No. 25-1873

IN THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

CAONAISSA WON,
Plaintiff-Appellant,

v.

AMAZON.COM SERVICES, LLC,
Defendant-Appellee,

AMAZON.COM SERVICES, INC.,
Defendant.

On Appeal from the United States District Court
for the Eastern District of New York, No. 20-CV-2811

BRIEF FOR *AMICI CURIAE* A BETTER BALANCE AND 11 ADDITIONAL WORKERS' RIGHTS ORGANIZATIONS IN SUPPORT OF PLAINTIFF-APPELLANT AND REVERSAL

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, *amici curiae* certify that none of the *amici* present are nongovernmental entities with a parent corporation or publicly held corporation that owns ten percent or more of its stock.

Dated: November 19, 2025

By: */s/ Chelsea Thompson*
Chelsea Thompson

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INTEREST OF *AMICI CURIAE*[1]

Amici are non-profit legal organizations that advocate for employee rights writing in support of Plaintiff-Appellant.

A Better Balance ("ABB") is a national nonprofit legal organization dedicated to ensuring that workers can care for themselves and their families without jeopardizing their financial security. ABB hears from workers across the country about the challenges of balancing work and family responsibilities through ABB's helpline, which provides free legal information to thousands of workers every year. ABB has been integral to efforts to extend anti-discrimination protections to caregivers, directly advocating for these protections at the federal, state, and local level, including in New York City. ABB therefore has a direct interest in interpretations of the caregiver discrimination provisions of the New York City Human Rights Law. ABB's perspective as both policy advocates and direct service providers gives valuable insight into the purpose of this law: to end discriminatory treatment of caregivers at work and ensure that they have equal access to benefits of employment.

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[1] All parties have consented to the filing of this brief. FED. R. APP. P. 29(a)(2). No counsel for any party authored this brief in whole or in part, and no person other than amici or their counsel contributed money that was intended to fund the preparation or submission of this brief. FED. R. APP. P. 29(a)(4)(E).

Equal Rights Advocates ("ERA") is a national civil rights organization dedicated to protecting and expanding economic and educational access and opportunities for women, girls, and people of all marginalized gender identities. Since its founding in 1974, ERA has litigated high-impact sex and gender discrimination cases, engaged in policy reform and legislative advocacy campaigns, and, through its advice and counseling program, provided free legal assistance to hundreds of individuals experiencing gender-related obstacles at work. ERA has led efforts to pass state and federal legislation strengthening legal protections for pregnant, parenting, and/or lactating workers and has litigated high-impact cases involving allegations of gender discrimination against pregnant or parenting women. The organization has also participated as *amicus curiae* in scores of cases involving the interpretation of Title VII and state anti-discrimination laws as applied to parenting, pregnant and/or lactating workers.

The Gender Equality Law Center ("GELC") is a nonprofit, public interest law firm based in Brooklyn, New York. Our mission is to use the law to combat gender-based discrimination and stereotyping that harms individuals and groups in achieving equal economic and social opportunities. The majority of GELC's work involves providing direct legal services to low-income individuals who would otherwise be unable to find counsel. We bring strategic litigation, actively counsel and advise hundreds of individuals each year through our legal hotline and other

referrals, and provide know-your-rights trainings. We also support legislative and policy reforms. One of GELC's three central areas of focus is protecting the rights of pregnant workers, parents, and caregivers, who frequently experience bias on the job and as a result may lose their employment or have work opportunities curtailed when they create families or are required to care for them. GELC has litigated many cases enforcing an expansive reading of the laws protecting caregivers, as well as being active in creating systemic changes in corporate America to ensure gender bias does not derail a parent or caregiver's ability to support their families.

The Legal Aid Society is the oldest and largest provider of legal assistance to low-income families and individuals in the United States. It is dedicated to one simple but powerful belief: that no New Yorker should be denied access to justice because of poverty. The Legal Aid Society's Civil Practice provides comprehensive legal assistance on a vast array of legal matters. The diversity of our practice areas demands an intersectional approach that responds to the needs of all our client communities without pitting vulnerable communities against each other. The Society's Employment Law Unit represents low-wage workers in employment-related matters, including claims for discrimination against caregivers.

Legal Momentum, the Women's Legal Defense and Education Fund ("Legal Momentum"), is a civil rights organization dedicated to advancing gender

equality through the law. For 50 years, Legal Momentum has worked to secure equal rights for women in the workplace through impact litigation, legislative advocacy, education, and direct representation of clients, including extensive work establishing stronger protections under the New York State and New York City Human Rights Law. Since its founding in 1970, Legal Momentum has been at the forefront of efforts to tackle workplace discrimination against women and families, litigating cases and contributing as *amicus curiae* in seminal cases, including *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998); and *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). Building on this expertise, Legal Momentum has been dedicated to ensuring that antidiscrimination protections are applied meaningfully to caregivers.

