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8 Attorney for Plaintiff
9 CAMERON CRARY

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11
12 IN AND FOR THE COUNTY OF SAN JOAQUIN

13 CAMERON CRARY, an individual,

14 Plaintiff,

15 vs.

16 FARAGE FAMILY COMPANY, LLC; APRIL
17 FARAGE, an individual, & Does 1 through 10,

18 Defendants.

Case No.:

STK-CV-~~UOE~~-2023-9637

COMPLAINT FOR:

(i) REGULAR WAGES;

**(ii) PREMIUM PAY FOR MISSED REST
BREAKS;**

**(iii) PREMIUM PAY FOR MISSED MEAL
BREAKS;**

(iv) LABOR CODE § 203 PENALTIES;

**(v) VARIOUS CLAIMS FOR PENALTIES
UNDER THE LAB. C. PRIVATE
ATTORNEYS GENERAL ACT**

1 **COMPLAINT**

2 Plaintiff, Cameron Crary, an individual, alleges as follows:

3 **I. INTRODUCTION**

4 1. This is an individual action for unpaid wages and continuing pay under Labor Code
5 section 203. It also asserts claims for penalties under the Labor Code Private Attorneys General Act
6 (Lab. Code §§ 2698, et seq.) for violations of multiple provisions of the California Labor Code by the
7 defendants who own and operate a fast-food restaurant in Stockton.

8 **II. PARTIES**

9 2. Plaintiff Cameron Crary is an individual who resides in this County.

10 3. Defendant April Farage is an individual who on information and belief resides in this
County.

11 4. Defendant Farage Family Company, LLC is a business entity of form unknown. Plaintiff
12 is informed and believes and, on that basis, alleges that its principal place of business is in this County.
13 Unless the context dictates otherwise, "Farage" refers to both April Farage and Farage Family Company
LLC.

14 5. Plaintiff does not know the names or capacities of those defendants named as Doe
15 defendants 1 through 10. Therefore, he sues them under their fictitious names. Plaintiff will amend this
16 Complaint to identify said defendants by their true names once they have been ascertained.

17 6. Plaintiffs are informed and believes and, on that basis, alleges that at all times mentioned
18 herein, each of Defendant and Defendants was and now is the agent, servant, employee, representative
19 and alter ego of each of the remaining Defendants, and, in doing the things hereinafter alleged, was
20 acting within the scope of his/her or its authority as such an agent, servant, employee, representative and
alter ego, with the knowledge, permission, consent and ratification of the remaining Defendants.

21 **III. VENUE**

22 7. Venue is proper in this County because Farage is located in this County and this was the
23 place of employment.
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IV. FACTUAL BACKGROUND

8. Farage operates a fast-food restaurant at 2628 March Road in Stockton, California. April Farage holds herself out as "Owner/Operator" of the restaurant. Farage employs approximately 90 employees at its restaurant. Approximately five of those employees are directors each of whom is paid by the hour. Approximately four of those employees are shift leads. Farage manages all employees. The directors and shift leads handle scheduling and supervise the floor during their shifts.

9. Plaintiff was hired as a director in January 2022. His base rate of pay was \$33 per hour. His last day of employment with Farage was on or around March 31, 2023.

10. Plaintiff served a demand for past due wages on or around April 7, 2023.

11. Plaintiff filed a notice with the Labor and Workforce Development Agency on June 15, 2023. At the same time, notice was served via certified mail on Farage. The PAGA notice and certified mail receipts are attached hereto as Exhibit A.

12. Farage's violations of the Labor Code were repeated and willful. Specifically, Farage had a written policy instructing employees not to work off the clock. When Mr. Crary submitted time adjustments for work during scheduled time off, he was sometimes reprimanded. If he was not reprimanded, Ms. Farage at least once covered for this off-scheduled time by instructing Mr. Crary and other former and current aggrieved employees not to work. However, ignoring her own instructions and written policies, Ms. Farage routinely reached out to Mr. Crary and other former and current employees when they were scheduled off for information and requests that actually required and to this day requires them to work during scheduled time off.

