

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

DAWN BRANCH

Plaintiff,

v.

CVS PHARMACY, INC.

Defendant.

CIVIL NO. 2:22-CV-00641

COMPLAINT

Plaintiff Dawn Branch asserts her causes of action against defendant CVS Pharmacy, Inc. as follows:

THE PARTIES

1. Plaintiff is Dawn Branch, in both her individual and representative capacities, who is a person of majority, currently domiciled in Louisiana and residing in St. Tammany Parish.
2. Defendant is CVS Pharmacy, Inc. ("CVS"), a foreign corporation incorporated and headquartered in Rhode Island, and which, upon information and belief, is registered and actively doing business in Louisiana.

JURISDICTION AND VENUE

3. The Court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 (federal question); 29 U.S.C. § 206 (the Fair Labor Standards Act minimum wage provisions); § 207 (FLSA overtime wage provision); and § 216 (FLSA collective action provisions) as more particularly set-out herein.
4. The Court has supplemental, subject-matter jurisdiction over Ms. Branch's Louisiana state law claims pursuant to 28 U.S.C. § 1367(a) because the state-law claims are so related to her

federal law claims that they form part of the same case or controversy as more particularly set-out herein.

5. The Court has personal jurisdiction over CVS Pharmacy Inc. because it is a foreign corporation registered and actively doing business in Louisiana, and, through its registered agent for the service of process, C T Corporation System, is present within Louisiana at the time this suit commenced.

6. Alternatively, the Court has personal jurisdiction over CVS Pharmacy Inc. because, upon information and belief, it regularly transacts business in Louisiana; regularly employs Louisiana citizens; derives substantial revenue from the services it provides in Louisiana; committed the unlawful acts in Louisiana that injured Ms. Branch in this case; and committed the unlawful acts in Louisiana otherwise giving rise to the causes of action in this case. Thus, CVS Pharmacy Inc. has established minimum specific contacts with Louisiana, arising from the facts of this case, comporting with the requirements of fair play, substantial justice, and the Fourteenth Amendment of the Constitution of the United States.

7. Venue for Ms. Branch's FLSA and state-law claims is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because the parties contracted for Ms. Branch's employment and engaged in the FLSA and state-law wage violations alleged in this matter in this judicial district (specifically, St. Tammany Parish), and Ms. Branch's resulting harm was suffered in this judicial district (same).

PROCEDURAL AND STATUTORY ALLEGATIONS

8. At all times, CVS was engaged in interstate commerce by buying medicines and other consumer goods from outside of Louisiana, then shipping those goods to Louisiana, then selling those goods from its Louisiana pharmacies, including the pharmacy Ms. Branch was employed at, to both customers located inside and outside of Louisiana.

9. In both 2020 and 2021, CVS earned total revenues greater than \$500,000.
10. On or about June 2020, CVS hired Ms. Branch as its full-time employee in the position of “staff pharmacist.”
11. At all times, Ms. Branch in her position of staff pharmacist regularly engaged in interstate commerce by, among other things, regularly receiving, accounting for, and dispensing medicines which had been shipped in interstate travel to customers in Louisiana; by regularly accessing CVS computer systems connected to other systems located outside of Louisiana; and by regularly making phone calls to or communicating with people outside of Louisiana.
12. Upon information and belief, Ms. Branch’s position of “staff pharmacist” is a specific job title utilized by CVS pharmacy across its entire pharmacy workforce in Louisiana.
13. Upon information and belief, a “staff pharmacist” employed by CVS pharmacy has the same job description and job responsibilities as any other staff pharmacist employed in Louisiana.
14. Upon information and belief, and as further alleged below, all “staff pharmacists” located in Louisiana are similarly situated with respect to CVS’s obligation to pay those pharmacists minimum wage and overtime wages under the FLSA.
15. At all times, Ms. Branch was assigned to CVS’s Louisiana Pharmacy 05451 located in Franklinton, Louisiana.
16. Ms. Branch was continuously employed by CVS until her constructive discharge on or about June 4, 2021.
17. At all times, CVS classified Ms. Branch as its employee.
18. At all times, CVS paid Ms. Branch on an hourly basis (not on a salary basis).
19. At all times, CVS paid Ms. Branch approximately \$56.28 per hour.
20. At all times, Ms. Branch was entitled to overtime wages for all hours worked in a week

greater than 40, except that CVS misclassified Ms. Branch as an exempt employee ineligible for overtime wages under the FLSA.

21. At all times, upon information and belief, CVS did not guarantee Ms. Branch any minimum pay on a weekly or less frequent basis.

22. Alternatively, upon information and belief, CVS guaranteed Ms. Branch some minimum pay on a weekly or less frequent basis, but that guaranteed pay was no greater than \$684 per week.

23. Alternatively, upon information and belief, CVS guaranteed Ms. Branch some minimum pay on a weekly or less frequent basis, but that guaranteed pay was not reasonably related to her actual weekly pay.

24. Specifically, Ms. Branch earned at on average, approximately, \$2,100.00 in hourly wages per week based on the number of hours she actually worked.

25. Upon information and belief, whatever minimum pay CVS guaranteed Ms. Branch was significantly less than her weekly earnings, and had no reasonable relationship to her weekly earnings, such that the minimum guarantee was merely a sham to avoid overtime pay requirements under federal law.

26. Upon information and belief, all of CVS's staff pharmacists located in Louisiana were – just like Ms. Branch – classified as exempt employees; paid an hourly rate (and not on a salary basis); not paid for more than 37.5 hours per week regardless of how many more hours the pharmacist worked during the week; and either not guaranteed any minimum salary, or guaranteed a minimum salary that had no reasonable relationship to the employee's actual, weekly earnings.

27. To the best of recollection and belief, Ms. Branch always worked more than 40 hours per week, usually, approximately, at least 45 hours per week.

28. Nevertheless, CVS never paid Ms. Branch for more than 37.50 work hours per week.

29. Upon information and belief, CVS unlawfully and intentionally failed to pay Ms. Branch overtime wages she was due for working more than 40 hours during any given workweek (FLSA).

30. On or about June 4, 2021, Ms. Branch was constructively discharged and resigned from her employment.

31. At the time of her constructive discharge, upon information and belief, Ms. Branch had unused vacation time which she was owed.

32. At the time of her constructive discharge, upon information and belief, Ms. Branch had unpaid wages that she was owed.

33. Upon information and belief, CVS unlawfully and intentionally failed to pay Ms. Branch for all her accrued vacation time and paid leave of absence time within two weeks of her termination.

34. After her constructive discharge, Ms. Branch gave written and other notice to CVS that she was owed unpaid wages and vacation leave, but to date CVS has not fully paid Ms. Branch these amounts.

35. Upon information and belief, CVS unlawfully and intentionally continues to refuse to pay Ms. Branch for her unpaid wages and vacation leave to date.

FACTS

A. The Plaintiff — Dawn Branch

36. Dawn Branch is a 49-year-old woman living with her husband and children in Bush, Louisiana.

37. Ms. Branch is a pharmacist licensed to practice in Louisiana.

38. Ms. Branch relies on her income and work as a pharmacist to support her family.

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