

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Fagalnifin v. First Technology Federal Credit Union

No. 2:22-cv-00734-DJC-JDP (E.D. Cal. June 20, 2025) · No. 2:22-cv-00734-DJC-JDP · Decided June 23, 2025

SUMMARY

The United States District Court for the Eastern District of California grants in part and denies in part First Technology Federal Credit Union’s motion for summary adjudication. The court grants judgment on Jessica Fagalnifin’s FMLA interference and retaliation claims, concluding that she was not entitled to the asserted pandemic-related leave and could not establish a causal connection between her 2019 FMLA leave and alleged adverse actions. The court denies summary adjudication on the PAGA claim, rejecting challenges based on the claim’s scope and trial manageability.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Daniel J. Calabretta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 23, 2025
DOCKET	2:22-cv-00734-DJC-JDP
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary adjudication of the plaintiff's FMLA interference and retaliation claims and her California PAGA claim. The court granted the motion as to the FMLA claims and denied it as to the PAGA claim.
STANDARD OF REVIEW	Summary judgment is appropriate when, viewing the record in the light most favorable to the nonmoving party, there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. A genuine dispute exists only when sufficient evidence would permit a reasonable jury to return a verdict for the nonmoving party.
PRECEDENTIAL VALUE	Unknown; federal district court order with no reported citation
PARTIES	Jessica Fagalnifin v. First Technology Federal Credit Union d/b/a First Tech Federal Credit Union, Does 1 through 50

TOPICS

family and medical leave act

wage and hour

summary judgment

evidence

civil procedure

PRACTICE AREAS

employment law

civil procedure

evidence

QUESTIONS PRESENTED

1. Whether Plaintiff could establish FMLA interference when she presented no evidence that she was entitled to FMLA leave for the April 2020 school closure.
2. Whether Plaintiff could establish FMLA retaliation based on coworker comments and a performance review issued approximately two years after her 2019 FMLA leave.
3. Whether Plaintiff's PAGA claim was barred or should be limited because its penalty period allegedly began one year before the PAGA notice.
4. Whether Plaintiff's PAGA claim was impermissibly overbroad or unspecified because she could not establish Labor Code violations as to all alleged aggrieved employees.
5. Whether a PAGA claim could be dismissed or summarily adjudicated solely because it would be difficult or inefficient to try.

HOLDINGS

1. A plaintiff cannot prevail on an FMLA interference claim without evidence that she was entitled to FMLA leave. Plaintiff presented no evidence that the April 2020 school closure qualified under the ordinary FMLA provisions, and the temporary pandemic expansion did not apply because Defendant employed more than 500 employees.
2. Plaintiff's coworker's comments and her post-resignation performance review did not establish an adverse employment action causally linked to her 2019 FMLA leave. The FMLA retaliation claim therefore failed.
3. The PAGA claim was not limited to Labor Code violations occurring on or after June 15, 2021, the date Plaintiff filed her PAGA notice. The claim accrued on Plaintiff's last day of employment, July 30, 2021, when the last alleged violation occurred.
4. The PAGA claim was not shown to be overbroad or impermissibly unspecified at summary adjudication. Evidence that two supervisors had not personally seen or learned of Labor Code violations did not establish that Defendant committed no violations or was not liable as to the allegedly misclassified employees.
5. A trial court may not dismiss or strike a PAGA claim solely because it would be difficult or inefficient to try. The court therefore denied summary adjudication based on the asserted manageability of Plaintiff's PAGA claim.

KEY QUOTATIONS

“Summary judgment is appropriate when the record, read in the light most favorable to the non-moving party, indicates “that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”” (at 3)

“The only evidentiary rule for summary judgment relevant here is the “sham affidavit” rule, which is that “a party cannot create an issue of fact by an affidavit contradicting his prior deposition testimony.”” (at 6)

“trial courts lack inherent authority to strike a PAGA claim on manageability grounds.” (at 13)

“The Court is unable to locate any CACI instructions for PAGA actions and therefore disregards this argument.” (at 13)

FACTUAL BACKGROUND

Jessica Fagalnifin worked for First Tech Federal Credit Union from 2018 to 2021 and alleged that she and other employees were misclassified as exempt, depriving them of overtime and meal- and rest-break protections under California law. She took FMLA leave in May 2019 to care for her sick daughter and took leave in April 2020 when her daughter's school closed during the COVID-19 pandemic. She alleged FMLA interference and retaliation, including inappropriate comments and a later performance review, and asserted a PAGA claim based on alleged Labor Code violations. The employer had approximately 1,650 employees when the 2020 leave was taken.

