

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HELEN ABRAHAM and NATOYA
KERDEANE SYLVESTER, on behalf of
themselves, individually, and on behalf of all
others similarly-situated,

Plaintiffs,

-against-

PROMISE HOME CARE AGENCY, INC.,

Defendant.

Docket No.:
1:18-cv-4502 (PAC) (GWG)

COURT AUTHORIZED NOTICE OF LAWSUIT

If you worked for PROMISE HOME CARE AGENCY, INC., (“Defendant”), at any time
between July 12, 2016 and the present, ***please read this Notice.***

*Important: You are NOT being sued. This Notice is NOT a solicitation from a lawyer.
The Court authorized this Notice.*

- Plaintiffs, Helen Abraham and Natoya Kerdeane Sylvester, formerly worked as home health aides / nurses for Defendant’s home health aide staffing company, located in the Bronx, New York.
- Plaintiffs brought this lawsuit against Defendant on behalf of themselves and all other current and former members of Defendant’s nursing staff who worked for Defendant at any time between July 12, 2016 and the present. Plaintiffs claim, among other things, that they worked in excess of forty hours per week and that Defendant did not pay them overtime compensation for all hours worked in excess of forty per week at the legal overtime rate in violation of the Fair Labor Standards Act and New York law. Defendant denies any wrongdoing and maintains that it paid all of its employees in accordance with federal and New York law.
- The Court has authorized the parties to send out this Notice. The Court has not decided who is right or who is wrong. However, your legal rights may be affected, and you have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
ASK TO BE INCLUDED	If you choose to be included in this collective action, you must complete the consent form at the end of this Notice. You may then share in any proceeds from a settlement or judgment if those bringing the claims are successful, but you give up any rights to separately sue the Defendant for the same legal claims asserted in this lawsuit.
DO NOTHING	By doing nothing, you will not be included in this lawsuit.

1. Why did I get this notice?

You are getting this notice because Defendant’s records show that you may have worked for it at some point between July 12, 2016 and the present, in a job or jobs similar to the ones held by Plaintiffs.

2. What is a collective action and who is involved?

In a collective action lawsuit, one or more persons can bring a lawsuit on behalf of others who have similar claims. The individuals who brought this lawsuit are called the Plaintiffs. The corporate entity that is being sued is called the Defendant. One court resolves the issues for everyone who decides to join the case.

3. What is this collective action lawsuit about?

Plaintiffs allege that Defendant’s compensation practices violated federal and New York law. Plaintiffs claim that they and others who worked for Defendant are entitled to unpaid overtime compensation, liquidated damages, attorneys’ fees, and costs.

Defendant denies any wrongdoing and/or liability and maintains that all of its workers were paid in accordance with federal and New York law.

4. What is the purpose and effect of this notice?

This notice is for the sole purpose of determining those persons who wish to be involved in this case.

If you elect to join this proceeding, you may share in any settlement or judgment if the Plaintiffs are successful. There are no assurances that any recovery will be awarded.

You should be aware that a claim under the FLSA must be brought within two years of the date the claim accrues, unless you can prove that your employer’s violation was “willful,” in which case the claim must be brought within three years.

5. How do I join this collective action lawsuit?

To participate in this lawsuit, you need to fill out the enclosed form called “Consent to Join Lawsuit” and mail it in the enclosed, postage-paid envelope to Plaintiffs’ Counsel, Borrelli & Associates, P.L.L.C. Should the enclosed envelope be lost or misplaced, the Consent to Join Lawsuit form must be sent to:

Borrelli & Associates, P.L.L.C.
910 Franklin Avenue, Suite 200
Garden City, New York 11530
Tel: (516) 248-5550

You can also: fax the Consent to Join Lawsuit form to (516) 248-6027; or scan and email it to:
mjb@employmentlawyernewyork.com

The signed Consent to Join Lawsuit form must be filed with the Court by September 10, 2019. If your signed Consent to Join Lawsuit form is not filed with the Court by September 10, 2019, you may not be allowed to participate in this lawsuit.

6. If I choose to join this lawsuit, will I have to participate in any legal proceedings?

If you choose to join this lawsuit, you will most likely be required to provide information and answer questions relating to your work with the Defendant. Specifically, you may be required to testify at a deposition or at trial, respond to written questions, and produce documents relevant to the case. For this reason, if you join the lawsuit, you should preserve all documents relating to your work with the Defendant currently in your possession. Plaintiffs’ attorneys will assist you with these requirements.

