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Amanda Toste
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Attorneys for Plaintiff STEPHANIE SILVA,
on behalf of herself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED**

STEPHANIE SILVA, on behalf of herself and
current and former aggrieved employees

Plaintiff,

vs.

FARMERS GROUP, INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: 23CV-01314

PAGA ACTION

**PLAINTIFF STEPHANIE SILVA'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff STEPHANIE SILVA ("Plaintiff"), who alleges and complains
against Defendants FARMERS GROUP, INC.; and DOES 1 to 100, inclusive (collectively
"Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all
hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure

1 to authorize or permit all legally required and/or compliant meal periods or pay meal period
2 premium wages; statutory penalties for failure to provide accurate wage statements; statutory
3 waiting time penalties in the form of continuation wages for failure to timely pay employees all
4 wages due upon separation of employment. Plaintiff seeks on a representative basis, following
5 notice to the Labor and Workforce Development Agency, civil penalties, reasonable attorneys'
6 fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State
7 of California, and others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to Merced County, at 87 W. Alexander Ave, Merced, CA
17 95348.

18 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
19 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
20 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
21 tolled from April 6, 2020, until October 1, 2020.

22 **III. PARTIES**

23 4. Plaintiff brings this action as a representative of the Labor and Workforce
24 Development Agency on behalf of herself and other current and former employees subject to
25 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
26 filed include current, former and/or future employees of Defendants who work, worked, or will
27 work for Defendants as direct employees as well as temporary employees employed through temp
28 agencies as hourly non-exempt employees in California. At all times mentioned herein, the

1 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
2 employed by Defendants in an hourly position at Defendants' location in Merced from in or
3 around June 6, 2022, until on or about August 29, 2022.

4 5. Plaintiff is informed and believes and thereon alleges that Defendant FARMERS
5 GROUP, INC. is authorized to do business within the State of California and is doing business in
6 the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto
7 were persons acting on behalf of Defendant FARMERS GROUP, INC. in the establishment of, or
8 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
9 FARMERS GROUP, INC. operates in Merced County and employed Plaintiff and aggrieved
10 employees in Merced County, including but not limited to, at 87 W. Alexander Ave, Merced, CA
11 95348.

12 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
13 through 50 are corporations, or are other business entities or organizations of a nature unknown to
14 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
15 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
16 working conditions of employment of Plaintiff and aggrieved employees.

17 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
18 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
19 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
20 supervisor, independent contractor and/or employee of each defendant who violated or caused to
21 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
22 the Industrial Welfare Commission's wage orders regulating hours and days of work.

23 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
24 sues said defendants by said fictitious names, and will amend this complaint when the true names
25 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
26 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
27 named defendants is in some manner responsible for the events and allegations set forth in this
28 complaint.

**CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11. During the period beginning one (1) year preceding Plaintiff sending the initial
PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and the applicable Wage Orders.

12 12. Specifically, Defendants have committed the following violations of California
13 Labor Code:

14 **13. Failure to pay wages for all hours worked at the legal minimum wage:**
15 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
16 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
17 which includes all time that an employee is under control of the employer and all time the
18 employee is suffered and permitted to work. This includes the time an employee spends, either
19 directly or indirectly, performing services which inure to the benefit of the employer.

20 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
21 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
22 Wage Orders.

15. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

1 (a) "Rounding" down or "shaving" Plaintiff and other current and former aggrieved
2 California-based hourly non-exempt employees total daily hours at the time of their clock-ins and
3 clock-outs, including clock-ins and clock-outs for meal breaks, to the nearest quarter of an hour, to
4 the benefit of Defendants.

5 16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
6 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
7 control without paying wages for that time. This resulted in Plaintiff and other current and former
8 aggrieved California-based hourly non-exempt employees working time for which they were not
9 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
10 Wage Order.

11 17. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services that inure to the benefit of the employer.'

17 18. Labor Code sections 510 and 1194 require an employer to compensate employees a
18 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
19 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

20 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
21 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
22 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
23 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
24 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice the
regular rate of pay of an employee.

25 Labor Code section 510.

26 19. In this case, Defendants failed to pay Plaintiff and other current and former
27 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
28 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

1 (a) "Rounding" down or "shaving" Plaintiff and other current and former aggrieved
2 California-based hourly non-exempt employees total daily hours at the time of their clock-ins and
3 clock-outs, including clock-ins and clock-outs for meal breaks, to the nearest quarter of an hour, to
4 the benefit of Defendants.

5 20. The foregoing policies, practices, and/or procedures resulted in time during each
6 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
7 employees were under the control of Defendants but were not compensated. To the extent that the
8 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
9 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
10 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
11 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
12 sections 510 and 1194 and the applicable Wage Order.

