

# **EXHIBIT A**



**Service of Process Transmittal Summary**

**TO:** Service of Process  
CVS HEALTH COMPANIES  
1 CVS DR MAIL CODE 1160  
WOONSOCKET, RI 02895-6146

**RE:** Process Served in Massachusetts

**FOR:** CVS Health Solutions LLC (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** BRENDAN BAKER, individually and on behalf of all others similarly situated vs. CVS HEALTH CORPORATION

**CASE #:** 2384CV00993BLS2

**PROCESS SERVED ON:** C T Corporation System, Boston, MA

**DATE/METHOD OF SERVICE:** By Process Server on 06/01/2023 at 16:39

**JURISDICTION SERVED:** Massachusetts

**ACTION ITEMS:** CT has retained the current log, Retain Date: 06/02/2023, Expected Purge Date: 06/07/2023

Image SOP

Email Notification, Service of Process service\_of\_process@cvs.com

Email Notification, Amy Lawrence cls-ctsopsupport@wolterskluwer.com

**REGISTERED AGENT CONTACT:** C T Corporation System  
155 Federal Street  
Suite 700  
Boston, MA 02110  
800-448-5350  
MajorAccountTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

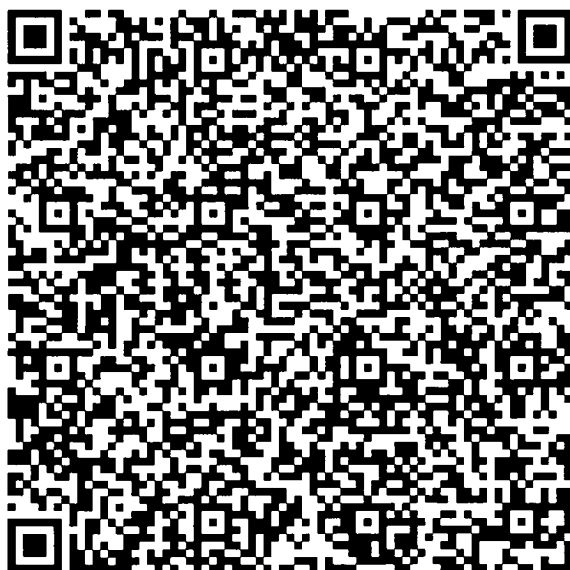



## PROCESS SERVER DELIVERY DETAILS

**Date:** Thu, Jun 1, 2023  
**Server Name:** Drop Service

Entity Served	CVS HEALTH CORPORATION
Case Number	384CV00993BLS2
Jurisdiction	MA

Inserts		



<b>Summons</b>	CIVIL DOCKET NO. 2384cv00993-BLS2	<b>Trial Court of Massachusetts The Superior Court</b>	
CASE NAME:  BRENDAN BAKER, individually and on behalf of all others similarly situated,  vs.  CVS HEALTH CORPORATION		Plaintiff(s)      Defendant(s)	Acting Clerk of Courts County  COURT NAME & ADDRESS: <b>Three Pemberton Square Boston, MA. 02108</b>

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 County 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.**

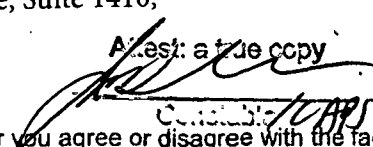
To respond to this lawsuit, you must file a written response with the Court **and** mail a copy to the Plaintiff's attorney (or the Plaintiff, if unrepresented). You can do this by:

a) Filing your **signed original** response with the Clerk's Office for Civil Business, Suffolk County Superior Court, 3 Pemberton Square, Boston, MA 02108, (address), by mail, in person, or electronically through the web portal [www.eFileMA.com](http://www.eFileMA.com) if the Complaint was e-filed through that portal, **AND**

b) Delivering or mailing a **copy** of your response to the Plaintiff's attorney/Plaintiff at the following address:  
David S. Godkin, Esq., Birnbaum & Godkin, LLP, One Marina Park Drive, Suite 1410,  
Boston, MA 02210

**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 Court no more than 10 days after sending your Answer.

Attest: a true copy  
  
Clerk of Courts

3. (cont.) Another way to respond to a Complaint is 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 **Rule 12 of the Massachusetts Rules of Civil Procedure**. If you are filing a Motion to Dismiss, you must follow the filing rules for "Civil Motions in Superior Court," available at:

[www.mass.gov/law-library/massachusetts-superior-court-rules](http://www.mass.gov/law-library/massachusetts-superior-court-rules)

**4. Legal Assistance.**

You may wish to get legal help from a lawyer. If you cannot get legal help, some basic information for people who represent themselves is available at [www.mass.gov/courts/selfhelp](http://www.mass.gov/courts/selfhelp).

**5. Required Information on All Filings.**

The "Civil Docket No." appearing at the top of this notice is the case number assigned to this case and must appear on the front of your Answer or Motion to Dismiss. You should refer to yourself as the "Defendant."

Witness Hon. Heidi E. Brieger, Chief Justice on May 22, 20 23. (Seal)

Acting Clerk



**Note:** The docket number assigned to the original Complaint by the Clerk should be stated on this Summons before it is served on the Defendant(s).

**PROOF OF SERVICE OF PROCESS**

I hereby certify that on \_\_\_\_\_, I served a copy of this Summons, together with a copy of the Complaint in this action, on the Defendant named in this Summons, in the following manner (See Rule 4(d)(1-5) of the Massachusetts Rules of Civil Procedure):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

**N.B. TO PROCESS SERVER:**

**PLEASE ENTER THE DATE THAT YOU MADE SERVICE ON THE DEFENDANT IN THIS BOX - BOTH ON THE ORIGINAL SUMMONS AND ON THE COPY OF THE SUMMONS SERVED ON THE DEFENDANT.**

Date:

PO

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

Superior Court Department of the Trial Court  
Civil Action No.

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

**CLASS ACTION COMPLAINT**

Plaintiff Brendan Baker (“Plaintiff”), by and through his attorneys, makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to allegations specifically pertaining to himself and his counsel, which are based on personal knowledge, against Defendant CVS Health Corporation (“Defendant” or “CVS”).

**NATURE OF THE ACTION**

1. Plaintiff brings this action to redress unlawful practices in Defendant’s employment application and hiring process. M.G.L.A. 149 § 19B(2)(b) requires job applications to contain a written notice of rights concerning lie detector tests. Defendant does not provide such written notice in its job applications, despite requiring lie detector tests as a condition of employment.

2. The requirements of M.G.L.A. 149 § 19B(2)(b) are unmistakably clear. The statute dictates:

All applications for employment within the commonwealth shall contain the following notice which shall be in clearly legible print: “It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability.”

