

Lawsuit Against NYSDOL On Behalf of 24-Hour Home Care Workers Moves Forward

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New York, NY – The Supreme Court of New York has denied the New York State Department of Labor’s (NYSDOL) motion to dismiss a lawsuit filed by the **National Center for Law and Economic Justice (NCLEJ)** and **The Legal Aid Society** on behalf of home care aides who are forced to work 24-hour shifts for only 13 hours of compensation. This is a critical decision that allows the case to move forward.

[Read the Court’s decision here.](#)

“We’re very encouraged by the Court’s decision and look forward to continuing our case,” **said Carmela Huang, Senior Attorney at NCLEJ.** “This lawsuit is about securing justice for vulnerable homecare workers who experienced an unconscionable level of wage theft by being forced to work 24-hour shifts for only 13 hours of pay. They deserve payment for every hour of unpaid work.”

“These homecare workers, the majority of whom are women of color and immigrants, were subjected to unlawful working conditions and wage theft,” **said Richard Blum, an attorney with the Legal Aid Society’s Employment Law Unit.** “They are owed tens or hundreds of thousands of dollars each, and we will continue to hold NYSDOL accountable for ”

First filed in August 2023 as [an Article 78 Petition](#), the lawsuit seeks to reopen a years-long NYSDOL investigation into the stolen wages of 24-hour home care aides. Despite finding “overwhelmingly corroborative” evidence that home care aides assigned to work 24-hour shifts are systematically subject to wage theft by being forced to work continuously while being paid less than the minimum wage and receiving little to no overtime pay, the NYSDOL suddenly closed hundreds of unpaid wage claims filed by home care aides.

Although no explanation was provided to the aides before their cases were closed, the NYSDOL afterwards justified the closures by pointing to a new “rule” that it would not investigate claims filed by home care aides who are subject to arbitration agreements.

NYSDOL’s union arbitration rule should be annulled, and all unpaid wage claims should be investigated fully so home care workers can get full restitution for their hours worked.

The lawsuit alleges that the NYSDOL violated the New York State Administrative Procedures Act by instituting a rule without following proper procedure which prevents unionized workers from filing claims over unpaid wages against their employer if their union has an arbitration agreement in place. NYSDOL is legally erroneous in its claim that an arbitration agreement supersedes the power of the agency, and the Department's closure of these claims is arbitrary and capricious, targeting an especially vulnerable class of workers (home care workers who are 90% women, 82% people of color and 67% foreign-born) to exclude them from its protections.

BACKGROUND:

This petition is the latest action in a multi-year struggle to secure restitution for home care workers who experience wage theft. New York policy allows these workers to be paid for just 13 hours of each shift, mandating an unpaid eight-hour period for sleep and three hours for meals. However, many aides have long said this practice was impossible, given their patients' round-the-clock needs. In addition to missing out on sleep and adequate pay, these conditions also make home care workers extremely vulnerable to occupational injuries that often lead to permanent disability.

In November 2019, NYSDOL acknowledged that the evidence of wage theft was overwhelmingly corroborative, and that home care workers should have been paid for their full 24 hours of work. NYSDOL stated that it intended to investigate unpaid wage claims.

In February 2022, 1199 SEIU reached an arbitration agreement with home care worker agencies to create a settlement fund that required the agencies to contribute just \$250 per employee – despite workers being owed far greater amounts in unpaid wages.

In October 2022, NCLEJ and partner groups filed a Title VI Federal Civil Rights Complaint against NYSDOL and the New York State Department of Health (NYSDOH) for discrimination against home care workers and consumers on the basis of their race and national origin.

In May 2023, NYSDOL reversed course on investigating unpaid wage claims and adopted the rule preventing workers from filing unpaid wage claims against their employers if their union has an arbitration agreement in place.

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The **National Center for Law and Economic Justice** is a legal services nonprofit organization that advances racial and economic justice for low-income families, individuals, and communities across the country through ground-breaking impact litigation, policy advocacy, and support for grassroots organizing. Founded in 1965, NCLEJ fights to protect access to critical benefits like food stamps, Medicaid, and childcare, protects low-wage workers' rights and safety, advocates for the rights of people with disabilities, and fights unlawful debt collection.

The **Legal Aid Society** exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 145 years, they have protected, defended, and advocated for those who have struggled in silence for far too long.

Every day, in every borough, The Legal Aid Society changes the lives of their clients and helps improve their communities.