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County of San Diego
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Clerk of the Superior Court
By A. Irving, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

STATE OF CALIFORNIA *ex rel.* GINA
HERNANDEZ as Private Attorney General,

Plaintiff,

vs.

CVS PHARMACY, INC., a Rhode Island
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 25CU023713C

**REPRESENTATIVE ACTION
COMPLAINT**

DEMAND FOR TRIAL BY JURY

**(1) Violation of Cal. Labor Code § 2699,
(Private Attorneys General Act)**

1 Plaintiff STATE OF CALIFORNIA *ex. rel.* GINA HERNANDEZ as a Private Attorney
2 General (“Plaintiff”), upon facts that either have evidentiary support or are likely to have
3 evidentiary support after a reasonable opportunity for further investigation and discovery, alleges
4 as follows:

5 **JURISDICTION AND VENUE**

6 1. Plaintiff brings this action against Defendants CVS PHARMACY, INC. and
7 DOES 1 THROUGH 50 (hereinafter also collectively referred to as “Defendants”) for California
8 Labor Code violations, unfair business practices, and civil penalties stemming from Defendants’
9 failure to pay overtime compensation, failure to provide meal periods, failure to authorize and
10 permit rest periods, failure to pay minimum wage, failure to timely pay wages, failure to provide
11 accurate wage statements, failure to maintain accurate time and payroll records, failure to
12 reimburse necessary business-related expenses, and failure to provide equal pay for substantially
13 similar work performed under similar working conditions based on sex.

14 2. Plaintiff brings this action solely as a representative action, and solely as a Private
15 Attorney General, on behalf of the State of California for all aggrieved employees, including
16 herself and other aggrieved employees of Defendants against whom one or more of the alleged
17 violations was committed (hereinafter collectively referred to as the “Aggrieved Employees”)
18 pursuant to California Labor Code sections 2698, *et seq*; *Balderas v. Fresh Start Harvesting, Inc.*,
19 101 Cal.App.5th 533 (2024), as modified (April 18, 2024); and *Johnson v. Maxim Healthcare*
20 *Services, Inc.*, 66 Cal.App.5th 924 (2021). Plaintiff is an aggrieved employee against whom one
21 or more of the alleged violations occurred. The civil penalties sought by Plaintiff exceed the
22 minimal jurisdiction limits of the Superior Court and will be established according to proof at
23 trial.

24 3. The Court has jurisdiction over this action pursuant to the California Constitution,
25 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”
26 except those given by statute to other courts. The statutes under which this action is brought do
27 not specify any other basis for jurisdiction.
28

4. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

5. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, County of San Diego.

PARTIES

6. GINA HERNANDEZ is an individual residing in the County of San Diego, State of California. MS. HERNANDEZ is not suing in her individual capacity; she is proceeding herein solely under the PAGA, on behalf of the State of California for all aggrieved employees, including herself and other aggrieved employees.

7. Defendant CVS PHARMACY, INC., is and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Rhode Island and registered to do business in the state of California.

8. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. The Doe defendants may be individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at all times mentioned acting within the scope, purpose, consent, knowledge, ratification and authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner for the occurrences herein alleged, and that the damages as herein alleged were proximately caused by its conduct. CVS PHARMACY, INC. and Doe Defendants 1 through 50

are collectively referred to herein as “Defendants.”

9. Defendants are and at all times herein mentioned were, (a) conducting business in the County of San Diego, State of California, and (b) the employer of MS. HERNANDEZ and the Aggrieved Employees consistent with the California Labor Code and Industrial Welfare Commission Wage Orders (“Wage Orders”).

10. Plaintiff further alleges that Defendants, directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of MS. HERNANDEZ and the Aggrieved Employees so as to make each of said Defendants employers and employers jointly liable under the statutory provisions set forth herein.

GENERAL ALLEGATIONS

11. Defendants own and operate pharmacies throughout California and the United States.

12. Defendants employed MS. HERNANDEZ to work as a shift supervisor beginning in approximately October 2023. MS. HERNANDEZ is still currently employed by Defendants.

