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**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

CHRISTOPHER MOLASH, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

NEVADA CVS PHARMACY, L.L.C.;
DOES 1 through 50; inclusive,

Defendant(s).

Case No.:
Dept. No.:

CLASS ACTION COMPLAINT

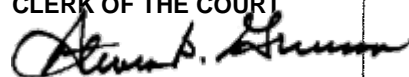
**Arbitration Exemption Claimed: Class
Action**

- 1) Failure to Pay Overtime in Violation of
NRS 608.018 and 608.140;
- 2) Failure to Timely Pay All Wages Due
and Owing in Violation of NRS
608.020-050 and 608.140; and,
- 3) Injunctive Relief.

**LIEN REQUESTED PURSUANT TO
NRS 608.050**

JURY TRIAL DEMANDED

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Steven D. Grierson
CLERK OF THE COURT



CASE NO: A-20-809946-C
Department 32

COMES NOW Plaintiff Christopher Molash on behalf of himself and all others similarly situated and alleges the following:

All allegations in the Complaint are based upon information and belief except for those allegations that pertain to the Plaintiff named herein and his counsel. Each allegation in the Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

JURISDICTION AND VENUE

1. This Court has original jurisdiction over the state law claims alleged herein because the amount in controversy exceeds \$15,000 and a party seeking to recover unpaid wages has a private right of action pursuant to the Nevada Constitution, Article 15 Section 16, and Nevada Revised Statute ("NRS") sections 608.050 and 608.140. See *Neville v. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev. 2017).

2. Plaintiff also claims a private cause of action to foreclose a lien against the property owner for wages due pursuant to NRS 608.050.

3. Plaintiff made a proper demand for wages due pursuant to NRS 608.140 on January 31, 2020.

4. Venue is proper in this Court because the Defendant named herein maintains a principal place of business or otherwise is found in this judicial district and many of the acts complained of herein occurred in Clark County, Nevada.

5. Plaintiff demands a jury trial on all issues triable by jury herein.

PARTIES

6. Plaintiff Christopher Molash (hereinafter "Plaintiff" or "Molash") was at all relevant times a resident of the State of Nevada and was employed by Defendant as a non-exempt hourly employee from October of 2019 to the present.

7. Defendant Nevada CVS Pharmacy, L.L.C. ("Defendant") is a domestic limited-liability company registered with the Nevada Secretary of State.

12. The Defendants named herein are the employers of the Plaintiff and all Class Members alleged herein. The Defendants are employers engaged in commerce under the provisions of NRS 608.011. The identity of DOES 1-50 is unknown at the time and the Complaint will be amended at such time when the identities are known to Plaintiff. Plaintiff is informed and believes that each Defendants sued herein as DOE is responsible in some manner for the acts, omissions, or representations alleged herein and any reference to "Defendant" or "Defendants" herein shall mean "Defendants and each of them."

14. Defendant maintains an unlawful policy of not paying daily overtime to non-exempt hourly employees who earn 1 ½ times less than the applicable minimum wage.

15. Plaintiff has frequently worked over 8 hours in any 24-hour workday.

16. On many occasions, Plaintiff has worked a shift in the late afternoon and evening hours and then returned early the next morning to work a day shift. The number of hours he worked in a workday under Nevada law was over 8 hours in a 24-hour period of time.

17. For instance, during the workweek of January 9, 2020, Defendant scheduled Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time. See a true and correct copy of Plaintiff's schedule attached hereto as Exhibit I.

18. But despite having worked more than 8 hours in a 24-hour period of time, Defendant failed to compensate Plaintiff at 1 ½ times his regular rate of pay for the overtime hours he worked. See a true and correct copy of Plaintiff's statement of earnings details attached hereto as Exhibit II.

19. Upon information and belief, Defendant maintains a company-wide policy and practice of refusing to pay daily overtime wages to Nevada employees who worked over 8 hours in a workday.

20. This "no daily overtime" policy has always been common to all non-exempt hourly paid employees at Defendant's locations in the state of Nevada.

CLASS ACTION ALLEGATIONS

21. Plaintiff realleges and incorporates by this reference all the paragraphs above in this Complaint as though fully set forth herein.

22. Plaintiff brings this action on behalf of himself and all other similarly situated employees as a class action under Rule 23 of the Nevada Rules of Civil Procedure.

