April 6, 2023

Vilda Vera Mayuga, Commissioner

Department of Consumer and Worker Protection

42 Broadway

New York, N.Y. 10004

Re: Minimum Pay for Food Delivery Service Workers

Dear Commissioner Mayuga,

 We write to you both as students of the City University of New York School of Law who are deeply concerned about the rights and working conditions of delivery workers in our city, and as customers of app-based delivery platforms. We agree wholeheartedly with the Department of Consumer and Worker Protection (“DCWP”) that minimum pay standards must be set for app-based delivery workers, and we applaud the agency for taking steps to do so. However, DCWP must adopt a minimum pay scheme that ensures a fair, living wage for delivery workers, and it must do so quickly.

While we appreciate the convenience of ordering delivery through apps, we are troubled by the way app companies treat the delivery workers who are vital to their operations. Their insistence on cutting corners and classifying delivery workers as independent contractors leaves these essential workers without benefits and bearing the high costs of work equipment and any injuries sustained on the job. Because of their status as independent contractors rather than employees, delivery workers are personally responsible for purchasing and maintaining their own bikes, which is a substantial financial burden that would ordinarily be borne by the employer. The burden of these expenses is not reflected in delivery workers’ wages, which average around $12.21 per hour including tips or $7.87 per hour without tips, both of which are well below the citywide minimum wage of $15 per hour. Furthermore, these apps’ algorithms strongly incentivize delivery workers to make as many deliveries as quickly as possible. These onerous quotas can only be met by biking unsafely, lest delivery workers be deactivated from the apps and lose their livelihoods.

 It is imperative that DCWP adopt a minimum pay rate that will require delivery apps to pay a fair wage to the workers who perform the dangerous, necessary labor that allows these companies to thrive. A fair wage is crucial to offsetting the hazards of the job and the high costs of maintaining equipment that delivery workers are forced to bear. At minimum, delivery workers must be paid the $23.82 hourly rate proposed in the original rule, if not more. It is a slap in the face to the 65,000 delivery workers who endure volatile weather, dangerous traffic conditions, and provide hot meals to other New Yorkers for DWCP to devalue their service by reducing the proposed minimum wage to $19.96 per hour. This is a sub-living wage in New York City, especially considering the business costs that delivery workers are required to pay out of their own pockets.

It is cruel to workers for DCWP set a lesser wage based on the industry’s overblown fear of delivery workers using multiple apps simultaneously, or “multi-apping”. Other comparable workers, such as Uber and Lyft drivers, are not held to this standard in their minimum pay rules. The delivery app’s concern is one of their own creation, as this phenomenon occurs as a direct result of the substandard wages delivery workers are making right now. The low wages, coupled with rising equipment costs, force workers to overwork themselves and “multi-app” when necessity demands. With an adequate minimum wage in place, delivery workers would have less of a need to work for multiple apps at once. If app companies are so concerned about controlling whether delivery workers are “multi-apping,” they should pay them appropriately. Underpaying delivery workers only serves to ensure that these workers will feel pressured to “multi-app” in order to support their families in the face of inflation and an ever-increasing cost of living.

Perhaps most importantly, DWCP must adopt a fair minimum pay scheme quickly and abandon the proposed phase-in model. The agency has already delayed enacting minimum pay for delivery workers, which was required to go into effect on January 1, 2023. Every day without the full minimum pay protections in place is another day that the delivery apps are given the green light to exploit and grossly underpay workers for their essential labor. Delivery workers deserved fair pay long ago, and continued delay is unacceptable.

In the past decade, we have seen apps like DoorDash, Grubhub, and UberEats take over in the restaurant industry, displacing the delivery workers that restaurants used to employ. This leaves few options for New Yorkers to order delivery without participating in the app economy. Knowing that such companies are infamous for exploiting workers forces consumers to participate in this exploitation. As consumers and as law students who care deeply about labor issues, we demand that your agency act without further delay to ensure delivery workers are fairly compensated for their essential work. Delivery workers have already been exploited for years and will continue to be until your agency implements Local Law 115 of 2021 and protects them from exploitation at the hands of the app industry.

In solidarity,

Chloe Carter-Daves, 2L FT

Althea Lamel, 2L FT
Pablo Aguilar, 2L FT

Kate Macrae, 2L FT

Liz Pudel, 3L FT

Xhoana Ahmeti, 3L FT

Jake Heller, 2L FT

Brenna Wolfe, 3L FT

Jennifer Rubinshteyn, 1L FT

Amelia Mullaney, 2L FT

Jaclyn Spencer, 2L FT

Maggie Israel, 1L FT

Gabriel Slaughter, 1L FT

Anna Kim, 3L FT

Cameron Cory, 2L FT

Nina McKenna, 1L FT

Eric Horowitz, 2L FT

Jen Neuman, 2L FT

Nadeem Yamak, 2L FT

Anand Bradley, 2L FT

Samanta Honigman, 3L FT

Annie Abreu, 2L FT

Ashley Gomez, 2L FT

Priscilia Martinez, 2L FT

Jaylene Gomez, 2L FT

Dana Klasky, 2L FT

Nic Shugar, 3L FT

Serena Malkani, 2L FT

Benita von Lilienfeld-Berry, 2L FT

Samiha Jamal, 2L FT

Katherine Corwin, 2L FT

Nia Wilson, 2L FT

Verleatha Hill