



STATE OF CALIFORNIA
Labor & Workforce Development Agency

GOVERNOR Gavin Newsom • SECRETARY Stewart Knox

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

January 21, 2025

Jeanine D. Debacker
McPharlin Sprinkles & Thomas, LOP
720 University Ave., Suite 250B
Los Gatos, CA 95032

Certified Mail

USPS Tracking No. 9589 0170 5270 0078 3295 81

**Re: *Efrain Cortes v. Marin Baking LLC dba Bordenave's*
Case No. LWDA-CM-1054962-24**

Notice Re: Employer Cure Proposal Not Selected for Conference

On January 6, 2025, pursuant to Labor Code section 2699.3, subdivision (c)(2)(A), respondent Marin Baking LLC dba Bordenave's submitted to the Labor and Workforce Development Agency (LWDA) a proposal to cure violations alleged in the amended Private Attorneys General Act (PAGA) notice filed on behalf of claimant Efrain Cortes. LWDA's PAGA Unit has reviewed respondent's cure proposal and has determined not to select this matter for conference on grounds the proposal is facially insufficient to cure the violations alleged.

Claimant filed a PAGA notice on October 7, 2024. On November 12, 2024, respondent filed a proposal to cure alleged violations, while also raising concerns with the sufficiency of notice in terms of the violations alleged. On November 25, 2024, the LWDA PAGA Unit issued a notice directing claimant to amend his PAGA notice on grounds it was insufficient to satisfy the notice requirements of Labor Code 2699.3, subdivision (c). Claimant filed an amended PAGA notice on December 5, 2024, alleging overtime, minimum wage, and meal and rest period violations, as well as derivative recordkeeping, wage statement, and separation pay violations. On January 6, respondent submitted a proposal to cure the violations alleged by claimant.

Respondent's January 6 proposal is insufficient to cure the violations alleged by claimant. Rather, respondent generally disputes both the merit and sufficiency of claimant's allegations and denies liability for the violations alleged. To the limited extent respondent has proposed curing certain violations, the cure proposals do not meet the criteria required by Labor Code section 2699,

subdivision(d)(1). The proposals are largely prospective or limited only to the claimant. Accordingly, the LWDA PAGA Unit has determined not to select this matter for conference.

No determination is made concerning the violations alleged by claimant or respondent's contentions denying them. Nor is any determination made regarding any of the prospective compliance measures described by respondent or the sufficiency of such measures to reduce the amount of civil penalties potentially recoverable in the event a civil action is commenced. (See Lab. Code, § 2699, subd. (h).)

Nothing herein should be understood to preclude respondent from requesting early evaluation in the event a civil action is commenced. (See Lab. Code, § 2699.3, subds. (f)(1), (14).)

Sincerely,

A handwritten signature in black ink, reading "Margaret Nelson". The signature is written in a cursive, flowing style.

Attorney – PAGA Unit
California Labor and Workforce Development Agency