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September 22, 2025

Via LWDA Online Portal

Labor and Workforce Development Agency
PAGA Unit
P.O. Box 420603
San Francisco, CA 94142

Re: Employer's Objection to Defective PAGA Notice
LWDA Case No.: CM-1120186-25
Employee: Israel Villalobos
Employer: Shims Bargain, Inc. dba JC Sales

To the Labor and Workforce Development Agency:

Shims Bargain Inc. ("the Company") submits this initial response and formal objection to the PAGA notice dated August 21, 2025 ("the Notice"), filed on behalf of Mr. Israel Villalobos. The Company objects to the Notice on the grounds that it is legally insufficient and statutorily defective on its face. The Notice fails to meet the mandatory pre-litigation requirements of the Private Attorneys General Act ("PAGA"), as amended by the comprehensive reforms that took effect on July 1, 2024. For the reasons set forth below, the Notice is invalid and cannot serve as the predicate for a PAGA civil action.

I. The *Villalobos* Notice Is Statutorily Deficient Because It Lacks The Requisite "Facts and Theories" Mandated By Law

The Private Attorneys General Act establishes a clear, mandatory prerequisite for filing a lawsuit. An aggrieved employee's civil action "shall commence only after" the employee provides written notice to the employer and the Labor and Workforce Development Agency ("LWDA") identifying "the specific provisions of this code alleged to have been violated, *including the facts and theories to support the alleged violation*."[1] (Lab. Code, § 2699.3, subd. (a)(1)(A), italics added; accord *Cardenas v. McLane*

[1] The 2024 PAGA reforms, enacted through Assembly Bill 2288 and Senate Bill 92, represent a significant legislative effort to recalibrate the PAGA framework. The reforms were the product of a negotiated agreement between business and labor groups to avert a contentious ballot initiative—the Fair Pay and Employer Accountability Act—that sought to repeal PAGA entirely. (Governor Newsom signs PAGA reform (July 1, 2024) p. 1.) A central purpose of the reforms was to "streamline litigation processes" and create meaningful mechanisms for employers to cure violations before or shortly after a lawsuit is filed. (Assem. Com. on Judiciary, Analysis of SB 92 (June 25, 2024) p. 1 ["This measure includes two critical components of the

FoodServices, Inc. (C.D.Cal. 2011) 796 F.Supp.2d 1246, 1260 ["the plain meaning" of the phrase "facts and theories to support the alleged violation" "suggests that [the p]laintiffs were required to put forward sufficient facts to support their claims of labor violations"].) Proper notice is not a procedural nicety; it is a fundamental "condition" of bringing a PAGA claim.[2] (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 545; see also LWDA Letter to Bibiyan Law Group (Feb. 13, 2025), p. 2, quoting *Uribe v. Crown Building Maintenance Co.* (2021) 70 Cal.App.5th 986, 1003 ["[C]ourts have affirmed that '[p]roper notice under section 2699.3 is a "condition" of a PAGA lawsuit.' "].)

A legally sufficient notice must provide more than "bare allegations" or a "string of legal conclusions that parrot[s] the allegedly violated statutes."[3] (*Brown v. Ralphs Grocery Co.* (2018) 28 Cal.App.5th 824, 836, 837.) Instead, the 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 v. Alaska Airlines, Inc.* (2021) 72 Cal.App.5th 334, 350.) Its purpose is to provide sufficient information to allow the LWDA " 'to intelligently assess the seriousness of the alleged violations' " and to give the employer enough information to understand the nature of the claims so it may decide " 'whether to fold or fight.' " (*Id.* at p. 881, quoting *Brown*, *supra*, 28 Cal.App.5th at 837; accord *Alcantar v. Hobart Service* (9th Cir. 2015) 800 F.3d 1047, 1057 [finding plaintiff's notice was deficient because it was "a string of legal conclusions with no factual allegations or theories of liability to support them"].) The PAGA notice served by Frontier Law Center on behalf of Israel Villalobos fails to meet this essential statutory standard across all its claims.

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compromise proposal. First, this bill creates a formal right to cure process for small and mid-sized companies. . . . Secondly, this measure affords all businesses . . . the ability to seek an early evaluation conference shortly after the commencement of a PAGA suit"].) The efficacy of these new pre-litigation and early-litigation procedures is entirely dependent on an initial PAGA notice containing sufficient factual detail to allow the employer and the LWDA to understand and evaluate the specific claims being asserted. A notice that lists alleged Labor Code violations without supporting facts and theories *provides no practical basis for an employer to engage in the cure process or for the parties to meaningfully participate in an early evaluation conference*. Thus, the legislative intent behind the 2024 reforms strongly supports a reading of Labor Code section 2699.3 that requires a PAGA notice to be a substantive, fact-based document rather than a mere procedural formality.

