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VIA ELECTRONIC SUBMISSION

Danielle West
PAGA Rulemaking and Policy Analyst
California Labor and Workforce Development Agency
1416 Ninth Street (MIC-55)
Sacramento, CA 95814

Re: Public Comment on Modifications to Proposed Regulatory Text and Documents Added to the Rulemaking File (15-Day Comment Period)
California Code of Regulations, Title 8, Division 1, Chapter 9
Regulatory Action File No. Z2026-0121-03

Dear Ms. West:

Blackstone Law, APC respectfully submits this non-exhaustive comment on the modifications to the proposed regulatory text published August 3, 2026, and on the documents added to the rulemaking file on that date, including the Addendum to the Initial Statement of Reasons and Appendices G through T. The firm incorporates by reference its written comment dated March 23, 2026, and its written comment submitted in connection with the April 9, 2026 public hearing, renews the objections stated in them, and respectfully requests that the Final Statement of Reasons respond to each as provided in Government Code section 11346.9, subdivision (a)(3).

I. THE MODIFIED THRESHOLDS IN SECTION 17415(b)(1)(A) ARE NOT SUPPORTED BY THE RULEMAKING RECORD, AND THE NEW ATTORNEY-LEVEL THRESHOLD COMPOUNDS THE DEFECT

The modified definition designates as a high-frequency filer any attorney who files 100 or more, or law firm that files 200 or more, PAGA notices in the preceding 12 months. The modified regulations do not resolve the issues raised in the March objections and comments, as follows:

First, Appendix G(3) does not support the premise that filing *volume* identifies or solves a conduct of concern. A central harm the Addendum attributes to larger-volume filers is that notices are being used to obtain settlements without subsequent litigation. However, the Agency's data indicates that raw volume does not distinguish sustained representative enforcement from that pattern. Indeed, among the 25 highest-volume firms in the first half of Fiscal Year 2025-26, the third-ranked firm submitted complaints in 176 of 203 noticed matters (87 percent) and the fifth-ranked in 141 of 156 (90 percent), while the fourteenth, ninth, and twenty-fifth ranked firms submitted complaints in 2 of 76, 9 of 114, and 1 of 43 matters, respectively. Incidentally, the complaint-submission figures were measured as of July 15, 2026 for notices filed July through December 2025, a point at which many matters remained within the 65- and 120-day administrative periods or otherwise in pre-complaint posture; the figures accordingly understate ultimate complaint-filing rates. A threshold that the supporting record does not connect to the identified conduct does not satisfy the necessity standard. (Gov. Code, §§ 11342.2, 11349, subd. (a).)

Second, the inclusion of a new 100-notice per *attorney* figure does not remedy the 200-notice per *firm* flaw, and in fact undermines it. The Addendum states that if an attorney files 100 notices per year, they should be deemed a high-frequency filer. In other words, an attorney filing 99 notices in a year is *not* a high-frequency filer. The Addendum justifies that figure as measuring a pace of about two new notices per week, and the 200-notice firm figure as a pace of about four. How then can a firm with 50 attorneys be deemed a high-frequency filer for filing 200 notices per year when its attorneys average only *four notices per attorney per year*? A firm-level trigger reaches firms whose per-attorney volume is modest while not reaching smaller practices with substantially higher per-attorney volume. The firm-level threshold thus operates at cross-purposes with the Addendum's own volume-based rationale and would not accomplish any of the stated goals.

Indeed, the behavioral rationales offered in the Addendum — template replication across matters, attorneys unfamiliar with their own filings, and withdrawal letters following quick settlements (Appendices I through P) — describe conduct undertaken by individual attorneys; even template replication across attorneys within a single firm is effectuated by each attorney who files a templated notice. Because the definition contains an attorney-level trigger aimed at precisely that conduct, the firm-level threshold captures nothing except organizational scale. Instead, the firm-level threshold designates precisely the firms that have assembled the capacity to investigate, litigate, and finance representative enforcement against well-resourced defense counsel, while exempting smaller operations whose per-attorney volume is many times higher. The modification made this defect worse, not better.