PROCEDURAL HISTORY

Plaintiff originally filed the action in the Superior Court of California, Placer County. Defendant removed the action to federal court under federal-question jurisdiction. Plaintiff later dismissed her libel and intentional infliction of emotional distress claims with prejudice. The court then decided Defendant's motion for summary adjudication after briefing and oral argument.

DISPOSITION

other

CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Grindstone Indian Rancheria v. Olliff, No. 2-17-CV-02292-JAM-JDP, 2021 WL 3077464, at *1 (E.D. Cal. July 21, 2021)
- Sandoval v. County of San Diego, 985 F.3d 657, 665 (9th Cir. 2021)
- Block v. City of Los Angeles, 253 F.3d 410, 418-19 & n.2 (9th Cir. 2001)
- Burch v. Regents of the University of California, 433 F. Supp. 2d 1110, 1119 (E.D. Cal. 2006)
- Van Asdale v. International Game Technology, 577 F.3d 989, 998 (9th Cir. 2009)
- Xin Liu v. Amway Corp., 347 F.3d 1125, 1132 (9th Cir. 2003)
- Sanders v. City of Newport, 657 F.3d 772, 778 (9th Cir. 2011)

- *Perata v. City & County of San Francisco*, No. 21-CV-02819-TSH, 2023 WL 4537695, at *24 (N.D. Cal. July 13, 2023)
- *Yphantides v. County of San Diego*, No. 21CV1575-GPC(BLM), 2023 WL 2438916, at *15 (S.D. Cal. Mar. 9, 2023)
- *Nunez v. City of Los Angeles*, 147 F.3d 867, 875 (9th Cir. 1998)
- *L. Baumann v. Chase Investment Services Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014)
- *Williams v. Alacrity Solutions Group, LLC*, 331 Cal. Rptr. 3d 877, 883-84 (2025)
- *Lacey v. Maricopa County*, 693 F.3d 896, 940 (9th Cir. 2012)
- *Carlsbad Technology, Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009)
- *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1040 (2012)
- *Estrada v. Royalty Carpet Mills, Inc.*, 15 Cal. 5th 582, 618-20 (2024)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
 CALIFORNIA 10 11 JESSICA FAGALNIFIN, No. 2:22-cv-00734-DJC-JDP 12 Plaintiff, 13 v.
 ORDER 14 FIRST TECHNOLOGY FEDERAL CREDIT UNION D/B/A FIRST TECH 15
 FEDERAL CREDIT UNION, a federal chartered credit union; and DOES 1 16 through 50,
 inclusive 17 Defendants. 18 After leaving her job with Defendant, Plaintiff alleged that she had
 been 19 misclassified as an exempt employee and therefore did not receive protections 20 afforded
 to non-exempt employees under state law.

Plaintiff also alleges that when 21 she attempted to exercise her right to family and medical leave
 under a federal 22 statute, Defendant interfered and retaliated. Defendant argues that Plaintiff
 received 23 leave under the federal statute and that it did not otherwise retaliate. Defendant also 24
 maintains that Plaintiff’s claim regarding alleged violations of labor laws is overly 25 broad and
 unspecified such that summary adjudication is required as a matter of law.

26 For the following reasons, the Court GRANTS IN PART and DENIES IN PART 27
 Defendant’s Motion for Summary Adjudication (ECF No. 62). 28 1 BACKGROUND 2 Jessica
 Fagalnifin (“Plaintiff”) worked for First Tech Federal Credit Union 3 (“Defendant”) from 2018 to
 2021. (Second Amended Complaint (“SAC”) ¶¶ 16, 29, 4 ECF No. 15.) Throughout her
 employment, Plaintiff alleges that Defendant 5 misclassified her and other employees as exempt,
 which resulted in noncompliance 6 with state regulations for non-exempt employees regarding
 breaks and overtime pay.

7 (Id. ¶¶ 4–6.) In May 2019, Plaintiff took leave under the Family Medical Leave Act 8 (“FMLA”)
 to care for her sick daughter. (Penna Decl. (ECF No. 62-3) ¶ 10; Fagalnifin 9 Decl. (ECF No. 64-
 2) ¶ 9.) Plaintiff alleges that she was retaliated against for using 10 FMLA leave, including by a
 coworker making “inappropriate comments.” (SAC ¶ 26.) 11 In April 2020, Plaintiff took leave
 because her daughter’s school was closed because 12 of the COVID-19 pandemic.

