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August 29, 2024

By LWDA Portal

California Labor & Workforce Development Agency
455 Golden Gave Ave., 10th Floor
San Francisco, California 94102

Re: **Carolina Rose Cherry v. Lundquist Institute for Biomedical Innovation at Harbor-UCLA Medical Center**
Response to PAGA Notice ***LWDA-CM-1040223-24***

Dear Sir/Madam:

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 Ms. Cherry's counsel's letter dated July 17, 2024, 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, 1194 & 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)).

Ms. Cherry's claim should be immediately dismissed because the individuals identified as independent contractors, including Ms. Cherry, Ms. Pena and Ms. Aguilar, were not employees or independent contractors of Lundquist Institute but rather Ph.D. students 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,

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- 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. Their stipend was offered to the students to cover the basic living costs as the students participated in their academic program to obtain their credentials.

In light of the foregoing, Lundquist Institute requests LWDA dismiss Ms. Cherry's allegations.

Sincerely,



Luiza Manuelian
Landegger Verano & Davis, ALC.

cc: Ashley Garay, Esq.
West Coast Trial Lawyers
(via email and U.S. Mail)