

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

CHARLES TASHJIAN, on behalf of himself)	
and all others similarly situated,)	
)	CIVIL ACTION
Plaintiff,)	NO. _____
)	
v.)	
)	
CVS PHARMACY, INC.; CVS HEALTH)	
CORPORATION; and)	
CVS CAREMARK INC.,)	
)	
Defendants.)	
_____)	

**CVS PHARMACY, INC., CVS HEALTH CORPORATION, AND
CVS CAREMARK, INC’S NOTICE OF REMOVAL**

Defendants CVS Pharmacy, Inc., CVS Health Corporation, and CVS Caremark, Inc., (collectively, “CVS”) hereby remove this action from the Superior Court of the Commonwealth of Massachusetts, Suffolk County, to the Eastern Division of the United States District Court for the District of Massachusetts in accordance with 28 U.S.C. §§ 1332, 1441, 1446, 1453, and other applicable law. This Court has jurisdiction over this action under 28 U.S.C. §1332(d)(2). As grounds for removal, CVS respectfully shows this Court the following:

I. BACKGROUND

1. On April 26, 2019, Plaintiff Charles Tashjian filed a First Amended Complaint and Demand for Jury Trial (the “Complaint”) against CVS in the Superior Court of Suffolk County, Case No. SUCV2019-0655-BLS1 (the “State Court Action”).

2. As required by 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon CVS in the State Court Action as of the date of this filing are attached hereto as Exhibit A.¹

3. Plaintiff alleges that he and the putative class have been harmed in connection with a CVS mailing program, in which CVS sends letters to patients' physicians. Plaintiff's six-count complaint asserts claims for: (i) negligence; (ii) breach of fiduciary duty of confidentiality; (iii) breach of privacy/appropriation of Plaintiff's name and/or likeness; (iv) tortious misappropriation of private and personal information; (v) violation of Massachusetts General Law chapter 93A, section 2 (unfair practices); and (vi) declaratory judgment. The Complaint seeks damages, disgorgement of profits, attorneys' fees, costs, and declaratory judgment.

4. As stated in the Complaint, Plaintiff seeks to represent a class of individuals defined as, "All customers of CVS on whose behalf CVS sent a Request to Close Potential Gap in Therapy letter." (the "Putative Class") (Compl. ¶ 69).

5. As set forth in more detail below, this Court has original jurisdiction over Plaintiff's claims against CVS under the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1332(d).

6. Removal to this Court is proper under 28 U.S.C. § 1441(a), 28 U.S.C. § 101, and Local Rule 40.1(c)(1) because the United States District Court for the District of Massachusetts, Eastern Division, is the federal judicial district and division embracing the Massachusetts Superior Court for Suffolk County, where the State Court Action was filed.²

¹ Pursuant to Local Rule 81.1, copies of the state court proceedings will also be provided in paper format and by a disk containing the state court records in PDF format.

² Plaintiff pleads that he resides in Uxbridge, Massachusetts, which is located in Worcester County. (Compl. ¶ 12). CVS would be amenable to personal jurisdiction in Worcester County, so it is

7. Plaintiff served CVS Health Corporation on May 6, 2019.³ Plaintiff served CVS Pharmacy on May 7, 2019. Accordingly, CVS's deadline to file this Notice of Removal ("Notice") is June 6, 2019, which is thirty days after May 7, 2019. *See* 28 U.S.C. § 1446(b)(1). This Notice, filed on May 23, 2019, is therefore timely filed in compliance with § 1446(b)(1).

8. In accordance with 28 U.S.C. § 1446(d), CVS has filed this Notice with this Court, will serve a copy of this Notice upon counsel for all parties, and will file a copy in the Superior Court of Suffolk County, along with a Notice of Filing of Notice of Removal. A copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit B.

9. By removing this action, CVS does not waive, but expressly preserves, any defenses with respect to the underlying state court action.

II. THIS COURT HAS ORIGINAL JURISDICTION OVER THE CLAIMS IN THE STATE COURT ACTION UNDER CAFA

10. The Class Action Fairness Act ("CAFA") grants federal courts diversity jurisdiction over putative class actions that meet certain diversity and amount in controversy requirements. *See* 28 U.S.C. § 1332(d). Because, as shown below, those requirements are satisfied in this case, the State Court Action may be removed to this Court.

"deemed to reside" in Worcester County for venue purposes. *See* 28 U.S.C. § 1391(c)(2). Accordingly, this matter "shall be assigned" to the Central Division because all parties "reside" in that division. *See* D. Mass. L. R. 40.1(d)(1)(A). CVS intends to file a motion to transfer this action to the Central Division shortly after removal.

³ Plaintiff's counsel purported to serve CVS Caremark Inc. on May 6, 2018, but CVS Caremark Inc. is not a corporate entity.

A. The State Court Action is A Class Action and the Number of Proposed Class Members Is Not Less Than 100.

11. Plaintiff satisfies CAFA's requirement that the number of proposed class members exceeds 100 persons. Plaintiff purports to bring this case as a class action, as defined by CAFA (28 U.S.C. § 1332(d)(1)(B)), on behalf of a class consisting of "All customers of CVS on whose behalf CVS sent a Request to Close Potential Gap in Therapy letter." (Compl. ¶ 68).

12. CVS sent "Request to Close Potential Gap in Therapy" letters to physicians on behalf of at least 500 individuals. *See* Exhibit C, Declaration of Callie Payne.

13. Accordingly, the requirement that the number of proposed class members is not less than 100 is satisfied.

B. The State Court Action Satisfies the CAFA Minimum Diversity Requirement.

14. The State Court Action satisfies the CAFA diversity requirement because at least one named plaintiff or absent class member is a citizen of a different state than at least one defendant. *See* 28 U.S.C. § 1332(d)(2)(a).

15. CVS Pharmacy, Inc., is a Rhode Island corporation with its principal place of business in Rhode Island. *See* 28 U.S.C. 1332(c)(1) (citizenship of corporations); *see also* Exhibit C.

16. CVS Health Corporation is a Delaware corporation with its principal place of business in Rhode Island. *See id.*

17. Plaintiff is a citizen of Massachusetts.⁴

⁴ Plaintiff alleges that he is a "resident of Uxbridge, Massachusetts." (Compl. ¶ 12). Plaintiff also alleges that he has filled prescriptions at the same Massachusetts CVS location for "the last 10 years." (*Id.* at 20). Citizenship is equated with domicile, which requires "physical presence in a place and the intent to make that place one's home." *Valentin v. Hosp. Bella Vista*, 254 F.3d 358,

18. Because Plaintiff is a citizen of a state other than Delaware or Rhode Island, CVS's states of citizenship, the CAFA diversity requirement is satisfied. *See* 28 U.S.C. § 1332(d)(2)(a).

19. None of the mandatory or permissive exceptions in CAFA jurisdiction apply. Those exceptions apply only if (in relevant part) at least one defendant is a citizen of the state where the action was originally filed. *See* 28 U.S.C. §§ 1332(d)(3), (d)(4)(A)(i)(II)(cc). CVS Pharmacy, Inc., CVS Health Corporation, and CVS Caremark, Inc.⁵ are the only defendants named in the Complaint, and none of those Defendants is a citizen of Massachusetts, the state where the action was originally filed. Moreover, the burden of proving this exception falls on the Plaintiff.

C. The State Court Action Satisfies the CAFA Amount in Controversy Requirement.

20. The amount in controversy in this case, exclusive of interests and costs, exceeds the \$5,000,000 jurisdictional requirement of CAFA. *See* 28 U.S.C. § 1332(d)(2).

21. Notably, 28 U.S.C. § 1446(a) tracks the general pleading requirement stated in Rule 8(a) of the Federal Rules of Civil Procedure. Thus, “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. v. Owens*, 547 U.S. 81, 554 (2014). Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegations. *Id.* at 554.

366 (1st Cir. 2001). Because Plaintiff has shown residence and an intention to remain in Massachusetts, by virtue of living there for the past ten years, he is a citizen of Massachusetts.

⁵ CVS Caremark Inc. is not a corporate entity and, accordingly, does not have a state of incorporation or principal place of business.

22. While CVS disputes that Plaintiff is entitled to bring this action, denies liability, and contends that Plaintiff can ultimately recover nothing under the claims in the Complaint, Plaintiff's allegations and the relief sought determine the amount in controversy for purposes of removal. *See Spielman v. Genzyme Corp.*, 251 F.3d 1, 5 (1st Cir. 2001) ("Courts determine whether a party has met the amount-in-controversy requirement by looking to the circumstances at the time the complaint is filed . . . jurisdiction is [not] ousted because of the eventual inability of plaintiff to recover an amount adequate to give the court jurisdiction.") (internal quotations and citations omitted); *see also Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 751 (11th Cir. 2010) ("[T]he plaintiffs' likelihood of success on the merits is largely irrelevant to the court's jurisdiction because the pertinent question is what is in controversy in the case, not how much the plaintiffs are ultimately likely to recover."); *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 448 (7th Cir. 2005) ("The question is not what damages the plaintiff will recover, but what amount is 'in controversy' between the parties. That the plaintiff may fail in its proof, and the judgment be less than the threshold (indeed, a good chance that the plaintiff will fail and the judgment will be zero) does not prevent removal.").

23. For purposes of determining the amount in controversy under CAFA, the claims of putative class members are aggregated. 28 U.S.C. § 1332(d)(6). Here, Plaintiff seeks recovery on behalf of "[a]ll customers of CVS on whose behalf CVS sent a Request to Close Potential Gap in Therapy letter." (Compl. ¶ 68). This putative class consists of over 500 individuals. *See* Exhibit C.

24. While Plaintiff does not specify the exact amount of compensatory and punitive damages he seeks to recover on behalf of the proposed class, Plaintiff alleges that CVS is liable

for Plaintiff's and the Class' damages, costs, and attorneys' fees. (See Complaint Prayers for Relief). Plaintiff alleges that individual damages "exceed twenty-five thousand dollars (\$25,000)." (Compl. ¶ 17). Plaintiff further requests the court award "multiple damages" for violations of M.G.L c. 93A, which suggests the actual amount of damages Plaintiff seeks on behalf of himself exceeds \$75,000. (Compl. ¶ 167); see M.G.L. c. 93A, § 9 (permissible recovery includes double or treble damages). Simple calculation of the amount in controversy for the claims of putative class members may be performed by multiplying Plaintiff's alleged amount in controversy by a plausible number of class members. See, e.g., *Romulus v. CVS Pharmacy, Inc.*, 770 F.3d 67, 81-82, n.14 (1st Cir. 2014) (reversing district court remand of an action where defendant demonstrated a reasonable probability that the amount in controversy exceeded \$5,000,000 by applying a "reasonable amount of intelligence" to plaintiffs' complaint through multiplication of the number of unpaid meal breaks by the relevant wage rate); see also *Hartis v. Chicago Title Ins. Co.*, 694 F.3d 935, 945-46 (8th Cir. 2012) (concluding that the amount in controversy exceeded CAFA's \$5,000,000 requirement by multiplying the average alleged transaction fee by the number of transactions at issue); *S. Fla. Wellness, Inc. v. Allstate Ins. Co.*, 745 F.3d 1312, 1317 (11th Cir. 2014) ("Estimating the amount in controversy is not nuclear science; it does not demand decimal-point precision.").

25. Plaintiff purports to represent a class consisting of at least 500 people. See Compl. ¶ 68; Exhibit C. A claim of \$25,000 multiplied by 500 class members amounts to \$12,500,000 in

controversy; because the purported class consists of *over* 500 people, the \$5,000,000 amount-in-controversy threshold is easily met.⁶

26. That Plaintiff is seeking multiple damages on behalf of the proposed class and attorneys' fees (*see* Compl. ¶ 167) even further pushes the amount in controversy beyond the \$5,000,000 CAFA threshold.

III. CONCLUSION

27. In conclusion, CVS submits that CAFA applies to this action because: (i) Plaintiff commenced this action after CAFA's effective date; (ii) Plaintiff alleges a class of not less than 500 proposed class members; (iii) at least one member of the proposed class is a citizen of a state different from CVS's state of incorporation and principal place of business; (iv) the aggregate amount placed in controversy by Plaintiff's Complaint exceeds \$5,000,000, exclusive of interest and costs; and (v) the procedural requirements for removal under 28 U.S.C. § 1446 are met. For these reasons, CVS respectfully requests that this Court assume full jurisdiction over this action as provided by law.

28. CVS intends no admission of liability by this Notice and expressly reserves all defenses, motions, and pleas, including without limitation objections to the sufficiency of Plaintiff's pleadings and to the propriety of class certification.

⁶ Plaintiff alleges that CVS sent his physician two separate letters, both giving rise to the claims alleged in the Complaint. (Compl. ¶¶ 21-47). Construing Plaintiff's allegations of over \$25,000 in damages for two letters to mean that the damages per letter exceed \$12,500, the CAFA amount-in-controversy requirement is still met. On this interpretation of the damages allegations, if only one letter was sent on behalf of 500 individuals, the correct estimate of the total amount-in-controversy would be 500 multiplied by \$12,500, which is \$6,250,000 and surpasses the \$5,000,000 CAFA amount-in-controversy requirement.

WHEREFORE, CVS hereby removes this action to this Court for further proceedings according to law.

Respectfully submitted this 23rd day of May, 2019.

/s/ Joshua N. Ruby

T. Christopher Donnelly (BBO #129930)

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*Counsel for Defendants CVS Pharmacy, Inc., CVS
Health Corporation, and CVS Caremark, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this day I filed a true and correct copy of the within and foregoing with the Clerk of Court using the Court's CM/ECF system. I further certify that I have this day served a true and correct copy of the same via United States First Class Mail, postage prepaid, and properly addressed as follows:

Robert E. Mazow
Michael C. Forrest
Forrest, LaMothe, Mazow, McCullough,
Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, Massachusetts 01970
(617) 231-7829
Attorneys for Plaintiff

On this 23rd day of May, 2019.

/s/ Joshua N. Ruby

Joshua N. Ruby

EXHIBIT A

Commonwealth of Massachusetts

SUFFOLK, SS.

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. SUCV 2019-0655-BLS1

CHARLES TASHJIAN, on
behalf of himself, PLAINTIFF(S),
and all others similarly situated
v.

