

TO BE PUBLISHED IN ENGLISH, RUSSIAN, SPANISH, POLISH AND CHINESE

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

MARIANNA DZIURA, individually and on behalf of all other persons similarly situated who were employed by HUMAN DEVELOPMENT ASSOCIATION, INC., HDA, HUMAN DEVELOPMENT ASSOCIATION, INC., and H.D.A. Inc.,

Plaintiffs,

v.

HUMAN DEVELOPMENT ASSOCIATION, INC., HDA,
HUMAN DEVELOPMENT ASSOCIATION, INC., and
H.D.A. Inc.,

Defendants.

Index No.: 159998/2018

**PROPOSED PUBLICATION
ORDER**

TO: All individuals who performed work on behalf of Defendants Human Development Association, Inc., HDA, Human Development Association, Inc., and H.D.A. Inc., (collectively “HDA” or “Defendants”) as non-residential home health aides and/or personal care assistants in the State of New York at any time between October 29, 2012 and today (the “Class Period”).

The purpose of this Notice is to advise you that a lawsuit has been filed against HDA 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

Plaintiff Marianna Dziura who worked as a home health aide for HDA, filed a lawsuit in state court under New York law alleging that HDA did not pay her for every hour worked during each shift, did not pay her at the minimum wage rate for all hours worked, did not provide all of her overtime compensation, and did not pay her “spread of hours” compensation. Plaintiff also alleges that she was 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”). Named Plaintiff Dziura further alleges that when she and other workers worked a 24-hour shift, they were only paid for 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.

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HDA denies that Plaintiffs' claims have any merit and has asserted various defenses against Plaintiffs' claims. HDA vigorously denies any wrongdoing or liability to Plaintiffs or any past or present employee of HDA 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 HDA in the State of New York as a non-residential home health aide and/or personal care assistant at any time between October 29, 2012 and today. 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 HDA 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 HDA in a separate action for the claims alleged in this case.

You will be represented by the law firms 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 *Dziurra, et al. v. Human Development Association, Inc.*, Index No. 159998/2018, 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 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 HDA 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.

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

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