

March 2021

# California Private Attorneys General Act of 2004

## *Outcomes and Recommendations*

Prepared by: **Baker & Welsh, LLC**

In collaboration with Work Comp Data Solutions

*The authors retained sole control over the report writeup and conclusions.*

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# Principal Findings

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- Available data indicate that the current average payment a worker receives from a PAGA case decided by the Labor and Workforce Development Agency (LWDA) is 95% greater than for a PAGA case filed with a court: \$4,100 from an LWDA-decided case, versus \$2,100 from a court case.
- Even though workers are receiving higher awards from LWDA-decided cases, employers are paying out 60% less per award. On average employers pay \$504,000 per LWDA-decided case and \$1,232,000 per PAGA court case.
- LWDA-decided cases do not award attorneys' fees, which contributes significantly to the huge difference in award amounts between LWDA-decided cases and PAGA court cases. Attorneys who file PAGA cases with a court are compensated with fees that represent 33% or more of the workers' total recovery, coming to more than \$405,000 per case on average.
- Delays in obtaining recoveries are substantial. Indications are that workers wait on average for 15-months for their awards from LWDA-decided cases, and nearly two years for their awards from PAGA court cases.
- Letters of intent to file a lawsuit are used to frighten employers into settling before a PAGA lawsuit is filed. These settlements are not reviewed by or reported to either LWDA or the courts. For this reason, the public will **never** have information on what workers receive, what the workers' lawyers receive, or what employers pay in connection with these settlements. Most importantly, there is nothing to assure that workers have received what they are entitled to from these settlements.
- Funding reserves accessible by LWDA and the agencies under its authority exist in the amount of more than \$113 million. These funds could serve to fund the creation of an alternative administrative framework.
- There is a disturbing pattern that has appeared over the last 5 years showing that, while the number of PAGA cases filed has remained relatively flat on average, the amount of employer penalties has increased by a factor of 6, which likely means the amount of employer payouts overall has similarly increased.
- The recent signing into law of AB 5 will likely dramatically expand actions threatened or filed pursuant to PAGA.
- A PAGA exemption was legislated in 2019 for one sector of the economy—unionized construction. This is tantamount to union recognition that the PAGA process does not produce desirable outcomes, and employee redress of wage and hour violations can be improved with an alternative structure.

# Introduction

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## PURPOSE

The purpose of this report is to shine a light on PAGA, contrast this law's outcomes with those that may be anticipated from an alternative process, and make recommendations accordingly.

## SUMMARY

### How we got PAGA.

PAGA took effect in 2005 in California. One of its primary purposes was to provide employees a means of directly suing their employers when alleging wage and hour violations short-changing them of remuneration to which they are lawfully entitled. Up to this time, the only means of enforcing most wage and hour violations had been for the California Division of Labor Standards Enforcement (DLSE) to initiate action against employers on behalf of the aggrieved employees.

Responding to long-standing dissatisfaction with DLSE's administrative process, which was slow and ineffective due to chronic and worsening shortages of funding and staff, the Legislature created the PAGA statutory scheme allowing employees to go directly to court and sue their employer without having to depend on agency action to satisfy their claims.

While employees still retained the option of seeking redress through agency action, PAGA created a new set of penalties, providing for employees to collect 25% of them and the state to collect the remaining 75%. Added revenue to the state may well have been a critical inducement to acceptance of PAGA by the legislature and the governor, and the potential for increased recovery created an incentive for employees and their lawyers to choose the court option.



*California State Capitol in Sacramento, California*

### While LWDA can and does decide PAGA claims, the number of them it can take on is insignificant.

PAGA leaves only one hurdle to filing these claims in court, which is for claimants first to give notice to LWDA, and await that agency's decision as to whether it will process the claim instead of allowing it to be decided by filing a lawsuit. An agency decision to process the claim must be rendered within a short period of time, and in the vast majority of cases the agency does not accept the claim for processing.