3. M.G.L.A. 149 § 19B(1) defines lie detector tests as:

[A]ny test utilizing a polygraph or any other device, mechanism, instrument or written examination, which is operated, or the results of which are used or interpreted by an examiner for the purpose of purporting to assist in or enable the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding the honesty of an individual.

4. Pursuant to M.G.L.A. 149, § 19(B)(4), persons aggrieved by a violation of § 19(B)(2) have a private right of action for such violation(s), for injunctive relief and damages, including minimum statutory damages of \$500 per violation.

5. Section 19(B)(4) also expressly authorizes class actions, providing that a civil action may be brought by a person “in his own name and on his own behalf, or for himself and, for other [sic] similarly situated.”

6. Defendant presents Massachusetts job applicants with online application forms that do not contain this required written lie detector test notice. Such conduct violates M.G.L.A. 149 § 19B(2)(b).

7. Making matters worse, Defendant uses lie detector software, as defined by M.G.L.A. 149 § 19B(1), in its interview/hiring process.

### PARTIES

8. Plaintiff Brendan Baker is a citizen of Massachusetts who resides in Milton, Massachusetts. Mr. Baker applied for a supply chain position with Defendant in or around January 2021. Plaintiff was not provided with the required written lie detector test prohibition notice, even though he applied for employment with Defendant. Plaintiff Baker participated in an interview with Defendant using Defendant’s automated interview and application software. Mr. Baker was not hired.

9. Defendant CVS Health Corporation is a Delaware Corporation with its principal place of business at One CVS Drive, Woonsocket, Rhode Island.

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction over this matter pursuant to M.G.L.A. 212, §§ 3 and 4.

11. This Court has personal jurisdiction over Defendant pursuant to M.G.L.A. 223A § 3(a), (b), and (e) because Defendant regularly transacts business, contracts to supply services, and uses real property in Massachusetts.

12. Venue is proper in this County because Plaintiff resides in this County and Defendant does business in this County. This county is also the location of the transactions that gave rise to Plaintiff's claims and the location of Plaintiff's primary injury.

13. Venue is proper in the Business Litigation Session ("BLS"), pursuant to Superior Court Administrative Directive No. 17-1, because this case is complex and is brought as a class action which will need substantial case management.

### **FACTUAL ALLEGATIONS**

14. Defendant presents Massachusetts job applicants with online job applications that do not contain the required written lie detector test notice under M.G.L.A. 149 § 19B(2)(b).

15. Defendant contracts with another company, HireVue, Inc. ("HireVue"), an AI job candidate screening tool used by much of the Fortune 500 in pre-recorded (one-way) video and/or live video interview sessions, to screen CVS job candidates.

16. HireVue interviews fall under the Massachusetts definition of "lie detector tests." HireVue, itself, confirms that video interviewing holds the potential to "provide the ability to



scale your lie detection, screen out embellishers, and hone in on those who are actually a fit for the role.”<sup>1</sup>

17. HireVue works by having job candidates answer a set of interview questions online while being video recorded. Some of the questions that candidates can be asked include:

-What does integrity mean to you?

-You discovered that your coworker has been falsifying information in their reports to make them look more productive. Would you report this, even though it could hurt your relationship with them? What factors would you consider? How do ethics and integrity impact what you would report?

-Tell me about a time that you acted with integrity.

-What does integrity mean to you?

-How would other people describe your work ethic?

-What would you do if you saw someone cheating on a test?

-A student group president posts exam answers for all students in the group. How would you respond?

-Have You Ever Acted With Integrity?

18. HireVue then uploads candidates’ respective interview videos to the application programming interface (“API”) of Affectiva, an artificial intelligence company that works to understand human emotions, cognitive states, and activities by analyzing facial and vocal expressions.

19. Affectiva “use[s] something called the Facial Action Coding System (FACS), developed by Paul Ekman, to label facial expressions. There are 24 core facial actions that occur independently on a human face[]”<sup>2</sup> which FACS may track. FACS and/or similar systems have

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<sup>1</sup> <https://www.hirevue.com/blog/hiring/feedback-the-building-block-of-a-great-candidate-experience>.

<sup>2</sup> <https://blog.affectiva.com/the-emotion-behind-facial-expressions>.

been utilized, both in academic studies and in practice, for the purpose of facilitating deception detection.<sup>34</sup>

20. HireVue, specifically, utilizes Affectiva technology<sup>5</sup> to track qualities and/or expressions<sup>6</sup> such as anger, fear, sadness, attention, joy, valence (“a measure of the positive or negative nature of the recorded person’s experience”<sup>7</sup>), smiles, surprise, contempt, disgust, and smirks.

21. With these and/or other inputs (i.e., “candidate[s]’ voice intonation, speech inflection, eye contact, perceived ‘enthusiasm’ for the role, and up until recently, facial expressions[.]”<sup>8</sup>) HireVue builds “a database of deep, rich psychographic information on millions of people,”<sup>9</sup> purportedly evaluates hundreds of a job applicant’s personality traits, and ultimately draws conclusions regarding a job applicant’s degree of cultural fit with companies. HireVue conveys these findings to employers by “assign[ing] each applicant a numerical ‘employability’ score[.]”<sup>10</sup> or “competency-level scoring report[.]”<sup>11</sup>

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<sup>3</sup> <https://arxiv.org/ftp/arxiv/papers/2105/2105.13659.pdf>.

<sup>4</sup> <https://legaltechnology.com/2017/04/06/jury-lab-partners-with-affectiva-emotion-ai/> (“Susan Constantine, MPsy, author and founder of Silent Messages LLC, is announcing the launch of her new business, Jury Lab, LLC. The new company has partnered with Wild Blue Technology and Affectiva Emotion AI, a company that brings artificial intelligence to life with emotion recognition technology. Jury Lab is a patent-pending emotion response software service that provides the legal community break-through technology to enhance the proven sciences of emotion recognition, body language reading, and deception detection.”).

<sup>5</sup> <https://www.slideshare.net/ignaciophoenix/tim-peacock-emotion-ai-developer-day-2016>, Slides 18-19.

<sup>6</sup> <https://www.fastcompany.com/3064863/watch-this-ai-platform-assess-trumps-and-clintons-emotional-intelligence>.

<sup>7</sup> <https://www.degruyter.com/document/doi/10.1515/pjbr-2020-0030/html?lang=en>.

<sup>8</sup> [https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2021/06/Hinkle-The\\_Modern\\_Law\\_Detector.pdf](https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2021/06/Hinkle-The_Modern_Law_Detector.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> <https://www.hirevue.com/blog/hiring/hirevue-hiring-intelligence>.

