

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

KAPRIA MAPLES : CIVIL ACTION
: :
v. : NO. 19-4209
: :
PREMIER CARE & STAFFING :
SERVICES, INC. :

ORDER

AND NOW, this 3rd day of October 2019, upon considering the Plaintiff's unopposed Motion for conditional certification (ECF Doc. No. 7), and finding the parties make the modest factual showing of similar job responsibilities and limitations and Defendant's alleged policy or plan applied to them, it is **ORDERED** the Motion (ECF Doc. No. 7) is **GRANTED**¹:

1. We conditionally certify a collective action under the Fair Labor Standards Act (FLSA) comprised of: **All individuals employed by Premier Care & Staffing Services, Inc. during any week since January 11, 2016, paid an hourly wage, and not paid overtime premium compensation for all hours worked over forty in a week.** Individuals falling within this definition are referred to as "Putative Collective Members."

2. Plaintiff will not pursue her Pennsylvania Minimum Wage Act ("PMWA") claim as a class action under Federal Rule of Civil Procedure 23. Plaintiff and any Putative Collective Members who join this case under 29 U.S.C. § 216(b) may continue to assert PMWA claims on an individual basis should they timely file joinders with the Plaintiff's suit, and the limitations period applicable to the PMWA claims for those Putative Collective Members who join this case under 29 U.S.C. § 216(b) is tolled as of January 11, 2019.


¹ "Conditional certification" is somewhat of a misnomer and is not really certification at all, but rather the Court's exercise of "discretionary power . . . to facilitate the sending of notice to potential class members, and is neither necessary nor sufficient for the existence of a representative action under the FLSA." *Zavala v. Wal Mart Stores, Inc.*, 691 F.3d 527, 536 n.4 (3d Cir. 2012).

3. Defendant does not waive legal arguments concerning the claims of Plaintiff and Putative Collective Members including to move to decertify or to otherwise argue Plaintiff and other participating Putative Collective Members are not “employees” under the FLSA or PMWA under our October 2, 2019 Order (ECF Doc. No. 9).

4. On or before **October 10, 2019**, Defendant’s counsel will email to Plaintiff’s counsel an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member.

5. The attached “Notice of Collective Action Lawsuit” (“Notice Form”) and the attached “Consent to Join” (“Consent Form”) are approved as to form and content. On or before **October 17, 2019**, Plaintiff’s counsel will mail to all Putative Collective Members finalized copies of the Notice Form and Consent Form, and a postage-paid return envelope bearing Plaintiff’s counsel’s address (collectively the “Notice Package”). Plaintiff’s counsel will pay all postage and printing costs associated with the preparation and mailing of the Notice Packages. If a 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. To join the FLSA collective under 29 U.S.C. § 216(b), 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, to be set at forty-five (45) calendar days after the initial mailing date. Plaintiff’s counsel will file with the Court each completed Consent Form within two (2) business days of receipt and file a joinder of any other person seeking relief under Pennsylvania law.



KEARNEY, J.

October __, 2019

NOTICE OF COLLECTIVE ACTION LAWSUIT

Kapria Maples et al. v. Premier Care & Staffing Services, Inc., 19-cv-4209-MAK
United States District Court, Eastern District of Pennsylvania

TO: *[INSERT NAME]*

INTRODUCTION

This Notice tells you about a lawsuit seeking unpaid wages allegedly owed to hourly homecare and healthcare workers for Premier Care & Staffing Services, Inc. (“Premier Care”) since January 11, 2016. You have a right to participate in the lawsuit.

DESCRIPTION OF THE LAWSUIT

The lawsuit alleges that Premier Care has failed to pay the correct amount of extra overtime premium compensation when hourly homecare and healthcare workers who worked over 40 hours in a week. Rather, Ms. Maples alleges that the Premier Care just paid its homecare and healthcare workers their regular hourly rate or “straight time” for all hours worked.

According to Ms. Maples, this practice violates a federal law called the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, and state law called the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, *et seq.*

Premier Care denies that it violated any laws and asserts that all of its hourly homecare and healthcare workers were properly compensated.

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

RETALIATION PROHIBITED

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

HOW TO JOIN THE LAWSUIT

Whether or not to join the lawsuit is entirely up to you. If you wish to join, you must complete the enclosed “Consent to Join” form and return it (preferably in the enclosed envelope) to:

Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215) 844-2492
Email: asantillo@winebrakelaw.com

Your return envelope must be postmarked by ***[insert 45 days after mailing]***.

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you agree to assert claims against Premier Care under the FLSA and the PMWA and further agree that you will be bound by the Court's rulings on all issues, including the reasonableness of any settlement. If Ms. Maples and other hourly homecare and healthcare workers win, you will be eligible for a money payment based on your overtime hours worked. If Premier Care wins, you will receive nothing.

EFFECT OF NOT JOINING THE LAWSUIT

If you do not join the lawsuit, you will not be covered by the FLSA and PMWA claims that are asserted in this case and will not be affected by any judgment or settlement resulting from the lawsuit, whether it is favorable or unfavorable.

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 (unless and until you retain your own lawyer who enters his or her appearance in the lawsuit on your behalf). The firm's website is 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.

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.

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

KAPRIA MAPLES, *on behalf of herself and
others similarly situated,*

Plaintiff,

v.

PREMIER CARE & STAFFING SERVICES,
INC.,

Defendant.

19-cv-4209-MAK

CONSENT TO JOIN

I consent to become a party plaintiff in this action which asserts claims under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, et seq. and the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, et seq. pursuant to 29 U.S.C. § 216(b). I agree to be represented by the law firm of Winebrake & Santillo, LLC (Dresher, PA) in this case. 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 IN ENVELOPE POSTMARKED BY [INSERT 45 DAYS FROM MAILING DATE] AND
ADDRESSED TO:**

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

Fax: (215)-844-2492/Email: asantillo@winebrakelaw.com