RECEIVED

MAY 13 2019

~~CVS PHARMACY, INC.~~; DEFENDANT(S)
CVS HEALTH CORPORATION; and
CVS CAREMARK, INC. SUMMONS

LEGAL DEPARTMENT

THIS SUMMONS IS DIRECTED TO CVS PHARMACY, INC. (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the ~~Suffolk Superior~~ Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
 - a. Filing your signed original response with the Clerk's Office for Civil Business, Suffolk Court, 3 Pemberton Square (address), by mail or in person, AND Superior Boston, MA 02108
 - b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: 2 Salem Green, Suite 2, Salem, MA 01970
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as counterclaims) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must specifically request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

A true copy Attest:
5/7/19 Deputy Sheriff Suffolk County

Dan Bunch

CIVIL ACTION COVER SHEET	DOCKET NUMBER	Trial Court of Massachusetts The Superior Court	
PLAINTIFF(S): <u>CHARLES TASHJIAN, on behalf of himself and all others similarly situated</u> ADDRESS: _____		COUNTY: <u>Suffolk</u>	
	DEFENDANT(S): <u>CVS PHARMACY, INC.;</u> <u>CVS HEALTH CORPORATION; and</u> <u>CVS CAREMARK, INC.</u>		
ATTORNEY: <u>Robert E. Mazow, Esq.</u> ADDRESS: <u>Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi</u> <u>2 Salem Green, Suite 2</u> <u>Salem, MA 01970</u>	ADDRESS: _____ <u>CVS Pharmacy, Inc.: Registered Agent: 155 Federal Street, Suite 700, Boston, MA</u> <u>CVS Health Corporation: One CVS Drive, Woonsocket, RI 02895</u> <u>CVS Caremark, Inc.: One CVS Drive, Woonsocket, RI 02895</u>		
BBO: <u>#567507</u>			
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)			
CODE NO. <u>A99</u>	TYPE OF ACTION (specify) <u>Other Contract/Business Action</u>	TRACK <u>F</u>	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
*If "Other" please describe: <u>Putative class action against Defendants for violation of privacy laws and unfair business practices.</u>			
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A			
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (attach additional sheets as necessary)			
A. Documented medical expenses to date:			
1. Total hospital expenses		\$	_____
2. Total doctor expenses		\$	_____
3. Total chiropractic expenses		\$	_____
4. Total physical therapy expenses		\$	_____
5. Total other expenses (describe below)		\$	_____
	Subtotal (A):	\$	_____
B. Documented lost wages and compensation to date			
C. Documented property damages to dated			
D. Reasonably anticipated future medical and hospital expenses			
E. Reasonably anticipated lost wages			
F. Other documented items of damages (describe below)			
G. Briefly describe plaintiff's injury, including the nature and extent of injury:			TOTAL (A-F): \$ _____
CONTRACT CLAIMS (attach additional sheets as necessary)			
Provide a detailed description of claims(s): <u>Putative Class action arising out of Defendants' unfair and deceptive prescription marketing plan.</u>			TOTAL: \$ <u>\$1,000,000.00</u>
Signature of Attorney/Pro Se Plaintiff: X			Date: <u>02/25/19</u>
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.			
CERTIFICATION PURSUANT TO SJC RULE 1:18			
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.			
Signature of Attorney of Record: X			Date: <u>02/25/19</u>

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA. NO. SUCV2019-0655-BLS1

CHARLES TASHJIAN, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

CVS PHARMACY, INC.; CVS HEALTH
CORPORATION; and CVS CAREMARK
INC.;

Defendants.

**PLAINTIFF'S FIRST AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff, Charles Tashjian ("Tashjian" or "Plaintiff") alleges the following facts upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters.

Preliminary Statement

1. Plaintiff brings this action to obtain monetary, and other appropriate relief, for himself and Members of the Class (defined below) as a result of the unlawful practices of Defendants, CVS Pharmacy, Inc., CVS Health Corporation, and CVS Caremark, Inc. (collectively "CVS" or "Defendants").
2. CVS is in the business of, among other things, selling prescription medicine to customers across the country, including in Massachusetts. In doing so, CVS engaged in a scheme to solicit prescriptions from customers' physicians ("Prescribers" or "Physicians") which CVS could then sell to customers.

3. As part of its scheme, CVS falsely represented to Prescribers that, among other things, CVS had spoken with its customers, and that its customers expressly requested that CVS contact the Prescribers to obtain certain prescription medications.
4. CVS's scheme was perpetrated even though CVS knew that CVS's pharmacists had not, spoken to the customers about contacting the Prescribers and that the customers had not requested that CVS contact the Prescribers.
5. As part of CVS's scheme, CVS never notified the Prescribers or the Patient that CVS was being compensated for sending the letters, nor did the scheme notify the medical provider that CVS had not spoken with the consumer and that the consumer did not request that the CVS send the letters.
6. CVS's scheme violated the privacy rights and other common law rights of Plaintiff and the Class and CVS misappropriated, for their own commercial purpose and without consumer consent or other authorization, the confidential and personal consumer medical prescription information which had been entrusted by customers to CVS.
7. Upon information and belief, as part of CVS's Scheme, CVS appears to have also disclosed confidential patient information about its customers to unauthorized third-parties who provided direct marketing services to CVS.
8. CVS's scheme was not disclosed to Prescribers (or customers) and instead said scheme was perpetrated under the guise of administering a drug compliance program, which provided a cloak of legitimacy, when in fact, the scheme was simply a direct mail marketing and advertising scheme designed to increase sales of statin prescriptions and other medications.
9. CVS's scheme resulted in damages to Plaintiff and other similarly situated individuals.

10. CVS's scheme caused false statements (purportedly statements of the consumer) to enter customers' medical file which, among other things, dangerously suggested that the customers sought medical treatment that they did not seek.

11. Further, CVS's scheme resulted in it reaping significant financial benefit by selling prescription medicine that would otherwise not have been fulfilled. Finally, CVS's scheme resulted in it receiving financially beneficially advertising support.

Parties

12. Plaintiff, Charles Tashjian is a resident of Uxbridge, Massachusetts.

13. Defendants, CVS Pharmacy Inc. is a corporation formed under the laws of Rhode Island and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895, and a registered agent at 155 Federal Street, Suite 700, Boston, MA.

14. Defendants, CVS Health Corporation is a corporation formed under the laws of Delaware and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895.

15. Defendants, CVS Caremark, Inc. is a corporation formed under the laws of Delaware and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895.

Jurisdiction and Venue

16. This Court has personal jurisdiction over Defendants pursuant to M.G.L. c. 223A, § 3, because, *inter alia*, Plaintiff's claims arise out of Defendants' regular transaction of business throughout the Commonwealth of Massachusetts, including in Suffolk County.

17. This Court has jurisdiction over the claims contained herein as they relate to Plaintiff and the other similarly situated individuals because the claims for damages for Plaintiff and all other similarly situated individuals exceed twenty-five thousand dollars (\$25,000.00).

18. Venue in this matter is proper as CVS Pharmacy, Inc. maintains a registered agent located in Suffolk County, Massachusetts. Venue in this matter is further proper as CVS Health Corporation, and CVS Caremark, Inc. are corporations operating in the Commonwealth.

Factual Allegations

19. Plaintiff repeats and re-alleges the allegations set forth above.
20. Plaintiff has utilized CVS Pharmacy (Store #1852) ("CVS Pharmacy") located at 67D Main St., Medway, MA for his prescription fulfillment services for approximately the last 10 years.
21. In June of 2018, CVS Pharmacy sent the document, attached hereto as Exhibit A, to Plaintiff's medical provider, Dr. Fouad Aoude ("*Letter #1*").
22. *Letter #1* stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
23. *Letter #1* falsely stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
24. *Letter #1* stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
25. *Letter #1* falsely stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
26. Plaintiff does not have diabetes.
27. Plaintiff never spoke with any employee, agent or servant of CVS Pharmacy about diabetes care.
28. Plaintiff did not ask any employee, agent or servant of CVS Pharmacy to contact his medical provider regarding statin therapy.
29. *Letter #1* was intended by CVS to serve as marketing material.
30. *Letter #1* was intended by CVS to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which CVS could fulfill to their financial advantage.
31. *Letter #1* is now part of Plaintiff's medical file.
32. The statin manufacturer provided marketing assistance to CVS Pharmacy.

33. CVS received financial assistance in sending its *Letter #1* to Plaintiff's medical provider.
34. As a result of sending letters, like *Letter #1*, CVS received financial benefit and profit.
35. In November of 2018, CVS Pharmacy sent the document, attached hereto as Exhibit B, to Plaintiff's medical provider, Dr. Fouad Aoude ("*Letter #2*").
36. *Letter #2* stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
37. *Letter #2* falsely stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
38. *Letter #2* stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
39. *Letter #2* falsely stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
40. *Letter #2* was intended by CVS as marketing material.
41. *Letter #2* was intended by CVS to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which the CVS could fulfill to its financial advantage.
42. CVS used Plaintiff's name for financial gain without his permission or consent.
43. *Letter #2* is now part of Plaintiff's medical file.
44. The statin manufacturer provided marketing assistance to CVS Pharmacy.
45. CVS received financial assistance in sending *Letter #2* to Plaintiff's medical provider.
46. As a result of sending letters, like *Letter #2*, CVS received financial benefit and profit.
47. CVS used Plaintiff's name in *Letter #1* and *Letter #2* as part of its attempt to increase CVS's profits.
48. CVS did not request to use Plaintiff's name prior to using it CVS knew he would reject the request.
49. CVS used Plaintiff's name despite his lack of permission because CVS wanted to profit from their marketing scheme.

50. CVS routinely engages in the scheme outlined above.
51. CVS used Plaintiff's name for financial gain without his permission or consent.
52. CVS misappropriated Plaintiff's name for financial gain as part of their marketing plan.
53. CVS is a covered entity for the purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
54. CVS has vast stores of personal and private consumer medical prescription information.
55. CVS reviewed personal and private consumer information to determine on which customers behalf CVS would target their marketing materials.
56. CVS provided prescription fulfillment services to the Plaintiff.
57. CVS owed a fiduciary duty to Plaintiff.
58. CVS breached its fiduciary duty to Plaintiff by sending false information to Plaintiff's medical provider.
59. CVS breached its fiduciary duty to Plaintiff by failing to disclose to Plaintiff's medical provider that CVS was receiving financial support for sending the letter to Plaintiff's medical provider.
60. CVS breached its fiduciary duty and caused Plaintiff harm in the form of increased risk of receiving medical treatment based upon the false statement CVS caused to be placed in Plaintiff's medical records.
61. At all relevant times, CVS was engaged in trade or commerce.
62. Plaintiff alleges that the acts and omissions described herein were unfair and/or deceptive.
63. Plaintiff alleges that the acts and omissions described herein were committed willfully and/or knowingly.
64. On February 25, 2019, Plaintiff served the Defendant with a class-wide consumer protection act demand letter.

65. On April 5, 2019, CVS responded to Plaintiff's class-wide consumer protection act demand letter.
66. CVS's response to Plaintiff's class-wide consumer protection act demand letter was unreasonable.

Class Allegations

67. Plaintiff repeats and re-alleges the allegations set forth above.
68. Plaintiff brings this action pursuant to Mass. R. Civ. P. 23 and M.G.L. c. 93A on behalf of himself and a class consisting of:

All customers of CVS on whose behalf CVS sent a Request to Close Potential Gap in Therapy letter.
69. All of the persons or entities described in the preceding paragraph are referred to herein as the "Class" or "Members". Plaintiff reserves his right to amend the definition.
70. This action is properly maintainable as a class action.
71. The Members of the Class are so numerous that joinder of all Members would be impracticable.
72. Plaintiff's claims are typical of the claims of other Members of the Class, as all Members of the Class have been similarly affected by CVS's unlawful acts and omissions.
73. Plaintiff will fairly and adequately protect the interests of the Class and is represented by counsel experienced in complex class action litigation.
74. Common questions of law and fact exist and predominate over any questions of law or fact which may affect only individual Class Members. Common questions of law and fact include:
 - A. Whether the acts and omissions of CVS constituted violations of M.G.L. c. 214, § 3A and/or M.G.L. c. 93A;
 - B. Whether the acts and omissions of CVS were unfair and/or deceptive;
 - C. Whether the acts and omissions of CVS were committed willfully and/or knowingly;

D. Whether the acts and omissions of CVS constituted: (1) Negligence; (2) Breach of the Fiduciary Duty of Confidentiality; (3) Breach of Privacy; and/or (4) Tortious Misappropriate of Private and Personal Information;

E. Whether CVS is liable for the acts and omissions of their employees and agents;

F. What is the applicable statute of limitations on any and all causes of action; and

G. Whether Plaintiff and the Class are entitled to damages, and if so, the proper measure of damages.

75. A class action will cause an orderly and expeditious administration of the claims of Class Members.

76. A class action will foster economies of time, effort and expense to ensure uniformity of decisions, presenting the most efficient manner of adjudicating the claims set forth herein.

COUNT I
Negligence

77. Plaintiff repeats and re-alleges the allegations set forth above.

78. CVS had a legal duty to not create and cause false information to enter Plaintiff's medical file.

79. CVS had a duty to not make false statements to Plaintiff's medical provider.

80. CVS breached its duty by submitting false information to Plaintiff's medical provider.

81. CVS's breach of its duty has caused Plaintiff harm.

82. CVS had a legal duty to not create and cause false information to enter Class Members' medical records.

83. CVS had a duty to not make false statements to Class Members' Physicians.

84. CVS breached its duty by submitting false information to Class Members' Physicians.

85. All the aforementioned acts and omissions of CVS were committed negligently.

86. All of the aforementioned acts and omissions constitute breaches of CVS's duties under Federal and/or Massachusetts law.
87. CVS's breach of its duty has caused Plaintiff and members of the Class harm.
88. CVS had a fiduciary duty to Plaintiff and Class Members.
89. As a direct and proximate cause of CVS's negligence, false information was sent to Plaintiff's medical provider and placed in Plaintiff's medical record.
90. As a direct and proximate cause of CVS's negligence, Plaintiff and the Class have suffered damages, including but not limited to, increased risk of medical risk and medical mistakes.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for its negligence and award damages to adequately compensate Plaintiff and the Class.

COUNT II
Breach of Fiduciary Duty of Confidentiality

91. Plaintiff repeats and re-alleges the allegations set forth above.
92. CVS is a medical provider.
93. CVS is a covered entity under the Health Insurance Portability and Accountability Act.
94. CVS provided prescription fulfillment services to the Plaintiff.
95. CVS owed a fiduciary duty to Plaintiff.
96. CVS breached its fiduciary duty to Plaintiff by sending false information to Plaintiff's physician.
97. CVS breached its fiduciary duty to Plaintiff by failing to disclose to Plaintiff's physician that CVS was receiving financial support for sending the letter to Plaintiff's physician.
98. CVS provided prescription fulfillment services to Class Members.
99. CVS owed a fiduciary duty to Class Members.