22. Such scores can be tailored to meet employers' highly individualized needs; HireVue employability scores' "precise criteria are often developed in consultation with the employer to establish 'future top performer' qualities and behaviors. But in determining a candidate's employability score, the algorithm will typically evaluate cognitive ability, emotional intelligence, and personality traits, including core competencies such as 'willingness to learn,' 'conscientiousness & responsibility,' and 'personal stability.'"<sup>12</sup>

23. HireVue, on its website, states, of an employee demonstrating "Conscientiousness & Responsibility: Is responsible, reliable, and committed to achieving and maintaining high work standards. Has an **innate sense of integrity and honor**. Can self-monitor and manage their own follow-up."<sup>13</sup> (emphasis added).

24. A HireVue patent, No. 10528916, titled "Competency-based question selection for digital evaluation platforms," sheds further light upon the company's competency-level scoring. Specifically, the patent describes "methods and systems for interview competency and question validation and analysis" utilizing a "digital evaluation platform" that can be "used by a candidate (or interviewee) during a digital interview."<sup>14</sup> Per the patent, "[t]he digital evaluation platform can organize the digital interview using competency data corresponding to the interview as well as questions data" and "some of the potential competencies may include drive, dedication, creativity, motivation, communication skills, teamwork, energy, enthusiasm, determination, **reliability, honesty, integrity**, intelligence, pride, dedication, analytical skills,

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<sup>12</sup> [https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2021/06/Hinkle-The\\_Modern\\_Law\\_Detector.pdf](https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2021/06/Hinkle-The_Modern_Law_Detector.pdf).

<sup>13</sup> <https://www.hirevue.com/blog/hiring/6-ways-to-use-the-hiring-process-to-overcome-contact-center-attrition>.

<sup>14</sup> <https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/10528916>.

listening skills, achievement profile, efficiency, economy, procedural awareness, opinion, emotional intelligence, etc.”<sup>15</sup> (emphasis added).

25. Given the foregoing, employing the HireVue platform, as Defendant does, constitutes “assist[ing] in or enable[ing] the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding the honesty of an individual.” See M.G.L.A. 149 § 19B(1).

26. However, Defendant does not provide candidates an opportunity to opt out of the video screens or to meaningfully challenge the assessments.

### **CLASS REPRESENTATION ALLEGATIONS**

27. Plaintiff seeks to represent a class defined as

All persons who applied for a Massachusetts CVS position whose application did not contain a written disclosure concerning their rights regarding lie detector tests stating the following: “It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability.” (The “Class”).

28. Members of the Class are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class number in the thousands. The precise number of Class members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

29. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Common legal and factual questions include, but are not limited to, whether Defendant’s conduct as alleged herein violates

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<sup>15</sup> *Id.*

Massachusetts law, including the provisions of c. 149 § 19(B)(2)(b); whether Plaintiff and Class members are entitled to damages and if so, in what amount; and whether Plaintiff and the other members of the Class are entitled to equitable relief, including but not limited to injunctive or declaratory relief.

30. The claims of the named Plaintiff are typical of the claims of the Class in that the named Plaintiff was exposed to Defendant's unlawful hiring practices and suffered a loss as a result. Plaintiff, like all members of the class, suffer a continuing risk of injury as well.

31. Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class members he seeks to represent, has retained competent counsel experienced in prosecuting class actions, and intends to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiff and his counsel.

32. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

**COUNT I**  
**Declaratory and Injunctive Relief**

33. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

34. Absent injunctive relief, Defendant may continue to violate the law and violate the rights of Massachusetts job applicants.

35. Plaintiff asks this court to declare Defendant's conduct unlawful and enjoin Defendant from using and disseminating application materials in violation of Massachusetts law.

**COUNT II**  
**Violation of M.G.L.A. 149, § 19B(2)(b)**

36. Plaintiff incorporates by reference and re-allege each and every allegation set forth above as though fully set forth herein.

37. Plaintiff realleges and incorporates by reference all preceding allegations of law and fact.

38. Massachusetts law explicitly requires every company soliciting applications for employment to include the following language on **each and every application**: "It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability." M.G.L.A. 149 § 19B(2)(b).

39. Defendant did not include this statutorily required language on its job applications.

40. Making matters worse, Defendant's interview process involves video interviews with HireVue, which, inter alia, "purport[s] to assist in or enable the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding the honesty of an individual." *See* M.G.L.A. 149 § 19B(1).

41. Plaintiff and Class members seek damages as a result of Defendant's violations of M.G.L.A. 149 § 19B(2)(b), including statutory damages of not less than five hundred dollars per violation, and attorney's fees, and costs pursuant to 149, § 19(B)(4).

**RELIEF DEMANDED**

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendant, as follows:

- a. For an order certifying the Class and naming Plaintiff as representatives of the Class and Plaintiff's attorneys as Class Counsel to represent the Class;
- b. For an order declaring that Defendant's conduct violates the statutes referenced herein;
- c. For an order finding in favor of Plaintiff and the Class, on all counts asserted herein;
- d. For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- e. For prejudgment interest on all amounts awarded;
- f. For an order of restitution and all other forms of equitable monetary relief;
- g. For an order enjoining Defendant from continuing the illegal practices detailed herein and compelling Defendant to undertake a corrective advertising campaign; and
- h. For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit.

**JURY TRIAL DEMANDED**

Pursuant to Massachusetts Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury  
on all claims so triable.

Dated: April 28, 2023

Respectfully submitted,

BRENDAN BAKER, individually and on behalf of  
all others similarly situated

/s/ David S. Godkin

David S. Godkin (BBO#196530)

James E. Kruzer (BBO#670827)

**BIRNBAUM & GODKIN, LLP**

1 Marina Park Drive, Suite 1410

Boston, MA 02210

(617) 307-6100

godkin@birnbaumgodkin.com

kruzer@birnbaumgodkin.com

OF COUNSEL:

Joshua D. Arisohn (*Pro Hac Vice* forthcoming)

Julian C. Diamond (*Pro Hac Vice* forthcoming)

Matt A. Girardi (*Pro Hac Vice* forthcoming)

