

PUBLIC HEARING

1
2
3 MR. TREXLER: Hi, my name is Jeff Trexler, and
4 I'm Associate Director of The Fashion Law
5 Institute, and I want to thank the Commission both
6 for myself and on behalf of our founder, Professor
7 Susan Scafidi, who's also here today.

8 This is an incredibly important issue. We
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PUBLIC HEARING

1
2 have a clinic that offers free legal advice to
3 everyone in the fashion industry, and I can tell
4 you that this is a concern that affects everyone
5 from designers, models, people -- and other
6 people, service personnel throughout the industry.
7 It is truly a universal concern. And to
8 understand why, I think it would help for a minute
9 to sort of maybe step out of this hearing and
10 imagine that you're at a fashion show. And
11 fashion's very glamorous -- a very glamorous
12 industry, but I want you to look through the
13 lights and think about the people. So back stage
14 you'll have makeup artists and hairstylists,
15 you'll have freelance designers who are helping
16 them with clothes and design assistants. You go
17 out front and you'll see the designers and you'll
18 see models walking the runway, but you also see
19 tradespeople putting together the stage and the
20 whole event. You'll have journalists,
21 photographers, a DJ, videographers, even lawyers
22 all of whom are exposed to harassment, but not all
23 of them are confident that they have any recourse
24 if something should happen.

25 So, for example, a designer typically is one

1 PUBLIC HEARING

2 to be employed, so they have a certain degree of
3 security protection under state law, but they're
4 thinking, if it's a small business and there's a
5 lot of small businesses in fashion, what about
6 federal law? What about city with the four
7 employee threshold? So they're concerned there.

8 A lot of the other people are going to be
9 freelancers, and if they've heard that there's a
10 certain degree of protection under New York City's
11 Human Rights law, they're uncertain what kind of
12 protection. Are they attached to a business?
13 What kind of freelance? What kind of independent
14 contractor are they? What's their recourse?
15 There's a lot of confusion. There's a lot of
16 uncertainty. And you are in a position to change
17 that by once and for all establishing that civil
18 rights are for everybody, that equal protection is
19 for all, that our rights come not from who hires
20 us, but from who we are. And by establishing
21 protection for all independent contractors, for
22 all employees, for all professions, for all
23 industries, you'll provide a level of security
24 that we just simply do not have.

25 And it's important -- a couple things I want

PUBLIC HEARING

1
2 to add. One, I think it's important to do this
3 for everybody, not select professions, not select
4 industries. Differential treatment is a dangerous
5 prospect because it can exacerbate confusion, and
6 also you have the risk particularly when focusing
7 on things that people are more famous, you get
8 more attention, privileging certain areas of an
9 industry that are largely white and it can create
10 some imbalances that can be very problematic.

11 Two other things I want to mention. One, the
12 fashion industry already does a fair amount of
13 work to have equal treatment, and another thing
14 they do is auditing procedures but even -- and
15 some procedures include sexual harassment. This
16 can be effective across the board, across
17 industries, across professions as a means -- as
18 incentive to follow the law.

19 So if we could have some sort of mandatory
20 reporting mechanism put in place, maintain the
21 complainant's privacy. How many complaints do you
22 receive? How are they disposed? Are you paying
23 settlements? Are the complainants still with you?
24 What happened to the harasser? That sort of basic
25 information.

1 PUBLIC HEARING

2 We don't recommend -- just two more points. I
3 don't recommend banning NDAs, which I know --
4 non-disclosure agreements -- which I know a lot of
5 people have suggested, because for a number of
6 people, there's still this concern about stigma,
7 which we've talked a lot about today, stigma and
8 negative career consequences.

9 And that's the last thing I want to mention to
10 you. The more you can do to prevent retaliation,
11 the more you can do to prevent people not being
12 able to be hired, because there's this fear, the
13 ones they report, they will never be in fashion
14 again. That will be great for our industry.

15 It's important for you, whatever you can do to
16 reduce stigma, to reduce negative consequences,
17 and also to encourage employers to hashtag hire a
18 troublemaker. So thank you so very much.

19 (Applause.)

20 MS. SALAS: So the mandatory report would be
21 something city law required?

22 MR. TREXLER: I think city law should be,
23 because one of the things I think I've come to
24 appreciate in all the years in working in the
25 fashion industry, New York City is the fashion

PUBLIC HEARING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

capital of the world, it's one of the global fashion capitals. And fashion companies pay attention to what you do here.

So the amendments that you put in place, they will be paying attention, not just for what they do in the city, but throughout the country and indeed throughout the entire world. So, for example, mandatory reporting definitely should be part of the city -- the Human Rights law. Think of it what you do -- like non-profits have to have certain mandatory public reporting. Publicly traded companies have to have certain reporting. There are standards like The Higg Index and some other things in fashion where you actually have to audit for these questions and account for them so to score what you get.

If we can do that for every business, every non-profit, it would make a difference because then you can't hide it anymore. Then people know what you're doing.

MS. ALBISA: I just have one follow-up question on that. We've done work on low wage workplaces and unfortunately what we find is the more abusive the environment, the fewer cases get

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PUBLIC HEARING

reported, right? So it could be a sort of, what you call it, false-negative instead of false-positive. Any thoughts on that? You know, the more repressive the environment, the less you're actually going to have the need to report. Any thoughts on that?

MR. TREXLER: Fashion has been working in this -- in labor reform for decades. There's a big spotlight on it, there's been major incidents, factor fives going back to triangle. And what we found is that the more we put in place, forms of auditing and reporting, the more people are going to speak up. One of the speakers mentioned hotlines. There's a number of companies throughout the city have put in hotlines where workers can do reporting, and once those are in place, there is an uptick.

So I think once you establish it as a norm, as a public social norm or public, you know, legal norm, that this reporting exists, their mechanisms are doing it, people are paying attention to it, that will encourage people to speak up. Thank you so much. (Applause.)