13. Farage's contradictory approach to scheduled time off gave rise to a custom and practice that Farage alone benefited from. Specifically, Mr. Crary and other aggrieved employees would work on scheduled times off because Ms. Farage made requests for them to do so but they would not report the time as time worked because they would hear from her if they did so. Farage did not on its own adjust time for employees even though it and Ms. Farage knew and knows based on their direct personal knowledge that Mr. Crary and other current and former employees worked and continue to work off the clock because of communications they directed to their employees while they were off the clock.

1 14. Ms. Farage knew and had knowledge that Plaintiff and other current and former
2 employees worked and continued to work off the clock, but willfully and repeatedly did not adjust the
3 time accordingly for the employees that came to work during their scheduled time off.

4 **V. CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 (Cause of Action for Unpaid Wages against Farage Family Company)

7 15. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
8 herein.

9 16. Under Labor Code section 1194, Farage Family Company, LLC was required to pay
10 Plaintiff for all hours worked. An employee receiving less than the legal minimum wage or the legal
11 overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid
12 balance of the full amount of this minimum wage or overtime compensation, including interest thereon,
13 reasonable attorney's fees, and costs of suit.

14 17. In violation of Labor Code section 1194, Farage Family Company, LLC failed to pay
15 Plaintiff for all hours worked. Plaintiff worked while off the clock during lunch breaks and before and
16 after shifts and was not paid for much of that time.

17 WHEREFORE, Plaintiff prays for the relief described below.

18 **SECOND CAUSE OF ACTION**

19 (Cause of Action for Premium Pay for Missed Rest Breaks against Farage Family Company)

20 18. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
21 herein.

22 19. Labor Code sections 226.7 and 512.10, as well as Section 12 of Industrial Welfare
23 Commission Wage Order 5 generally require rest breaks for every four-hour increments of work. Said
24 breaks generally need to take place in the middle of those work increments. If an employer fails to give
25 employees an opportunity for a rest break, the employee is generally entitled to one hour of premium
pay per day.

20. Throughout his employment with Farage, Plaintiff was not allowed an opportunity to take a rest break.

21. Farage failed to pay the Plaintiff premium pay for missed rest breaks.

WHEREFORE, Plaintiff prays for the relief described below.

THIRD CAUSE OF ACTION

(Cause of Action for Premium Pay for Missed Meal Breaks against Farage Family Company)

22. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth herein.

23. Labor Code sections 226.7 and 512.10 generally require an unpaid meal break of at least one-half hour, during which the employee is relieved of all duty. If an employer fails to relieve an employee of all duty during meal breaks, the employee is generally entitled to one hour of premium pay per day.

24. Throughout his employment with Farage, Plaintiff was not relieved of all duty during meal breaks or was otherwise unable to take meal breaks and was required to work during his meal period.

25. Farage failed to pay the Plaintiff premium pay for missed meal breaks.

WHEREFORE, Plaintiff prays for the relief described below.

FOURTH CAUSE OF ACTION

(Claim for Continuing Wages under Labor Code section 203 against Farage Family Company)

26. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth herein.

27. Labor Code section 203 provides that, upon an employee's involuntary termination, all unpaid wages are due at the time of termination. If an employer willfully fails to pay the wages in compliance with Section 203 at the time of discharge, the wages continue unabated for up to 30 days.

1 28. At the time of Plaintiff's termination, Plaintiff was not paid premium pay for missed
2 breaks or the minimum wage for all hours worked. Farage's failure to pay such pay at the time of
3 termination was willful.

4 WHEREFORE, Plaintiff requests the relief described below.

5
6 FIFTH CAUSE OF ACTION

7 (Recovery of Civil Penalty under PAGA against Farage Family Company)

8 for Violation of Labor Code § 226.7's Requirement for Rest Periods)

9 29. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
10 herein.