(Penna Decl. ¶ 12; Price Decl., Ex. B, Fagalnifin Dep. (ECF 13 No. 62-3) at 176:5–177:1.) Because Plaintiff was told by her supervisors that her 14 absence did not qualify for FMLA leave, she did not submit a formal request and 15 instead utilized paid time off. (Fagalnifin Decl. ¶ 11.) Plaintiff alleges that Defendant 16 therefore interfered with her FMLA rights, as she argues she was entitled to FMLA 17 leave in April 2020.

(SAC ¶¶ 54, 56.) 18 In the operative complaint, Plaintiff brings seven claims: (1) failure to pay 19 overtime wages pursuant to California Labor Code Sections 510 and 558; (2) failure to 20 provide meal breaks pursuant to California Labor Code Sections 226.7 and 512; (3) 21 failure to provide rest breaks pursuant to California Labor Code Section 226.7; (4) 22 FMLA retaliation and interference pursuant to 29 U.S.C. Section 2615; (5) violation of 23 the Private Attorney General Act (“PAGA”) pursuant to California Labor Code Section 24 2698; (6) libel pursuant to California Civil Code Section 45; and (7) intentional 25 infliction of emotional distress.

(SAC ¶¶ 35–76.) 26 Plaintiff originally filed suit in the Superior Court of California, Placer County. 27 (Notice of Removal, ECF No. 1.) Defendant then timely removed the case under 28 federal question jurisdiction. (Id. at 4.) Concurrent with the present motion, Plaintiff 1 requested — and the Court granted — dismissal with prejudice of her libel and 2 intentional infliction of emotional distress claims.

(Request for Dismissal, ECF No. 61; 3 Order Granting Request to Dismiss, ECF No. 63.) 4 Defendant now moves for summary adjudication as to Plaintiff’s FMLA and 5 PAGA claims. (Mot. for Summary Adjudication, ECF No. 62.) Specifically, Defendant 6 seeks summary adjudication as to five noticed issues: (1) the FMLA interference claim 7 fails because Plaintiff received leave under the FMLA; (2) the FMLA retaliation claim 8 fails because Plaintiff received leave under the FMLA; (3) the FMLA retaliation claim 9 fails because Plaintiff cannot establish a causal connection between an adverse 10 employment action and her FMLA leave; (4) the PAGA claim fails because it cannot be 11 proven in an efficient manner; and (5) the PAGA claim fails because it is overbroad.

12 (Notice of Mot. at 2–3, ECF No. 62.) The matter is fully briefed. On June 12, 2025, the 13 Court heard oral argument from the parties on this motion and took the matter under 14 submission. (ECF No. 69.) 15 LEGAL STANDARD 16 Summary judgment is appropriate when the record, read in the light most 17 favorable to the non-moving party, indicates “that there is no genuine dispute as to 18 any material fact and the movant is entitled to judgment as a matter of law.” Fed.

R. 19 Civ. P. 56(a). A genuine dispute of fact exists only if “there is sufficient evidence 20 favoring the nonmoving party for a jury to return a verdict for that party.” *Anderson v. 21 Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). If the nonmoving party fails to make this 22 showing, “the moving

party is entitled to a judgment as a matter of law.” *Celotex 23 Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

24 DISCUSSION 25 I. Evidentiary Objections 26 As an initial matter, Defendant submitted evidentiary objections to the 27 declarations of Charles Raub (ECF No. 65-1) and Jessica Fagalnifin (ECF No. 65-2) on 28 the grounds that these declarations contradict deposition testimony and do not satisfy 1 the Federal Rules of Evidence.

The Court has reviewed these evidentiary objections 2 but declines to rule as to each individually, as courts self-police evidentiary issues on 3 motions for summary judgment and a formal ruling is unnecessary to the determination 4 of this motion. See *Grindstone Indian Rancheria v. Olliff*, No. 2-17-CV-02292-JAM-JDP, 5 2021 WL 3077464, at *1 (E.D. Cal. July 21, 2021) (citing *Sandoval v. Cty.*

Of San Diego, 6 985 F.3d 657, 665 (9th Cir. Jan. 13, 2021). The Ninth Circuit held, “To survive summary 7 judgment, a party does not necessarily have to produce evidence in a form that would 8 be admissible at trial, as long as the party satisfies the requirements of Federal Rules of 9 Civil Procedure 56.” *Block v. City of Los Angeles*, 253 F.3d 410, 418–19 (9th Cir.

