

1 Shaun Setareh (SBN 204514)
shaun@setarehlaw.com
2 Eric Hahn (SBN 311771)
eric@setarehlaw.com
3 SETAREH LAW GROUP
420 N. Camden Drive, Suite 100
4 Beverly Hills, California 90210
Telephone (310) 888-7771
5 Facsimile (310) 888-0109

6 Attorneys for Plaintiff MARIA NIEVES

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SANTA CLARA
11 UNLIMITED JURISDICTION

12 MARIA NIEVES, on behalf of herself and all
13 other aggrieved employees, and the general
public,

14 *Plaintiff,*

15 v.

16 CAREMARK, L.L.C., a California Limited
Liability Company; CAREMARK RX, L.L.C.,
17 a Delaware Limited Liability Company;
CAREMARK CALIFORNIA SPECIALTY
18 PHARMACY, L.L.C., a Limited Liability
Company; CVS HEALTH SOLUTIONS LLC,
19 a Delaware Limited Liability Company; CVS
HEALTHCARE PRACTICES OF
20 CALIFORNIA, a California Stock
Corporation; and DOES 1 through 50,
21 inclusive,

22 *Defendants.*
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Case No. 26CV493301

REPRESENTATIVE ACTION

COMPLAINT

1. Civil Penalties (Lab. Code § 2698, *et seq.*)

1 Plaintiff MARIA NIEVES (“Plaintiff”), on behalf of herself and all other aggrieved
2 employees, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action against defendants CAREMARK, L.L.C.,
5 a California Limited Liability Company; CAREMARK RX, L.L.C., a Delaware Limited Liability
6 Company; CAREMARK CALIFORNIA SPECIALTY PHARMACY, L.L.C., a Limited Liability
7 Company; CVS HEALTH SOLUTIONS LLC, a Delaware Limited Liability Company; CVS
8 HEALTHCARE PRACTICES OF CALIFORNIA, a California Stock Corporation; and DOES 1
9 through 50, inclusive, (collectively referred to as “Defendants”) for alleged violations of the Labor
10 Code. As set forth below, Plaintiff alleges that Defendants have

- 11 (1) failed to provide Plaintiff and all other similarly situated individuals with meal
12 periods;
- 13 (2) failed to provide them with rest periods;
- 14 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 15 (4) failed to pay them at least minimum wage for all hours worked;
- 16 (5) failed to pay them overtime wages at the correct rate;
- 17 (6) failed to reimburse them for all necessary business expenses;
- 18 (7) failed to provide them with accurate written wage statements; and
- 19 (8) failed to pay them all of their final wages following separation of employment.

20 Based on these alleged violations, Plaintiff now brings this class action to recover unpaid wages,
21 restitution, civil penalties, and related relief on behalf of herself and all others similarly situated, all
22 other aggrieved employees, and the State of California.

23 **JURISDICTION AND VENUE**

24 2. This Court has subject matter jurisdiction to hear this case because the unpaid wages,
25 actual damages, liquidated damages, restitution, and penalties sought by Plaintiff from Defendants
26 exceeds the minimal jurisdictional limits of the Superior Court of the State of California.

27 3. Venue is proper in COUNTY OF SANTA CLARA pursuant to Code of Civil
28 Procedure §§ 395(a) and 395.5 in that liability arose there, because at least some of the transactions

1 that are the subject matter of this Complaint occurred therein and/or each defendant is found,
2 maintains offices, transacts business, and/or has an agent therein.

3 **PARTIES**

4 4. Plaintiff is and was, and at all relevant times mentioned herein, an individual
5 residing in the State of California.

6 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant
7 CAREMARK, L.L.C. is, and at all relevant times mentioned herein, a California Limited Liability
8 Company doing business in the State of California.

9 6. Plaintiff is informed and believes, and thereupon, alleges that Defendant
10 CAREMARK CALIFORNIA SPECIALTY PHARMACY, L.L.C., is a California Limited
11 Liability Company doing business in the state of California.

12 7. Plaintiff is informed and believes, and thereupon alleges that Defendant CVS
13 HEALTH SOLUTIONS LLC, is a Delaware Limited Liability Company doing business in the
14 state of California.