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<p align="center"><b>NOTICE TO APPEAR FOR</b> BLS Rule 16 Litigation Control Conference</p>	<p>DOCKET NUMBER  <b>2384CV00993</b></p>	<p><b>Trial Court of Massachusetts</b> <b>The Superior Court</b></p> 
<p>CASE NAME: <b>Brendan Baker vs. Cvs Health Corporation</b></p>		<p>John E. Powers III, Acting Clerk of Court Suffolk County Civil</p>
<p>TO:  David S Godkin, Esq. Birnbaum and Godkin, LLP 1 Marina Park Drive Suite 1410 Boston, MA 02210</p>		<p>COURT NAME &amp; ADDRESS  Suffolk County Superior Court - Civil Suffolk County Courthouse, 12th Floor Three Pemberton Square Boston, MA 02108</p>
<p>The Court will hear the following event: _____ <b>BLS Rule 16 Litigation Control Conference</b></p> <p>Counsel should appear as follows:</p> <p align="center"><b>IN PERSON</b></p> <p align="center"><b>Date: 09/06/2023</b></p> <p align="center"><b>Time: 02:00 PM</b></p> <p><b>Session/ Courtroom Location: Business Litigation 2 / BOS-10th FL, CR 1017 (SC)</b></p> <p>Counsel shall kindly confer prior to date and be prepared to discuss any and all matters within the Rule, but in particular:</p> <ol style="list-style-type: none"> <li>1. Proposed agenda for the conference;</li> <li>2. Issues of confidentiality and impoundment;</li> <li>3. Agreements with respect to: <ol style="list-style-type: none"> <li>a. Initial disclosure of relevant documents by both sides without the necessity of a Rule 34 request;</li> <li>b. Phased discovery as to certain subjects areas;</li> <li>c. Limitations on the number of discovery events;</li> <li>d. Limitations on the scope of discovery;</li> </ol> </li> <li>4. E-Discovery pursuant to Mass. R. Civ. P. 26(f);</li> <li>5. Any other issues with respect to the case management; and</li> <li>6. Proposed Tracking Order tailored to the needs of your case. Please bring a written proposal to the conference for discussion indicating areas of agreement or disagreement.</li> </ol> <p>Please note that the Superior Court encourages lawyers with cases filed in our civil docket to take affirmative steps to promote the participation of less senior lawyers in courtroom proceedings. Those affirmative steps could include, but are not limited to, encouraging participation of relatively inexperienced attorneys in initial scheduling conferences, status conferences, hearings on discovery and dispositive motions, and examination of witnesses at trial.</p>		
<p>DATE ISSUED  <b>05/03/2023</b></p>	<p>ASSOCIATE JUSTICE  <b>Hon. Kenneth W Salinger</b></p>	<p><b>John E. Powers III, Acting Clerk of Court</b></p>

CIVIL ACTION COVER SHEET	DOCKET NO(S) <b>B.L.S.</b>	Trial Court Of Massachusetts Superior Court Department County: SUFFOLK
PLAINTIFF(S) <b>BRENDAN BAKER, individually and on behalf of all others similarly situated,</b>	DEPENDANT(S) <b>CVS HEALTH CORPORATION</b>	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Board of Bar Overseers number <b>David S. Godkin (BBO#196530), Birbaum &amp; Godkin, LLP, 1 Marina Park Drive, Suite 1410, Boston MA 02210</b>	ATTORNEY (if known)	
Origin Code Original Complaint		
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side) CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE? " _____ (B) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
BK.1 Other commercial claims, including insurance, construction, real estate and consumer matters involving complex issues		
The following is a full and detailed statement of the facts on which plaintiff relies to determine eligibility in to The Business Litigation Session.		
<p>This case is brought as a class action and is expected to need substantial case management. Plaintiff seeks to represent a class defined as:</p> <p>All persons who applied for a Massachusetts CVS position whose application did not contain a written disclosure concerning their rights regarding lie detector tests stating the following: "It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability." (The "Class").</p> <p>Members of the Class are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class number in the thousands. The claims of the named Plaintiff are typical of the claims of the Class in that the named Plaintiff was exposed to Defendant's unlawful hiring practices and suffered a loss as a result.</p> <p>As such, it is akin to a class action claim for violation of a trade regulation law. In addition, declaratory and injunctive relief and damages are sought, along with attorneys' fees.</p> <p>For these reasons, it is appropriate for assignment to the BLS.</p>		
* A Special Tracking Order shall be created by the Presiding Justice of the Business Litigation Session at the Rule 16 Conference.		
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT.		
<p>"I hereby certify that I have complied with the 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." Signature of Attorney of Record <u>/s/ David S. Godkin</u></p> <p>DATE: <u>4/28/23</u></p>		

**CIVIL ACTION COVER SHEET  
 INSTRUCTIONS**

**SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE**

- BA.1 claims relating to the governance and conduct of internal of entities
- BA.2. claims relating to employment agreements
- BA3. claims relating to liability of shareholders, directors, officers, partners etc.
- BB.1 shareholder derivative claims
- BB.2 claims relating to or arising out of securities transactions
- BC.1 claims involving mergers, consolidation, sales of assets, issuance of debt, equity and like interests
- BD.1 claims to determine the use or status of, or claims involving, intellectual property
- BD.2 claims to determine the use or status of, or claims involving, confidential, property or trade secret information
- BD.3 claims to determine the use or status, or claims involving restrictive covenants
- BE.1 claims involving breaches of contract or fiduciary, fraud, misrepresentation business torts or other violations involving business relationships
- BF.1 claims under the U.C.C. involving complex issues
- BG.1 claims arising from transactions with banks, investment bankers
- BH.1 claims for violation of antitrust or other trade regulation laws
- BH.2 claims of unfair trade practices involving complex issues
- BL.1 malpractice claims by business enterprises against professionals
- BJ.1 claims by or against a business enterprise to which a government entity is a party
- BK.1 other commercial claims, including insurance, construction, real estate and consumer matters involving complex issues

TRANSFER YOUR SELECTION TO THE FACE SHEET

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?	
		*		
BD3	Restrictive covenants	(B)	Yes	No

**DUTY OF THE PLAINTIFF.** The plaintiff, or plaintiff’s counsel, shall set forth, in the face sheet a statement specifying in full detail the facts upon which the plaintiff then relies for “presumptive” entry into the Business Litigation Session. A copy of the civil action cover sheet shall be served on all defendants, together with the complaint.

**DUTY OF THE DEFENDANT.** Should the defendant contest the entry into the Business Litigation Session, the defendant shall file with the answer (or dispositive motion) a statement specifying why the action does not belong in the Business Litigation Session. Such Statement shall be served with the answer (or dispositive motion).

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.

FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCU-RATELY MAY RESULT IN THE TRANSFER OF THIS ACTION FROM THE BUSINESS LITIGATION SESSION TO ANOTHER APPROPRIATE SESSION OF THE SUPERIOR COURT.

\* A special tracking order shall be created by the presiding justice of the Business Litigation Session at the Initial Rule 16 Conference.