2001). 10 As such, objections are generally unnecessary on summary judgment because they are 11 “duplicative of the summary judgment standard itself.” *Burch v. Regents of the 12 University of California*, 433 F. Supp. 2d 1110, 1119 (E.D. Cal. 2006). “[P]arties briefing 13 summary judgment motions would be better served to ‘simply argue’ the import of the 14 facts reflected in the evidence rather than expending time and resources compiling 15 laundry lists of relevance objections.” *Sandoval v. Cnty. of San Diego*, 985 F.3d 657, 16 665 (9th Cir.

2021) (citation omitted). 17 The only evidentiary rule for summary judgment relevant here is the “sham 18 affidavit” rule, which is that “a party cannot create an issue of fact by an affidavit 19 contradicting his prior deposition testimony.” *Van Asdale v. Int’l Game Tech.*, 577 F.3d 20 989, 998 (9th Cir. 2009).

The Court did not consider statements contained in the 21 Declaration of Plaintiff Jessica Fagalnifin (ECF No. 64-2) to the extent that they were 22 irrelevant to the Court’s resolution of her claims or contradict her deposition testimony. 23 See *Block*, 253 F.3d at 419 n.2; *infra* Discussion Part II. 24 II. FMLA 25 “The FMLA creates two interrelated substantive rights for employees.

First, an 26 employee has the right to take up to twelve weeks of leave.... Second, an employee 27 who takes FMLA leave has the right to be restored to his or her original position or to 28 a position equivalent in benefits, pay, and conditions of employment upon return from 1 leave. ” *Xin Liu v. Amway Corp.*, 347 F.3d 1125, 1132 (9th Cir. 2003) (citations 2 omitted).

Plaintiff alleges both violations of the FMLA: interference and retaliation. 3 A. Interference 4 Plaintiff argues that Defendant interfered with her use of FMLA leave during the 5 COVID-19 pandemic in 2020. (Opp'n at 5, ECF No. 64.)

To establish a claim for FMLA 6 interference, among other factors, a plaintiff must show that she was entitled to leave 7 under the FMLA. *Sanders v. City of Newport*, 657 F.3d 772, 778 (9th Cir. 2011). 8 Because there is no evidence showing that Plaintiff was entitled to FMLA leave, her 9 claims fails. 10 An employee is entitled to FMLA leave: (A) because of the birth of a child; (B) 11 because of the placement of a child for adoption or foster care; (C) to care for a 12 spouse or child who has a serious health condition; (D) because of a serious health 13 condition that makes the employee unable to perform the functions of their position; 14 or (E) because of any qualifying exigency arising from a family member on active duty 15 in the Armed Forces.

29 U.S.C. § 2612(a)(1). Plaintiff does not provide any evidence 16 demonstrating that she satisfied one of these statutory provisions. Rather, she states 17 that she took leave in 2020 because her daughter's school was closed because of the 18 COVID-19 pandemic. (Fagalnifin Dep. at 176:5–177:1, 180:2–10, 276:11–278:6.) 19 The only other statutory provision available at the time Plaintiff took leave was a 20 temporary expansion of the FMLA to cover employees who took leave because their 21 children's schools were closed because of the pandemic.

29 U.S.C. § 2612(a)(1)(F); 29 22 U.S.C. § 2620(a)(2). While at first glance Plaintiff falls within the intended beneficiaries 23 of this temporary expansion, the amendment did not apply to her. The temporary 24 expansion only covered employers with fewer than 500 employees. 29 U.S.C. 25 § 2620(a)(1)(B).

As of April 15, 2025, Defendant has approximately 1,650 employees. 26 (Penna Decl. ¶ 5.) At oral argument, Defendant represented — and Plaintiff conceded 27 — that Plaintiff was ineligible for the temporary expansion because Defendant was not 28 covered by the amendment, as Defendant employed more than 500 employees when 1 Plaintiff requested leave. 2 Accordingly, because Plaintiff provides no evidence showing she was entitled 3 to leave under the FMLA, her claim necessarily fails and the Court grants Defendant's 4 motion as to the issue of FMLA interference.

See *Sanders*, 657 F.3d at 778. 5 B. Retaliation 6 Plaintiff argues that she suffered adverse employment actions following her 7 FMLA leave in 2019 because another employee made “snide comments” and because 8 she received an admonishment in an official performance review. (Opp'n at 6.)

To 9 establish a claim for retaliation under the FMLA, a plaintiff must show: “(1) she 10 engaged in a protected activity under the FMLA; (2) she suffered some adverse 11 employment action by the employer following the protected activity; and (3) the 12 adverse employment action was

causally linked to the protected activity.” *Perata v. 13 City & Cnty. of San Francisco*, No. 21-CV-02819-TSH, 2023 WL 4537695, at *24 (N.D.