11 30. The California Labor Code Private Attorneys General Act of 2004, codified at Labor
12 Code section 2698, et seq. ("PAGA") provides that any penalty that can be assessed and enforced by the
13 Labor and Workplace Development Agency for violations of the Labor Code may be recovered through
14 a civil action brought by an aggrieved employee on behalf of himself or herself and other current or
15 former employees pursuant to the procedures specified in Section 2699.3.

16 31. Pursuant to California Labor Code Section 226.7, employers are required to provide
17 employees who work more than a specified number of hours with rest breaks of a specified duration.
18 Specifically, Section 226.7(a) states: "No employer shall require any employee to work during any meal
19 or rest period mandated by an applicable order of the Industrial Welfare Commission." This cause of
20 action seeks the recovery of a civil penalty on behalf of Plaintiff and other former and current aggrieved
21 employees for violation of Labor Code section 226.7's for failing to authorize rest and meal periods.

22 32. Defendants and each of them are subject to Industrial Welfare Commission Wage Order
23 5. Section 12 of Wage Order 5 provides in part: "Every employer shall authorize and permit all
24 employees to take rest periods, which insofar as practicable shall be in the middle of each work period.
25 The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10)
minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be
authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours.

1 Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction
2 from wages.”

3 33. If an employer fails to provide an employee a meal or rest or recovery period in
4 accordance with a state law, including, but not limited to, an applicable statute or applicable regulation,
5 standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards
6 Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one
7 additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or
8 rest or recovery period is not provided.

9 34. Labor Code section 2699(f) provides for a penalty equal to \$100 for the first violation
10 and \$200 for each subsequent violation.

11 35. Throughout Plaintiff’s employment and continuing to this day Farage Family Company,
12 LLC violated Labor Code section 226.7 by failing to provide him and other directors rest breaks each
13 day.

14 WHEREFORE, Plaintiff seeks the relief described below on behalf of himself and other
15 aggrieved employees.

16 SIXTH CAUSE OF ACTION

17 (Recovery of Civil Penalty under PAGA

18 For Violation of Labor Code section 512.1's Requirement for Rest Breaks

19 against All Defendants)

20 36. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
21 herein.

22 37. This cause of action seeks the recovery of a civil penalty on behalf of Plaintiff and other
23 former and current aggrieved employees for violation of Labor Code section 512.1 for failing to
24 authorize rest periods and for failing to pay premium pay for such rest periods.

25 38. Section 512.1(b) states in part: "An employee who is directly employed by an employer
shall be entitled to a rest period based on the total hours worked daily at the rate of 10 minutes net rest

1 time per 4 hours or major fraction thereof, as provided by Wage Order Number 4 and Wage Order
2 Number 5 of the Industrial Welfare Commission."

3 39. Section 12 of Wage Order 5 provides in part: "Every employer shall authorize and permit
4 all employees to take rest periods, which insofar as practicable shall be in the middle of each work
5 period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten
6 (10) minutes net rest time per four (4) hours or major fraction thereof. . . . Authorized rest period time
shall be counted, as hours worked, for which there shall be no deduction from wages."

7 40. Section 512.1(c) provides "If an employer fails to provide to an employee a meal period
8 or rest period in accordance with this section, the employer shall pay the employee one additional hour
9 of pay at the employee's regular rate of compensation for each workday that the meal or rest period is
not provided."

10 41. Labor Code section 558 provides for an initial penalty equal to \$50 for the first violation
11 of provisions of its chapter (including violations of Labor Code section 512.1) for each underpaid
12 employee per pay period along with an amount sufficient to cover the unpaid wages. For each
13 subsequent violation, it provides a penalty equal to \$100 for each employee for each pay period during
14 which the employee was underpaid.

15 42. Throughout Plaintiff's employment and continuing to this day Farage Family Company,
16 LLC violated Labor Code section 512.1 by failing to provide him and other aggrieved employees who
17 were directors rest breaks each day. It also violated Labor Code section 512.1 by failing to provide him
18 and other aggrieved employees who were directors with an hour's extra pay for each day during which a
violation occurred.

