



THE SENTINEL FIRM^{APC}

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August 18, 2026

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

RE: **NOTICE OF PROPOSED RULEMAKING - [PROPOSED]
LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

Ms. West:

My name is Seung L. Yang, and I am the founder and managing attorney at the Sentinel Firm, APC. The Sentinel Firm is a newer firm based out of the Los Angeles area that is focused on protecting employee rights, including the interests of the State of California and its citizens as it relates to enforcement of the wage and hour laws of this State. When I set out to form the Sentinel Firm, it was my goal to provide the highest quality legal services possible to working class communities in California. The Sentinel Firm represents both individual employees in claims (including discrimination, harassment and wrongful termination) as well as collective claims asserting wage and hour violations on both a class-wide basis and claims based on the Private Attorney Generals Act of 2004.

This letter is written in response to the August 3, 2026 modifications to the Notice of Proposed Rulemaking which was issued by the California Labor and Workforce Development Agency and which relates to several proposed rules changes relating to the Private Attorney Generals Act of 2004.

A. Frequent-Filer and Non-Compliant Designations May Reduce Access to Experienced Counsel Without the Benefit of Due-Process.

Under the original proposal, any attorney or firm that filed 200 or more PAGA notices in the preceding 12-month period would be designated a “high-frequency filer.” The revised provisions simply reduce the number attributable to a single attorney to 100 but keep the 200 number as it relates to a firm. While the “vexatious litigant” provisions of Subdivision (c) of proposed section 17415 were removed in favor of the more neutral “non-compliant filer” term, I still have concerns regarding these designations. These designations appear to be not only arbitrary but, in my opinion, will likely have little practical effect other than reducing access to the Courts as provided for by PAGA’s statutory framework with little benefit to either the Agency or the State. As I indicated in my first response to the proposed rules, these provisions seem

designed to limit or restrict employees from retaining the counsel of their choice when it comes to pursuing meritorious claims because these changes will have the effect of making it more difficult for experienced counsel to be able to file claims on their behalf. This could have a serious negative impact on workers because the focus on volume rather than on the filing of non-meritorious PAGA Notices means that the most experienced and knowledgeable attorneys will be flagged by the Agency as problematic or subject to additional requirements with no bearing on whether the claims are meritorious or whether they serve PAGA's broader purposes. Practice in the narrow fields of wage and hour litigation requires skill and knowledge concerning rapidly evolving substantive law, as well as the complex procedural laws in navigating PAGA litigation. The experience of counsel is integral in evaluating strengths and weaknesses of cases and in electing how to proceed in litigating a complex PAGA claim.

The high-frequency filing limit, while revised, still appears to bear no rational relationship to the stated issue addressed by these revised rules relating to factually-deficient PAGA notices. For example, the Sentinel Firm would likely be subject to the "high-frequency" filing designation and accompanying limitations on the filing of claims, but at no point has the Sentinel Firm ever been informed by either the Agency or a Court that a PAGA Notice that we submitted was either lacking in merit or brought for an unlawful purpose. The number of Notices that are filed by a single firm or attorney does not necessarily correlate with the content of these Notices. The high-frequency filer designation would simply serve to flag larger, more experienced law firms and attorneys as potentially problematic without any determination being made as to whether such attention is warranted. To the extent that abuses of the PAGA process exist, there is no rational reason why a larger law firm would be more likely to file these abusive claims than a smaller firm or single attorney.

The Sentinel Firm employs over twenty attorneys and post-bar law clerks who specialize in the bringing of such claims where they are appropriate. It is our goal that we not only file claims that are warranted based on the facts and the law, but that we only file claims that we have sufficient personnel to fully and fairly litigate. By focusing on the number of PAGA Notices which are filed by a firm, the proposed rules continue to disregard the fact that each individual attorney employed by the firm may be working on a small number of claims. The high-frequency filer designation could mean that these individual attorneys are effectively punished by association through an arbitrary Agency designation which likely has nothing to do with that individual attorney's work product or the merits of the claims.

I also believe that the "non-compliant filer" designation remains problematic. While stripped of the negative connotation that the previous "vexatious filer" designation implies, this designation still labels attorneys who file potentially-correctable notices as problematic. But "compliance" is not based on failing to conform to a specific requirement but on the *ad hoc* determination of the individual reviewing the Notice on the grounds that the Notice lacks factual detail which the Agency seeks.

B. The Proposed Revisions Usurp the Court’s Role in Evaluating PAGA Claims and Usurp the Legislature’s Role in Crafting Appropriate Restrictions on Conferring Standing.

Although I have many other concerns with the proposed regulations, I urge the Agency to consider the fact that these proposed rules continue to have the effect of both eliminating the Court’s role in overseeing and evaluating PAGA claims, and the Legislature’s role in creating the body of law upon which PAGA derives. For example, under the Proposed Regulations, at § 17415(b)(2), the “non-compliant filer” term has been re-defined as meaning “any person or attorney has filed three or more PAGA notices within the preceding 12-month period that do not comply with applicable requirements, or whether the violations alleged appear frivolous or intended to harass, and the person or attorney has continued to file non-compliant notices after warning by the Agency.” I believe these standards remain arbitrary, as the three-Notice limit does not seem to be based on any particular standard. Moreover, the term “do not comply with applicable requirements” is vague as to what this even means or on what specific basis a Notice may be designed “non-compliant.” Not only are these standards inherently nebulous but they improperly provide the Agency itself with the authority to brand a firm or attorney with this designation based on these unclear standards. These determinations cannot be simply made by the declaration of the Agency itself because they involve complicated legal determinations which are within the purview of a Court. The legal requirements of a PAGA notice are determined by the Legislature through the enactment of the statutory framework, and through the Courts which interpret that statutory framework. This is particularly troubling because whether a Notice complies with the “legal requirements” has little to do with the underlying merits of a claim or what purpose it is brought for. Moreover, the lack of clear standards effectively empowers the Agency to designate a law firm or attorney with the damaging moniker of “non-compliant” with little due process other than the mere right to respond as specified in Proposed Regulations, at § 17415(d). But that right to respond is lacking in due process and could conceivably be based on existing notices which are later found to be “deficient.” Such a process cannot take place within the confines of an administrative process.

This “non-compliant” designation remains troubling, because these designations appear to usurp the Legislature’s role by crafting heightened standards which are not contained within the statutory framework as crafted by PAGA. Proposed Regulation § 17420 purports to impose a requirement that a Notice to the LWDA contain a heightened level of specific facts and theories and that failure to include these facts is “not sufficient.” Yet this materially conflicts with PAGA itself, which provides that a Notice must contain the “specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.” Courts have determined that PAGA’s prelitigation notice requirement is “minimal.” See *Ibarra v. Chuy & Sons Labor, Inc.* (2024) 102 Cal.App.5th 874, 882. Yet the Court’s determination on this matter was based on the statute itself, not regulatory additions. It is simply improper for the Agency to contravene the statute and attempt to heighten that bar because this would create a material conflict with the statute itself.

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While I sympathize with the Agency's desire to streamline the processing of PAGA claims, I believe that these proposed revisions would not have the intended effect, would exceed the regulatory authority granted by the enabling statutory framework, and would ultimately harm the very workers who PAGA aims to protect.

Sincerely,

THE SENTINEL FIRM, APC

A handwritten signature in blue ink, appearing to read 'Seung L. Yang', with a stylized flourish extending from the end.

Seung L. Yang, Esq.