23. The **Nevada Overtime Class** is defined as "All hourly paid non-exempt persons employed by Defendant in the state of Nevada who earned less than 1 ½ times

1 the applicable minimum wage and who worked over eight (8) hours in a workday at any
2 time within 3 years from January 31, 2020 until judgment."

3 24. The **Waiting Time Penalty Class** is defined as "All Nevada Overtime
4 Class Members who are former employees of Defendant."

5 25. Class treatment is appropriate under Rule 23's class certification
6 mechanism because:

7 a. The Classes are Sufficiently Numerous: Upon information and belief,
8 Defendant employs, and has employed, in excess of 40 Nevada Overtime Class
9 Members within the applicable time period. Because Defendant is legally obligated to
10 keep accurate payroll records, Plaintiff alleges that Defendant's records will establish the
11 members of the Classes as well as their numerosity.

12 b. Plaintiff's Claim is Typical to Those of Fellow Class Members: Each
13 Class Member is and was subject to the same practices, plans, or policies as Plaintiff:
14 whether Defendant compensated Plaintiff and members of the Class daily overtime
15 wages when they worked over 8 hours in a workday and whether members of the
16 Waiting Time Penalty Class are entitled to waiting time penalties for the failure to pay
17 them minimum, regular, and overtime wages owed.

18 c. Common Questions of Law and Fact Exist: Common questions of
19 law and fact exist and predominate as to Plaintiff and the Class Members, including,
20 without limitation: whether Defendant failed to pay Plaintiff and the Class Members one
21 and one-half times their regular rate for all hours worked in excess of 8 hours a workday
22 and whether Defendant failed to pay the Waiting Time Penalty Class Members all their
23 wages due and owing in violation of NRS 608.020-050.

24 d. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly
25 and adequately represent the interests of the Classes because Plaintiff is a member of
26 the Nevada Overtime Class, he has issues of law and fact in common with all members
27 of the Classes, and his interests are not antagonistic to Class members. Plaintiff and his
28 counsel are aware of their fiduciary responsibilities to Class Members and are

1 determined to discharge those duties diligently by vigorously seeking the maximum
2 possible recovery for Class Members.

3 e. Predominance/Superior Mechanism: Class claims predominate and
4 a class action is superior to other available means for the fair and efficient adjudication of
5 this controversy. Each Class Member has been damaged and is entitled to recovery by
6 reason of Defendant's illegal policy and/or practice of failing to compensate its
7 employees in accordance with Nevada wage and hour law. The prosecution of individual
8 remedies by each Class Member will tend to establish inconsistent standards of conduct
9 for Defendant and result in the impairment of Class Members' rights and the disposition
10 of their interest through actions to which they were not parties.

11 FIRST CAUSE OF ACTION

12 **Failure to Pay Overtime Wages in Violation of NRS 608.018 and 608.140 (On Behalf of Plaintiff and the Nevada Overtime Class)**

13 26. Plaintiff realleges and incorporates by this reference all the paragraphs
14 above in this Complaint as though fully set forth herein.

15 27. NRS 608.140 provides that an employee has a private right of action for
16 unpaid wages.

17 28. NRS 608.018(1) provides as follows:

18 An employer shall pay 1 1/2 times an employee's
19 regular wage rate whenever an employee who receives
20 compensation for employment at a rate less than 1 1/2 times
21 the minimum rate prescribed pursuant to NRS 608.250
22 works: (a) More than 40 hours in any scheduled week of
work; or (b) More than 8 hours in any workday unless by
mutual agreement the employee works a scheduled 10
hours per day for 4 calendar days within any scheduled
week of work.

23 29. NRS 608.018(2) provides as follows:

24 An employer shall pay 1 1/2 times an employee's regular
25 wage rate whenever an employee who receives
26 compensation for employment at a rate not less than 1 1/2
times the minimum rate prescribed pursuant to NRS 608.250
works more than 40 hours in any scheduled week of work.

27 30. As described above, Defendant maintains a policy and/or practice of illegal
28 shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the

1 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and
2 Nevada Overtime Class Members have been denied overtime compensation according
3 to Nevada law.

4 31. Wherefore, Plaintiff demands for himself and all Nevada Overtime Class
5 Members that Defendant pays Plaintiff and Nevada Overtime Class Members one and
6 one-half times their "regular rate" of pay for all hours worked in excess of eight (8) hours
7 in a workday during the relevant time period together with attorneys' fees, costs, and
8 interest as provided by law.