15 8. Plaintiff is informed and believes, and thereupon alleges that Defendant CVS
16 HEALTHCARE PRACTICES OF CALIFORNIA, is a California Stock Corporation doing
17 business in the state of California.

18 9. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
19 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
20 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
21 when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the
22 fictitiously named defendants are responsible in some manner for the occurrences, acts and
23 omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these
24 defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and
25 capacities of the DOE defendants when ascertained.

26 10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
27 mentioned herein, some or all of the defendants were the representatives, agents, employees,
28 partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some

1 or all of the other defendants, and, in doing the things alleged herein, were acting within the course
2 and scope of such relationship and with the full knowledge, consent, and ratification by such other
3 defendants.

4 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

5 11. Plaintiff worked for Defendants as an hourly, non-exempt employee from
6 approximately May 2019 through December 2025.

7 **Off-the-Clock Work**

8 12. Plaintiff and the aggrieved employees were not paid all wages earned as Defendants
9 directed, permitted, or otherwise encouraged Plaintiff and the aggrieved employees to perform off-
10 the-clock work.

11 13. Plaintiff and the aggrieved employees regularly performed work after their scheduled
12 work hours and were not paid for this time. Plaintiff and the aggrieved employees regularly began
13 working before their scheduled start times and were not compensated for this time. Plaintiff and the
14 aggrieved employees were instructed by their managers to respond to work-related emails and
15 answer phone calls even when clocked out for meal periods or for the day. Failure to promptly
16 respond to emails or calls would result in upper management assuming that Plaintiff and the
17 aggrieved employees were inactive on their computers and not working. As a result, Plaintiff and
18 the aggrieved employees were required to respond to emails and calls as they came in, which
19 frequently occurred during meal periods and other off-the-clock .

20 14. As a result of performing off-the-clock work that was directed, permitted, or
21 otherwise encouraged by Defendants, Plaintiff and the aggrieved employees should have been paid
22 for this time. Instead, Defendants only paid Plaintiff and the aggrieved employees based on the time
23 they were clocked in for their shifts and did not pay Plaintiff and the aggrieved employees for any
24 of the time spent working off-the-clock.

25 15. Defendants knew or should have known that Plaintiff and the aggrieved employees
26 were performing work before and after their scheduled work shifts and failed to pay Plaintiff and
27 the aggrieved employees for these hours.
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16. Defendants were aware of this practice and directed, permitted, or otherwise encouraged Plaintiff and the aggrieved employees to perform off-the-clock work.

17. As a result of Defendants' policies and practices, Plaintiff and the aggrieved employees were not paid for all hours worked.

Missed Meal Periods

18. Plaintiff and the aggrieved employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) chronically understaffing each work shift with not enough workers; (3) imposing so much work on each employee such that it made it unlikely that an employee would be able to take their breaks if they wanted to finish their work on time; and (4) no formal written meal and rest period policy that encouraged employees to take their meal and rest periods.

19. Specifically, as described above, Plaintiff and the aggrieved employees were required, as a matter of policy and practice, to respond to work-related emails and telephone calls even while clocked out for their legally mandated meal periods. These work-related communications routinely required significant time and attention, often taking up to thirty (30) minutes to review and address, therefore prevented Plaintiff and the aggrieved employees from receiving uninterrupted, duty-free meal periods. Defendants knew or should have known that Plaintiff and the aggrieved employees were performing this off-the-clock work during meal periods and nevertheless failed to compensate them for all hours worked or to provide compliant meal periods.

20. As a result of Defendants' policy, Plaintiff and the aggrieved employees were regularly not provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours worked due to complying with Defendants' productivity requirements that required Plaintiff and the aggrieved employees to work through their meal periods in order to complete their assignments on time.

1 **Missed Rest Periods**

2 21. Plaintiff and the aggrieved employees were not provided with rest periods of at least
3 ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
4 Defendants' policy of not scheduling each rest period as part of each work shift; (2) chronically
5 understaffing each work shift with not enough workers; (3) imposing so much work on each
6 employee such that it made it unlikely that an employee would be able to take their breaks if they
7 wanted to finish their work on time; and (4) no formal written meal and rest period policy that
8 encouraged employees to take their meal and rest periods.