19 43. Labor Code section 558 provides for individual liability of any person acting on behalf of
20 an employer who causes a violation of any section of that chapter that includes Labor Code section
21 512.1.

22 44. At all times relevant to this Action, April Farage was in charge of the working conditions
23 of Plaintiff and other aggrieved employees. April Farage caused the violations alleged herein as is thus
24 liable for civil penalty sought herein.
25

1 WHEREFORE, Plaintiff prays for the relief described below.

2 SEVENTH CAUSE OF ACTION

3 (Recovery of Civil Penalty under PAGA for Violation of Labor Code section 1197.1 against
4 All Defendants Arising from Missed Premium Pay for Rest Breaks)

5 45. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
6 herein.

7 46. Labor Code section 1197.1(a) states, "any employer or other person acting either
8 individually or as an officer, agent, or employee of another person who pays or causes to be paid to any
9 employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the
10 commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the
employee, and any applicable penalties imposed pursuant to Section 203".

11 47. Farage was the employer and Ms. Farage was acting on behalf of Farage. Ms. Farage
12 caused Farage not to pay a wage fixed by law or wage order by not paying premium pay when Mr.
13 Crary or other employees in the same position were not authorized to take rest breaks. Thus, Mr. Crary
14 seeks the penalties recoverable under Labor Code section 1197.1(a) or other penalties authorized by the
15 Labor Code for each violation of Labor Code section 1197.1 due to each of the Defendants' failure to
16 pay premium pay for missed rest breaks on behalf of himself and other aggrieved employees against Ms.
Farage.

17 WHEREFORE, Plaintiff requests the relief described below.

18 EIGHTH CAUSE OF ACTION

19 (Violation of Labor Code section 226 Relating to Missed Rest Breaks
20 against Farage Family Company)

21 48. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
22 herein.

23 49. Labor Code Section 226(a) "requires that employers provide itemized wage statements
24 that reflect both gross wages earned and net wages earned". As mentioned above, Farage has violated
25 Labor Code sections 226.7(c) and 512.1, as well as Wage Order No. 5 and has thus owed premium pay

1 to Plaintiff and other aggrieved employees. Because Farage failed to pay said premium pay, Farage has
2 failed to provide wage statements that accurately reflect gross and net wages earned. Thus, Farage
3 failed to provide him and other former and current directors with accurate itemized wage statements
4 earned by them when they worked through their breaks, in violation of Labor code section 226(a)(9).

5 WHEREFORE, Plaintiff prays for the relief described below.

6 NINTH CAUSE OF ACTION

7 (Recovery of Civil Penalty under PAGA for Violation of Labor Code section
8 226.7's Provisions for Meal Breaks against Farage Family Company)

9 50. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
10 herein.

11 51. Pursuant to California Labor Code Section 226.7, employers are required to provide
12 employees who work more than a specified number of hours with rest breaks of a specified duration.
13 Specifically, Section 226.7(a) states: "No employer shall require any employee to work during any meal
14 or rest period mandated by an applicable order of the Industrial Welfare Commission." This cause of
15 action seeks the recovery of a civil penalty on behalf of Plaintiff and other former and current aggrieved
employees for violation of Labor Code section 226.7's for failing to authorize rest and meal periods.

16 52. Defendants and each of them are subject to Industrial Welfare Commission Wage Order
17 5. Section 11 of Wage Order 5 provides in part: "No employer shall employ any person for a work
18 period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a
19 work period of not more than six (6) hours will complete the day's work the meal period may be waived
20 by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a
21 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as
22 time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an
23 employee from being relieved of all duty and when by written agreement between the parties an on-the-
24 job paid meal period is agreed to. The written agreement shall state that the employee may, in writing,
25 revoke the agreement at any time."

1 53. Farage violated Labor Code section 226.7 by failing to provide meal periods to Plaintiff
2 and other aggrieved employees.

3
4 WHEREFORE, Plaintiffs provide the relief set forth below.

5 TENTH CAUSE OF ACTION

6 (Recovery of Civil Penalty under PAGA for Violation of Labor Code section 512's

7 Meal Break Requirement)

8 54. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
9 herein.