514

4

**NOTIFY**  
Commonwealth of Massachusetts  
County of Suffolk  
The Superior Court – Business Litigation Session

CIVIL DOCKET#: 2384CV00993-BLS2

Case: Baker v. CVS Health Corp.

**NOTICE OF ACCEPTANCE INTO BUSINESS LITIGATION SESSION**

This matter has been accepted into the Suffolk Business Litigation Session. It has been assigned to BLS2.

Hereafter, as shown above, all parties must include the initials "BLS2" at the end of the docket number on all filings.

Counsel for the plaintiff(s) is hereby advised that within seven (7) days of the filing of an appearance, answer, motion or other response to the complaint by or on behalf of the defendant(s) which has been served with process within the time limitation of Mass. R. Civ. P. 4(j), or such other time as may be modified by the Court, he or she shall send notice thereof to the appropriate BLS Session Clerk at Suffolk Superior Court, Three Pemberton Square, Boston, MA 02108.

Upon receipt of such notice, the Court will issue a Notice of Initial Rule 16 Conference for purposes of meeting with all counsel. Before the Rule 16 Conference, counsel shall discuss with their clients and with opposing counsel whether the parties will participate in the BLS Project on Discovery (counsel are directed to [www.mass.gov/superior-court-business-litigation-session](http://www.mass.gov/superior-court-business-litigation-session) for description of the Project). Counsel may indicate their respective client's participation by completing, filing, and serving the attached form. If by the date of the initial Rule 16 Conference, not all parties have given notice of their participation, counsel shall be prepared to discuss at that conference whether their clients will participate in the Project.

The Court requests that plaintiff's counsel serve on opposing parties a copy of this notice and the attached form.

Dated: May 2, 2023

/s/ Kenneth W. Salinger

\_\_\_\_\_  
Kenneth W. Salinger  
Justice of the Superior Court &  
Administrative Justice of the Business Litigation Session

5/5/23  
Notice sent  
BA (1)

**Commonwealth of Massachusetts  
County of Suffolk  
The Superior Court – Business Litigation Session**

CIVIL DOCKET#: \_\_\_\_\_

Case: \_\_\_\_\_

As you may know, the Business Litigation Session began implementing a Discovery Project in January, 2010. This project is available on a voluntary basis for all new cases accepted into the BLS and for cases which have not previously had an initial case management conference. Counsel should be prepared to discuss the project with the Court at the initial case management conference. For a detailed copy of the BLS Discovery Project, counsel are directed to the Trial Court home page at: [www.mass.gov/superior-court-business-litigation-session](http://www.mass.gov/superior-court-business-litigation-session))

If a party is willing to participate in the project, that party's counsel should so indicate below and return this form to the appropriate session clerk.

\_\_\_ (Check) Yes, \_\_\_\_\_ is willing to participate in the Discovery Project.  
(Party's Name)

Case Name \_\_\_\_\_

Docket Number CIVIL DOCKET#: \_\_\_\_\_

Counsel For \_\_\_\_\_ Date \_\_\_\_\_

Firm Name and Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please complete this form and return it to:

Assistant Clerk - BLS1  
BLS1, Room 1309  
3 Pemberton Square  
Boston, MA 02108

**OR**

Assistant Clerk - BLS2  
BLS2, Room 1017  
3 Pemberton Square  
Boston, MA 02108

PO

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

Superior Court Department of the Trial Court  
Civil Action No.

BRENDAN BAKER, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

**NOTICE OF APPEARANCE**

To the Clerk of the Above-Named Court:

Please take notice of the appearance of James E. Kruzer of the firm Birnbaum & Godkin, LLP, as counsel for Plaintiff BRENDAN BAKER, individually and on behalf of all others similarly situated.

Dated: April 28, 2023

Respectfully submitted,

BRENDAN BAKER, individually and on behalf of all  
others similarly situated,

By their attorneys,

/s/ James E. Kruzer

David S. Godkin (BBO#196530)

James E. Kruzer (BBO#670827)

**BIRNBAUM & GODKIN, LLP**

1 Marina Park Drive, Suite 1410

Boston, MA 02210

(617) 307-6100

godkin@birnbaumgodkin.com

kruzer@birnbaumgodkin.com

OF COUNSEL:

Joshua D. Arisohn (*Pro Hac Vice* forthcoming)

Julian C. Diamond (*Pro Hac Vice* forthcoming)

Matt A. Girardi (*Pro Hac Vice* forthcoming)

**BURSOR & FISHER, P.A.**

888 Seventh Avenue

New York, NY 10019

Tel: (646) 837-7150

Fax: (212) 989-9163

jarisohn@bursor.com

jdiamond@bursor.com

mgirardi@bursor.com

<b>CIVIL TRACKING ORDER</b> (STANDING ORDER 1- 88)	DOCKET NUMBER <b>2384CV00993</b>	<b>Trial Court of Massachusetts</b> <b>The Superior Court</b>
---	-------------------------------------	--

CASE NAME: Brendan Baker vs. Cvs Health Corporation	John E. Powers III, Acting Clerk of Court Suffolk County Civil
--	---

TO: David S Godkin, Esq. Birnbaum and Godkin, LLP 1 Marina Park Drive Suite 1410 Boston, MA 02210	COURT NAME & ADDRESS
---	----------------------

**TRACKING ORDER -**

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

**STAGES OF LITIGATION**

**DEADLINE**

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court			
Response to the complaint filed (also see MRCP 12)			
All motions under MRCP 12, 19, and 20			
All motions under MRCP 15			
All discovery requests <b>and depositions</b> served and non-expert depositions completed			
All motions under MRCP 56			
Final pre-trial conference held and/or firm trial date set			
Case shall be resolved and judgment shall issue by			

**The final pre-trial deadline is not the scheduled date of the conference.** You will be notified of that date at a later time.  
**Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.**  
 This case is assigned to

DATE ISSUED <b>04/28/2023</b>	ASSISTANT CLERK	PHONE
----------------------------------	-----------------	-------



Date Filed 4/28/2023 10:54 AM  
Superior Court - Suffolk  
Jacket Number

3

PO

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Superior Court Department of The Trial Court  
Civil Action No.

23-0993BLS2

BRENDAN BAKER, individually and on behalf of all others similarly situated,	Plaintiff,
v.	
CVS HEALTH CORPORATION,	Defendant.

Notice Sent  
05/15/2023

MOTION FOR APPOINTMENT OF SPECIAL PROCESS SERVER

In accordance with the provisions of Rule 4(c) of the Massachusetts Rules of Civil Procedure, the undersigned hereby moves this Court for the appointment of Desrosiers & Associates, LLC, 35 Madison Avenue, Suite 1, Cambridge MA 02140 as Special Process Server in the above-entitled matter. The undersigned swears that to the best of his knowledge and belief the person to be appointed Process Server is 18 years of age or over and is not a party to this action.