100. CVS breached its fiduciary duty to Class Members by sending false information to Class Members' Physicians.

101. CVS breached its fiduciary duty to Class Members by failing to disclose to Class Members' Physicians that CVS was receiving financial support for sending the letter to Class Members' Physicians.

102. CVS's breach of its fiduciary duty to Plaintiff and Class Members caused Plaintiff and Class Members harm in the form of increased risk of receiving medical treatment based upon the false statements the Defendant caused to be placed in Plaintiff's and Class Members' medical records.

103. CVS's breach of its fiduciary duty to Plaintiff and Class Members has caused Plaintiff and Class Members to suffer harm, including but not limited to financial harm.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for breach of its fiduciary duty and award damages to adequately compensate Plaintiff and the Class.

COUNT III

Breach of Privacy – Appropriation of Plaintiff's Name and/or Likeness
Violation of M.G.L. c. 214, § 3A

104. Plaintiff repeats and re-alleges the allegations set forth above.

105. *Letter #1* was intended as marketing material.

106. *Letter #1* was intended to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which CVS could fulfill to their financial advantage.

107. *Letter #2* was intended as marketing material.

108. *Letter #2* was intended to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which the CVS could fulfill to their financial advantage.

109. CVS used Plaintiff's name for financial gain without his permission or consent.

110. A third-party provided undisclosed marketing assistance to CVS Pharmacy.
111. CVS received financial assistance from a third-party in sending *Letter #1* and *Letter #2* to Plaintiff's medical provider.
112. As a result of sending letters, like *Letter #1* and *Letter #2*, CVS received financial benefit and profit.
113. CVS routinely engages in the scheme outlined above.
114. CVS used Plaintiff's name for financial gain without his permission or consent.
115. CVS misappropriated Plaintiff's name for financial gain as part of their marketing plan.
116. CVS used Plaintiff's name in *Letter #1* and *Letter #2* as part of its attempt to increase their profits.
117. CVS used Plaintiff's name despite his lack of permission because they wanted to profit from their marketing scheme.
118. CVS has sent similar Request to Close Potential Gap in Therapy letters to Class Members' Physicians.
119. CVS has sent similar Request to Close Potential Gap in Therapy letters to Class Members' Physicians as part of its marketing scheme.
120. CVS has similarly falsely used Class Members' names for financial gain without the Class Members' permission or consent.
121. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have been harmed.
122. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have suffered financial detriment.
123. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have suffered a breach in their interest in privacy.

124. As a direct result of the acts and omissions of CVS, CVS has profited from the unauthorized use of Plaintiff's and Class Members' names.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for breach of privacy via their unlawful appropriation of Plaintiff's name and/or likeness and award damages to adequately compensate Plaintiff and the Class.

COUNT IV
Tortious Misappropriation of Private and Personal Information

125. Plaintiff repeats and re-alleges the allegations set forth above.

126. Plaintiff did not authorize CVS's appropriation of his personal and private information for commercial purposes as alleged herein.

127. Class Members did not authorize CVS's appropriation of their personal and private information for commercial purposes as alleged herein.

128. CVS's scheme allowed CVS to misappropriate Plaintiff's and the Class's personal and confidential information for substantial financial or other consideration in a manner which violated the Plaintiff's and the Class's right of privacy and to be left alone.

129. CVS's scheme was accomplished intentionally, recklessly or with negligent disregard for Plaintiff's and the Class's right of privacy.

130. As a result of CVS's scheme, Plaintiff and the Class have suffered, or are likely to suffer, damages, including, *inter alia*, invasion of their right to privacy, CVS's financial gain and/or invasion of another legally protected interest.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter judgment against CVS for its tortious misappropriation of private and personal information and award damages to adequately compensate Plaintiff and the Class.

COUNT V
VIOLATION OF M.G.L. c. 93A, § 2

131. Plaintiff repeats and re-alleges the allegations set forth above.
132. CVS's practice of sending *Letter #1* and *Letter #2* was unfair and/or deceptive.
133. CVS's practice of sending *Letter #1* and *Letter #2* caused Tashjian damages in the form of false information being entered into his medical file.
134. CVS's practice of sending *Letter #1* and *Letter #2* was done willfully and/or knowingly.
135. CVS's practice of sending *Letter #1* and *Letter #2* constitutes a violation of M.G.L. c. 93A.
136. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the identity of the pharmacist purportedly sending the letters.
137. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the identity of the pharmacist who purportedly counseled the Class Member.
138. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the date upon which the Class Member purportedly requested that a CVS pharmacist send such correspondence to the Class Members' Physicians.
139. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians failed to reveal to the patient that CVS was making a net profit each time it sent the subject correspondence.
140. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians failed to reveal to the patient that CVS realizes a profit when, as a result of sending the subject correspondence, an additional prescription is fulfilled at CVS.

141. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members Physicians, as set forth herein, deprived Class Members of critical information that Class Members would need to reasonably evaluate any purported recommendations/advice contained in the Request to Close Potential Gap in Therapy letters.
142. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was unfair and/or deceptive.
143. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, constitutes an unfair and/or deceptive single course of conduct.
144. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, was done without Class Members' authority.
145. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, was done without Class Members' express written authority.
146. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done by means of a computerized system which did not utilize the professional judgment of a pharmacist.
147. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted false, deceptive, and/or misleading advertising.
148. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted an activity in nonconformity with federal, state and municipal laws, ordinances and/or regulations.

149. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted a fraudulent and deceptive act in violation of 247 CMR 9.01.
150. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was not undertaken as part of a Collaborative Drug Therapy Management Plan.
151. CVS's practice of sending Request to Close Potential Gap in Therapy letters was not undertaken under the supervision of a physician.
152. CVS's practice of sending Request to Close Potential Gap in Therapy letters did not constitute counseling to a patient.
153. CVS did not provide Class Members with a copy of the Request to Close Potential Gap in Therapy letters sent to their respective Prescribers.
154. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done willfully and/or knowingly.
155. CVS's practice of sending Request to Close Potential Gap in Therapy letter to Class Members' Physicians constituted a violation of M.G.L. c. 93A.
156. CVS's practice of sending false information/representations to Class Members' Physicians constituted a violation of M.G.L. c. 93A.
157. CVS's practice of sending false information to Class Members' Physicians was unfair and/or deceptive.
158. CVS's practice of sending false information to Class Members' Physicians caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
159. CVS's practice of sending false information to Class Members' Physicians was done willfully and/or knowingly.

160. CVS's breach of duty of confidentiality to Plaintiff and the Class Members was unfair and/or deceptive.
161. CVS's breach of duty of confidentiality to Plaintiff and the Class Members caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
162. CVS's breach of duty of confidentiality to Plaintiff and the Class Members was done willfully and/or knowingly.
163. CVS's breach of duty of confidentiality to Plaintiff and the Class Members constitutes violations of M.G.L. c. 93A.
164. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent was unfair and/or deceptive.
165. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
166. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent was done willfully and/or knowingly.
167. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent constituted violations of M.G.L. c. 93A.

WHEREFORE, Tashjian respectfully requests that this court enter Judgment against CVS for its willful and knowing violations of M.G.L. c. 93A, § 2 and that the court award multiple damages, costs and attorneys' fees to adequately compensate Tashjian and the Class.

COUNT VI
DECLARATORY JUDGMENT

168. Plaintiff repeats and re-alleges the allegations set forth above.
169. There exists an actual controversy as to whether CVS had a duty to comply with the mandates of Federal and/or Massachusetts Law when ensuring the confidentiality and security of patients' private information.
170. There exists an actual controversy as to whether CVS owed Plaintiff and the Class a fiduciary duty to maintain the security and confidentiality of their private information.
171. There exists an actual controversy as to whether CVS is responsible for the acts and omissions of employees and agents under the doctrine of *respondeat superior*.
172. There exists an actual controversy as to whether CVS's unauthorized dissemination of Plaintiff and Class Members' personal information constituted unauthorized disclosures.
173. There exists an actual controversy as to whether CVS breached its duties to Plaintiff and the Class by failing to maintain the security and confidentiality of their personal information.
174. Plaintiff and the Class are entitled to a declaration that CVS owed Plaintiff and the Class a fiduciary duty to maintain the security and confidentiality of their personal information.
175. Plaintiff and the Class are entitled to a declaration as to what exactly CVS's duties to Plaintiff and Class Members are/were in regard to ensuring the confidentiality and security of their personal information.
176. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein are unfair and deceptive.
177. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein are in violation of M.G.L. c. 93A.

178. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein were committed willfully, knowingly, and/or in bad faith.

179. Plaintiff and the Class are entitled to a declaration that CVS breached its duties to Plaintiff and the Class Members.

WHEREFORE, Plaintiff and the Class request that this Honorable Court set forth, by way of declaratory judgment, CVS's duties to Plaintiff and Class Members with regard to ensuring the confidentiality and security of patients' personal information.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and other similarly situated individuals, demand judgment against CVS as follows:

- A. An order determining that this action is a proper class action, and certifying Plaintiff as representative of the putative Class;
- B. An order appointing Plaintiff's counsel as competent legal representatives of the putative Class;
- C. An order determining that the acts and omissions of CVS as described above constitute violations of M.G.L. c. 214, § 3A, and M.G.L. c. 93A;
- D. An order determining that the acts and omissions of CVS as described herein constitute Breach of the Fiduciary Duty of Confidentiality, Negligence, Breach of Privacy, and Tortious Misappropriation of Private and Personal Information.
- E. An order requiring CVS to disgorge any profit it realized as a result of sending the Request to Close Potential Gap in Therapy letters to Class Members' Physicians;
- F. An order awarding Plaintiff and the Class damages, together with interest, costs, and reasonable attorneys' fees;

- G. An order determining the appropriate statute of limitations applicable to each count of this action;
- H. An order awarding Plaintiff an appropriate stipend for acting as class representative; and
- I. An order awarding Plaintiff and the Class any further relief as this Court may deem just and appropriate.

JURY DEMAND

Plaintiff, on behalf of himself and all others similarly situated, hereby demand trial by jury on all counts of this Complaint, which are triable by a jury.

Respectfully submitted,
Plaintiff, by his attorneys,

DATED: April 24, 2019



Robert E. Mazow, Esq.
(BBO# 567507)
rmazow@forrestlamothe.com
Michael C. Forrest, Esq.
(BBO# 681401)
mforrest@forrestlamothe.com
Forrest, LaMothe, Mazow,
McCullough, Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, MA 01970
(617) 231-7829

EXHIBIT A

CVS/pharmacy



**RESPONSE REQUESTED:
REQUEST TO CLOSE POTENTIAL GAP IN THERAPY**

PRESCRIBER:

Name: FOUAD AOUDE

Address:

Phone:

Fax:

From: CVS/pharmacy

Store # 1852

Address: 67D MAIN ST.
MEDWAY, MA 02053

Phone: 508-533-6771

Fax: 508-533-9475

PATIENT:

Name: TASHJIAN, CHARLES

DOB:

Address:

Phone:

PRIOR THERAPY:

Dear Prescriber,

We spoke to your patient about diabetes care and noticed your patient has not filled a statin therapy at CVS pharmacy in the last 180 days.

Your patient would like us to reach out on their behalf to determine if it is appropriate to start a statin therapy. Please send a new prescription for statin therapy if it is appropriate.

Thank you in advance for taking the time to review this information.

Sincerely,

Your local CVS Pharmacist

Pharmacist Comments:

RESPONSE REQUESTED:

Please send a new prescription for the requested therapy, if appropriate (refer to store info above)

- OR -

Please indicate your decision below and fax back to: 508-533-9475

Will discuss with patient at next visit

Not clinically appropriate for this patient

MD Comments:

The information contained in this electronic message as well as any attachments to this message are intended for the exclusive use of the intended recipient and may contain confidential or privileged information. If you are not the intended recipient, please destroy all copies of this message as well as its attachments and advise the sender immediately. The recipient of this fax may make a request to opt-out of receiving future fax transmissions from CVS/Pharmacy. There are numerous ways you may opt-out: The recipient may call the toll-free number at 1-800-SHOPCVS and/or fax the opt-out request to 101 652 0693. The recipient may also send an opt-out request via email to do_not_call@cvscaremark.com. CVS/Pharmacy is required to honor an opt-out request within thirty days of receipt.

FOR CVS USE ONLY:

NMRX1

29000000003505901574

REQUEST TO CLOSE GAP IN THERAPY

EXHIBIT B

CVS/pharmacy



RESPONSE REQUESTED:
REQUEST TO CLOSE POTENTIAL GAP IN THERAPY

PRESCRIBER:

Name: FOUAD AOUDE

Address:

Phone:

Fax:

From: CVS/pharmacy

Store # 1852

Address: 67D MAIN ST.
MEDWAY, MA 02053

Phone: 508-533-6771

Fax: 508-533-9475

PATIENT:

Name: TASHJIAN, CHARLES

DOB:

Address:

Phone:

PRIOR THERAPY:

Dear Prescriber,

We spoke to your patient about diabetes care and noticed your patient has not filled a statin therapy at CVS pharmacy in the last 180 days.

Your patient would like us to reach out on their behalf to determine if it is appropriate to start a statin therapy. Please send a new prescription for statin therapy if it is appropriate.

Thank you in advance for taking the time to review this information.

Sincerely,

Your local CVS Pharmacist

Pharmacist Comments:

RESPONSE REQUESTED:

Please send a new prescription for the requested therapy, if appropriate (refer to store info above)

- OR -

Please indicate your decision below and fax back to: 508-533-9475

Will discuss with patient at next visit

Not clinically appropriate for this patient

MD Comments:

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FOR CVS USE ONLY:

NMRX1

29000000003636545542

REQUEST TO CLOSE GAP IN THERAPY

Commonwealth of Massachusetts
County of Suffolk
The Superior Court

CIVIL DOCKET#: SUCV2019-0655-BLS1

Notified 03-18-19 (NS)
- M&M/R.E.M.
- FLMM&Y&Y/M.C.F.