10 55. Labor Code section 512 states: "An employer shall not employ an employee for a work
11 period of more than five hours per day without providing the employee with a meal period of not less
12 than 30 minutes, except that if the total work period per day of the employee is no more than six hours,
13 the meal period may be waived by mutual consent of both the employer and employee. An employer
14 shall not employ an employee for a work period of more than 10 hours per day without providing the
15 employee with a second meal period of not less than 30 minutes, except that if the total hours worked is
16 no more than 12 hours, the second meal period may be waived by mutual consent of the employer and
17 the employee only if the first meal period was not waived".

18 56. Farage failed to make meal periods available to Plaintiff and other aggrieved employees
19 and Plaintiff and other aggrieved employees did not waive them.

20 WHEREFORE, Plaintiffs pray for the relief described below.

21 ELEVENTH CAUSE OF ACTION

22 (Recovery of Civil Penalty under PAGA for Violation of Labor Code section 512.1's

23 Provisions for Meal Breaks)

24 57. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
25 herein.

1 58. Labor Code section 512.1 states: "An employee directly employed by an employer shall
2 be entitled to one unpaid 30-minute meal period on shifts over 5 hours and a second unpaid 30-minute
3 meal period on shifts over 10 hours, as provided by Section 512".

4 59. Farage failed to make meal periods available to Plaintiff and other aggrieved employees
5 and Plaintiff and other aggrieved employees did not waive them.

6 WHEREFORE, Plaintiffs pray for the relief described below.

7 TWELFTH CAUSE OF ACTION

8 (Recovery of Civil Penalty under PAGA for Violation of Labor Code section 1197 Arising from
9 Unpaid Wages for Work During Meal Periods)

10 60. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
11 herein.

12 61. Labor Code section 1197 provides: "The minimum wage for employees fixed by the
13 commission or by any applicable state or local law, is the minimum wage to be paid to employees, and
14 the payment of a lower wage than the minimum so fixed is unlawful."

15 62. Industrial Wage Order No. 5, Section 4 requires payment of a minimum wage not below
16 \$15.00 per hour for all hours worked in 2022 and \$15.50 per hour for all hours worked in 2023. Mr.
17 Crary and other current and former aggrieved employees were not paid for time they actually worked
while on meal breaks.

18 63. Farage failed to make meal periods available to Plaintiff and other aggrieved employees
19 and Plaintiff and other aggrieved employees did not waive them. Plaintiff and other aggrieved
20 employees were not relieved of all duty during meal periods when they were off the clock.

21 WHEREFORE, Plaintiffs pray for the relief described below.

22 THIRTEENTH CAUSE OF ACTION

23 (Recovery of Civil Penalty under PAGA against Farage for Violations of Labor Code section 510
24 for Overtime for Unpaid Wages During Meal Periods)

64. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth herein.

65. Labor Code section 510 provides, "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee."

66. As shown above, Mr. Crary and other employees in the same position worked and work off the clock during lunch. This resulted in work more than eight hours per day or 40 hours per week and Farage failed to pay Mr. Crary and other aggrieved employees the wages due for overtime required by section 510.

WHEREFORE, Plaintiff demands the relief set forth below.

FOURTEENTH CAUSE OF ACTION

(Recovery of Civil Penalty under PAGA against Farage for Violations of Labor Code section 510
for Overtime for Unpaid Wages During Meal Periods)

67. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth herein.

68. Labor Code section 510 provides, "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee."

69. As shown above, Mr. Crary and other employees in the same position worked and work off the clock during lunch. This resulted in work more than eight hours per day or 40 hours per week and Farage failed to pay Mr. Crary and other aggrieved employees the wages due for overtime required by section 510.

WHEREFORE, Plaintiff demands the relief set forth below.

1 FIFTEENTH CAUSE OF ACTION

2 (Recovery of Civil Penalty under PAGA against Farage Under section 558

3 Arising from Violation of Section 11 of Industrial Wage Order No. 5 Arising from Unpaid Work

4 During Meal Periods)

5 70. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
6 herein.

