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VIA EMAIL (Danielle.West@labor.ca.gov)

Danielle West
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Labor and Workforce Development Agency
LWDA, 1416 Ninth St. (MIC-55)
Sacramento, CA 95814

Re: Public Comment on Proposed Private Attorneys General Act Regulations

Dear Ms. West:

We write to you on behalf of the Asian American Hotel Owners Association ("AAHOA") to provide a public comment regarding California's Private Attorneys General Act ("PAGA") and the LWDA's February 6, 2026 proposed regulations thereto ("Proposed Regulations").

AAHOA is the largest hotel owners association in the country. AAHOA's 20,000 members own 60% of the hotels in the United States and are themselves responsible for 1.7% of the nation's GDP. More than one million employees work at AAHOA member-owned hotels, earning a total of $47 billion annually. In total, AAHOA member hotels support 4.2 million jobs across all sectors of the hospitality industry. Specifically, AAHOA members own 61% of the hotels in California and contribute $62.6 billion dollars to California's GDP.

AAHOA, like many California employers, initially shared the Legislature's admirable objective when PAGA was reformed and amended in 2024 (the "2024 Amendment"): strengthening PAGA so that it more effectively addressed genuine employment law violations while curbing procedural abuses that have increasingly transformed PAGA into a high-volume litigation vehicle for frivolous claims.

Unfortunately, as countless AAHOA members have experienced, these objectives have not been achieved, and the rampant abuse of PAGA has not only endured but proliferated.

Following the 2024 Amendment, PAGA plaintiffs and the law firms that represent them have continued to commoditize PAGA. Rather than targeting actual violations of the California Labor Code, many PAGA practitioners submit boilerplate PAGA notices to the LWDA, setting forth every conceivable California Labor Code violation without conducting any meaningful factual investigation. They do so with impunity and typically extort a settlement that far exceeds the value of the actual violations (if any). The result is a system that imposes significant costs on

compliant employers while doing little to meaningfully advance worker protection. This was not the original intent underlying the 2024 Amendment.

Recent trends underscore the urgency of ensuring that the Proposed Regulations meaningfully change these dynamics. Despite the intent of the 2024 Amendment to reduce frivolous filings, data maintained by the LWDA indicates that PAGA notice filings have sharply increased. Indeed, even the LWDA's targeted communications to certain PAGA practitioners regarding their defective PAGA notices has done little to curb PAGA's popularity: approximately 180 new PAGA notices are filed *weekly*.

While the Proposed Regulations are a meaningful step toward bringing greater structure and consistency to PAGA, they fall woefully short of addressing the underlying perverse incentives that give rise to speculative and formulaic filings the 2024 Amendment has inadvertently created.

Moreover, certain provisions in the Proposed Regulations unduly constrain employers' ability to resolve alleged violations efficiently — an outcome that is likely to increase, rather than reduce, the volume of PAGA litigation burdening the courts and the LWDA alike. With targeted refinements, the Proposed Regulations would more effectively incentivize thorough pre-filing investigation, provide more meaningful notice to both employers and the LWDA, and focus enforcement resources on genuine workplace violations — advancing the Legislature's core remedial objectives while reducing unnecessary litigation.

With these objectives in mind, we respectfully recommend the following three targeted revisions to the Proposed Regulations in response to the LWDA's request for public comment.

Proposal 1: The Definition Of "High Frequency Filer" Should Be Reduced From 200 To 50 Filings Per Year

The Proposed Regulations define a "high frequency filer" as a law firm or attorney submitting 200 or more PAGA notices in a calendar year. While the goal of identifying and regulating high-volume filers is important, the proposed threshold is set too high to provide any meaningful recourse.

As recognized by the LWDA's Initial Statement of Reasons, this threshold would only apply to eight law firms and four attorneys. *See* Labor and Workforce Development Agency, *Initial Statement of Reasons in Support of Proposed Regulatory Action*, https://www.labor.ca.gov/wp-content/uploads/sites/338/2026/02/2026-2-6-ISOR_LWDA_PAGA_w_Appendices-Z2026-0121-03.pdf. Yet the broader challenge confronting the PAGA system is not limited to those few extreme outliers.

