



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

April 1, 2025

Nicholas J. De Blouw
Blumenthal Nordrehaug
Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92307

Certified Mail

USPS Tracking No. 9589 0710 5270 0078 3295 36

**Re: Notice Directing Submission of Amended PAGA Notices
See Index Listing Cases**

Mr. De Blouw:

It has come to the attention of the Private Attorneys General Act (PAGA) Unit of the California Labor and Workforce Development Agency (LWDA) that you have filed numerous boilerplate PAGA notices on behalf of allegedly aggrieved employees against employers throughout the state. These notices do not appear to satisfy PAGA's prelitigation administrative notice requirements under Labor Code section¹ 2699.3. Accordingly, you hereby are directed to file amended PAGA notices in each pending matter listed in the index included with this letter consistent with the instructions provided.

The PAGA Case Search site, available at < <https://cadir.my.salesforce-sites.com/PagaSearch> >, shows you personally have filed 102 PAGA notices since July 1, 2024.² A review of a sampling of these notices demonstrates the notice filed in each matter generally consists of a template form letter accompanied by a copy of a class action civil complaint. These form letters include a lengthy block paragraph alleging the same violations in the same conclusory manner with no actual facts included to support them. The complaints included with these letters assert the same nine causes of action for alleged wage and hour violations. The section of each complaint titled "The

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

² See < <https://cadir.my.salesforce-sites.com/PagaSearch/PAGASearchResults?ed=2025-04-02&sd=2024-07-01&ss=nicholas+de+blouw&st=PAGA+Notice> >, last visited Apr. 1, 2025. Seven additional notices have been filed by your law firm during this period.

Conduct" typically consists of 15 paragraphs, yet none of these paragraphs describe specific conduct or factual circumstances unique to any claimant or any claimant's particular experiences or employment with their respective employer in any given case. Rather, each complaint alleges the same violations using the same generic language. In each case you specifically state there are 500 impacted employees, without variance.³

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."⁴ 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 v. Crown Bldg. Maint. Co.* (2021) 70 Cal.App.5th 986, 1003.)

The PAGA reforms enacted last year (Stats. 2024, ch. 44 [Assem. Bill No. 2288 (2023-2024 Reg. Sess.)], ch. 45 [Sen. Bill No. 92 (2023-2024 Reg. Sess.)], effective July 1, 2024, establish a legislative intent to increase LWDA oversight of PAGA, including for purposes of providing more robust early resolution avenues for employers and to achieve more timely remedies for employees 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; Assem. Com. on Jud., Analysis of Sen. Bill No. 92 (2023-2024 Reg. Sess.) as amended June 21, 2024, p. 12.) 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.)

These early resolution opportunities are complemented by amendments to section 2699.5 expanding the types of claims subject to cure and early resolution procedures, including the most common types of wage and hour violations alleged in PAGA notices. Another important aspect of the reforms

³ It is acknowledged the notices you submitted on March 26 in *Alexus Johnson v. Curo Pet, LLC*, case no. LWDA-CM-1088470-25, and on March 31 in *Farida Sulley v. BHC Heritage Oaks Hospital, Inc.*, case no. LWDA-CM-1089373-25, follow a different format. Those notices are not included in the index at the end of this letter and no determination is made here concerning the sufficiency of those notices.

⁴ Subdivisions (a)(1)(A) and (b)(1) include similar notice requirements for claims subject to those provisions.

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.

With these considerations in mind, a PAGA notice properly must inform both LWDA and the employer of the nature of the violations alleged with some level of detail in describing the “facts and theories” supporting them. The boilerplate PAGA notices you have been filing generally fail to demonstrate any applicability or relevance to a particular claimant or their unique circumstances in terms of their employment with their current or former employer in any specific case. (See *Uribe, supra*, 70 Cal.App.5th at p. 1004 [allegations paraphrasing statutory language insufficient].) Given the conclusory allegations in each matter it is unclear what violation(s), if any, a claimant in any case actually personally suffered, and how. (See § 2699, subd. (c)(1).) Such boilerplate 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 at issue for purposes of attempting to cure or resolve them. While the pleading standard attendant to PAGA notices is not necessarily a “weighty” or burdensome one, the notices you have been filing do not satisfy even the minimal standard of “nonfrivolousness” applicable to PAGA notices preceding the recent reforms. (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 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 v. Ralph’s Grocery Co.* (2018) 28 Cal.App.5th 824, 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 reforms enacted last year. The effectiveness of the new administrative cure procedure set forth in section 2699.3, subdivision (c)(2) and judicial early evaluation procedure set forth in section 2699.3,

subdivision (f) depend on proper notice of the violations alleged both so LWDA accurately can assess the nature of the claims at issue and an employer has a reasonable opportunity to identify, respond, and endeavor to correct them. New standing requirements under section 2699, subdivision (c)(1) further limit the scope of the violations a PAGA claimant may allege.