7 71. Labor Code section 558 provides for a civil penalty for violations of Industrial Wage
8 Orders. Section 11 of Industrial Wage Order No. 5, which requires meal breaks in the public
9 housekeeping industry. Section 3 of Wage Order No. 5 requires overtime for work over eight hours per
10 day or 40 hours per week. Section 4 of Wage Order No. 5 requires payment of a minimum wage not
below \$15.00 per hour for all hours worked in 2022 and \$15.50 per hour for all hours worked in 2023.

11 72. As alleged above, Plaintiff and other employees in the same position were not permitted
12 meal breaks in violation of Section, 11 of Wage Order no. 5. Plaintiff and other aggrieved employees
13 work and continue to work off the clock during lunch. This resulted in work more than eight hours per
14 day and Defendants failed to pay them the wages due for overtime in violation of Section 3 of Wage
15 Order No. 5. This resulted in unpaid work in that Defendant did not pay Plaintiff and other aggrieved
employees for all hours worked. This violated Section 3 of Wage Order No. 5.

16 WHEREFORE, Plaintiff prays for the relief set forth above.

17 SIXTEENTH CAUSE OF ACTION

18 (Recovery of Civil Penalty under PAGA against April Farage pursuant to Labor Code section 1197.1

19 for Violations Arising from Missed Meal Periods)

20 73. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
21 herein.

22 74. Labor Code section 1197.1 provides: Any employer or other person acting either
23 individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any
24 employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the

1 commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the
2 employee, and any applicable penalties imposed pursuant to Section 203 as follows.

3 75. April Farage is an officer or agent of Farage who caused the violations alleged herein.
4 April Farage is liable for the penalty provided in Labor Code section 1197.1 by causing Plaintiff and
5 other employees in the same position not to be paid the minimum wage required by Labor Code section
6 1197 as they were not paid for time worked during meal breaks.

7 WHEREFORE, Plaintiff prays for the relief set forth below.

8 SEVENTEENTH CAUSE OF ACTION

9 (Recovery of Civil Penalty under PAGA against Farage for Violations of
10 Labor Code sections 1174 and 1174.1)

11 76. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
12 herein.

13 77. On behalf of himself and other current and former aggrieved employees, Plaintiff alleges
14 that Farage violated Labor Code sections 1174 and 1174.1(b) by failing to keep at a central location or at
15 establishments payroll records showing the actual hours worked daily by and the wages paid to Plaintiff
16 and other aggrieved current and former employees. As shown above, Plaintiff and other current and
17 former aggrieved employees were and are entitled to premium pay required pursuant to Labor Code
18 sections 226.7(c) and 512.1, as well as Wage Order No. 5, Section 11 for missed meal breaks. This
19 premium pay constitutes wages. Accurate records of such wages are required to be maintained by
20 employers under Labor Code sections 1174 and 1174.1(b). Farage failed to maintain such records
21 where required.

22 78. Plaintiff and other current and former aggrieved employees were also worked off the
23 clock before shifts, after shifts, during lunch, and on days off. They were entitled to pay for all such
24 hours worked. Accurate records of such wages are required to be maintained by employers under Labor
25 Code sections 1174 and 1174.1(b). Farage failed to maintain such records where required.

1 WHEREFORE, Plaintiff prays for the relief set forth below.

2 EIGHTEENTH CAUSE OF ACTION

3 (Recovery of Civil Penalty under PAGA against Farage for Violations of

4 Labor Code section 1197 Arising from Unpaid Work Off Shift)

5 79. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
6 herein.

7 80. Plaintiff alleges a violation of Labor Code section 1197 because Farage failed to pay the
8 minimum legal wage for all of the hours that Plaintiff and other employees in the same position worked
9 and continue to work off the clock. As noted above, Plaintiff worked up to five additional hours per
10 week off the clock. Plaintiff and other aggrieved employees' off-the-clock worked consisted of
11 responding to calls or messages via text, slack, or email about scheduling or other issues arising from
12 work among other things. These issues included team members asking permission to swap other things
13 about shift swaps by team members. On information and belief, other aggrieved employees worked and
14 work off the clock doing the same or similar tasks.