Legal Services NYC ("LSNYC") is the largest civil legal services provider in the United States. LSNYC provides legal services to low-income New Yorkers across a range of subject matters, including housing law, family law, LGBTQ rights, employment law, consumer protection, and more. Not only do many of the tens of thousands of clients a year we represent provide caregiving services to partners, spouses, and family members, but so do many of our staff. Unlawful caregiver discrimination prevents our clients from being able to overcome the systemic barriers trapping them in poverty.

Make the Road New York ("MRNY") is a nonprofit, membership-based community organization with more than 28,000 members that integrates community organizing, adult and youth education, legal and survival services, and policy advocacy, in a holistic approach to help low-income New Yorkers improve their lives and neighborhoods. MRNY works through vibrant community centers in Bushwick, Brooklyn; Corona, Queens; Port Richmond, Staten Island; Brentwood, Long Island and White Plains in Westchester County. MRNY's Workplace Justice team represents hundreds of low-wage immigrant workers each year to enforce their rights under workplace laws. We represent immigrant workers to remedy unlawful workplace discrimination and terminations and engage in legislative reform to enhance protection for workers under city and state law. Our clients, the majority of whom are caregivers earning low wages, routinely face unlawful discrimination and termination by their employers. The resulting loss of income is devastating for working New Yorkers who are already struggling to pay rent and meet basic household needs, and can be incredibly destabilizing for their families and communities. Our experience has shown the overwhelming need for protections against unlawful caregiver discrimination.

The National Employment Lawyers Association/New York ("NELA/NY") is the New York affiliate the National Employment Lawyers Association, the nation's largest bar association dedicated to advancing the rights

of employees. With more than 450 members practicing in New York State, NELA/NY is dedicated to advancing the rights of employees to work in an environment that is free of discrimination, harassment, and retaliation. NELA/NY's members represent employees in court and arbitration, advance legislative proposals to clarify and strengthen worker protections, and file *amicus* briefs in cases that raise important questions related to employment law. NELA/NY members have represented thousands of clients in employment matters including in claims arising under the New York City Human Rights Law. Accordingly, NELA/NY has a substantial interest in ensuring that the law's protections are properly applied to all those protected under the statute, including caregivers.

The National Lawyers Guild – New York City Chapter's Labor and Employment Committee ("NLG-NYC LEC") is a committee of the New York City Chapter of the National Lawyers Guild ("NLG"), a non-profit unincorporated legal association engaged in legal education and advocacy. The NLG-NYC LEC is affiliated with the NLG's Labor and Employment Committee and the NLG's New York City Chapter. The NLG-NYC LEC's membership consists of labor-and-employment lawyers, law students, and legal workers, and the NLG-NYC LEC's members represent labor unions, workers' centers, community organizations, and individual workers throughout New York State and the rest of the nation in all

areas of workers' rights. A central concern to the NLG-NYC LEC's members' legal work and the NLG-NYC LEC's constituents is the strength of the anti-discrimination laws of New York City — particularly, the New York City Human Rights Law.

The National Women's Law Center ("NWLC") fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. We use the law in all its forms to change culture and drive solutions to the gender inequity that shapes our society and to break down the barriers that harm all of us—especially women of color, LGBTQIA+ people, and low-income women and families. NWLC has participated as counsel or *amicus curiae* in a range of cases in state and federal courts across the United States to combat discrimination in the workplace and secure greater job quality for all workers. NWLC is committed to closing the racial and gender wage gaps that harm women of color and their ability to care for themselves and their families.

TakeRoot Justice ("TakeRoot") is a New York City-based nonprofit committed to dismantling racial, economic, and social oppression. TakeRoot's Workers' Rights team uses legal, policy, and legislative advocacy to support workers as they assert their rights in the workplace. The Workers' Rights team represents low-wage workers and partners with grassroots worker centers,

advocacy groups, and their members to combat workplace violations such as wage theft, discrimination, sexual harassment, and retaliation. TakeRoot is committed to ensuring that labor and anti-discrimination laws are enforced and workers are able to lead lives of strength and dignity. TakeRoot seeks to enforce these laws by representing low-wage workers with claims at the New York City Human Rights Commission, the New York State Division of Human Rights, the Equal Employment Opportunity Commission, as well as in state and federal court. In doing so, TakeRoot is deeply dedicated to representing workers who have experienced discrimination due to their caregiver status and is committed to ensuring that the New York City Human Rights Law is correctly interpreted and enforced, consistent with its intent to protect workers.

WorkLife Law is a national advocacy and research organization that advances gender and racial equity by strengthening legal rights for pregnant people and family caregivers. Our work seeks to ensure all people have the freedom to build and maintain economic security through employment and educational opportunities, without having to sacrifice their health or their loved ones' care. A core component of WorkLife Law's mission, therefore, is seeking to prevent discrimination against people with family responsibilities, including by ensuring caregivers have equal access to workplace flexibility.

SUMMARY OF ARGUMENT

New York City was among the first localities in the country to prohibit discrimination against caregivers. When the City Council voted to add caregivers—individuals caring for a child or adult family member—to the classes protected by the New York City Human Rights Law ("NYCHRL") in 2015, they did so in response to the voices of workers and advocates who presented the problem of caregiver discrimination in the starkest terms.