14 Cal. July 13, 2023) (quoting *Yphantides v. Cty. of San Diego*, No. 21CV1575- 15 GPC(BLM), 2023 WL 2438916, at *15 (S.D. Cal. Mar. 9, 2023)). Regarding an adverse 16 employment action, the Ninth Circuit held, “Although the type of sanction need not be 17 particularly great in order to find that rights have been violated, the plaintiff must 18 nonetheless demonstrate the loss of a valuable governmental benefit or privilege.

19 Mere threats and harsh words are insufficient.” *Nunez v. City of Los Angeles*, 147 F.3d 20 867, 875 (9th Cir. 1998) (cleaned up). 21 First, regarding another employee’s remarks, Plaintiff states that Erika Cantrell, 22 a senior member of Defendant’s staff, “expressed derisive incredulity” by “mocking 23 the health” of Plaintiff’s daughter. (Fagalnifin Decl. ¶ 10.)

As a matter of law, these 24 comments cannot form the basis of an adverse employment action because “harsh 25 words are insufficient.” See *Nunez*, 147 F.3d at 875. 26 Second, as to her admonishment, Plaintiff states that she was critiqued for 27 excessive absences in her quarterly performance review in July 2021. (Fagalnifin Decl. 28 ¶ 12; see also *id.*, Ex A.)

Defendant argues Plaintiff’s declaration should be stricken 1 because she previously testified that she received a positive performance review that 2 resulted in a pay increase in July 2021. (Fagalnifin Dep. at 220:19–221:13.)

The Court 3 strikes Plaintiff’s declaration to the extent it states that Plaintiff was admonished in a 4 performance review in July 2021. See *Block*, 253 F.3d at 419 n.2. However, the “sham 5 affidavit” rule only applies to sworn statements, not proffered evidence that 6 contradicts prior testimony. Plaintiff introduced the performance review itself, which 7 states that she “had a pattern of excessive unscheduled absences.” (Fagalnifin Decl., 8 Ex A.)

The Court can therefore consider this evidence. 9 The Court finds that no reasonable trier of fact would find a causal connection 10 between Plaintiff’s FMLA leave in 2019 and her performance review in 2021. Plaintiff’s 11 supervisor noted on the performance review that it was not discussed with Plaintiff as 12 she already had resigned from her job. (*Id.*) Plaintiff presents no evidence explaining 13 how a performance review created after she resigned from her job is related to FMLA 14 leave she took two years prior.

Because there is insufficient evidence for a trier of fact 15 to find that Plaintiff’s admonishment was causally related to her FMLA leave, Plaintiff’s 16 FMLA retaliation claim fails. See *Perata*, 2023 WL 4537695, at *24. 17 Accordingly, the Court grants Defendant’s motion as to the FMLA retaliation 18 claim.

As such, the Court dismisses the entirety of Plaintiff's FMLA claim.¹ 19 III. PAGA 20 Unlike a more typical lawsuit where a plaintiff seeks compensatory damages for 21 their injuries, a PAGA plaintiff recovers civil penalties on behalf of the California Labor 22 Workforce Development Agency ("LWDA"). *L. Baumann v. Chase Inv. Servs. Corp.*, 747 23 F.3d 1117, 1123 (9th Cir.

2014). As such, "PAGA plaintiffs are private attorneys 24 general who, stepping into the shoes of the LWDA, bring claims on behalf of the state 25 agency." *Id.* To establish a PAGA cause of action, a plaintiff must have been 26 27 1 Though the Court dismisses the only federal claim in this action, it chooses to exercise supplemental jurisdiction over the state law claims.

See *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 940 (9th Cir. 2012) 28 (citing *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009)). 1 employed by the alleged violator and have experienced at least one violation. 2 *Williams v. Alacrity Sols. Grp., LLC*, 331 Cal. Rptr. 3d 877, 883–84 (2025). Defendant 3 argues that Plaintiff's PAGA claim should be dismissed because its scope is too wide 4 and it cannot be efficiently tried.

(Mot. at 10–15.) The Court addresses these issues in 5 turn. 6 A. The Scope of the Claim 7 Defendant argues that the scope of the PAGA claim is overbroad regarding the 8 PAGA time period and the underlying Labor Code violations. (Mot. at 13–15.) 9 1.

The PAGA Period 10 Defendant asks the Court to limit the PAGA period (i.e. limit the timeframe of 11 alleged Labor Code violations that Plaintiff can present at trial) to June 15, 2021, 12 through July 30, 2021. (Mot. at 13.) Plaintiff filed a PAGA notice of claims on June 15, 13 2022. (Price Decl., Ex. D.) Defendant argues that "the penalty period for PAGA 14 actions is one year prior to the date of filing the PAGA notice." (Mot. at 6 (citing Cal. 15 Code Civ.