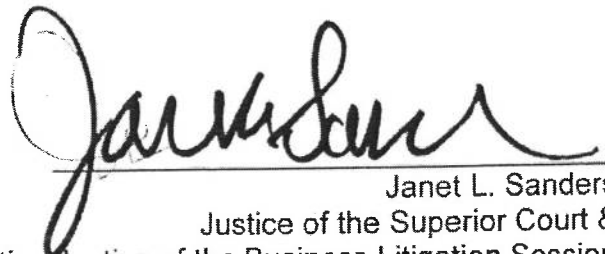
Case: Tashjian v. CVS Pharmacy, Inc. et al.

**NOTICE OF TRANSFER TO
BUSINESS LITIGATION SESSION**

Upon review, the court orders this case transferred to the Business Litigation Session (BLS) and assigned to BLS1. In the future, all parties must include the initials "BLS1" at the end of the docket number on all filings, as shown above.

Counsel shall discuss with their clients and with opposing counsel whether the parties will participate in the BLS Discovery Project (counsel are directed to <http://www.mass.gov/courts/court-info/trial-court/sc/sc-bls-gen.html> for more information on the Project). Counsel may indicate their respective client's participation by completing, filing and serving the attached form.

Dated: 3/15/19



Janet L. Sanders
Justice of the Superior Court &
Administrative Justice of the Business Litigation Session



Forrest, LaMothe, Mazow,
McCullough, Yasi & Yasi, P.C.

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(617) 517-3271 Fax

Chicago, IL:
(312) 261-5557
(617) 517-3271 Fax

PLEASE ADDRESS ALL
CORRESPONDENCE
TO THE SALEM,
MASSACHUSETTS
ADDRESS

www.ForrestLaMothe.com

May 2, 2019

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7018 0360 0000 9640 9678

CVS Health Corporation
Larry J. Merlo – President and CEO
One CVS Drive
Woonsocket, RI 02895

**RE: CHARLES TASHJIAN, on behalf of himself and
all others similarly situated**

**v.
CVS PHARMACY, INC.;
CVS HEALTH CORPORATION;
and CVS CAREMARK, INC.
Civil Action No. SUCV2019-0655-BLS1**

Dear Mr. Merlo:

Enclosed herewith please find a copy of the following documentation:

1. A copy of the *Summons*;
2. A copy of the *Civil Action Cover Sheet*;
3. A copy of the *First Amended Complaint and Demand for Jury Trial*;
and
4. A copy of the *Notice of Transfer to Business Litigation Session*.

This information concerns a lawsuit which has been filed against you in the Suffolk County Superior Court of Massachusetts.

It is requested that you forward the enclosed material to legal counsel for answer within the statutory time period to avoid the entering of a Default Judgment.

Please contact me with any questions or concerns you may have.

Sincerely,

Robert E. Mazow, Esq.

REM:slo
Enclosures

Commonwealth of Massachusetts

SUFFOLK, SS.

CHARLES TASHJIAN, on
behalf of himself and
all others similarly, PLAINTIFF(S),

situated
v.

~~CVS PHARMACY, INC.~~; DEFENDANT(S)
CVS HEALTH CORPORATION; and
CVS CAREMARK, INC. SUMMONS

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. SUCV2019-0655-BLS1

THIS SUMMONS IS DIRECTED TO CVS HEALTH CORPORATION. (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Suffolk Superior Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
 - a. Filing your signed original response with the Clerk's Office for Civil Business, Suffolk Court, 3 Pemberton Square (address), by mail or in person, **AND** Superior
 - b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: 2 Salem Green, Suite 2, Salem, MA 01970
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as counterclaims) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must **specifically** request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

CIVIL ACTION COVER SHEET	DOCKET NUMBER	Trial Court of Massachusetts The Superior Court	
PLAINTIFF(S): <u>CHARLES TASHJIAN, on behalf of himself and all others similarly situated</u> ADDRESS: _____		COUNTY: <u>Suffolk</u>	
ATTORNEY: <u>Robert E. Mazow, Esq.</u> ADDRESS: <u>Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi</u> <u>2 Salem Green, Suite 2</u> <u>Salem, MA 01970</u>	DEFENDANT(S): <u>CVS PHARMACY, INC.;</u> <u>CVS HEALTH CORPORATION; and</u> <u>CVS CAREMARK, INC.</u> ADDRESS: _____	CVS Pharmacy, Inc.: Registered Agent: 155 Federal Street, Suite 700, Boston, MA CVS Health Corporation: One CVS Drive, Woonsocket, RI 02895 CVS Caremark, Inc.: One CVS Drive, Woonsocket, RI 02895	
BBO: <u>#567507</u>			
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)			
CODE NO. <u>A99</u>	TYPE OF ACTION (specify) <u>Other Contract/Business Action</u>	TRACK <u>F</u>	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
*If "Other" please describe: <u>Putative class action against Defendants for violation of privacy laws and unfair business practices.</u>			
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A			
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (attach additional sheets as necessary)			
A. Documented medical expenses to date:			
1. Total hospital expenses		\$	_____
2. Total doctor expenses		\$	_____
3. Total chiropractic expenses		\$	_____
4. Total physical therapy expenses		\$	_____
5. Total other expenses (describe below)		\$	_____
	Subtotal (A):	\$	_____
B. Documented lost wages and compensation to date \$ _____ C. Documented property damages to dated \$ _____ D. Reasonably anticipated future medical and hospital expenses \$ _____ E. Reasonably anticipated lost wages \$ _____ F. Other documented items of damages (describe below) \$ _____			
G. Briefly describe plaintiff's injury, including the nature and extent of injury:			TOTAL (A-F): \$ _____
CONTRACT CLAIMS (attach additional sheets as necessary)			
Provide a detailed description of claim(s): <u>Putative Class action arising out of Defendants' unfair and deceptive prescription marketing plan. *</u>			TOTAL: \$ <u>\$1,000,000.00</u>
Signature of Attorney/Pro Se Plaintiff: X		Date: <u>02/25/19</u>	
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.			
CERTIFICATION PURSUANT TO SJC RULE 1:18			
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.			
Signature of Attorney of Record: X			Date: <u>02/25/19</u>

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA. NO. SUCV2019-0655-BLS1

CHARLES TASHJIAN, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

CVS PHARMACY, INC.; CVS HEALTH
CORPORATION; and CVS CAREMARK
INC.;

Defendants.

**PLAINTIFF'S FIRST AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff, Charles Tashjian ("Tashjian" or "Plaintiff") alleges the following facts upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters.

Preliminary Statement

1. Plaintiff brings this action to obtain monetary, and other appropriate relief, for himself and Members of the Class (defined below) as a result of the unlawful practices of Defendants, CVS Pharmacy, Inc., CVS Health Corporation, and CVS Caremark, Inc. (collectively "CVS" or "Defendants").
2. CVS is in the business of, among other things, selling prescription medicine to customers across the country, including in Massachusetts. In doing so, CVS engaged in a scheme to solicit prescriptions from customers' physicians ("Prescribers" or "Physicians") which CVS could then sell to customers.

3. As part of its scheme, CVS falsely represented to Prescribers that, among other things, CVS had spoken with its customers, and that its customers expressly requested that CVS contact the Prescribers to obtain certain prescription medications.
4. CVS's scheme was perpetrated even though CVS knew that CVS's pharmacists had not, spoken to the customers about contacting the Prescribers and that the customers had not requested that CVS contact the Prescribers.
5. As part of CVS's scheme, CVS never notified the Prescribers or the Patient that CVS was being compensated for sending the letters, nor did the scheme notify the medical provider that CVS had not spoken with the consumer and that the consumer did not request that the CVS send the letters.
6. CVS's scheme violated the privacy rights and other common law rights of Plaintiff and the Class and CVS misappropriated, for their own commercial purpose and without consumer consent or other authorization, the confidential and personal consumer medical prescription information which had been entrusted by customers to CVS.
7. Upon information and belief, as part of CVS's Scheme, CVS appears to have also disclosed confidential patient information about its customers to unauthorized third-parties who provided direct marketing services to CVS.
8. CVS's scheme was not disclosed to Prescribers (or customers) and instead said scheme was perpetrated under the guise of administering a drug compliance program, which provided a cloak of legitimacy, when in fact, the scheme was simply a direct mail marketing and advertising scheme designed to increase sales of statin prescriptions and other medications.
9. CVS's scheme resulted in damages to Plaintiff and other similarly situated individuals.

10. CVS's scheme caused false statements (purportedly statements of the consumer) to enter customers' medical file which, among other things, dangerously suggested that the customers sought medical treatment that they did not seek.
11. Further, CVS's scheme resulted in it reaping significant financial benefit by selling prescription medicine that would otherwise not have been fulfilled. Finally, CVS's scheme resulted in it receiving financially beneficially advertising support.

Parties

12. Plaintiff, Charles Tashjian is a resident of Uxbridge, Massachusetts.
13. Defendants, CVS Pharmacy Inc. is a corporation formed under the laws of Rhode Island and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895, and a registered agent at 155 Federal Street, Suite 700, Boston, MA.
14. Defendants, CVS Health Corporation is a corporation formed under the laws of Delaware and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895.
15. Defendants, CVS Caremark, Inc. is a corporation formed under the laws of Delaware and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895.

Jurisdiction and Venue

16. This Court has personal jurisdiction over Defendants pursuant to M.G.L. c. 223A, § 3, because, *inter alia*, Plaintiff's claims arise out of Defendants' regular transaction of business throughout the Commonwealth of Massachusetts, including in Suffolk County.
17. This Court has jurisdiction over the claims contained herein as they relate to Plaintiff and the other similarly situated individuals because the claims for damages for Plaintiff and all other similarly situated individuals exceed twenty-five thousand dollars (\$25,000.00).

18. Venue in this matter is proper as CVS Pharmacy, Inc. maintains a registered agent located in Suffolk County, Massachusetts. Venue in this matter is further proper as CVS Health Corporation, and CVS Caremark, Inc. are corporations operating in the Commonwealth.

Factual Allegations

19. Plaintiff repeats and re-alleges the allegations set forth above.
20. Plaintiff has utilized CVS Pharmacy (Store #1852) ("CVS Pharmacy") located at 67D Main St., Medway, MA for his prescription fulfillment services for approximately the last 10 years.
21. In June of 2018, CVS Pharmacy sent the document, attached hereto as **Exhibit A**, to Plaintiff's medical provider, Dr. Fouad Aoude ("*Letter #1*").
22. *Letter #1* stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
23. *Letter #1* falsely stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
24. *Letter #1* stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
25. *Letter #1* falsely stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
26. Plaintiff does not have diabetes.
27. Plaintiff never spoke with any employee, agent or servant of CVS Pharmacy about diabetes care.
28. Plaintiff did not ask any employee, agent or servant of CVS Pharmacy to contact his medical provider regarding statin therapy.
29. *Letter #1* was intended by CVS to serve as marketing material.
30. *Letter #1* was intended by CVS to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which CVS could fulfill to their financial advantage.
31. *Letter #1* is now part of Plaintiff's medical file.
32. The statin manufacturer provided marketing assistance to CVS Pharmacy.

33. CVS received financial assistance in sending its *Letter #1* to Plaintiff's medical provider.
34. As a result of sending letters, like *Letter #1*, CVS received financial benefit and profit.
35. In November of 2018, CVS Pharmacy sent the document, attached hereto as Exhibit B, to Plaintiff's medical provider, Dr. Fouad Aoude ("*Letter #2*").
36. *Letter #2* stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
37. *Letter #2* falsely stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
38. *Letter #2* stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.

39. *Letter #2* falsely stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
40. *Letter #2* was intended by CVS as marketing material.
41. *Letter #2* was intended by CVS to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which the CVS could fulfill to its financial advantage.
42. CVS used Plaintiff's name for financial gain without his permission or consent.
43. *Letter #2* is now part of Plaintiff's medical file.
44. The statin manufacturer provided marketing assistance to CVS Pharmacy.
45. CVS received financial assistance in sending *Letter #2* to Plaintiff's medical provider.
46. As a result of sending letters, like *Letter #2*, CVS received financial benefit and profit.
47. CVS used Plaintiff's name in *Letter #1* and *Letter #2* as part of its attempt to increase CVS's profits.
48. CVS did not request to use Plaintiff's name prior to using it CVS knew he would reject the request.
49. CVS used Plaintiff's name despite his lack of permission because CVS wanted to profit from their marketing scheme.

50. CVS routinely engages in the scheme outlined above.
 51. CVS used Plaintiff's name for financial gain without his permission or consent.
 52. CVS misappropriated Plaintiff's name for financial gain as part of their marketing plan.
 53. CVS is a covered entity for the purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
 54. CVS has vast stores of personal and private consumer medical prescription information.
 55. CVS reviewed personal and private consumer information to determine on which customers behalf CVS would target their marketing materials.
-
56. CVS provided prescription fulfillment services to the Plaintiff.
 57. CVS owed a fiduciary duty to Plaintiff.
 58. CVS breached its fiduciary duty to Plaintiff by sending false information to Plaintiff's medical provider.
 59. CVS breached its fiduciary duty to Plaintiff by failing to disclose to Plaintiff's medical provider that CVS was receiving financial support for sending the letter to Plaintiff's medical provider.
 60. CVS breached its fiduciary duty and caused Plaintiff harm in the form of increased risk of receiving medical treatment based upon the false statement CVS caused to be placed in Plaintiff's medical records.
 61. At all relevant times, CVS was engaged in trade or commerce.
 62. Plaintiff alleges that the acts and omissions described herein were unfair and/or deceptive.
 63. Plaintiff alleges that the acts and omissions described herein were committed willfully and/or knowingly.
 64. On February 25, 2019, Plaintiff served the Defendant with a class-wide consumer protection act demand letter.

65. On April 5, 2019, CVS responded to Plaintiff's class-wide consumer protection act demand letter.

66. CVS's response to Plaintiff's class-wide consumer protection act demand letter was unreasonable.

Class Allegations

67. Plaintiff repeats and re-alleges the allegations set forth above.

68. Plaintiff brings this action pursuant to Mass. R. Civ. P. 23 and M.G.L. c. 93A on behalf of himself and a class consisting of:

All customers of CVS on whose behalf CVS sent a Request to Close Potential Gap in Therapy letter.

69. All of the persons or entities described in the preceding paragraph are referred to herein as the "Class" or "Members". Plaintiff reserves his right to amend the definition.

70. This action is properly maintainable as a class action.

71. The Members of the Class are so numerous that joinder of all Members would be impracticable.

72. Plaintiff's claims are typical of the claims of other Members of the Class, as all Members of the Class have been similarly affected by CVS's unlawful acts and omissions.

