thank you very much for your time.  
6 Thank you.

7 SCOTT MOSS: Thank you. Let me just follow  
8 up. What type of work was it you got no breaks for in  
9 Texas?

10 CAROLINE HANKINS: I was in the power  
11 industry. So I worked for Halliburton and Browner and  
12 Rube (phonetic.) I was a scaffold builder in power  
13 plants. I'm a scaffold specialist. And we had no  
14 breaks. I never had a break until I came to Denver,  
15 Colorado. And I worked 18 years in the trades before I  
16 had one.

17 SCOTT MOSS: What brought you to Colorado?

18 CAROLINE HANKINS: I was transferred up here  
19 to build DIA Airport.

20 SCOTT MOSS: And did the conditions, like  
21 getting breaks, did that have anything to do with your  
22 choice of staying in Colorado instead of going back to  
23 Texas?

24 CAROLINE HANKINS: I was on affirmative  
25 action when I came here. President Clinton was in

1 office. And I was offered so many jobs and so much  
2 opportunity, I uprooted from Texas and stayed here.  
3 And this is my second home now.

4 SCOTT MOSS: Thank you.

5 CAROLINE HANKINS: And I'm proud to be here.  
6 Thank you. (End time 5:03 p.m.)

7 LIZ FUNK: Next up, we have Orlando.

8 ORLANDO MARTINEZ: (Start time 5:03 p.m.) My  
9 name is Orlando Martinez. I'm a project superintendent  
10 that works with all of my brothers and sisters out  
11 here, Carpenters Local 555.

12 I'm here to talk about the price. What is  
13 the price of being able to take a break? I'm just  
14 going to read you a couple of facts from OSHA. In  
15 2017, 4,647 workers died on work. One in five --  
16 that's 971 workers -- died in construction. I mean,  
17 that means they're not going home to their family.  
18 This is very tragic.

19 But 381 of those were from falls. That's  
20 misplacing your foot. Struck by objects, I'm not sure  
21 if you're familiar with that, but that can be just as  
22 simple as somebody dropping something.

23 For example, on one of our projects last  
24 week, when the electrician was shooting up a wire,  
25 it bounced, went -- flew all the way down the shaft,

1 almost hit one of our guys. It was about 10 feet  
2 long, a rod about that big. It could have impaled or  
3 killed somebody.

4           And then there's 3 percent is  
5 electrocution. And then this is  
6 another wild one. Caught between objects. This is  
7 literally getting crushed. Five percent of those 951  
8 people that died. They weren't paying attention.

9           I'm out in CU, working on the campus  
10 out there, and the biggest hazard I seen when I walked  
11 on that job, it's getting around all them big earth  
12 movers. You've got those big all-terrain forklifts.  
13 Stuff like that.

14           If you're tired, you're not taking a break,  
15 you're not paying attention, you know, yeah, you could  
16 go away, or even, I'd say, worse, live with yourself if  
17 you made an accident and you killed somebody else.

18           How do you put a price on that?  
19 Take a break. Sit down. Unwind for a  
20 minute. So that's pretty much why I think we need to  
21 make sure that everybody in construction work gets a  
22 break.

23           SCOTT MOSS: Thank you. Let me follow up, if  
24 you don't mind.

25           ORLANDO MARTINEZ: Yeah. No problem.

1           SCOTT MOSS: How many years have you been  
2 working?

3           ORLANDO MARTINEZ: I started in 2001. So  
4 we're getting -- we're getting close to the 20 years.

5           SCOTT MOSS: And since you mentioned ability  
6 to pay attention and avoid these sorts of accidents, in  
7 your experience, both your experience and what you've  
8 seen, is there a difference in ability to pay attention  
9 and avoid accidents in longer than eight-hour days or  
10 longer than 40-hour weeks?

11          ORLANDO MARTINEZ: Let me put  
12 it this way. The easiest example, for  
13 anybody sitting up here, what happened when you didn't  
14 get enough sleep last night? Imagine that happened  
15 during the middle of the day.

16          Unfortunately, we can't get a  
17 power nap. Those are awesome. You could  
18 literally go sleep for 15 minutes, you'd be surprised  
19 at how refreshed you are.

20          But just to be able to sit down in the shade,  
21 cool off, of those, they took a lot of other angles  
22 about, you know, rest and hydration, all that, but to  
23 be able to sit back and refocus and think about what  
24 you're doing.

25          SCOTT MOSS: So your experience --

26

1                   ORLANDO MARTINEZ: At least that.

2                   SCOTT MOSS: So it's your experience that  
3 there are more likely either accidents or near misses  
4 in the longer than eight-hour day or longer than  
5 40-hour weeks?

6                   ORLANDO MARTINEZ: Yes.

7                   SCOTT MOSS: And just by a show of hands,  
8 those of you with the signs, how many of you would  
9 agree with that in your experience?

10                   (Raised hands.)

11                   SCOTT MOSS: Let the record show, that's  
12 everyone I can see holding one of the signs.

13                   ORLANDO MARTINEZ: I was a safety man, just  
14 like this gentleman over here, 250 Columbine in Cherry  
15 Creek, and I was tracking when the accidents -- we're  
16 talking real strains, the little things, and  
17 it was about 15 minutes before lunchtime.

18                   And I let all of my guys know, I've  
19 tracked this. And if you think about it, on  
20 Friday was even worse. So you're looking at the  
21 longest duration you had without a good, solid break,  
22 and you're on your fifth  
23 working day for the week.

24                   And I was able to quantify that with  
25 just the data that I was able to put together in a

1 four-month basis. That showed it right there. I  
2 warned everybody. All right, guys.

3 LIZ FUNK: At one work site?

4 ORLANDO MARTINEZ: One work site.

5 SCOTT MOSS: Is that data, stuff you have  
6 compiled?

7 ORLANDO MARTINEZ: Yeah. I sat and  
8 had to track every time somebody got hurt.  
9 If it was a recordable injury, if it was bad,  
10 if it was just a Band-Aid, if it was a sprain,  
11 if I had to take 'em to the clinic. Yeah. I sat  
12 there --

13 SCOTT MOSS: Is that anything you're allowed  
14 to share with us?

15 ORLANDO MARTINEZ: Well, this is just from --  
16 that was a tough job back in the days. And I'm still  
17 trying to put - that's very hard. I commend this  
18 gentleman right here 'cause he does it full-time. I  
19 don't have it with me right now. It's just a simple  
20 little fact that I will take with me for the rest of my  
21 career.

22 SCOTT MOSS: That was at one work site that  
23 that was --

24 ORLANDO MARTINEZ: Yeah.

25 SCOTT MOSS: -- compiled?

1                   ORLANDO MARTINEZ: Yes.

2                   SCOTT MOSS: Okay. So that belongs to the  
3 employer, in a sense?

4                   ORLANDO MARTINEZ: Yeah. Well, I -- you  
5 could tell us (inaudible) --

6                   SCOTT MOSS: No, I'm saying, you're allowed  
7 to tell us. I was just saying the reason you don't  
8 have the information right now at your fingertips.

9                   ORLANDO MARTINEZ: Yeah.

10                  SCOTT MOSS: Thank you.

11                  ORLANDO MARTINEZ: You're welcome. (End time  
12 5:08 p.m.)

13                  SCOTT MOSS: That was the list we took. So  
14 raise some hands if you'd like to speak. Yes.

15                  JORDAN JONES: (Start time 5:08 p.m.) How's  
16 it going? My name's Jordan Jones. I'm with Southwest  
17 Regional Counsel of Carpenters. I'm actually a  
18 millwright out of 1607.

19                  My experience is breaks are awesome. You go  
20 out to a job site. As a millwright, we go travel to  
21 power plants that are south -- south of -- southern  
22 Colorado, anywhere from Wyoming, anywhere. We travel  
23 all over America.

24                  And we go out, we go for 12-hour days  
25 usually, seven days a week. Now, as a union member,

1 it's awesome because I get breaks. I get time. I get  
2 overtime.

3 But the guys that don't get the overtime, I  
4 can see in their eyes. I was on a job where we were  
5 going hand-in-hand, union, nonunion. The nonunion guys  
6 were sitting over here, busting their behinds, working  
7 just as hard as we are, not as skilled but just as  
8 hard, and we would go ahead and take a break.

9 And you could just see that they're having to  
10 work through break. Beads of sweat running down their  
11 face. As for us, we get a break time, short, sweet,  
12 concise, but we're back and ready. We're rejuvenated.

13 These guys are beat by the end of the day.  
14 They get a break at lunch, and then you go for another  
15 six hours until your end of the shift.

16 And I know, I've done it before, being  
17 management, it's hard. When you work a 12-, 14-hour  
18 day, and you're trying to just stay on top of  
19 everything, it's a hard thing to do is just go through.

20 So I just ask you that you include us, as  
21 construction workers, I mean, we're people too.  
22 It's sad that we're here at this point,  
23 having to ask to be included in basic human rights.  
24 But if you would, it would change hundreds of thousands  
25 of people's lives. That's all I have to say. (End

1 time 5:10 p.m.)

2 SCOTT MOSS: Thank you. Anybody else from  
3 the carpenters who wants to speak? Just to try  
4 to get a transcript that will all flow together.  
5 And you can later if you want to volunteer. Otherwise,  
6 David.

7 DAVID SELIGMAN: (Start time 5:10 p.m.) Hi.  
8 I'm David Seligman, S-e-l-i-g-m-a-n. I'm the director  
9 at Towards Justice. So first, I want to thank the  
10 agency. I want to thank the Polis Administration for  
11 engaging so thoughtfully in this process.

12 This is something that Towards Justice is  
13 really excited about and very interested to continue  
14 working to improve this wage order and bring it where  
15 it ought to be in 2019.

16 I also want to thank everyone who's come  
17 out today to testify. Some really powerful personal  
18 experiences that speak for themselves.

19 And my comments are also to compliment  
20 Towards Justice's written comments. But there are a  
21 few things that I wanted to flag, and in particular,  
22 some odds and ends, and I'd also be happy to answer any  
23 questions.

24 One is, with respect to the 2.5 times the  
25 minimum wage number, which is the number that Towards

1 Justice and many others have advocated for as  
2 the minimum salary threshold, we are  
3 confident that this is the right  
4 number, the appropriate number, and that the agency  
5 shouldn't compromise off of it.

6 As our comments identify, the Obama  
7 DOL minimum salary threshold was set at what was  
8 intended to be across the country the  
9 40th percentile of earnings. That same methodology  
10 when applied to Colorado gets you to about two and a  
11 half times our minimum wage.

12 It's also consistent with historical levels,  
13 historical levels for the minimum salary threshold,  
14 which had been in the 1970s three times the minimum  
15 wage.

16 I noticed in only one or two comments that  
17 you received, there was some concern raised by folks  
18 that about differences between whatever the  
19 minimum salary threshold would be in Colorado, versus  
20 what may or may not come out of the Trump  
21 Administration. I think that this concern is vastly  
22 overstated.

23 To the extent that there is any real  
24 meaningful conflict that would actually cause  
25 confusion for business, it doesn't have to do with

1 the minimum salary threshold, which is very easy  
2 to apply. It's in the differences in the duties  
3 Colorado law test across and between the wage order  
4 and the Fair Labor Standards Act.

5 I'm not suggesting a change in Colorado's  
6 duties test. But what I am saying is that Towards  
7 Justice is adamant that, to the extent that there  
8 is any compromise to be made here, it is surrounding  
9 that duties test and not the minimum salary threshold  
10 of 2.5 times the minimum. I'm happy to answer  
11 questions about that.

12 With respect to the economic impact of  
13 the 2.5 times minimum, I also would urge the agency  
14 to review comments submitted today from Heidi  
15 Shierholz. Heidi Shierholz was the chief economist  
16 at the United States Department of Labor under President  
17 Obama.

18 She reiterates about many of her findings,  
19 and findings of others in the Obama Administration,  
20 that increasing the salary threshold to around that  
21 40th percentile of earnings figure, that that would  
22 not result in any wage loss, or any job loss, and,  
23 in fact, would increase employment.

24 Goldman Sachs estimated that with the  
25 Obama salary threshold that, if that had been

1 implemented, it would create 125,000 across the  
2 country.

