

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

In the Matter of the Application of
GUI ZHU CHEN, YA YUN LI,
MARIA RODRIGUEZ, GUI HUA
SONG and CHUN FENG ZHUANG,

Petitioners,

DECISION AND ORDER

Index No: 908146-23

-against-

ROBERTA REARDON, as Commissioner
of the New York State Department of Labor,

Respondent,

For a Judgment Pursuant to Article 78 of the New York
Civil Practice Law & Rules.

APPEARANCES: Carmela Huang, Esq.
Claudia Wilner, Esq.
National Center for Law and Economic Justice
Attorneys for Petitioners
50 Broadway, 15th Floor
New York, New York 10004

Letitia James
Attorney General of the State of New York
Matthew J. Gallagher, Esq. (Assistant Attorney General, of Counsel)
Attorneys for Respondent
The Capitol
Albany, New York 12224

LYNCH, J.:

Gui Zhu Chen, Ya Yun Li, Maria Rodriguez, Gui Hua Song and Chung Feng Zhuang (hereinafter collectively referred to as “petitioners”) commenced this proceeding, pursuant to CPLR article 78, seeking an order directing the New York State Department of Labor (hereinafter “NYSDOL”) to reopen and investigate complaints that petitioners had previously filed with NYSDOL. In October 2024, this Court (Connolly, J.) granted the petition, finding that NYSDOL’s

decision to terminate all investigations into wage claims by claimants whose union had submitted grievances on their behalf was an improperly promulgated rule, in violation of the State Administrative Procedure Act. In its October 2024 Decision, the Court declined to address petitioner's request for class certification, finding that petitioners had failed to move for class certification as required by CPLR 902.

Petitioners moved to reargue the class certification issue, and in January 2025, the Court found that petitioners had properly moved for class certification. Judge Connolly held that the governmental operations rule did not bar class certification, and found that all elements necessary for class certification had been established except for that involving numerosity. Accordingly, the Court ordered the parties to engage in limited discovery on issues related to numerosity, requesting an evidentiary basis for petitioners' asserted number of class members and evidence supporting petitioners' theory that these putative class members' claims were closed by NYSDOL for the reasons at issue in this proceeding.

The parties did engage in discovery, and petitioners now renew their motion for class certification, arguing that there are 109 people who fall into the proposed class, based upon evidence obtained from NYSDOL and sworn affidavits submitted with the renewed motion. Respondent filed a response, stating that it "does not oppose [p]etitioners' position on meeting the class requisite of numerosity," but that it "does not concede the identities of class members based on the information currently available" because the affidavits presented by petitioners are "demonstrably untrustworthy" (NYSCEF Doc. No. 210, pg. 1). As such, respondent requests that if the Court finds the numerosity requirement is met, it should order petitioners to provide additional information to identify the class members.

The Court is satisfied that the element of numerosity is met. First, respondent concedes the issue. Second, the evidence presented by petitioners is more than sufficient to show that the class is so numerous that joinder of all members is impracticable – records disclosed from respondent show that there were at least 150 home care aides who fall under the ambit of the class at issue here (*see* NYSCEF Docs. No. 197-201, 203, 205), and petitioners have presented affidavits from 109 aides declaring that they meet the requirements for the class and had never sought payment from their employers for their unpaid wage claims through a union-employer arbitration process (*see* NYSCEF Doc. No. 209). NYSDOL alleges that 13 of these individuals are not associated with a wage claim filed with NYSDOL or their claim was closed for reasons other than the filing of a union grievance or arbitration on their behalf, but even if this is true, it leaves 96 individuals who do fall within the scope of the proposed class. Accordingly, the evidence presented here demonstrates that the numerosity requirement for class certification is met (*see Matter of Stewart v Roberts*, 193 AD3d 121, 123-124 [3d Dept 2021]; *Hurrell-Harring v State of New York*, 81 AD3d 69, 72 [3d Dept 2011]).

As such, the Court hereby certifies the class as containing those individuals (1) who filed claims with NYSDOL because they worked 24 hours a shift but were paid for no more than 13, (2) whose unions entered into arbitration agreements with their employers regarding their claims, (3) whose cases NYSDOL as a result of its improper rule to close cases where claimants were subject to mandatory arbitration and (4) who have not sought payment from their employers through a union arbitration award.

In light of the disputed issue of fact raised by respondent as to the 13 individuals who allegedly do not fall within the class, and the conflicting information submitted by petitioners as to 10 of these individuals (*see* NYSCEF Docs. No. 216 – 224), the parties are directed to meet and

confer regarding the propriety of including these 13 individuals in the class. If the parties cannot resolve the issue themselves, they may communicate this to the Court, and the Court will set up a conference at which to resolve the issue (*see* CPLR 907).

Any remaining arguments not specifically addressed herein have been considered and found to be lacking in merit or need not be reached in light of this determination.

Accordingly, it is hereby

ORDERED that petitioners' motion for class certification is granted; and it is further

ORDERED that the Court's October 9, 2024 order annulling NYSDOL's decisions to terminate its investigations into petitioners' complaints is extended to the members of the class certified herein; and it is further

ORDERED that the parties meet and confer regarding the disputed 13 members of the class identified in NYSCEF Doc. No. 211, and if they cannot resolve the issue within **60 days** of the date of this Decision and Order, they are to contact the Court for the scheduling of a conference on this and any other relevant issue.

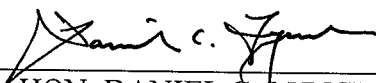
This memorandum constitutes the Decision and Order of the Court. The original Decision and Order is being filed with the Albany County Clerk via NYSCEF. The signing of this Decision and Order shall not constitute entry or filing under CPLR 2220. Counsel is not relieved from the applicable provisions of that rule regarding notice of entry.

SO ORDERED.

ENTER.

Dated: December 30, 2025
Albany, New York

Papers considered:



HON. DANIEL C. LYNCH
Supreme Court Justice

1. Supplemental Memorandum of Law in Support of Petitioner's Motion for Class Certification, dated May 28, 2025;
2. Affirmation in Support of Carmela Huang, Esq., dated May 28, 2025, together with Exhibits 1 – 13;
3. Memorandum of Law in Opposition of Matthew J. Gallagher, dated June 12, 2025;
4. Affirmation in Opposition of Nathan Lazelle, dated June 12, 2025;
5. Affirmation in Opposition of Matthew J. Gallagher, dated, June 12, 2025, together with Exhibit A;
6. Memorandum of Law in Reply of Carmela Huang, dated June 19, 2025;
7. Affirmation in Reply of Carmela Huang, dated June 19, 2025, together with Exhibits 1 – 8; and
8. Affirmation of Alice Davis, dated June 19, 2025, together with Exhibits 1 – 2..