73. Plaintiff will fairly and adequately protect the interests of the Class and is represented by counsel experienced in complex class action litigation.

74. Common questions of law and fact exist and predominate over any questions of law or fact which may affect only individual Class Members. Common questions of law and fact include:

- A. Whether the acts and omissions of CVS constituted violations of M.G.L. c. 214, § 3A and/or M.G.L. c. 93A;
- B. Whether the acts and omissions of CVS were unfair and/or deceptive;
- C. Whether the acts and omissions of CVS were committed willfully and/or knowingly;

- D. Whether the acts and omissions of CVS constituted: (1) Negligence; (2) Breach of the Fiduciary Duty of Confidentiality; (3) Breach of Privacy; and/or (4) Tortious Misappropriate of Private and Personal Information;
- E. Whether CVS is liable for the acts and omissions of their employees and agents;
- F. What is the applicable statute of limitations on any and all causes of action; and
- G. Whether Plaintiff and the Class are entitled to damages, and if so, the proper measure of damages.

75. A class action will cause an orderly and expeditious administration of the claims of Class Members.

76. A class action will foster economies of time, effort and expense to ensure uniformity of decisions, presenting the most efficient manner of adjudicating the claims set forth herein.

COUNT I
Negligence

77. Plaintiff repeats and re-alleges the allegations set forth above.

78. CVS had a legal duty to not create and cause false information to enter Plaintiff's medical file.

79. CVS had a duty to not make false statements to Plaintiff's medical provider.

80. CVS breached its duty by submitting false information to Plaintiff's medical provider.

81. CVS's breach of its duty has caused Plaintiff harm.

82. CVS had a legal duty to not create and cause false information to enter Class Members' medical records.

83. CVS had a duty to not make false statements to Class Members' Physicians.

84. CVS breached its duty by submitting false information to Class Members' Physicians.

85. All the aforementioned acts and omissions of CVS were committed negligently.

86. All of the aforementioned acts and omissions constitute breaches of CVS's duties under Federal and/or Massachusetts law.
87. CVS's breach of its duty has caused Plaintiff and members of the Class harm.
88. CVS had a fiduciary duty to Plaintiff and Class Members.
89. As a direct and proximate cause of CVS's negligence, false information was sent to Plaintiff's medical provider and placed in Plaintiff's medical record.
90. As a direct and proximate cause of CVS's negligence, Plaintiff and the Class have suffered damages, including but not limited to, increased risk of medical risk and medical mistakes.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for its negligence and award damages to adequately compensate Plaintiff and the Class.

COUNT II
Breach of Fiduciary Duty of Confidentiality

91. Plaintiff repeats and re-alleges the allegations set forth above.
92. CVS is a medical provider.
93. CVS is a covered entity under the Health Insurance Portability and Accountability Act.
94. CVS provided prescription fulfillment services to the Plaintiff.
95. CVS owed a fiduciary duty to Plaintiff.
96. CVS breached its fiduciary duty to Plaintiff by sending false information to Plaintiff's physician.
97. CVS breached its fiduciary duty to Plaintiff by failing to disclose to Plaintiff's physician that CVS was receiving financial support for sending the letter to Plaintiff's physician.
98. CVS provided prescription fulfillment services to Class Members.
99. CVS owed a fiduciary duty to Class Members.

100. CVS breached its fiduciary duty to Class Members by sending false information to Class Members' Physicians.
101. CVS breached its fiduciary duty to Class Members by failing to disclose to Class Members' Physicians that CVS was receiving financial support for sending the letter to Class Members' Physicians.
102. CVS's breach of its fiduciary duty to Plaintiff and Class Members caused Plaintiff and Class Members harm in the form of increased risk of receiving medical treatment based upon the false statements the Defendant caused to be placed in Plaintiff's and Class Members' medical records.
-
103. CVS's breach of its fiduciary duty to Plaintiff and Class Members has caused Plaintiff and Class Members to suffer harm, including but not limited to financial harm.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for breach of its fiduciary duty and award damages to adequately compensate Plaintiff and the Class.

COUNT III
Breach of Privacy – Appropriation of Plaintiff's Name and/or Likeness
Violation of M.G.L. c. 214, § 3A

104. Plaintiff repeats and re-alleges the allegations set forth above.
105. *Letter #1* was intended as marketing material.
106. *Letter #1* was intended to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which CVS could fulfill to their financial advantage.
107. *Letter #2* was intended as marketing material.
108. *Letter #2* was intended to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which the CVS could fulfill to their financial advantage.
109. CVS used Plaintiff's name for financial gain without his permission or consent.

110. A third-party provided undisclosed marketing assistance to CVS Pharmacy.
111. CVS received financial assistance from a third-party in sending *Letter #1* and *Letter #2* to Plaintiff's medical provider.
112. As a result of sending letters, like *Letter #1* and *Letter #2*, CVS received financial benefit and profit.
113. CVS routinely engages in the scheme outlined above.
114. CVS used Plaintiff's name for financial gain without his permission or consent.
115. CVS misappropriated Plaintiff's name for financial gain as part of their marketing plan.
116. CVS used Plaintiff's name in *Letter #1* and *Letter #2* as part of its attempt to increase their profits.
117. CVS used Plaintiff's name despite his lack of permission because they wanted to profit from their marketing scheme.
118. CVS has sent similar Request to Close Potential Gap in Therapy letters to Class Members' Physicians.
119. CVS has sent similar Request to Close Potential Gap in Therapy letters to Class Members' Physicians as part of its marketing scheme.
120. CVS has similarly falsely used Class Members' names for financial gain without the Class Members' permission or consent.
121. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have been harmed.
122. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have suffered financial detriment.
123. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have suffered a breach in their interest in privacy.

124. As a direct result of the acts and omissions of CVS, CVS has profited from the unauthorized use of Plaintiff's and Class Members' names.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for breach of privacy via their unlawful appropriation of Plaintiff's name and/or likeness and award damages to adequately compensate Plaintiff and the Class.

COUNT IV
Tortious Misappropriation of Private and Personal Information

125. Plaintiff repeats and re-alleges the allegations set forth above.

126. Plaintiff did not authorize CVS's appropriation of his personal and private information for commercial purposes as alleged herein.

127. Class Members did not authorize CVS's appropriation of their personal and private information for commercial purposes as alleged herein.

128. CVS's scheme allowed CVS to misappropriate Plaintiff's and the Class's personal and confidential information for substantial financial or other consideration in a manner which violated the Plaintiff's and the Class's right of privacy and to be left alone.

129. CVS's scheme was accomplished intentionally, recklessly or with negligent disregard for Plaintiff's and the Class's right of privacy.

130. As a result of CVS's scheme, Plaintiff and the Class have suffered, or are likely to suffer, damages, including, *inter alia*, invasion of their right to privacy, CVS's financial gain and/or invasion of another legally protected interest.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter judgment against CVS for its tortious misappropriation of private and personal information and award damages to adequately compensate Plaintiff and the Class.

COUNT V
VIOLATION OF M.G.L. c. 93A, § 2

131. Plaintiff repeats and re-alleges the allegations set forth above.
132. CVS's practice of sending *Letter #1* and *Letter #2* was unfair and/or deceptive.
133. CVS's practice of sending *Letter #1* and *Letter #2* caused Tashjian damages in the form of false information being entered into his medical file.
134. CVS's practice of sending *Letter #1* and *Letter #2* was done willfully and/or knowingly.
135. CVS's practice of sending *Letter #1* and *Letter #2* constitutes a violation of M.G.L. c. 93A.
136. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the identity of the pharmacist purportedly sending the letters.
137. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the identity of the pharmacist who purportedly counseled the Class Member.
138. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the date upon which the Class Member purportedly requested that a CVS pharmacist send such correspondence to the Class Members' Physicians.
139. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians failed to reveal to the patient that CVS was making a net profit each time it sent the subject correspondence.
140. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians failed to reveal to the patient that CVS realizes a profit when, as a result of sending the subject correspondence, an additional prescription is fulfilled at CVS.

141. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members Physicians, as set forth herein, deprived Class Members of critical information that Class Members would need to reasonably evaluate any purported recommendations/advice contained in the Request to Close Potential Gap in Therapy letters.
142. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was unfair and/or deceptive.
143. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, constitutes an unfair and/or deceptive single course of conduct.
144. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, was done without Class Members' authority.
145. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, was done without Class Members' express written authority.
146. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done by means of a computerized system which did not utilize the professional judgment of a pharmacist.
147. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted false, deceptive, and/or misleading advertising.
148. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted an activity in nonconformity with federal, state and municipal laws, ordinances and/or regulations.

149. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted a fraudulent and deceptive act in violation of 247 CMR 9.01.
150. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was not undertaken as part of a Collaborative Drug Therapy Management Plan.
151. CVS's practice of sending Request to Close Potential Gap in Therapy letters was not undertaken under the supervision of a physician.
152. CVS's practice of sending Request to Close Potential Gap in Therapy letters did not constitute counseling to a patient.
-
153. CVS did not provide Class Members with a copy of the Request to Close Potential Gap in Therapy letters sent to their respective Prescribers.
154. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done willfully and/or knowingly.
155. CVS's practice of sending Request to Close Potential Gap in Therapy letter to Class Members' Physicians constituted a violation of M.G.L. c. 93A.
156. CVS's practice of sending false information/representations to Class Members' Physicians constituted a violation of M.G.L. c. 93A.
157. CVS's practice of sending false information to Class Members' Physicians was unfair and/or deceptive.
158. CVS's practice of sending false information to Class Members' Physicians caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
159. CVS's practice of sending false information to Class Members' Physicians was done willfully and/or knowingly.

160. CVS's breach of duty of confidentiality to Plaintiff and the Class Members was unfair and/or deceptive.
161. CVS's breach of duty of confidentiality to Plaintiff and the Class Members caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
162. CVS's breach of duty of confidentiality to Plaintiff and the Class Members was done willfully and/or knowingly.
163. CVS's breach of duty of confidentiality to Plaintiff and the Class Members constitutes violations of M.G.L. c. 93A.

164. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent was unfair and/or deceptive.
165. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
166. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent was done willfully and/or knowingly.
167. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent constituted violations of M.G.L. c. 93A.

WHEREFORE, Tashjian respectfully requests that this court enter Judgment against CVS for its willful and knowing violations of M.G.L. c. 93A, § 2 and that the court award multiple damages, costs and attorneys' fees to adequately compensate Tashjian and the Class.

COUNT VI
DECLARATORY JUDGMENT

168. Plaintiff repeats and re-alleges the allegations set forth above.
169. There exists an actual controversy as to whether CVS had a duty to comply with the mandates of Federal and/or Massachusetts Law when ensuring the confidentiality and security of patients' private information.
170. There exists an actual controversy as to whether CVS owed Plaintiff and the Class a fiduciary duty to maintain the security and confidentiality of their private information.
171. There exists an actual controversy as to whether CVS is responsible for the acts and omissions of employees and agents under the doctrine of *respondeat superior*.
172. There exists an actual controversy as to whether CVS's unauthorized dissemination of Plaintiff and Class Members' personal information constituted unauthorized disclosures.
173. There exists an actual controversy as to whether CVS breached its duties to Plaintiff and the Class by failing to maintain the security and confidentiality of their personal information.
174. Plaintiff and the Class are entitled to a declaration that CVS owed Plaintiff and the Class a fiduciary duty to maintain the security and confidentiality of their personal information.
175. Plaintiff and the Class are entitled to a declaration as to what exactly CVS's duties to Plaintiff and Class Members are/were in regard to ensuring the confidentiality and security of their personal information.
176. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein are unfair and deceptive.
177. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein are in violation of M.G.L. c. 93A.

178. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein were committed willfully, knowingly, and/or in bad faith.

179. Plaintiff and the Class are entitled to a declaration that CVS breached its duties to Plaintiff and the Class Members.

WHEREFORE, Plaintiff and the Class request that this Honorable Court set forth, by way of declaratory judgment, CVS's duties to Plaintiff and Class Members with regard to ensuring the confidentiality and security of patients' personal information.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and other similarly situated individuals, demand judgment against CVS as follows:

- A. An order determining that this action is a proper class action, and certifying Plaintiff as representative of the putative Class;
- B. An order appointing Plaintiff's counsel as competent legal representatives of the putative Class;
- C. An order determining that the acts and omissions of CVS as described above constitute violations of M.G.L. c. 214, § 3A, and M.G.L. c. 93A;
- D. An order determining that the acts and omissions of CVS as described herein constitute Breach of the Fiduciary Duty of Confidentiality, Negligence, Breach of Privacy, and Tortious Misappropriation of Private and Personal Information.
- E. An order requiring CVS to disgorge any profit it realized as a result of sending the Request to Close Potential Gap in Therapy letters to Class Members' Physicians;
- F. An order awarding Plaintiff and the Class damages, together with interest, costs, and reasonable attorneys' fees;

- G. An order determining the appropriate statute of limitations applicable to each count of this action;
- H. An order awarding Plaintiff an appropriate stipend for acting as class representative; and
- I. An order awarding Plaintiff and the Class any further relief as this Court may deem just and appropriate.

JURY DEMAND

Plaintiff, on behalf of himself and all others similarly situated, hereby demand trial by jury on all counts of this Complaint, which are triable by a jury.

Respectfully submitted,
Plaintiff, by his attorneys,

DATED: April 24, 2019



Robert E. Mazow, Esq.
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2 Salem Green, Suite 2
Salem, MA 01970
(617) 231-7829

EXHIBIT A

CVS/pharmacy



RESPONSE REQUESTED:
REQUEST TO CLOSE POTENTIAL GAP IN THERAPY

PRESCRIBER:

Name: FOUAD AOUDE

Address:

Phone:

Fax:

From: CVS/pharmacy

Store # 1852

Address: 67D MAIN ST.

MEDWAY, MA 02053

Phone: 508-533-6771

Fax: 508-533-9475

PATIENT:

Name: TASHJJAN, CHARLES

DOB:

Address:

Phone:

PRIOR THERAPY:

Dear Prescriber,

We spoke to your patient about diabetes care and noticed your patient has not filled a statin therapy at CVS pharmacy in the last 180 days.

Your patient would like us to reach out on their behalf to determine if it is appropriate to start a statin therapy. Please send a new prescription for statin therapy if it is appropriate.

Thank you in advance for taking the time to review this information.

