

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MAKTUMMA TESHABAEVA and JIAN HUA DENG,
individually and on behalf of all other persons similarly
situated who were employed by FAMILY HOME CARE
SERVICES OF BROOKLYN AND QUEENS, INC.,
and/or CARE AT HOME – DIOCESE OF BROOKLYN,
INC.,

Index No.: 158949/2017

**NOTICE OF CLASS ACTION
LAWSUIT**

Plaintiffs,

v.

FAMILY HOME CARE SERVICES OF BROOKLYN
AND QUEENS, INC., and CARE AT HOME – DIOCESE
OF BROOKLYN, INC.,

Defendants.

TO: All individuals who performed work on behalf of Defendants Family Home Care Services of Brooklyn and Queens, Inc., and Care At Home – Diocese Of Brooklyn, Inc., (“Defendants”) as non-residential home health aides and/or personal care assistants in the State of New York at any time between October 6, 2011 and December 22, 2015 (the “Class Period”).

The purpose of this Notice is to advise you that a lawsuit has been filed against Defendants alleging claims under New York law and to advise you of the legal rights you may have with respect to this lawsuit.

DESCRIPTION OF THE LAWSUIT

Plaintiffs Maktumma Teshabaeva and Jian Hua Deng, who worked as home health aides for Defendants filed a lawsuit in state court under New York law alleging that Defendants did not pay them for every hour worked during each shift, did not pay them at the minimum wage rate for all hours worked, did not provide all of their overtime compensation, and did not pay them “spread of hours” compensation. Plaintiffs also allege that they were paid an hourly wage rate below the prevailing wage rate in effect pursuant to N.Y.C. Admin. Code § 6-109 (“Living Wage Law”) and New York Public Health Law § 3614-c (“Wage Parity Act”). Plaintiffs further allege that when they worked a 24-hour shift, they were only paid for 12 to 13 hours of work, even when they did not receive 8 hours of sleep, 5 hours of which were uninterrupted, and 3 one-hour meal breaks, therefore, they allege they should be paid for all 24 hours of these shifts.

The Court has allowed this action to proceed as a class action lawsuit and has authorized publication of this Notice to advise you about the status of this lawsuit. The Court has not decided whether the claims in the lawsuit are valid or have any merit.

Defendants deny that Plaintiffs’ claims have any merit and have asserted various defenses and filed appeals against Plaintiffs’ claims. Defendants vigorously deny any wrongdoing or liability to Plaintiffs or any past or present employee of Defendants who may allege that he or she was underpaid.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

A class has been certified for claims arising under New York law seeking wages. You may participate in this case as long as you were employed by Defendants in New York as a non-residential home health aide and/or personal care assistant at any time between October 6, 2011 and December 22, 2015. If you wish to be included in this lawsuit, or you do nothing in response to this Notice, you will be a member of the Class of persons whose rights will be determined by the lawsuit. As a Class member, you will waive your right to proceed individually and you will also waive any right you may have to liquidated damages, a penalty that the court may decide to impose if it finds that Defendants willfully violated the law. As a member of the Class, you will also be legally bound by any decision of the Court in this lawsuit. Regardless of whether Plaintiffs win or lose in this lawsuit, you will not be able to sue Defendants in a separate action for the claims alleged in this case.

You will be represented by the law firm of Virginia & Ambinder, LLP, the attorneys designated by the Court to represent you (“Class Counsel”). If a settlement or judgment is reached at the conclusion of the case, Class Counsel will make an application to the Court for the recovery of their legal fees and costs, and the Court will have discretion in the amount to award Class Counsel. Their costs and fees will be paid out of any recovery that may be obtained in this lawsuit. You have a right to consult with an attorney about this matter. If you wish to be represented by other counsel, you may retain another attorney, but you may be responsible for paying that attorney.

If you do not wish to participate in this lawsuit, you must send a signed letter stating “I elect to exclude myself from the class in *Teshabaeva, et al. v. Family Home Care Services of Brooklyn and Queens, Inc.*, Index No. 158949/2017, pending in the Supreme Court of New York for New York County.” You must also include your name, address, telephone number, and signature. Your request to exclude yourself from the Class must be mailed by First Class U.S. mail to LaDonna M. Lusher, Esq. of Virginia & Ambinder, LLP, located at 40 Broad Street, 7th Floor, New York, New York 10004, www.vandallp.com, llusher@vandallp.com. You must follow these procedures precisely in order to exclude yourself from this lawsuit. If you decide not to participate in this lawsuit, you may not be eligible to receive any benefits in the event that recovery is obtained, but you will retain the right to sue Defendants separately and on your behalf for the claims asserted in the lawsuit.

You can obtain further information about Class Counsel by visiting Virginia & Ambinder, LLP’s website www.vandallp.com or contacting LaDonna M. Lusher, Esq., 40 Broad Street, 7th Floor, New York, NY 10004, llusher@vandallp.com, telephone number (212) 943-9080, fax (212) 943-9082. If you require Russian translation, please ask for Joel Goldenberg. If you require Spanish translation, please ask for Leonor Coyle. If you require Polish translation, please ask for Iwona Ner.

You have a right to participate in this lawsuit even if you are an undocumented immigrant or you are still working for Defendants.

All communications and discussions with Virginia & Ambinder are confidential and will not be disclosed without your consent.

DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE WITH QUESTIONS