Families are increasingly reliant on the income of both parents, but as the cost of childcare increases, employees on the margin struggle to balance competing work and care responsibilities. A growing number of employees also provide care for adult family members, and some employees are even simultaneously responsible for both child and elder care. Discrimination against caregivers turns these pressures into a crisis. Due to documented bias, caregivers are often subjected to different terms of employment, and denied schedule flexibility that other employees receive. Without this flexibility, many caregivers are unable to balance work and family responsibilities. Caregiver discrimination therefore undermines caregivers' employment prospects, job stability, and economic future.

This is what happened to Plaintiff Caonaissa Won when she sought a schedule modification from her employer, Amazon.com Services, LLC ("Amazon"). Ms. Won is a single mother and primary caregiver for her child, then

seven years old. The schedule change she was seeking was minor. She requested to arrive 15 minutes later and leave 15 minutes earlier three days per week to get her child to and from school—a schedule reduction of 1.5 hours per week, which Ms. Won proposed to cover by forgoing breaks. This flexibility was well within Amazon's power to provide, as it is a benefit Amazon already offers to other employees so they can pursue their own education. However, when Ms. Won requested this schedule change, Amazon rejected her request, then later terminated her employment.

In its decision, the court rejected Ms. Won's argument that this treatment was discriminatory, stating that "the NYCHRL does not require Amazon to provide her requested scheduling adjustment, and the NYCHRL's legislative history counsels against it." *Won v. Amazon.com Services LLC*, No. 20-CV-2811, 2025 WL 1796034, at *7 (E.D.N.Y. June 30, 2025). This is incorrect on both counts. The court correctly noted that, while the NYCHRL requires employers to provide accommodations to some protected classes, employers are not affirmatively required to provide accommodations to caregivers. However, the court wrongly colors Ms. Won's request for schedule flexibility as a request for accommodations, which mistakes the nature of her claim. Ms. Won requested only the same benefits of employment that other employees receive, even when they have no affirmative

right to accommodations. In short, she requested equal treatment for caregivers, which the law entitles her to.

Moreover, the legislative history of the NYCHRL compels the opposite conclusion from the one the court reached. The City Council added caregivers as a protected class to the NYCHRL specifically to prohibit policies like Amazon's. When employers deny benefits of employment (such as schedule flexibility) to employees when they request it for caregiving reasons, while giving this same benefit to employees for other reasons, they perpetuate the devaluation of care work that has historically kept caregivers from full and productive participation in the workforce. As the legislative history and subsequent application of the NYCHRL show, the NYCHRL prohibits policies exactly like Amazon's. Employees must receive the same schedule flexibility for caregiving purposes that other employees receive for non-caregiving purposes—to allow employers to discriminate by distinguishing and disfavoring caregiving needs would fly in the face of the remedial purposes of the NYCHRL.

Because the treatment Ms. Won faced is exactly the kind of discrimination the City Council intended to combat when they amended the NYCHRL to protect caregivers, this Court should vacate the district court's decision granting summary judgment to Amazon on Plaintiff's NYCHRL caregiver status discrimination claim.

ARGUMENT

I. The City Council brought caregivers within the NYCHRL's protections to combat differential treatment of workers with caregiving responsibilities.

A. Caregivers represent a large and growing portion of the workforce, and the demands of caregiving disproportionately fall on marginalized communities, including women of color and low-income workers.

Caregivers—people caring for a child, adult, or other family member—represent a significant portion of the U.S. workforce. The days of one parent staying home while the other works are long gone for most American families. In 66.5% of two-parent families with children under the age of 18, both parents now work.[2] The majority of these parents (approximately 95% of employed fathers and 79% of employed mothers) work full-time.[3]

Parents of minor children are not the only workers striving to balance competing care demands. An estimated 18-22% of employees in the United States are responsible for providing care to an adult family member, and approximately 60% of these employees work full-time.[4] A growing number of workers (the

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[2] U.S. DEP'T OF LAB., BUREAU OF LAB. STAT., EMPLOYMENT CHARACTERISTICS OF FAMILIES – 2024 2 (Apr. 23, 2025), https://www.bls.gov/news.release/pdf/famee.pdf.

[3] *Id.* at 3.

[4] DEBRA LERNER, ROSALYNN CARTER INST. FOR CAREGIVERS, INVISIBLE OVERTIME: WHAT EMPLOYERS NEED TO KNOW ABOUT CAREGIVERS 4 (Jan. 2022), https://rosalynncarter.org/wp-content/uploads/2022/03/Invisible-Overtime-White-Paper.pdf.