3 Ms. Shierholz applies that same analysis to  
4 the proposal in Colorado. She submitted those comments  
5 via email. I'm not sure if that's the appropriate  
6 method to submit them today. So --

7 SCOTT MOSS: It is.

8 DAVID SELIGMAN: -- I'd like to submit them,  
9 if that works. Okay.

10 SCOTT MOSS: She emailed them today?

11 DAVID SELIGMAN: She emailed them today.

12 SCOTT MOSS: They'll be in the record.

13 DAVID SELIGMAN: Okay. Great.

14 SCOTT MOSS: Do you know how to spell her  
15 last name?

16 DAVID SELIGMAN: I believe so. S-h -- let me  
17 make sure I get it right.

18 SCOTT MOSS: H-e-i-d-i, S-c-h-i-e-r-h-o-l-z.  
19 I just Googled the name.

20 DAVID SELIGMAN: That's right. That sounds  
21 right to me. I'd also like to talk a little bit  
22 about some coverage issues, but happy to answer any  
23 questions on Section 5 and the minimum salary  
24 threshold.

25 With respect to coverage issues, a group of  
26

1 workers we haven't discussed much today -- we've heard  
2

1

2 some fantastic comments from farm workers, but a group  
3 of workers we haven't heard much about today are  
4 herders, who are up on the open range and are exempt  
5 from the Fair Labor Standards Act, and therefore exempt  
6 from federal minimum wage, and exempt entirely from all  
7 protections of Colorado wage and hour law.

8           They are among the lowest-paid workers in our  
9 economy. Until a couple of years ago, they were paid  
10 \$2 to \$3 an hour to work in some cases 24 hours a day.  
11 Many of them are from across the world. The ones I've  
12 worked with and litigated on behalf of very often don't  
13 even know what state they're in, whether -- other than  
14 they know that, you know, they're somewhere in the  
15 United States.

16           They are incredibly isolated and underpaid.  
17 Other states like California and Oregon have done the  
18 analysis and determined that some very basic  
19 protections for these workers are absolutely necessary.  
20 It would seem to me to be mandated by Title 8 that this  
21 agency consider protections for herders.

22           I'm happy to answer any questions about them.  
23 I know that the Division received  
24 comments from the Hispanic Affairs Project who,  
25 unfortunately, couldn't be here to testify today.

1           And then, finally, I think that I am  
2 energized by the outpouring of enthusiasm and really  
3 compelling stories from so many workers here to talk  
4 about meal and rest breaks.

5           This is a critical protection that so many of  
6 us take for granted, but many of the workers that I  
7 represent struggle with day in and day out. And this  
8 would really be essential to their  
9 health and welfare and basic, you know,  
10 very basic workplace standards.

11           I do think that something we need to  
12 consider is, once these protections go into place, is  
13 how they would be enforced. And I am encouraged by  
14 this agency's interest in enforcement and more -- in  
15 doing more direct enforcement, in particular in cases  
16 where workers may be fearful of coming forward.

17           But we also know that there is this looming  
18 issue about whether meal and rest breaks are --  
19 whether there is a worker has lost  
20 wages when he or she has been denied a 10-minute rest  
21 break.

22           I think that issue is a  
23 straightforward one. I think it's one that -- you  
24 know, it's one that courts who have looked at the issue  
25 have decided in favor of workers and have determined

1 that a missed 10-minute rest break is what  
2 that effectively means is that that 10-minute rest  
3 break goes onto the end of your day, and you've worked  
4 an extra 10 minutes that you weren't paid for, that's  
5 the correct analysis.

6 To ensure that there is no more confusion  
7 about that issue, I think that the agency should codify  
8 it in its wage order. I think that step would complement  
9 all of the efforts that the agency will go to to ensure  
10 that rest and meal breaks are extended, as consistent  
11 with the agency's mandated Title 8.

12 SCOTT MOSS: Thank you. Couple of questions.  
13 You mentioned that, if necessary, you'd submit Heidi  
14 Shierholz's comment, and we are accepting her comment  
15 as emailed, but would Towards Justice join those  
16 comments, are you saying?

17 DAVID SELIGMAN: Towards Justice would join the  
18 comments, yes.

19 SCOTT MOSS: And you made reference to the  
20 Hispanic Affairs Project's comments by Andrew Turner.

21 DAVID SELIGMAN: Yes.

22 SCOTT MOSS: It sounded like you were saying  
23 you agreed. You'd join those, or -

24 DAVID SELIGMAN: We'd join in those comments

25

1 and happy also to answer any questions on them.

2 SCOTT MOSS: Sure. And last question about  
3 Towards Justice, does Towards Justice have employees  
4 itself?

5 DAVID SELIGMAN: Yes.

6 SCOTT MOSS: And are some of them exempt  
7 employees?

8 DAVID SELIGMAN: Some are exempt.

9 SCOTT MOSS: So Towards Justice would  
10 agree to be subjected to the salary basis that  
11 it's proposing?

12 DAVID SELIGMAN: Absolutely. And, you  
13 know, let me say, we have employees who are  
14 salaried who make less than the proposed salary  
15 threshold, and we treat them as nonexempt.

16 And, you know, I appreciate that  
17 treating salaried professionals as nonexempt  
18 creates certain challenges for management. It  
19 means you have to work with those employees and --  
20 in a hands-on way to manage work flows and to  
21 understand, you know, how much workload will  
22 likely pile up in a week.

23 And I understand that that's not  
24 something that many employers are used to doing.  
25 I also just think it makes you a better employer,

26

1 right? We gotta be more careful about how we use  
2 our employees' time, because we're not in a  
3 position where we say, look, this salaried worker  
4 can be forced to work however many hours we want  
5 without any consequence. That's just not how it  
6 works.

7           And so, you know, we're careful in thinking  
8 through, for not for our salaried professionals who  
9 are making less than the proposed salary threshold,  
10 we're careful in thinking through what their  
11 workload will look like in a given week, and in  
12 some weeks, that means that we understand that  
13 we'll be paying them overtime. But in other weeks, it  
14 means that we send them home and maybe reshuffle their  
15 work, or in some cases, it also means that we  
16 have a more accurate assessment of our need to, for  
17 example, hire other lawyers because we can't do all the  
18 work with just them.

19           SCOTT MOSS: Thank you.

20           DAVID SELIGMAN: Thank you. (End time  
21 5:21 p.m.)

22           SCOTT MOSS: Who else would like to speak?  
23 Yes, sir.

24           DOUG CLARK: (Start time 5:21 p.m.) My name  
25 is Doug Clark. I run the carpenters

26

1 apprenticeship with 4290 Holly Street. I've been a  
2 carpenter for, gosh, almost 30 years. Thirty years.

3 And, Caroline, I thought I was the one that  
4 built DIA. So maybe we were out there at the same  
5 time.

6 So, again, just on that -- and we do  
7 appreciate your time. I want you guys to  
8 know that.

9 A couple of things. I don't know if you know  
10 this. Do you know why we call each other brothers and  
11 sisters?

12 SCOTT MOSS: Go ahead.

13 DOUG CLARK: So why we do that is because  
14 what's good for your family's good for our family. And  
15 one of the things that would be good for our family is  
16 a little microbreak.

17 Okay? If you go into OSHA -- and we talked  
18 about this a little bit -- there's four parts to OSHA  
19 that you get hurt by the most. You get struck, you  
20 get caught in between, falls, and electrocutions.  
21 Right? Those are the big four.

22 And that little 15-minute break, that little  
23 coffee break, or if you're out in the blazing sun all  
24 day, and when we were out at DIA, I mean, there's no  
25 trees. There's nothing to sit by.

1           I mean, you're out in that sun all day, and  
2 that little 15 minutes, where you can kind of refresh,  
3 get a Gatorade -- you know, and you look at NFL  
4 players, that's like, Oh, these poor bastards, but  
5 they're playing a game, but they still get a halftime.  
6 We don't get the halftime. We don't  
7 get that break in between.

8           We're doing eight hours. Or we go  
9 until lunch, and then we go after lunch, however long  
10 that is. And all we're asking is, just give us a  
11 break. That's all we're asking for. So  
12 nothing huge, nothing tough. So . . .

13           I'm a proud member of Local 555  
14 also. So . . .

15           SCOTT MOSS: Thank you.

16           DOUG CLARK: You bet. (End time 5:23 p.m.)

17           SCOTT MOSS: Who else? Yes, sir.

18           SAMUEL LOPEZ: Okay.

19           SCOTT MOSS: By the way, I am typing what you  
20 all are saying. I'm not just checking sports scores or  
21 social media. In case you were wondering.

22           OTHER SPEAKER: Can you check the score for  
23 tonight and let us know what it is?

24           SAMUEL LOPEZ: My name is Samuel Lopez,  
25 L-o-p-e-z. And I'm a member of the Local 555. I

1 started working in the construction industry since I  
2 was 17 years old. I'm 34 years old now. I've been on  
3 both sides of the aisle, not on the union and on the  
4 union.

5 And I experienced for myself being  
6 taken advantage of. And I was taken advantage of,  
7 especially at the beginning of my career, that no  
8 breaks, long hours, no overtime.

9 I would like you guys to consider including  
10 the construction industry into this because it  
11 amazes me that it takes a brotherhood, a union, to  
12 watch out for your back and for your best interests  
13 than the government, who should be putting in those  
14 laws so you can be protected by them.

15 It's amazing. That's why, when I went into  
16 the union, it was surprising that  
17 they were actually watching out for me, and now that,  
18 realizing that even, like, the normal things, that you  
19 realize that there is something that  
20 it mandates or like this minimum wage or taking breaks,  
21 that it was actually something that is not even  
22 included on a construction industry, to be included on  
23 such a thing like this, that it should be mandated on  
24 the construction industry.

25 You should get paid, especially in this

1 industry because it's a tough job.  
2 It is a really rough job. And it is not easy. And I  
3 remember waking up at 6:00 in the morning when I  
4 started on the construction industry and the drywall  
5 and getting paid by the day, getting off, was, like,  
6 8:00 p.m. at night. The guys would bring  
7 lights, and, you know, getting paid only, like, \$80 a  
8 day. It was ridiculous. And --

9 SCOTT MOSS: How much per day?

10 SAMUEL LOPEZ: What's that?

11 SCOTT MOSS: How much per day?

12 SAMUEL LOPEZ: \$80 a day. And it was,  
13 you know, there was nobody a guy can speak to  
14 'cause I had just started out in the industry, and I  
15 was an apprentice. And it's amazing how the  
16 union even takes care of their  
17 apprentices, and they watch out for all the stuff.

18 And this should be mandated for in the  
19 industry, that we should be included in this type of  
20 Minimum Wage Order. That's pretty much what I ask.

21 SCOTT MOSS: Thanks. What years was it you  
22 were paid 80 a day, roughly?

23 SAMUEL LOPEZ: That, I was 16, 17 years old.  
24 I would say it was, like, 2000 -- I don't know. Do  
25 the math.

1 SCOTT MOSS: Early 2000s?

2 SAMUEL LOPEZ: Yeah.

3 SCOTT MOSS: And no overtime?

4 SAMUEL LOPEZ: No overtime.

5 SCOTT MOSS: And do you know if that was  
6 above or below the minimum at the time?

7 SAMUEL LOPEZ: I actually didn't even do the  
8 math because, you know, it was times  
9 they let you leave early, and it was not nothing still.  
10 It was, you know, work and cash paid, all that.

11 It was, like, you know, I was young. And I  
12 didn't know any better. And it was just, you know,  
13 I needed the work. So it was, you just got  
14 to take whatever they give you. And it was  
15 rough. It was. And I tell you that right now, that  
16 even, how it is, there's a lot of people like that.

17 SCOTT MOSS: And do you know whether the jobs  
18 you worked, if any of them are covered within the  
19 commercial support services category of the wage order?

20 SAMUEL LOPEZ: No. I would not know that.  
21 (End time 5:27 p.m.)

22 SCOTT MOSS: Okay. Show of hands: How many  
23 of you feel like you have a very good sense of whether  
24 the work you've done is covered by the commercial  
25 support services category?

26

1 (No hands.)

2 SCOTT MOSS: Nobody raised their hands.

3 Thank you.

4 Who else would like to speak? Come on down,  
5 and then, sir, you can go next.

6 KELLY REEVES: (Start time 5:28 p.m.) Okay.  
7 My name is Kelly Reeves. And I'm here representing  
8 myself.

9 THE REPORTER: Could you spell your name for  
10 me, please.

11 KELLY REEVES: K-e-l-l-y, R-e-e-v-e-s.  
12 First, I want to say thank you for convening this event  
13 and giving us a chance to share our opinions. Much of  
14 what I have to say has likely already been said by  
15 people smarter than me, so I'll keep it short and  
16 sweet.

17 SCOTT MOSS: Well, there's an old saying,  
18 that everything's been said, but not everybody's said it.  
19 So go right ahead.

