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VIA E-MAIL

Ms. Danielle West
PAGA Rulemaking and Policy Analyst
California Labor and Workforce Development Agency
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Re: Written Comments to Proposed Modifications to PAGA Rulemaking

Dear Ms. West:

The California Employment Law Council ("CELC") and Employers Group (collectively, the "Commenting Groups") submit the following comments and recommendations in connection with the Notice of Proposed Rulemaking to the Private Attorneys General Act of 2004, codified at Labor Code section 2698 et seq. ("PAGA").

For decades, the Commenting Groups have participated as amici curiae in the most significant employment law matters before the courts of California, the Ninth Circuit and, occasionally, the U.S. Supreme Court. Together, members of the Commenting Groups represent a wide spectrum of employers, from very small to the largest in the state. Their members employ collectively several million Californians.

I. THE COMMENTING GROUPS

Employers Group is the nation's oldest and largest human resources management organization for employers. It represents more than 3,000 California employers of all sizes in a wide range of industries, which collectively employ more than three million employees.

Many of the members of Employers Group are small and medium-sized businesses. All of its members strive – often with the assistance of Employers Group or other outside consultants or counsel – to comply with the complex and frequently-changing California wage and hour rules. Those rules are far more complicated, and the penalties for violations more severe, than in any other state. Many, many members of Employers Group have become involved in disputes under PAGA. As such, those members and their counsel have vast experience with the reality of PAGA litigation, the practice of numerous plaintiffs' attorneys who pursue such litigation, and the complexities of complying with California's wage and hour rules. Employers Group has for decades appeared before the courts of California, including the California Supreme Court, the United States Court of Appeals for the Ninth Circuit, and, on occasion, the United States Supreme Court, in many important employment-related cases.

The CELC is a voluntary, non-profit organization that promotes the common interests of employers and the general public in fostering the development in California of reasonable, equitable, and progressive rules of employment law. CELC's membership includes approximately 70 private sector employers in the State of California who collectively employ well in excess of a half million Californians. Like Employers Group, CELC has for decades appeared as amicus before the courts of California and the Ninth Circuit. CELC also for decades has been involved in outreach to the California Legislature in the development of employment-related statutes.

II. COMMENTS REGARDING AUGUST 3, 2026 REVISIONS TO ORIGINAL PROPOSED PAGA REGULATIONS

The Commenting Groups appreciate the substantial effort the LWDA has devoted to these important regulations. The Regulations are one step in addressing acknowledged violations and abuse of the statute and ensuring the purpose of the statute is served in practice.

The Commenting Groups have only the following comments regarding the changes proposed on August 3, 2026:

A. Proposed Regulation Section 17401(b) (Potential Filing Portal Violations)

As mentioned in the Commenting Groups' March 23, 2026 comments, we suggest the agency consider adopting a "good faith" exception to the proposed default sanction for a filing made timely but in the wrong link. There are at least 12 links currently on the LWDA PAGA portal. Code of Civil Procedure section 473, concerning analogous and even more serious defects on court filings, provides an appropriate standard. Section 17410(b) should be amended accordingly.

B. Proposed Regulation Section 17413 (Service of Documents)

As mentioned in the Commenting Groups' March 23 comments, there is a recurring practice of counsel for claimants "serving" pre-litigation PAGA letters to out of state or remote employer locations, or addressing such letters to generic, non-individual titles (e.g. "Human Resources"), or "serving" persons not authorized to accept legal documents. This practice often results in the PAGA letter being delayed in reaching a knowledgeable, authorized person, or being misplaced or never reaching such a person.

Commenting Groups therefore recommend the agency require all PAGA documentation be addressed, by certified mail, in the case of a non-individual employer (e.g. a corporation, partnership or LLC) to the employer's agent for service of process, on file with the California Secretary of State, or to an officer or director of such an entity. In the case of an individual employer (e.g. a proprietorship), the notice or letter should be addressed only to the proprietor.

C. Proposed Regulation Sections 17415(b)(1)(A) and (C) (High Frequency Filers)

We recommend the agency reconsider the number of PAGA filings, in any twelve month period that result in designation of an attorney or firm as a "high frequency filer." The proposed "triggers," 100 filings by an attorney, or 200 by a firm, in any rolling twelve month period, are too high, and subject to evasion by both large and small firms. This is particularly true because, as the LWDA has observed, a large percentage of PAGA pre-litigation letter notices never result in a civil filing reported to the agency. Even representatives of the plaintiff's bar acknowledge that pre-litigation PAGA notices not infrequently become vehicles to extract quick, "individual," non-PAGA settlements.

The 100-filing per year trigger would allow any individual attorney to file almost two PAGA pre-litigation notices per week, indefinitely, without being designated as a high frequency filer. Because the high frequency filer definition does not consider both pre-litigation filings *and* civil actions reported to LWDA, it is highly vulnerable to avoidance and abuse. If reported civil actions are not considered, the number of filings must be much lower: we recommend no more than 25 per twelve months, for any individual attorney. An individual attorney with 26 or more active PAGA actions at any given time would be busy more than full time.

The situation with firms, as opposed to individual attorneys, is more nuanced because many claimants' firms have numerous attorneys, either as partners or employee/associates, or through apparent informal relationships. In the experience of the Commenting Groups, many prominent claimants' firms have frequent attorney or paralegal turnover. Often, a member of one of the Commenting Groups deals with three, four or more individual lawyers, from the same firm, in the course of a PAGA lawsuit. Again, if only the number of pre-litigation filings is considered, that number must be much lower: we recommend 50 filings for any given firm in a twelve month period. Even a large, well-staffed firm will struggle to effectively and responsibly litigate 50 or more active PAGA lawsuits at any given time. Section 17415(b)(1)(A) and (C) should be amended accordingly.

D. Proposed Regulation Section 17415(b)(2) (Non-Compliant Filers)

The more specific criteria for designation as a non-compliant filer is an important improvement in the proposed amendments. However, the Commenting Groups believe the sanction for non-compliant filers is insufficient and the designation of an individual attorney as a non-compliant filer can be evaded or negated by the attorney's firm (despite the restriction proposed in new subsection (3)(A)(ii)). The Commenting Groups recommend any attorney determined to be a non-compliant filer, after the process described in the regulation, be reported as such by the agency to the California State Bar. Section 17415(e) should be amended accordingly.

E. Proposed Regulation Section 17420(d) (Written Notice by Aggrieved Employee)

There should be a greater obligation on the PAGA claimant to describe the basis for any alleged violations. As to violations the claimant claims personally to have experienced, the following information must be provided, at a minimum, in addition to the information required by section 17420, subd. (d): (1) details of claimant's status as an hourly, salaried, and/or piece rate or commissioned employee; (2) whether the claimant was covered by a collective bargaining agreement; (3) the dates the alleged violations occurred; (4) the name of the claimant's supervisor at the place and dates the violations occurred; and (5) whether the claimant reported any of the alleged violations and to whom. The employer needs this information in order to investigate, and, if necessary, cure the alleged violations.

Very truly yours,

QUARLES & BRADY LLP

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Cc: George S. Howard, Jr.