

**FOR IMMEDIATE RELEASE**

DATE: April 15, 2021

Contact:  
Jeff Jones  
Director of Communications, Legal Aid Justice Center  
jeff@justice4all.org  
(804) 869-1040

**Class Action Lawsuit Filed to Fix Historic Failures by Virginia's  
Unemployment Insurance System**

*Legal Aid groups and pro bono partners charge the Virginia Employment Commission (VEC) with violating the rights of Virginians who have been cut off benefits without process, or who face long delays in getting hearings to seek desperately needed benefits.*

**Richmond, VA** – Today, the Legal Aid Justice Center, Legal Aid Works, and the Virginia Poverty Law Center, along with Consumer Litigation Associates, PC, and Kelly Guzzo, PLC, filed a class-action lawsuit in federal court seeking relief for Virginians who lost their jobs during the pandemic and have no income to pay for basic necessities while waiting months for the VEC to approve their claims.

**Virginia ranks 50th out of 50—worse than every other state in the U.S.—in processing issues on unemployment claims.** In the last three months of 2020, the VEC failed to decide “nonmonetary” eligibility issues (such as why someone’s job ended) within three weeks—as required by law—more than 95% of the time, and it has only gotten worse in the first two months of 2021. In fact, in the most recent statistics showed that it was taking at least 10 weeks for nearly all claims – and anecdotal reports indicate that it is taking much, much longer than that in many cases.

While the demand for unemployment insurance funds may have surprised the VEC at the start of the pandemic, a full year has now passed. Yet the agency is still plagued with payment delays. Since access to additional federal unemployment benefits (such as from the CARES Act or the 2021 American Rescue Plan) requires VEC approval, these delays prevent Virginia residents from receiving federal payments, too. This despite Virginia receiving more than \$38M in federal support to help bolster its administrative response to this unemployment crisis.

Senator Mark Warner in a recent [letter](#) to Governor Northam said, “*From Newport News to Henrico to Alexandria, constituents are contacting my office from every corner of the Commonwealth with desperate requests for relief. Some of them have waited 3 months, others have waited 11 months, and many are struggling to feed their children and keep a roof over their heads,*” and stated that, “*for constituents still experiencing delays the lack of pandemic unemployment insurance is unconscionable.*”

*“After getting cut off benefits, I became homeless for roughly four months. I have no income now, other than food stamps. I have a roof over my head again, for now, only through temporary assistance from rent relief programs,” said Lenita Gibson, a named plaintiff in the lawsuit. “The financial loss has been tremendous, and emotionally you are just a wreck. It’s been horrible. Never in my wildest dreams did I think I’d be treated like this. It doesn’t make any sense.”*

*“When you lose your income, it’s the scariest thing on the planet. I’ve filed my unemployment claims every week for over five months now and have gotten nothing. I’ve emailed and called the VEC repeatedly and—when I could finally get a hold of a person—I just get told to wait,”* **said Ashley Cox, a plaintiff in the lawsuit.** *“My family has had to go on public assistance to survive. It has been so stressful.”*

*“Being cut off benefits, without any kind of chance to fight for them, has been hard on my daughter and me. We lost our housing and had to leave the area. I desperately need these benefits and feel beyond frustrated that it has seven months since I last received them. I am so overwhelmed,”* **said Amber Dimmerling, a plaintiff in the lawsuit.**

### **About the Lawsuit:**

The litigation challenges two common VEC failures regarding processing and adjudication of applications (“Initial Claims”) and the abrupt cut-off of benefits the VEC initially approved (“Continued Claims”)—both of which violate federal and state unemployment laws, as well as the due process guarantees of the 14<sup>th</sup> Amendment to the U.S. Constitution:

**No response and no money** - Many people applied for unemployment months and months ago, and still have heard nothing from the VEC. Speed in delivering benefits is the fundamental feature of the unemployment benefit system, where benefits are to be paid, according to the U.S. Supreme Court, “as close to the nearest payday following termination” as possible. Similarly, Virginia’s unemployment benefits law requires claims to be decided “promptly,” as opposed to months and months after those claims are filed.

**Benefits stop with no warning and little recourse** - Some people were getting unemployment, and then their benefits were cut off by the VEC without any notice or a hearing before a VEC deputy, because of an “issue” on their claim. The VEC was apparently unaware that it was illegal to cut off benefits in that way until last fall, when a group of legal aid advocates brought it to the agency’s attention. While many people who had faced continued claims cut-offs saw their benefits resume, the VEC is still withholding benefits due to many people.

The lawsuit does not claim that everyone who files a claim with the VEC is entitled to benefits. But every Virginian who files a claim for benefits is entitled—by law—to a prompt response from the VEC. And everyone who has begun to receive benefits is entitled—by law—to continue receiving benefits until a VEC deputy decides otherwise.

*“Litigation was not our first choice. We have been trying to work with the VEC for months, and we would greatly prefer to work with them rather than to sue,”* **said Pat Levy-Lavelle, Attorney at the Legal Aid Justice Center.** *“But our suggestions have been rebuffed. And even when the VEC conceded that we were correct – as it did with the treatment of the continued claims group – it failed to implement the changes that it conceded were required. Virginians deserve better than being absolutely last in the country.”*

*“Bureaucratic delays in the processing of unemployment claims by the VEC compound the suffering of newly jobless Virginians”* **said Steven Fischbach, Litigation Director for VPLC.** *“Without income, these Virginians face the loss of their homes through foreclosure or eviction, shut off essential services such as gas, electricity and water, and they cannot pay other bills. With this lawsuit, VPLC hopes to bring relief to unemployed Virginians who need emergency income that unemployment benefits provide.”*

*“Legal Aid Works staff have been fielding calls from low-income applicants worried about the lack of response by the VEC, leaving them in legal limbo without payments or access to the appeals process, right when they need this help the most. We hope the lawsuit filed today will give these hard-working Virginians quick, tangible relief,”* **said Ann H. Kloeckner, Esq., Executive Director of Legal Aid Works.**

The Legal Aid Justice Center has also launched an online call to action, urging those struggling to make ends meet in the face of inaction by the VEC and the state administration to contact Governor Northam and demand more resources, leadership, and focus be put on solving this critical issue. [www.justice4all.org/ui](http://www.justice4all.org/ui)

###

The [Legal Aid Justice Center \(LAJC\)](#) partners with communities and clients to achieve justice by dismantling systems that create and perpetuate poverty. *By justice, we mean racial, social, and economic justice.*

The [Virginia Poverty Law Center \(VPLC\)](#) is the state support center for all civil legal aid programs in Virginia. *VPLC’s work breaks down systemic barriers that keep low-income Virginians in the cycle of poverty through advocacy, education, and litigation.*

[Legal Aid Works \(LAW\)](#) champions fairness by advocating for those with the least access to the civil justice system.