## Employees who go to court appear to recover less than those whose cases are decided by LWDA.

Data regarding employee recoveries pursuant to PAGA actions during the period FY 2013/14 through FY 2017/18 indicate that PAGA has not achieved the objective of providing more timely and equitable recoveries to aggrieved employees. Available data indicate that employees are not receiving better recoveries in the courts under PAGA than they would if wage claims were administered under a well-conceived and well-resourced administrative process, and it is likely that such a process would bring them significantly better and faster results.

## Information on PAGA outcomes is lacking.

Currently, employers are vulnerable to being pressured into settling in response to demand letters threatening legal action under PAGA. Out-of-court settlements like these are not in the public interest, as there is no documentation of the amounts or timeliness of payments to the employees and their lawyers, and therefore there is no means of assuring that employees are receiving what they should when their attorneys receive these settlement proceeds.

These considerations suggest that the California Legislature should review PAGA and consider replacing it with a well-conceived and adequately funded administrative process.



*Downtown skyline in Los Angeles, California*

## What we need.

An effective administrative process would necessarily:

- Be streamlined.
- Ensure swift and fair recovery for workers,
- Not depend on the involvement of attorneys, and
- Not be vulnerable to abuses against either workers or employers.

# Scope and Methodology

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This analysis is based on the response received via a Public Request Act (PRA) for all data on PAGA cases in possession of LWDA, the sole government source of PAGA data.

The data received consisted of the contents of LWDA files containing details on:

- PAGA cases administered and decided by LWDA's "PAGA Unit"—12 cases dating from FY16/17 to FY 19/20 as of the time the information was produced by LWDA.
- PAGA cases filed with the courts.
- Budget Change Proposals (BCPS) to augment LWDA's oversight of PAGA cases through FY 19/20.

Both the LWDA-administered case files and the court case files contained a variety of details, including zip code of the workplace, length of time from filing of the action to issuance of an award, and award or settlement amounts.

*Note: Information on court case outcomes was not available for cases filed before 1 July 2016. Information on post 1 July cases is available because of an amendment to PAGA signed into law the year before. However, much of this information is incomplete despite the change in the law. While the information we received indicates that 9,208 PAGA court cases were filed from FY 13/14 to FY 18/19, the number of those cases for which critical information is available is much smaller. For example, the number of cases for which LWDA was able to document what individual employees actually received is 291.*

Using this information, an evaluation was performed to understand the differences between resolutions of PAGA actions filed with and processed by LWDA and those filed with the courts. This analysis focused primarily on the following three issues:

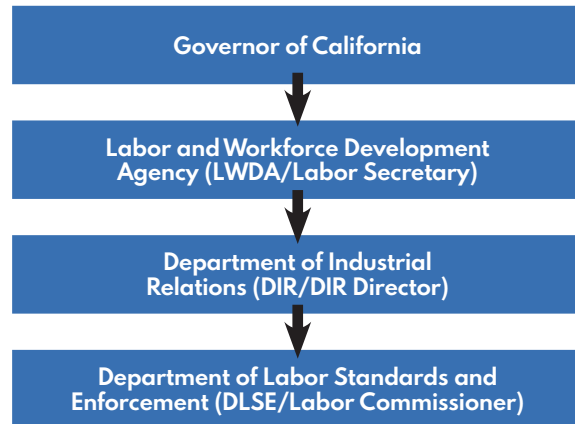
- Is PAGA producing the benefit that was intended by replacing DLSE administrative action with the PAGA model?
- Does administration of PAGA claims by LWDA as an alternative to court litigation of PAGA claims produce better outcomes than court litigation?
- Can administrative case-resolution outcomes be improved by changing the procedures and personnel employed to process the claims?

# Legislative Background

## A note on agency hierarchy

DLSE is ultimately under the authority of LWDA. LWDA is administered by the Labor Secretary, who is a member of the Governor's Cabinet.

The two largest agencies under LWDA's authority are the Employment Development Department (EDD) and the Department of Industrial Relations (DIR). DLSE is one of several divisions under the authority of DIR.



