

# NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

*Marden v. CVS Pharmacy, Inc., et al., Placer County Superior Court Case No. S-CV-0045902*

**PLEASE READ THIS NOTICE AS IT MAY AFFECT YOUR LEGAL RIGHTS.**

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### **1. Why Did I Get This Notice?**

A proposed Settlement has been reached in *Marden v. CVS Pharmacy, Inc., et al.* This Notice is being sent to you by order of the Court which has preliminarily approved the Settlement and conditionally certified a class. Because your rights may be affected by this Settlement, you should read this Notice carefully.

This Notice briefly describes the claims alleged, the key Settlement terms, and your rights and options. Unless you timely request to be excluded, the Settlement, if finally approved by the Court, will be binding on you. The Court has not determined whether CVS Pharmacy, Inc. or Longs Drug Stores California, L.L.C. (“CVS”) broke any law. Both sides agreed to settle the case to avoid the risks and cost of a trial. CVS expressly denies that it did anything wrong or that it violated the law and denies any liability to Plaintiff or to the Class.

### **2. What is this Case About?**

Daniel Marden (“Plaintiff”) sued CVS on December 4, 2020 in California Superior Court County of Placer Case No. S-CV-0045902) (the “Lawsuit”), seeking restitution, penalties, interest, costs, and attorneys’ fees, for (1) failure to pay sick pay (Labor Code §§ 245, 246), (2) failure to provide accurate itemized wage statements (§ 226), (3) failure to pay earned wages upon termination (§§ 201-203), and (4) unfair business practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*). This part of the case is known as a Class Action lawsuit on and the affected employees are Class Members, who will receive a settlement payment unless they opt out as described below.

The case also seeks civil penalties under the California Private Attorneys General Act of 2004 (“PAGA”) for alleged violations of the California Labor Code sections mentioned above. This part of the case is known as a PAGA Action and the affected employees (called the PAGA Employees) will receive a payment from this portion of the Settlement regardless of whether they opt out of participating in the Class Action.

**3. What is a “Class Action”?**

In a class action, a class representative sues on behalf of people who are affected by similar policies. A class action allows a court to resolve at one time all issues for all the class members who do not exclude themselves from the class. A class member is bound by the judgment entered in the case, whether the class wins or loses, and may not sue over the same claims that were decided in the class action.

**4. Am I a Class Member or PAGA Employee?**

You are a Class Member if you worked at a CVS store in California as a non-exempt employee any time between September 17, 2019 and July 24, 2022, and received sick pay and additional compensation in the same pay period, and the regular rate of your sick pay was not adjusted. As a Class Member, you will receive a Settlement payment unless you opt out of the Class as described below.

You are a PAGA Employee if you worked at a CVS store in California as a non-exempt employee any time between September 17, 2019 and July 24, 2022, and received sick pay and additional compensation in the same pay period, and the regular rate of your sick pay was not adjusted. As a PAGA Employee, you will receive a payment for the PAGA portion of the Settlement whether you opt out of the class or not.

**5. How Does the Class Action Settlement Work?**

In this Lawsuit, the Plaintiff sued on behalf of himself and all other similarly situated current and former employees. The Class Action Settlement will release all claims by Class Members who do not exclude themselves from the Class by opting out. Class Members who opt out will not receive any payment from the Class Action Settlement. Your share will be automatically mailed to you after the Court grants final approval of the Settlement at a Final Fairness Hearing, unless you opt out. You need to take action only if you do not want to participate in the Settlement (opt out). The procedure for opting out is described in paragraph 8 below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable.

On May 4, 2023, in the Placer County Superior Court, the Court conditionally certified a class for settlement purposes only and directed that you receive this Notice. The attorneys for Plaintiff and the Class have copies of all documents related to the Settlement and can provide them to you free of charge upon your request. Documents are also available on the Settlement Administrator’s website, [www.CVSSickpaysettlement.com](http://www.CVSSickpaysettlement.com). Contact information for the Plaintiff’s attorneys is provided below.