Dated: April 28, 2023

Respectfully submitted,

BRENDAN BAKER, individually and on behalf of all others similarly situated,

By their attorneys,

/s/ David S. Godkin  
David S. Godkin (BBO#196530)  
James E. Kruzer (BBO#670827)  
**BIRNBAUM & GODKIN, LLP**  
1 Marina Park Drive, Suite 1410  
Boston, MA 02210  
(617) 307-6100  
godkin@birnbaumgodkin.com  
kruzer@birnbaumgodkin.com

5/10/22 : Allowed (Sauringer, J)  
Attest: [Signature] Asst-Clerk

Date Filed 4/28/2023 10:54 AM  
Superior Court - Suffolk  
Docket Number

OF COUNSEL:

Joshua D. Arisohn (*Pro Hac Vice* forthcoming)

Julian C. Diamond (*Pro Hac Vice* forthcoming)

Matt A. Girardi (*Pro Hac Vice* forthcoming)

**BURSOR & FISHER, P.A.**

888 Seventh Avenue

New York, NY 10019

Tel: (646) 837-7150

Fax: (212) 989-9163

jarisohn@bursor.com

jdiamond@bursor.com

mgirardi@bursor.com

# **EXHIBIT B**

06 22

# NOTIFY

DV

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO. 2384CV00993BLS2

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,


Defendant.

### DEFENDANT'S UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT

Defendant CVS Health Corporation ("CVS") hereby moves the Court for an extension of time to respond to the Complaint filed by Plaintiff Brendan Baker ("Plaintiff"), from June 21, 2023 to August 4, 2023.

As grounds for this motion, Defendant states as follows:

1. Plaintiff filed his Complaint with the Court on April 28, 2023.
2. On June 1, 2023, Plaintiff, through a process server, delivered a copy of the Complaint and Summons (along with other Court-issued notices) to CT Corporation System, as registered agent for CVS Health Solutions LLC. Defendant CVS contends that this service attempt was insufficient because Defendant and CVS Health Solutions LLC are distinct business entities.
3. Defendant recently retained counsel to represent it in this matter and will therefore require additional time to analyze and respond to Plaintiff's claims.

6/26/23 ALLOWED  


4

**NOTIFY**  
Commonwealth of Massachusetts  
County of Suffolk  
The Superior Court – Business Litigation Session

CIVIL DOCKET#: 2384CV00993-BLS2

Case: Baker v. CVS Health Corp.

**NOTICE OF ACCEPTANCE INTO BUSINESS LITIGATION SESSION**

This matter has been accepted into the Suffolk Business Litigation Session. It has been assigned to **BLS2**.

Hereafter, as shown above, all parties must include the initials "BLS2" at the end of the docket number on all filings.

Counsel for the plaintiff(s) is hereby advised that within seven (7) days of the filing of an appearance, answer, motion or other response to the complaint by or on behalf of the defendant(s) which has been served with process within the time limitation of Mass. R. Civ. P. 4(j), or such other time as may be modified by the Court, he or she shall send notice thereof to the appropriate BLS Session Clerk at Suffolk Superior Court, Three Pemberton Square, Boston, MA 02108.

Upon receipt of such notice, the Court will issue a Notice of Initial Rule 16 Conference for purposes of meeting with all counsel. Before the Rule 16 Conference, counsel shall discuss with their clients and with opposing counsel whether the parties will participate in the BLS Project on Discovery (counsel are directed to [www.mass.gov/superior-court-business-litigation-session](http://www.mass.gov/superior-court-business-litigation-session) for description of the Project). Counsel may indicate their respective client's participation by completing, filing, and serving the attached form. If by the date of the initial Rule 16 Conference, not all parties have given notice of their participation, counsel shall be prepared to discuss at that conference whether their clients will participate in the Project.

The Court requests that plaintiff's counsel serve on opposing parties a copy of this notice and the attached form.

Dated: May 2, 2023

/s/ Kenneth W. Salinger

\_\_\_\_\_  
Kenneth W. Salinger  
Justice of the Superior Court &  
Administrative Justice of the Business Litigation Session

5/5/23  
notice sent  
BA (1)

**Commonwealth of Massachusetts  
County of Suffolk  
The Superior Court – Business Litigation Session**

CIVIL DOCKET#: \_\_\_\_\_

Case: \_\_\_\_\_

As you may know, the Business Litigation Session began implementing a Discovery Project in January, 2010. This project is available on a voluntary basis for all new cases accepted into the BLS and for cases which have not previously had an initial case management conference. Counsel should be prepared to discuss the project with the Court at the initial case management conference. For a detailed copy of the BLS Discovery Project, counsel are directed to the Trial Court home page at: [www.mass.gov/superior-court-business-litigation-session](http://www.mass.gov/superior-court-business-litigation-session))

If a party is willing to participate in the project, that party's counsel should so indicate below and return this form to the appropriate session clerk.

\_\_\_\_ (Check) Yes, \_\_\_\_\_ is willing to participate in the Discovery Project.  
(Party's Name)

Case Name \_\_\_\_\_

Docket Number CIVIL DOCKET#: \_\_\_\_\_

Counsel For \_\_\_\_\_ Date \_\_\_\_\_

Firm Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please complete this form and return it to:

Assistant Clerk - BLS1  
BLS1, Room 1309  
3 Pemberton Square  
Boston, MA 02108

**OR**

Assistant Clerk - BLS2  
BLS2, Room 1017  
3 Pemberton Square  
Boston, MA 02108

Date Filed 4/28/2023 10:54 AM  
Superior Court - Suffolk  
Docket Number

PO

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Superior Court Department of The Trial Court  
Civil Action No. 23-0993BLS2

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

Notice Sent  
05/15/2023

MOTION FOR APPOINTMENT OF SPECIAL PROCESS SERVER

In accordance with the provisions of Rule 4(c) of the Massachusetts Rules of Civil Procedure, the undersigned hereby moves this Court for the appointment of Desrosiers & Associates, LLC, 35 Madison Avenue, Suite 1, Cambridge MA 02140 as Special Process Server in the above-entitled matter. The undersigned swears that to the best of his knowledge and belief the person to be appointed Process Server is 18 years of age or over and is not a party to this action.

