



STATE OF CALIFORNIA
Labor & Workforce Development Agency

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Jason W. Rothman
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Certified Mail

USPS Tracking No. 9589 0710 5270 1472 1575 03

**Re: *Guadelupe Magdaleno v. Afeel Corporation dba Huntington Brass*
Case No. LWDA-CM-1129691-25**

Notice Directing Claimant to Amend PAGA Notice

Dear Mr. Rothman:

On October 3, 2025, you filed a notice on behalf of claimant Guadelupe Magdaleno against respondent Afeel Corporation dba Huntington Brass pursuant to the Labor Code Private Attorneys General Act of 2004 (PAGA), codified at Labor Code section¹ 2698 et seq. On November 5 respondent timely submitted a proposal to cure alleged violations. (§ 2699.3, subd. (c)(2)(A).)

The Labor and Workforce Development Agency (LWDA) PAGA Unit has reviewed claimant's October 3 PAGA notice and determines it does not satisfy the administrative notice requirements of section 2699.3, subdivision (c)(1). Claimant's notice generally fails to allege facts in support of the violations alleged while reciting in conclusory fashion "code section references with prose excerpting or rephrasing the statutory language." (*Uribe v. Crown Building Maintenance Co.* (2021) 70 Cal.App.5th 986, 1004.)

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 particular 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

¹ Subsequent statutory citations are to the Labor Code unless otherwise indicated.

of PAGA's prelitigation administrative exhaustion requirements, in which case no civil action thereupon may be commenced.

I. Background

Claimant filed the underlying PAGA notice on October 3 alleging she was employed with respondent from April to June 2025 "processing purchase orders and handling customer orders sent via email." The notice then proceeds to allege a series of Labor Code violations in conclusory, boilerplate form. For example, claimant alleges overtime violations because "Employee and other Aggrieved Employees personally suffered Employer's violations of the [sic] Labor Code section 510 and applicable Wage Orders." In support of this violation, claimant asserts:

Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of requiring its Employee and other Aggrieved Employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections 551 forty (40) hours per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections 551 and 552) [sic] without paying them proper overtime wages every day.^[2]

Claimant next alleges minimum wage violations because "Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code sections 1197, 1182.12, Cal. [sic] and applicable Wage Orders based on its continued failure to pay minimum wages for all hours worked." The meal and rest period violations alleged by claimant similarly are framed in conclusory terms paraphrasing the legal requirements attendant to each. Regarding the alleged meal period violation, claimant states:

Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of compelling Employee and other Aggrieved Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof. By

² See § 510, subd. (a).

way of example, Employer regularly denied Employee and Aggrieved Employees lawful meal periods. . [sic] ^[3]

The alleged rest period violation similarly is based on information and belief that:

. . . Employer maintains policies or practices of compelling Employee and other Aggrieved Employees every day to, including, without limitation, work over four-hour periods (or major fractions thereof) without authorizing and permitting Employee and other Aggrieved Employees to take uninterrupted, timely, and complete ten-minute rest periods in which the Aggrieved Employees are completely relieved of all of their duties.^[4]

From there, claimant alleges recordkeeping violations in similarly conclusory form, citing sections 226, 432, 1198.5, and 1174 without describing what records respondent allegedly failed to keep or maintain. An alleged violation of section 2810.5 also is framed in conclusory terms reciting or paraphrasing the statutory language. (See § 2810.5, subd. (a)(1).)

Finally,⁵ the alleged violation of section 206.5 also is asserted in conclusory terms mirroring the statutory language:

Allegation (Notice, p. 5)

. . . Employer required or requires the execution of a release of claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, including, without limitation, as a condition of being paid, to execute a statement of the hours worked during a pay period in which Employer knew to be false.

§ 206.5

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned . . .

(b) . . . “execution of a release” includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

³ See § 512, subd. (a).

⁴ See, e.g., Cal. Code Regs., tit. 8, § 11040, ¶ 12(A).

⁵ It is noted claimant additionally alleges derivative wage statement and separation pay violations, as well as a violation of 2802 based on respondent’s failure to reimburse employees “for the use of personal cellular phone [sic] for work purposes.”

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."⁶ 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, supra*, 70 Cal.App.5th at p. 1003.)