Requested action: Delete the firm-level threshold.

II. THE "NON-COMPLIANT FILER" DEFINITION AND RELATED PROCEDURES (§ 17415(b)(2), (d))

The modification lowers the substantive standard. The February text reached notices whose alleged violations "are frivolous or appear intended to harass"; the modified text reaches notices whose violations "appear frivolous or appear intended to harass." Substituting an appearance-based formulation for an objective one moves the definition further from an adjudicated-conduct standard, and the Addendum does not explain the change.

The existing judicial tools work. The Addendum cites *Quinteros v. Harbor Distributing, LLC* (2026) 121 Cal.App.5th 60 for the propositions that attorneys within a single firm replicate PAGA notice templates and that attorneys are unprepared and unfamiliar with the matters they file. First, *Quinteros* cannot bear that weight as to PAGA notice practices. The opinion affirmed sanctions under Code of Civil Procedure section 128.7, subdivision (b), against a law firm and three of its attorneys who filed an opposition brief containing fabricated quotations and nonexistent authority generated by artificial intelligence. It does not discuss PAGA notices, notice templates, boilerplate allegations, or communications with aggrieved employees. Second, and more importantly, the decision demonstrates that courts already possess, and actively deploy, calibrated remedies for abusive filing practices, and those remedies are administered by neutral adjudicators with full due process. The Addendum never explains why an administrative designation regime, run by a financially interested agency under an "appear frivolous" standard, is necessary or legally supportable in light of these existing mechanisms. (Gov. Code, § 11349, subd. (a).)[1]

[1] Notably, nothing in the opinion or the rulemaking record suggests that Lipeles Law Group, APC — the subject of *Quinteros* — would even qualify as a high-frequency filer under the proposed definition.

The phrase "applicable requirements" encompasses technical filing rules. Under the modified chapter, a notice is not deemed filed if submitted through an incorrect hyperlink (§ 17410(b)), if a safety-and-health field is not completed (§ 17410(a)(1)(C)), or if a fee is unpaid (§ 17411(b)). Because the definition reaches any three notices in 12 months that "do not comply with applicable requirements," three technical filing errors, coupled with continued filing after an Agency warning, could establish eligibility for designation and a prefiling screening order affecting a statutory prerequisite to suit. A consequence of that magnitude should rest on substantive deficiencies.

The firm cover-letter certification requires clarification. Section 17415(d)(3)(A)(ii) requires every attorney at a firm employing a designated attorney to attach to each PAGA notice a letter disclosing the designation and certifying that the designated attorney "was not involved in the preparation, filing, or handling of the matter to which the PAGA notice relates." The disclosure component communicates one attorney's designation to every opposing party in every matter, extending the designation's effects to non-designated attorneys. And because "involved" is not defined, an attorney cannot determine from the text whether supervision, intake review, or firm management constitutes involvement, although failure to comply with the certification requirement is itself a ground for designation.

III. SECTION 17420(h) EXCEEDS THE AGENCY'S AUTHORITY AND CONFLICTS WITH *WILLIAMS v. SUPERIOR COURT*

New subdivision (h) authorizes the Agency to issue deficiency notices regarding filed PAGA notices, to allow up to 30 days to amend, and states the subdivision is declaratory of existing law. However, the only deficiency letters in the rulemaking file (Appendices I and J) do not establish that the practice reflects existing law. Those letters themselves quote the governing standard: *Williams v. Superior Court* (2017) 3 Cal.5th 531, 545-546. Williams held that section 2699.3's "facts and theories" requirement does not impose a heightened factual threshold, a point Appendix I acknowledges. The 2024 amendments addressed standing; they did not amend the notice standard, and authority to implement a statute does not extend to enlarging it. (Lab. Code, § 2699, subd. (u); Gov. Code, § 11342.2; *Association of California Insurance Companies v. Jones* (2017) 2 Cal.5th 376, 396-397.) As drafted, subdivision (h) also states no criteria for what constitutes a deficiency, sets no deadline for Agency action, permits fewer than 30 days to amend, and, because each amended notice begins new 65- and 120-day periods under section 17420.5(c), could allow successive deficiency notices to extend the administrative period beyond the timeframes established in section 2699.3, subdivisions (a)(2) and (c)(1)(D)-(E).

