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and all other similarly-situated and aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

DANIEL MARDEN, on behalf of himself
and all other similarly-situated and
aggrieved employees,

Plaintiff,

v.

CVS PHARMACY, INC., a Rhode Island
Corporation; LONGS DRUG STORES
CALIFORNIA, L.L.C.; a California Limited
Liability Company; and DOES 1 through 10,
Inclusive,

Defendants.

Case No. S-CV-0045902

CLASS AND REPRESENTATIVE ACTION

**[PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF SETTLEMENT**

Hearing: May 4, 2023

Time: 8:30 a.m.

Dept: 3

Judge: Hon. Michael Jones

Complaint filed: December 4, 2020

Trial date: Not set

1 This matter came on for hearing on May 4, 2023 in Department 3 of the above-captioned
2 Court on Plaintiff's Motion for Order Granting Preliminary Approval of Settlement ("Motion").
3 Having fully reviewed the Motion, supporting memorandum of Points and Authorities and
4 Declarations, the Class and PAGA Action Settlement Agreement ("Agreement") and the
5 proposed Notice of Class and Representative Action Settlement attached as Exhibit A to the
6 Agreement ("Class Notice"), having carefully analyzed the Agreement and Class Notice, and in
7 recognition of the Court's duty to make a preliminary determination as to the reasonableness of
8 any proposed class action settlement, and if preliminarily determined reasonable, to ensure
9 proper notice is provided to Class Members in accordance with due process requirements, and
10 to set a Final Approval Hearing to consider the good faith, fairness, adequacy and
11 reasonableness of the proposed Settlement,

12 THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:

13 1. The Court conditionally finds, for purposes of approving this settlement only,
14 the proposed Class meets the requirements for certification under section 382 of the California
15 Code of Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all
16 members of the Class is impracticable; (b) there are questions of law or fact common to the
17 proposed Class, and a well-defined community of interest among members of the proposed
18 Class with respect to the subject matter of the class action; (c) the claims of the Class
19 Representative are typical of the claims of the members of the proposed Class; (d) the Class
20 Representative has and will fairly and adequately protect the interests of the Members of the
21 Class; (e) a class action is superior to other available methods for an efficient adjudication of
22 this controversy in the context of settlement; and (f) counsel of record for the Plaintiff/Class
23 Representative are qualified to serve as counsel for him as well as in his representative capacity
24 and for the Class.

25 2. The Court finds on a preliminary basis the Agreement, attached to the
26 Declaration of Jeff Geraci as Exhibit 1, incorporated by this reference in full, and made a part of
27 this Order of preliminary approval, appears to be within the range of reasonableness of a
28 settlement which could ultimately be given final approval by this Court.

3. It appears to the Court on a preliminary basis: (a) the Gross Settlement Amount is fair and reasonable to Class Members when balanced against the probable outcome of further litigation relating to class certification, liability and damages issues, and potential appeals; (b) significant investigation, research, and informal discovery, have been conducted such that counsel for the Parties are able to reasonably evaluate their respective positions; (c) settlement at this time will avoid substantial costs, delay, and risks presented by further prosecution of the litigation; and (d) the proposed Settlement was reached through intensive, serious, and non-collusive negotiations facilitated by an experienced mediator.

4. Good cause appearing, the Court **GRANTS** Preliminary Approval of the Class and PAGA Action Settlement, and incorporates the Agreement in this Order.

5. For purposes of this Settlement, Class Members are defined as:

All current and former non-exempt employees of Defendants who worked in California at any time September 17, 2019 and July 24, 2022 who received sick pay and additional compensation in the same pay period, and the regular rate of their sick pay was not adjusted. (Agreement, ¶¶ 5, 7)

6. The Court finds the proposed Class Notice fairly and adequately advises Class Members of (a) pendency of the Class Action Settlement; (b) conditional Class certification for settlement purposes only; (c) preliminary Court approval of the proposed Settlement; (d) the date, time and place of the Final Approval Hearing; (e) the terms of the proposed Settlement and the benefits available to Class Members under the Settlement; and of their right to (f) receive a proportionate share of the Net Settlement Amount without the need to return a claim form; (g) request exclusion, and procedures and deadline for doing so; (h) object to the Settlement, and procedures and deadline for doing so; and, (i) file documents in opposition to the Settlement, and appear at the Hearing.

