

NEW YORK, NY (July 28, 2020) – In a victory for tens of thousands of app-based drivers across the state of New York who have been paid a lower unemployment benefit rate for months, a federal judge today granted a preliminary injunction ordering the New York Department of Labor to immediately pay Uber, Lyft, and app-based drivers the full amount owed to them and to notify all claimants of their right to request a review of their benefit rates.

The decision is a key turning point in a case brought by the New York Taxi Workers Alliance and four app driver plaintiffs (represented by Legal Services NYC and NYTWA’s counsel) against Governor Andrew Cuomo, the New York State Labor Department, and New York State Labor Commissioner Roberta Reardon in May 2020 for failing to comply with the federal Social Security Act, which requires payments to be made as soon as administratively feasible, and for their failure to treat Uber/Lyft drivers equally to other workers recognized as employees under the state’s unemployment law. Drivers have been made to wait for months to receive benefits to which they are legally entitled. Instead, the Labor Department routed drivers into the federal Pandemic Unemployment Assistance program, leaving them with as little as \$182/week in benefits instead of benefits as high as \$504/week. In her decision today, Judge LaShann DeArcy Hall referred to the state’s delay in payments as both “avoidable” and “inexcusable.” The decision was reported today by [The New York Times](#).

Read the Judge’s decision [here](#).

Watch the press conference [here](#).

“This is a great victory for drivers in New York,” said **plaintiff and NYTWA member Doh "Seydou" Ouattara**.

“This is about survival, about taking care of drivers at an important time. I’m very happy. We work and we want to be treated like every worker. We don’t want people to treat us like a secondary class of people. We deserve unemployment benefits like everyone else.”

MD Islam, NYTWA member and plaintiff in the lawsuit applied for his benefits in March and did not receive full payment for nearly four months. “We are finally going to get what we deserve,” said Mr. Islam. “We can survive now and support our families.”

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 for the purposes of unemployment benefits. 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 and forced drivers 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.

Today’s preliminary injunction requires the NYS Department of Labor to create a special work group consisting of 35 department staff members who will assess and address drivers’ Request for Reconsiderations, giving priority to backlogged requests within 45 days of the order. Additionally, the judge ordered the NYS Department of Labor to identify and notify drivers who were previously denied the state unemployment benefits and routed into the federal program for independent contractors of their ability to seek reconsideration. The ruling made clear that the court will monitor the department’s compliance with the order. Drivers denied the benefits they were due could receive as much as \$1,300 per month moving forward and more than \$6,000 in retroactive benefits.

“To Uber and Lyft and other app-based for-hire companies who would deny their workers benefits they are entitled to under the law, I say ‘game over.’ Today is a new beginning,” said **NYTWA Executive Director Bhairavi Desai**. “In their quest to roll back drivers’ rights, the companies were banking on the DOL to carry their water and on drivers being too sick to fight back in the middle of a pandemic. Let this be a lesson to both the companies and their champions: drivers will always fight back. And like on a day like today, we will win. Drivers were forced to work and risk their health and life. There is no way to undo that. To know justice will finally be served as close to 120,000 families could rest easier knowing some support may be coming their way is a beautiful vindication and triumph. We are so thankful to Judge Hall for recognizing our members deserve equal treatment and without further delay.”

“Oversight and accountability for this DOL’s treatment of drivers have been a long time coming. After years of delay, this decision is a first step towards ensuring that drivers receive basic, emergency subsistence benefits when they need them, and when it matters most,” said **Zubin Soleimany, NYTWA’s Counsel**. “The decision also requires the DOL to use its prior fact-finding to determine drivers’ eligibility for employee unemployment insurance benefits. This is important because, although in 2018, Uber drivers won a binding and final decision that they and all other similarly situated drivers are employees under the NY unemployment law, Uber continued to challenge drivers’ eligibility for benefits and the DOL played along, delaying claims and continuing to evaluate each driver’s right to employee unemployment insurance benefits on an individual basis, in spite of the fact that they knew all drivers worked under uniform terms.”

“Today’s decision is a huge victory for app-based drivers across New York who for too long have been illegally denied

unemployment benefits due to them by the actions of Uber, Lyft and other companies” said **Nicole Salk, a senior staff attorney at Legal Services NYC**. “Uber is the largest employer in the State of New York. Uber and other app companies have been allowed to break the law by failing to report their employees' wages. The Court's decision will put desperately-needed money, as much as 1300 per month or more than 6,000 in retroactive benefits, in the pockets of thousand drivers who are trying to survive this pandemic and support their families.”