P § 340; Cal. Lab. Code § 2699.3). Neither of the cited statutory provisions 16 support Defendant's contention that a PAGA penalty period is one year prior to the 17 filing of notice. Code of Civil Procedure Section 340 states that the statute of 18 limitations for actions like PAGA is one year.² Cal. Code Civ. P § 340; see also 19 *Williams*, 331 Cal. Rptr.

3d at 884 ("[T]he statute of limitations period for a PAGA 20 action is one year."). Labor Code Section 2699.3 lists the requirements a PAGA 21 plaintiff must satisfy before filing action, such as giving written notice and allowing the 22 LWDA an opportunity to investigate.³ Cal. Lab. Code § 2699.3. 23 Defendant presents no caselaw, nor can the Court find any, holding that the 24 time period of a PAGA claim is one year before the filing of notice.

On the contrary, "a 25 PAGA action accrues when the Labor Code violation last occurred; as applied here, 26 2 Defendant does not contest that Plaintiff satisfied the statute of limitations. 27 3 Defendant also does not contest that Plaintiff complied with these statutory requirements. 28 1 when a PAGA plaintiff is no longer employed by the violator-employer, the violation 2 last

occurred (and the cause of action accrues) on the PAGA plaintiff's last day of 3 employment." Williams, 331 Cal. Rptr.

3d at 884. Because Plaintiff's last day of 4 employment with Defendant was July 30, 2021, her PAGA action did not accrue until 5 then. See *id.*; Fagalnifin Dep., Ex. 18. The Court holds that because Plaintiff's PAGA 6 claim had not accrued until her last day of employment, Plaintiff is not prohibited from 7 introducing evidence of violations that occurred before June 15, 2021.

The Court 8 therefore declines to limit the timeframe of alleged violations that Plaintiff can 9 introduce at trial. 10 2. Whether the Underlying Claims are Overbroad and Unspecified 11 Defendant argues that Plaintiff's PAGA claim is overbroad because she cannot 12 sustain the underlying claims for violations of the Labor Code. (Mot. at 13–15.)

The 13 crux of Plaintiff's theory of Defendant's Labor Code violations is that she and other 14 employees were misclassified as exempt workers. (Opp'n at 8–10.) To be classified as 15 exempt, an employee must earn no less than two times the state minimum wage for 16 full-time employment, which is defined as 40 hours per week. Cal. Code Regs. tit. 8, 17 § 11040.

California's Department of Industrial Relations calculates this threshold for 18 exemption as two times the minimum wage, multiplied by 40 hours per week, and 19 then multiplied by 52 weeks per year.⁴ In 2021, the minimum wage was \$14.00 per 20 hour.⁵ Thus, to be considered exempt in 2021, an employee needed to earn at least 21 \$58,240. This salary threshold is a floor for an employee to be non-exempt, as an 22 employee earning less than the threshold cannot be classified as exempt.

Cal. Code 23 4 State of California Department of Industrial Relations, The Labor Commissioner's Office Reminds 24 Employers that California's Minimum Wage Increases to \$16.50 Per Hour on January 1, <https://www.dir.ca.gov/DIRNews/2024/2024-107.html#:~:text=An%20employee%20must%20earn%20no> (last visited June 17, 2025) 25 (calculating the threshold amount for exemption as two times the minimum wage multiplied by 40 hours per week and 26 52 weeks per year).

27 5 State of California Department of Industrial Relations, Labor Commissioner's Office Minimum Wage Frequently Asked Questions, https://www.dir.ca.gov/dlse/faq_minimumwage.htm (last visited June 17, 28 2025). 1 Regs. tit. 8, § 11040. Upon Plaintiff's request, Defendant furnished a list of employees 2 who were exempt salaried employees earning less than \$58,240 in 2021.

(Price Decl. 3 (ECF No. 62-3), Ex. E.) Defendant's list identifies seven employees, including Plaintiff, 4 who were salaried exempt workers in 2021 that earned less than \$58,240. See *id.* 5 Accordingly, a reasonable trier of fact could find that Defendant misclassified these 6 employees

as exempt. 7 Plaintiff alleges that by misclassifying her and other employees as exempt, 8 Defendant violated three provisions of the Labor Code.

