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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RIMANPREET UPPAL, an Individual,
Individually and on behalf of, all others
similarly situated and the general public,

Plaintiff,

v.

CVS PHARMACY, INC., a Rhode Island
corporation; CVS RX SERVICES, INC., a
New York corporation; GARFIELD BEACH
CVS, LLC, a California limited liability
company; and DOES 1-50, inclusive,

Defendants.

Case No. 3:14-cv-02629-VC

[ASSIGNED TO THE HONORABLE
JUDGE VINCE CHHABRIA]

**REVISED [~~PROPOSED~~] ORDER FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
SETTING OF A FINAL APPROVAL
HEARING, AND APPROVAL OF
NOTICE TO THE CLASS**

The Court, having fully reviewed the Class Representative’s unopposed Motion for Certification of Settlement Class and Preliminary Approval of Class Action Settlement, the supporting Points and Authorities, the Declaration of V. James DeSimone (“DeSimone Declaration”) in support thereof, the Request for Exclusion Form attached as Exhibit 4 to the DeSimone Declaration, as well as the fully-executed CVS 7 Day Cases Settlement Agreement and the Addendum to the Settlement Agreement (collectively, the “Settlement Agreement”) attached as Exhibit 1 to the DeSimone Declaration, the parties’ Joint Supplemental Memorandum in Support of Unopposed Motion for Preliminary Approval of Class Action Settlement and Provisional Certification of Class, the Declaration of Michael D. Seplow (“Seplow Declaration”) in support thereof, and the proposed Notice of Class Action Settlement attached as Exhibit 3 to the Seplow

1 Declaration, and the amended complaint lodged with the Court; and in recognition of the Court’s
2 duty to make a preliminary determination as to the reasonableness of any proposed class action
3 settlement, and if preliminarily determined to be reasonable, to ensure proper notice is provided to
4 Putative Class Members in accordance with due process requirements; and to conduct a Final
5 Approval hearing as to the good faith, fairness, adequacy and reasonableness of any proposed
6 settlement, HEREBY MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:
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8
9 1. The provisions of the Settlement Agreement are hereby provisionally approved,
10 subject to further consideration thereof at the Fairness Approval hearing set forth below. The
11 Court finds that this settlement is sufficiently within the range of reasonableness that notice of the
12 proposed settlement should be given as provided for in this Order.

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14 2. The Court finds, on a preliminary basis, that the Settlement Agreement appears to
15 be within the range of reasonableness of a settlement which could ultimately be given final
16 approval by this Court; the Court notes that Defendants CVS Pharmacy, Inc.; CVS RX Services,
17 Inc.; and Garfield Beach CVS, LLC (“Defendants”) have agreed to pay the entire Settlement
18 Amount of \$2,350,800.00, inclusive of the employer’s share of payroll taxes, to the Putative Class
19 Members, Class Representative, Class Counsel, the Settlement Administrator, and the State of
20 California Labor Workforce and Development Agency, in full satisfaction of the claims as more
21 specifically described in the Settlement Agreement;

22 It further appears to the Court, on a preliminary basis, that the settlement is fair and
23 reasonable to Putative Class Members when balanced against the probable outcome of further
24 litigation, liability and damages issues, and potential appeals of rulings. It further appears that
25 significant formal and informal discovery, investigation, research, and litigation has been
26 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
27 respective positions. It further appears that settlement at this time will avoid substantial costs,
28 delay and risks that would be presented by the further prosecution of the litigation. It also appears

1 that the proposed Settlement has been reached as the result of intensive, informed and non-
2 collusive negotiations between the Parties;

3
4 3. The Court finds for the purposes of settlement only that: (i) the number of
5 individuals in the Settlement Class is so numerous that joinder would be impractical; (ii) there is a
6 commonality of interests between the Class Representative and the members of the Settlement
7 Class; (iii) there are questions of law and fact that are common to the Settlement Class, and the
8 common questions related to the settlement predominate over individual questions; (iv) the Class
9 Representatives' claims are typical of the claims of absent members of the Settlement Class; and
10 (v) the Class Representatives will fairly and adequately represent the interests of the absent
11 members of the Settlement Class.