IV. SECTION 17400(b) SHOULD NOT APPLY THE CHAPTER TO PENDING NOTICES AND PENDING CIVIL ACTIONS

New subdivision (b) applies the chapter to all pending administrative processes, including reporting obligations connected to pending civil actions. Several provisions of the chapter carry significant consequences: documents are not deemed filed if submitted through an incorrect link, claims may not be alleged unless noticed in the prescribed manner (§ 17420(g)), settlement submissions require specified documentation (§ 17461), and, where a notice is amended in connection with a settlement to add violations, court approval may not be sought until administrative periods expire anew (§ 17420.5(d)(2)). Applying these provisions to notices filed, and actions pending, before the effective date attaches new legal consequences to completed conduct. Under settled principles, that is retroactive operation and requires express authorization. (*Myers v. Philip Morris Cos.* (2002) 28 Cal.4th 828, 839-844.) The Legislature addressed the temporal application of the 2024 reforms itself, exempting matters noticed before June 19, 2024. (Lab. Code, § 2699, subd. (v).) *Lozano v. Workers' Comp. Appeals Bd.* (2015) 236 Cal.App.4th 992, cited in the Addendum, applied a procedural evidentiary presumption to adjudications conducted after its enactment; it does not authorize applying provisions that attach new legal consequences to conduct completed before the effective date. As practical examples, settlements negotiated before the effective date could not be submitted without after-the-fact compliance with section 17461, and previously served notices lacking the employment-background information and violation-specific factual detail described in section 17420(d) could face challenges under subdivision (g).

Requested action: Revise section 17400(b) to apply the chapter to PAGA notices filed on or after the effective date and to litigation-reporting events occurring after that date.

V. SECTIONS 17420.5(d)(2) AND 17450.5(d)(2), AND RESPONSES TO THE ADDENDUM

Sections 17420.5(d)(2) and 17450.5(d)(2) bar the parties from seeking court approval of a settlement whenever a PAGA notice is amended to add violations or parties in connection with that settlement, until the review and investigation periods run anew — up to 185 additional days under section 17420.5. That waiting period conflicts with the statute: the Legislature assigned settlement approval to the superior courts and contemplates submission to the Agency at the same time as submission to the court, not before it (Lab. Code, § 2699, subd. (s)(2)), and the Agency's review interest is already protected by the 45-day period in section 17461(c). The result is delayed payment to aggrieved employees with no corresponding benefit. In addition, section 17450.5(d)(2)'s reference to "periods referenced in subdivision (c)" has no defined referent — that subdivision describes procedures, not periods.

Moreover, the certification required by section 17415(c)(1)(B) asks the employee to attest that the violations alleged "accurately describe" the violations the employee personally suffered. The cure-conference examples the Addendum offers in support do not show that an employee is capable of vouching for the accuracy of technical legal theories, such as whether a regular rate was correctly calculated (*Alvarado v. Dart Container Corp.* (2018) 4 Cal.5th 542) or whether a time-rounding practice is unlawful (*Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58).

CONCLUSION

Blackstone Law appreciates the Agency's consideration of the comments received in this rulemaking, and requests that the Final Statement of Reasons address this comment and the firm's prior comments in full. We would welcome the opportunity to provide any additional information useful to the Agency.

Respectfully submitted,

BLACKSTONE LAW, APC

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