

## **Testimony of Frank Gattie**

National Employment Law Project

# **Testimony in Support of One Fair Wage for New York State**

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## **Hearing before the New York State Department of Labor**

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My name is Frank Gattie, and I currently work at the National Employment Law Project. I am here today because I support a full minimum wage for all workers in New York State. From 2005 until 2016, I worked as a server in New York's restaurant industry. During that period, I worked in a casual chain restaurant, a bar, a café, and several full-service establishments in Manhattan. In general, I made ends meet with my tips, but the pay often fluctuated from shift-to-shift, and year-to-year—earning anywhere from around \$27,000/year to \$40,000/year. Today, I would like to tell you about two of the many reasons tipped workers' pay fluctuates in unpredictable ways. In the short term, pay fluctuates because of random circumstances that can take place during any particular shift. In the long term, the industry has adopted harmful hiring practices that contribute to the instability of a tipped worker's salary.

Unlike other industries, a server's pay can fluctuate from day to day in ways that are often outside of anyone's control. I would often find myself joking with my coworkers about how we had some of the only jobs where multiple factors could initiate a pay cut. Bad weather, construction outside the restaurant, or a summer holiday could all reduce our pay. Shifts that brought in less tips than expected could lead to bad weeks, or even bad months, making it difficult to plan for upcoming bills. Planning for short-term fluctuations was not always easy, but over the years, I learned to weather the short-term circumstances that came along with tipped work. However, there are longer-term circumstances that can make a server's financial life difficult.

Many restaurants in New York City have adopted a harmful hiring practice that can have long-term effects on tipped workers who are not paid the full minimum wage. In other industries, applicants are given an offer stating their salary or rate of pay. In New York, all tipped workers are paid \$8.65 per hour, but the amount of tips a worker may bring in is up in the air. Questions about tips are answered vaguely by hiring managers who cannot definitively say what one tipped worker may bring in. To solve this problem, many restaurants have instituted a trailing system - where potential hires work one unpaid shift, "a trail," and are encouraged to ask other employees questions about pay and salary. Outside of this practice being blatantly illegal, employees who are being "trailed" may fear retaliation and have a hard time answering questions about pay or working conditions. Also, one shift is not a good example of how busy a restaurant may or may not be. During my years in the industry, I experienced this practice several times, and sometimes took a job convinced that I would make enough money to support myself. Later on, I would learn the tips or shifts I was scheduled were insufficient. After realizing I could not pay my bills, I was forced to go from job-to-job in search of a restaurant that allowed me to make ends meet. The process hit my finances hard, but if I were making the full minimum wage, it would have at least lessened the blow.

Working for tips allowed me to attend college as an adult while living in New York City, but without the stability of a full-minimum wage, my finances were never entirely certain. The examples I listed today are just two of the many reasons all workers deserve the full-minimum wage in New York State. Governor Cuomo must help bring some stability to a notoriously unstable industry, and set an example for states across the country.