[2] Proper notice is a "condition" precedent to a PAGA lawsuit, meaning it is an indispensable prerequisite to filing suit. (*Caliber Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 381–383, disapproved on another ground in *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175, 196, fn. 8 [holding that if an employee fails to plead compliance with the prefiling notice requirement, the court must sustain the employer's demurrer]; see also Cal. Judges Benchbook: Civil Proceedings Before Trial (Apr. 2025 update) § 12.24 ["Proper notice under Lab C § 2699.3(a)(1) is a 'condition' of a PAGA lawsuit," and "If the employee fails to plead compliance with the prefiling notice requirement, the judge must sustain the employer's demurrer to the employee's causes of action seeking civil penalties."].) While the pre-reform notice standard was sometimes described as "not particularly stringent" (*LaCour v. Marshalls of California, LLC* (2023) 94 Cal.App.5th 1172, 1193), the substantive requirements of the 2024 reforms give this condition significant new teeth, making a fact-free notice unequivocally invalid as a failure to exhaust administrative remedies.

[3] The requirement for "facts and theories" demands more than a simple recitation of the alleged statutory violations. In *Brown v. Ralphs Grocery Co.*, the court found a notice deficient because it "was a string of legal conclusions that parroted the allegedly violated Labor Code provisions. It did not state facts and theories supporting the alleged violations not implied by reference to the Labor Code." (*Brown v. Ralphs Grocery Co.* (2018) 28 Cal.App.5th 824, 837.) This standard prevents plaintiffs from using generic, boilerplate notices that provide no meaningful information about the specific conduct at issue, thereby ensuring the notice serves its statutory purpose of informing the employer and the LWDA.

A. The Notice Fails to Provide a Factual Basis for Its Claims

A careful review of the *Villalobos* notice reveals that its allegations are not factual statements but are instead legal conclusions presented in the guise of facts. This approach is precisely what courts have found to be deficient.

1. Overtime and Off-the-Clock Work Allegations

The notice alleges that "[t]he Aggrieved Employees regularly worked in excess of eight hours in a day and 40 hours in a workweek" and were "required to perform work off the clock." (*Villalobos* PAGA Notice, p. 4.) This statement merely restates the legal definition of an overtime violation without providing any supporting facts. The notice fails to describe a single policy, practice, or common occurrence that resulted in this alleged off-the-clock work. For instance, it does not allege that employees were required to:

- Perform specific tasks before clocking in (e.g., booting up computers, preparing workstations);
- Undergo security screenings after clocking out;
- Perform job duties during purportedly off-duty meal breaks; or
- Work from home without compensation.

By omitting any such factual predicate, the notice provides no basis for the employer to investigate. Shims Bargain Inc. is left to guess at the nature of the claim: Was it a time-shaving policy? A single manager's practice at one location? An issue with the timekeeping software? The notice provides no answers, rendering it impossible for the employer to conduct a targeted investigation or for the LWDA to assess the claim's seriousness.[4] This constitutes the very definition of a conclusory allegation that is insufficient "to allow [the] LWDA 'to intelligently assess the seriousness of the alleged violations.' " (LWDA Letter to Bibiyan Law Group, *supra*, p. 3, quoting *Ibarra*, *supra*, 102 Cal.App.5th at p. 881.)

2. Meal and Rest Break Allegations

The notice's claims regarding meal and rest breaks are similarly deficient. It asserts that meal breaks were "regularly late or short because Employer would reschedule and move lunch breaks around" and that management would "routinely call employees back to duty over the loudspeakers." (*Villalobos*

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[4] The *Villalobos* notice is factually analogous to the notice deemed deficient in *Pineda Salto et al. v. Destiny Farms, LLC, et al.* (Super. Ct. Santa Barbara County, 2025, No. 21CV04576). In that case, the court found that a notice prepared by the Bibiyan Law Group—the same firm that has been admonished by the LWDA for its pattern of filing boilerplate notices—was a "shotgun approach [that] obfuscates the real issues and undermines the ability of the LWDA or the employer to investigate the claims." (Tentative Ruling, *Pineda Salto*, p. 10.) The court noted that the notice asserted "facts in support of no fewer than 17 policies and practices defendants *might* have engaged in" for a single claim, an approach that improperly "shifts the responsibility to the employer to determine which of the identified policies might form the basis of the claim." (*Ibid.*) The *Villalobos* notice employs the same deficient methodology.

PAGA Notice, p. 4.) It further alleges that rest breaks were "regularly short because supervisors would call employees back to work over the intercom system after mere minutes." (*Id.* at p. 5.)