20 KELLY REEVES: With the exception of my time  
21 in the Peace Corps and now three whole days in law  
22 school, I have worked my entire adult life in the  
23 nonprofit sector. I have so much love for nonprofits  
24 of Colorado and in no way want to discredit or minimize  
25 the critical work that they do. Instead, I am here

26

1 because I want to see nonprofits thrive.

2 I worked in refugee resettlement briefly as a  
3 salaried employee at \$30,000 and then as an hourly  
4 employee at about \$15 per hour. Like most nonprofit  
5 workers, I had several roles within the organization.

6 At any given moment, I had three to five  
7 directors assigning me tasks. As you can imagine, some  
8 weeks, the work really piled up.

9 When the Obama Administration raised the  
10 minimum salary, the organization I worked for moved us  
11 salaried employees to hourly employees. For the first  
12 time, my bosses knew how many hours I worked and could  
13 agree that, at times, my workload was absurd.

14 It also meant -- it also forced the agency to  
15 become less siloed and more integrated. We became more  
16 efficient and focused. Our team began to view staff  
17 time as a critically important resource that should be  
18 used in the most sustainable ways.

19 We began to teach more and do less. We  
20 relied on best practices. We focused from all things  
21 immigration and refugee to a more critically narrow  
22 understanding of our unique positionality to accomplish  
23 our goal.

24 As a sector, nonprofits should recognize that  
25 if our business models rely on unpaid labor, they are

1 not sustainable. Nor are they just. Nonprofits build  
2 equity and justice every single day. We need to take  
3 the same enthusiasm and love and put it into our  
4 industry.

5 Nonprofit work is not easy. We are often the  
6 people our clients call on their absolute worst days.  
7 In resettlement, I did things like respond to domestic  
8 situation, address issues of discrimination --

9 THE REPORTER: Please slow down. Thank you.

10 KELLY REEVES: Sorry. And ensure children  
11 felt safe and happy in their new schools. These are  
12 not easy situations to navigate, and we have words for  
13 what happens when you are surrounded by other people's  
14 pain. The first is vicarious trauma. The American  
15 Counseling Association defines this as "the emotional  
16 residue of exposure that counselors have from working  
17 with people as they are hearing their trauma stories  
18 and become witnesses to the pain, fear, and terror that  
19 trauma survivors have endured."

20 Whether nonprofit workers are counselors or  
21 not, hearing people's trauma impacts us. We take  
22 on a small piece of what our clients go through,  
23 and that pain becomes ours.

24 The other term we need to talk about is  
25 burnout. This hurts our own well-being. The work we

1 do, our families, communities, virtually every aspect  
2 of our lives.

3           Limiting this work to 40 hours gives  
4 nonprofit workers the time and space to recover from  
5 trauma we incur through this work so that we can  
6 proceed and heal.

7           Our industry builds justice in the world.  
8 Why are we not starting with our own workers? I think  
9 we can all agree that unpaid work is not just. Forcing  
10 workers to live at margins is not just.

11           When I made \$30,000 and worked 60-hour weeks,  
12 I made below minimum wage. I lived paycheck to  
13 paycheck. Small, unanticipated expenses like a doctor,  
14 dentist visit, a small car repair, et cetera, could be  
15 catastrophic events for me. By catastrophic, I mean  
16 that one large unexpected expense could mean becoming  
17 homeless, which sounds dramatic but is reality.

18           Another outcome of this unsustainable  
19 business model is that it requires a degree of  
20 privilege to work in the industry. Without a spouse,  
21 parent, sibling, child, community to act as a safety  
22 net, there's no way to stay in the industry. That is  
23 part of why I am leaving it.

24           This means that some of the most qualified  
25 candidates with great community connections and vital

1 experience will never be able to do the work. The  
2 industry is filled with brilliant, passionate people  
3 who can make these changes to support workers and  
4 strive to build equity in Colorado.

5 To this end, I recommend implementing a  
6 statewide minimum salary of \$75,000, or about three  
7 times the minimum wage. I also recommend getting rid  
8 of the coverage category so that all workers are  
9 covered and less specifically exempted.

10 I also hope that you will exercise extreme  
11 caution while make these exemptions. We're really  
12 talking about minimum standards, and most workers  
13 deserve at least those protections.

14 Finally, as the daughter of two brilliant  
15 high school teachers, it is about time teachers be  
16 included in some of these standards. I recognize your  
17 limited ability to impact, to protect public  
18 school teachers. But we need to start to turn up the  
19 volume on that conversation.

20 I have watched for nearly 30 years as my  
21 parents spent 12-plus hours a day in service to their  
22 school and students without any hope of additional pay.  
23 It's time we stopped using people's desire to make the  
24 world better as a reason not to pay them.

25 Again, thank you for your time and listening

26

1 to my thoughts. (End time 5:33 p.m.)

2 SCOTT MOSS: Thank you. Before the next  
3 comment there, I just wanted to ask -- we haven't yet  
4 heard anyone argue against the salary basis, or against  
5 expanding coverage.

6 Just to make sure we're giving adequate time,  
7 is anybody here to speak against adopting a salary  
8 basis as a minimum for overtime exemption, or here to  
9 speak expanding coverage? Please raise your hand.

10 (No hands.)

11 SCOTT MOSS: Nobody raised their hand. Thank  
12 you. Who was next?

13 LUIS GUIGON: (Start time 5:34 p.m.) Good  
14 afternoon. My name is Luis Guigon.

15 SCOTT MOSS: Can you spell that last name,  
16 please.

17 LUIS GUIGON: G-u-i-g-o-n. I'm 33 years old.  
18 I live in district -- Denver District Number 11. I've  
19 got two kids that go to public school, Denver Public  
20 Schools. Why am I telling you this? 'Cause I just  
21 wanna let you know that I'm an ordinary guy, you know?

22 My wife works for Denver Public Schools  
23 District. But I consider myself  
24 blessed. Why blessed? Because nine years ago, when I  
25 was looking for a job, I found a company -- a

1 construction company that's willing to invest in me.

2 That I knew, if a  
3 worker gets enough breaks, you know, a company that  
4 knows I -- you know, before I start working, I need to  
5 stretch, you know? And before I go back to work after  
6 lunch, I need to stretch.

7 You know, some of our members, we do stretch,  
8 you know, three times. All our members know  
9 that, you know, after so many hours, you need to take a  
10 break. If you don't, that's when accidents happen and  
11 stuff like that.

12 And right now, I'm in a position that I'm an  
13 instructor for the Southwest Trust Fund. So my job is  
14 to train the new generation of carpenters and just, you  
15 know, teach them all these things that I just told you  
16 and more.

17 You know, a lot of our classes are training,  
18 training, training. Our companies believe that, you  
19 know, investing in the workers, you know, it's going  
20 to, you know, create profit. Unfortunately, there's a  
21 lot of companies out there that they don't have the  
22 same mentality. It's all about the money.

23 You can ask all the people in here and ask  
24 them how many of them had to actually pay for their  
25 vest and their hard hat. You know,

1       our companies are responsible for all  
2       these stuff.

3               The other companies are not responsible for  
4       anything. You know, all they care is the money, all  
5       they care is how fast can you get the job done. And  
6       that's when the accidents happen.

7               You know, I've been in this industry for  
8       enough time that I talk to a lot of people that they  
9       get hurt on the projects, and they just have to keep  
10      working, you know, because there's no insurance,  
11      there's nothing.

12              And a lot of these accidents  
13      happen because they had to work -- you know, the more  
14      they work, or the more material that they get up, you  
15      know, the more money they get. So they need to hurry  
16      up. They start cutting corners. Safety goes down the  
17      window.

18              And then, like, once again, that's when  
19      accidents happen. That's why I would like to, you  
20      know, let everybody know that the carpenters, we're  
21      part of the community. You know, we live in this  
22      community. We work in this community. And we're the  
23      ones making it -- building all these new projects and  
24      stuff.

25              Unfortunately, there's a lot of workers out  
26

1       there that their companies are not  
2       treating them the same way that my company has  
3       treated me for the last couple of years. Thank you.  
4       (End time 5:37 p.m.)

5               SCOTT MOSS: Thank you. Who else is here to  
6       speak? Any takers? Anyone want to follow up? I'm  
7       going to be here til 7:00 if you have more to say, if  
8       you already spoke. Oh, yes. Come on down.

9               RICARDO CERECERES: Since you put it that  
10      way.

11              SCOTT MOSS: Absolutely.

12              RICARDO CERECERES: (Start time 5:37 p.m.)  
13      Good afternoon. My name is Ricardo Cereceres.

14              SCOTT MOSS: Can you spell that please,  
15      Ricardo.

16              RICARDO CERECERES: C-e-r-e-c-e-r-e-s.  
17      Twenty years ago, I started working at construction.  
18      As you can see, my brothers. We grown up guys, you  
19      know. Twenty years ago, when I started working at  
20      construction, I can work four, five hours without  
21      taking a break. That's what they require to us, you  
22      know? We don't take breaks. We got one, 20 minutes  
23      long each time, and keep working.

24              Right now, we're getting old. We're getting sick.  
25      (Inaudible) whatever, just in case. We can not have the

26

1 same production or the same ability as we did when we  
2 were young.

3           So I think construction workers, they deserve  
4 the same right to have a break, you know? As we're  
5 getting tired. More tired. And I know there's a lot  
6 of brothers still working without breaks. All brothers  
7 can barely make the day, you know, without -- again,  
8 without taking breaks.

9           And I don't think that's  
10 fair to them or to us to work this many hours  
11 without have some, you know, rest, you know, drink  
12 water, whatever is the case. Just to make our food to  
13 food truck tables. That's pretty much it.

14           SCOTT MOSS: Thank you. Let me ask you, how  
15 long were the days when they were no breaks? How many  
16 hours?

17           RICARDO CERECERES: We used to work 10 hours  
18 a day, 11 hours a day. All depends. I used  
19 to work piecework. They pay me for what I do, you  
20 know. If I don't do production, I don't get that money  
21 to provide food to my table.

22           SCOTT MOSS: What sort of work was piecework?

23           RICARDO CERECERES: What's that?

24           SCOTT MOSS: What sort of work did you do for  
25 piecework?

1           RICARDO CERECERES: Drywall. I did drywall.

2           SCOTT MOSS: And what was the piecework? Was  
3 it per wall? Per unit? Or what was it?

4           RICARDO CERECERES: It was per unit. For a  
5 piece. For a square foot.

6           SCOTT MOSS: Per square foot.

7           RICARDO CERECERES: Yes.

8           SCOTT MOSS: You remember about what you were  
9 paid per?

10          RICARDO CERECERES: No. I remember by sheet,  
11 it was \$4.50, \$4.

12          SCOTT MOSS: And do you know if it worked out  
13 to be above or below the minimum wage?

14          RICARDO CERECERES: I don't know. I just  
15 want to work and make money, you know? I don't know  
16 anything about laws on that.

17          SCOTT MOSS: And you mentioned that, as you  
18 get older, it can be harder to work without the breaks.  
19 Is that what you were saying?

20          RICARDO CERECERES: Yes, essentially, before,  
21 when we were young, you can work eight -- you know,  
22 four, six hours without a break, you know? But right  
23 now, it's not possible. And still a lot of people out  
24 there that's my age working these hours without breaks  
25 on the construction.

1           SCOTT MOSS: And since you brought up age, I  
2 wouldn't normally ask, but do you mind if I ask how old  
3 are you?

4           RICARDO CERECERES: I'm 45.

5           SCOTT MOSS: And about what age was it  
6 starting to get harder to work without the breaks,  
7 with long days?

8           RICARDO CERECERES: Say 30 years old. 35.  
9 You know, getting tired.

10          SCOTT MOSS: And have you seen folks who'd  
11 like to stay working but can't because they work  
12 without breaks and long days?

13          RICARDO CERECERES: Nobody likes to, but we have  
14 to. As I say, we need to provide food to our tables.  
15 So that's why we do it. So not because we like it. It's  
16 we have to.

17          SCOTT MOSS: Thank you.

18          RICARDO CERECERES: At that time. Right now,  
19 we are in the brotherhood. We've got protection. But,  
20 yeah. A lot of people still out there doesn't have the  
21 same rights.

22          SCOTT MOSS: Thank you.

23          RICARDO CERECERES: Thank you. (End time  
24 5:42 p.m.)

25          SCOTT MOSS: You being here, it reminds  
26

1 me of the line from the comedian, which is, if  
2 you're dissatisfied with how you look and how  
3 you feel, good news. Look in the mirror. You'll  
4 never feel this good again.

5           So I will add that if anybody -- I want to  
6 follow up on Ricardo's comments. If anybody knows  
7 anybody, or had the experience themselves of being,  
8 less able to stay on the job and keep working as you  
9 get older, due to long days or lack of breaks, please  
10 come up.