7. The Court finds the proposed Class Notice provides the best practicable notice to the Class and comports with all constitutional requirements, including those of due process. Accordingly, good cause appearing, the Court **APPROVES** the Class Notice.

8. The Court further finds mailing the Class Notice to the last known address of Class Members with measures taken verify addresses verification and skip tracing of bad

addresses, as described in the Agreement, is an effective method of notifying Class Members of their rights in the class action and the Settlement. Accordingly, IT IS ORDERED:

A. Atticus Administration, LLC be appointed the Settlement Administrator to administer the Settlement of this matter as more specifically set forth in the Agreement;

B. Cohelan Khoury & Singer and Davtyan Law Firm, Inc. be appointed as Class Counsel;

C. Plaintiff Daniel Marden be appointed as Class Representative;

D. Within twenty (20) calendar days of the date the Court enters an order granting Plaintiff's Motion for Preliminary Approval (the "Preliminary Approval Date"), Defendant shall provide to the Settlement Administrator, in a Microsoft Excel Spreadsheet, or similar digital format, a listing containing, for each and every Class Member, the following information: (1) name, (2) last known address, phone number and email address, (3) Social Security number, (4) employee number, (5) the number of pay periods during the Class and PAGA Periods. This information is strictly confidential and shall not be shared with anyone other than the Settlement Administrator, including Class Counsel. ("Settlement Employee Data");

E. Within thirty (30) calendar days of the Preliminary Approval Date, the Settlement Administrator shall mail the Class Notice to each Class Member by first class, regular U.S. mail, using the most current mailing address information available, with measures taken for updating an address as provided by the terms of the Agreement.

F. On or before forty-five (45) calendar days from the date the Settlement Administrator first mails the Class Notice to Class Members (or, if the 45th day falls on a Sunday or holiday, the next business day that is not a Sunday or holiday) (the "Response Deadline"), Class Members who wish to exclude themselves from the Class must submit a written request for exclusion in the manner set forth in the Class Notice. Class Members who fail to submit a valid and timely written Request for Exclusion on or before the Response Deadline shall be Settlement Class Members, bound by all Settlement terms and any final judgment entered in this Action, if the Settlement is approved by the Court.

1 G. On or before the Response Deadline, Class Members who wish to object
2 to the Settlement, may send a written notice of objection in the manner set forth in the Class
3 Notice, but may attend the Final Approval Hearing, even if written objection is not made, and;

4 H. On or before the Response Deadline, Class Members who wish to dispute
5 the information upon which their Settlement Payment is based must submit a written dispute in
6 the manner set forth in the Class Notice.

7 9. IT IS FURTHER ORDERED the Final Approval Hearing shall be held before
8 the undersigned at ____ a.m./p.m. on ____, 2023, in Department 3 of the Superior
9 Court of California, County of Placer located at 101 Maple Street, Auburn, California 95603, to
10 consider the fairness, adequacy, and reasonableness of the proposed Settlement preliminarily
11 approved by this Order, and to consider the application for a Service Payment to the Class
12 Representative, Settlement Administrator expenses, and for Class Counsel's attorneys' fees and
13 litigation expenses incurred.

14 10. IT IS FURTHER ORDERED that if for any reason the Court does not execute
15 and file an Order Granting Final Approval, for any reason whatsoever, the Agreement and the
16 proposed Settlement that is the subject of this Order, and all evidence and proceedings in
17 connection the with the Order, shall be restored without prejudice to the status quo ante as more
18 specifically set forth in the Agreement.

19 11. IT IS FURTHER ORDERED, pending further order of this Court, proceedings
20 in this matter, except those contemplated by this Order and the Agreement, are stayed.

21 12. The Court reserves the right to adjourn or continue the Final Approval Hearing
22 without further notice to Class Members. If written objections are submitted, Class Counsel
23 shall notify objecting Class Members of the new date and time for the Final Approval Hearing.

24 **IT IS SO ORDERED.**

25
26 Dated: _____

Hon. Michael Jones
JUDGE OF THE SUPERIOR COURT