Many firms file dozens of notices annually—often on a weekly basis—using the same templated, low-investigation model as the highest-volume filers. These firms fall below the 200-notice

threshold but nonetheless engage in the exact abusive practices the Proposed Regulations are intended to address.

Reducing the threshold to 50 filings per year would better capture firms operating under this high-volume model — an adjustment that would affect approximately 20 law firms according to the LWDA's PAGA database — while avoiding overbreadth that would sweep in practitioners who bring occasional, well-founded PAGA claims. This adjustment would more closely align the Proposed Regulations with legislative intent by targeting the filing practices driving excessive and unsupported notices, rather than focusing narrowly on the most extreme filing totals. To further strengthen this framework, the Proposed Regulations should permit employers and/or their counsel to submit evidence to the LWDA demonstrating that a high-frequency filer's last 50 PAGA notices are substantially identical in factual allegations, alleged violations, and/or legal theories. A showing of substantial similarity across those filings should create a rebuttable presumption that the plaintiff's counsel qualifies as a "Vexatious Filer" under the Proposed Regulations, thereby shifting the burden to the filer to demonstrate that each notice reflects an independent, good-faith investigation into the specific employer's alleged violations. This mechanism would provide a practical, evidence-based pathway for identifying bad actors without requiring the LWDA to independently audit every filing, and would deter the cookie-cutter notice practice that the high-frequency filer designation is designed to address.

In short, these adjustments would more closely align the Proposed Regulations with legislative intent by targeting the filing practices driving excessive and unsupported notices, rather than focusing narrowly on the most extreme filing totals.

Proposal 2: The Proposed Standardized PAGA Notice Form Should Require Verification Under Penalty of Perjury and Detailed Factual Allegations

The Proposed Regulations introduce a standardized PAGA notice form under proposed section 17420(a). Adoption of a standardized form signals legislative recognition that existing PAGA notices frequently substitute generic or boilerplate language for substantive factual allegations.

However, as currently structured, the form will not meaningfully address the underlying problems. Unless paired with additional accountability measures, the standardized form will merely formalize the speculative filing practices it was meant to address.

To address this eventuality, we respectfully recommend two key modifications.

1. The form should be signed under penalty of perjury

Requiring verification under penalty of perjury would introduce a meaningful layer of accountability and encourage counsel to conduct an appropriately robust investigation before

filing a notice. This requirement would help ensure that allegations are based on actual information rather than speculation or generalized assumptions about employer practices.

Verification requirements are commonplace in other legal contexts when factual allegations must be grounded in personal knowledge or reasonable investigation. Applying a similar standard to PAGA notices would be consistent with the Legislature's goal of improving the quality and reliability of filings and would deter the type of rampant misuse of PAGA that is currently all too common.

Additionally, requiring verification under penalty of perjury would discourage a troubling practice that has emerged in recent years: filing frivolous PAGA notices primarily to obtain leverage for individual settlements rather than to pursue representative enforcement based upon the merits of the filing. By increasing accountability at the filing stage, the regulations would help ensure that PAGA remains focused on systemic workplace issues rather than extortionary individualized settlements.

2. The form should require heightened factual detail

Currently, many PAGA notices contain broad, conclusory statements alleging violations across every potentially relevant provision of the Labor Code without identifying: (1) the specific policies or practices at issue; (2) the approximate time period of the alleged violations; (3) the departments or job classifications affected; or (4) the factual basis supporting the alleged violations.

The standardized form presents an opportunity to require these basic details. Doing so would bring PAGA notice practice closer to the pleading standards used in federal litigation, where allegations must be supported by sufficient factual detail to demonstrate plausibility.

Requiring additional factual specificity would produce multiple benefits, specifically:

- Allowing the LWDA to more effectively evaluate notices.
- Discouraging speculative filings.
- Providing employers with meaningful information necessary to investigate and potentially cure alleged violations.
- Encouraging early resolution of legitimate disputes.