11           I want to hear if that's been a problem other  
12 people have seen, that folks who could stay in  
13 construction, have to leave construction as they get  
14 older, doing longer days without breaks. Thank you.  
15 You can go ahead, sir.

16           MIKE MOBLEY: (Start time 5:43 p.m.) Thank  
17 you. My name is Mike Mobley, M-o-b-l-e-y. I was born  
18 in Denver, Colorado, at Rose Medical Center. I grew up  
19 in Denver. I got married in Denver. I raised four  
20 boys in Denver. Well, in Colorado. Let's not go  
21 Denver. Colorado.

22           Paid taxes all my life. I have worked union  
23 all my life. Everyone in here has the protections that  
24 we're asking for. What I'm asking you guys is to force  
25 the other nonunion construction companies to abide by

1 the same rules so that we can make a decent living and  
2 so that our companies can compete against those  
3 companies.

4 My wife didn't work. I raised four boys on  
5 my salary. I'm very proud of all of them. I own my  
6 home. Not me and the bank. Just me, and I've done  
7 that because of the union. Again, I'm just asking you  
8 to level the playing field so that we can compete  
9 against the other construction companies. Thank you.

10 (End time 5:44 p.m.)

11 SCOTT MOSS: Thank you.

12 RENEE GENOVESE: (Start time 5:44 p.m.)

13 Hello. My name is Renee Genovese, G-e-n-o-v-e-s-e.  
14 Renee. I agree with everything that all of my brothers  
15 and sisters have said in here.

16 I've been a carpenter in Denver, Colorado,  
17 for 22 years. And a lot of what we're saying is what  
18 we would like to happen for the industry, for the  
19 people that are nonunion as well, but a little bit  
20 about what we endure through the day.

21 I do work out in the hot sun. I do carry  
22 heavy materials, that being sheets of plywood, drywall,  
23 bags of concrete, in the hot sun, for hours and hours.  
24 And I've worked side by side with nonunion workers for  
25 years.

1           What I see them go through, what they tell  
2 me, and they look at us, and they're envious of the  
3 union workers, and they want to know how to get what we  
4 have and how to be treated with respect and dignity  
5 like we are.

6           And some of the weeks that I've worked, the  
7 longest week I've ever put in was 101 hours and a half  
8 in one week. And the schedules are getting shorter and  
9 shorter and tighter and tighter, and we're working more  
10 closely with the other trades, like the electricians  
11 and the plumbers and the carpenters, everybody on top  
12 of each other in the same room to meet the demands of  
13 the schedule.

14           Oftentimes, you know, we're building places  
15 and buildings and companies and businesses for  
16 workers that are included in this. They get what the  
17 construction industry doesn't get. And why are they  
18 any better than us, when we're there to provide them  
19 with something that they can't do? And that's to build  
20 the building from the ground up.

21           I don't know if you can compare it  
22 to, you know, somebody who's not in construction, going  
23 out on a hike, and how hot it is and how hard it is to  
24 be in the sun, but when you're out there, and there's  
25 no shade, and sometimes no breeze, and it's a hundred  
26

1 degrees, you're trying everything just to -- you know,  
2 if you're going from one end of the job to the other,  
3 you'll go the long route just to go through shade if  
4 you need to, anything to keep the sun off of you.

5 I myself will wear a Camelback with water in  
6 it because you simply don't have the means to carry a  
7 bottle of water or have it with you. And it's  
8 really hard.

9 We spend more time with our working brothers  
10 and sisters than we do our own families. So I just  
11 wanted to say that piece of the hours and the things  
12 that we put our bodies through, and it's repetitive  
13 motion, and it's over and over and over. And it's not  
14 easy. It's not easy at all.

15 And I don't see how anyone could think that  
16 we are less deserving than anyone else. To exclude  
17 somebody from this is nothing short of a discrimination  
18 and to take advantage of somebody. And it's  
19 simply not right.

20 EVAN GRIME: Quick question, please. You  
21 said you worked 101 and a half hours.

22 RENEE GENOVESE: That was last month.

23 EVAN GRIMES: Wow. Are you seeing similar  
24 hours worked by nonunion employees?

25 RENEE GENOVESE: Yes. The companies that are

1 the nonunion on my project, they work at another  
2 project all day for eight to ten hours, and then I'm on  
3 night shift right now, so they come to our job to work  
4 nights. And they tell us that they don't even get  
5 overtime at all. At all.

6 They aren't even considered, in my  
7 book, valuable by their employer. I'm very fortunate  
8 to work for a responsible contractor. And I feel for  
9 these people. It is horrible to watch and hear and  
10 listen to. It's not fair. (End time 5:48 p.m.)

11 EVAN GRIMES: Thank you.

12 SCOTT MOSS: Thank you.

13 CAROLINE HENKINS: I'd like to speak one more  
14 time. (Start time 5:49 p.m.) I'm Caroline Henkins,  
15 again. I just want to reiterate what my sister --  
16 sister Genovese said. The last two years, I've been  
17 building the schools in Boulder, rebuilding them. And  
18 I worked 103 hours. That's my record for one week.

19 I was averaging 90 hours a week down there,  
20 working side-by-side with nonunion hands. We were  
21 getting paid overtime and getting breaks, and they  
22 weren't. And I've went side-by-side with them.

23 I came from a nonunion job, and I lived that  
24 for 18 years in Texas until I moved to Colorado. And  
25 what I've seen, when I started the trades in 1980, this

1 is all -- I'm 57 years old. And it's  
2 hard to keep the pace.

3 I'm lucky to have a body where I'm --  
4 physically, I can still do it. But I see it more and  
5 more often than I would like to see the older people  
6 getting disrespected. And thank God I'm a carpenter  
7 foreman working for a responsible contractor now, only  
8 because I moved to Colorado.

9 And it's just so unfair. And it's just  
10 heartbreaking what I've seen in my 40-year career.  
11 Thank you.

12 SCOTT MOSS: Thank you. One follow-up:  
13 The 90-hour weeks, you were seeing the nonunion folks  
14 working those weeks too?

15 CAROLINE HENKINS: Oh, yeah. They were  
16 side-by-side. All different nonunion contractors. We  
17 basically have four months to do a year's worth of  
18 work. We have to open the schools.

19 The kids get out in the summer, and we hit  
20 the ground running, boots on the ground. And there's  
21 no option for failure down there. Open up the schools  
22 no matter what.

23 So I work side-by-side with my sister, Renee,  
24 and my record's 103 hours just last summer. And I just  
25 came off of two months without a day off. (End time

1 5:50 p.m.)

2 EVAN GRIMES: Can I see a show of hands, who  
3 in here has worked more than 60 hours in a week? What  
4 about 70? 80? 90? We still got -- one, two, three,  
5 four, five, six, seven, eight, nine -- nine or ten  
6 folks.

7 And then what about a show of hands --

8 SCOTT MOSS: So let the record show it was  
9 virtually 100 percent for 60 hours, a majority for  
10 70 hours -- and 80?

11 EVAN GRIMES: I think this is 90, right?

12 SCOTT MOSS: Let's start again. 60 hours?  
13 Almost everybody. 70 hours? At least three-quarters.  
14 80 hours? Majority. 90 hours? About a third, a  
15 quarter. 100 hours? About a fifth. Thank you.

16 Who else would like to speak? This was the  
17 old-school form of Survey Monkey that Evan just did  
18 here, where we take a poll.

19 Can anybody speak to -- just to follow up the  
20 point -- does anybody know anybody who's had to stop  
21 working construction due to age who would have liked  
22 to? Yeah. Could you speak again, Caroline? Could you  
23 elaborate on that? Do you know folks who've had to  
24 stop working construction due to age, even though they  
25 wanted to work?

26

1 CAROLINE HENKINS: (Start time 5:52 p.m.)

2 Oh, absolutely.

3 SCOTT MOSS: And about what age are we  
4 talking that folks had to stop working because of age?

5 CAROLINE HENKINS: 60 and above.

6 SCOTT MOSS: Okay.

7 CAROLINE HENKINS: Mostly in the early 60s  
8 when everybody -- I mean, I'm 57. And so the industry  
9 is pushing harder and harder, and the people that are  
10 getting older and older, if you can't keep up with the  
11 younger generation -- but thank God, you know, I was  
12 trained well, and I know all the tricks, and  
13 I'm able to stay up with 'em, but I don't how much  
14 longer that's going to last.

15 And I've got till 65, and I've been doing  
16 this since I was 18. I had 40 years this year. Almost  
17 40 years. So, yeah, I'm thinking, how much longer can  
18 I keep the pace and keep my job until I can get Social  
19 Security, if it's still there.

20 SCOTT MOSS: You mentioned the 90-hour  
21 weeks that you were working, and I know you have not  
22 had days off for a two-month stretch. What are the  
23 typical hours that folks have to work into their  
24 50s or early 60s?

25 CAROLINE HENKINS: I'm going to say typical

26

1 hours is 60 hours a week for the carpenters because we  
2 are a support craft. We have to put the structure up.  
3 We'll do a lot more than the electrician unions and the  
4 plumbers unions because we're a support craft.

5 We have to literally get these buildings up  
6 down here. I've built many high rises downtown here.  
7 And we have to get the structure up so everybody else  
8 can get in and get everything done, whether it's a  
9 power plant, whether it's a high rise, or plumb all the  
10 bridges on the T-Rex (sic).

11 I built all the bridges for the Light Rail  
12 when it first came. So we would be out on them bridges  
13 till my hard hat was froze to the back of my head. No  
14 breaks. No breaks on the bridges.

15 There was no breaks for us. And we could go  
16 16 hours a day. I might go eight or nine hours without  
17 something to eat, unless I put something in my tool  
18 bag. I was literally out there building the bridges.

19 And it just seems to be getting further and  
20 further away from what we need to do in Colorado. I  
21 think we're better than this in Denver, Colorado.

22 SCOTT MOSS: Were you saying something like  
23 eight or nine hours without a break?

24 CAROLINE HENKINS: Yep. And without food to  
25 eat.

26

1           SCOTT MOSS: And the folks who have had to  
2 stop working construction due to age, do you know  
3 whether any indicated they might have kept working if  
4 the hours were lighter?

5           CAROLINE HENKINS: Yeah. I mean, of course  
6 they would have. If they would have had  
7 lighter hours -- I mean, they can't keep the  
8 pace with those hours. The average person can't do it  
9 at that age.

10           I'm fortunate 'cause I'm in good physical  
11 shape and health, but the average person can't do it.  
12 The schedules are too tight. And  
13 it's just reality.

14           And they just make up a reason to lay them  
15 off. So all they've done for the 40 or 50 years they  
16 worked was to get laid off and just thrown to the side.  
17 That's what I've seen.

18           SCOTT MOSS: Just to follow up. We've heard  
19 about catastrophic injuries, even deaths. But are  
20 there injuries that either you, or others you've seen as  
21 you get older, are common -- injuries you either work  
22 through or can't work for a time?

23           CAROLINE HENKINS: Myself, I've had a knee  
24 replacement, a shoulder replacement, and five back  
25 surgeries, and I'm still working, still doing the same

1 physical work that I did. But that's my injuries that  
2 I came back from and was lucky to come back from.

3 Most people, they get surgeries, you're  
4 either laid off and you're not hired again because  
5 you've had an injury, but it's knee injuries, shoulder  
6 injuries, and back because we wear our bodies out.

7 SCOTT MOSS: And you mentioned the knee  
8 surgery, shoulder surgery, and the three back  
9 surgeries, was it?

10 CAROLINE HENKINS: Five back surgeries.

11 SCOTT MOSS: Five back surgeries. Is that  
12 exceptional that you've had these surgeries or unusual,  
13 or have you heard of other workers having multiple?

14 CAROLINE HENKINS: It's not unusual for  
15 scaffold builders like myself to be in the power plant.  
16 We work seven days a week, 12 hours a day because I'm  
17 building scaffolds for the millwrights. I'm support  
18 craft.

19 So seven days a week, 12 hours a day for my  
20 first 18 years. That was a typical week for us. And  
21 your body just can't hold up to it. You know, your  
22 knees wear out. Your shoulders wear out when you're  
23 pushed to work that. And then, at least we're getting  
24 compensated for the money, but no time with my family.

25 Luckily, I don't have kids because the ones

1 that do are not even getting to see their children. So  
2 it's just a crying shame.

3 SCOTT MOSS: And if you don't mind a couple  
4 more questions. Either before or after any of the  
5 surgeries, would the knee or the shoulder or the back  
6 feel worse when the day is longer than eight hours, or  
7 when you were on your sixth or seventh day in a row?