Sincerely,

Your local CVS Pharmacist

Pharmacist Comments:

RESPONSE REQUESTED:

Please send a new prescription for the requested therapy, if appropriate (refer to store info above)

- OR -

Please indicate your decision below and fax back to: 508-533-9475

Will discuss with patient at next visit

Not clinically appropriate for this patient

MD Comments:

The information contained in this electronic message as well as any attachments to this message are intended for the exclusive use of the intended recipient and may contain confidential or privileged information. If you are not the intended recipient, please destroy all copies of this message as well as its attachments and advise the sender immediately. The recipient of this fax may make a request to opt-out of receiving future fax transmissions from CVS/Pharmacy. There are numerous ways you may opt-out: The recipient may call the toll-free number at 1-800-530-6369 and/or fax the opt-out request to 401-652-0893. The recipient may also send an opt-out request via email to do_not_call@cvscaremark.com. CVS/Pharmacy is required to honor an opt-out request within thirty days of receipt.

FOR CVS USE ONLY:

NMRX1

29000000003505901574

REQUEST TO CLOSE GAP IN THERAPY

EXHIBIT B

CVS/pharmacy



RESPONSE REQUESTED:
REQUEST TO CLOSE POTENTIAL GAP IN THERAPY

PRESCRIBER:

Name: FOUAD AOUDE

Address:

Phone:

Fax:

From: **CVS/pharmacy**

Store # 1852

Address: 67D MAIN ST.

MEDWAY, MA 02053

Phone: 508-533-6771

Fax: 508-533-9475

PATIENT:

Name: TASHJIAN, CHARLES

DOB:

Address:

Phone:

PRIOR THERAPY:

Dear Prescriber,

We spoke to your patient about diabetes care and noticed your patient has not filled a statin therapy at CVS pharmacy in the last 180 days.

Your patient would like us to reach out on their behalf to determine if it is appropriate to start a statin therapy. Please send a new prescription for statin therapy if it is appropriate.

Thank you in advance for taking the time to review this information.

Sincerely,

Your local CVS Pharmacist

Pharmacist Comments:

RESPONSE REQUESTED:

Please send a new prescription for the requested therapy, if appropriate (refer to store info above)

- OR -

Please indicate your decision below and fax back to: 508-533-9475

Will discuss with patient at next visit

Not clinically appropriate for this patient

MD Comments:

The information contained in this electronic message as well as any attachments to this message are intended for the exclusive use of the intended recipient and may contain confidential or privileged information. If you are not the intended recipient, please destroy all copies of this message as well as its attachments and advise the sender immediately. The recipient of this fax may make a request to opt-out of receiving future fax transmissions from CVS/Pharmacy. There are numerous ways you may opt-out: The recipient may call the toll-free number at 1-800-540-2CVS and/or fax the opt-out request to 401-553-0893. The recipient may also send an opt-out request via email to do_not_call@cvscaremark.com. CVS/Pharmacy is required to honor an opt-out request within thirty days of receipt.

FOR CVS USE ONLY:

NMRX1

29000000003636545542

REQUEST TO CLOSE GAP IN THERAPY

Notified
Commonwealth of Massachusetts
County of Suffolk
The Superior Court

CIVIL DOCKET#: SUCV2019-0655-BLS1

Case: Tashjian v. CVS Pharmacy, Inc. et al.

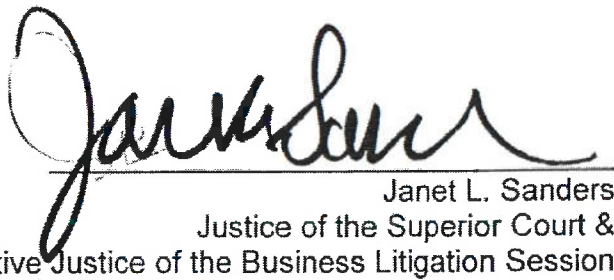
*Notified 03-18-19 (NS)
- M&M/R.E.M.
- FLMM&Y&Y/M.C.F.*

**NOTICE OF TRANSFER TO
BUSINESS LITIGATION SESSION**

Upon review, the court orders this case transferred to the Business Litigation Session (BLS) and assigned to **BLS1**. In the future, all parties must include the initials "BLS1" at the end of the docket number on all filings, as shown above.

Counsel shall discuss with their clients and with opposing counsel whether the parties will participate in the BLS Discovery Project (counsel are directed to <http://www.mass.gov/courts/court-info/trial-court/sc/sc-bls-gen.html> for more information on the Project). Counsel may indicate their respective client's participation by completing, filing and serving the attached form.

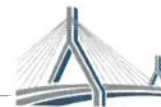
Dated: 3/15/19


Janet L. Sanders
Justice of the Superior Court &
Administrative Justice of the Business Litigation Session



**Forrest, LaMothe, Mazow,
McCullough, Yasi & Yasi, P.C.**

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PLEASE ADDRESS ALL
CORRESPONDENCE
TO THE SALEM,
MASSACHUSETTS
ADDRESS

www.ForrestLaMothe.com

May 2, 2019

*VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7018 0360 0000 9640 9685*

CVS Caremark, Inc.
Larry J. Merlo – President and CEO
One CVS Drive
Woonsocket, RI 02895

**RE: CHARLES TASHJIAN, on behalf of himself and
all others similarly situated
v.
CVS PHARMACY, INC.;
CVS HEALTH CORPORATION;
and CVS CAREMARK, INC.
Civil Action No. SUCV2019-0655-BLS1**

Dear Mr. Merlo:

Enclosed herewith please find a copy of the following documentation:

1. A copy of the *Summons*;
2. A copy of the *Civil Action Cover Sheet*;
3. A copy of the *First Amended Complaint and Demand for Jury Trial*;
and
4. A copy of the *Notice of Transfer to Business Litigation Session*.

This information concerns a lawsuit which has been filed against you in the Suffolk County Superior Court of Massachusetts.

It is requested that you forward the enclosed material to legal counsel for answer within the statutory time period to avoid the entering of a Default Judgment.

Please contact me with any questions or concerns you may have.

Sincerely,

Robert E. Mazow, Esq.

REM:slo
Enclosures

Commonwealth of Massachusetts

SUFFOLK, SS.

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. SUCV2019-0655-BLS1

CHARLES TASHJIAN, on
behalf of himself and
all others similarly PLAINTIFF(S),
situated

v.

CVS PHARMACY, INC.; DEFENDANT(S)
CVS HEALTH CORPORATION; and
CVS CAREMARK, INC. SUMMONS

THIS SUMMONS IS DIRECTED TO CVS CAREMARK, INC. (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Suffolk Superior Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
 - a. Filing your **signed original** response with the Clerk's Office for Civil Business, Suffolk Court, 3 Pemberton Square, Boston, MA 02108 (address), by mail or in person, **AND** Superior
 - b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: 2 Salem Green, Suite 2, Salem, MA 01970
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as **counterclaims**) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must **specifically** request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

CIVIL ACTION COVER SHEET	DOCKET NUMBER	Trial Court of Massachusetts The Superior Court
PLAINTIFF(S): <u>CHARLES TASHJIAN, on behalf of himself and all others similarly situated</u> ADDRESS: _____ _____ _____		COUNTY Suffolk
ATTORNEY: <u>Robert E. Mazow, Esq.</u> ADDRESS: <u>Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi</u> <u>2 Salem Green, Suite 2</u> <u>Salem, MA 01970</u>	DEFENDANT(S): <u>CVS PHARMACY, INC.;</u> <u>CVS HEALTH CORPORATION; and</u> <u>CVS CAREMARK, INC.</u> ADDRESS: _____ <u>CVS Pharmacy, Inc.: Registered Agent: 155 Federal Street, Suite 700, Boston, MA</u> <u>CVS Health Corporation: One CVS Drive, Woonsocket, RI 02895</u> <u>CVS Caremark, Inc.: One CVS Drive, Woonsocket, RI 02895</u>	
BBO: <u>#567507</u>		
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)		
CODE NO. <u>A99</u>	TYPE OF ACTION (specify) <u>Other Contract/Business Action</u>	TRACK <u>F</u>
		HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
*If "Other" please describe: <u>Putative class action against Defendants for violation of privacy laws and unfair business practices.</u>		
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A		
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses	\$	
2. Total doctor expenses	\$	
3. Total chiropractic expenses	\$	
4. Total physical therapy expenses	\$	
5. Total other expenses (describe below)	\$	
	Subtotal (A):	\$
B. Documented lost wages and compensation to date	\$	
C. Documented property damages to dated	\$	
D. Reasonably anticipated future medical and hospital expenses	\$	
E. Reasonably anticipated lost wages	\$	
F. Other documented items of damages (describe below)	\$	
G. Briefly describe plaintiff's injury, including the nature and extent of injury:		TOTAL (A-F): \$
CONTRACT CLAIMS (attach additional sheets as necessary)		
Provide a detailed description of claim(s):		TOTAL: \$
<u>Putative Class action arising out of Defendants' unfair and deceptive prescription marketing plan.</u>		<u>\$1,000,000.00</u>
Signature of Attorney/Pro Se Plaintiff: X		Date: <u>02/25/19</u>
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.		
CERTIFICATION PURSUANT TO SJC RULE 1:18		
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.		
Signature of Attorney of Record: X		Date: <u>02/25/19</u>

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA. NO. SUCV2019-0655-BLS1

CHARLES TASHJIAN, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

CVS PHARMACY, INC.; CVS HEALTH
CORPORATION; and CVS CAREMARK
INC.;

Defendants.

**PLAINTIFF'S FIRST AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff, Charles Tashjian ("Tashjian" or "Plaintiff") alleges the following facts upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters.

Preliminary Statement

1. Plaintiff brings this action to obtain monetary, and other appropriate relief, for himself and Members of the Class (defined below) as a result of the unlawful practices of Defendants, CVS Pharmacy, Inc., CVS Health Corporation, and CVS Caremark, Inc. (collectively "CVS" or "Defendants").
2. CVS is in the business of, among other things, selling prescription medicine to customers across the country, including in Massachusetts. In doing so, CVS engaged in a scheme to solicit prescriptions from customers' physicians ("Prescribers" or "Physicians") which CVS could then sell to customers.

3. As part of its scheme, CVS falsely represented to Prescribers that, among other things, CVS had spoken with its customers, and that its customers expressly requested that CVS contact the Prescribers to obtain certain prescription medications.
4. CVS's scheme was perpetrated even though CVS knew that CVS's pharmacists had not, spoken to the customers about contacting the Prescribers and that the customers had not requested that CVS contact the Prescribers.
5. As part of CVS's scheme, CVS never notified the Prescribers or the Patient that CVS was being compensated for sending the letters, nor did the scheme notify the medical provider that CVS had not spoken with the consumer and that the consumer did not request that the CVS send the letters.
6. CVS's scheme violated the privacy rights and other common law rights of Plaintiff and the Class and CVS misappropriated, for their own commercial purpose and without consumer consent or other authorization, the confidential and personal consumer medical prescription information which had been entrusted by customers to CVS.
7. Upon information and belief, as part of CVS's Scheme, CVS appears to have also disclosed confidential patient information about its customers to unauthorized third-parties who provided direct marketing services to CVS.
8. CVS's scheme was not disclosed to Prescribers (or customers) and instead said scheme was perpetrated under the guise of administering a drug compliance program, which provided a cloak of legitimacy, when in fact, the scheme was simply a direct mail marketing and advertising scheme designed to increase sales of statin prescriptions and other medications.
9. CVS's scheme resulted in damages to Plaintiff and other similarly situated individuals.

10. CVS's scheme caused false statements (purportedly statements of the consumer) to enter customers' medical file which, among other things, dangerously suggested that the customers sought medical treatment that they did not seek.
11. Further, CVS's scheme resulted in it reaping significant financial benefit by selling prescription medicine that would otherwise not have been fulfilled. Finally, CVS's scheme resulted in it receiving financially beneficially advertising support.

Parties

12. Plaintiff, Charles Tashjian is a resident of Uxbridge, Massachusetts.
13. Defendants, CVS Pharmacy Inc. is a corporation formed under the laws of Rhode Island and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895, and a registered agent at 155 Federal Street, Suite 700, Boston, MA.
14. Defendants, CVS Health Corporation is a corporation formed under the laws of Delaware and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895.
15. Defendants, CVS Caremark, Inc. is a corporation formed under the laws of Delaware and maintains a principle place of business at One CVS Drive, Woonsocket, RI 02895.

Jurisdiction and Venue

16. This Court has personal jurisdiction over Defendants pursuant to M.G.L. c. 223A, § 3, because, *inter alia*, Plaintiff's claims arise out of Defendants' regular transaction of business throughout the Commonwealth of Massachusetts, including in Suffolk County.
17. This Court has jurisdiction over the claims contained herein as they relate to Plaintiff and the other similarly situated individuals because the claims for damages for Plaintiff and all other similarly situated individuals exceed twenty-five thousand dollars (\$25,000.00).

18. Venue in this matter is proper as CVS Pharmacy, Inc. maintains a registered agent located in Suffolk County, Massachusetts. Venue in this matter is further proper as CVS Health Corporation, and CVS Caremark, Inc. are corporations operating in the Commonwealth.

Factual Allegations

19. Plaintiff repeats and re-alleges the allegations set forth above.
20. Plaintiff has utilized CVS Pharmacy (Store #1852) ("CVS Pharmacy") located at 67D Main St., Medway, MA for his prescription fulfillment services for approximately the last 10 years.
21. In June of 2018, CVS Pharmacy sent the document, attached hereto as **Exhibit A**, to Plaintiff's medical provider, Dr. Fouad Aoude ("*Letter #1*").
22. *Letter #1* stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
23. *Letter #1* falsely stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
24. *Letter #1* stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
25. *Letter #1* falsely stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
26. Plaintiff does not have diabetes.
27. Plaintiff never spoke with any employee, agent or servant of CVS Pharmacy about diabetes care.
28. Plaintiff did not ask any employee, agent or servant of CVS Pharmacy to contact his medical provider regarding statin therapy.
29. *Letter #1* was intended by CVS to serve as marketing material.
30. *Letter #1* was intended by CVS to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which CVS could fulfill to their financial advantage.
31. *Letter #1* is now part of Plaintiff's medical file.
32. The statin manufacturer provided marketing assistance to CVS Pharmacy.