First, she alleges that 9 Defendant failed to pay overtime wages in violation of Labor Code Section 510. 10 (Compl. ¶ 59.) This provision does not apply to exempt workers, and thus Plaintiff 11 alleges she was unlawfully deprived of this protection because she was misclassified 12 as exempt. See Cal. Lab. Code § 515.

Second, Plaintiff states that Defendant failed to 13 provide rest breaks in violation of Labor Code Section 226.7. (Compl. ¶ 59.) This 14 provision also does not apply to exempt workers, and thus Plaintiff alleges she was not 15 provided this right because she was misclassified.

Third, Plaintiff alleges that 16 Defendant failed to provide meal breaks in violation of Labor Code Section 512. 17 (Compl. ¶ 59.) This provision applies to exempt and non-exempt workers alike. 18 Accordingly, Plaintiff's allegation that Defendant violated this provision is independent 19 from her allegation that she and others were misclassified as exempt.

In support of 20 these alleged violations, Plaintiff states that she was denied overtime pay, meal 21 breaks, and rest breaks. (Fagalnifin Decl. ¶ 2.) Accordingly, a reasonable trier of fact 22 — already finding that Defendant misclassified Plaintiff and other employees as 23 exempt — could further find that Defendant violated all three provisions of the Labor 24 Code.

25 Defendant argues it did not violate any provision of the Labor Code because it 26 provided Plaintiff and other employees with a handbook detailing its policies. (Mot. at 27 13–14.) Regarding meal breaks, the handbook states, “As a general rule it is expected 28 that employees scheduled to work at least 6 hours in one day should receive a lunch 1 break of 30 minutes in addition to a schedule break(s).” (Penna Decl., Ex. A.)

The 2 handbook's California addendum explains that it is Defendant's policy to relieve 3 employees of all duty during meal periods so that they can use the break as they wish. 4 (Id.) However, Plaintiff states that she was denied meal breaks because she was 5 “repeatedly asked to run errands for [her] superiors.” (Fagalnifin Decl. ¶ 2.) There 6 thus is a genuine dispute as to whether Defendant impeded or discouraged 7 employees from taking their meal breaks.

See *Brinker Rest. Corp. v. Superior Ct.*, 53 8 Cal. 4th 1004, 1040 (2012). 9 As for rest breaks, the handbook clearly states that Defendant “provides non- 10 exempt employees with the opportunity to take” such breaks. (Id. (emphasis added).) 11 Similarly, regarding overtime, the handbook states that Defendant “will pay non- 12 exempt employees overtime as required by federal and state law.” (Id. (emphasis 13 added).)

Defendant therefore cannot argue that its handbook put Plaintiff and other 14 allegedly misclassified employees on notice of their rights as non-exempt employees 15 under the Labor

Code. 16 Defendant's final argument is that because Plaintiff cannot establish liability as 17 to all employees, the PAGA claim should be dismissed. (Mot. at 15.) Defendant 18 explains that Plaintiff cannot prove liability as to all employees because at least two of 19 the seven employees allegedly misclassified as exempt "never complained to First 20 Tech about any unpaid wages." (Id.)

To support this proposition, Defendant presents 21 two declarations, each from a supervisor of an employee allegedly misclassified as 22 exempt. (See Kaut Decl. (ECF No. 62-3); Jensen Decl. (ECF No. 62-3).) These 23 declarations only show that two of Defendant's supervisory employees have not 24 personally seen or learned of any violations of the Labor Code.

(See Kaut Decl. ¶¶ 14, 25 23; Jensen Decl. ¶¶ 14, 21.) This evidence does not show that Defendant never 26 violated the Labor Code, or that it is not liable as to the two employees allegedly 27 misclassified as exempt.

As such, this evidence is not dispositive and does not 28 establish that the PAGA claim is overbroad. 1 Accordingly, the Court denies Defendant's motion for summary adjudication 2 as to the issue of the breadth of the PAGA claim. 3 B. The Manageability of the Claim 4 Finally, Defendant argues the PAGA claim should be dismissed because it 5 cannot efficiently be tried.

(Mot. at 10–13.) Defendant states that, to determine 6 whether it improperly classified employees as exempt, the trier of fact would need to 7 examine the salary and job characteristics of each employee.⁶ (Id. at 11–12.) 8 Defendant claims that this process cannot be done in an efficient manner. (Id. at 12.) 9 Defendant furthers that even if Plaintiff could establish that she and other employees 10 were misclassified, Plaintiff would then have to show that Defendant violated the 11 Labor Code, which would also involve an individual-level analysis that would be 12 cumbersome.