Including these changes in the new form would lend significant support to the intention of these regulations.

Proposal 3: The Regulations Should Continue to Allow Amendment of PAGA Notices Post-Settlement

The Proposed Regulations prohibit amendment of PAGA notices once a settlement has been reached. This Proposed Regulation will increase the number of PAGA notices and deprive employers of the ability to achieve comprehensive resolutions.

Currently, employers often receive an initial PAGA notice and begin the process of evaluating the claims and coordinating mediation with that first-filer, only to have additional notices filed later by different firms on behalf of different plaintiffs—sometimes after a mediation date has already been set or the mediation process is underway. These later-filed notices frequently assert overlapping, though not identical, theories based on the same underlying practices. In this environment, employers need a viable path to achieve a comprehensive, global resolution of related claims.

A prohibition on amendments would eliminate that path. Employers would be forced into a piecemeal "whack-a-mole" cycle—resolving one notice only to confront successive notices arising from variations of the same underlying allegations. This approach not only denies employers finality, but also incentivizes serial filings and strategic fragmentation of claims.

The result is predictable: increased costs, diminished incentives for early resolution, and delayed implementation of corrective measures. Rather than streamlining enforcement, the rule would entrench inefficiency and prolong disputes—outcomes directly at odds with the purpose of the 2024 Amendment.

In addition, the proposed prohibition on amendments raises serious concerns under California's mediation privilege/confidentiality protections. Because settlement agreements in PAGA actions are frequently reached through mediation, a rule that fixes the scope of amendable claims by reference to when a "proposed settlement agreement" has been reached would necessarily require courts and parties to disclose and litigate the timing and substance of confidential mediation communications — directly implicating Evidence Code sections 1115 through 1128. Ultimately, conditioning a PAGA plaintiff's amendment rights on the existence or terms of a mediated settlement threatens to chill open participation in the mediation process and could force disclosure of privileged communications in any subsequent dispute over whether the amendment bar has been triggered.

Last, the Proposed Regulations fail to define the term "proposed settlement agreement." This oversight creates substantial ambiguity that will inevitably generate satellite litigation over the amendment bar's threshold trigger. Settlement negotiations exist on a continuum — from early informal discussions, to exchanged term sheets, to signed memoranda of understanding, to fully executed agreements — and the rule provides no guidance as to which point along that

continuum constitutes a "proposed settlement agreement" sufficient to extinguish a PAGA plaintiff's amendment rights. This ambiguity creates perverse outcomes. For example, a subsequent PAGA plaintiff could challenge an existing settlement on the basis that the first-filed Plaintiff's amendment rights were cut off prior to their amendment and thereby exposing the employer to a subsequent copycat PAGA filing which was resolved in an arms' length negotiation.

Allowing reasonable amendments—such as within a defined timeframe, upon a showing of good cause, or signed under penalty of perjury (*see* Proposal 2 *supra*)—would better reflect the realities of PAGA practice and enable efficient, comprehensive resolution, while still guarding against abuse.

Conclusion

The LWDA's rulemaking presents a critical opportunity to address a system in which PAGA is too often deployed as a high-volume, low-fact mechanism for extracting settlements.

The recommended revisions would restore balance by: (1) ensuring the high-frequency filer definition captures meaningful filing activity; (2) requiring greater accountability and factual specificity in PAGA notices; and (3) permitting amendments that enable comprehensive, rather than piecemeal, resolution.

Together, these changes would better align PAGA with legislative intent—deterring genuine misconduct, promoting compliance, and protecting workers, all while avoiding unnecessary burdens on responsible employers. In doing so, the LWDA can help ensure that PAGA functions as a focused and effective enforcement mechanism that supports both worker protection and economic stability.

We appreciate the opportunity to provide these comments and would welcome further dialogue with the Agency regarding these issues.

Very truly yours,

Chris A. Jalian
of Paul Hastings LLP