



California
LABOR
Federation



PARTNERSHIP
for
Working Families



California
Nurses
Association



WORKSAFE
safety, health, and justice for workers
seguridad, salud y justicia para los trabajadores

April 24, 2020

Governor Gavin Newsom
State of California
State Capitol Sacramento, CA 95814



RE: Protecting Workers' Legal Rights Under PAGA and Other State Laws

Dear Governor Newsom:

On behalf of the undersigned organizations, we write in response to a recent letter from the California Business & Industrial Alliance (CBIA), seeking a moratorium on PAGA lawsuits, and to express our strong opposition to any proposal that attempts to suspend or weaken the rights of workers. During these precarious and perilous times, we should be redoubling our efforts to strengthen and support the rights of workers, not limiting them.

CBIA suggests that you take this unprecedented step of suspending an existing worker protection statute in order to provide "financial relief" for businesses affected by COVID-19. This blatant attempt to exploit the current public health crisis facing California is an affront to the very frontline workers keeping this economy functioning.

PAGA is needed now more than ever. COVID-19 has only highlighted the many inequities in the imbalanced relationship between modern businesses and workers. Emergency federal intervention was necessary to offer even basic protections for millions of purported "independent contractors," who now find themselves without work, income, or the customary protections of employment. Many of these workers have been marched into harm's way without the benefit of sick leave, leave to care for sick family, worker's compensation, or unemployment insurance. Those misclassification schemes have imperiled millions of workers for years, while depriving the State of contributions that are

now desperately needed. Fighting misclassification is one of the many ways PAGA has been, and will continue to be, used to protect California workers.

There are legions of other such examples of how PAGA protects workers, especially as more workers have been forced into mandatory arbitration. Arbitration “agreements” have stripped many workers of their rights, including “essential” workers who have continued to do their jobs through the pandemic. For example, non-resident and undocumented farmworkers now deemed “essential” must continue working, but have cruelly been frozen out of any federal emergency relief. PAGA offers a continued refuge for them, and other low-wage workers such as drivers, retail workers, and janitors who have sustained us during weeks of sheltering in place.

CBIA cites examples of “hospitals and health care services” that are purportedly the subject of recent PAGA notices, insinuating that these businesses are the subject of “minor infractions” of the Labor Code. CBIA offers no facts, nor could it. In fact, numerous press reports have highlighted the many workers who are being ordered to work without adequate personal protective equipment (PPE), in violation of workplace safety requirements.

CBIA falsely casts PAGA as a boon to “trial lawyers” rather than acknowledge the truth: PAGA serves the interests of the State of California, which is the real party in interest in every PAGA lawsuit. Over the last four years, PAGA has brought in an annual average of \$42 million to the State of California – money that the State can now use to protect California workers who have been affected by the coronavirus. Indeed, its tired suggestion that PAGA is being used for the exclusive benefit of attorneys has been consistently disproven by the data collected by your Labor and Workforce Development Agency, independent studies,¹ and the Legislature.

We are mindful that businesses are under enormous stress and will continue to be in the months of recovery that lie ahead. We recognize that workers and businesses alike must cooperate in response to these times. Cooperation does not mean, however, that workers should be silenced – even for a day. Now is not the time to discourage workers from insisting that businesses follow the law.

We appreciate your leadership during this crisis, and trust that you will continue to rely upon the advice of public health officials and scientists as you respond to the facts on the ground. You have asked Californians to heed the advice of

¹ Rachel Deutsch, Rey Fuentes, Tia Koonse, “California’s Hero Labor Law: The Private Attorneys General Act Fights Wage Theft and Recovers Millions from Lawbreaking Corporations”, UCLA Labor Center, The Center for Popular Democracy, and the Partnership for Working Families (2020) available at https://www.labor.ucla.edu/wp-content/uploads/2020/02/UCLA-Labor-Center-Report_WFB.pdf.

experts, to show their best selves, in service of all Californians. Workers have done their part, and businesses must do theirs.

Sincerely,

Bet Tzedek Legal Services
California Alliance for Retired Americans
California Employment Lawyers Association
California Labor Federation
California Nurses Association
California Rural Legal Assistance Foundation
California Teamsters Public Affairs Council
Centro Legal de la Raza
Consumer Attorneys of California
Engineers & Scientists of California
Equal Rights Advocates
Instituto Laboral de la Raza
International Federation of Professional Technical Engineers Local 21
La Raza Centro Legal
Labor & Employment Committee of National Lawyers Guild
Legal Aid at Work
Mexican American Bar Association
National Employment Law Project
Partnership for Working Families
Santa Clara County Wage Theft Coalition
SEIU California
State Building & Construction Trades Council
The California Conference Board of the Amalgamated Transit Union
The California Conference of Machinists
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