7. What happens if I do nothing at all?

You will not be included in lawsuit and you will not be affected by any settlement or judgment rendered in this case, whether favorable or unfavorable. The limitations period on your claims continues to run.

8. Can I participate in this collective action lawsuit regardless of my immigration status?

Yes. You have a right to participate in this lawsuit regardless of your immigration status.

9. If I join, will there be any impact on my employment?

No. Federal and New York law prohibit Defendant from discharging or in any other manner retaliating against you because you join this case or have in any other way exercised your rights under the law.

10. Do I have a lawyer in this case?

Plaintiffs are represented by Borrelli & Associates, P.L.L.C. If you choose to join this Lawsuit, Borrelli & Associates, P.L.L.C. will represent you on a contingency fee basis, meaning that you will not owe any attorneys' fees unless Plaintiffs are successful and win the case or obtain a settlement, in which case the Court will determine the amount of attorneys' fees to be paid.

You do not have to be represented by Borrelli & Associates, P.L.L.C. and may instead hire another attorney of your choosing, at your own expense, or represent yourself *pro se* without the assistance of a lawyer. If you intend to retain your own lawyer or to represent yourself, you should indicate this on the "Consent to Join Lawsuit" form. If you send back your form but do not indicate that you intend to retain your own lawyer or to represent yourself, the Court will assume that you want Borrelli & Associates, P.L.L.C. to represent you.

11. This Notice has been authorized by the Court

This notice and its contents have been authorized by Chief Magistrate Judge Gabriel W. Gorenstein of the United States District Court for the Southern District of New York, located in New York, New York. The Court has not yet ruled on whether Plaintiffs' claims or Defendant's defenses have any merit.

PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK OF THE COURT ABOUT THIS NOTICE.

Although the Court has approved the sending of this Notice, the Court expresses no opinion on the merits of the Lawsuit. If you have any questions, you may contact Plaintiffs' attorneys, Borrelli & Associates, P.L.L.C, by telephone at (516) 248-5550, or in writing at Borrelli & Associates, P.L.L.C, 910 Franklin Avenue, Suite 200, Garden City, New York 11530, or by email at mjb@employmentlawyernewyork.com.

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SOUTHERN DISTRICT OF NEW YORK

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KERDEANE SYLVESTER, on behalf of
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**CONSENT TO JOIN
LAWSUIT**

IF YOU RECEIVED THIS FORM AND WANT TO JOIN THIS LAWSUIT, PLEASE
COMPLETE THESE TWO STEPS:

1. COMPLETE AND SIGN THIS CONSENT TO JOIN LAWSUIT FORM; AND
2. USE THE ENCLOSED ENVELOPE TO RETURN THIS FORM TO THE ADDRESS
BELOW NOT LATER THAN SEPTEMBER 10, 2019.

Borrelli & Associates, P.L.L.C.
910 Franklin Avenue., Suite 200
Garden City, New York 11530

You can also: fax the Consent to Join
Lawsuit form to (516) 248-6027; or scan and
email it to
mjb@employmentlawyernewyork.com

I consent to join the collective action; and I elect to be represented by [choose ONE]:

____ Borrelli & Associates, P.L.L.C.
I authorize Plaintiffs Helen Abraham
and Natoya Kerdeane Sylvester and
Borrelli & Associates, P.L.L.C. to act
on my behalf in all matters relating to
this action, including any settlement of
my claims.

____ Another attorney of my choosing, who shall
promptly file a notice of appearance on my
behalf.

____ Myself *pro se* without the assistance of an
attorney.

If you do not select any of the representation options above but send back your form to Borrelli & Associates, P.L.L.C., you will automatically be represented by Plaintiffs' lawyers, Borrelli & Associates, P.L.L.C. Moreover, failure to select a representation option above will authorize Plaintiffs and Borrelli & Associates, P.L.L.C. to act on your behalf in all matters relating to this action, including any settlement of your claims. You are permitted to proceed with alternative counsel of your own choosing at your own expense or to represent yourself *pro se* without the assistance of an attorney.

SIGNATURE

PRINT NAME

Address

City, State, Zip Code

Telephone Number

Email Address

Start Date of Employment

End Date of Employment