These allegations lack the specificity required for a valid PAGA notice. The notice does not identify:

- Which supervisors or managers engaged in these practices;
- The frequency of these interruptions;
- The purpose for which employees were called back to duty; or
- A single specific instance involving Mr. Villalobos or any other employee.

While citing the legal standard from *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, the notice provides no facts to support its conclusion that Shims Bargain Inc. failed to relieve employees of all duty and relinquish control over their activities. (*Villalobos* PAGA Notice, p. 4.) Without more, the allegation that employees were called back via loudspeaker is a bare assertion, not a fact-based theory of liability. Likewise, the claim that employees were required to remain "on call" during breaks is a legal conclusion.[5] (Compare *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269 [where the employer had an explicit policy requiring security guards to keep radios and pagers on during rest breaks to respond to emergencies].) The notice fails to allege the existence of any similar policy or requirement at Shims Bargain Inc.

3. Wage Statement Allegations

Perhaps the most glaringly deficient claim is for wage statement violations. The notice summarily alleges that the "Employer failed to provide wage statements which accurately reflected this information," referring to gross wages, net wages, and total hours worked. (*Villalobos* PAGA Notice, p. 6.) This is a purely derivative claim; its only factual basis is the existence of the other alleged violations.[6] The notice fails to identify any independent, standalone defect on the face of the wage statements themselves, such as a failure to include the employer's legal name and address, the correct pay period dates, or the applicable hourly rates. A notice is sufficient for a wage statement claim only

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[5] The California Supreme Court has established clear standards for what constitutes a compliant break. For meal periods, an employer must "relieve the employee of all duty for the designated period." (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1034.) For rest periods, employees must be relieved of all duties and freed from employer control; a policy requiring employees to remain on call, such as by carrying a radio or pager to respond to emergencies, is inconsistent with a compliant rest period. (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269 [a rest period requires relief from all work-related duties and employer control].) The *Villalobos* notice uses legal terms of art like "on call" without alleging any facts, such as the existence of a company policy similar to the one in *Augustus*, to support this legal conclusion.

[6] A derivative claim is one that has no independent basis but rather depends entirely on the success of another, primary claim. In the PAGA context, a wage statement claim is impermissibly derivative when its sole factual basis is the failure to pay wages allegedly owed under a separate Labor Code provision. Such a claim does not allege a violation of section 226 itself, but merely seeks a second penalty *for the same underlying conduct* that forms the basis of the primary violation. This type of pleading is deficient because it fails to provide notice of any distinct wrongdoing related to the wage statements themselves.

when it identifies a specific defect.[7] (See *Brown*, *supra*, 28 Cal.App.5th at p. 838 [notice was sufficient for a Labor Code section 226 claim where it specifically alleged the "failure to include the name and address of the legal entity that is the employer"].) By merely alleging that the wage statements were inaccurate because wages were not properly paid, the notice provides no new information and fails to state a cognizable, fact-supported claim for a violation of Labor Code section 226.

B. The Notice Fails to Articulate Any Cognizable "Theories"

A PAGA notice must include not just facts but also the "theories" supporting the alleged violations. (Lab. Code, § 2699.3, subd. (a)(1)(A).) A theory is the logical bridge that connects the alleged facts to the claimed legal violation; it explains *how* a particular practice or policy violates the Labor Code. The *Villalobos* notice fails to provide any such theories, instead offering only circular reasoning.

For the overtime claim, the notice's purported theory is that because employees "were required to perform work off the clock, it follows that this time was often overtime." (*Villalobos* PAGA Notice, p. 4.) This is not a theory of liability; it is a tautological statement that if employees worked uncompensated overtime hours, they were not paid for overtime. A cognizable theory would explain the *mechanism* of the violation—for example, "Defendant's policy of requiring employees to don and doff specific safety gear before and after their paid shifts constitutes compensable hours worked, which, when added to their regular shifts, resulted in unpaid overtime."[8] The notice provides no such explanation.

Similarly, for the meal and rest break claims, the notice's implied theory is that breaks were noncompliant because they were interrupted. This merely restates the conclusion. It fails to articulate a theory explaining *why* the employer's actions were unlawful, such as a theory that requiring employees to remain on premises during breaks constitutes employer control that renders the break time compensable. (See *Villalobos* PAGA Notice, p. 4.) By failing to connect any specific conduct to a legal consequence with a coherent explanatory theory, the notice falls short of the statutory requirement and fails to provide the employer with a basis to understand, investigate, or defend against the claims.