"Sandwich Generation") are responsible for caring for both children and adult family members simultaneously—one recent study found that one-third of adults who are caring for an adult with disabilities or complex medical conditions also have a child under the age of 18 at home. [5]

The competing demands of work and care fall hardest on women. Women are the primary breadwinners for more than 40% of households with children under the age of 18, and 70% of working mothers will be the primary earner at some point before their first child turns 18.[6] Yet women still overwhelmingly shoulder the burden of caregiving for minor children, spending twice as much time as men on childcare and household work.[7]

The burden of both working and being the primary care provider falls even harder on women of color. Two out of three Black mothers are breadwinners for their families, and around half of Native American or Hispanic mothers are

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[5] AARP & NAT'L ALL. FOR CAREGIVING, CAREGIVING IN THE US 2 (July 2025), https://www.aarp.org/content/dam/aarp/ppi/topics/ltss/family-caregiving/caregiving-in-us-2025.doi.10.26419-2fppi.00373.001.pdf

[6] Jennifer Glass et al., *Children's Financial Dependence on Mothers: Propensity and Duration*, 7 SOCIUS 1, 1, 7 (Nov. 15, 2021), https://journals.sagepub.com/doi/pdf/10.1177/23780231211055246.

[7] GENDER EQUAL. POL'Y INST., THE FREE-TIME GENDER GAP 2 (Oct. 2024), https://thegepi.org/GEPI-Free-Time-Gender-Gap-Report.pdf.

breadwinners for their families.[8] All in all, caregivers are now a prominent demographic in the American workforce, a demographic in which already-marginalized workers are overrepresented.

Despite the reality that many workers also have caregiving responsibilities, these workers still lack flexibility and input into their work schedules. Working single parents, especially women of color, are over-represented in low-wage jobs.[9] These jobs often feature inconsistent yet inflexible scheduling practices: one-third of workers (either hourly or salaried) know their schedules only two weeks or less in advance, and a comparable number of workers have no input into their schedules whatsoever.[10] Employees—especially low-wage and hourly workers—are expected to reorganize their lives around work with little notice or input, and are frequently subject to last minute-schedule changes (changes that happen a day or two in advance), making it even harder for workers to secure and maintain

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[8] Compared to 40% of white, non-Hispanic mothers who are breadwinners for their families. Kennedy Andara et al., CTR. FOR AM. PROGRESS, *Breadwinning Women Are a Lifeline for Their Families and the Economy* (May 9, 2025), https://www.americanprogress.org/article/breadwinning-women-are-a-lifeline-for-their-families-and-the-economy/.

[9] OXFAM, THE CRISIS OF LOW WAGES 3-4 (July 9, 2024), https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621608/rr-2024-crisis-of-low-wages-090724-en.pdf.

[10] NAT'L WOMEN'S LAW CTR., COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-PAID JOBS AND THEIR CONSEQUENCES 1-2 (Sept. 2023), https://nwlc.org/wp-content/uploads/2020/12/Collateral-Damage-9.14.23v1.pdf.

stable childcare.[11] When they are unable to find childcare, these workers are often fired or are forced to quit their jobs, losing much-needed income. One study found that as many as 1 in 4 parents reported that they had to quit a job due to childcare challenges, and almost as many reported their employers fired them because of childcare problems.[12]

Job instability due to childcare problems has massive impacts on local economies, costing the state of New York alone as much as $9.8 billion per year in lost earnings, productivity, and revenue.[13] This staggering figure does not even include the economic impact of non-childcare caregiving responsibilities. Caregivers for adult family members report similar job-related impacts from their caregiving responsibilities, including reduced earning capacity and job loss.[14] When employers needlessly refuse to make work and caregiving compatible, they exacerbate job precarity for workers who are already struggling, with critical consequences for the economy.

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[11] *Id.* at 3.
[12] SANDRA BISHOP, READYNATION, $122 BILLION: THE GROWING, ANNUAL COST OF THE INFANT-TODDLER CHILD CARE CRISIS 6 (Feb. 2023), https://strongnation.s3.amazonaws.com/documents/1598/05d917e2-9618-4648-a0ee-1b35d17e2a4d.pdf.
[13] *Id.* at 11.
[14] LERNER, *supra* note 4, at 6.

B. Despite their prevalence in the workforce, caregivers still face significant employment setbacks and unequal treatment due to biases about caregiving.

Discrimination against caregivers impacts both men and women who have, or are perceived to have, caregiving responsibilities that conflict with the "ideal" employee who can prioritize work over all else. Negative beliefs about workers who take on family responsibilities harm their employment prospects, career growth, and job stability.

Anti-caregiver bias is deeply related to gender-based stereotypes, in particular the association of women with caregiving and men with breadwinning. The impact of caregiver bias against mothers in the workforce is particularly well-documented. Bias against mothers—not just as women, but also as caregivers—manifests as a "motherhood penalty," resulting in both decreased wages and employment prospects for mothers as compared to both women who are not mothers and men.[15] This penalty reflects the biases that many employers hold towards mothers—for example, that they are less competent, less committed to

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[15] *See, e.g.*, Michelle J. Budig & Paula England, *The Wage Penalty for Motherhood*, 66 AM. SOCIO. REV. 204, 217 (Apr. 2001) (showing a wage penalty of 5% for mothers per child that they have); *see also* Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, 112 AM. J. SOCIO. 1297, 1316-17 (Mar. 2007) (showing that applicants for a job were recommended for hire only 47% of the time if they were mothers, compared to 84% of non-mother female applicants, and that mothers were also offered lower starting salaries).

