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By Email & U.S. Mail

Ashley G. Garay, Esq.
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Re: **Carolina Rose Cherry v. Lundquist Institute for Biomedical Innovation at Harbor-
UCLA Medical Center**
PAGA Notice ***LWDA-CM-1040223-24***

Dear Ms. Garay:

Please be advised that this office represents Lundquist Institute for Biomedical Innovation at Harbor-UCLA Medical Center ("Lundquist Institute") in connection with its employment-law related matters, including the above referenced matter concerning Carolina Rose Cherry ("Ms. Cherry").

We obtained a copy of your letter dated July 17, 2024, submitted by your firm to the Labor & Workforce Development Agency ("LWDA") on behalf of Ms. Cherry regarding her intent to pursue a Private Attorneys General Act ("PAGA") action on behalf of herself and others as "Aggrieved Employees" including but not limited to Diane Aguilar and Alondra Pena based on the following alleged Labor Code violations: (1) Misclassification as independent contractors (Labor Code § 226.8); (2) Failure to Pay for all hours worked, including minimum, straight time and overtime (Labor Code §§ 510-515, 194 & 1198); (3) Failure to provide meal periods and rest periods (Labor Code §§ 226.7 & 512); (4) Waiting Time Penalties (Labor Code § 200-204); (5) Failure to furnish accurate itemized wage statements (Labor Code § 226(a)).

For the reasons outlined below, Ms. Cherry's claim should be immediately withdrawn, and no further action should be taken by Ms. Cherry with respect to her intent to pursue a PAGA claim.

First, the Notice fails to identify sufficient facts to allow either the LWDA or this office to conduct an investigation. The purpose of the PAGA notice requirement is to afford the LWDA the opportunity to decide whether to allocate scarce resource to an investigation, allow the employer to submit a response to the agency, and allow the employer to cure a violation in a timely manner where appropriate. (*Williams v. Superior Court* (2017) 3 Cal.5th 531.) In order to comply with the statute, the notice must include the

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specific facts and theories that support the alleged violations. (*Id.*) The Notice has failed to satisfy this obligation by only superficially alleging violations in vague terms.

Second, Ms. Cherry, Ms. Pena and Ms. Aguilar were not employees of Lundquist Institute but Ph.D. students at Lundquist Institute who received stipends for their enrollment in the program. Lundquist Institute established “Lundquist Graduate School of Education” as the degree-granting mechanism for the Ph.D. in Translational Research. As part of their enrollment into the program, the students were required to successfully complete all program curricular requirements, including:

- enroll in all courses for each term as required by the program curriculum,
- participate in required lab rotations,
- identification and acceptance into a thesis lab,
- thesis submission and dissertation defense,
- participate in academic, outreach and program recruitment activities.

The Ph.D. students did not replace the work of any lab technicians or staff members. The Ph.D. students were mentored and given opportunities to publish research papers under the mentorship of scientists at Lundquist Institute. Their stipend was not for any work but as an offer for admission into the program.

In light of all of the foregoing, please confirm that Ms. Cherry’s PAGA claims will be immediately withdrawn, and no further action will be taken by Ms. Chery, Ms. Pena or Ms. Aguilar, with respect to their alleged claims.

Please feel free to reach out to discuss further.

Sincerely,



Luiza Manuelian
Landegger Verano & Davis, ALC.