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[7] A claim for wage statement violations under Labor Code section 226 is not self-effectuating. To be cognizable, the notice must allege a specific, independent defect on the face of the wage statement. In *Brown*, the court found a wage statement claim sufficiently pleaded where the notice alleged the employer's "failure to include the name and address of the legal entity that is the employer." (*Brown*, *supra*, 28 Cal.App.5th at p. 838.) This is a standalone, verifiable fact. The *Villalobos* notice, in contrast, alleges no such independent defect. Instead, it claims the wage statements are inaccurate only because they do not reflect payments for other, unrelated violations (e.g., unpaid overtime or meal premiums). *This is a purely derivative claim that rises and falls with the other allegations*; it fails to state a cognizable, independent violation of section 226.

[8] A "theory" under PAGA is the explanation of *how* an employer's alleged conduct violates the law. The notice must connect the factual dots for the employer and the LWDA. For example, in *Ibarra*, the notice alleged the fact of understaffing and theorized that this practice was the mechanism that resulted in employees being denied breaks and full pay. (*Ibarra v. Chuy & Sons Labor, Inc.* (2024) 102 Cal.App.5th 874, 879.) The *Villalobos* notice offers no such explanatory theory. The statement that working off the clock resulted in unpaid overtime is a tautology, not a theory of liability. It fails to explain the *how* or *why*—the specific policy or practice—that led to the alleged off-the-clock work.

II. The Notice Frustrates the Core Purposes of PAGA's Administrative Exhaustion Requirement

The requirement to plead specific "facts and theories" under Labor Code section 2699.3 is the lynchpin of the Private Attorneys General Act's administrative exhaustion process.[9] A factually deficient notice, such as the one submitted in the *Villalobos* matter, is substantively invalid because it undermines the two fundamental legislative purposes of the pre-litigation notice requirement: (1) it prevents the Labor and Workforce Development Agency from fulfilling its statutory role as the primary enforcement authority for the Labor Code, and (2) it denies the employer a meaningful opportunity to engage in PAGA's curative and early-resolution mechanisms.

A. The Defective Notice Precludes the LWDA from Performing Its Statutory Screening Function.

The PAGA notice requirement is designed to function as an administrative filter. Before a private citizen is deputized to act as a proxy for the state, the LWDA must be given the first opportunity to investigate and enforce the law.[10] (*Williams*, *supra*, 3 Cal.5th at pp. 545–546 ["The evident purpose of the notice requirement is to afford the relevant state agency . . . the opportunity to decide whether to allocate scarce resources to an investigation, a decision better made with knowledge of the allegations an aggrieved employee is making and any basis for those allegations."].) This ensures that the state retains primary control over labor law enforcement, stepping in to handle the most serious or widespread violations, while allowing private actions to proceed where the agency declines to act.

The *Villalobos* notice subverts this process. A notice that contains only conclusory allegations of wrongdoing, without any supporting facts, provides the LWDA with no basis to make an informed decision. Faced with the generic assertion that employees "regularly worked" off the clock (*Villalobos* PAGA Notice, p. 4), the LWDA cannot possibly "intelligently assess the seriousness of the alleged violations." (*Ibarra*, *supra*, 102 Cal.App.5th at p. 881.) The agency has no way to distinguish a potentially systemic, company-wide wage theft scheme from a minor, isolated issue involving a single employee. This forces the agency to either decline investigation due to a lack of actionable information

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[9] A plaintiff must complete the pre-litigation notice process with the LWDA before a court has the power to hear the case. (*LaCour v. Marshalls of California, LLC* (2023) 94 Cal.App.5th 1172, 1193 ["The requirement of pre-suit administrative exhaustion of PAGA claims is not particularly stringent, but it is not an empty formality either."].) A notice that fails to provide the requisite "facts and theories" does not satisfy this exhaustion requirement.

[10] The legislative history of PAGA and its subsequent amendments confirms that the notice requirement is central to the statutory scheme. The requirement serves as an administrative filter, ensuring the LWDA, as the state's primary labor law enforcement agency, has the first opportunity to investigate and prosecute violations. This allows the agency to prioritize its resources, focusing on the most widespread or severe cases while allowing private enforcement to proceed in other matters. (Sen. Com. on Judiciary, Analysis of AB 2288 (June 21, 2024) p. 12 [noting PAGA was enacted to address the state's "limited enforcement resources"].) The 2024 reforms strengthened this screening function by creating new cure and early resolution processes that are administered by or in conjunction with the LWDA and the courts, all of which depend on an initial notice that is factually sufficient to permit a meaningful evaluation of the claims. (Assem. Com. on Judiciary, Analysis of SB 92 (June 25, 2024) pp. 1–2.)

or expend scarce public resources trying to investigate a claim that has not been minimally substantiated with facts.