15 WHEREFORE, Plaintiff prays for the relief set forth below.

16 NINETEENTH CAUSE OF ACTION

17 (Recovery of Civil Penalty under PAGA against Farage for Violations of

18 Labor Code section 510 Arising from Unpaid Work Off Shift)

19 81. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
20 herein.

21 82. Section 510 requires overtime for work over eight hours per day or 40 hours per week.
22 Lab. Code § 510 ("Any work in excess of eight hours in one workday and any work in excess of 40
23 hours in any one workweek and the first eight hours worked on the seventh day of work in any one
24 workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay
25 for an employee.") As shown above, Plaintiff and other aggrieved employees worked and work off the

1 clock before and after their shifts and on days off. This resulted in work more than eight hours per day
2 or 40 hours per week and Farage failed to pay Plaintiff and other aggrieved employees the wages due for
3 overtime required by section 510.

4 WHEREFORE, Plaintiff prays for the relief set forth below.

5 TWENTIETH CAUSE OF ACTION

6 (Recovery of Civil Penalty under PAGA against Farage for Violations of
7 Labor Code section 558 Arising from Unpaid Work Off Shift)

8
9 83. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
10 herein.

11 84. Farage violated Labor Code section 558 through their violations of Section 3 of Industrial
12 Wage Order No. 5. Section 3, like Labor Code section 510, requires overtime for work over eight hours
13 per day or 40 hours per week. As shown above, Plaintiff and other aggrieved employees worked and
14 work off the clock before and after their shifts and on days off. This caused Plaintiff and other
15 aggrieved employees to work overtime hours for which they were not paid.

16 85. Farage also violated Labor Code section 558 through their violations of Section 4 of
17 Industrial Wage Order No. 5. Section 4 requires payment of a minimum wage not below \$15.00 per
18 hour for all hours worked in 2022 and \$15.50 per hour for all hours worked in 2023. As shown above,
19 Plaintiff and other aggrieved employees worked and work off the clock before the start of shifts, after
20 shifts, and on days off. This resulted in unpaid minimum wage.

21 WHEREFORE, Plaintiff prays for the relief set forth below.

22 TWENTY-FIRST CAUSE OF ACTION

23 (Recovery of Civil Penalty under PAGA against Farage for Violations of
24 Labor Code section 1197.1 Arising from Unpaid Work Off Shift)

1 86. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
2 herein.

3 87. Ms. Farage violated Labor Code section 1197.1 by causing Mr. Crary and other
4 aggrieved employees not to be paid the minimum wage for all hours worked before and after shifts and
5 on days off.

6 WHEREFORE, Plaintiff prays for the relief set forth below.

7 TWENTY-SECOND CAUSE OF ACTION

8 (Recovery of Civil Penalty under PAGA against Farage for Violations of
9 Labor Code section 203)

10 88. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
11 herein.

12 89. Labor Code section 203 provides that, upon an employee's involuntary termination, all
13 unpaid wages are due at the time of termination. If an employer willfully fails to pay the wages in
14 compliance with Section 203 at the time of discharge, the wages continue unabated for up to 30 days.

15 90. Farage violated Labor Code section 203 by failing to pay them premium pay for missed
16 meal breaks pursuant to Labor Code section 226.7(c) within the time frame required by Labor Code
17 section 203. Plaintiff alleges that Defendants also violated Labor Code section 203 by failing to pay
18 Plaintiff and other former and current aggrieved employees the minimum wage due under section 1197
19 and the overtime due under Labor Code section 510 as shown above, caused by Plaintiffs and other
20 current and former employees' work during lunch within the time frame required by Labor Code section
21 204.

22 91. Farage also violated Labor Code section 203 by failing to pay them all wages due for
23 time off the clock before shifts, after shifts, and on days off.

