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Danielle West, PAGA Rulemaking and Policy Analyst
California Labor and Workforce Development Agency
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**Re: CAOC Comments on Proposed PAGA Rules**

Dear Ms. West:

The Consumer Attorneys of California ("CAOC") is a statewide non-profit organization of over 4,000 plaintiff's attorneys dedicated to protecting and advancing the rights of California consumers. CAOC members represent employees in all types of employment cases, including cases involving FEHA, wage theft and claims under the Private Attorneys General Act ("PAGA").

CAOC actively participated in the discussions leading up to the passage of PAGA reform measures that became effective in June 2024.

CAOC applauds the recent efforts of the Labor & Workforce Development Agency ("Agency") to increase oversight of PAGA actions, including its proposal to adopt new PAGA regulations. As a real party in interest, the State may properly exercise oversight of actions brought on its behalf by aggrieved employees. While we have suggestions for modifying some of the proposed rules, we generally share the Agency's goals of streamlining PAGA notice requirements; curbing the abusive practices described in the Agency's Initial Statement of Reasons; and ensuring that PAGA settlements are fair and in the best interests of all workers.

Below are CAOC's comments regarding the proposed rules. To the extent a proposed rule is not included, we have no comment.

**I. Threshold Concern: Proposed Section 17415- Statutory Authority and Separation of Functions**

At the outset, proposed **section 17415** appears to create a regulatory framework that goes beyond the authority granted to the LWDA under PAGA. The statute does not authorize the Agency to regulate attorneys or law firms through labeling schemes or quasi-disciplinary measures. Determinations regarding whether claims are frivolous or abusive have long been entrusted to the courts. By contrast, the proposed designations of "high frequency" and "vexatious" filers risk shifting that role to the Agency without legislative authorization.

For this reason alone, the Agency should proceed cautiously and ensure that any adopted rule remains firmly grounded in the statutory framework and does not function as an indirect limitation on PAGA enforcement.

**II. "High-Frequency Filer" Designation**

CAOC recognizes the Agency's concern regarding high-volume filings that may rely on boilerplate allegations. However, the proposed definition of "high-frequency filer" is arbitrary.

The rule imposes a flat threshold of 200 notices in a 12-month period without regard to firm size. As a result, a large firm with dozens of attorneys—each filing a small number of meritorious cases—could be labeled a high-frequency filer, while a solo practitioner could file nearly as many notices (199) and avoid the designation entirely. This "one-size-fits-all" approach penalizes firm structure rather than conduct.

Moreover, the designation is likely to provide limited practical value. Only a small number of firms would meet the threshold, and others may simply adjust filing practices to avoid it. As such, the rule may neither meaningfully inform the Agency nor deter problematic conduct.

A more effective and less arbitrary alternative would be to require all filers to disclose basic contextual information, including: (1) the number of attorneys at the firm; (2) the number of PAGA notices filed by the firm in the preceding 12 months; and (3) the number filed by the individual attorney. This approach would provide transparency and allow the Agency, courts, and employers to assess filing patterns without imposing rigid and inequitable thresholds.

If the Agency nevertheless retains a high-frequency designation, CAOC strongly urges that it be tailored to account for firm size and include procedural safeguards, including notice and an opportunity to respond to such a designation.

**III. "Vexatious Filer" Designation**

While we support the Agency's efforts to curb abusive PAGA notice practices, we have significant concerns with the proposed "vexatious filer" designation.

First, the terminology itself is inappropriate in the PAGA notice context. The term "vexatious" carries a well-established legal meaning tied to adjudicated conduct in litigation. Here, however, the designation would be applied at a pre-litigation stage, before any determination on the merits of the underlying claims. This creates a substantial risk of unfair stigma and confusion.

Second, the proposal lacks clear standards. The rule does not define what constitutes "repeated" noncompliance or otherwise establish objective criteria for designation. This ambiguity invites inconsistent application and potential overreach.

Third, the proposed framework raises serious due process concerns. It appears to permit the Agency to label attorneys or firms based on perceived deficiencies in notices, without sufficient procedural protections. Importantly, deficiencies in a notice—such as lack of specificity—do not render the underlying claims frivolous. In many contexts, such issues are routinely addressed through amendment, not punitive labeling.

If the Agency seeks to address noncompliant notices, CAOC recommends a more measured approach: adopting neutral terminology (such as "non-compliant filer"), implementing a clear warning system, and providing objective standards and meaningful opportunities to cure deficiencies before any designation is imposed.

**IV. Due Process and Safeguards**

Across both proposed designations, the rule should incorporate clear procedural protections, including:

- Defined and objective criteria for designation;
- Written notice of alleged deficiencies;
- A meaningful opportunity to respond before designation;
- Reasonable timelines to challenge or remove a designation; and
- Sunset provisions to ensure that any designation does not persist indefinitely without justification.

Without these safeguards, the rule risks imposing significant reputational and practical consequences without adequate process.

**V. Support for Preserving PAGA's Enforcement Purpose**

CAOC agrees that the Agency has an important role in promoting compliance with PAGA's notice requirements. We also support the concept of a "prefiling screening order" for individuals who, after notice and an opportunity to be heard, continue to violate the PAGA filing requirements, provided the term "repeatedly" is defined more precisely.

CAOC supports much of the Agency's proposed regulations regarding the content of the notice to be provided to the Agency as set forth in sections 17420 and 17450, and see them as clarifying existing law regarding PAGA notices. These provisions properly require basic information about the filing party, the complaining party, and the allegations supporting the claims.

However, any regulatory framework must be carefully calibrated to avoid discouraging legitimate enforcement actions.

PAGA was enacted to supplement limited state enforcement resources and empower workers to address Labor Code violations. Overly broad or punitive regulatory mechanisms—particularly those

directed at attorneys rather than unlawful conduct—risk chilling meritorious claims and undermining the statute's purpose.

A more balanced approach would focus on improving the quality and clarity of PAGA notices, increasing transparency, and preserving the courts' central role in evaluating the merits of claims.

**VI. Conclusion**

For the foregoing reasons, CAOC respectfully urges the Agency to reconsider and substantially revise proposed section 17415 to ensure it is consistent with statutory authority, grounded in clear and objective standards, and protective of due process. We appreciate the opportunity to comment on the proposed regulations and would welcome continued dialogue with the Agency on these important issues.

Sincerely,

Consumer Attorneys of California