This is precisely the type of "[a]busive" practice the LWDA has recently condemned.[11] (LWDA Letter to Bibiyan Law Group, *supra*, p. 4.) In a recent directive addressing a "demonstrated pattern of conduct evidencing abuse of the prelitigation administrative processes," the LWDA excoriated the filing of "numerous boilerplate PAGA notices containing seemingly frivolous allegations." (*Id*. at p. 1.) The agency explained that such "blanket notices are tantamount to no notice at all, either to LWDA for purposes of determining whether to investigate a particular matter or to an employer seeking to ascertain the nature of the claims." (*Id*. at p. 3.) The *Villalobos* notice fits this description perfectly. It is a "template form without regard to any individual claimant's particular experiences or employment with their respective employer." (*Id*. at p. 2.) By serving such a notice, Plaintiff's counsel has effectively bypassed the administrative exhaustion requirement, frustrating the LWDA's role and undermining the statutory scheme.

B. The Defective Notice Denies the Employer a Meaningful Opportunity to Cure or Settle.

The second crucial purpose of the notice requirement is to provide the employer with sufficient information to understand the claims and, where possible, to cure the alleged violations or seek an early resolution. (*Williams*, *supra*, 3 Cal.5th at p. 546 ["Notice to the employer serves the purpose of allowing the employer to submit a response to the agency (see [former] Lab. Code, § 2699.3, subd. (a)(1)(B)), again thereby promoting an informed agency decision"].) PAGA provides specific statutory mechanisms for employers to "cure" certain violations, thereby avoiding litigation and penalties.[12] (Lab. Code, § 2699, subds. (d), (j); § 2699.3, subds. (c), (f).) These provisions are central to the Legislature's goal of encouraging employer compliance and avoiding unnecessary litigation.

The *Villalobos* notice renders these curative provisions meaningless. An employer cannot "cure" a violation it cannot identify. Presented with the vague allegation that meal breaks were "regularly late or

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[11] The LWDA has recently taken a firm stance against the practice of filing vague, boilerplate PAGA notices. In a February 13, 2025, letter to the Bibiyan Law Group, the agency noted a "demonstrated pattern of conduct evidencing abuse of the prelitigation administrative processes" and directed the firm to amend numerous notices that "consist[] of a template form without regard to any individual claimant's particular experiences or employment." (LWDA Letter to Bibiyan Law Group (Feb. 13, 2024), pp. 1–2.) The agency declared that such notices "are tantamount to no notice at all" because they make it "impossible to discern what violation(s), if any, a claimant in any case actually personally suffered" and thus prevent both the agency and the employer from performing their respective functions under the PAGA statute. (*Id.* at p. 3.)

[12] The 2024 PAGA reforms significantly expanded the employer's ability to cure violations. Assembly Bill 2288 and Senate Bill 92 established new procedures for both small and large employers to cure alleged violations either before or shortly after the commencement of a PAGA lawsuit. (Assem. Com. on Judiciary, Analysis of SB 92 (June 25, 2024) pp. 1–2; Sen. Com. on Judiciary, Analysis of AB 2288 (June 21, 2024) p. 2.) These new curative mechanisms are a cornerstone of the legislative compromise that produced the reforms. Their effectiveness, however, is entirely contingent on a PAGA notice that provides enough factual detail for an employer to identify the specific policies or practices at issue and take corrective action. A factually barren notice, like the one served by Villalobos, renders these curative provisions meaningless and thereby frustrates a key purpose of the 2024 reforms—to resolve disputes before they escalate to costly litigation.

short" (*Villalobos* PAGA Notice, p. 4), Shims Bargain Inc. has no practical way to investigate and correct the alleged practice within the statutory cure period. Is the problem company-wide? Is it limited to a specific department or shift? Is it the fault of a single manager who is no longer employed there? The notice provides no guidance. This lack of specificity makes it "impossible to discern what violation(s), if any, a claimant in any case actually personally suffered," thereby frustrating the employer's ability to attempt a cure. (LWDA Letter to Bibiyan Law Group, *supra*, p. 3.)

The California Supreme Court's jurisprudence confirms that a plaintiff's deputized authority to pursue PAGA claims on behalf of the state is limited by the scope of the pre-litigation notice. Applying this principle, the Court of Appeal in *LaCour v. Marshalls of California, LLC* (2023) 94 Cal.App.5th 1172 held that a PAGA plaintiff who settles claims beyond the factual scope of their LWDA notice "exceeds her authority to act on behalf of the LWDA and to that extent cannot bind the LWDA to a judgment."[13] (*Id.* at p. 1194.) The court reasoned that "it is impossible to say" that a plaintiff " 'could have' sued for other violations" where their "LWDA notice letter identified nothing more than" the narrow violations alleged. (*Id.* at p. 1193.) This principle applies with equal force here. Because the *Villalobos* notice provides no factual basis for any of its claims, it confers no authority upon the Plaintiff to act as the state's proxy for *any* of the alleged violations. The notice is not merely a flawed notice; it is a failure to exhaust administrative remedies, a fatal defect that deprives the plaintiff of the authority to proceed with the action.[14] The notice is, in effect, a legal nullity.

