



STATE OF CALIFORNIA
Labor & Workforce Development Agency

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Agricultural Labor Relations Board • California Unemployment Insurance Appeals Board
California Workforce Development Board • Department of Industrial Relations
Employment Development Department • Employment Training Panel • Public Employment Relations Board

May 14, 2025

Sam S. Yebri
Merino Yebri, LLP
1925 Century Park East, Suite 2100
Los Angeles, CA 90067

Certified Mail

USPS Tracking No. 9589 0710 5270 0057 2191 55

Re: *Kinue Tanaka v. RR Japan Inc., et al.*
Case No. LWDA-CM-1089297-25

Notice Directing Claimant to Amend PAGA Notice

Dear Mr. Yebri:

On April 1, 2025,¹ you filed a notice on behalf of claimant Kinue Tanaka against respondent RR Japan Inc., pursuant to the Labor Code Private Attorneys General Act of 2004 (PAGA), codified at Labor Code section² 2698 et seq. On May 2, respondent timely submitted a proposal to cure violations alleged in claimant's PAGA notice. (§ 2699.3, subd. (c)(2)(A).)

The Labor and Workforce Development Agency (LWDA) PAGA Unit has reviewed claimant's April 1 PAGA notice and has determined it does not satisfy the administrative notice requirements set forth in section 2699.3, subdivision (c)(1). Accordingly, claimant is directed to submit to LWDA via the online PAGA filing portal an amended notice setting forth the specific violations personally suffered by claimant and the facts and theories supporting the specific violations alleged. Absent amendment satisfying the requirements of section 2699.3, subdivision (c)(1), the underlying notice appears insufficient for purposes of the prelitigation administrative exhaustion requirements set forth in the Act, in which case no civil action thereupon may be commenced.

¹ Claimant's PAGA notice is dated, and was submitted, Monday, March 31—a state holiday. Accordingly, claimant's PAGA notice is deemed filed the next business day.

² Subsequent statutory citations are to the Labor Code unless otherwise indicated.

I. Background

Claimant filed the underlying PAGA notice on April 1, 2025. Claimant does not state the dates of her employment with respondent, her position or duties while employed with respondent, or whether she remains employed with respondent. Notwithstanding the requirement a PAGA claimant must have personally suffered each Labor Code violation alleged (§ 2699, subd. (c)(1)), claimant here alleges only she “has been subject to one or more of the” violations she alleges.

Claimant’s notice then proceeds to allege a variety of Labor Code violations in generic, boilerplate form. Specifically, claimant alleges meal and rest period, overtime, timely pay, separation pay, and wage statement violations, but states no facts in support of any of them. The PAGA Case Search site shows you have filed just one other PAGA notice since July 1, 2024.³ (*Johnson v. BBB-CA, Inc.*, case no. LWDA-CM-1066922-24, filed Dec. 12, 2024.) However, a comparison of the notice filed in that matter and the one here demonstrates it is a template form without regard to either claimant’s individual circumstances or employment with their respective employers.

II. Claimant’s Notice Does Not Satisfy PAGA’s Administrative Notice Requirements

Before an “aggrieved employee” may commence a civil action under PAGA, section 2699.3, subdivision (c)(1) requires the employee give written notice to LWDA and the employer “of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.”⁴ This prelitigation notice obligation has been described as an “administrative exhaustion” requirement (*Rojas-Cifuentes v. Superior Court* (2020) 58 Cal.App.5th 1051, 1056), and courts have affirmed that “[p]roper notice under section 2699.3 is a ‘condition’ of a PAGA lawsuit.” (*Uribe v. Crown Bldg. Maint. Co.* (2021) 70 Cal.App.5th 986, 1003.)

Before the recent PAGA reforms (Stats. 2024, chs. 44-45 [Assem. Bill No. 2288 (2023-2024 Reg. Sess.); Sen. Bill No. 92 (2023-2-24 Reg. Sess.)]), the California Supreme Court found PAGA did not require a claimant to “satisfy a particular threshold of weightiness” in describing the facts and theories supporting the violations alleged. (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 546.) In doing so, the court concluded a heightened proof requirement “would undercut the

³ See < <https://cadir.my.salesforce-sites.com/PagaSearch/PAGASearchResults?ed=2025-05-15&sd=2024-07-01&ss=yebri&st=PAGA+Notice> >, last visited May 14, 2025.

⁴ Subdivisions (a)(1)(A) and (b)(1) of section 2699.3 include virtually identical notice requirements for claims subject to those provisions.

clear legislative purposes the act was designed to serve." (*Ibid.*)

Amendments to PAGA as a result of the 2024 reforms evince a legislative intent to increase LWDA oversight of PAGA and provide more robust early resolution avenues for employers, both with an aim towards achieving more timely remedies for employees without the type of protracted and costly litigation that has led to criticism of the Act. (Sen. Com. on Jud., analysis of Assem. Bill No. 2288 (2023-2024 Reg. Sess.) as amended June 21, 2024, p. 1 [noting bill "increases the role of [LWDA] and better incorporates the available remedies, processes, and outcomes utilized or sought by [LWDA] in its enforcement efforts"]; Assem. Com. on Jud., analysis of Sen. Bill No. 92 (2023-2024 Reg. Sess.) as amended June 21, 2024, p. 12 ["At its core this bill addresses the business community's objections that PAGA ... denies businesses the right to cure violations and results in protracted and costly litigation"].) Two key components of the reforms are (1) the small employer prelitigation cure process administered by LWDA and (2) the early evaluation conference procedure available after a civil action has commenced, both of which are designed to facilitate more timely resolution of PAGA claims. (Assem. Com. on Jud., analysis of Sen. Bill No. 92 (2023-2024 Reg. Sess.) as amended June 21, 2024, p. 13 ["The underlying rationale for both this measure and AB 2288 appears to be a goal of resolving PAGA disputes in a timelier manner. The cure and early evaluation conference provisions of this bill are designed to promote resolution of PAGA claims without protracted litigation"].)