The Final Fairness Hearing concerning the proposed Settlement will occur on October 5, 2023 at 8:30 a.m., located at 101 Maple Street Auburn, CA 95603, before Placer County Superior Court Judge Michael W. Jones

**6. Who Are the Attorneys Representing the Parties?**

**Attorneys for Plaintiff and the Class:**  
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The Court has decided that the attorneys for the Plaintiff are qualified to represent you and all other Class Members simultaneously in this Settlement. You do not need to hire your own attorney because Class Counsel are working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

## **7. *What Are My Options?***

**DO NOTHING:** If you do nothing, you *will* receive payment and you *will* be bound by the release of Class Action claims stated in this Notice and Settlement as stated in Section No. 10 below.

**OPT OUT:** If you “opt out” in the manner described below, then you will remove yourself from the Class Action. If the Court grants final approval of the Class Action Settlement, then you will *not* receive any payment, except for your share of the PAGA award. This option will retain your right to sue CVS on your own behalf for any of the Class Action claims covered by the Settlement.

**OBJECT:** If you want to object to any part of the proposed Settlement, you can write the Settlement Administrator. If you want to object, then you must not opt out.

The procedures for opting out or objecting are set forth below in the sections entitled “How Do I Opt Out or Exclude Myself from the Class Action Settlement” and “How Do I Object to the Class Action Settlement?”

**Note:** *CVS will not retaliate in any way against you—and is forbidden by law to retaliate in any way against you—for either participating or not participating in this Settlement.*

## **8. *How Do I Opt Out or Exclude Myself from the Class Action Settlement?***

If you do not want to take part in the Class Action Settlement, then you must sign and mail a written exclusion request to the Settlement Administrator, Atticus Administration, at Marden v CVS, c/o Atticus Administration, PO Box 64053, Saint Paul, MN 55164. The request must (1) contain your name, address, telephone number, the last four digits of your Social Security number, and your signature, (2) should state words to the effect of: “I WISH TO BE EXCLUDED FROM THE CVS CLASS ACTION SETTLEMENT. I UNDERSTAND IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.”, (3) be returned by mail to the Settlement Administrator, and (4) be postmarked on or before July 17, 2023.

The entry of final judgment, following final approval, will bind all Class Members who do not opt out.

## **9. *How Do I Object to the Class Action Settlement?***

If you are a Class Member who does not opt out, then you may object by writing to the Settlement Administrator on or before July 17, 2023 at Marden v CVS, c/o Atticus Administration, PO Box 64053, Saint Paul, MN 55164. The objection must include (a) your full name, address, telephone number, dates of employment with CVS, (b) a written statement of the reasons for the objection, (c) if you are represented by an attorney, the name and address of your attorney. Class Members who fail to file and serve timely objections run the risk of having waived their right to object (whether through an appeal or otherwise), unless otherwise ordered by the Court, although Class Members may appear at the Final Approval Hearing and object even if they have not submitted a written objection.

If the Court rejects the objection, then the objector will receive a Class Action Settlement payment and will be bound by the terms of the Class Action Settlement and Released Class Claims by Participating Class Members as defined in this Notice and in the Settlement.

## **10. *How Does This Settlement Affect My Rights? What are the Released Claims?***

If the proposed Settlement is approved by the Court, then a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will release CVS and the other Released Parties from all claims that were or could have been asserted in this Lawsuit or that were based on or arose out of the facts alleged in this Lawsuit, including, without limitation, claims any and all claims, demands, rights, liabilities, and causes of action that have been or could have been asserted in the instant Action based on the allegations in the First Amended Complaint for the duration of the Class Period, including but not limited to, claims for (1) Failure

to Pay Sick Leave, (2) Failure to Provide Accurate Wage Statements; (3) Failure to Timely Pay Final Wages; and (4) Unfair

Competition. Even if you opt out, you will release claims for civil penalties under Labor Code §§ 2698, et seq. for the violations above. “Released Parties” means CVS Pharmacy, Inc., CVS Longs Drug Stores California, LLC, and CVS Health Corporation and their affiliates, divisions, subsidiaries, parents, predecessors, any merged entity or merged entities and/or its or their present and former officers, partners, directors, managers, supervisors, employees, attorneys, agents, shareholders and/or successors, assigns, trustees, heirs, administrators, executors, representatives and/or principals thereof.