*Fig 1. California Government Hierarchy*

## RECENT STATUTORY DEVELOPMENTS

### SB 836: Revisions to LWDA Notice and Response Provisions

In 2016, SB 836 made several revisions to PAGA in an attempt to enable LWDA to better monitor the process, collect data on case outcomes, and improve the agency's ability to resolve more cases as an alternative to court litigation.

The revisions required online notice to LWDA of claims and other online notice requirements, including filing of proposed PAGA settlements at the same time they are submitted to the courts, as well as similarly prompt submission of copies of court awards.

The bill also extended various timelines, including:

- Increasing from 30 to 60 the number of days LWDA can take to review cases
- Increasing from 33 to 65 days the time LWDA can take to notify parties of intent to investigate violations, and
- Allowing LWDA the option to extend the 120-day time limit for investigating and citing the employer by an additional 60 days. (The 60-day provision sunsets on July 1, 2021).

### AB 281: Right to cure

In 2017, an attempt was made via AB 281 (Salas) to amend PAGA so that potential plaintiffs would be required to allow employers to "cure" an alleged violation before being able to bring a PAGA action. That bill died in committee in early 2018.



## AB 1654: PAGA carve-out for the Construction Industry

In 2018, Governor Brown signed AB 1654 into law, which exempts employers and employees in the construction industry from PAGA if they are subject to a collective bargaining agreement (CBA) that:

1. Applies to working conditions, wages, and hours of work of employees in the construction industry,
2. Ensures employees receive a regular hourly wage not less than 30% more than the minimum wage,
3. Prohibits Labor Code violations redressable by PAGA,
4. Contains a grievance and binding arbitration procedure to redress Labor Code violations remedied by PAGA,
5. Expressly waives the requirements of PAGA in clear and unambiguous terms, and
6. Authorizes an arbitrator to award all remedies available under PAGA, except for penalties payable to the LWDA.

The inspiration for this bill reportedly arose from the complaints of construction industry employers who had been recently targeted by frivolous PAGA lawsuits. A collective bargaining agreement (CBA) with these provisions listed above is presumed to guarantee employees the ability to challenge unlawful compensation in a forum that will provide a fair determination.

However, the construction industry is only one of many industries targeted by PAGA lawsuits, and a well-conceived administrative process could provide a forum to accomplish the same fair determinations, perhaps more consistently and effectively than those established pursuant to CBAs.



*Golden Gate Bridge in San Francisco, California*

## AB 5: Employment Status: Employee vs Independent Contractor

In 2019, Governor Newsom signed AB 5, which has dramatically expanded the circumstances under which workers are legally considered employees as opposed to independent contractors. Except as specified in a small list of occupations exempted from its provisions, this bill created a presumption that a worker is always to be considered an employee unless the presumptive employer can prove that all three of the criteria specified by the “ABC” test apply to the worker in question.

These criteria are the following:

- A) The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- B) The worker performs work that is outside the usual course of the hiring entity's business.
- C) The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

(See new Labor Code section 2750.3)

Because this bill has so greatly expanded the number of situations under which workers must be considered employees, *the likelihood of PAGA lawsuits being filed as a result of the bill has also been greatly expanded.*

## **AB 2257:**

Adds a number of exemptions to AB 5.

## **Proposition 22:**

Passed by 59% of California voters, this initiative exempts app-based drivers from AB 5 and assures their continuing status as independent contractors. A side benefit is removing the threat of PAGA lawsuits from these drivers, since they cannot claim to be employees. *This initiative raises the question whether other initiatives might follow to attempt creating more exemptions from AB 5.*



# Discussion

## LWDA-decided Cases v PAGA Court Case Comparison

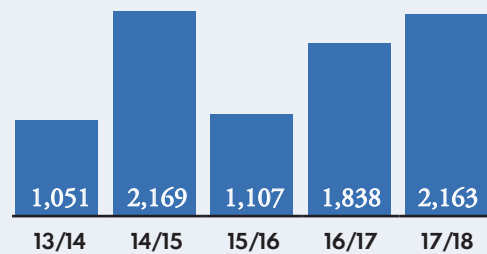
According to LWDA's records, since FY 2013/2014, the number of cases resolved or settled has varied considerably over the most recent 5 years for which records were available (Chart 1).