12
13 ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR ORDER OF
14 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY GRANTED.

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16 4. The mailing to the present and last known addresses of the Putative Class Members
17 constitutes an effective method of notifying Putative Class Members of their rights with respect to
18 the Settlement; ACCORDINGLY, IT IS HEREBY ORDERED as follows:

19
20 (a) By **September 21, 2015**, Defendants shall forward to the appointed Settlement
21 Administrator, Kurtzman Carson Consultants, LLC ("KCC") and to Class Counsel, a database (in
22 an electronic spreadsheet format) of all Putative Class Members, including full names, last known
23 addresses, telephone numbers, hire and termination dates, and social security numbers, as well as
24 raw punch data and pay data ("Class Information"), during the Class Period (March 27, 2010
25 through April 30, 2015); and

26 (b) By **October 5, 2015**, KCC shall mail to each member of the Settlement Class, by
27 first class, postage pre-paid, the Notice of Class Action Settlement, Claim Form, and Request for
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1 Exclusion Form. All mailings shall be made to the present and/or last known mailing address of
2 the Putative Class Members based on Defendants' records, as well as addresses that may be
3 located by the Settlement Administrator, who will conduct standard address searches in cases of
4 returned mail. The Court finds that the mailing of notices to Putative Class Members as set forth
5 in this paragraph is the best means practicable by which to reach Putative Class Members and is
6 reasonable and adequate pursuant to all constitutional and statutory requirements, including all due
7 process requirements;
8

9
10 5. IT IS FURTHER ORDERED:

11 (a) Claim Forms must be mailed to the Settlement Administrator, postmarked
12 on or before **December 4, 2015**, excepting Putative Class Members who had Notice
13 Packets re-mailed, who shall have until **December 21, 2015** to mail a timely Claim Form;

14 (b) Requests for Exclusion must be mailed to the Settlement Administrator,
15 postmarked on or before **December 4, 2015**, excepting Putative Class Members who had
16 Notice Packets re-mailed, who shall have until **December 21, 2015** to mail a timely
17 Request for Exclusion;

18 (c) Objections must be mailed to the Settlement Administrator as described in
19 the Notice of Class Action Settlement, and must be postmarked on or before **December 4,**
20 **2015**, excepting Putative Class Members who had Notice Packets re-mailed, who shall
21 have until **December 21, 2015** to mail a timely Objection;

22
23 6. IT IS FURTHER ORDERED that KCC shall submit a report on the result of the
24 claims process to Class Counsel, which shall be filed with the Court as soon as practicable but in
25 any event no later than **January 25, 2016**.
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1 7. IT IS FURTHER ORDERED that, in the event that any Putative Class Member
2 submits an objection to the proposed settlement, Plaintiffs will respond to any such objections by
3 **January 21, 2016;**
4

5 8. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before
6 the undersigned at 10:00 a.m. [_____ a.m./ p.m.], on March 3, 2016, at the
7 United States District Court, Northern District of California, Courtroom 4 (17th Floor of the San
8 Francisco Courthouse), located at 450 Golden Gate Avenue, San Francisco, CA 94102 to consider
9 the fairness, adequacy and reasonableness of the proposed Settlement preliminarily approved by
10 this Order of Preliminary Approval, and to consider the application of Class Counsel for an award
11 of reasonable attorneys' fees, litigation expenses, Class Representative Service Payments, and for
12 costs of settlement administration incurred;
13

14 9. IT IS FURTHER ORDERED that all briefs in support of final approval of the
15 Settlement and for Award of Attorneys' Fees, Costs, and Class Representative Service Awards
16 shall be served and filed with the Court by **January 7, 2016**, and that Plaintiff may file a
17 supplemental brief in support of final approval and fees, costs, and awards no later than **January**
18 **28, 2016;**
19

20 10. IT IS FURTHER ORDERED that pending final determination of whether this
21 proposed Settlement should be granted final approval, no Putative Class Member, either directly or
22 representatively, or in any other capacity, shall commence or prosecute any action or proceeding
23 asserting any of the Putative Class Members' Released Claims, as defined in the Settlement
24 Agreement, against Defendants in any court or tribunal;
25