Dated: April 28, 2023

Respectfully submitted,

BRENDAN BAKER, individually and on behalf of  
all others similarly situated,

By their attorneys,

/s/ David S. Godkin

David S. Godkin (BBO#196530)  
James E. Kruzer (BBO#670827)  
**BIRNBAUM & GODKIN, LLP**  
1 Marina Park Drive, Suite 1410  
Boston, MA 02210  
(617) 307-6100  
godkin@birnbaumgodkin.com  
kruzer@birnbaumgodkin.com

5/10/23 : Allowed (Sainger, J)  
AHEOT: BNL  
Asst-Clerk

OF COUNSEL:

Joshua D. Arisohn (*Pro Hac Vice* forthcoming)

Julian C. Diamond (*Pro Hac Vice* forthcoming)

Matt A. Girardi (*Pro Hac Vice* forthcoming)

**BURSOR & FISHER, P.A.**

888 Seventh Avenue

New York, NY 10019

Tel: (646) 837-7150


Fax: (212) 989-9163

jarisohn@bursor.com

jdiamond@bursor.com

mgirardi@bursor.com



<b>Summons</b>	CIVIL DOCKET NO. 2384cv00993-BLS2	<b>Trial Court of Massachusetts The Superior Court</b> 
CASE NAME:  BRENDAN BAKER, individually and on behalf of all others similarly situated,  vs.  CVS HEALTH CORPORATION		<b>John E. Powers, III,</b> Acting Clerk of Courts Suffolk Superior Civil, County  COURT NAME & ADDRESS: <b>Three Pemberton Square Boston, MA. 02108</b>
<div style="text-align: right;">Plaintiff(s)</div> <div style="text-align: center;">vs.</div> <div style="text-align: left;">Defendant(s)</div>		

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 County 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 County Superior Court  
3 Pemberton Square, Boston, MA 02108 (address), by mail, in person, or electronically through  
the web portal [www.eFileMA.com](http://www.eFileMA.com) if the Complaint was e-filed through that portal, **AND**

b) Delivering or mailing a **copy** of your response to the Plaintiff's attorney/Plaintiff at the following address:  
David S. Godkin, Esq., Birnbaum & Godkin, LLP, One Marina Park Drive, Suite 1410,  
Boston, MA 02210

**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 Court no more than 10 days after sending your Answer.

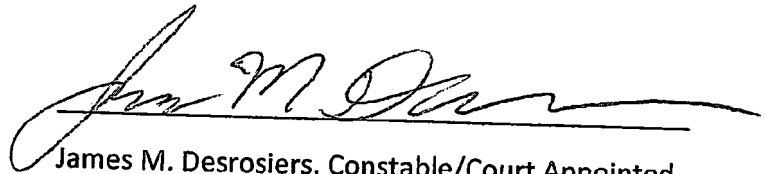
## Return of Service

**Defendant: CVS Health Corporation c/o CT Corporation, Resident Agent**

I hereby certify and return that on **May 26, 2023**, I served a copy of the within **Summons** together with a copy of the Class Action Complaint, Notice to Appear for BLS Rule 16 Litigation Control Conference (Marked up for September 6, 2023 at 2:00 p.m.; Civil Action Cover Sheet; Notice of acceptance into Business Litigation Session; Notice of Appearance; Civil Tracking Order and Motion to Appointed Special Process server (allowed) in above-entitled action upon the within named defendant in the following manner:

By handing true and attested copies thereof to Ross DePina, Service of Process Clerk for CT Corporation, Resident Agent and Duly Authorized Agent, In Hand. Said service was made at **#155 Federal Street, Suite 700, Boston, MA 02110.**

Dated: May 26, 2023



James M. Desrosiers, Constable/Court Appointed  
Process Server

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO. 2384CV00993BLS2

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

**NOTICE OF APPEARANCE**

Kindly enter the appearance of Anthony S. Califano as counsel for Defendant CVS Health Corporation in the above-referenced matter.

DATED: June 16, 2023

Respectfully submitted,

By: /s/ Anthony S. Califano

Anthony S. Califano (BBO# 661136)  
acalifano@seyfarth.com  
Seyfarth Shaw LLP  
Seaport East, Suite 1200  
Two Seaport Lane  
Boston, Massachusetts 02210-2028  
Telephone: (617) 946-4800  
Facsimile: (617) 946-4801

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 16, 2023, a true and accurate copy of the foregoing document was electronically filed through the Commonwealth's electronic filing system and served by email on counsel of record:

David S. Godkin  
James E. Kruzer  
Birnbaum & Godkin, LLP  
1 Marina Park Drive, Suite 1410  
Boston, Massachusetts 02210  
[godkin@birnbaumgodkin.com](mailto:godkin@birnbaumgodkin.com)  
[kruzer@birnbaumgodkin.com](mailto:kruzer@birnbaumgodkin.com)

Joshua D. Arisohn  
Julian C. Diamond  
Matt A. Girardi  
Bursor & Fisher, P.A.  
888 Seventh Avenue  
New York, New York 10019  
[jarisohn@bursor.com](mailto:jarisohn@bursor.com)  
[jdiamond@bursor.com](mailto:jdiamond@bursor.com)  
[mgirardi@bursor.com](mailto:mgirardi@bursor.com)

*/s/ Anthony S. Califano*

\_\_\_\_\_  
Anthony S. Califano

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO. 2384CV00993BLS2

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

**DEFENDANT'S UNOPPOSED MOTION FOR AN EXTENSION OF TIME  
TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT**

Defendant CVS Health Corporation ("CVS") hereby moves the Court for an extension of time to respond to the Complaint filed by Plaintiff Brendan Baker ("Plaintiff"), from June 21, 2023 to August 4, 2023.

As grounds for this motion, Defendant states as follows:

1. Plaintiff filed his Complaint with the Court on April 28, 2023.
2. On June 1, 2023, Plaintiff, through a process server, delivered a copy of the Complaint and Summons (along with other Court-issued notices) to CT Corporation System, as registered agent for CVS Health Solutions LLC. Defendant CVS contends that this service attempt was insufficient because Defendant and CVS Health Solutions LLC are distinct business entities.
3. Defendant recently retained counsel to represent it in this matter and will therefore require additional time to analyze and respond to Plaintiff's claims.

4. The parties also need to confer pursuant to Superior Court Rule 9C(b) about the need for a motion under Mass. R. Civ. P. 12 or the possibility of curative service or amendment of the pleading to avoid such motion practice.
5. On June 15, 2023, Plaintiff, though his counsel, consented to the relief sought in this motion.
6. This is Defendant's first request for an extension of time in this matter. The extension is requested only for legitimate purposes, and the extension sought will not prejudice any party.

WHEREFORE, Defendant CVS respectfully request that the Court grant a forty-four-day extension of time for it to answer or otherwise respond to Plaintiff's Complaint, from June 21, 2023 to August 4, 2023.