13. At all relevant times set forth herein, Defendants employed MS. HERNANDEZ and the Aggrieved Employees as hourly-paid or non-exempt employees.

14. Throughout the time period involved in this case, Defendants had the authority to hire and terminate MS. HERNANDEZ and the Aggrieved Employees and to directly or indirectly control work rules, working conditions, wages, working hours, and conditions of employment of MS. HERNANDEZ and the Aggrieved Employees.

15. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

16. Plaintiff is informed and believes, and thereon alleges that Defendants engaged in an ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt employees. As set forth in more detail below, this scheme involved, *inter alia*, regularly requiring MS. HERNANDEZ and the Aggrieved Employees to work off the clock without compensation, thereby failing to pay them for all hours worked, including minimum and overtime wages.

1 Defendants also implemented policies that prohibited MS. HERNANDEZ and the Aggrieved
2 Employees from accurately recording the actual time worked, resulting in a failure to pay MS.
3 HERNANDEZ and the Aggrieved Employees all wages owed. In addition, Defendants routinely
4 failed to permit MS. HERNANDEZ and the Aggrieved Employees to take timely and duty-free
5 meal periods and rest periods in violation of California law. Defendants also failed to reimburse
6 MS. HERNANDEZ and the Aggrieved Employees for all necessary business-related expenses.

7 17. Throughout the time period involved in this case, Defendants have implemented
8 policies and practices which failed to provide MS. HERNANDEZ and the Aggrieved Employees
9 with timely and duty-free meal periods. Defendants routinely failed to relieve MS. HERNANDEZ
10 and the Aggrieved Employees of all duties during their meal periods, regularly failed to relinquish
11 control over MS. HERNANDEZ and the Aggrieved Employees during their meal periods,
12 regularly failed to permit MS. HERNANDEZ and the Aggrieved Employees a reasonable
13 opportunity to take their meal periods, and regularly impeded or discouraged MS. HERNANDEZ
14 and the Aggrieved Employees from taking thirty (30) minute uninterrupted meal breaks no later
15 than the end of their fifth hour of work and/or from taking a second thirty (30) minute
16 uninterrupted meal break no later than their tenth hour of work for shifts lasting more than ten
17 (10) hours. Defendants also failed to maintain accurate records of meal periods taken by MS.
18 HERNANDEZ and the Aggrieved Employees.

19 18. Throughout the time period involved in this case, Defendants did not adequately
20 inform MS. HERNANDEZ and the Aggrieved Employees of their right to take meal periods
21 under California law. Moreover, Defendants systematically disregarded their own written policies
22 regarding the provision and timing of meal periods for MS. HERNANDEZ and the Aggrieved
23 Employees. Instead, Defendants' actual policy and practice was to schedule MS. HERNANDEZ
24 and the Aggrieved Employees in a way that prohibited them from taking timely and duty-free
25 meal periods, and to require MS. HERNANDEZ and the Aggrieved Employees to work through
26 their meal periods, for which they were not compensated.

27 19. Throughout the time period involved in this case, Defendants failed to pay MS.
28

1 HERNANDEZ and the Aggrieved Employees premium wages for meal periods that were missed,
2 late, interrupted, or shortened in violation of California law. Defendants knew or should have
3 known that MS. HERNANDEZ and the Aggrieved Employees were entitled to receive all meal
4 periods or payment of one additional hour of pay at their regular rate of pay when a meal period
5 was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely
6 failed to provide legally compliant meal periods to MS. HERNANDEZ and the Aggrieved
7 Employees, and routinely failed to pay one additional hour of pay to MS. HERNANDEZ and the
8 Aggrieved Employees at their regular rate of pay when a meal period was missed, short, late,
9 and/or interrupted.