III. Arguments That the Notice Is Sufficient Fail Under Current PAGA Jurisprudence and Legislative Intent

Proponents of a notice like the one in the *Villalobos* matter will undoubtedly argue that the Private Attorneys General Act's pre-litigation standard is intentionally permissive and that requiring greater factual specificity would impose an improper, heightened pleading burden on aggrieved employees. While this position finds some superficial support in case law, it misinterprets the context of those decisions and ignores the clear trajectory of both legislative and administrative guidance, which has consistently moved toward demanding more meaningful, fact-based notices. A thorough analysis demonstrates that the strongest arguments in favor of the notice's sufficiency are no longer tenable.

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[13] In *LaCour*, the plaintiff's PAGA notice provided facts supporting only a claim for off-the-clock work at the end of shifts related to bag checks. (*LaCour*, *supra*, 94 Cal.App.5th at p. 1193, fn. 8.) The subsequent settlement, however, purported to release a much broader set of claims, including those for unreimbursed business expenses. The court held that because the notice did not provide facts to support these other claims, the plaintiff had no authority from the LWDA to pursue or settle them on the state's behalf. The settlement's release was therefore ineffective as to those claims. (*Id.* at p. 1193.)

[14] A plaintiff's authority to act as the state's proxy derives directly from, and is limited by, the contents of their notice. (*LaCour*, *supra*, 94 Cal.App.5th at p. 1194.) If a settlement release that goes beyond the factual scope of an otherwise valid notice is void to the extent it exceeds the plaintiff's authority, it follows logically that a notice that is wholly devoid of facts *confers no authority on the plaintiff to act whatsoever*. Such a notice cannot serve as the predicate for a valid PAGA action.

A. The "Minimal" Standard Articulated in *Ibarra* Does Not Sanction Fact-Free Notices.

The primary argument for the notice's validity would rely on the assertion that PAGA's notice requirement is "minimal." (*Ibarra*, *supra*, (2024) 102 Cal.App.5th at p. 882.) Proponents would argue that since the notice need only contain "some basic facts about the violations, such as which provision was allegedly violated and who was allegedly harmed," the *Villalobos* notice suffices. (*Ibid*.) This argument is flawed for two critical reasons.

First, it misrepresents the factual context of the *Ibarra* decision. The notice upheld in *Ibarra*, while described as minimal, contained a crucial element entirely absent from the *Villalobos* notice: a core factual theory connecting the employer's conduct to the alleged harm. The *Ibarra* notice specifically alleged that the defendants " 'failed to maintain adequate staffing levels' " and gave employees " 'too much work to perform,' " which in turn resulted in missed breaks and unpaid wages. (*Id.* at p. 879.) This allegation of understaffing provided a concrete, investigable theory of liability. In stark contrast, the *Villalobos* notice offers no such factual nexus. Its claims that breaks were "late or short" or that employees worked "off the clock" are untethered to any stated company policy or practice. (*Villalobos* PAGA Notice, p. 4.) Unlike the notice in *Ibarra*, it fails to provide any underlying reason or mechanism for the alleged violations that the employer or the LWDA could investigate.[15]

Second, and more dispositively, the legal landscape has evolved significantly since *Ibarra* was decided in June 2024. The Legislature's subsequent enactment of comprehensive PAGA reforms in AB 2288 and SB 92, signed into law on July 1, 2024, decisively clarifies the level of detail required in a PAGA notice. (Governor Newsom signs PAGA reform (July 1, 2024) p. 2.) These reforms established new, detailed procedures for employer cures and court-supervised early evaluation conferences. (Assem. Com. on Judiciary, Analysis of SB 92 (June 25, 2024) pp. 1–2.) The functionality of this new framework is entirely dependent on an initial notice that contains sufficient factual detail. An employer cannot participate in a meaningful cure process or an early evaluation conference without a clear understanding of the "particular facts and theories supporting the specific violations alleged." (LWDA Letter to Bibiyan Law Group, *supra*, p. 4.) These statutory amendments strongly indicate the Legislature's intent for the notice requirement to be a substantive, rather than a perfunctory, step.[16] The