their jobs, or less reliable.[16] As a result of this bias, mothers get less flexibility or leniency than other employees receive. One study showed that employers are less likely to employ mothers even if they need schedule flexibility (e.g., arriving late) *less* frequently than other employees.[17]

Men with children do not face the same systemic penalties at work for having children that women do. However, when men defy traditional gender roles by taking on a greater share of caregiving responsibilities, they also face tangible consequences from anti-caregiver bias. Bias against men who shoulder family responsibilities can lead to workplace harassment, demotion, or even termination.[18]

Too often, caregivers of disabled and older adults also face retaliation at work when they seek flexibility from their employers, even when they are legally entitled to it under laws such as the Family and Medical Leave Act ("FMLA"). Employees who provide care to adults report that after exercising their FMLA rights to care for adult family members, they face retaliation, such as reduced

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[16] Stephanie Bornstein et al., *Discrimination Against Mothers is the Strongest Form of Workplace Gender Discrimination*, 28 INT'L J. COMP. LAB. L. & INDUS. REL. 45, 52 (2012) (reviewing several studies measuring bias against working mothers); *see also* Correll et al., *supra* note 15, at 1318 (showing that employers view job applicants as less competent if they are mothers).

[17] Correll et al., *supra* note 15, at 1320-21.

[18] Keith Cunningham-Parmeter, *Men at Work, Fathers at Home: Uncovering the Masculine Face of Caregiver Discrimination*, 24 COLUM. J. GENDER & L. 253, 257 (2013).

access to the benefits of employment (including scheduling flexibility or telecommuting) or even job loss.[19] Caregivers for adults who are among the 44% of employees who are not FMLA-eligible have little to no recourse when their employer punishes them because they need more flexibility at work.[20]

The COVID-19 pandemic shone a spotlight on the work-care conflict experienced by caregivers. School closures and the vulnerability of adult care recipients to COVID-19 left many employees with caregiving responsibilities seeking additional flexibility from employers. However, these employees found that their employers punished them for even asking. According to a study conducted by A Better Balance in 2021 that surveyed over 1,200 New Yorkers, lack of access to workplace flexibility was a significant problem for caregivers, and disproportionately impacted women, people of color, lower-income, and part-time workers.[21] The study also revealed that many employees who simply

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[19] JOAN C. WILLIAMS ET AL., AARP PUB. POL'Y INST., PROTECTING FAMILY CAREGIVERS FROM EMPLOYMENT DISCRIMINATION 4 -5 (2012), https://www.aarp.org/content/dam/aarp/research/public_policy_institute/health/protecting-caregivers-employment-discrimination-insight-AARP-ppi-ltc.pdf.

[20] SCOTT BROWN ET AL., ABT ASSOC., WHO IS ELIGIBLE? 1 (July 2020), https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018PB1WhoIsEligible_StudyBrief_Aug2020.pdf.

[21] A BETTER BALANCE, OUR CRISIS OF CARE: SUPPORTING WOMEN AND CAREGIVERS DURING THE PANDEMIC AND BEYOND 11-14 (Mar. 2021), https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis_of_Care_Report_031521.pdf.

requested flexibility from their employer due to caregiving conflicts during the pandemic experienced subsequent retaliation at work.[22] One in ten caregivers surveyed experienced retaliation due to their caregiving responsibilities.[23] Both women and men reported this phenomenon, although women were four times as likely to experience retaliation.[24] People of color experienced retaliation for seeking workplace flexibility at nearly twice the rate of white respondents,[25] and people with annual incomes below $50,000 also experienced higher rates of retaliation.[26]

C. *The clear intent of New York City's caregiver anti-discrimination law was to address unequal treatment of caregivers, particularly inflexible and discriminatory scheduling practices*.

The City Council added caregivers as a protected class to the New York City Human Rights Law ("NYCHRL") in response to the evident impact that caregiver discrimination has on workers and the economy. Introduction 108-A ("Int. 108"), co-sponsored by Councilmember Deborah L. Rose and Manhattan Borough President Gale Brewer, amended the NYCHRL to include actual or perceived caregiver status as a protected class, and was passed into law with unanimous

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[22] *Id.* at 16-20.
[23] *Id.* at 8.
[24] *Id.* at 7.
[25] *Id.* at 8.
[26] *Id.*

support on December 16, 2015.[27] The law defined "caregiver" broadly to include not only parents, but also people caring for adult family members.[28] This definition built on existing protections against discrimination based on gender and race. However, Int. 108 went further by recognizing caregivers as a distinct class to address the specific impact of caregiver discrimination.

During hearings on Int. 108, the NYC Commission on Human Rights and a variety of advocacy organizations—including *amici* A Better Balance and The Legal Aid Society—testified about the impact of caregiver discrimination on New Yorkers. In its testimony, A Better Balance offered concrete examples of workers who had experienced blatant discrimination because of their caregiving responsibilities:

> We met a professional woman with ten years of experience and excellent reviews at her job, who was fired after returning from her second maternity leave and told she was not capable of doing the work anymore because she was the mother of several small children. We spoke with a man working in retail who was fired the day after he asked for a part-time schedule to care for his mother, who had recently been diagnosed with cancer. Another woman, whom we spoke to recently, had been working for years on a schedule that allowed her to care for her ailing husband. A new manager entered the picture and suddenly changed the woman's hours, making it impossible for her to be with her husband when he needed her, while happily accommodating another worker who was going to school part-time.
>
> Caregiver discrimination is particularly hard on single mothers. Yvette, a single mother of three lost her job at a grocery store, where she had worked

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[27] N.Y.C. Local Law 1 of 2016.
[28] *Id.* (codified at N.Y.C. Admin. Code § 8-102).