10 20. Throughout the time period involved in this case, Defendants have implemented
11 policies and practices which prohibited MS. HERNANDEZ and the Aggrieved Employees from
12 taking timely and duty-free rest periods. Defendants regularly failed to provide, authorize, and
13 permit MS. HERNANDEZ and the Aggrieved Employees to take full, uninterrupted, off-duty rest
14 periods for every shift lasting three and one-half (3.5) to six (6) hours and/or two full,
15 uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to
16 make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each
17 work period.

18 21. Throughout the time period involved in this case, Defendants did not adequately
19 inform MS. HERNANDEZ and the Aggrieved Employees of their right to take rest periods under
20 California law. Moreover, Defendants systematically disregarded their own written policies
21 regarding the provision and timing of rest periods for MS. HERNANDEZ and the Aggrieved
22 Employees. Instead, Defendants' actual policy and practice was to schedule MS. HERNANDEZ
23 and the Aggrieved Employees in a way that regularly prohibited them from taking timely and
24 duty free rest periods, and to regularly require MS. HERNANDEZ and the Aggrieved Employees
25 to work through their rest periods.

26 22. Throughout the time period involved in this case, Defendants failed to pay MS.
27 HERNANDEZ and the Aggrieved Employees premium wages for rest periods that were missed,
28

late, interrupted, or shortened in violation of California law. Defendants knew or should have known that MS. HERNANDEZ and the Aggrieved Employees were entitled to receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to authorize and permit MS. HERNANDEZ and the Aggrieved Employees to take duty-free rest periods and failed to pay one additional hour of pay to MS. HERNANDEZ and the Aggrieved Employees at their regular rate of pay when a rest period was missed, short, late and/or interrupted.

23. Throughout the time period involved in this case, Defendants regularly required MS. HERNANDEZ and the Aggrieved Employees to perform work off the clock. Although Defendants prohibited overtime, Defendants still regularly required that MS. HERNANDEZ and the Aggrieved Employees complete all of their assigned duties. To do so, MS. HERNANDEZ and the Aggrieved Employees were regularly required to perform work off the clock for which they were not compensated.

24. Throughout the time period involved in this case, Defendants implemented policies that prohibited MS. HERNANDEZ and the Aggrieved Employees from accurately recording the actual time worked, resulting in a failure to pay MS. HERNANDEZ and the Aggrieved Employees all wages owed.

25. Throughout the time period involved in this case, MS. HERNANDEZ and the Aggrieved Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

26. Throughout the time period involved in this case, Defendants regularly failed to pay all overtime compensation owed to MS. HERNANDEZ and the Aggrieved Employees when they worked in excess of eight (8) hours in a single work day and/or forty (40) hours in a single work week, or in excess of twelve (12) hours in a single work day and/or eighty (80) hours in a single work week. Defendants knew or should have known that MS. HERNANDEZ and the Aggrieved Employees were entitled to receive certain wages for overtime compensation and that

1 they were not receiving wages for overtime compensation.

2 27. Throughout the time period involved in this case, Defendants failed to pay
3 overtime to MS. HERNANDEZ and the Aggrieved Employees for all overtime hours worked
4 based on regular rates of pay correctly calculated to include all applicable remuneration.

5 28. Throughout the time period involved in this case, Defendants regularly failed to
6 pay MS. HERNANDEZ and the Aggrieved Employees at least minimum wages for all hours
7 worked. Defendants knew or should have known that MS. HERNANDEZ and the Aggrieved
8 Employees were entitled to receive at least minimum wages for all hours worked and that they
9 were not receiving at least minimum wages for all hours worked. Defendants' failure to pay
10 minimum wages included, *inter alia*, failing to pay MS. HERNANDEZ and the Aggrieved
11 Employees at the required minimum wage pursuant to California law, requiring MS.
12 HERNANDEZ and the Aggrieved Employees to perform work off the clock.

13 29. Throughout the time period involved in this case, Defendants regularly failed to
14 pay MS. HERNANDEZ and the Aggrieved Employees all wages within any time permissible
15 under California law, including, *inter alia*, California Labor Code section 204. Defendants knew
16 or should have known that MS. HERNANDEZ and the Aggrieved Employees were entitled to
17 receive all wages owed to them during their employment. MS. HERNANDEZ and the Aggrieved
18 Employees did not receive payment of all wages, including overtime compensation, minimum
19 wages, and meal and rest period premiums.