These early resolution opportunities are complemented by amendments to section 2699.5 expanding the types of claims subject to administrative cure or early evaluation procedures, including the most common types of wage and hour violations alleged in PAGA notices. Another aspect of the reforms relevant here is the limitation on employee standing; under section 2699, subdivision (c)(1) a claimant must have been employed by the employer "and personally suffered each of the violations alleged" within one year of the date the PAGA notice is filed.

With these considerations in mind, a PAGA notice properly must inform both LWDA and the employer of the nature of the specific violations alleged with some level of detail in describing the "facts and theories" supporting them. Claimant's notice largely quotes various statutes and wage order provisions. It includes no facts and asserts only legal conclusions. (§ 2699.3, subd. (c)(1); *Gunther v. Alaska Airlines, Inc.* (2021) 72 Cal. App. 5th 334, 350, citing *Alcantar v. Hobart Service* (9th Cir. 2015) 800 F.3d 1047, 1057; *Uribe, supra*, 70 Cal.App.5th at p. 1004.) In fact, the conclusory and fact-devoid allegations asserted by claimant here copy verbatim the allegations asserted in the PAGA notice filed in *Johnson v. BBB-CA, Inc.*, case no. LWDA-CM-1066922-24. While the pleading standard attendant to PAGA notices is not necessarily a "weighty" or

burdensome one, it is determined this notice does not satisfy even the standard of “nonfrivolousness” applicable to PAGA notices preceding the recent reforms. (*Williams, supra*, 3 Cal.5th at p. 545, citing Code Civ. Proc., § 128.7.)

Courts previously have found a PAGA notice “must be specific enough such that the LWDA and the [employer] can glean the underlying factual basis for the alleged violations.” (*Ibarra v. Chuy & Sons Labor, Inc.* (2024) 102 Cal.App.5th 874, 882, quoting *Gunther, supra*, 72 Cal.App.5th at p. 350.) Thus, “more than bare allegations of Labor Code violations” are required. (*Ibarra, supra*, 102 Cal.App.5th at p. 881.) The notice must contain sufficient information to allow LWDA “to intelligently assess the seriousness of the alleged violations” and to give the employer enough information to understand the nature of the violations so it may decide “whether to fold or fight.” (*Ibid.*, quoting *Brown v. Ralph’s Grocery Co.* (2018) 28 Cal.App.5th 824, 837.) Proper notice to the employer informing it of the violations alleged enables the employer to submit a response to LWDA, which, in turn, further promotes informed agency decisionmaking whether to allocate resources to an investigation. (*Ibarra, supra*, 102 Cal.App.5th at p. 881; *Uribe, supra*, 70 Cal.App.5th at pp. 1003-1004.)

These considerations underlying PAGA’s prelitigation notice requirements take on even more importance after the 2024 reforms. The effectiveness of the new cure and early evaluation procedures set forth in section 2699.3 depend on proper notice of the violations alleged so LWDA accurately can assess the nature of the claims at issue and an employer has a reasonable opportunity to identify and endeavor to correct them. New standing requirements under section 2699, subdivision (c)(1) further limit the scope of the violations a PAGA claimant may allege.

In light of the above, claimant’s generic, conclusory PAGA notice is tantamount to no notice at all. A claimant or claimant’s representative must participate in PAGA’s prelitigation administrative procedures in good faith. Abusive, evasive, or other tactics designed to frustrate the role of LWDA during these procedures, or the ability of employers to identify the nature of the claims actually at issue, will not be tolerated. An attorney presenting a matter to LWDA in accordance with PAGA’s prelitigation administrative notice requirements is certifying the matter (1) is not being presented for an improper purpose, such as to harass a party; (2) the claims asserted are warranted and not frivolous; and (3) the allegations and other factual contentions are supported by evidence. (See Code Civ. Proc., § 128.7, subd. (b).)

III. Conclusion and Order

For the foregoing reasons, LWDA’s PAGA Unit considers the April 1, 2025 PAGA notice filed on behalf of claimant Kinue Tanaka insufficient to satisfy

administrative notice requirements under section 2699.3, subdivision (c). Claimant shall file with LWDA an amended notice setting forth those specific violations personally suffered by claimant, including the facts and theories supporting the violations alleged, via the online PAGA filing portal with service to respondent's counsel by certified mail as required by section 2699.3, subdivision (c)(1).

Absent proper amendment, claimant's April 1 PAGA notice appears insufficient to satisfy the prelitigation administrative exhaustion requirements of section 2699.3.

Sincerely,



Todd M. Ratshin
Deputy Secretary for Enforcement

cc: Hiromoto Wakabayashi
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