DATED: June 16, 2023

Respectfully submitted,

By: /s/ Anthony S. Califano

Anthony S. Califano (BBO# 661136)  
acalifano@seyfarth.com  
Seyfarth Shaw LLP  
Seaport East, Suite 1200  
Two Seaport Lane  
Boston, Massachusetts 02210-2028  
Telephone: (617) 946-4800  
Facsimile: (617) 946-4801

James J. Swartz, Jr. (*pro hac vice  
anticipated*)

Andrew McKinley (*pro hac vice  
anticipated*)

1075 Peachtree Street, N.E.  
Suite 2500  
Atlanta, GA 30309-3958  
Telephone: (404) 885-1500  
Facsimile: (404) 892-7056  
jswartz@seyfarth.com  
amckinley@seyfarth.com

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 16, 2023, a true and accurate copy of the foregoing document was electronically filed through the Commonwealth's electronic filing system and served by email on counsel of record:

David S. Godkin  
James E. Kruzer  
Birnbaum & Godkin, LLP  
1 Marina Park Drive, Suite 1410  
Boston, Massachusetts 02210  
[godkin@birnbaumgodkin.com](mailto:godkin@birnbaumgodkin.com)  
[kruzer@birnbaumgodkin.com](mailto:kruzer@birnbaumgodkin.com)

Joshua D. Arisohn  
Julian C. Diamond  
Matt A. Girardi  
Bursor & Fisher, P.A.  
888 Seventh Avenue  
New York, New York 10019  
[jarisohn@bursor.com](mailto:jarisohn@bursor.com)  
[jdiamond@bursor.com](mailto:jdiamond@bursor.com)  
[mgirardi@bursor.com](mailto:mgirardi@bursor.com)

*/s/ Anthony S. Califano*

\_\_\_\_\_  
Anthony S. Califano



**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO. 2384CV00993BLS2

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

**[PROPOSED] ORDER ON DEFENDANT'S UNOPPOSED MOTION FOR AN  
EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S  
COMPLAINT**

Having reviewed Defendant CVS Health Corporation's Unopposed Motion for an Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint, and good cause appearing, it is hereby:

**ORDERED AND ADJUDGED** that the Unopposed Motion For an Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint is **GRANTED**. Defendant CVS Health Corporation, shall have up to and including August 4, 2023, to respond to Plaintiff's Complaint.

ORDERED this \_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Kenneth W. Salinger  
**Justice of the Superior Court &  
Administrative Justice of the Business Litigation Section**

# **EXHIBIT C**

**State Of Delaware**

## Entity Details

6/29/2023 12:26:53PM

File Number: 2656078

Incorporation Date / Formation Date: 8/22/1996

Entity Name: CVS HEALTH CORPORATION

Entity Kind: Corporation

Entity Type: General

Residency: Domestic

State: DELAWARE

Status: Good Standing

Status Date: 6/2/2023

**Registered Agent Information**

Name: THE CORPORATION TRUST COMPANY

Address: CORPORATION TRUST CENTER 1209 ORANGE ST

City: WILMINGTON

Country:

State: DE

Postal Code: 19801

Phone: 302-658-7581

**Tax Information**

Last AnnualReport Filed: 2022

Tax Due: \$ 0

Annual Tax Assessment: \$250000

Total Authorized Shares: 3250120619

**Filing History (Last 5 Filings)**

Seq	Description	No of Pages	Filing Date mm/dd/yyyy	Filing Time	Effective Date mm/dd/yyyy
1	Restated Other	15	6/4/2018	6:12 PM	6/4/2018
2	Retirement - No Change to Authorized Shares	1	6/4/2018	10:40 AM	6/4/2018
3	Amendment	2	6/4/2018	10:39 AM	6/4/2018
4	Amendment CVS CAREMARK CORPORATION	1	9/3/2014	8:00 AM	9/3/2014
5	Amendment	7	5/9/2013	5:40 PM	5/9/2013

# **EXHIBIT D**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

BRENDAN BAKER, individually and on  
behalf of others similarly situated,

Plaintiffs,

v.

CVS HEALTH CORPORATION

Defendant.

Civil Action No. \_\_\_\_\_

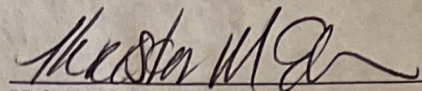
**DECLARATION OF KRISTEN ERBAN**

I, Kristen Erban, declare and state as follows:

1. I am over the age of 18. I have personal knowledge of the facts set forth in this declaration and would testify competently to them under oath if called as a witness to do so.
2. I am an employee of CVS Pharmacy, Inc. ("CVS"), a subsidiary of the Defendant CVS Health Corporation, as an Executive Director, Talent Acquisition Operations and Recruitment Brand Marketing. I have held this position since June 1, 2013. In my capacity as Executive Director, I am familiar with information maintained by CVS relating to individuals who have submitted information to CVS about job positions at CVS or other CVS Health Corporation subsidiaries ("talent acquisition data"). I am also familiar with the process for maintaining and generating reports related to talent acquisition data.
3. I was asked to, and have, reviewed and analyzed CVS records regarding individuals who submitted information to CVS expressing their interest in job positions in Massachusetts since April 23, 2020. This declaration is made through personal knowledge obtained through my review and analysis of these business records.

4. According to CVS's talent acquisition data, at least 10,000 individuals submitted information to CVS expressing their interest in job positions in Massachusetts since April 23, 2020.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 29<sup>th</sup> day of July, 2023.



Kristen M. Erban

# **EXHIBIT E**

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO. 2384CV00993BLS2

BRENDAN BAKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION,

Defendant.

**NOTICE OF FILING DEFENDANT CVS HEALTH CORPORATION'S  
NOTICE OF REMOVAL**

Defendant CVS Health Corporation (“CVS”), by its attorneys and pursuant to 28 U.S.C. § 1446(d), notifies you that on June 30, 2023, it filed Defendant CVS Health Corporation’s Notice of Removal in the United States District Court for the District of Massachusetts. A copy of Defendant’s Notice of Removal is attached as Exhibit 1.

Pursuant to 28 U.S.C. § 1446(d), the Trial Court of Massachusetts, Suffolk County Superior Court shall proceed no further with Civil Action No. 2384CV00993 unless and until the case is remanded.



Dated: June 30, 2023

Respectfully submitted,

By: /s/ Anthony S. Califano  
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Facsimile: (617) 946-4801  
Counsel for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2023, a true and accurate copy of the foregoing was document electronically filed through the Commonwealth's electronic filing system and was served by email on counsel of record:

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*/s/ Anthony S. Califano* \_\_\_\_\_

Anthony S. Califano