26 11. IT IS FURTHER ORDERED that any party to this case, including Putative Class
27 Members, may appear at the Final Approval Hearing in person or by counsel, and may be heard to
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1 the extent allowed by the Court, in support of or in opposition to, the Court's determination of the
2 good faith, fairness, reasonableness and adequacy of the proposed Settlement, the requested
3 attorneys' fees and litigation expenses, and any Order of Final Approval and Judgment regarding
4 such Settlement, fees and expenses; provided, however, that no person, except Class Counsel and
5 counsel for Defendants, shall be heard in opposition to such matters unless such person has
6 complied with the conditions set forth in the Notice of Class Action Settlement, except that those
7 persons who wish speak at the Final Approval Hearing without having followed said procedures
8 may do so if they demonstrate good cause to the Court;

9
10 12. IT IS FURTHER ORDERED that the Court grants preliminary approval of V.
11 James DeSimone, Michael D. Seplow, and Aidan C. McGlaze of Schonbrun DeSimone Seplow
12 Harris & Hoffman LLP; Thomas W. Falvey, Michael H. Boyamian and Armand Kizirian of the
13 Law Offices of Thomas W. Falvey; Hiram D. Dadgostar and Azadeh Dadgostar Gilbert of
14 Dadgostar Law LLP; and Alireza Alivandivafa as Class Counsel;

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16 13. IT IS FURTHER ORDERED that, in the event of the occurrence of the Effective
17 Date, as defined in the Settlement Agreement:

18 (a) All Putative Class Members who submitted a valid Claim Form, and their
19 successors, shall conclusively be deemed to have given full releases of any and all Released
20 Claims as defined in the Settlement Agreement against Defendants, their affiliated and related
21 companies and business concerns, their franchisors, their purchasers and/or successors, their
22 parents, members, subsidiaries, past and present, and each of them, as well as each of their
23 insurers, partners, trustees, directors, shareholders, officers, agents, attorneys, servants, and
24 employees, past and present, and each of them, including, but not limited to, any individual or
25 entity which could be jointly liable with Defendants;

26 (b) All Putative Class Members who submitted a valid Exclusion Form, and their
27 successors, shall not be bound by the terms of the Settlement;

1 (c) All Putative Class Members who fail to submit either a valid Claim Form or a valid
2 Exclusion Form, and their successors, shall conclusively be deemed to have given full releases of
3 any and all Released Claims as defined in the Settlement Agreement against Defendants, their
4 affiliated and related companies and business concerns, their franchisors, their purchasers and/or
5 successors, their parents, members, subsidiaries, past and present, and each of them, as well as
6 each of their insurers, partners, trustees, directors, shareholders, officers, agents, attorneys,
7 servants, and employees, past and present, and each of them, including, but not limited to, any
8 individual or entity which could be jointly liable with Defendants, except as to any and all claims
9 arising under the Fair Labor Standards Act (29 U.S.C. §§201, et seq.);
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11 14. IT IS FURTHER ORDERED that if, for any reason, the Court does not execute and
12 file an Order of Final Approval, or if the Effective Date does not occur for any reason whatsoever,
13 the proposed Settlement Agreement and the proposed Settlement subject of this Order and all
14 evidence and proceedings had in connection therewith, shall be without prejudice to the status quo
15 ante rights of the parties to the litigation as more specifically set forth in the Settlement
16 Agreement.
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18 15. IT IS FURTHER ORDERED that, pending further order of this Court, all
19 proceedings in this matter except those contemplated herein and in the Settlement Agreement are
20 stayed.
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22 16. IT IS FURTHER ORDERED that the amended complaint in the above-captioned
23 action that has been lodged with the Court shall be deemed filed as of the date of this order.
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25 The Court expressly reserves the right to adjourn or continue the Final Approval Hearing
26 from time-to-time without further notice to the Putative Class Members.
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IT IS SO ORDERED.

DATE: September 11, 2015



THE HONORABLE VINCE CHHABRIA
UNITED STATES DISTRICT JUDGE