8 CAROLINE HENKINS: No, because I had  
9 really good teams of doctors and insurance that got me  
10 those surgeries so I could get well. But there's a lot  
11 of people that have wore out knees that don't have the  
12 insurance benefits that the unions have.

13 I was fortunate enough to have good enough  
14 insurance to cover my surgeries. And they also paid us  
15 while we were off -- not a lot; we got a third of our  
16 pay -- so I could recover and go back to work.

17 So a lot of people can't even have the  
18 surgery that I did. So I'm just grateful and lucky to  
19 have had the surgeries with the insurance and the  
20 benefits that I have with the union.

21 SCOTT MOSS: And before the surgeries, would  
22 it be hard to keep working, or was there more pain at  
23 the end of a long day than at the beginning?

24 CAROLINE HENKINS: My knee was swole up so  
25 bad, I couldn't even bend it. So, yeah. And I'm

1 building forms. I was in structures my whole career.

2 So I'm out there doing the concrete work, the  
3 cones, the elevator cores. I couldn't even bend my  
4 knee. And luckily, I had a foreman that took care of  
5 me and gave me time.

6 But, yes. I limped my knee along for three  
7 years until I could afford to have surgery over at  
8 Porter Hospital. But, like I said, I had the benefits.  
9 I had to wait for my union benefits to kick in.

10 When you get laid off and don't have the  
11 work, the union just can't compete with the nonunion  
12 companies. So there's many times that we don't have  
13 work and that we can't afford to have surgeries or  
14 whatever we need.

15 We have the benefits when we're working, but  
16 we have to stay working. So that's what I run into.

17 SCOTT MOSS: And when you had those problems,  
18 either the knee or the shoulder -- I'm sorry you had  
19 them -- are there times you'd stumble or fall or drop  
20 something due to either the shoulder or the knee or the  
21 back?

22 CAROLINE HENKINS: No. I'm fortunate I never  
23 dropped anything on the job. I'm just real  
24 experienced. And I have the best training in the  
25 world. I had world-class training. I'm lucky to have

1 not dropped something, of course I am.

2 Am I lucky to have not fell off that bridge  
3 with my knee swollen so bad that I couldn't bend it?  
4 Yes, I am. I'm just one of the lucky ones.

5 But there's a lot of 'em out there that's  
6 not. They don't have the insurance benefits, and they  
7 can't have the surgeries that I did. I got fixed so I  
8 could go back to work. There's many, many out there,  
9 many more than there are less, that can't even afford  
10 to have the surgeries.

11 SCOTT MOSS: And I know you've indicated  
12 you've seen a number of folks getting surgeries and  
13 some can go back to work, and some can't. Are more of  
14 the folks who have to get those surgeries in their,  
15 say, late 40s, 50s, or 60s than in their 20s or 30s?

16 CAROLINE HENKINS: I had my surgeries  
17 when I turned 50. 50, 51, and 54. So I was in  
18 my early and mid 50s when I had my surgeries. And I  
19 came back from it.

20 But, again, I want to reiterate that I had  
21 the best team of doctors in the state of Colorado.  
22 These doctors did the surgery on doctors. So I had the  
23 best that money could buy 'cause I had the best  
24 insurance and I can afford it.

25 SCOTT MOSS: You said you've seen other  
26

1 workers getting surgeries. Are more of them in their  
2 50s or older, or are more of them in their 20s or 30s?

3 CAROLINE HENKINS: It's kind of ranging now  
4 from 30s to 40s because, I mean, you can have one bad  
5 day at work and ruin your knee or your shoulder, and  
6 more often than not, the nonunion companies, you're  
7 going to get laid off, and you have no insurance, and  
8 you have no way to even fix your injury. (End time  
9 6:00 p.m.)

10 SCOTT MOSS: Thank you.

11 RENEE GENOVESE: (Start time 6:00 p.m.) I  
12 wanted to speak on the amount of hours. And --

13 SCOTT MOSS: Sorry. What was your name  
14 again?

15 RENEE GENOVESE: Renee Genovese. So we work  
16 long hours, and at over 40 hour, and in the unions,  
17 it's not mandatory, so when we pull those hundred-hour  
18 weeks, a lot of the workers that are older, you could  
19 see, like, when they're done, they're, like, Listen,  
20 I'm done and I'm tired.

21 So when we have a crew of 12, some of us will  
22 make that hundred-hour mark. And then we have the  
23 people that only get between, you know, the 50  
24 and 70 hours because they're like, Listen, I'm done for  
25 today; I can't do no more.

1           And with the people who have been doing it  
2           for many years, a lot of the common things are the  
3           carpal tunnel, the shoulder, hernias from the heavy  
4           lifting.

5           So I've heard many, many people and their  
6           stories of who I work with. I'm fortunate I've never  
7           had surgery. I've been trained by the union in  
8           ergonomics, to lift properly and use my body properly  
9           and use good tools and work smarter, not harder.

10          But the stories are many. And it's  
11          people 30 and up that I see getting the surgery.

12          SCOTT MOSS: Thanks. And when you say 30 and  
13          up, I assume there are the late teens and 20s-something  
14          workers just less often needing that?

15          RENEE GENOVESE: Well, they just started. So  
16          when you're just learning, you know, oftentimes an  
17          apprentice will follow around a journeyman and be a  
18          helper, but once you get to that point where you've got  
19          all the training and all the skills, it's, you know,  
20          you become a machine.

21          SCOTT MOSS: And have you seen any folks not  
22          able to come back from an injury or surgery?

23          RENEE GENOVESE: Yes. I have a friend right  
24          now in his mid 50s who may not come back to work. I've  
25          seen another gentleman in his 60s who did not go back

1 to work.

2 And then they've even had to move in with  
3 relatives because they just can't make ends meet. I  
4 see workers having to work much later. I've worked  
5 with guys that are 69 years old.

6 SCOTT MOSS: And what injuries were those  
7 that the friends in the mid 50s and 60s had, if you  
8 remember?

9 RENEE GENOVESE: Neck injury, back injuries.  
10 It's the back.

11 SCOTT MOSS: Did they get surgery or they  
12 just --

13 RENEE GENOVESE: Surgery -- yes, surgery.

14 SCOTT MOSS: And even after the surgery, they  
15 couldn't go back?

16 RENEE GENOVESE: No. They couldn't go back.  
17 No, and then once you have that, and the word travels,  
18 the employers are like, Whoa. They don't  
19 want you. So we talk about it amongst ourselves  
20 quietly, but nobody wants to tell the company that they  
21 have an injury. They're scared.

22 SCOTT MOSS: And since you have this  
23 experience of seeing these workers, and being in the  
24 field for 22 years, have you heard of folks getting a  
25 reduced schedule as an accommodation, where there's no

1 overtime?

2           RENEE GENOVESE: Pretty much, if the workers  
3 can't do the overtime, they tell you. They're like,  
4 Listen, I'm sorry, but I gotta go home; I have  
5 something to do, or, I have, you know, other  
6 obligations. And they leave.

7           So then when it comes to those long weeks,  
8 and you're used to having a 12-person crew, and then  
9 you end up with four people carrying the load of 12,  
10 and that's hard as well.

11           SCOTT MOSS: And just to be clear, you're  
12 saying that if the worker can't do the overtime, they  
13 typically can't stay working?

14           RENEE GENOVESE: They -- yeah, they go home.  
15 They're like, Listen, you know, I gotta go.

16           SCOTT MOSS: Thank you.

17           RENEE GENOVESE: And I'm the foreman. So I'm  
18 the person they're telling, Hey, I gotta go.

19           SCOTT MOSS: Thank you.

20           RENEE GENOVESE: And I tell them,  
21 Okay, you know. And then I pick up the slack or the  
22 people that are there with me still, they pick up the  
23 slack. And we make the schedule no matter what.

24           SCOTT MOSS: How long have you been a  
25 foreman?

1                   RENEE GENOVESE: For about year. (End time  
2 6:04 p.m.)

3                   SCOTT MOSS: Okay. Thank you. Who else  
4 would like to speak? If you can give me your name  
5 again. I know you --

6                   MARK THOMPSON: (Start time 6:04 p.m.) Mark  
7 Thompson. We're going to excuse  
8 ourselves. We're going to get out of your hair. I  
9 invite some other people to talk. Make some room.

10                  SCOTT MOSS: What was your last name, again?

11                  MARK THOMPSON: Thompson.

12                  SCOTT MOSS: Mark Thompson. That's right.

13                  MARK THOMPSON: I hope we've made it clear,  
14 we rely on this industry to provide for our families.  
15 My son has followed my footsteps and relies on this  
16 industry to provide for his family. And now I have a  
17 granddaughter. She relies on this industry.

18                  These are hard-working men and women. It's a  
19 very physical, very brutal industry. It will beat you  
20 up. It will advance your years very  
21 quickly.

22                  Again, I thank you for the opportunity. I  
23 thank you that you're looking into this. You know,  
24 I look forward to hearing some decisions. Again, thank  
25 you for what you've done tonight. And we're going

1 to step out and get out of your way.

2 Thank you. (End time 6:05 p.m.)

3 SCOTT MOSS: Thank you. And really, if  
4 you want to, you're not preventing anyone from  
5 speaking, but I appreciate you all coming. I'll tell  
6 you what I just told some reporters. There's no reason  
7 you should not hear what you'll see in the papers,  
8 which is we're hoping to reach a decision on a proposed  
9 new wage order not too late in the fall, is the way I'm  
10 putting it.

11 We've had hundreds of comments. We're  
12 actually reading all of them. I'm personally reading  
13 all of them. And others in the division, multiple  
14 people will read every single comment submitted.

15 This transcript will be read by multiple of  
16 us as well. So this is all being heard. The only cost  
17 of that means that we're not going to have something  
18 written by next week. So --

19 UNIDENTIFIED SPEAKER: You've got two weeks.

20 (Discussion off the record.)

21 SCOTT MOSS: I will say we're doing this as  
22 quickly as we can. We want this in place as soon as we  
23 can in 2020. But obviously, there are time tables in  
24 the law where, once we propose a regulation, there's at  
25 least 90 days where we have to do notice and comment

1 again.

2           But we wanted to hear from everybody  
3 before we write anything. And we've actually learned  
4 a ton. And I'll say, we're actually really glad  
5 for all these comments. I've been saying this isn't  
6 like our Facebook or Twitter feeds where, you know,  
7 "X really needs you to take her survey." It's not  
8 one of those where I doubt anyone's reading that.  
9 We are actually reading these, and I've learned  
10 things I didn't know before, so we appreciate  
11 that.

12           MARK THOMPSON: We're grateful for your  
13 efforts. Thank you.

14           THE REPORTER: Can I take a break, please?

15           SCOTT MOSS: We'll all take a break. That  
16 would be wrong if we didn't. So we'll reconvene at  
17 6:15.

18           (Break from 6:07 p.m. to 6:19 p.m.)

19           JIM GLEASON: (Start time 6:19 p.m.) I  
20 really appreciate the comments. My name is James  
21 Gleason, G-l-e-a-s-o-n. I guess I'll go back on the  
22 record.

23           In clarifying, we've heard a lot of stories  
24 about the amount of hours worked. All right? As union  
25 employees, they have breaks, and they have dinner

1 breaks after ten hours. You  
2 can't go four hours without a break.

3 So they're entitled to breaks, and they got  
4 them, which makes them more productive. When you go to  
5 Colorado, you're talking about a 10 percent market  
6 share union penetration. So you're talking about  
7 90 percent of the people that are working in the  
8 industry today are nonunion. They don't have the same  
9 rights that a collect bargaining agreement  
10 gets.

11 SCOTT MOSS: And just to clarify, you're  
12 saying only roughly 10 percent of construction workers  
13 in Colorado are union?

14 JIM GLEASON: Market share. Okay? Is  
15 union workers. It's a little -- it's lower than the  
16 national average, which is about 12-point-something  
17 currently.

18 But if you heard the story of the people that  
19 come in to work night shift that work during the day,  
20 they're drywall hangers working nonunion. My  
21 experience with that section is it's not uncommon.

22 And I've talked to people myself personally  
23 that are told, when you go on overtime, we're going to  
24 let you work Saturday and Sunday, but we're going to  
25 pay you under a different company, and we're going to

1 give you a check. So they think that's normal  
2 procedure in the United States of America.

3 They have no understanding of the breaks, how  
4 they are, or that they're entitled to premium overtime  
5 pay.

6 SCOTT MOSS: So they're using a different  
7 company for Saturday, Sunday to avoid overtime?

8 JIM GLEASON: Correct.

9 SCOTT MOSS: Is that mostly in the nonunion  
10 sector?

11 JIM GLEASON: Generally, that's always in  
12 the nonunion sector. And it's their  
13 requirement is that if they're going to work, they're  
14 going to work under somebody else because the company  
15 itself does not want to.

16 I mean, we've had people that come in to join  
17 the union that say, Hey, we don't need overtime because  
18 the company I worked for before doesn't pay overtime.  
19 And you ask them a question, Well, they don't pay  
20 overtime or they don't work it? They'll say, No, we  
21 work it all the time. Just that we don't get paid for  
22 our overtime.

23 And the 70 hours for the drywall guys is not  
24 uncommon. I mean, you're looking at people that just  
25 work different jobs. They work the same job for

1 different companies just to cover themselves, as far as  
2 not paying the overtime.

3           And as far as U.S., the questions about an  
4 aging workforce, you know, the sad part is  
5 that when you are 50, 55 years old, you tend to stick  
6 with the union employer a lot longer because you don't  
7 want to go out and be subjected to working the hours or  
8 you can't work the hours.

9           As far as on-the-job injuries for older  
10 people, a lot of that is caused by them being pushed so  
11 hard. They have to compete. Okay? So you're working  
12 10 hours a day. You don't get a break. Maybe you get  
13 a lunch break, but you get no other breaks.

14           You're being pushed all the time to produce  
15 more, and you're compared to your younger counterparts.  
16 I mean, I know when I was a young man, I could work 10,  
17 12, 14 hours a day, no problem. I couldn't go out and  
18 do the same thing now and not injure myself.

19           And it's the production  
20 trying to produce, when you haven't had the ability to  
21 rest, or grab a Gatorade, somebody mentioned, or grab a  
22 protein bar, just to nourish yourself. So you're being  
23 pushed all the time.

24           And it's hard to compete. I've seen people  
25 die because of the same thing, old people that, they've

1 gone to a job with the expectation that they're going  
2 to work ten hours a day. Okay? They work ten hours a  
3 day, and the next thing you know, a hole in the floor,  
4 walk by, picks up a piece of plywood, steps right into  
5 the hole, falls 10 feet and cracks the back of his  
6 head.

7           But, hey, as a union representative, I would  
8 feel guilty about that because that individual never  
9 said a word to us and didn't feel comfortable saying a  
10 word. But that's a union environment. When you're in  
11 a nonunion environment, it's totally different. You  
12 are what you are.

13           I mean, we talked about the Skyhouse project.  
14 People there were told, If you get injured, go home and  
15 come back when you feel better. Or, We're working  
16 seven days a week. If you don't work overtime, don't  
17 bother coming in on Monday. So it's those kinds of  
18 things that happen.

19           And I'm going to  
20 reiterate the point, is that, under union contract, you  
21 have some of these breaks. You have the lunch break.  
22 You have the overtime premium pay, which is a little  
23 easier.

24           But when you get into a nonunion environment,  
25 most of the time, in this state of Colorado, that's not

1       afforded. I mean, they'll find a way not to pay you  
2       that time and a half premium time, or you're told, If  
3       you want breaks, go to work somewhere else.

4                So there's a little bit of this market share.  
5       I mean, a lot of those members share a lot of those  
6       stories about those hours. And granted, they do it.

7                But I'll point to Renee Genovese,  
8       what she said is that she works the night shift. In  
9       the Boulder School District right now, they're  
10      remodeling the schools. They're working the night  
11      shift, and that most of the people who are hanging  
12      drywall on that job come there after they've worked a  
13      full 8-, 10-hour day, they show up there to work the  
14      night shift.

15              And they're not compensated for time and a  
16      half. And nobody asked them if they took a dinner  
17      break or had any kind of breaks afforded them.

18      So . . . Answer any questions?

19              SCOTT MOSS: Yeah. Thanks. You mentioned  
20      workers being told, "If you don't work overtime,  
21      don't bother coming in on Monday." Is that a common  
22      thing in your experience of working in the industry  
23      for years, and then talking to numerous workers  
24      in your union, is that a common message for workers  
25      to get?

1                   JIM GLEASON:  Yup.  In a nonunion  
2                   environment, yeah.  We have people all the  
3                   time that join the union, when we interview them,  
4                   that's a lot of the concerns they have, why they're  
5                   coming to us is because, Hey, I'm working seven days a  
6                   week.  I don't get any overtime pay.  I gotta get a  
7                   better job.

8                   So they end up in a place where they have  
9                   some benefits, that they have some rights to not work  
10                  all that overtime without getting compensated or having  
11                  breaks.  Just simple things.

12                  SCOTT MOSS:  And have you heard of older  
13                  workers who can't work as many hours get kept on the  
14                  job by being allowed not to work overtime at all?

15                  JIMMY GLEASON:  Some, depending on your  
16                  status.  If you're a 30-year employee or a 25-year  
17                  employee, yeah, they'll bring some of that status.  
18                  That's why you want a lot of the people, when they hit  
19                  the 35-, 40-year age, they're looking for the  
20                  management side of it.  They want to be foreman,  
21                  superintendent.

22                  SCOTT MOSS:  So the way to keep them on with  
23                  overtime is moving them to foreman or management?

24                  JIM GLEASON:  Yeah.

25                  SCOTT MOSS:  But it sounds like -- is  
26

1       it uncommon to be allowed to stay doing the actual  
2       construction without overtime?

3               JIM GLEASON:  Could be, depending on your  
4       status.  But construction's a highly competitive  
5       business.  So if you got ten people on a crew that are  
6       working ten hours a day, seven days a week, you don't  
7       want to be that one person that says, I'll only work  
8       eight hours, and I'll only work 40 hours a week.  It's  
9       peer pressure.  And it's also the productivity of the  
10      job.

11              I mean, I've had employers tell me the same  
12      thing:  Don't send anybody that doesn't want to work  
13      the overtime because that's the way it's going to work.  
14      I mean, that's what we are requiring on the job.

15              Specifically, in some of these shutdowns, or  
16      like with the schools.  They're pushing it.  They'll  
17      require somebody to work that overtime.

18              SCOTT MOSS:  And how long have you  
19      been in construction?

20              JIM GLEASON:  For 42 -- 43 years this year.

21              SCOTT MOSS:  So that's been through a couple  
22      of recessions?

23              JIM GLEASON:  Yup.  I went through the '87,  
24      '92, '93, 2001, and the -- of course 2008.  So . . .

25              SCOTT MOSS:  That's all the downturns in  
26

1 those times. Yes. Have you seen any difference  
2 in recessions, of employers demanding different  
3 hours when there are a lot of folks unemployed?

4 JIM GLEASON: No. You know, nowadays,  
5 they're demanding a lot of hours. But the  
6 original concept behind overtime was to create  
7 opportunities for other people. In other words,  
8 that time and a half is not a penalty because I'm  
9 working all this time. It's not a penalty to the  
10 employer.

11 It's saying to that employer, Hey, you know  
12 what? If you need to have 20 people rather than work  
13 10 people twice as many times, the concept is, so if  
14 you have to pay premium time, you'll hire somebody else  
15 to do that.

16 That's changed over the years now. And it's  
17 become more a requirement, Hey, I know these ten people  
18 I can count on, so I'm going to make sure they work  
19 those 10, 12 hours a day.

20 SCOTT MOSS: And so - it sounds like you're  
21 saying the heavy demands for hours, have become  
22 consistent, whether it's a good economy or a recession?

23 JIM GLEASON: Yup.

24 SCOTT MOSS: And one last question. Given  
25 your role with the union, do unions still have to

1 negotiate for overtime premium pay and breaks that  
2 state law doesn't require, or is it now just assumed  
3 so it's permanently part of industry without having  
4 to negotiate it?

5 JIM GLEASON: It is negotiated. Like, you  
6 got a holiday week next week, right? Our contract says  
7 eight hours a day, and anything after that is overtime,  
8 and Saturday work is paid at the time and a half for  
9 your work on Saturday, assuming you haven't met the 40  
10 hours.

11 Now, a lot of contractors will ask  
12 permission to have to negotiate the fact that they can  
13 work four tens next week -- Tuesday, Wednesday,  
14 Thursday, Friday -- so people can get their 40 hours.

15 But generally, we're talking about time and a  
16 half on Saturdays also. So it precludes them from  
17 working (inaudible).

18 SCOTT MOSS: And you said you've worked  
19 actual construction for decades. But for the record,  
20 could you tell us your role with the Carpenters now?

21 JIM GLEASON: As a representative for the  
22 international union. I travel different states,  
23 negotiate collective bargaining agreements. Handle  
24 some grievances, negotiate PLAs, different things. I  
25 do some organizing also.

26

1           SCOTT MOSS: Do you know about how many  
2 workers are under the jurisdiction you cover?

3           JIM GLEASON: 65- to 70,000.

4           SCOTT MOSS: And do you perceive any  
5 differences in hours, overtime, and breaks between  
6 Colorado and other states you cover?

7           JIM GLEASON: No. Generally, the type of  
8 work you're doing, if it's like the school  
9 situation, that's going to require overtime. If you're  
10 out in Seattle working on the Sound Transit Project,  
11 because they're on a deadline, you're going to have the  
12 same amount of stuff.

13           I've seen people roll into a second shift, just  
14 to alleviate the fact that they're getting fatigued.  
15 Rather than work people 14, 16 hours a day, it's a roll  
16 into a second shift so that you cover that in that way.  
17 I think that's what Renee was alluding to. She's on a  
18 job with two shifts, but they're working around the  
19 clock.

20           SCOTT MOSS: And Renee works for an  
21 employer that's part of the union you cover?

22           JIM GLEASON: She works for Turner  
23 Construction, which is a union employer.

24           SCOTT MOSS: And you've heard the comments  
25 from a large number of members of the carpenters'

1 union. To the extent that you remember them, did all  
2 of them comport with your experience in the field?

3 JIM GLEASON: Yeah. Yeah. The injuries,  
4 -- I've got two bum knee. I've got a bad shoulder  
5 I've had numerous surgeries on both knees. I've  
6 had back issues before. But, you know, I've been  
7 fortunate.

8 SCOTT MOSS: And have you heard of folks who  
9 can't work in the field due to age, due to the long  
10 hours?

11 JIM GLEASON: Yeah. I've seen  
12 people that had to quit, leave because  
13 they've gotten cancer or something and never came back  
14 or never able to go out.

15 I mean, I could tell you stories about a guy  
16 who went to work in a hospital as a maintenance guy.  
17 Very good friend of mine, mechanic. And he just said,  
18 Hey -- at 52 years old, he had a bout with prostate  
19 cancer, came back in one day, and he said, Hey, I have  
20 to go someplace where I'm not being demanded  
21 productivity that I have as a construction worker.

22 So he went in -- as a maintenance job. And  
23 that's the way he's twilighted his career.

24 SCOTT MOSS: And was he working lighter hours  
25 in maintenance?

1                   JIM GLEASON: Yeah. And then it's not as  
2 heavy. It's not as production-oriented.

3                   SCOTT MOSS: Did it pay similarly, if you  
4 know?

5                   JIM GLEASON: Paid a lot less.

6                   SCOTT MOSS: And do you know common jobs  
7 for folks to go into if, as of their 50s or a little  
8 earlier or later, they can't work in construction  
9 anymore?

10                  JIM GLEASON: Go to Home Depot.

11                  SCOTT MOSS: And that's to work hourly at  
12 Home Depot?

13                  JIM GLEASON: Retail sales.

14                  SCOTT MOSS: Yeah. Do you know what those  
15 sorts of retail jobs pay, about?

16                  JIM GLEASON: I would imagine Home Depot,  
17 you're probably getting 15 to 18 bucks an hour.

18                  SCOTT MOSS: And how does that compare to  
19 most construction jobs?

20                  JIM GLEASON: Probably half, including the  
21 benefits and other things. You know, with a Home  
22 Depot, you're ended up paying that benefit out of your  
23 check, whereas people that work on a union employer,  
24 that's above and beyond -- your pension and your health  
25 care is above and beyond. But it's a negotiated rate

1 also.

2 SCOTT MOSS: And do you know -- you mentioned  
3 going to hospital maintenance or Home Depot. Just  
4 anecdotally, do you know of other jobs that folks who  
5 need to leave construction in their 50s or so would  
6 take after working construction?

7 JIM GLEASON: Drive a school bus.

8 SCOTT MOSS: Do you have any sense of the pay  
9 on that?

10 JIM GLEASON: A lot less. It's probably  
11 less than 15 bucks an hour. It's substantially  
12 less than what they would be making in the field. But  
13 when the body's worn, the body's worn. Beats getting  
14 up in the morning.

15 I know my wife, when I used to work with the  
16 tools, she'd always tell me she used to worry about me  
17 'cause I'd get up in the morning at 4:30, and I'd get  
18 dressed and go to work. I'd be home at 5:30 at night  
19 'cause the commute times. And that's the thing she  
20 always said, I wonder how long you'd be able to last  
21 doing that for all those years.

22 And it's reality for people. You push it  
23 early. I think that gentleman said that when  
24 he was a young man, 17, 18 years old, he didn't mind  
25 working 10, 12 hours day. At his age right now, it's

1       virtually impossible.

2                   SCOTT MOSS:  And you don't have to  
3       get into it, if you don't want to, but did you  
4       have any injuries while you were doing  
5       construction?

6                   JIM GLEASON:  Twisted my knees up.  I've  
7       put gouges in my head from rebar falling.  It's  
8       dangerous.

9                   SCOTT MOSS:  And were those spread out  
10      all over your career evenly, or were more of them  
11      when you were older?

12                  JIM GLEASON:  Ah, evenly.  It's not --  
13      a lot of times age.  Sometimes age is a benefit  
14      because you're a little smarter about how you attack  
15      work.  You're not throwing any -- I can remember as  
16      a -- hanging drywall, I tore up my shoulder.  That  
17      was because of -- everything was blowing.

18                  As a young guy, you want to stand up as  
19      many sheets as you could in a day, and that's what  
20      your boss counted on.  But older guys, I've seen guys  
21      62 years old that could handle that work, no problem.  
22      But then I've seen guys 35, 40 years old that  
23      physically break down.

24                  SCOTT MOSS:  Did you end up having to have  
25      any surgeries, like I believe Caroline said?

1                   JIM GLEASON: Yeah. Knees.

2                   SCOTT MOSS: And when were those that you  
3 had, the knee surgeries?

4                   JIM GLEASON: I've had 'em since I was, I  
5 believe, 27 years old. I've had four over the course  
6 of my career.

7                   SCOTT MOSS: And when was the most recent  
8 one? About how old were you?

9                   JIM GLEASON: Two years ago.

10                  SCOTT MOSS: Uh-huh. And do you mind giving  
11 your age? You don't have to.

12                  JIM GLEASON: I'm 64 -- 63 years old.

13                  SCOTT MOSS: So you've had knee surgeries up  
14 to age 61?

15                  JIM GLEASON: Yeah.

16                  SCOTT MOSS: Okay. And how much time, if you  
17 remember, did you need off from the surgeries?

18                  JIM GLEASON: First time, probably four to  
19 six weeks. That was prior to the technology they have  
20 today for the --

21                  SCOTT MOSS: Sure.

22                  JIMMY GLEASON: And then the last time,  
23 I didn't miss hardly any time. You're up and  
24 going and therapy and other things.

25                  SCOTT MOSS: And you say you've seen workers  
26

1 who couldn't come back from needing surgeries?

2 JIM GLEASON: Yeah.

3 SCOTT MOSS: And is that more older workers?  
4 Younger workers?

5 JIM GLEASON: Generally, anywhere after 40.  
6 I mean, if you hit -- say you're shooting a track into  
7 structural steel up here, that gun kicks, you bang your  
8 elbow, you may never come back from that because you  
9 shattered an elbow. You're probably never gonna do it.

10 Backs, very common. I mean, fusing  
11 backs and other things are not generally  
12 successful. And the older you get, the less likely you're  
13 going to be to go back to work from an on-the-job  
14 injury.

15 SCOTT MOSS: And last question about --  
16 Well, that's all I have. Thanks.

17 JIM GLEASON: Okay. (End time 6:38 p.m.)

18 SCOTT MOSS: Anyone else want to speak? Oh,  
19 yes. Bob and John signed up. Bob.

20 BOB NORRIS: (Start time 6:39 p.m.) That  
21 would be me.

22 SCOTT MOSS: What's your name, sir?

23 BOB NORRIS: Bob Norris. And you can  
24 probably spell Bob easily enough. Norris is  
25 N-o-r-r-i-s. From Longmont.

26

1           I became interested in wage and labor issues  
2 when I was board president of a nonprofit in Longmont  
3 called (speaking Spanish) Longmont.

4           THE REPORTER: What was it called?

5           BOB NORRIS: El comite de (phonetic)  
6 Longmont. Latino assistant agency. We had a lot of  
7 clients come in that weren't paid at all sometimes.  
8 Were underpaid. Most of the time didn't understand  
9 about break time and overtime and lunch and stuff.

10           So there's a problem there. What we observed  
11 is a lot of immigrants that are afraid to complain to  
12 the boss when they're not documented or undocumented.  
13 They're afraid to lose the job.

14           Stan Garnett, who was the Assistant District  
15 Attorney in Boulder for a while, he prosecuted a number  
16 of cases where the employer threatened to turn somebody  
17 in to ICE. And, as you know, that's actually a no-no  
18 in the law.

19           So as we became frustrated, we actually went  
20 to Stan Garnett and said, Hey, there needs to be some  
21 kind of a law to help these people. So Jan Walsh that  
22 worked for him at the time wrote a bill that was  
23 submitted by Deb Gardner, who's now a county  
24 commissioner, eventually run by Jonathan Singer, who's  
25 a state representative.

1           And that bill had some criminal penalties in  
2 it. Failed on party lines. You can use your own  
3 imagination how that was. But what that did is  
4 it brought a whole bunch of people together.

5           So in the next two years, we have a large  
6 group introducing bills. First year, we got a lot of  
7 pushback from some of the business groups. The second  
8 year, we talked enough to the business groups to get  
9 support from all the business groups in Denver, except  
10 for the Restaurant Association that told us there's no  
11 wage theft in the restaurants.

12           And that was right after U.S. DOL  
13 talked about 70 percent of the restaurants in Aspen  
14 made a violation of wage laws.

15           So we still continue to have this problem  
16 within the state. And as you can imagine, a lot of  
17 immigrants, particularly undocumented immigrants and  
18 new immigrants, don't get paid very well. So missing  
19 some money from their paycheck could mean they lose  
20 their car. It could mean they get kicked out of their  
21 rental property. It's much more devastating than a lot  
22 of other people.

23           And it suddenly got much worse. I don't know  
24 if you pay much attention to the news. The Trump  
25 Administration is trying to change the rules of public

1 charge. And there's lots.

2           There's tens of thousands of immigrants not  
3 taking advantage of food stamps and other things that  
4 they need to support their family because they're  
5 afraid they can lose if they're found to be in  
6 violation of a public charge, and even with a Green  
7 Card could lose their opportunity to become a citizen  
8 if that's put in effect.

9           So we worry about that a whole lot more right  
10 now than we have in the past. And, as you know, most  
11 immigrants now, even documented immigrants, don't show  
12 up a lot of places because they're afraid.

13           Now, they're a little worried about their  
14 job. They're worried about what are they gonna do to  
15 put food on the table for their family. And then they  
16 lose their car payments.

17           So I hope in looking at this that some  
18 consideration and attention can be paid to people that  
19 cannot defend themselves. So thank you. Do you have  
20 any questions? I'd be glad to answer.

21           SCOTT MOSS: No, that's helpful. Thank you.

22           BOB NORRIS: Okay.

23           SCOTT MOSS: Oh, yes. I do. You mentioned  
24 the Department of Labor study about restaurants and  
25 violations. Can you tell me more about that one, if  
26

1       you know?

2               BOB NORRIS: I'm trying to think. It was  
3 probably four, five years ago. I don't know a lot of  
4 the details. But they were looking for violations.  
5 And, you know, the U.S. Department of Labor usually  
6 only focuses on violations exceeding \$7,000. So how  
7 that -- didn't seem -- maybe most restaurant workers  
8 aren't owed \$7,000, but maybe they were looking at the  
9 restaurants as a whole.

10              So they had to pick some place to check it.  
11 And Aspen, you would think people in Aspen could afford  
12 to pay their employees.

13              SCOTT MOSS: So I ask that it -- just --  
14 that's informative to know. If you can dig up more  
15 than that, I'd love to be sent a lead on that study.  
16 I don't know if you have a way to ask around on that,  
17 since you've heard of it.

18              BOB NORRIS: I still know a few people. You  
19 know, we used to have our meetings when we had this  
20 wage group, planning on how to get the law passed and  
21 everything. We always had our meetings at the U.S.  
22 Department of Labor. So . . .

23              SCOTT MOSS: If you ever heard of anyone who  
24 might know about that, have them get in touch with me.

25              BOB NORRIS: Yeah. I do. I can find them.

26

1           SCOTT MOSS: Thank you.

2           BOB NORRIS: Okay. Thank you for having us.

3           (End time 6:44 p.m.)

4           SCOTT MOSS: I think John Perkins was going  
5 to speak. Yes, sir.

6           JOHN PERKINS: Hi. Yeah. My name is John  
7 Perkins. I'm a letter carrier. I'm a member of the  
8 National Association of Letter Carriers, Branch 5996.  
9 I'll try to keep it short and sweet today.

10           I'm here today in support of the expansion of  
11 protections of the wage order. From personal  
12 experience, under our union contract, -- so how  
13 it works is we have a national agreement and local  
14 memorandum of understanding. So those two in  
15 combination provide us with a 10-minute office break in  
16 Aurora, a 10-minute street break, 30-minute lunch  
17 break, and comfort breaks as needed.

18           We also are able to earn premium overtime pay  
19 at both time and a half and double pay rates. And we  
20 have an hour limit provision in our contract as well.

21           So from personal experience, with all the  
22 time pressure at the postal service, you know, most  
23 post offices, there's an environment where letter  
24 carriers are rushed to complete their duties.

25           With that in mind, a mandate for those  
26

1 breaks, overtime, and hour limits is needed. The  
2 employer's not going to do those things on their own.

3 Also, in my personal experience, these  
4 contractual provisions are less hard and fast rules  
5 than guidelines, that if management violates, they can  
6 kind of pay an extra monetary remedy to, you know,  
7 people involved in the violation as kind of cost of  
8 doing business.

9 But that is preferable, in my opinion, to no  
10 protections whatsoever. So in my opinion, nonunion  
11 workers need the same kind of protection. That's why  
12 I'm here today. I think we need to level the playing  
13 field because employers should not compete on depriving  
14 workers of breaks, overtime pay, et cetera, but on  
15 product and service quality. And that's all I have.  
16 So thank you.

17 SCOTT MOSS: Great. A quick follow-up.

18 JOHN PERKINS: Yeah.

19 SCOTT MOSS: So can you clarify what  
20 you're saying about contractual provisions being, I  
21 think you said, just guidelines.

22 JOHN PERKINS: Well, just from the  
23 perspective that, oftentimes, postal management will  
24 kind of flagrantly disregard them, with the  
25 understanding that they're going to have to pay some

1 letter carriers some money to compensate.

2 SCOTT MOSS: And so you're implying that,  
3 when you say "some people, some money," are you  
4 implying that they end up not paying the full amount of  
5 the wages that they should have paid?

6 JOHN PERKINS: No. So, for example, we  
7 have a process for how overtime is assigned. So, you  
8 know, first, you have to use the city carrier  
9 assistance and the people on the overtime desired list.

10 So if those people are skipped over and just  
11 overtime is given just to anyone, that person still  
12 does receive the overtime pay rates that are  
13 applicable.

14 But since they should not have been awarded  
15 overtime in the first place, in most cases, you know,  
16 when the union does its job and files a grievance, that  
17 person will get paid, you know, typically an extra  
18 50 percent of the straight time rate.

19 SCOTT MOSS: And with that, you're saying  
20 there might be a delay before they get their money, so  
21 they get it in a later pay period than they should have  
22 gotten it in?

23 JOHN PERKINS: So they'll get the overtime  
24 pay in that paycheck, but in terms of the extra  
25 monetary remedy, that's just a function of, you know,

1       how much the union stays on top of it, how  
2       timely management is in providing those payments.

3       So . . .

4               SCOTT MOSS:  So that if they go through a  
5       grievance or go through the union, that means they'll  
6       get the money, but a delay?

7               JOHN PERKINS:  Yeah.

8               SCOTT MOSS:  And, you know, can that be weeks  
9       or months, or how long?

10              JOHN PERKINS:  Yes.  Typically, weeks.  
11       Sometimes months.  It really depends.  But, yeah.

12              SCOTT MOSS:  Thank you.

13              JOHN PERKINS:  You're welcome.

14              SCOTT MOSS:  John, one more question.  You  
15       mentioned nonunion workers.  Can you tell me what sorts  
16       of nonunion workers you're talking about?

17              JOHN PERKINS:  I mean, well, one that jumps  
18       to mind for me are FedEx workers.  I'm not sure if  
19       they're classified as independent contractors.  But  
20       definitely, those kind of workers.

21              I know there was a lot of carpenters and  
22       construction workers here today, and they're  
23       probably some of the workers most in need.  But, yeah,  
24       any kind of nonunion workers.

25              SCOTT MOSS:  Thank you.

26

1 JOHN PERKINS: Sure. (End time 6:48 p.m.)

2 SCOTT MOSS: Anyone else here to speak?

3 KAREN SHORT: Hi. My name is Karen Short.

4 SCOTT MOSS: Okay. Can you spell those.

5 KAREN SHORT: K-a-r-e-n, S-h-o-r-t.

6 SCOTT MOSS: Okay.

7 KAREN SHORT: I moved to Colorado in 2013 --

8 in 2013 for a disaster project for the big flood.

9 Thompson Canyon.

10 THE REPORTER: For what? You need to speak

11 louder, please.

12 KAREN SHORT: For the Big Thompson Canyon.

13 That's what brought me to Colorado.

14 SCOTT MOSS: Doing work related to that?

15 KAREN SHORT: Yes.

16 SCOTT MOSS: What sort of work?

17 KAREN SHORT: Just recovery and cleanup.

18 SCOTT MOSS: Okay. So construction or

19 cleanup or both?

20 KAREN SHORT: Just -- basically, we

21 helped citizens with any kind of needs that they needed

22 to submit their FEMA documentation. And we provided

23 the trucking to haul away all of the debris that was

24 underneath the bridges and all the way down the

25 lines (inaudible).

1           I secured employment to stay with Gollett's  
2           Transportation out of Lafayette, Colorado, and I  
3           secured employment. In 2016, they'd given me  
4           appropriate raises each year but denied me  
5           vacation. I never took a lunch break, never once, that  
6           I was working.

7           Used my own vehicle. That's neither here nor  
8           there. But in 2016, they turned me over to being  
9           salaried. They denied me overtime except for in  
10          emergency situations.

11          Up until 2016, they converted me over to  
12          \$42,000 a year, and I was required to work 70 hours a  
13          week, which reduced my pay to \$8.60, just above minimum  
14          wage.

15          My husband was then diagnosed with cancer.  
16          That's the reason I even stayed in Colorado. I met my  
17          husband. And he denied me FMLA. He then forced me to  
18          work and told me he would fire me, take my insurance,  
19          and he would die sooner.

20          SCOTT MOSS: Told you you'd be fired if what?  
21          If you didn't --

22          KAREN SHORT: If I didn't work remotely and  
23          work whatever he wanted me to do, he would fire me, and  
24          my husband would die. So in the meantime, I lost my  
25          mother. I lost my best friend of 34 years and my

1 brother-in-law and my husband.

2 My employer then fired me for absenteeism  
3 after they had all passed. In the meantime, I slept  
4 maybe at most eight hours a week, doing the logistics  
5 of cancer and doing the logistics of the job.

6 I generated him \$6.8 million a day  
7 while my husband had Stage IV cancer. And I was denied  
8 unemployment based on a post employment email.

9 I had just -- and there's not been one area  
10 that has not failed me in the system. I  
11 pleaded for help from every division that there is, and  
12 no one would help.

13 The reason I didn't get another job is  
14 because my family's well-being was leveraged. And that  
15 was why I couldn't do anything about it. But the  
16 threshold, that's \$23,000, nobody can live on that.  
17 It's Colorado.

18 And work 70 hours a week for \$23,000? You're  
19 not even making -- what are you making, \$5 an hour?  
20 You can't live in a cheap motel for that. And he paid  
21 me \$42,000 a year, and he reduced me down to \$0.30  
22 above minimum wage for the hours he demanded of me,  
23 with my family as leverage.

24 The problem is, it wasn't I was over  
25 the threshold, but I was a nonsupervisor. I made no

1 decisions. I didn't supervise. I made no  
2 independent judgment calls.

3 But every division that I pleaded to help  
4 just ignored it and said, You're over the threshold.  
5 So the wound, it needs to be exposed. The Band-Aid is  
6 the threshold. The wound is the fact that no one is  
7 doing anything about them illegally making us salaried  
8 and doing this to us.

9 And that's what I'm asking you to do is look  
10 at, focus on what the wound is. I mean, the man  
11 destroyed my life. He then turned around and beat me  
12 up to where I couldn't even get a job, and all I did  
13 was love my family.

14 So I just need somebody to enforce the law.  
15 Not a portion of it, but all of it. That's why I came  
16 here today to ask you to do that.

17 SCOTT MOSS: Thank you for sharing that.  
18 When in 2016 were you fired?

19 KAREN SHORT: I was fired in 2018, April of  
20 2018. Right following my mother's passing.

21 SCOTT MOSS: And what were your duties when  
22 you were in the salary job, and what was your title  
23 too?

24 KAREN SHORT: When he hired me, I was office  
25 help. When he made me salaried, I became office

1 manager. But I didn't supervise anyone. They took my  
2 time away from me with my family. And I need somebody  
3 to enforce the law so they can't do that to people  
4 anymore.

5 SCOTT MOSS: Did you file a complaint at all?

6 KAREN SHORT: Yes.

7 SCOTT MOSS: About wages?

8 KAREN SHORT: Yes. I filed wages and just my  
9 after-hours phone calls for three months.

10 SCOTT MOSS: And what were you told in  
11 response to the wage complaint?

12 KAREN SHORT: I mean, they're just now  
13 getting to me.

14 SCOTT MOSS: Okay.

15 KAREN SHORT: They haven't because of the  
16 backlog.

17 SCOTT MOSS: Is that with this division?

18 KAREN SHORT: That is with the wage and hour  
19 division, yes. They just now are getting to me.

20 SCOTT MOSS: And did --

21 KAREN SHORT: The USDOL investigated. And  
22 they were delayed in investigating  
23 because of the -- what was it? -- the shutdown, the  
24 government shutdown.

25 So then I lost money because of that delay.

1 But they went to his office, actually, and investigated  
2 in person instead of doing all this email stuff and  
3 realized that he was lying the whole time in my  
4 employment hearing and everything and that I was not an  
5 exempt employee. And I only got a fraction of the  
6 money.

7 SCOTT MOSS: And did the employer say  
8 anything about you being exempt, either under a  
9 Colorado coverage category or supervisor?

10 KAREN SHORT: If he did, the USDOL has only  
11 told me the Freedom of Information Act number and not  
12 given me any other information.

13 SCOTT MOSS: And it sounds like you looked at  
14 some of the rules. Did you look at the Colorado  
15 Minimum Wage Order?

16 KAREN SHORT: I did.

17 SCOTT MOSS: And could you tell whether  
18 you're covered under any of the four coverage  
19 categories, such as commercial support, or the others?

20 KAREN SHORT: I am not covered. I'm a  
21 nonexempt employee.

22 SCOTT MOSS: Because of the executive or  
23 supervisor category?

24 KAREN SHORT: All of them.

25 SCOTT MOSS: And in addition to that, there  
26

1 are the four coverage categories. You have to be  
2 commercial support or health or food, et cetera. Did  
3 you look at those categories, and can you tell if they  
4 applied?

5 KAREN SHORT: Right. I did data entry. I  
6 did his invoicing. I was his cash flow. That was all  
7 I did, and none of my duties ever changed from  
8 the first day to the last day.

9 SCOTT MOSS: Thank you.

10 KAREN SHORT: You're welcome. (End time 6:56  
11 p.m.)

12 SCOTT MOSS: Anyone else here to speak? I'll  
13 ask you to make it quickly because we are in the  
14 witching hour.

15 ISABEL CRUZ: I'll be quick. Anyway, hi. My  
16 name's Isabel Cruz.

17 SCOTT MOSS: Can you spell that.

18 ISABEL CRUZ: I-s-a-b-e-l, and then C-r-u-z.  
19 I wrote a comment on the website, but I  
20 also just wanted to show up in support of both of the  
21 proposed changes, both the change to who minimum wage  
22 applies to, but also to change the overtime  
23 protections, the change to who it applies to, just, for  
24 me, feels like common sense.

25 But the overtime, when I was first hearing  
26

1 about this initiative, it really struck a chord with  
2 me. I've worked in the nonprofit sector for a very  
3 long time, as much as you can as a young person, in a  
4 variety of states.

5 And Colorado is the first state where my  
6 salary was not at a point in which I was overtime -- I  
7 was not when I was -- not exempt, or other exempt.  
8 Yes.

9 SCOTT MOSS: So Colorado was the only state  
10 where your salary was enough to be exempt?

11 ISABEL CRUZ: Yes. So it's my first time --  
12 any nonprofit work, I think, when you start it, you're  
13 not there to get paid a huge amount; you're expected to  
14 work a lot. But it was the first time when I -- like,  
15 it was very flagrant disrespect of my hours.

16 SCOTT MOSS: What states did you work in?

17 ISABEL CRUZ: In Connecticut and New York.  
18 And so it was really interesting. When I got started,  
19 my employer said that they couldn't afford to pay us  
20 overtime but would try to provide other benefits that  
21 would make up for not having overtime if we were to  
22 work over.

23 But it was in such a way that I could only  
24 use it if I worked overtime, and then somehow in the  
25 schedule of, like, teaching, to be able to take it.

1                   So I accrued,  
2     like, 60 hours of what they called, like, comp time at  
3     that point. And I was working consistently 50- to  
4     60-hour weeks and it wasn't a problem, and  
5     they didn't have to do anything about it because I was  
6     exempt.

7                   And, obviously, according to policy, it  
8     wasn't what they wanted, but they didn't have to do  
9     anything. And so I don't think that leaving it up to  
10    employers to try to give benefits to their employees is  
11    working very well.

12                  Also, I think, for me, as a young person just  
13    supporting myself, I was struggling even at my salary,  
14    but there were some of my coworkers, including my own  
15    manager, who were considered exempt and not making more  
16    than \$45,000 a year and having to support families.

17                  So one of my coworkers, because our hours  
18    were really variable, we were working with youth, we  
19    would have to work on the weekends, it was unclear if  
20    somebody's parents didn't come,  
21    we would have to stay.

22                  And so it's not like she could get another  
23    job to help support her family as a single mother. So  
24    she ended up getting contracted by our same  
25    organization as a janitor to raise her wage.

26

1                   And so she would have to bring her daughter  
2                   and clean our organization because her salary wasn't  
3                   enough, and they weren't paying her for the overtime  
4                   that she was working, so she couldn't afford to find --  
5                   she couldn't find other employment.

6                   SCOTT MOSS: And what were this person's  
7                   duties?

8                   ISABEL CRUZ: So we were community educators.  
9                   So we were educating youth.

10                  SCOTT MOSS: Okay. And did most folks work  
11                  those 50, 60 hours?

12                  ISABEL CRUZ: I would say very consistently,  
13                  yes, especially the managers.

14                  SCOTT MOSS: And how many people were  
15                  employed at this nonprofit?

16                  ISABEL CRUZ: Thirty people.

17                  SCOTT MOSS: Thank you.

18                  ISABEL CRUZ: Yeah. Thank you. (End time  
19                  6:59 p.m.)

20                  SCOTT MOSS: Anyone else here to speak?

21                  (No response.)

22                  SCOTT MOSS: This is actually perfect because  
23                  it's the witching hour, and we actually just got  
24                  through everybody. So thank you all for coming. I  
25                  appreciate it.

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1                   (The proceedings were concluded at 7:00 p.m.  
2                   on Wednesday, August 28, 2019.)

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## 1 REPORTER'S CERTIFICATE

2 I, Wendy McCaffrey, Registered Professional  
3 Reporter and Notary Public in and for the State of  
4 Colorado, do hereby certify that said proceedings were  
5 taken in shorthand by me at the time and place  
6 hereinabove set forth and were thereafter reduced to  
7 typewritten form under my supervision, as per the  
8 foregoing transcript; that the same is a complete,  
9 true, and correct transcription of my shorthand notes  
10 then and there taken.

11 I further certify that I am not related to,  
12 employed by, nor of counsel for any of the parties or  
13 attorneys herein, nor otherwise interested in the event  
14 of the within action.

15 My commission expires January 31, 2020; and I  
16 have hereunto set my hand this September 9, 2019.

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\_\_\_\_\_  
Professional Court Reporter

22 and

Notary Public  
23  
24  
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