From:	West, Danielle@Labor
To:	Nguyen, Phap@Labor
Subject:	FW: Comment on proposed PAGA rule changes
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From: Dawn Capp <dcapp@cbhi.net>
Sent: Wednesday, August 12, 2026 9:55 AM
To: West, Danielle@Labor <Danielle.West@labor.ca.gov>
Subject: Comment on proposed PAGA rule changes

I would like to offer comments on the proposed amendments based on my experience managing employment-related litigation and responding to PAGA notices on behalf of California employers.

While PAGA serves an important role in promoting compliance with California labor laws, the current framework continues to permit the filing of boilerplate and unsupported claims that impose substantial costs on employers regardless of the merits of the allegations. Many employers make significant good-faith efforts to comply with California's complex wage and hour requirements and nevertheless find themselves defending against broad PAGA claims based on minimal investigation or technical allegations. Even where an employer has strong defenses, the costs associated with litigation, discovery, and potential exposure often create settlement pressure unrelated to the merits of the case.

For that reason, I support stronger consequences for parties who repeatedly submit deficient or unsupported PAGA notices. Consideration should be given to authorizing meaningful sanctions for bad-faith filings and providing a mechanism by which employers may recover a portion of the attorney's fees and costs incurred as a result of such conduct. Doing so would help discourage abuse of the process while preserving access to the PAGA system for meritorious claims.

I am also concerned about the proposed regulations regarding "non-compliant filers."

The original proposed regulations included a "vexatious filer" designation for attorneys who repeatedly failed to comply with PAGA's notice requirements. The modified proposal instead uses the term "non-compliant filer" and provides that an attorney will not receive this designation unless the attorney files three or more non-compliant notices within a one-year period and continues such conduct after receiving a warning from the Labor and Workforce Development Agency (LWDA). Attorneys designated as non-compliant filers would be subject to a pre-filing screening process.

However, the proposal also provides that the applicable statute of limitations will be tolled during that screening process. This aspect of the proposal appears inconsistent with the purpose and structure of Labor Code section 2699.3, which establishes specific pre-filing notice requirements as a condition precedent to pursuing a PAGA action. An attorney who repeatedly fails to comply with those statutory requirements should not receive the benefit of additional time through tolling that would otherwise be unavailable to compliant filers. Instead, non-compliant notices should be deemed ineffective for purposes of satisfying PAGA's pre-filing requirements. Eliminating the tolling provision would create a stronger incentive for compliance and better align the regulations with the statutory framework.

Additionally, I encourage reconsideration of the current practice of evaluating proposed PAGA settlements based primarily on prevailing "price-per-pay-period" settlement metrics. Such market-based comparisons frequently fail to account for the actual merits of a case, the strength of an employer's defenses, or the likelihood of success if the matter were litigated.

In practice, employers often elect to settle PAGA actions for business reasons wholly apart from liability, including litigation costs, discovery burdens, disruption to operations, and uncertainty regarding potential exposure. As a result, settlement values may not accurately reflect wrongdoing, damages, or litigation risk. A settlement evaluation process that relies too heavily on historical per-pay-period benchmarks risks pressuring parties toward artificial settlement values disconnected from the merits of the dispute.

Instead, the adequacy of a settlement should be evaluated based on a holistic merits-based analysis that considers the evidence, the defenses available, the likelihood of prevailing, the scope and significance of any alleged violations, and the practical realities of the litigation. Where a claim is weak and an employer possesses substantial defenses, the parties should **have the flexibility to resolve the matter at a nominal amount without concern that the settlement will be viewed as inadequate solely because it falls below** an established market benchmark.

Overall, further reforms should focus on improving the quality of PAGA filings, encouraging meaningful pre-filing investigation, and ensuring that enforcement resources are directed toward meritorious claims involving genuine labor-code violations rather than deficient or unsupported notices. Such reforms would preserve PAGA's remedial purpose while reducing unnecessary costs and burdens on both employers and the administrative system.

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