As noted above, the number of cases pursued may be expected to grow in the coming years due to AB 5.

Analysis was carried out of the case outcomes in terms of dollar amounts and durations for both cases decided by the LWDA (i.e. PAGA unit) and PAGA court cases (Table 1).

**Chart 1: Number of PAGA Cases Pursued and Resolved/Settled Following Notice to LWDA by Fiscal Year**

Avg. 2,000 cases FY (16/17-17/18)



Source: External PAGA Case Data File

**Table 1: Measured Settlement Data for LWDA Retained Cases and PAGA Court Cases**

	LWDA-decided Cases	PAGA Court Cases
Average Total Case Amount	\$503,799	\$1,231,620
Average Award Amount	\$430,992	\$732,635
Average Penalties	\$72,974	\$45,888
Average Number of Employees	354	2,702
Average Award per Employee	\$4,071	\$2,078
Average Attorney Fee*	-	\$405,724
Average Litigation Fee*	-	\$23,604
Average Original Plaintiff Award or Incentive	-	\$12,828
Average Settlement Amount Paid to Settlement Administrator	-	\$20,335

\*Does not Include Attorney's Fees or Litigation Costs paid by the employer/defendant.

Sources: LWDA-decided Case Data and PAGA Court Case Documents.

- The average payment by employers for the settlement of an LWDA-decided case is 41% of that paid to settle a PAGA court case.
- The employee outcome per employee is better for LWDA-decided cases.<sup>1</sup> The average PAGA court case award received by an employee is approximately \$2,100, while the average employee award from the LWDA-decided case is \$4,100,<sup>2</sup> almost a two-fold difference.
- On average, the LWDA-decided case has fewer affected employees per case.
- On average, Attorney's Fees account for 33% of the payment made by employers.
- On average, the State of California received \$27,000 less in penalties when cases are settled by PAGA court case.
- For employers, an average of \$24,000 per case is paid by employers for litigation fees, and \$20,000 per case is paid to third-party settlement administrators. Neither of these payments are applicable to the LWDA-decided case.

## Durations of LWDA administrative resolution and PAGA court cases

Long delays in processing cases due to the Labor Commissioner's understaffed administrative process was one of the original justifications for PAGA.

DLSE provided data on case start dates and settlement dates for LWDA-decided cases and PAGA court cases. On average, it takes LWDA retained case 220 fewer days to reach a settlement (Table 2).

Table 2: Average Number of Days between Case Start Date and Case Settlement Date	Average Number of Days	Average Number of Years
LWDA-decided Cases	485	1.3
PAGA Court Cases	707	1.9

Sources: LWDA-decided Case Data and PAGA Court Case Documents

1 Because the number of cases decided by LWDA (12) is so low, the possibility cannot be excluded that the outcome numbers could be significantly different if LWDA decided a larger portion of cases.

2 Another way to compare the outcomes would be to divide total dollars awarded by total number of employees filing claims, in which case the outcomes would be \$338 per employee from court cases versus \$1217 per employee from LWDA-decided cases, almost a 4 fold difference.

## Location of PAGA court cases

Los Angeles County accounted for 37% PAGA court case settlements. The remainder of the LA Basin and the Bay Area each accounted for 17% of PAGA court case settlements. While a limited number of out of state cases had the highest average total settlement amount, the Bay Area had the highest average total settlement amount in the state at \$1.7 million per PAGA court case. (see per county financial breakdown *Appendix II: Location of Cases Reviewed*).