> for eleven years, after her boss changed her shift to require work on Saturdays. She had no childcare on the weekend and the cost of securing it would have wiped out her wages for the day. She tried to work out alternative shift times, but was rebuffed. *A younger colleague without children was allowed to reject the Saturday shift because she was attending school on the weekends*. Eight months after Yvette lost her job she was still looking for work.[29]

The problem that A Better Balance and other advocates presented to the City Council was not just that employees had lost their jobs or opportunities for promotion because of explicit anti-caregiver bias. It was also that employers were denying caregivers the same flexibility that they afforded to other employees without caregiving responsibilities—exactly like the Amazon policy at issue in this case. When employers treat caregiving needs as "lesser" compared to non-caregiving needs, this unfairly disadvantages caregivers as a group. Caregivers need schedule flexibility and predictability more than most employees, but due to caregiver discrimination, they often get less than other employees. Caregivers may even face retaliation simply for asking for these benefits. As advocates testified, this discriminatory treatment was costing caregivers their livelihoods.

The drafters of Int. 108 clearly intended the law to give caregivers equal access to schedule flexibility. Borough President Brewer, one of Int. 108's authors,

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[29] *Hearing on Int. 0108-2014 before the N.Y.C. Council Comm. on Civil Rights* (Sept. 21, 2015) (testimony of Dina Bakst & Phoebe Taubman, A Better Balance), https://www.abetterbalance.org/wp-content/uploads/2016/11/Caregiver_Testimony_9-20-15.pdf (emphasis added).

testified that the express purpose of the law was to stop employers from denying any caregiver equal access to the benefits of employment, including schedule flexibility:

> [Caregiver discrimination] arises from treating employees with caregiving responsibilities less favorably than other employees due to unexamined assumptions that their family obligations may mean that they are not committed to their jobs . . . . Legislation to prohibit workplace discrimination against family caregivers would not give any group special rights. It would simply require employers to treat workers with caregiving responsibilities the same way that they treat other employees. *Thus, an employer who readily allows a student's work schedule to be shaped around their class schedule could not refuse to show similar flexibility for an employee caring for an older adult or a child*. Anti-discrimination law simply requires equal treatment.[30]

Notably, the policy Borough President Brewer describes in her testimony is identical to the schedule policy Ms. Won challenges here. Thus, it is precisely the type of policy Int. 108's authors intended to prohibit.

The final legislative report of the Committee on Civil Rights on Int. 108 reflected both the intent of the law's authors and the testimony of advocates.[31] The report detailed the legislative findings from the hearings on Int. 108, and the

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[30] *Hearing on Int. 0108-2014 before the N.Y.C. Council Comm. on Civil Rights* (Sept. 21, 2015) (testimony of Gale A. Brewer, Manhattan Borough President), https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1672736&GUID=D78A68CB-0CA2-4777-9784-1B1CC79C4C9A (emphasis added).

[31] N.Y.C. Council Comm. on Civil Rights, Committee Report of the Governmental Affairs Division on Proposed Int. No. 108-A (Dec. 14, 2015), https://legistar.council.nyc.gov/View.ashx?M=F&ID=4175900&GUID=75B2F600-3DB9-4173-AAE8-F2EFBF30B548.

Committee on Civil Rights presented the report to the City Council before they voted Int. 108 into law. This report therefore provides critical insight into the City Council's purpose in enacting Int. 108—specifically, that they understood it as a remedy to the problem of unequal access to employment benefits, privileges, and flexibility resulting from anti-caregiver bias.

As an example of the problem that Int. 108 would fix, the report included the story of Dena Adams, a single mother who (like Yvette) was fired after requesting adjustments to her schedule for childcare purposes. According to the report, her employer did the opposite of what she requested, retaliating against her by requiring her to work unpredictable evening and weekend hours, even though other employees received predictable hours to accommodate their school schedule.[32] The story of Ms. Adams, as well as the committee's research and the testimony submitted by advocates, led the report to conclude that "low-wage workers are often forced out of their jobs because their employers deny them minor scheduling adjustments needed to accommodate their caregiving responsibilities."[33] Int. 108

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[32] *Id.* at 5-6.

[33] *Id.* at 5. Although a prior version of Int. 108 would have required employers to provide affirmative reasonable accommodations to caregivers, the authors removed that language by the time this report was presented to the City Council in December 2015. However, as the legislative report reflects, guaranteeing equal access to "accommodations" such as scheduling flexibility and other privileges of employment enjoyed by non-caregiving employees was still a primary purpose of this law.

would solve this problem by making it illegal to "reject[] a caregiver's request for a change to the terms and conditions of their employment while permitting the same request for non-caregiver employees."[34] As is clear from the findings of the legislative report, as well as the testimony of the authors of Int. 108 and the advocates who supported it, the City Council understood the law was a solution to this form of caregiver discrimination, and intended the law to give caregivers equal access to benefits such as schedule flexibility.

II. Subjecting caregivers to unequal terms and conditions of employment is illegal caregiver discrimination, in violation of the NYCHRL.

A. Courts must construe the NYCHRL broadly and remedially.

The NYCHRL explicitly states that its terms must be read by courts to have broad and remedial effect. The City Council has passed legislation not once, but twice, to correct the ways in which courts have impermissibly narrowed the remedial powers of the NYCHRL. In 2005, the Local Civil Rights Restoration Act amended the NYCHRL to make clear that courts must interpret the law in accordance with its "uniquely broad and remedial purposes . . . regardless of whether federal or New York State civil and human rights laws . . . have been so construed."[35]

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[34] *Id.* at 11.
[35] Local Civil Rights Restoration Act of 2005, N.Y.C. Local Law 85 of 2005 § 7.

In 2016, the City Council amended the law again to reinforce that courts should read the NYCHRL in the manner that is "maximally protective of civil rights in all circumstances."[36] The 2016 amendment explicitly named several cases, including *Bennett v. Health Mgmt. Sys., Inc.*, 92 A.D.3d 29 (N.Y. App. Div. 2011) and *Williams v. N.Y.C. Hous. Auth.*, 61 A.D.3d 62 (N.Y. App. Div. 2009)—discussed in more detail below—as examples of accurately "broad and remedial" interpretations of the law.

The intent of the City Council through these amendments is clear: courts have a mandate to consider the purposes for which the City Council enacted the NYCHRL, and the problems they intended the NYCHRL to remedy, in their application of the law.

B. Under the NYCHRL, summary judgment for defendants must be granted more sparingly than under federal law, and cases may be dismissed on summary judgment only when the plaintiff adduces no evidence that the defendant treated them less well because of their protected class membership.

In *Williams,* one of the guiding cases now incorporated into the statutory text of the NYCHRL, the court provides clear guidelines for when courts may grant summary judgment:

> For [NYCHRL] liability . . . the primary issue for a trier of fact . . . is whether the plaintiff has proven by a preponderance of the evidence that she has been treated less well than other employees because of her [protected

[36] N.Y.C. Local Law 35 of 2016 § 1.

> status]. At the summary judgment stage, judgment should normally be denied to a defendant if there exist triable issues of fact as to whether such conduct occurred.[37]

The *Bennett* decision, which is also codified into the NYCHRL, elaborates that using summary judgment as a tool to dispose of NYCHRL claims is inconsistent with the clear intent of the legislature:

> We recognize that there has been a growing emphasis on using summary judgment in discrimination cases to promote "judicial efficiency." But at least in the context of the [NYCHRL], the Restoration Act provides a clear and unambiguous answer: a central purpose of the legislation was to resist efforts to ratchet down or devalue the means by which those intended to be protected by the [NYCHRL] could be most strongly protected. These concerns warrant the strongest possible safeguards against depriving an alleged victim of discrimination of a full and fair hearing before a jury of her peers by means of summary judgment.[38]

By adopting these cases as correct interpretations of the NYCHRL, the City Council made it abundantly clear that courts should treat summary judgment as a resolution of last resort. Under the NYCHRL, courts must put claims before a jury whenever possible to "maximize the ability to ferret out" unlawful discrimination.[39]

Unlike under federal law, plaintiffs with NYCHRL claims have multiple, flexible avenues by which to put forward sufficient evidence to raise a triable

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[37] *Williams*, 61 A.D.3d at 78.
[38] *Bennett*, 92 A.D.3d at 44.
[39] *Id.* at 38.

question about whether they were "treated less well" because of their protected class, thereby defeating summary judgment.[40] First, plaintiffs with NYCHRL claims can identify a triable issue of fact through the well-known *McDonnell-Douglas* burden-shifting test. However, courts applying this test to NYCHRL claims must deny summary judgment where the plaintiff has provided evidence that *even one* of the defendant's alleged non-discriminatory explanations for their behavior is "false, misleading, or incomplete."[41] This is because, given the NYCHRL's remedial construction mandate, the question of whether the plaintiff's evidence of pretext is sufficient to prove a discriminatory motive is a "determination[] properly made only by a jury."[42] In addition, plaintiffs asserting NYCHRL claims can survive summary judgment by identifying direct or circumstantial evidence that indicates discriminatory animus was one of multiple

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[40] *Id.* at 41.

