

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
MD ISLAM, on behalf of himself and those similarly situated,

Plaintiff,

Index No.

-against-

COMPLAINT

**JURY TRIAL
DEMANDED**

LYFT, INC.,

Defendant.

-----X
Plaintiff MD Islam, on behalf of himself and those similarly situated, by and through his undersigned counsel Mirer Mazzocchi & Julien, and Zubin Soleimany, Esq., and upon personal knowledge as to himself and upon information and belief as to other matters, hereby alleges as follows:

NATURE OF THE ACTION

Plaintiff brings this breach of contract action on behalf of himself and similarly situated New York City drivers who, in the period from on or about June 27, 2019 to the present, have been subjected to Lyft's unlawful practice, in violation of the driver agreement, of forcibly logging off Lyft drivers from the Lyft app if they perform fewer than 100, or 180 rides in a 30-day period.

BACKGROUND

1. In 2014, Lyft, Inc. ("Lyft") began its New York City operations as a New York City Taxi and Limousine Commission ("TLC") licensed Black Car company, providing private for-hire vehicle transportation.

2. Early on, Lyft recruited heavily among existing professional drivers and non-drivers alike. Lyft touted the alleged flexibility of working for Lyft, advertising to potential drivers that they could choose their own hours and be their own boss.

3. Lyft recruited an unlimited number of drivers, encouraging them to work full-time hours by enticing drivers with higher pay if they would work 30-50+ hours a week. For example, for years after Lyft's entry into the New York market, Lyft promised drivers a "Power Driver Bonus," in which Lyft would cut its percentage commission or "Lyft Fee" by 50% for drivers who drove 30-49 hours per week, and would eliminate the commission entirely for drivers who drove 50 or more hours per week.

4. In this way, the bargain was set: Lyft drivers could earn a decent living so long as they put in enough hours-- and anyone who wanted to could put in enough hours. With promises made and expectations set that signing up to work for Lyft meant full-time work for anybody who wanted it, drivers entered into long-term lease agreements for TLC-licensed for-hire vehicles and took on other significant expenses to work for Lyft.

5. However, Lyft's push to recruit more and more drivers led to an oversaturation of the FHV ride market which threatened the ability of each driver to earn a decent living.

6. Yet, because Lyft treated its drivers as independent contractors, the company had always been able to externalize the costs of its oversaturation. If Lyft sold 150,000 trips a day, its revenue would be the same regardless of whether there were 25,000 or 50,000 Lyft drivers on the road; however, this oversaturation would leave each individual driver with less take-home pay.

7. One result of this oversaturation was that, as the total available number of trips became diluted across an ever-growing pool of vehicles, app-based FHV drivers began working

for multiple app-based FHV services, in the hopes that by receiving dispatches from two or more companies, drivers would be more likely to receive more trip requests, thus reducing their unpaid downtime between trips.

8. In doing so, a driver who may previously have spent 50 hours a week online for one company, and performed 65 trips, would now still work 50 hours per week, but, e.g., perform 40 trips for one company, and 30 trips for another company.

9. By the summer of 2018, after a rash of driver suicides, including drivers of app-based FHV services, the City Council passed several laws to improve the plight of drivers and stem the tide of their declining income. Along with several other bills aimed at addressing the crisis in the taxi and FHV industry, the Council passed Local Law 147, which limited the further issuance of new vehicle licenses for FHV, and Local Law 150, which empowered the TLC to promulgate rules governing earnings standards for drivers who work for high-volume FHV bases such as Uber and Lyft.

10. Pursuant to Local Law 150, the TLC passed driver minimum pay regulation in the fall of 2018, with the aim of providing drivers with compensation of \$17.22/hour, after all expenses, for all time that drivers spent “online,” or logged on to apps, and either waiting to perform trips or performing trips. Specifically, the TLC pay rules established minimum per mile and per-minute rates that high-volume for-hire vehicle companies such as Lyft would have to pay drivers for all trips performed. *See*, 35 R.C.N.Y. § 59B-24. Driver pay rates would also be adjusted according to each company’s “utilization rate,” which is the percentage of time that a company’s cars, when logged into the company’s app, are actively transporting passengers.

11. The TLC pay formula requires high-volume FHV bases to pay drivers rates that amount to \$17.22/hour, plus expenses for every minute and mile of time a driver spends

performing a trip. In order to ensure that drivers are fairly compensated for the downtime between each trip, The TLC pay rule divides the payments for each mile and minute by the percentage utilization rate of the HVFHV base, effectively multiplying the per-mile and per-minute pay rates of each trip to effectively multiply hourly pay rates to cover the 42% empty time between trips. *Id.*

12. Although Lyft sued the City of New York to enjoin implementation of TLC driver pay rules, the City prevailed and the driver pay rules went into effect in February 2019. *See, Tri-City, LLC v. New York City Taxi and Limousine Commission*, Index No. 151037 (Sup. Ct. N.Y. Co. Apr. 30, 2019), NYSCEF Doc. No. 73.

13. After losing this lawsuit, on or about June 27, 2019, Lyft, in violation of its contract with drivers, began to limit drivers' access to the app, in an apparent attempt to avoid its obligations under TLC rules to ensure that drivers earn a decent minimum wage for all hours that they are performing trips or are available to perform trips.

14. Such actions violate the spirit, if not the letter, of TLC regulations intended to confer basic labor protections upon some of the City's most vulnerable low-wage workers.

15. Crucially, the Lyft contracts specifically provide that drivers shall have no limitations on their ability of where and when to access the Lyft app.

16. Thus, Lyft's forced log-outs and restricted access to the Lyft app constitute a material breach of Lyft's contract with its drivers.

17. Although Lyft had long had a practice of forcibly logging out drivers who did not respond to trip requests, indicating that they were not ready to perform work, Lyft had never previously suspended drivers who were ready, willing, and able to perform trips for Lyft.

18. Lyft's forced logouts of its affiliated drivers amount to nothing less than short-term layoffs of workers who have come to depend on the availability of full-time work in order to meet their work expenses, let alone the cost of living in New York City.

19. The effect of Lyft's unilateral shift in policies has been to significantly reduce the working hours of thousands of drivers overnight. These drivers are now earning hundreds of dollars less per week and may, if Lyft's breach of contract continues unchecked, cost drivers thousands of dollars per year in take-home pay.

JURISDICTION AND VENUE

20. Jurisdiction is proper as this Court under 28 U.S.C. § 1332 based on diversity of citizenship. The amount in controversy exceeds \$75,000.

21. Defendant Lyft is subject to personal jurisdiction in the State of New York as Lyft does business in New York.

22. Venue is proper in this District because Defendant conducts business in this Judicial District, and the acts and/or omissions giving rise to the claims herein alleged took place in this District.

23. Further, while Plaintiff is a New York City Lyft driver who did not successfully opt out of Lyft's arbitration clause, Plaintiff is exempt from having to arbitrate his claims under the provisions of the Federal Arbitration Act, 9 U.S.C. § 1, as he is a transportation worker engaged in interstate commerce. *See, e.g., Singh v. Uber Technologies, Inc.*, 939 F.3d 210 (3d Cir. 2019).

24. As of 2019, any decision as to whether a class of workers is exempt from the FAA is for the Court, not an arbitrator, to decide. *See, New Prime Inc. v. Oliveira*, 139 S. Ct. 532 (2019).

PARTIES

Plaintiff MD Islam

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.