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[15] The distinction between the notice in *Ibarra* and the *Villalobos* notice is critical. The *Ibarra* court, while describing the PAGA notice standard as "minimal," upheld a notice that contained a "core factual theory connecting the employer's conduct to the alleged harm." (*Ibarra*, *supra*, 102 Cal.App.5th at pp. 879, 882.) The allegation of systemic understaffing provided a concrete, investigable factual basis for the LWDA and the employer to understand the claims. The *Villalobos* notice, however, contains no such factual anchor. It is precisely the type of fact-free, conclusory notice that courts have consistently rejected. (See *Alcantar*, *supra*, 800 F.3d at p. 1057 ["The only facts or theories that could be read into this letter are those implied by the claimed violations . . . . This is insufficient."]; *Brown*, *supra*, 28 Cal.App.5th at p. 837 ["[W]ith one exception, the [notice] was a string of legal conclusions that parroted the allegedly violated Labor Code provisions."].)

[16] The PAGA reforms signed into law on July 1, 2024, reflect a clear legislative intent to demand more from PAGA notices. Legislative analyses of AB 2288 and SB 92 show that the new framework—which includes an LWDA-managed cure process for smaller employers and a court-supervised early evaluation conference for larger employers—was designed to promote early resolution and reduce protracted litigation. (Assem. Com. on Judiciary, Analysis of SB 92 (June 25, 2024) pp. 12–13.)

LWDA itself has interpreted these reforms as reinforcing the need for specificity, cautioning that "boilerplate PAGA notices . . . generally fail to demonstrate any applicability or relevance to a particular claimant or their unique circumstances. . . ." (*Id*. at p. 3.)

B. The Supreme Court's Holding in *Williams* Does Not Excuse Plaintiffs from Pleading Any Facts.

A second key argument in defense of the notice would be based on the California Supreme Court's holding in *Williams v. Superior Court* (2017) 3 Cal.5th 531. Proponents would emphasize the Court's statement that a PAGA notice need not "satisfy a particular threshold of weightiness, beyond the requirements of nonfrivolousness generally applicable to any civil filing." (*Id*. at p. 545.) They would argue that this holding insulates a PAGA notice from challenge so long as it alleges a violation, and that the facts supporting the claim are a matter for discovery, not pleading.

This argument takes the Court's holding out of its proper context. *Williams* was a discovery case, not a pleading case.[17] The central issue was whether a PAGA plaintiff could be required to provide a "modicum of substantial proof" of their claims as a prerequisite to obtaining discovery of contact information for other employees. (*Ibid*.) The Court correctly held that a plaintiff need not prove their case to get discovery; rather, discovery is the tool used to gather that proof. The Court did not, however, hold that a plaintiff may initiate a PAGA action with a notice that is entirely devoid of facts.

Crucially, the *Williams* court established a floor for the sufficiency of a notice: it must satisfy the "requirements of nonfrivolousness." (*Ibid*.) A notice that fails to allege any specific facts related to the named plaintiff or the employer's practices falls below this standard. The LWDA has explicitly adopted this interpretation, stating that the very type of boilerplate notice at issue here "do[es] not satisfy even the minimal standard of 'nonfrivolousness' applicable to PAGA notices preceding the recent reforms." (LWDA Letter to Bibiyan Law Group, *supra*, p. 3.) A claim is not non-frivolous simply because it cites a Labor Code section; it must be supported by at least a minimal assertion of underlying facts that makes the claim plausible. The *Villalobos* notice, with its complete absence of such facts, fails to clear even this low bar established by *Williams*.

These processes cannot function without a notice that provides specific "facts and theories." This subsequent legislative action clarifies that the notice requirement is a substantive gatekeeping mechanism, not a perfunctory pleading hurdle.

[17] The procedural posture of *Williams* is key to understanding its holding. The Supreme Court in *Williams* addressed whether a PAGA plaintiff must meet a heightened evidentiary standard *at the discovery stage* to obtain contact information for other employees. The Court held that imposing such a burden would improperly require a plaintiff to prove their case before being allowed to gather the evidence needed to do so. (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 545–546.) This holding about the standard for obtaining discovery does not define the standard for initiating a PAGA action in the first place. The pre-litigation notice serves different statutory purposes—notifying the LWDA and the employer to facilitate administrative review and potential cure—which require a baseline of factual specificity to be meaningful. The LWDA itself recognizes this distinction, stating that boilerplate notices like the one at issue here fail to meet even the "minimal standard of 'nonfrivolousness' " articulated in *Williams*. (LWDA Letter to Bibiyan Law Group, *supra*, p. 3.)