Entry of judgment after the Court grants final approval of the Settlement will preclude actions by you or those acting on your behalf for any of the claims identified above against CVS or the Released Parties from September 17, 2019 through July 24, 2022. Entry of judgment will also preclude PAGA civil-penalty actions for alleged violations of any Labor Code section mentioned above from September 17, 2019 through July 24, 2022.

**11. What are the Main Terms of the Settlement?**

CVS will pay \$745,687.50 in a Gross Settlement Amount. Of that amount, \$30,000 will be allocated to PAGA, and 75% of that payment will go to the California Labor and Workforce Development Agency and 25% will go to PAGA Employees based on the number of pay periods during the PAGA period. From the \$715,687.50 remaining, the following shall be deducted: (1) Class Representative Payment to Plaintiff in an amount up to \$10,000, for prosecuting this case and undertaking risks for the payment of CVS’ costs in the event this case had been lost, (2) settlement administration costs in an amount estimated not to exceed \$60,000, (3) payment of attorneys’ fees to Class Counsel in an amount not to exceed \$248,562.50 (one-third of the Gross Settlement Amount), plus reasonable litigation costs, not to exceed \$20,000. All these deductions are subject to court approval. What remains is the Net Settlement Amount to be distributed to Settlement Class Members. The Settlement Administrator will determine their payments based on the number of pay periods each received sick pay and additional compensation, and the regular rate of their sick pay was not adjusted.

**Tax consequences.** The overall Net Settlement Amount will be allocated (a) 10% as wages, (b) 45% as penalties, and (c) 45% as interest for Class Settlement Payments. All PAGA Employee Payments will be allocated entirely to penalties. You will receive a Form W-2 for any wages, and Form-1099 for the other amounts.

**12. How Much Can I Expect to Receive from this Settlement?**

Your payment as a Class Member, which you will receive if you do not opt out, will reflect the number of pay periods in which you took paid sick leave during the period September 17, 2019 through July 24, 2022. Based on your eligible pay periods—<<Pay Periods>>—your preliminary estimated Class Settlement Payment will be approximately \$<<Estimated Payment>>.

If you are a PAGA Employee, you will receive a payment for your portion of the PAGA settlement whether or not you opt out of the Class. Your payment as a PAGA Employee will be based on the number of pay periods in which you took paid sick leave during the period September 17, 2019 through July 24, 2022.

**13. What if I had more Pay Periods Where I Took Sick Leave Than Reported in This Notice?**

You can dispute the number of pay periods in which sick leave was taken by mailing the Settlement Administrator at Marden v CVS, c/o Atticus Administration, PO Box 64053, Saint Paul, MN 55164 by July 17, 2023 and providing credible evidence. The Settlement Administrator will use CVS’s records and information you provide to resolve any disputes. The Settlement Administrator’s determination will be final and binding, subject to Court review and approval.

**14. How Will the Class Representative and Class Counsel be Paid?**

The attorneys who represent the Class Representative and the rest of the Class will be paid from the Gross Settlement Fund. Subject to Court approval, Class Counsel may be paid an amount not to exceed one-third of the Gross Settlement Fund (\$248,562.50) in fees plus litigation costs actually incurred, supported by adequate documentation.

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. Please refer to the *Marden v. CVS Pharmacy* Class Action Settlement.

This Notice does not contain all the proposed terms of settlement or all details of court proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Placer County Superior Court at the address given above, or you may ask for a free copy from Class Counsel. Materials also appear on the Settlement Administrator's website: [www.CVSSickpaysettlement.com](http://www.CVSSickpaysettlement.com).

**PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT**