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Testimony before the New York State Assembly
Standing Committee on Labor

November 21, 2008

Submitted by Yolanda Wu
A Better Balance: the Work and Family Legal Center

Thank you for the opportunity to testify today and thank you for holding this hearing on domestic work.

My organization, A Better Balance, is a New York-based legal advocacy organization dedicated to helping families balance the conflicting demands of work and family. We employ a range of legal strategies to promote flexible workplace policies, end discrimination against caregivers and value the work of caring for families. Our mission is to promote equality and expand choices for men and women at all income levels so they may care for their families without risking their economic security.

One of the major problems facing families in the United States is that the labor of caregiving is undervalued. We treat the work of caring for children, older persons, and those who are sick or disabled as secondary to other forms of labor. The work of caregiving is underappreciated, poorly compensated or completely unpaid. Because caregiving is treated as a private concern, caregiving labor becomes invisible.

Domestic workers – nannies, housekeepers, and eldercare workers – who provide paid care are part of the invisible caregiving labor force. Because they work in an underground economy, domestic workers are vulnerable to abuse. Many domestic workers face a double-bind, providing crucial care for their employers while finding it impossible to care for their own families. As the current economic crisis continues to unfold, we are concerned that domestic workers will be subject to further exploitation.

Action is needed because existing laws fail to protect domestic workers. Many laws specifically exclude domestic workers from coverage. The National Labor Relations Act bars domestic workers from collectively organizing into unions. 29 U.S.C. § 152(3). Occupational Safety and Health Act regulations exclude domestic workers from its protections. 29 C.F.R. § 1975.6. The

federal Fair Labor Standards Act includes domestic workers in its minimum wage and overtime provisions, but excludes "casual" employees like babysitters and "companions" to the sick and elderly. 29 U.S.C. § 213(a)(15). The federal employment discrimination law, Title VII of the Civil Rights Act of 1964, effectively excludes domestic workers from coverage because it applies only to employers with fifteen or more employees. The New York state and city human rights laws also effectively exclude domestic workers from coverage because they apply only to employers with four or more employees. New York City's Local Law 33 requires employment agencies to provide domestic employers with a Code of Conduct, but that does not cover domestic workers who find employment without an agency.

The Domestic Worker Bill of Rights (A638B) would fill many gaps in the law by providing basic standards for pay, time off and termination. These protections are urgently needed as the financial crisis persists. New York can and should be leader in providing basic labor protections for domestic workers. Passing the Domestic Worker Bill of Rights would send a clear message that caregiving work is valued, and that our most vulnerable workers have rights and deserve protection from abuse. Thank you for the opportunity to testify today.