33. CVS received financial assistance in sending its *Letter #1* to Plaintiff's medical provider.
34. As a result of sending letters, like *Letter #1*, CVS received financial benefit and profit.
35. In November of 2018, CVS Pharmacy sent the document, attached hereto as Exhibit B, to Plaintiff's medical provider, Dr. Fouad Aoude ("*Letter #2*").
36. *Letter #2* stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
37. *Letter #2* falsely stated that CVS Pharmacy spoke with Plaintiff about diabetes care.
38. *Letter #2* stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.

39. *Letter #2* falsely stated that Plaintiff requested that CVS Pharmacy reach out to Dr. Aoude on behalf of Plaintiff to determine if it is appropriate to start a statin therapy.
40. *Letter #2* was intended by CVS as marketing material.
41. *Letter #2* was intended by CVS to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which the CVS could fulfill to its financial advantage.
42. CVS used Plaintiff's name for financial gain without his permission or consent.
43. *Letter #2* is now part of Plaintiff's medical file.
44. The statin manufacturer provided marketing assistance to CVS Pharmacy.
45. CVS received financial assistance in sending *Letter #2* to Plaintiff's medical provider.
46. As a result of sending letters, like *Letter #2*, CVS received financial benefit and profit.
47. CVS used Plaintiff's name in *Letter #1* and *Letter #2* as part of its attempt to increase CVS's profits.
48. CVS did not request to use Plaintiff's name prior to using it CVS knew he would reject the request.
49. CVS used Plaintiff's name despite his lack of permission because CVS wanted to profit from their marketing scheme.

50. CVS routinely engages in the scheme outlined above.
51. CVS used Plaintiff's name for financial gain without his permission or consent.
52. CVS misappropriated Plaintiff's name for financial gain as part of their marketing plan.
53. CVS is a covered entity for the purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
54. CVS has vast stores of personal and private consumer medical prescription information.
55. CVS reviewed personal and private consumer information to determine on which customers behalf CVS would target their marketing materials.

56. CVS provided prescription fulfillment services to the Plaintiff.
57. CVS owed a fiduciary duty to Plaintiff.
58. CVS breached its fiduciary duty to Plaintiff by sending false information to Plaintiff's medical provider.
59. CVS breached its fiduciary duty to Plaintiff by failing to disclose to Plaintiff's medical provider that CVS was receiving financial support for sending the letter to Plaintiff's medical provider.
60. CVS breached its fiduciary duty and caused Plaintiff harm in the form of increased risk of receiving medical treatment based upon the false statement CVS caused to be placed in Plaintiff's medical records.
61. At all relevant times, CVS was engaged in trade or commerce.
62. Plaintiff alleges that the acts and omissions described herein were unfair and/or deceptive.
63. Plaintiff alleges that the acts and omissions described herein were committed willfully and/or knowingly.
64. On February 25, 2019, Plaintiff served the Defendant with a class-wide consumer protection act demand letter.

65. On April 5, 2019, CVS responded to Plaintiff's class-wide consumer protection act demand letter.
66. CVS's response to Plaintiff's class-wide consumer protection act demand letter was unreasonable.

Class Allegations

67. Plaintiff repeats and re-alleges the allegations set forth above.
68. Plaintiff brings this action pursuant to Mass. R. Civ. P. 23 and M.G.L. c. 93A on behalf of himself and a class consisting of:

All customers of CVS on whose behalf CVS sent a Request to Close Potential Gap in Therapy letter.

69. All of the persons or entities described in the preceding paragraph are referred to herein as the "Class" or "Members". Plaintiff reserves his right to amend the definition.

70. This action is properly maintainable as a class action.
71. The Members of the Class are so numerous that joinder of all Members would be impracticable.
72. Plaintiff's claims are typical of the claims of other Members of the Class, as all Members of the Class have been similarly affected by CVS's unlawful acts and omissions.
73. Plaintiff will fairly and adequately protect the interests of the Class and is represented by counsel experienced in complex class action litigation.
74. Common questions of law and fact exist and predominate over any questions of law or fact which may affect only individual Class Members. Common questions of law and fact include:
- A. Whether the acts and omissions of CVS constituted violations of M.G.L. c. 214, § 3A and/or M.G.L. c. 93A;
 - B. Whether the acts and omissions of CVS were unfair and/or deceptive;
 - C. Whether the acts and omissions of CVS were committed willfully and/or knowingly;

- D. Whether the acts and omissions of CVS constituted: (1) Negligence; (2) Breach of the Fiduciary Duty of Confidentiality; (3) Breach of Privacy; and/or (4) Tortious Misappropriate of Private and Personal Information;
- E. Whether CVS is liable for the acts and omissions of their employees and agents;
- F. What is the applicable statute of limitations on any and all causes of action; and
- G. Whether Plaintiff and the Class are entitled to damages, and if so, the proper measure of damages.

75. A class action will cause an orderly and expeditious administration of the claims of Class Members.

76. A class action will foster economies of time, effort and expense to ensure uniformity of decisions, presenting the most efficient manner of adjudicating the claims set forth herein.

COUNT I
Negligence

77. Plaintiff repeats and re-alleges the allegations set forth above.

78. CVS had a legal duty to not create and cause false information to enter Plaintiff's medical file.

79. CVS had a duty to not make false statements to Plaintiff's medical provider.

80. CVS breached its duty by submitting false information to Plaintiff's medical provider.

81. CVS's breach of its duty has caused Plaintiff harm.

82. CVS had a legal duty to not create and cause false information to enter Class Members' medical records.

83. CVS had a duty to not make false statements to Class Members' Physicians.

84. CVS breached its duty by submitting false information to Class Members' Physicians.

85. All the aforementioned acts and omissions of CVS were committed negligently.

86. All of the aforementioned acts and omissions constitute breaches of CVS's duties under Federal and/or Massachusetts law.
87. CVS's breach of its duty has caused Plaintiff and members of the Class harm.
88. CVS had a fiduciary duty to Plaintiff and Class Members.
89. As a direct and proximate cause of CVS's negligence, false information was sent to Plaintiff's medical provider and placed in Plaintiff's medical record.
90. As a direct and proximate cause of CVS's negligence, Plaintiff and the Class have suffered damages, including but not limited to, increased risk of medical risk and medical mistakes.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for its negligence and award damages to adequately compensate Plaintiff and the Class.

COUNT II
Breach of Fiduciary Duty of Confidentiality

91. Plaintiff repeats and re-alleges the allegations set forth above.
92. CVS is a medical provider.
93. CVS is a covered entity under the Health Insurance Portability and Accountability Act.
94. CVS provided prescription fulfillment services to the Plaintiff.
95. CVS owed a fiduciary duty to Plaintiff.
96. CVS breached its fiduciary duty to Plaintiff by sending false information to Plaintiff's physician.
97. CVS breached its fiduciary duty to Plaintiff by failing to disclose to Plaintiff's physician that CVS was receiving financial support for sending the letter to Plaintiff's physician.
98. CVS provided prescription fulfillment services to Class Members.
99. CVS owed a fiduciary duty to Class Members.

100. CVS breached its fiduciary duty to Class Members by sending false information to Class Members' Physicians.
101. CVS breached its fiduciary duty to Class Members by failing to disclose to Class Members' Physicians that CVS was receiving financial support for sending the letter to Class Members' Physicians.
102. CVS's breach of its fiduciary duty to Plaintiff and Class Members caused Plaintiff and Class Members harm in the form of increased risk of receiving medical treatment based upon the false statements the Defendant caused to be placed in Plaintiff's and Class Members' medical records.
-
103. CVS's breach of its fiduciary duty to Plaintiff and Class Members has caused Plaintiff and Class Members to suffer harm, including but not limited to financial harm.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for breach of its fiduciary duty and award damages to adequately compensate Plaintiff and the Class.

COUNT III
Breach of Privacy – Appropriation of Plaintiff's Name and/or Likeness
Violation of M.G.L. c. 214, § 3A

104. Plaintiff repeats and re-alleges the allegations set forth above.
105. *Letter #1* was intended as marketing material.
106. *Letter #1* was intended to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which CVS could fulfill to their financial advantage.
107. *Letter #2* was intended as marketing material.
108. *Letter #2* was intended to induce Plaintiff's medical provider into writing Plaintiff a prescription for statin which the CVS could fulfill to their financial advantage.
109. CVS used Plaintiff's name for financial gain without his permission or consent.

110. A third-party provided undisclosed marketing assistance to CVS Pharmacy.
111. CVS received financial assistance from a third-party in sending *Letter #1* and *Letter #2* to Plaintiff's medical provider.
112. As a result of sending letters, like *Letter #1* and *Letter #2*, CVS received financial benefit and profit.
113. CVS routinely engages in the scheme outlined above.
114. CVS used Plaintiff's name for financial gain without his permission or consent.
115. CVS misappropriated Plaintiff's name for financial gain as part of their marketing plan.
116. CVS used Plaintiff's name in *Letter #1* and *Letter #2* as part of its attempt to increase their profits.
117. CVS used Plaintiff's name despite his lack of permission because they wanted to profit from their marketing scheme.
118. CVS has sent similar Request to Close Potential Gap in Therapy letters to Class Members' Physicians.
119. CVS has sent similar Request to Close Potential Gap in Therapy letters to Class Members' Physicians as part of its marketing scheme.
120. CVS has similarly falsely used Class Members' names for financial gain without the Class Members' permission or consent.
121. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have been harmed.
122. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have suffered financial detriment.
123. As a direct result of the acts and omissions of CVS, Plaintiff and the Class have suffered a breach in their interest in privacy.

124. As a direct result of the acts and omissions of CVS, CVS has profited from the unauthorized use of Plaintiff's and Class Members' names.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter Judgment against CVS for breach of privacy via their unlawful appropriation of Plaintiff's name and/or likeness and award damages to adequately compensate Plaintiff and the Class.

COUNT IV
Tortious Misappropriation of Private and Personal Information

125. Plaintiff repeats and re-alleges the allegations set forth above.

126. Plaintiff did not authorize CVS's appropriation of his personal and private information for commercial purposes as alleged herein.

127. Class Members did not authorize CVS's appropriation of their personal and private information for commercial purposes as alleged herein.

128. CVS's scheme allowed CVS to misappropriate Plaintiff's and the Class's personal and confidential information for substantial financial or other consideration in a manner which violated the Plaintiff's and the Class's right of privacy and to be left alone.

129. CVS's scheme was accomplished intentionally, recklessly or with negligent disregard for Plaintiff's and the Class's right of privacy.

130. As a result of CVS's scheme, Plaintiff and the Class have suffered, or are likely to suffer, damages, including, *inter alia*, invasion of their right to privacy, CVS's financial gain and/or invasion of another legally protected interest.

WHEREFORE, Plaintiff and the Class respectfully request that this Court enter judgment against CVS for its tortious misappropriation of private and personal information and award damages to adequately compensate Plaintiff and the Class.

COUNT V
VIOLATION OF M.G.L. c. 93A, § 2

131. Plaintiff repeats and re-alleges the allegations set forth above.
132. CVS's practice of sending *Letter #1* and *Letter #2* was unfair and/or deceptive.
133. CVS's practice of sending *Letter #1* and *Letter #2* caused Tashjian damages in the form of false information being entered into his medical file.
134. CVS's practice of sending *Letter #1* and *Letter #2* was done willfully and/or knowingly.
135. CVS's practice of sending *Letter #1* and *Letter #2* constitutes a violation of M.G.L. c. 93A.
136. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the identity of the pharmacist purportedly sending the letters.
137. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the identity of the pharmacist who purportedly counseled the Class Member.
138. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done without providing the date upon which the Class Member purportedly requested that a CVS pharmacist send such correspondence to the Class Members' Physicians.
139. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians failed to reveal to the patient that CVS was making a net profit each time it sent the subject correspondence.
140. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians failed to reveal to the patient that CVS realizes a profit when, as a result of sending the subject correspondence, an additional prescription is fulfilled at CVS.

141. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members Physicians, as set forth herein, deprived Class Members of critical information that Class Members would need to reasonably evaluate any purported recommendations/advice contained in the Request to Close Potential Gap in Therapy letters.
142. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was unfair and/or deceptive.
143. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, constitutes an unfair and/or deceptive single course of conduct.
144. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, was done without Class Members' authority.
145. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians in the manner set forth herein, was done without Class Members' express written authority.
146. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done by means of a computerized system which did not utilize the professional judgment of a pharmacist.
147. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted false, deceptive, and/or misleading advertising.
148. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted an activity in nonconformity with federal, state and municipal laws, ordinances and/or regulations.

149. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians constituted a fraudulent and deceptive act in violation of 247 CMR 9.01.
150. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was not undertaken as part of a Collaborative Drug Therapy Management Plan.
151. CVS's practice of sending Request to Close Potential Gap in Therapy letters was not undertaken under the supervision of a physician.
152. CVS's practice of sending Request to Close Potential Gap in Therapy letters did not constitute counseling to a patient.
-
153. CVS did not provide Class Members with a copy of the Request to Close Potential Gap in Therapy letters sent to their respective Prescribers.
154. CVS's practice of sending Request to Close Potential Gap in Therapy letters to Class Members' Physicians was done willfully and/or knowingly.
155. CVS's practice of sending Request to Close Potential Gap in Therapy letter to Class Members' Physicians constituted a violation of M.G.L. c. 93A.
156. CVS's practice of sending false information/representations to Class Members' Physicians constituted a violation of M.G.L. c. 93A.
157. CVS's practice of sending false information to Class Members' Physicians was unfair and/or deceptive.
158. CVS's practice of sending false information to Class Members' Physicians caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.
159. CVS's practice of sending false information to Class Members' Physicians was done willfully and/or knowingly.

160. CVS's breach of duty of confidentiality to Plaintiff and the Class Members was unfair and/or deceptive.

161. CVS's breach of duty of confidentiality to Plaintiff and the Class Members caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.

162. CVS's breach of duty of confidentiality to Plaintiff and the Class Members was done willfully and/or knowingly.

163. CVS's breach of duty of confidentiality to Plaintiff and the Class Members constitutes violations of M.G.L. c. 93A.

164. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent was unfair and/or deceptive.

165. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent caused Plaintiff and the Class Members damages in the form of false information being entered into their medical files.

166. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent was done willfully and/or knowingly.

167. CVS's use of Plaintiff and the Class Members' names for financial gain without their permission or consent constituted violations of M.G.L. c. 93A.

WHEREFORE, Tashjian respectfully requests that this court enter Judgment against CVS for its willful and knowing violations of M.G.L. c. 93A, § 2 and that the court award multiple damages, costs and attorneys' fees to adequately compensate Tashjian and the Class.