9 **SECOND CAUSE OF ACTION**

10 **Waiting Time Penalties Pursuant to NRS 608.020-.050 and 608.140**
11 **(On Behalf of Plaintiff and the Waiting Time Penalty Class)**

12 32. Plaintiff realleges and incorporates by this reference all the paragraphs
13 above in this Complaint as though fully set forth herein.

14 33. NRS 608.140 provides that an employee has a private right of action for
15 unpaid wages.

16 34. NRS 608.020 provides that "[w]henver an employer discharges an
17 employee, the wages and compensation earned and unpaid at the time of such
18 discharge shall become due and payable immediately."

19 35. NRS 608.030 provides that "[w]henver an employee resigns or quits his or
20 her employment, the wages and compensation earned and unpaid at the time of the
21 employee's resignation or quitting must be paid no later than...[t]he day on which the
22 employee would have regularly been paid the wages or compensation; or[s]even days
23 after the employee resigns or quits...whichever is earlier."

24 36. NRS 608.040(1)(a-b), in relevant part, imposes a penalty on an employer
25 who fails to pay a discharged or quitting employee: "Within 3 days after the wages or
26 compensation of a discharged employee becomes due; or on the day the wages or
27 compensation is due to an employee who resigns or quits, the wages or compensation of
28 the employee continues at the same rate from the day the employee resigned, quit, or
was discharged until paid for 30-days, whichever is less."

1 37. NRS 608.050 grants an "employee lien" to each discharged or laid-off
2 employee for the purpose of collecting the wages or compensation owed to them "in the
3 sum agreed upon in the contract of employment for each day the employer is in default,
4 until the employee is paid in full, without rendering any service therefore; but the
5 employee shall cease to draw such wages or salary 30 days after such default."

6 38. By failing to pay Waiting Time Penalty Class Members their minimum,
7 regular, and overtime wages in violation of state and federal law, Defendant has failed to
8 timely remit all wages due and owing to the Waiting Time Penalty Class Members.

9 39. Despite demand, Defendant willfully refused and continues to refuse to pay
10 Waiting Time Penalty Class Members all the wages that were due and owing upon the
11 termination of their employment.

12 40. Wherefore, the Waiting Time Penalty Class Members demand thirty (30)
13 days of pay as waiting penalties under NRS 608.040 and 608.140, and thirty (30) days of
14 pay as waiting penalties under NRS 608.050 and 608.140, together with attorneys' fees,
15 costs, interest, and punitive damages, as provided by law.

16 **THIRD CAUSE OF ACTION**
17 **Injunctive/Declaratory Relief**
(On Behalf of Plaintiff and the Nevada Overtime Class)

18 41. Plaintiff realleges and incorporates by this reference all the paragraphs
19 above in this Complaint as though fully set forth herein.

20 42. As Defendant has failed to compensate Plaintiff and members of the
21 Overtime Class at the correct overtime wage rate for all the overtime hours that they
22 worked pursuant to NRS 608.018, Defendant has wrongfully withheld wages properly-
23 owed to the Plaintiff and the Overtime Class Members.

24 43. Plaintiff and the Nevada Overtime Class will suffer irreparable injury if
25 Defendant is not enjoined from the future wrongful retention of wages owed.

26 44. As a result of the aforementioned unlawful payment practices, Plaintiff
27 submits that there has been a likelihood of success on the merits that Plaintiff and the
28 Class Members have been damaged, that there is irreparable harm, and Plaintiff

1 requests that this Honorable Court enter an Order that restrains Defendant from
2 attempting to enforce the alleged unlawful payment practices.

3 45. Plaintiff requests that this Honorable Court enter a declaration of
4 rights/obligations in regards to all such unlawful payment practices in this matter.

5 46. Further, disputes and controversies have arisen between the parties
6 relative to the lawfulness of the payment practices, and Plaintiff is entitled to have an
7 order entered pursuant to Chapter 30 of the Nevada Revised Statutes construing the
8 payment practices and adjudging and declaring Plaintiff and the Class Members' rights
9 and remedies thereunder including such an Order stating that such payment practices
10 are unlawful.

11 47. Plaintiff has been required to retain the services of an attorney and is
12 entitled to a reasonable award of attorneys' fees and costs.