**Table 3: PAGA Court Case Settlement Counts and Amounts by California Region**

Region of Court	Percent of Settlements	Average Total Case Amount
LA County	37%	\$1,185,926
Other LA Basin	17%	\$1,240,705
Bay Area	17%	\$1,700,371
San Diego	8%	\$1,269,632
Central Valley	7%	\$774,702
Sacramento	5%	\$1,047,095
Rest of California	4%	\$1,026,221
Central Coast	3%	\$669,266
Out of State	0%	\$2,047,921
<b>Total</b>	<b>100%</b>	<b>\$1,231,620</b>

*Sources: PAGA Court Case Documents*

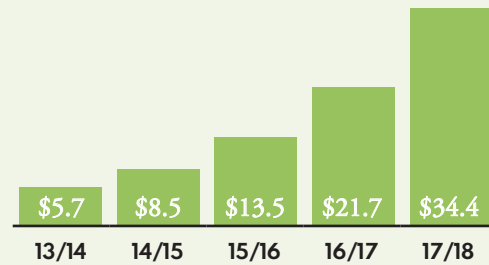
## Outlook for a public option

As discussed above, a prime justification for PAGA was the lack of resources for DLSE to process wage and hour claims and resulting long delays for employees entitled to recovery. The lack of resources was due to DLSE's dependence on the General Fund, which itself was significantly stressed. However, funding for most of DIR, including DLSE, does not currently depend on the General Fund, as several legislative changes over time have resulted in an entirely new source of funding: assessments on workers' compensation premium or self-insurer premium equivalent.

These assessments are flexible and are routinely adjusted to meet the needs of the agency function they support, and they can similarly be adjusted to meet the needs DLSE. According to the Staffing Alignment Budget Titled “PAGA Unit Staffing Alignment” Budget Change Proposal (BCP) uploaded by DIR to the Department of Finance website in May 2019, the LWDA has accumulated a large funding reserve from PAGA recoveries (Chart 2), and it would be entirely consistent with the purpose of PAGA to use that money to reboot DLSE in a form that would properly serve workers and compliant employers.

**Chart 2: PAGA Fund Revenue by Fiscal Year (in Millions \$)**

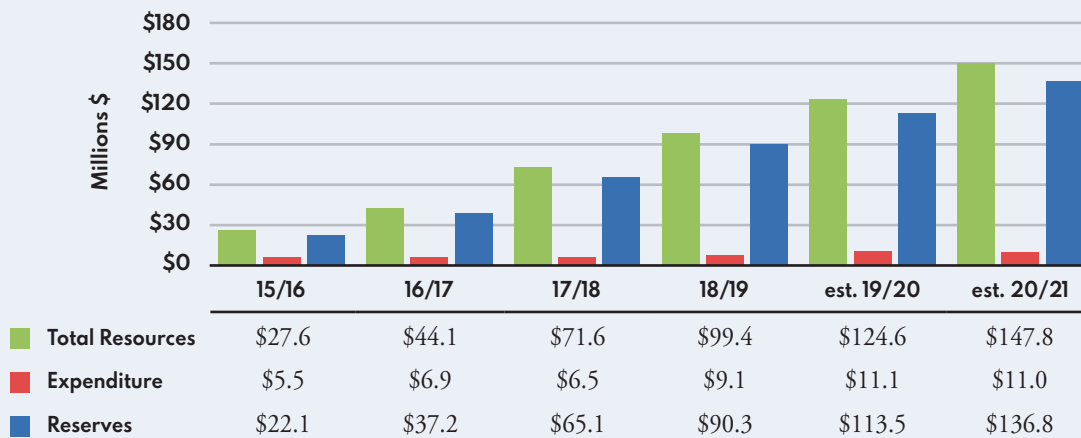
6-fold increase in 5 years



Source: FY 19/20 Budget Change Proposal (BCP)

**Chart 3: PAGA Fund Outlook**

FY 19/20 est. reserves \$113 million



Source: FY 19/20 Budget Change Proposal (BCP)

According to the 2019 BCP, the available fund balance as of last year was approximately \$90 million, projected in a recent budget change proposal to exceed \$113 million in FY 19/20 (Chart 3).

## Workload and Staffing Issues

The PAGA Unit workload encompasses diverse activities, among them attending to violations that are curable. In FY 16/17 and 17/18, the PAGA unit retained 30 cases out of the 9,000 PAGA notices filed, most of which are unresolved as of the time of this writing.

