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Rep. Lynn Woolsey (D-CA) Opening Statement

WASHINGTON, D.C. – Below are the prepared remarks of U.S. Lynn Woolsey (D-CA), the senior Democrat on the Workforce Protections Subcommittee for the hearing on the Wage and Hour Division's enforcement of the Fair Labor Standards Act.

Mr. Chairman, the Fair Labor Standards Act (FLSA) was passed nearly 80 years ago to ensure that working people [are able to] earn a fair day's pay for a fair day's work. In the decades leading up to this law, working people were often at the mercy of their employer, with little leverage to improve their working conditions. Employers had few limitations on treatment of employees.

Policies we take for granted today, such as the minimum wage, did not exist before Congress passed the FLSA. Since then, the rights guaranteed under this groundbreaking law-- among them the 40 hour workweek, the minimum wage, and compensation for overtime-- have helped millions of Americans improve their standard of living and provide the appropriate level of balance between workers' rights and the rights of employers.

In order for the law to work it has to be enforced. I applaud the Department of Labor for stepping up its enforcement of the FLSA and reject the notion that doing so somehow hurts employers.

As we know, the prior Administration decreased the ability of the Department to enforce these and other basic protections for working people. When President Obama came into office, for instance, the number of staff at the Department's Wage and Hour Division was at a record low. The Administration has since hired 300 investigators to ensure that workers are paid fairly and good employers are not put at a competitive disadvantage.

Since many of the workers covered by the FLSA are vulnerable to economic upheaval and may depend on unemployment compensation, it is especially important to enforce the law during these difficult economic times.

Imagine losing your job and going to the unemployment office and being told you don't qualify because for example, you were considered an independent contractor and your employer didn't

make payments into the unemployment insurance system on your behalf. This happens--unemployment can be denied if an employer has misclassified an employee.

The consequences of misclassifying an employee go beyond unemployment. Workers improperly classified as independent contractors instead of employees aren't covered by workers' compensation, minimum wage and overtime protections, Family and medical leave, and the right to organize and bargain collectively.

In 2005, a Bureau of Labor Statistics survey found that over 10 million U.S. workers – 7.4 percent of the workforce – had been classified, rightly or wrongly, as independent contractors. In 2000, a Department of Labor study found that 10 to 30 percent of companies nationwide had misclassified their employees. Misclassification cheats workers and taxpayers. According to a 2009 report by the Government Accountability Office, misclassification cost the federal government \$2.72 billion in lost revenue because employers do not pay payroll or unemployment insurance taxes for these workers.

Mr. Chairman, I recently re-introduced H.R. 3178, the Employee Misclassification Prevention Act, which would make it a violation of the recordkeeping provisions of the Fair Labor Standards Act to make an inaccurate classification. It would also ensure workers have the protections and benefits that they are entitled. The misclassification of workers is one of the most odious forms of wage theft and I look forward to working with the Chairman to correct it.

The bottom line, Mr. Chairman is this:

Responsible employers who comply with minimum wage and overtime laws are placed at a disadvantage when we allow their law breaking competitors to undercut them on labor costs.

In closing, I'd like to remind my colleagues how important the FLSA has been for our economy and our way of life. It has provided the appropriate balance between the need to make profits and workers' rights. The last thing we want to do is slip backwards to the days when we did not have clear rules that protect both employers and workers. We should oppose any attempt to undermine the FLSA and work together to strengthen it.

Thank you and I look forward to hearing testimony from today's witnesses.

<http://democrats.edworkforce.house.gov>