20 30. Throughout the time period involved in this case, Defendants regularly failed to
21 provide complete or accurate wage statements to MS. HERNANDEZ and the Aggrieved
22 Employees. Defendants knew or should have known that MS. HERNANDEZ and the Aggrieved
23 Employees were entitled to receive complete and accurate wage statements in accordance with
24 California law, but, in fact, they did not receive complete and accurate wage statements from
25 Defendants. The deficiencies included, *inter alia*, the failure to include the total number of hours
26 worked, the actual gross wages earned, the correct rates of pay, net wages earned, and all
27 applicable hourly rates.

1 31. Throughout the time period involved in this case, Defendants regularly failed to
2 keep complete or accurate payroll records for MS. HERNANDEZ and the Aggrieved Employees.
3 Defendants knew or should have known that Defendants were required to keep complete and
4 accurate payroll records for MS. HERNANDEZ and the Aggrieved Employees in accordance
5 with California law, but, in fact, did not keep complete and accurate payroll records.

6 32. Throughout the time period involved in this case, Defendants regularly failed to
7 maintain accurate records relating to MS. HERNANDEZ's and the Aggrieved Employees' work
8 periods, meal periods, total daily hours, hours per pay period, and applicable pay rates.

9 33. Throughout the time period involved in this case, Defendants failed to reimburse
10 MS. HERNANDEZ and the Aggrieved Employees for all necessary business-related expenses,
11 including but not limited to mileage for the use of their personal vehicles for necessary business
12 purposes. Defendants knew or should have known that Defendants were required to reimburse
13 MS. HERNANDEZ and the Aggrieved Employees for all necessary business-related expenses
14 and costs, but, in fact, failed to do so in violation of California law.

15 34. Throughout the time period involved in this case, Defendants knew or should have
16 known that they had a duty to compensate MS. HERNANDEZ and the Aggrieved Employees
17 pursuant to California law. Defendants had the financial ability to pay such compensation, but
18 willfully, knowingly, and intentionally failed to do so, and falsely represented to MS.
19 HERNANDEZ and the Aggrieved Employees that they paid all wages owed to them, all in order
20 to increase Defendants' profits.

21 35. Throughout the time period involved in this case, Defendants regularly failed to
22 provide MS. HERNANDEZ and the Aggrieved Employees with equal pay for substantially
23 similar work performed under similar working conditions based on sex. MS. HERNANDEZ and
24 the Aggrieved Employees were subject to wage disparities despite performing substantially
25 similar work. Defendant knew or should have known that MS. HERNANDEZ and the Aggrieved
26 Employees were entitled to equal wages for equal work as required by California Labor Code §
27 1197.5, but failed to justify the wage differential based on any legally permissible factors.
28

36. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly ... for any wages or penalty due to him [or her] under this article.”

FIRST CAUSE OF ACTION

(Violation of California Labor Code § 2699, *et seq.*)

(Against All Defendants)

37. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

38. Plaintiff brings the first cause of action solely as a representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”), on behalf of the State of California for all aggrieved employees, including herself and other aggrieved employees of Defendants against whom one or more of the alleged violations was committed.

39. PAGA specifically provides for a private right of action to recover civil penalties for violations of the Labor Code as follows: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a).

40. MS. HERNANDEZ was employed by Defendants and the Labor Code violations alleged above were committed against her during her time of employment and is therefore, an “Aggrieved Employee” under PAGA.

