

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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GENAIA MOJER, on behalf of herself and  
similarly situated employees,

Plaintiff,

v.

AMERICARE HOME SOLUTIONS LLC,

Defendant.

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: 3:18-cv-00470-ARC  
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**STIPULATION AND ORDER**

NOW, this 1st day of January 2019, Genaia Mojer (“Plaintiff”) and  
Americare Home Solutions LLC (“Defendant”) **STIPULATE** as follows:

1. This action is conditionally certified, pursuant to 29 U.S.C. § 216(b), as a collective action on behalf of: **Every individual who: (i) was employed by Defendant between September 1, 2017 and April 13, 2018; (ii) was paid on an hourly basis; and (iii) had his/her hourly pay rate lowered during at least one week in which he/she was paid overtime premium compensation.** These individuals are referred to as “Putative Collective Members,” and any Putative Collective Members who join the action by the deadline described in paragraph 6 below are referred to as “Future Opt-Ins.”
2. Defendant reserves its right to move to decertify the collective or otherwise argue that collective litigation is wholly or partially inappropriate.
3. Plaintiff will not pursue her Pennsylvania Minimum Wage Act

(“PMWA”) claim as a class action claim under Federal Rule of Civil Procedure 23. However, Plaintiff and the Future Opt-Ins will continue to assert PMWA claims.

4. Within 7 calendar days of the Court’s entry of this Order, Defendants’ counsel will email to Plaintiffs’ counsel an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member.

5. Within 14 calendar days of the Court’s entry of this Order, Plaintiff’s counsel will mail to all Putative Collective Members finalized copies of the attached “Notice of Collective Action Lawsuit” form, “Consent to Join” form (“Consent Form”), and a postage-paid return envelope bearing Plaintiff’s counsel’s address (together the “Notice Package”). Plaintiff’s counsel will pay all postage and printing costs associated with the preparation and mailing of the Notice Packages. If any Notice Package is returned as undeliverable, Plaintiff’s counsel will make all reasonable efforts to update the address information and re-send the Notice Package.

6. In order to participate in this action, a Putative Collective Member must complete his/her Consent Form and return it in an envelope postmarked on or before the deadline indicated in the Notice Package, which will be set at 35 calendar days after the initial mailing date.

7. Plaintiff’s counsel will file with the Court each completed Consent Form within 5 business days of receipt.

8. Within 49 calendar days of the Court's entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation.

9. Discovery is **STAYED** pending the completion of the above-described notice and opt-in process.

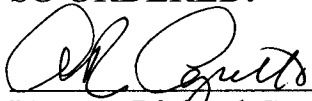
FOR PLAINTIFF:

/s/ Peter Winebrake  
Peter Winebrake, Esq.  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025

FOR DEFENDANT:

/s/ Mary-Jo Rebelo  
Mary-Jo Rebelo, Esq.  
Burns White, LLC  
48 26th Street  
Pittsburgh, PA 15222

**SO ORDERED:**

  
\_\_\_\_\_  
Hon. A. Richard Caputo

1/7/19  
\_\_\_\_\_  
Date

[insert date]

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Genaia Mojer v. Americare Home Solutions LLC, 3:18-cv-00470-ARC*  
United States District Court, Middle District of Pennsylvania

**TO: [INSERT NAME]**

**INTRODUCTION**

This Notice informs you of a collective action lawsuit seeking unpaid overtime wages under federal and Pennsylvania law on behalf of employees of Americare Home Solutions LLC.

You have a right to participate in the lawsuit. So please read this Notice carefully.

**DESCRIPTION OF THE LAWSUIT**

In February 2018, a home health aid named Genaia Mojer started this lawsuit against Americare. The lawsuit is proceeding in the United States District Court in Wilkes-Barre, PA and is assigned to Judge A. Richard Caputo.

The lawsuit covers the time period from September 2017 until April 13, 2018 and alleges that Americare violated federal and state wage laws by failing to pay employees proper overtime compensation for hours worked over 40 per week. Specifically, the lawsuit challenges Americare's practice of lowering employees' hourly pay rates during some weeks in which overtime work was performed. Ms. Mojer claims this practice was illegal.

The lawsuit seeks the recovery of unpaid overtime wages, liquidated damages, attorney's fees and costs.

Americare denies violating federal or state overtime laws.

The lawsuit is in its early stages. The Judge has not decided who will win.

**RETALIATION PROHIBITED**

If you join the lawsuit, federal law prohibits Americare from retaliating against you as a result of your participation.

**EFFECT OF JOINING THE LAWSUIT**

Americare's payroll records indicate that you are eligible to join the lawsuit.

If you join the lawsuit, you will be bound by the judgment of the Federal Court on all issues, including the reasonableness of any settlement. If the employees win, individuals who join the lawsuit may be eligible for a money payment. If Americare wins, individuals who join the lawsuit will be entitled to nothing.

**EFFECT OF NOT JOINING THE LAWSUIT**

If you do not join the lawsuit, you will not be affected by any judgment or settlement resulting from the lawsuit.

**YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025. The firm's website is [www.winebrakelaw.com](http://www.winebrakelaw.com), and its phone number is (215) 884-2491.

You are not required to pay any fees to this law firm. The firm has taken this case on a "contingency" basis. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

Please call the above law firm if you have any questions or desire any additional information about the lawsuit.

**HOW TO JOIN THE LAWSUIT**

You can join the lawsuit by completing the enclosed "Consent to Join" form and returning it in the enclosed envelope to the following address:

Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025

Your return envelope must be postmarked by *[insert date]*. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

**THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE A. RICHARD CAPUTO. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.**

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**CONSENT TO BECOME PARTY PLAINTIFF**

I have read the form entitled “Notice of Collective Action Lawsuit” and consent to become a party plaintiff to this action pursuant to 29 U.S.C. § 216(b). I agree to be represented by Winebrake & Santillo, LLC. I understand that I will be bound by the judgment of the Court on all issues in this action, including the fairness of any settlement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Please Print Neatly)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**RETURN TO BY [INSERT DEADLINE] TO:**

Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
Ph: (215) 884-2491  
Fax: (215) 884-2492  
Email: pwinebrake@winebrakelaw.com