9 22. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
10 regularly not provided with uninterrupted rest periods of at least ten (10) minutes for each four (4)
11 hours worked due to complying with Defendants' productivity requirements that required Plaintiff
12 and the aggrieved employees to work through their rest periods in order to complete their
13 assignments on time.

14 **Expense Reimbursement**

15 23. Plaintiff and the aggrieved employees were required to utilize their own personal cell
16 phones, mouse pads, headphones, and other personal equipment to perform their job duties.

17 24. Plaintiff and the aggrieved employees incurred necessary business expenses in
18 connection with their employment, including, but not limited to, personal cell phones usage,
19 internet/Wi-Fi, electricity, and other utility expenses while working from home. Defendants failed
20 to reimburse Plaintiff and the aggrieved employees for these required business expenses.

21 25. Defendants failed to reimburse Plaintiff and the aggrieved employees for such
22 necessary business expenses incurred by them.

23 **Wage Statements**

24 26. Plaintiff and the aggrieved employees were not provided with accurate wage
25 statements as mandated by law pursuant to Labor Code § 226.

26 27. Defendants failed to comply with Labor Code 0167 226(a)(1) as "gross wages
27 earned" were not accurately reflected in that all hours worked, including overtime and "off-the-
28 clock" work were not included.

28. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours worked by the employee” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work were not included.

29. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages earned” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work were not included.

30. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work were not included.

FIRST CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code §§ 2698 *et seq.*)

31. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

32. During the applicable limitations period, Defendants have violated Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, 1198, and 2802.

33. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of herself and other current and former employees, to bring a representative civil action to recover civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

34. Plaintiff, a former employee against whom Defendants committed one or more of the alleged Labor Code violations during the applicable limitations period, is an aggrieved employee within the meaning of Labor Code § 2699(c).

35. Plaintiff has complied with the procedures for bringing suit specified in Labor Code § 2699.3. Notice was provided to the California Labor & Workforce Development Agency (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to investigate.

1 36. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
2 penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510,
3 512, 1194, 1197, 1198 and 2802:

- 4 i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, 1198 and
5 2802, one hundred dollars (\$100) for each employee per pay period for each
6 initial violation and two hundred dollars (\$200) for each employee per pay
7 period for each subsequent violation (penalties set by Labor Code §
8 2699(f)(2));
- 9 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding
10 thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);
- 11 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
12 employee for each initial violation that was neither willful nor intentional,
13 two hundred dollars (\$200) for each employee, plus 25% of the amount
14 unlawfully withheld from each employee, for each initial violation that was
15 either willful or intentional, and two hundred dollars (\$200) for each
16 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
17 from each employee, for each subsequent violation, regardless of whether the
18 subsequent violation was either willful or intentional (penalties set by Labor
19 Code § 210);
- 20 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
21 employee for each initial violation that was neither willful nor intentional,
22 two hundred dollars (\$200) for each employee, plus twenty-five percent
23 (25%) of the amount unlawfully withheld from each employee, for each
24 initial violation that was either willful or intentional, and two hundred dollars
25 (\$200) for each employee, plus twenty-five percent (25%) of the amount
26 unlawfully withheld from each employee, for each subsequent violation,
27 regardless of whether the subsequent violation was either willful or
28 intentional (penalties set by Labor Code § 225.5);

1 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial
2 citation, two hundred and fifty dollars (\$250) for each employee for each
3 violation. Alternatively, if an initial citation or its equivalent occurred before
4 the filing of this action, one thousand dollars (\$1,000) for each employee for
5 each violation (penalties set by Labor Code § 226.3);

6 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
7 employee for each initial pay period for which the employee was underpaid,
8 and one hundred dollars (\$100) for each employee for each subsequent pay
9 period for which the employee was underpaid (penalties set by Labor Code §
10 558);

11 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
12 aggrieved employee for each initial violation of Labor Code § 1197 that was
13 intentional and two hundred and fifty dollars (\$250) for each aggrieved
14 employee per pay period for each subsequent violation of Labor Code §
15 1197, regardless of whether the initial violation was intentional (penalties set
16 by Labor Code § 1197.1);

17 viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable
18 attorneys' fees and costs in connection with Plaintiff's claims for civil
19 penalties.

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