41. As set forth in detail above, during all times relevant to this Action, Defendants have routinely subjected MS. HERNANDEZ and the Aggrieved Employees to violations of California Labor Codes by:

- a. Failing to pay the Aggrieved Employees all earned minimum wage compensation in violation of Labor Code §§ 1194 and 1198, *et seq.*
- b. Failing to pay the Aggrieved Employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198, *et seq.*
- c. Failing to provide legally required meal periods to the Aggrieved Employees, and failing to pay the Aggrieved Employees an additional hour of premium pay for meal period violations in violation of Labor Code §§ 226.7 and 512.
- d. Failing to provide authorize and permit the Aggrieved Employees to take duty-free rest periods, and failing to pay the Aggrieved Employees an additional hour of premium pay for rest period violations in violation of Labor Code §§ 226.7 and 512.
- e. Failing to timely pay the Aggrieved Employees all wages owed during employment in violation of Labor Code § 204.
- f. Failing to furnish the Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226.
- g. Failing to maintain accurate records relating to the Aggrieved Employees' work periods, meal periods, total daily hours, hours per pay period, total wages and compensation, and applicable pay rates in violation of Labor Code § 1174(d) and the applicable IWC Wage Order.
- h. Failing to reimburse the Aggrieved Employees for necessary business-related expenses in violation of Labor Code §§ 2800 and 2802.
- i. Failing to provide Plaintiff and the Class with equal pay for substantially similar work performed under similar working conditions in violation of Labor Code § 1197.5.

42. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff requests and is entitled to recover penalties against Defendants for the Labor Code violations described above, including but not limited to penalties under California Code of Regulations Title 8 section

1 11070, penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3 and
2 1174.5, 1197.1, and 1197.5, and any and all additional penalties and sums as provided by the
3 California Labor Code and/or other statutes. The exact amount of the applicable penalties, in all,
4 is in an amount to be shown according to proof at trial.

5 43. MS. HERNANDEZ has exhausted her administrative remedies pursuant to Labor
6 Code § 2699.3. On February 13, 2025, MS. HERNANDEZ, through her counsel of record, by
7 online filing with the Labor and Workforce Development Agency (“LWDA”) and by certified mail
8 to the Defendants, notified Defendants and the LWDA of the specific provisions of the Labor Code
9 and IWC Wage Orders that Defendants have violated, including the facts and theories to support
10 the violations, and intent to bring a claim for civil penalties under PAGA. MS. HERNANDEZ also
11 paid the filing fee required under Labor Code § 2699.3. As of the filing of this Complaint, more
12 than sixty-five (65) days have elapsed since the mailing of the February 13, 2025 notice, and the
13 Labor and Workforce Development Agency has not indicated that it intends to investigate the
14 violations discussed in the notice. Accordingly, MS. HERNANDEZ may commence this
15 representative action on behalf of the state to recover penalties pursuant to Labor Code § 2699.3.

16 44. Plaintiff was compelled to retain the services of counsel to file this court action to
17 assess and collect the civil penalties owed by Defendants. Plaintiff therefore seeks an award of
18 reasonable attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1), and any other
19 applicable statute.

20 45. Plaintiff may amend this complaint as a matter of right pursuant to California
21 Labor Code § 2699.3 as this complaint has been filed within sixty days of the time periods
22 specified in Labor Code §2699.3.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff, as a private attorney general, prays for relief and judgment
25 against Defendants, jointly and severally, as follows:

26 **As to the First Cause of Action**

27 1. For statutory attorneys’ fees and costs pursuant to 2699(g)(1) of California Labor
28

1 Code;

2 2. For the imposition of civil penalties pursuant to California Labor Code §§ 2699,
3 210, 558, 226, 226.3, 1174.5, 1197.1, 1197.5, and all other penalties allowed by the California
4 Labor Code and/or other applicable statutes; and

5 3. For such other relief as the Court deems just and proper.

6
7 Dated: April 25, 2025

PROTECTION LAW GROUP, LLP

8
9 By: 

10 Ryan T. Chuman
11 Arnel O. Tan
12 Joseph O. Marshall
13 Christine V. Reyes
14 *Attorneys for Plaintiff*
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DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury as to all causes of action triable by a jury.

Dated: April 25, 2025

PROTECTION LAW GROUP, LLP

By: 

Ryan T. Chuman
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