13 **PRAYER FOR RELIEF**

14 Wherefore Plaintiff, by himself and on behalf of all Class Members, prays for
15 relief as follows relating to his class action allegations:

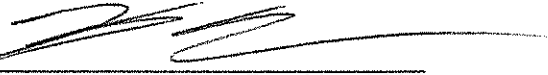
- 16 1. For an order certifying this action as a class action on behalf the
17 proposed Classes and providing notice to all Class Members so they may
18 participate in this lawsuit;
- 19 2. For an order appointing Plaintiff as the Representative of the Classes and
20 his counsel as Class Counsel;
- 21 3. For damages according to proof for overtime compensation under NRS
22 608.018 and 608.140 for all hours worked over 8 hours per day;
- 23 4. For waiting time penalties pursuant to NRS 608.040-.050 and 608.140;
- 24 5. For a lien on the property where Plaintiff and all Nevada Class Members
25 labored pursuant to NRS 608.050;
- 26 6. For interest as provided by law at the maximum legal rate;
- 27 7. For injunctive relief;
- 28 8. For declaratory relief;

9. For punitive damages;
10. For reasonable attorneys' fees authorized by statute;
11. For costs of suit incurred herein;
12. For pre-judgment and post-judgment interest, as provided by law; and,
13. For such other and further relief as the Court may deem just and proper.

DATED: February 6, 2020

Respectfully Submitted,

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EXHIBIT I

CVS Health myHR Service Center, Toll-free Number: 1-888-694-7287 (888 MY-HR-CVS)

Statement of Earnings Details**Personal Details**

ID 1818922

Name Christopher G Molash

Home Address [REDACTED]

Company Nevada CVS Pharmacy, L.L.C.
1 CVS Drive
Woonsocket RI 02895
UNITED STATES

Department 08791 Nevada CVS Pharmacy,
L.L.C.

Location 08791 Nevada CVS Pharmacy,
L.L.C.

Pay Rate 11.00 Hourly

Basis of Pay Hourly

Payroll Details

Pay Group Biweekly

Pay Begin Date Dec 29, 2019

Pay End Date Jan 11, 2020

Advice Number 2856856

Pay Date Jan 17, 2020

Tax Details

Federal Tax Marital Status Single

Federal Allowances 0

Federal Extra Withholding

NV Tax Marital Status N/A

NV Allowances 0

NV Addl Withholding

Message

CA Employees may cash checks at any JPMorgan Chase branch. For current time off balances including paid sick leave or paid time off provided in lieu of sick time, visit MyHR

Hours and Earnings

Description	Period Begin Date	Period End Date	Rate	Current Hours	YTD Hours	Current Earnings	YTD Earnings
Overtime	Dec 29, 2019	Jan 04, 2020	16.50	3.12		51.48	
Overtime	Jan 05, 2020	Jan 11, 2020	16.50	3.00		49.50	
Overtime					7.92		130.68
REG	Dec 29, 2019	Jan 04, 2020	11.00	16.00		176.00	
REG	Jan 05, 2020	Jan 11, 2020	11.00	25.63		281.93	
REG					87.03		957.33
Total Earnings						558.91	1,088.01

Hours Worked

Total Hours Worked 47.75

Pre-Tax Deductions

Description	Current	YTD
Total (Pre-Tax Deductions)	0.00	0.00

Taxes

Description	Current Taxable	YTD Taxable	Current Withheld	YTD Withheld
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After-Tax Deductions

Description	Current	YTD
Total (After-Tax Deductions)	0.00	0.00

Employer Paid Benefits

Description	Current	YTD
* Taxable		

Direct Deposit Distribution

Financial Institution	Account	Type	Amount
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Statement of Earnings Details

Description	Current Taxable	YTD Taxable	Current Withheld	YTD Withheld
Fed Withholding	558.91	1,088.01	41.93	80.29
Fed OASDI/EE	558.91	1,088.01	34.66	67.46
Fed MED/EE	558.91	1,088.01	8.11	15.78
Total (Taxes)			84.70	163.53

Financial Institution	Account	Type	Amount
UNIFY FINANCIAL	*****	Checking	474.21

Time Off

Description	Allocation	Earned YTD	Taken	Balance
Mand Sick	0.00	0.92	0.00	0.00

* For current time off balances, please refer to Time Off section of myHR

Pay Summary

	Total Gross	Total Taxes	Total Deductions	Net Pay
Current	558.91	84.70	0.00	474.21
YTD	1,088.01	163.53	0.00	924.48

EXHIBIT II

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Weekly Store Schedule
Store #5504291, #5504741
Schedule: 01/05/2024 - 01/12/2024
Status: Published

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