(Id.) Defendant therefore asks the Court to hold that the PAGA claim 13 fails as a matter of law. 14 Ironically, Defendant relies on a California Supreme Court decision that 15 forecloses its argument. See Mot. at 10–11 (citing *Estrada v. Royalty Carpet Mills, Inc.*, 16 15 Cal. 5th 582 (2024)).

In *Estrada*, the California Supreme Court held that "trial courts 17 lack inherent authority to strike a PAGA claim on manageability grounds." *Estrada*, 15 18 Cal. 5th at 619. Instead, the court emphasized that "trial courts have numerous tools 19 that can be used to manage complex cases" like PAGA cases, such as "[r]epresentative 20 testimony, surveys, and statistical analysis." Id. at 618 (citations omitted). "Indeed, 21 given that the purpose of the recovery of civil penalties in a PAGA action is to 22 remediate present violations and deter future ones rather than to redress employees' 23 injuries, statistical methods designed to reveal generalized characteristics of a 24 population seem particularly appropriate for use in adjudicating such claims." Id. at 25 619 (cleaned up).

The Estrada court clarified that although a trial court may not 26 27 6 In addition to the salary threshold, California regulations dictate whether an employee is exempt by determining if their job responsibilities fall under the purview of an Executive, Administrative, or 28 Professional exemption. Cal. Code Regs. tit. 8, § 11040. 1 dismiss a PAGA claim on manageability grounds, a court still may limit the evidence 2 that a party can present at trial.

Id. 3 Defendant requests summary adjudication on the PAGA claim not because 4 there is no genuine issue of material fact, but because Defendant believes the claim 5 would be too complicated for the Court to adjudicate. This argument is substantively 6 the same as asking the Court to do what is explicitly prohibited under controlling state 7 law: strike or dismiss a PAGA claim on manageability grounds.

See id. Accordingly, 8 the Court holds it cannot grant summary adjudication as to this claim. 9 After Plaintiff correctly discussed the import of Estrada, Defendant made a final 10 effort at seeking dismissal by focusing on a single line in the court's ruling. (See Opp'n 11 at 11; Reply at 10–11.)

The Estrada court held that “a trial court may issue substantive 12 rulings, including those... on motions for summary judgment... to fairly and 13 efficiently adjudicate an action in cases in which a plaintiff pleads the claim in such an 14 overbroad or unspecific manner that the plaintiff is unable to prove liability as to all or 15 most employees.” Estrada, 15 Cal. 5th at 619–20.

Defendant cites this holding but 16 fails to state what it wants the Court to limit in terms of Plaintiff's evidence. (See Reply 17 at 10–11.) Rather, Defendant simply asks the Court to find that “Plaintiff cannot 18 establish liability as to all or most of the employees without individually speaking with 19 them.”⁷ (Id. at 11.)

As explained above, the Estrada court only left authority for a 20 district court to limit evidence that could be presented at trial, not dismiss a PAGA 21 claim on manageability grounds. See Estrada, 15 Cal. 5th at 619. 22 According, the Court denies Defendant's motion for summary adjudication as 23 to the issue of the efficiency of the PAGA claim.⁸ 24 7 Throughout its briefing, Defendant makes much ado about Plaintiff's statement in her deposition that 25 the only way to determine if an employee experienced a Labor Code violation “would be to go person by person and ask them.” (See e.g., Mot. at 15 (citing Fagalnifin Dep. at 199:3–20).)

Defendant's 26 argument does not persuade the Court. After all, Plaintiff is not a lawyer or expert on how courts handle PAGA claims. Considering the case law discussed herein, the Court attributes no weight to 27 Plaintiff's statement in determining this motion. 28 8 At oral argument, Defendant represented that the California Civil Jury Instructions (“CACI”) list 1 CONCLUSION 2 For the reasons set forth above, the Court GRANTS IN PART and DENIES IN 3 PART Defendant's Motion for Summary Adjudication (ECF No. 62).

Specifically, the 4 Court grants Defendant's Motion as to the FMLA interference and retaliation claims, 5 such that Plaintiff can no longer pursue a claim based in the FMLA. The Court denies 6 Defendant's Motion as to the PAGA claim. 7 8 9 IT IS SO ORDERED. 10 | Dated: _June 20, 2025
“Darel A Ch brett Hon. Daniel alabretta " UNITED STATES DISTRICT JUDGE 12 13 14 15 16
17 18 19 20 21 22 23 24 25 26 27 | — SSS manageability as an element of a PAGA claim that a
plaintiff must prove at trial.

The Court is unable to 28 | locate any CACI instructions for PAGA actions and therefore
disregards this argument. 14