In sum, the arguments that might be marshaled to defend the *Villalobos* notice are based on an outdated and incomplete reading of the law. They ignore the specific factual allegations present in cases like *Ibarra*, misconstrue the procedural context of the Supreme Court's holding in *Williams*, and defy the clear intent demonstrated in the 2024 PAGA reforms and subsequent administrative guidance from the LWDA. The modern understanding of PAGA requires a notice to be a meaningful document that initiates a substantive administrative process, a standard the *Villalobos* notice fails to meet.

IV. The *Villalobos* Notice Is Statutorily Defective and Cannot Serve as the Predicate for a Civil Action.

The PAGA notice served by Frontier Law Center on behalf of Israel Villalobos is statutorily defective and legally insufficient to serve as the predicate for a civil action. The notice fails to meet the explicit mandate of Labor Code section 2699.3 to provide the "facts and theories" supporting its claims, offering instead a series of conclusory allegations that merely paraphrase statutory language. This is not a technical error that can be overlooked; it is a substantive failure that invalidates the notice by frustrating the core legislative purposes of PAGA's administrative framework.

As established, the pre-litigation notice serves a dual function: it allows the LWDA to screen claims and decide whether to commit public resources to an investigation, and it provides the employer with a meaningful opportunity to investigate, respond to, and potentially cure the alleged violations. (*Williams*, *supra*, 3 Cal.5th at pp. 545–546 [explaining the notice requirement's purpose is to "afford the relevant state agency . . . the opportunity to decide whether to allocate scarce resources to an investigation" and to allow "the employer to submit a response to the agency"].) The *Villalobos* notice, with its complete lack of a factual predicate, renders both of these functions impossible. It is precisely the type of "boilerplate" notice that the LWDA has declared is "tantamount to no notice at all." (LWDA Letter to Bibiyan Law Group, *supra*, p. 3.)

Arguments that the notice satisfies a purportedly "minimal" pleading standard are unpersuasive. Such arguments rely on a misreading of precedent and ignore the trajectory of the law. While courts have resisted imposing a requirement that plaintiffs prove their case in their initial notice, they have never sanctioned a notice that is entirely devoid of facts.[18] (See *Ibarra*, *supra*, 102 Cal.App.5th at p. 879 [upholding a notice that alleged a specific factual cause—understaffing—for the claimed violations].) The recent comprehensive PAGA reforms enacted in 2024 further clarify the Legislature's intent, establishing a framework for early resolution that is functionally dependent on a factually specific notice that properly informs both the state and the employer of the claims at issue. (Assem. Com. on Judiciary, Analysis of SB 92 (June 25, 2024) pp. 1–2 [describing new cure and early evaluation conference procedures that presuppose a detailed notice].)

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[18] Courts have consistently required *some* factual allegations to connect the alleged violations to the employer's practices. (See, e.g., *Uribe v. Crown Building Maintenance Co.* (2021) 70 Cal.App.5th 986, 1005 [PAGA notice was deficient where it alleged failure to reimburse expenses but only provided facts related to shoes and uniforms, not cell phones]; *Brown*, *supra*, 28 Cal.App.5th at p. 837 [a notice that merely parrots the statutory language is insufficient].)

Ultimately, a PAGA plaintiff acts as a proxy for the state, and the scope of their authority to pursue claims on the state's behalf is defined by the content of their pre-litigation notice.[19] A plaintiff who acts beyond the scope of their notice acts without authority. (*LaCour*, *supra*, 94 Cal.App.5th at p. 1194.) Because the *Villalobos* notice fails to provide an adequate factual basis for any of its claims, it fails to confer upon the Plaintiff the necessary authority to proceed. It has not satisfied the statutory conditions precedent for filing suit. The notice is therefore invalid as a matter of law.

The Company respectfully requests that the LWDA recognize the invalidity of the August 21, 2025 Notice and take no further action in this matter.

Sincerely,

Arthur Karadzhyan

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[19] A PAGA plaintiff's role is that of a proxy for the state, and the scope of their authority is strongly circumscribed by the administrative prerequisites of the Act. The California Supreme Court's decision in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, reinforces this principle. In *Turrieta*, the Court held that a PAGA plaintiff's authority as the state's agent does not extend to intervening in another PAGA plaintiff's parallel lawsuit, moving to vacate that judgment, or objecting to that settlement. (*Id.* at p. 677.) The Court reasoned that PAGA's statutory scheme does not grant such powers, and implying them would be inconsistent with the legislative framework. (*Ibid.*) This reasoning powerfully supports the conclusion here: if a PAGA plaintiff's authority is so strictly construed that it does not even permit intervention in a parallel case, it certainly does not extend to initiating a lawsuit based on a legally invalid notice that fails to meet the foundational requirements of the Act.