Before the 2024 PAGA reforms (Stats. 2024, ch. 44 [Assem. Bill No. 2288 (2023-2024 Reg. Sess.)], ch. 45 [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 in a notice. (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 546.) In doing so, the court concluded a heightened proof requirement "would undercut the clear legislative purposes the act was designed to serve." (*Ibid.*) However, the notice must include "facts and theories" articulating the basis for the violations alleged; conclusory assertions or language paraphrasing or summarizing the language or requirements of the code sections allegedly violated are not sufficient. (*Uribe, supra*, 70 Cal.App.5th at p. 1004; *Brown v. Ralphs Grocery Co.* (2018) 28 Cal.App.5th 824, 837; see also *Mora v. C.E. Enterprises, Inc.* (Oct. 21, 2025, B337830) ___ Cal.App.5th ___, p. 20 <<https://courts.ca.gov/opinions/publishedcitable-opinions>> [employees' PAGA notice did not satisfy administrative notice and exhaustion requirements because it did "not set forth the specific theories of liability . . . must less state any facts in support of those theories"].)

The 2024 amendments to PAGA 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 to make employees whole 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

⁶ Subdivisions (a)(1)(A) and (b)(1) of section 2699.3 include virtually identical notice requirements for claims subject to those provisions.

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. (Cf. *Huff v. Securitas Security Services, USA, Inc.* (2018) 23 Cal.App.5th 745, 754.)

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. Here, the violations alleged by claimant are asserted only in a conclusory manner, paraphrasing applicable legal requirements to define the alleged violations. In doing so, claimant’s notice recites boilerplate unsupported by facts relevant to her particular experiences or employment with her employer in this matter. This does not satisfy PAGA’s notice requirements. (*Uribe, supra*, 70 Cal.App.5th at p. 1004; *Brown, supra*, 28 Cal.App.5th at p. 837; see *Alcantar v. Hobart Service* (9th Cir. 2015) 800 F.3d 1047, 1057.) While the pleading standard attendant to PAGA notices is not necessarily a “weighty” or burdensome one, this notice does not appear to satisfy even the standard of “nonfrivolousness” applicable to PAGA notices preceding the 2024 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 v. Alaska Airlines, Inc.* (2021) 72 Cal.App.5th 334, 351.) Thus, “more than bare allegations of Labor Code violations” are required. (*Ibarra, supra*, 102 Cal.App.5th at p. 881; *Uribe, supra*, 70 Cal.App.5th at p. 1004.) 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." (*Ibarra, supra*, 102 Cal.App.5th at p. 881, quoting *Brown, supra*, 28 Cal.App.5th at p. 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.)

These considerations underlying PAGA's prelitigation notice requirements take on even more importance after the 2024 reforms. (Assem. Floor Analysis, conc. in June 21, 2024 Sen. amendments to Assem. Bill No. 2288 (2023-2024 Reg. Sess.) June 27, 2024, p. 5; Assem. Com. on Jud., analysis of Sen. Bill No. 92 (2023-2024 Reg. Sess.), as amended June 21, 2024, p. 11.) The effectiveness of the new cure and early evaluation procedures set forth in section 2699.3 depend on proper notice of the violations alleged with some articulation of the particular facts supporting them to demonstrate a claimant's standing to assert them, permit LWDA to assess accurately the nature of the claims at issue, and provide an employer a reasonable opportunity to identify and endeavor to correct them.

In light of the above, claimant's boilerplate, conclusory PAGA notice is 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 at issue for purposes of attempting to cure or resolve them. A claimant or claimant's representative must participate in PAGA's prelitigation administrative procedures in good faith. 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. (Code Civ. Proc., § 128.7, subd. (b); see *Williams, supra*, 3 Cal.5th at p. 545.)

III. Conclusion and Order

For the foregoing reasons, LWDA's PAGA Unit considers the October 3, 2025 PAGA notice filed on behalf of claimant Guadalupe Magdaleno insufficient to satisfy the administrative notice requirements of section 2699.3, subdivision (c). Accordingly, claimant shall file and serve on respondent an amended notice setting forth those specific violations personally suffered by claimant, including the particular facts and theories supporting each of the violations alleged. Upon submission of an amended notice satisfying the requirements of section 2699.3, subdivision (c)(1), respondent may, if it still elects to do so, submit a proposal to cure alleged violations to LWDA using the "Cure Documents" link available on

the online PAGA filing portal to avoid incurring another filing fee, provided that respondent identify in any subsequent submission the date it receives an amended PAGA notice from claimant, if any.

Absent proper amendment, claimant's October 3 PAGA notice appears insufficient to satisfy the prelitigation administrative exhaustion requirements of section 2699.3.

Sincerely,



Todd M. Ratshin
Deputy Secretary for Enforcement

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