COUNT VI
DECLARATORY JUDGMENT

168. Plaintiff repeats and re-alleges the allegations set forth above.
169. There exists an actual controversy as to whether CVS had a duty to comply with the mandates of Federal and/or Massachusetts Law when ensuring the confidentiality and security of patients' private information.
170. There exists an actual controversy as to whether CVS owed Plaintiff and the Class a fiduciary duty to maintain the security and confidentiality of their private information.
171. There exists an actual controversy as to whether CVS is responsible for the acts and omissions of employees and agents under the doctrine of *respondeat superior*.
172. There exists an actual controversy as to whether CVS's unauthorized dissemination of Plaintiff and Class Members' personal information constituted unauthorized disclosures.
173. There exists an actual controversy as to whether CVS breached its duties to Plaintiff and the Class by failing to maintain the security and confidentiality of their personal information.
174. Plaintiff and the Class are entitled to a declaration that CVS owed Plaintiff and the Class a fiduciary duty to maintain the security and confidentiality of their personal information.
175. Plaintiff and the Class are entitled to a declaration as to what exactly CVS's duties to Plaintiff and Class Members are/were in regard to ensuring the confidentiality and security of their personal information.
176. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein are unfair and deceptive.
177. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein are in violation of M.G.L. c. 93A.

178. Plaintiff and the Class are entitled to a declaration that CVS's acts and omissions set forth herein were committed willfully, knowingly, and/or in bad faith.

179. Plaintiff and the Class are entitled to a declaration that CVS breached its duties to Plaintiff and the Class Members.

WHEREFORE, Plaintiff and the Class request that this Honorable Court set forth, by way of declaratory judgment, CVS's duties to Plaintiff and Class Members with regard to ensuring the confidentiality and security of patients' personal information.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and other similarly situated individuals, demand judgment against CVS as follows:

- A. An order determining that this action is a proper class action, and certifying Plaintiff as representative of the putative Class;
- B. An order appointing Plaintiff's counsel as competent legal representatives of the putative Class;
- C. An order determining that the acts and omissions of CVS as described above constitute violations of M.G.L. c. 214, § 3A, and M.G.L. c. 93A;
- D. An order determining that the acts and omissions of CVS as described herein constitute Breach of the Fiduciary Duty of Confidentiality, Negligence, Breach of Privacy, and Tortious Misappropriation of Private and Personal Information.
- E. An order requiring CVS to disgorge any profit it realized as a result of sending the Request to Close Potential Gap in Therapy letters to Class Members' Physicians;
- F. An order awarding Plaintiff and the Class damages, together with interest, costs, and reasonable attorneys' fees;

- G. An order determining the appropriate statute of limitations applicable to each count of this action;
- H. An order awarding Plaintiff an appropriate stipend for acting as class representative; and
- I. An order awarding Plaintiff and the Class any further relief as this Court may deem just and appropriate.

JURY DEMAND

Plaintiff, on behalf of himself and all others similarly situated, hereby demand trial by jury on all counts of this Complaint, which are triable by a jury.

Respectfully submitted,
Plaintiff, by his attorneys,

DATED: April 24, 2019



Robert E. Mazow, Esq.
(BBO# 567507)
rmazow@forrestlamothe.com
Michael C. Forrest, Esq.
(BBO# 681401)
mforrest@forrestlamothe.com
Forrest, LaMothe, Mazow,
McCullough, Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, MA 01970
(617) 231-7829

EXHIBIT A

CVS/pharmacy



**RESPONSE REQUESTED:
REQUEST TO CLOSE POTENTIAL GAP IN THERAPY**

PRESCRIBER:

Name: FOUAD AOUDE

Address:

Phone:

Fax:

From: **CVS/pharmacy**

Store # 1852

Address: 67D MAIN ST.
MEDWAY, MA 02053

Phone: 508-533-6771

Fax: 508-533-9475

PATIENT:

Name: TASHJIAN, CHARLES

DOB:

Address:

Phone:

PRIOR THERAPY:

Dear Prescriber,

We spoke to your patient about diabetes care and noticed your patient has not filled a statin therapy at CVS pharmacy in the last 180 days.

Your patient would like us to reach out on their behalf to determine if it is appropriate to start a statin therapy. Please send a new prescription for statin therapy if it is appropriate.

Thank you in advance for taking the time to review this information.

Sincerely,

Your local CVS Pharmacist

Pharmacist Comments:

RESPONSE REQUESTED:

Please send a new prescription for the requested therapy, if appropriate (refer to store info above)

- OR -

Please indicate your decision below and fax back to: 508-533-9475

Will discuss with patient at next visit

Not clinically appropriate for this patient

MD Comments:

The information contained in this electronic message as well as any attachments to this message are intended for the exclusive use of the intended recipient and may contain confidential or privileged information. If you are not the intended recipient, please destroy all copies of this message as well as its attachments and advise the sender immediately. The recipient of this fax may make a request to opt-out of receiving future fax transmissions from CVS/pharmacy. There are numerous ways you may opt-out: The recipient may call the toll-free number at 1-800-SHOPCVS and/or fax the opt-out request to 401-652-0893. The recipient may also send an opt-out request via email to do_not_call@cvscaremail.com. CVS/Pharmacy is required to honor an opt-out request within thirty days of receipt.

FOR CVS USE ONLY:

NMRX1

29000000003505901574

REQUEST TO CLOSE GAP IN THERAPY

EXHIBIT B

CVS/pharmacy



**RESPONSE REQUESTED:
REQUEST TO CLOSE POTENTIAL GAP IN THERAPY**

PRESCRIBER:

Name: FOUAD AOUDE

Address:

Phone:

Fax:

From: **CVS/pharmacy**

Store # 1852

Address: 67D MAIN ST.

MEDWAY, MA 02053

Phone: 508-533-6771

Fax: 508-533-9475

PATIENT:

Name: TASHJIAN, CHARLES

DOB:

Address:

Phone:

PRIOR THERAPY:

Dear Prescriber,

We spoke to your patient about diabetes care and noticed your patient has not filled a statin therapy at CVS pharmacy in the last 180 days.

Your patient would like us to reach out on their behalf to determine if it is appropriate to start a statin therapy. Please send a new prescription for statin therapy if it is appropriate.

Thank you in advance for taking the time to review this information.

Sincerely,

Your local CVS Pharmacist

Pharmacist Comments:

RESPONSE REQUESTED:

Please send a new prescription for the requested therapy, if appropriate (refer to store info above)

- OR -

Please indicate your decision below and fax back to: 508-533-9475

Will discuss with patient at next visit

Not clinically appropriate for this patient

MD Comments:

The information contained in this electronic message as well as any attachments to this message are intended for the exclusive use of the intended recipient and may contain confidential or privileged information. If you are not the intended recipient, please destroy all copies of this message as well as its attachments and advise the sender immediately. The recipient of this fax may make a request to opt-out of receiving future fax transmissions from CVS/Pharmacy. There are numerous ways you may opt-out: The recipient may call the toll-free number at 1-800-5HD9CVS and/or fax the opt-out request to 401-533-0893. The recipient may also send an opt-out request via email to do_not_call@cvscaremark.com. CVS/Pharmacy is required to honor an opt-out request within thirty days of receipt.

FOR CVS USE ONLY:

NMRX1

29000000003636545542

REQUEST TO CLOSE GAP IN THERAPY

Notified
Commonwealth of Massachusetts
County of Suffolk
The Superior Court

CIVIL DOCKET#: SUCV2019-0655-BLS1

Case: Tashjian v. CVS Pharmacy, Inc. et al.

*Notified 03-18-19 (NS)
- MFM/R.E.M.
- FLMM & YBY/M.C.F.*

**NOTICE OF TRANSFER TO
BUSINESS LITIGATION SESSION**

Upon review, the court orders this case transferred to the Business Litigation Session (BLS) and assigned to BLS1. In the future, all parties must include the initials "BLS1" at the end of the docket number on all filings, as shown above.

Counsel shall discuss with their clients and with opposing counsel whether the parties will participate in the BLS Discovery Project (counsel are directed to <http://www.mass.gov/courts/court-info/trial-court/sc/sc-bls-gen.html> for more information on the Project). Counsel may indicate their respective client's participation by completing, filing and serving the attached form.

Dated: 3/15/19

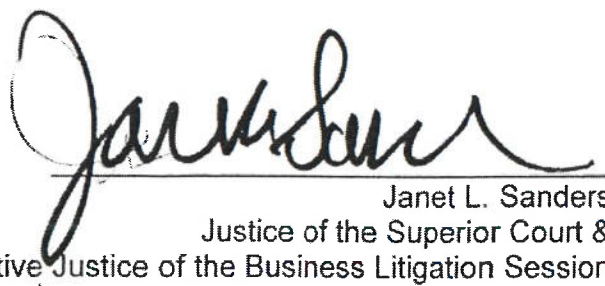

Janet L. Sanders
Justice of the Superior Court &
Administrative Justice of the Business Litigation Session

EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CHARLES TASHJIAN, on behalf of himself)	
and all others similarly situated,)	SUPERIOR COURT
)	CIVIL ACTION FILE
Plaintiff,)	NO. SUCV2019-0655-BLS1
)	
v.)	
)	
CVS PHARMACY, INC.; CVS HEALTH)	
CORPORATION; and)	
CVS CAREMARK INC.,)	
)	
Defendants.)	
)	

**CVS PHARMACY, INC., CVS HEALTH CORPORATION, AND
CVS CAREMARK, INC'S NOTICE OF FILING NOTICE OF REMOVAL**

TO: Suffolk Superior Court
Civil Clerk's Office
Suffolk County Courthouse
3 Pemberton Square
Boston, MA 02108

Robert E. Mazow
Michael C. Forrest
Forrest, LaMothe, Mazow,
McCullough, Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, Massachusetts 01970
(617) 231-7829

Defendants CVS Pharmacy, Inc., CVS Health Corporation, and CVS Caremark, Inc., have filed a Notice of Removal today of the above-captioned civil matter from Suffolk Superior Court, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts, pursuant to 28 U.S.C. § 1332, containing a statement of fact which entitles it to remove the case to the United States District for the District of Massachusetts. Certified copies of all records, proceedings and docket entries in the Superior Court shall be filed with the District Court pursuant to District of Massachusetts Local Rule 81.1.

A copy of the Notice of Removal (without attachments) is attached hereto as Exhibit A. You are respectively advised that pursuant to 28 U.S.C. § 1446(d), the Suffolk Superior Court,

Suffolk County, Commonwealth of Massachusetts, shall proceed no further in this action unless and until the action is remanded.

Respectfully submitted this 23rd day of May, 2019.



T. Christopher Donnelly (BBO #129930)
tcd@dcglaw.com

Joshua N. Ruby (BBO #679113)
jnr@dcglaw.com

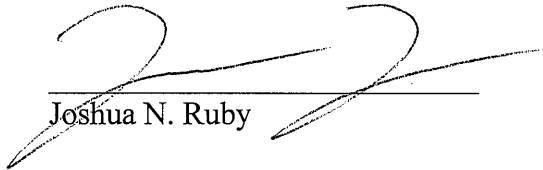
DONNELLY, CONROY & GELHAAR, LLP
260 Franklin St., Suite 1600
Boston, MA 02110
Tel.: (617) 720-2880
Fax.: (617) 720-3554

*Counsel for Defendants CVS Pharmacy, Inc., CVS
Health Corporation, and CVS Caremark, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of May, 2019, I served a true and correct copy of the foregoing on counsel of record via first class United States Mail, postage prepaid, properly addressed as follows:

Robert E. Mazow
Michael C. Forrest
Forrest, LaMothe, Mazow, McCullough,
Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, Massachusetts 01970
(617) 231-7829
Attorneys for Plaintiff



Joshua N. Ruby

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

CHARLES TASHJIAN, on behalf of himself and all others similarly situated,)	
)	
Plaintiff,)	CIVIL ACTION
)	NO. _____
)	
v.)	
)	
CVS PHARMACY, INC.; CVS HEALTH CORPORATION; and)	
CVS CAREMARK INC.,)	
)	
Defendants.)	
_____)	

DECLARATION OF CALLIE PAINE

1. My name is Callie Paine. I am over 18 years of age, of sound mind, and under no legal disability.

2. I am Director, Pharmacy Clinical Services, for CVS Pharmacy, Inc. My team manages the Gaps in Care Program.

3. The facts set forth herein are based upon my personal knowledge, my familiarity with CVS's policies and practices, or upon my review of business records of CVS, which records were made by, or from information transmitted by, a person with knowledge of the event described therein, at or near the time of the event described, and are kept in the ordinary course of the regularly conducted business activity of such person and CVS, and it is the regular practice of that business activity to make such records. If called to testify about those facts, I could and would do so competently and under oath.

4. I am making this declaration for use in *Charles Tashjian v. CVS Pharmacy Inc, et al.*, which has been removed to this Court from the Massachusetts Superior Court for Suffolk County (originally styled as Case No. SUCV2019-0655-BLS1).

5. CVS Pharmacy, Inc., is a Rhode Island corporation with its principal place of business in Rhode Island.

6. CVS Health Corporation is a Delaware corporation with its principal place of business in Rhode Island.

7. CVS has sent “Request to Close Potential Gap in Therapy” letters on behalf of over 500 customers of CVS.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct:

Executed this 17th day of May, 2019.

/s/ Callie Paine
Callie Paine

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charles Tashjian, on behalf of himself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Worcester
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Robert E. Mazow, Michael C. Forrest,
Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi, PC
2 Salem Green, Suite 2, Salem, MA, 01970; 617-231-7829

DEFENDANTS

CVS Pharmacy, Inc.; CVS Health Corporation; CVS Caremark Inc.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
T. Christopher Donnelly and Joshua N. Ruby
Donnelly, Conroy & Gelhaar, LLP
260 Franklin St., Suite 1600, Boston, MA 02110

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	RANGE	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 1332, 1441
 Brief description of cause:
Diversity

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____
 CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 5/23/19 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Charles Tashjian v. CVS Pharmacy, et. al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 400, 410, 441, 535, 830*, 835*, 850, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.
- III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

n/a

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Joshua N. Ruby

ADDRESS Donnelly, Conroy & Gelhaar, LLP, 260 Franklin St., Suite 1600 Boston, MA 02110

TELEPHONE NO. 617-720-2880

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [CVS Mailed Letters to Customers' Physicians Without Authorization, Class Action Claims](#)
