

Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Max W. Gavron (State Bar No. 291697)
mgavron@diversitylaw.com
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile

Attorneys for Plaintiff
*** ADDITIONAL COUNSEL ON NEXT PAGE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

TONY PALAMARA, as a proxy for the
State of California,

Plaintiff,

v.

GARFIELD BEACH CVS, L.L.C., a
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

CASE NO. **23STCV24379**

**REPRESENTATIVE ACTION COMPLAINT
FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §
2698, ET SEQ.**

DEMAND EXCEEDS \$25,000.00

ADDITIONAL COUNSEL FOR PLAINTIFF

Edward W. Choi, Esq. SBN 211334
edward.choi@choiandassociates.com
LAW OFFICES OF CHOI & ASSOCIATES
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Telephone: (213) 381-1515
Facsimile: (213) 465-4885
Email: edward.choi@choiandassociates.com

Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
dhyun@hyunlegal.com

Attorneys for Plaintiff

1 Plaintiff Tony Palamara (“Plaintiff”) hereby submits this Representative Action
2 Complaint against Defendants Garfield Beach CVS, L.L.C., a limited liability company,
3 (“Defendant”) and Does 1-50 (hereinafter collectively referred to as “Defendants”), on behalf of
4 the State of California and all other similarly aggrieved current and former employees of
5 Defendant for penalties for failure to pay meal and rest period premium wages at the regular rate
6 of pay, timely pay wages, and provide accurate and complete wage statements as follows:

7 **JURISDICTION AND VENUE**

8 1. This representative action is within the Court’s jurisdiction under the Private
9 Attorneys General Act (the “PAGA”), California Labor Code § 2698, *et seq.*, and the applicable
10 Wage Orders of the Industrial and Welfare Commission (the “IWC”).

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against Defendant’s employees.

13 3. Venue is proper in Los Angeles County because Plaintiff is employed by
14 Defendant in Van Nuys, California.

15 **PARTIES**

16 4. On or about December 4, 2022, Plaintiff began working as a Shift Supervisor for
17 Defendant at its retail store in Van Nuys, California. On or about March 1, 2023, Plaintiff’s
18 employment with Defendant ended. Throughout Plaintiff’s employment, he has been an hourly,
19 non-exempt employee.

20 5. Plaintiff is informed and believes and based thereon alleges that Defendant was
21 and is a limited liability company operating drug stores throughout the State of California,
22 including in Los Angeles County.

23 6. Plaintiff is informed and believes and based thereon alleges that at all times herein
24 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
25 partnerships, licensed to do business and actually doing business in the State of California.

26 7. As such, and based upon all the facts and circumstances incident to Defendants’
27 business in California, Defendants are subject to Labor Code §§ 201-203, 226, 226.7 and 512,
28 and the applicable IWC Wage Orders.

1 8. Plaintiff does not know the true names or capacities, whether individual, partner or
2 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
3 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
4 complaint when the true names and capacities are known. Plaintiff is informed and believes and
5 based thereon alleges that each of said fictitious Defendants was responsible in some way for the
6 matters alleged herein and proximately caused Plaintiff and aggrieved employees to be subject to
7 the illegal employment practices, wrongs and violations complained of herein.

8 9. At all times herein mentioned, each of said Defendants participated in the doing of
9 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
10 Defendants, and each of them, were the agents, servants, and employees of each of the other
11 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
12 within the course and scope of said agency and employment.

13 10. Plaintiff is informed and believes and based thereon alleges that at all times
14 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
15 joint venturer of, or working in concert with each of the other co-Defendants and was acting
16 within the course and scope of such agency, employment, joint venture, or concerted activity. To
17 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
18 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
19 Defendants.

20 11. At all times herein mentioned, Defendants, and each of them, were members of,
21 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
22 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

23 12. At all times herein mentioned, the acts and omissions of various Defendants, and
24 each of them, concurred and contributed to the various acts and omissions of each and all of the
25 other Defendants in proximately causing the violations as herein alleged. At all times herein
26 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
27 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the
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1 acts and omissions of each and all of the other Defendants in proximately causing the violations
2 as herein alleged.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

5 **(BY PLAINTIFF AS A PROXY FOR THE STATE OF CALIFORNIA AGAINST ALL**
6 **DEFENDANTS)**

7 13. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
8 though fully set forth herein.

9 14. Plaintiff brings this cause of action on behalf as a proxy for the State of California
10 and in this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendant's
11 violation of Labor Code §§ 201-203, 226, 226.3, 226.7, and 512, from July 24, 2022, through the
12 present.

13 15. Defendant violated Labor Code §§ 226.7 and 512 by failing to pay Plaintiff and
14 other similarly situated aggrieved employees our meal and rest period premium pay at their
15 regular rates of pay as required by these provisions. Labor Code § 226.7(c) states that "the
16 employer shall pay the employee one additional hour of pay at the employee's **regular rate** of
17 compensation for each workday that the meal or rest or recovery period is not provided." Plaintiff
18 and other similarly situated non-exempt employees earned non-discretionary remuneration,
19 including, but not limited to incentives and shift premiums. As these items are non-discretionary
20 forms of remuneration, they should have been included in the regular rate of pay for purposes of
21 paying Plaintiff and other employees their meal and rest period premium pay. However,
22 whenever the Company paid Plaintiff and other employees their meal and rest period premium
23 pay during periods in which they earned this non-discretionary remuneration, the meal and rest
24 period premium was always paid at the base rate of pay. Further as a result of such violations, the
25 Company violated Labor Code §§ 201-203 by not paying former employees all of their wages
26 upon separation of employment due to the underpaid meal and rest break premiums and Labor
27 Code § 226 by failing to accurately identifying the accurate rate of pay, and gross and net wages
28 earned.

1 16. On or about July 24, 2023, Plaintiff sent written notice to the California Labor &
2 Workforce Development Agency (“LWDA”) and to Defendant regarding Defendant’s violations
3 of Labor Code §§ 201-203, 226, 226.7, and 512, pursuant to Labor Code § 2698, *et seq.*

4 17. As of the date of the filing of this Complaint, the LWDA has not provided written
5 notice as to whether it intends to investigate the Labor Code violations set forth in Plaintiff’s
6 written notice and, thus, allowing Plaintiff to proceed under PAGA against Defendants for said
7 violations. Therefore, Plaintiff may seek all applicable penalties under the PAGA.

8 18. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
9 applicable remedies under the PAGA for Defendant’s violation of Labor Code §§ 201-203, 226,
10 226.7, and 512 for the time periods described above on behalf of all other Aggrieved Employees,
11 including without limitation, civil penalties under Labor Code § 2699, any remedies under Labor
12 Code § 226.3 and for costs and attorneys’ fees.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays for judgment on all others on whose behalf this suit is
15 brought against Defendants, jointly and severally, as follows:

16 1. Upon the First Cause of Action, for civil penalties, costs and attorneys’ fees
17 pursuant to Labor Code §§ 226.3 and 2699; and

18 2. For such other and further relief as the Court may deem just and proper.

19 DATED: October 6, 2023

DIVERSITY LAW GROUP, P.C.

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21 By: _____

Larry W. Lee

Attorneys for Plaintiff