A claimant or claimant's representative must participate in PAGA's prelitigation administrative procedures in good faith. Abusive, evasive, or other tactics designed to frustrate the role of LWDA during these procedures, or the ability of employers to identify the nature of the claims actually at issue, will not be tolerated. 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. (See Code Civ. Proc., § 128.7, subd. (b).)

Accordingly, you hereby are directed to file amended PAGA notices in each matter listed in the index included with this letter.⁵ All amended notices shall set forth those specific violations personally suffered by each individual claimant and describe the particular facts and theories supporting the specific violations alleged in each case. All amended PAGA notices must be filed via the online PAGA filing portal with service to the employer or any identified employer representative by certified mail as required by section 2699.3, subdivision (c)(1).

Absent amendment, the notices in the matters listed in the index included with this letter appear insufficient to satisfy the administrative notice requirements of section 2699.3, subdivision (c).

Failure to comply prospectively with PAGA's prelitigation notice requirements may result in further action against you and/or your law firm, after due notice and an opportunity to be heard, including, but not limited to, pre-filing screening requirements.

Sincerely,



Todd M. Ratshin
Deputy Secretary for Enforcement

⁵ The index is limited to matters pending before LWDA and within the applicable period for administrative investigation. (See § 2699.3, subd. (c)(1)(E).)

cc: All Employers or Identified Employer Representatives in the Matters Listed in
the Following Index

Index of PAGA Notices Filed by Nicholas De Blouw
January 27, 2025 — April 1, 2025*
[Lab. Code, § 2699.3, subds. (a)(2)(B), (c)(1)(E)]

#	LWDA #	Date	Employer Name	#/Employees	<u>Law Firm for PAGA Plaintiff</u>	<u>Plaintiff for PAGA Case</u>	<u>Filer/Attorney for PAGA Case</u>
1	LWDA-CM-1082306-25	2/25/2025	Merritt Hospitality, LLC	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Gregory August, Ann Jung, Montserrat Alon, Mohammad Mahyari, Maria Walz-Smith, Martin Kazinski	Nicholas De Blouw
2	LWDA-CM-1082287-25	2/25/2025	Recreational Equipment, Inc.	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Nik Venet	Nicholas De Blouw
3	LWDA-CM-1081507-25	2/21/2025	Guardant Health, Inc.	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Crystal Mitchell	Nicholas De Blouw
4	LWDA-CM-1081172-25	2/20/2025	Eddie Bauer LLC	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Brandon Parra	Nicholas De Blouw
5	LWDA-CM-1081065-25	2/20/2025	Pacific Maritime Association	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Jasmine Phillips	Nicholas De Blouw
6	LWDA-CM-1080919-25	2/19/2025	3M Company	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Mario Hernandez	Nicholas De Blouw
7	LWDA-CM-1080504-25	2/18/2025	Lodi Memorial Hospital Association, Inc.	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Douglas Gil	Nicholas De Blouw
8	LWDA-CM-1080148-25	2/14/2025	Autism Behavior Services Inc.	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Michelle Daniels	Nicholas De Blouw
9	LWDA-CM-1079565-25	2/12/2025	7 Rowes, Inc. †	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Sharon Lopez	Nicholas De Blouw

* The information set forth in this index is extracted from search results using the PAGA Case Search site, available at < <https://cadir.my.salesforce-sites.com/PagaSearch> >, for PAGA notices filed by Nicholas De Blouw from January 27, 2025, through April 1, 2025.

† A copy of this letter has been sent to the employer's attorney as identified on the PAGA Case Search site.

#	LWDA #	Date	Employer Name	#/Employees	Law Firm for PAGA Plaintiff	Plaintiff for PAGA Case	Filer/Attorney for PAGA Case
10	LWDA-CM-1079558-25	2/12/2025	Western Golf Properties, LLC	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Miguel Gonzalez	Nicholas De Blouw
11	LWDA-CM-1078997-25	2/10/2025	Hyde Park Hospitality LLC	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Delaney Barnes	Nicholas De Blouw
12	LWDA-CM-1078989-25	2/10/2025	Montage Laguna Beach, LLC	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Roxanne Pond	Nicholas De Blouw
13	LWDA-CM-1077801-25	2/4/2025 (as amended 2/11/25)	Walgreen Co.	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Alejandro Flores	Nicholas De Blouw
14	LWDA-CM-1076984-25	1/31/2025	Murrieta Hot Springs Resort, LP	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Chris Rasmussen	Nicholas De Blouw
15	LWDA-CM-1076982-25	1/31/2025	BG California Multifamily Staffing, Inc.	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Roxana Zelaya	Nicholas De Blouw
16	LWDA-CM-1076779-25	1/30/2025	The Goodyear Tire & Rubber Company	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Mario Velasquez	Nicholas De Blouw
17	LWDA-CM-1076773-25	1/30/2025	Omnicare Resources, LLC	500	Blumenthal Nordrehaug Bhowmik & De Blouw	Diana Juarez	Nicholas De Blouw