New York, N.Y. - New York, NY - On Tuesday, May 26, 2020, the New York Taxi Workers Alliance along with four app driver plaintiffs sued Governor Andrew Cuomo, the New York State Labor Department, and New York State Labor Commissioner Roberta Reardon in federal court for failing to provide state unemployment insurance benefits in a timely manner to Uber, Lyft and other app-dispatched drivers in the midst of this pandemic and in violation of their equal protection rights under the constitution. The lawsuit was first reported this morning in *The New York Times*.

Click here to read the complaint.

The NYS Department of Labor is failing to follow settled law finding Uber drivers to be employees for the purpose of unemployment benefits. Instead of the standard two weeks other employees usually wait for benefits, app drivers are being left in limbo for months. The plaintiffs are represented by Legal Services NYC.

Although I drove for both Uber and Lyft before the pandemic, I haven't gotten penny in unemployment insurance benefits yet. I've had to rely on food stamps to feed my three kids and I don't have money to pay my rent or other bills, including my car insurance, this month. It shouldn't be this way. Cuomo says he cares about New Yorkers, so why is he letting us drivers go hungry instead of giving us the benefits we are entitled to under the law? said plaintiff and NYTWa member Doh "Seydou" Ouattara.

MD Islam, NYTWa member and plaintiff in the lawsuit applied for his benefits in March and has still not received any payments. He had to leave the safety of his home during the pandemic to fax in his wage data to the NYS Department of Labor. The hurdles Mr. Islam had to jump through to apply for unemployment benefits were highlighted previously in *The New York Times*.

Don't want any special treatment. I just want the benefits that the state owes me. I work hard and follow the rules to support my family. The state should also follow the rules and pay drivers what we are owed so we can survive this crisis, said Mr. Islam.

In 2018, the New York State Unemployment Insurance Appeal Board determined three Uber drivers and “any other individuals similarly employed as a driver” to be employees. The NYS Department of Labor, in fact, argued in court on the side of Uber drivers against the company, in support of finding drivers to be employees. The NYS Unemployment Insurance Appeal Board decision was final with no further possibility of appeal by Uber.

But instead of following the law and requiring Uber to provide the state with the same wage data as every other employer, the NYS Department of Labor has forced drivers to provide their own wage data and proof of employment status one-by-one, causing months-long delays in benefits. These delays were unconscionable at normal times, but now tens of thousands of drivers are facing unemployment and many are forced to turn to food pantries to feed their families while they wait and wait for the benefits to which they are entitled under the law.

NYTWa intakes show 82 percent of NYC drivers are facing food insecurity. Seventy-six percent were not able to pay rent over the past two months. The majority of NYTWa members also live in the Queens neighborhoods hit the hardest by the virus. Forty-five percent of drivers report living with 3 or more others, making social distancing at home nearly impossible. Drivers who continue to work are at high risk of getting sick. As of May 14, at least 51 TLC-licensed drivers had died of COVID-19 related illness.

Since the beginning of the pandemic, the NYS Department of Labor has found some app drivers ineligible for any unemployment insurance benefits at all, misclassifying them as independent contractors, and pushing them to apply for federal Pandemic Unemployment Assistance instead of state unemployment benefits -- further defying settled law on the matter.

The plaintiffs are seeking an order prohibiting the misclassification of app drivers and demanding immediate payment of unemployment insurance benefits to the individual plaintiffs and all other app drivers. They are also calling on the defendants to require Uber, Lyft and other app-based For Hire Vehicle employers to provide driver wage data to the state.

NYTWa Executive Director Bhairavi Desai said, Drivers are facing the economic aftermath of COVID with little to no savings, after having suffered poverty wages for years. The added delays in receiving unemployment comes as drivers are facing food insecurity at shocking, almost universal numbers. It's equally shocking that the governor and the department of labor are allowing Uber, the state's largest private employer, to continue its reign of greed and are refusing to hold the company accountable to the law. Drivers labor is considered essential by the city, yet their rights are being treated as second-class by a state labor department more concerned with providing a company preferential treatment than making sure workers and their families do not starve through a pandemic. There is a real human cost to this business model, and we are seeing it in the lines at the food pantries, in the midnight calls for help. Cuomo and the DOL need to follow the law and pay drivers benefits as the law requires.â€
NYTWA Staff Attorney Zubin Soleimany said, “The state is failing to follow its own decision that Uber drivers are employees eligible for unemployment benefits, and is delaying payments in violation of federal law. Drivers and their union shouldn’t have to fight this hard for the benefits that they won in a final ruling all the way back in 2018.”

Nicole Salk, Attorney with Legal Services NYC, which is representing the plaintiffs, said, “While employees, whose employers properly classify them as W-2 workers, typically receive their benefits in 2-3 weeks, app drivers have had to fight tooth and nail to get benefits with months-long delays, if they get them at all. App drivers in New York State should have equal protection under the law. The state’s failure to pay this sector of employees their rightful benefits in a timely manner goes against settled law and is a violation of their equal rights protection under the United States Constitution.”

###

About Legal Services NYC

Legal Services NYC, the nation’s largest provider of free civil legal services, fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. For over 50 years, LSNYC has challenged systemic injustices that trap people in poverty and helped clients meet basic needs for housing, income and economic security, family and immigration stability, education, and health care. LSNYC has deep roots in all of the communities we serve. Our staff of more than 600 people in neighborhood-based offices and outreach sites across all five boroughs helps more than 112,000 New Yorkers annually.

About NYTWA

Founded in 1998, the New York Taxi Workers Alliance (NYTWA) is the 19,000-member strong union of NYC taxicab drivers, representing yellow cab drivers, green car, and black car drivers, including drivers for Uber and Lyft. We fight for justice, rights, respect and dignity for the over 50,000 licensed men and women who often labor 12 hour shifts with little pay and few protections in the city’s mobile sweatshop. Our members come from every community, garage, and neighborhood. To find out more visit NYTWA.org, follow us on twitter.com/nytwa or like us on facebook.com/nytwa.