13 21. **Failure to pay wages to hourly non-exempt employees for workdays that**
14 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
15 current and former aggrieved California-based hourly non-exempt employees regularly worked
16 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

17 22. California law requires an employer to authorize or permit an employee an
18 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
19 all duties and the employer relinquishes control over the employee's activities prior to the
20 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 4 at §11; *Brinker*
21 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
22 employee for a work period of more than ten (10) hours per day without providing the employee
23 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
24 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
25 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
26 period is only permitted when: (1) the nature of the work prevents an employee from being
27 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

28 23. If an employer fails to provide an employee a meal period in accordance with the

1 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
2 for each workday that a legally required and compliant meal period was not provided. Labor Code
3 section 226.7; Wage Order 4 at §11.

4 24. In this case, Defendants failed to authorize or permit legally required and compliant
5 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
6 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
7 limited to:

8 (b) "Rounding" or "shaving" Plaintiff and other current and former aggrieved
9 California-based hourly non-exempt employees total daily hours at the time of their clock-ins and
10 clock-outs, including clock-ins and clock-outs for meal breaks, to the nearest quarter of an hour, to
11 the benefit of Defendants.

12 25. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
13 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
14 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
15 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
16 employees did not receive legally required and compliant meal periods, in violation of Labor Code
17 section 226.7.

18 26. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
19 and other current and former aggrieved California-based hourly non-exempt employees not
20 receiving wages to compensate them for workdays during which Defendants did not provide them
21 with meal periods in compliance with California law.

22 27. **Failure to timely pay earned wages during employment:** In California, wages
23 must be paid at least twice during each calendar month on days designated in advance by the
24 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
25 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
26 16th and the 26th day of that month and wages earned between the 16th and the last day,
27 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
28 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be

1 paid within seven (7) calendar days following the close of the payroll period in which wages were
2 earned. Labor Code section 204(d).

3 28. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
4 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
5 exempt employees' earned wages (including minimum wages, overtime wages, meal period
6 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
7 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
8 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
9 their earned wages within the applicable time frames outlined in Labor Code section 204.

10 29. **Failure to provide complete and accurate wage statements:** Labor Code section
11 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
12 employee his or her wages, the employer must "furnish each of his or her employees ... an
13 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
14 employee, except for any employee whose compensation is solely based on a salary and who is
15 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
16 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
17 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
18 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
19 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
20 name of the employee and his or her social security number, (8) the name and address of the legal
21 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
22 the corresponding number of hours worked at each hourly rate by the employee."

23 30. Defendants committed direct violations of Labor Code section 226, through their
24 policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiff and
25 other current and former aggrieved California-based hourly non-exempt employees accurate
26 itemized wage statements identifying the name and address of the legal entity that is the employer.
27 Specifically, Plaintiff alleges the wage statements that Defendant provided to her and other current
28 and former aggrieved California-based hourly non-exempt employees identified the legal entity

1 that is the employer as FIG Leasing and Administration when the actual name of the legal entity
2 that was the employer and those similarly situated was Defendant FARMERS GROUP, INC.

3 31. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
4 and other current and former aggrieved California-based hourly non-exempt employees all wages
5 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
6 period premium wages) rendered Plaintiff's and other current and former aggrieved California-
7 based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code
8 section 226.

9 32. **Failure to pay employees all wages due at time of termination/resignation:** An
10 employer is required to pay all unpaid wages timely after an employee's employment ends. The
11 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
12 hours of resignation (Labor Code section 202).

13 33. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
14 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
15 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
16 and/or rest period premium wages), Defendants failed to pay those employees timely after each
17 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

18 34. Defendants' violations of Wage Order 4 constituted violations of Labor Code
19 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

20 35. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
21 employee, on behalf of himself or herself and other current or former employees, to bring a civil
22 action to recover civil penalties against all Defendants pursuant to the procedures specified in
23 Labor Code section 2699.3.

24 36. Plaintiff has complied with the procedures for bringing suit specified in Labor
25 Code section 2699.3. On February 7, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
26 and provided notice to Defendants by certified mail which provided notice of the specific
27 provisions of the Labor Code alleged to have been violated, including the facts and theories to
28 support the violations alleged.

6 38. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
7 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510,
8 512, 1194, 1197, beginning one (1) year preceding Plaintiff sending the initial PAGA Claim
9 Notice to the LWDA to the present, in the following amounts:

10 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512 one
11 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
12 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
13 violation [penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558] and any unpaid wages.

d. For violations of Labor Code section 1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

39. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
reasonable attorneys' fees and costs in connection with her claims for civil penalties.

COMPLAINT

1 WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER
2 AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

3 ON THE FIRST CAUSE OF ACTION:

4 1. That Defendants be found to have violated the provisions of the Labor Code and
5 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

6 2. For any and all legally applicable penalties during the relevant statute of limitations
7 subject to any permissible tolling, including but not limited to those recoverable under the
8 California Labor Code, including but not limited to section 2699(f);

9 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
10 under California Labor Code section 2699(g); and

11 4. For such and other further relief, in law and/or equity, as the Court deems just or
12 appropriate

13
14 Dated: April 14, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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16 By: 
17 _____
18 Joseph Lavi, Esq.
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24 aggrieved employees
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