24 WHEREFORE, Plaintiff prays for the relief described above.

25 TWENTY-THIRD CAUSE OF ACTION

1 (Recovery of Civil Penalty under PAGA against Farage for Violations of Labor Code section 226)

2 92. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth
3 herein.

4 93. As alleged above, Farage violated Labor Code section 226 by failing to provide Plaintiff
5 and other current and former aggrieved employees itemized wage statements that accurately reflect the
6 gross and net wages earned by them. Plaintiff and other employees in the same position were and are
7 entitled to premium pay required pursuant to Labor Code sections 226.7(c) and 512.1, as well as Wage
8 Order No. 5, Section 11 for missed meal breaks. This premium pay constitutes wages that were earned
9 and which were required to be reported accurately on Mr. Crary and other current and former aggrieved
10 employees' itemized wage statements. But Mr. Crary and other former and current aggrieved employees
11 did not receive such earned premium pay and the pay due was not accurately reported in gross and net
12 wages on the itemized wage statements. Plaintiff and (on information and belief) other aggrieved
13 employees also worked during time off before shifts, after shifts, and on days off as alleged herein.
14 They were not paid for all hours worked and, as a result, their wage statements did not accurately reflect
15 gross pay or net pay.

16 94. Labor code section 226(a) also requires itemized wage statements to reflect the total
17 hours worked by employees. Plaintiff and other current and former aggrieved employees did and on
18 information and belief continued to work off the clock during meal periods because they were and are
19 not relieved of all duty. They also worked on time off before shifts, after shifts, and on days off. The
20 itemized wage statements of Plaintiff and other current and former aggrieved employees did and do not
21 reflect the hours worked in violation of Labor Code section 226(a). Nor did wage statements accurately
22 reflect the rate of pay for all hours worked in violation of Labor Code section 226.

23 WHEREFORE, Plaintiff prays for the relief set forth below.

24 TWENTY-FOURTH CAUSE OF ACTION

25 (Recovery of Civil Penalty under PAGA against Farage for Violations of Labor Code section 204)

95. Plaintiff repeats and realleges the allegations in prior paragraphs as though fully set forth herein.

96. Labor Code section 204 provides that labor performed between the first and the fifteenth be paid for no later than the 25th of each month. Labor performed between the sixteenth and end of the month needs to be paid for by the 10th of the following month. Farage violated these requirements of Labor Code section 204 with respect to hours worked on days within the following pay-days: all regular pay days between June 16, 2022 and August 11, 2022 and all regular pay days between November 17, 2022 and January 12, 2022 by generally ending pay periods applicable to all employees before the 15th of the month and before the end of the month. By doing so, Farage paid for and continues to pay the labor performed within the last approximately four days of each pay period later than permitted by Labor Code section 204.

97. Farage also violated Labor Code section 204 by failing to pay Plaintiff and other former and current aggrieved employees the premium pay for missed rest and meal breaks that was due to them pursuant to Labor Code sections 226.7(c) and 512.1 within the time frame required by Labor Code section 204 or at all. Similarly, Farage violated Labor Code section 204 by failing to pay Plaintiff and other former and current aggrieved employees for work performed off-the-clock during purported lunch breaks, on days off, and before and after shifts in the time required by Section 204 as alleged herein.

WHEREFORE, Plaintiff prays for the relief set forth below.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that a judgment be entered in favor of him and other former and current aggrieved employees against Defendants as follows:

- A. For unpaid wages;
- B. For premium wages;
- C. For continuing wages under Labor Code section 203;
- D. For penalties pursuant to Labor Code sections 210, 558, 1197.1, 558, and 2699;
- E. For pre-judgment interest according to proof;

1 E. Reasonable attorney fees as allowed by statute; and

2 J. Any other and further relief as the Court deems just and reasonable.

3 Respectfully submitted,

4 DATED: August 22, 2023

CLAASSEN MARRS, P.C.

5 *John Claassen*

6 By: _____

John S. Claassen, Esq.

7 Attorney of Plaintiff

8 CAMERON CRARY