[41] *Id.* at 43. The holding in *Bennett* directly responds to the Supreme Court's decision in *Reeves v. Sanderson Plumbing Products*, 530 U.S. 133 (2000), which allowed courts to grant summary judgment even where the employee has produced evidence of pretext, and finds that "*Reeves* did not sufficiently consider factors crucial to interpreting the [NYCHRL] in a way that is 'uniquely broad and remedial.'" *Bennett*, 92 A.D.3d at 42. While *Reeves* "was not wrong" that the strength of a prima facie case or evidence of pretext can vary, under the NYCHRL, this is a determination for the jury. *Id.* at 43. "[T]he extraordinary remedy of summary judgment presents a different context," and "evidence of pretext should in almost every case indicate to the court that a motion for summary judgment must be denied." *Id.* at 43-44.

[42] *Bennett*, 92 A.D.3d at 44.

mixed motives animating the defendant's behavior, without application of the *McDonnell-Douglas* test.[43]

Thus, the operative question for courts considering NYCHRL claims is different from federal claims. It is not whether the plaintiff has put forward sufficient evidence of discrimination—it is whether the plaintiff has put forward *any* evidence that they were "treated less well" because of their membership in a protected class. If so, the court must deny summary judgment for the defendant so a jury can consider the evidence and decide.[44]

C. *Multiple courts have found that when employers have a policy or practice of denying schedule changes for caregiving reasons that they grant for other reasons, this is illegal discrimination that flies in the face of the City Council's intent in including caregivers as a protected class under the NYCHRL.*

Consistent with both judicial precedent and the legislative intent of the NYCHRL, multiple courts have found that denying employees schedule changes for caregiving purposes while offering these same changes to other employees for non-caregiving reasons raises an inference of impermissible discrimination under the NYCHRL. These cases provide clear guidance that the NYCHRL prohibits discriminatory policies like Amazon's, and are consistent with the City Council's purpose in making caregivers a protected class.

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[43] *Id.* at 41.
[44] *Id.* at 40.

In *Chaplin v. Permission Data, LLC*, No. 156913/2019, 2022 WL 2916778, at *8 (N.Y. Sup. Ct. July 25, 2022), the court held that an employer's decision to refuse the plaintiff's request for a schedule adjustment to accommodate his caregiving responsibilities while granting schedule adjustments to other employees for other personal reasons (such as divorce proceedings or a dance class) raised an inference of discriminatory motive behind the defendant's conduct. According to the court: "Plaintiff [] demonstrated, through these [] examples, that a discriminatory motive may have been operated alongside legitimately proffered reasons," and the court therefore denied the defendant's motion for summary judgment on the plaintiff's NYCHRL caregiver discrimination claims.[45] Although the defendant in this case had alleged that these other employees were differently-situated from the plaintiff, the court noted that it was for the jury to distinguish between the various alleged motives for the defendant's behavior.

In *Huntley v. City of New York*, No. 151697/2023, 2024 WL 3070013 (N.Y. Sup. Ct. June 20, 2024), the court held that plaintiffs can create an inference of discriminatory intent by showing that their employers treated requests for schedule modifications from similarly-situated individuals for non-caregiving purposes more favorably than plaintiffs' requested schedule modifications for caregiving

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[45] *Chaplin*, 2022 WL 2916778, at *8.

purposes. The *Huntley* court found an inference of discriminatory intent where the plaintiff alleged that she was denied a schedule adjustment for caregiving responsibilities while other employees were given more favorable schedules.[46] The court explained that this did not amount to a requirement that employers accommodate all caregivers, but rather a requirement that employers treat caregivers equally to non-caregivers, based on the "duty under the NYCHRL not to discriminate against caregivers."[47] Even absent a right to accommodations, caregivers have a right to equal benefits of employment, including schedule adjustments, that other employees receive.

These decisions align with the clear intent of the City Council in protecting caregivers under the NYCHRL. As the legislative history shows, the City Council was acting in direct response to the problem of unequal access to workplace flexibility. By holding employers accountable for discriminating against caregivers when they deny them this flexibility while giving it to other employees, courts remedy the problem that the City Council intended to address, consistent with the "broad and remedial" construction of the NYCHRL.

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[46] *Huntley*, 2024 WL 3070013, at *3.
[47] *Id.* at *4; *see also Gil-Frederick v. City of New York*, No. 155628/2023, 2025 WL 804677, at *4 (N.Y. Sup. Ct. Mar. 13, 2025) ("To establish an inference of discrimination Plaintiff can allege facts sufficient to plead discriminatory animus by showing that similarly situated individuals who did not share her protected status as a caregiver were treated more favorably than Plaintiff.").

CONCLUSION

The City Council passed the caregiver anti-discrimination provision of the NYCHRL into law because of the scope and scale of the challenges caregivers face in the workplace. Failing to treat Plaintiff-Appellant's request for schedule modifications equally to requests from similarly situated non-caregivers sends a clear message that caregivers are not entitled to the same benefits as other employees, nor deserving of the same flexibility and understanding that other employees receive. The City Council's message to courts is just as clear: the NYCHRL prohibits these practices, and courts must label them as what they are—illegal discrimination.

For this reason and the reasons stated above, this Court should vacate the judgment of the district court and remand the plaintiff's NYCHRL caregiver status claim for further proceedings.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief contains 6,925 words and uses a proportionally spaced typeface of 14-point Times New Roman font.

Dated: November 19, 2025

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