As the process set up by LWDA is to review notices and to pursue selected cases, the result is that ostensibly, many notices are reviewed, with only a small fraction of cases being selected for pursuit by LWDA attorneys and staff. Below we show Table 4, which is reproduced exactly as presented in the LWDA budget change proposal (BCP) approved in 2020 to increase LWDA and DLSE staffing by 12 positions, estimated to result in 30 additional cases LWDA would decide per year for a total of 45 cases per year, by LWDA's estimate.

<b>Table 4: Workload Measures for the LWDA PAGA Unit</b>	<b>13/14</b>	<b>14/15</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>
PAGA Notices Filed	7,626	6,307	5,510	3,707	5,383
Notices Reviewed	N/A	N/A	N/A	1,694	1,339
Pre-Investigations	N/A	N/A	N/A	23	26
Case Investigations (cases retained)	N/A	N/A	N/A	14	16
Number of PAGA Notices in which one or more violations is curable	N/A	N/A	N/A	1,629	2,195
Number of Employer Responses/Cures filed	N/A	N/A	N/A	121	261
Number of Cure Disputes	N/A	N/A	N/A	24	53
Cure Decisions Issued	N/A	N/A	N/A	1	27
Settlements Reviewed	N/A	N/A	N/A	476	1,070

*Source: FY 19/20 Budget Change Proposal (BCP)*

While the data we received from LWDA showed only 12 cases resolved by LWDA from FY 20 through FY 20, even assuming LWDA's estimate is correct, this figure amounts to less than 1% of the yearly average of PAGA notices filed per year, meaning that the 12 new positions will have virtually no significant impact.

# Conclusions

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- While the system that was replaced by PAGA was clearly failing employees and compliant employers at the time PAGA was enacted, PAGA has not significantly improved the process, and in critical ways it has made things worse.
- Perhaps the most significant failure of the process, long delays in resolving the allegations of Labor Code violations, continues to exist.
- Although the number of cases decided by LWDA is very small compared to the number of cases resolved by lawsuits, available data appear to indicate that employees' outcomes are much worse when the cases are filed with the courts rather than decided by LWDA.
- There has been a six-fold increase in yearly PAGA Fund revenue from Fy 2013/2014 through FY 2017/2018, in what appears to be a steep upward continuing trend, which could be an indication of increasing abuse of PAGA by attorneys.
- Compliant employers, who should be supported, are susceptible to being victimized by unscrupulous plaintiffs' attorneys
- Large portions of PAGA recoveries consist of plaintiffs' attorneys' fees, with no apparent benefit to workers, employers, or the state.
- AB 1654 has set a precedent that points the way to alternative approaches to achieving swift and fair employee recoveries. The core administrative concepts that underlie the alternative AB 1654 offers to PAGA can be applied to an administrative system managed by the Labor Commissioner.
- There is good reason to believe that a well-conceived, and efficient administrative system managed by the Labor Commissioner for resolving worker claims can succeed where PAGA has failed, and do the following:
  - Produce fair, significantly faster, and potentially more robust recoveries for workers, while lowering payouts by employers that fund those recoveries.
  - Be much less expensive to maintain, while being funded like other functions of DIR via the existing method of assessments on workers' compensation premium or premium equivalent.
- Such an administrative system can be robustly funded at start up by the existing PAGA fund balance.



# Recommendation

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To improve the claims resolution of labor and workforce issues and to determine just compensation for employees pursuant to wage disputes more equitably and quickly, the state should fund an administrative process that ensures swift and fair recovery for workers, streamlines the process, removes or minimizes the need for attorneys to be involved, and is not vulnerable to abuses against either workers or employers.

The resources and experience needed for such a structure did not exist at the time PAGA was signed into law, but they do exist now. The current procedure by which LWDA resolves PAGA claims, while apparently substantially more successful for employees than claim resolution by court litigation, can likely be significantly improved by reducing unnecessary bureaucracy and reducing the time taken to process claims. The objective should be an expedited administrative process that delivers a fair result in a short period of time to the workers and employers involved and provides sufficient transparency to track outcomes. This in turn will ensure the system is working properly to serve employees and compliant employers while providing the remedies needed against noncompliant employers.

## **RESOLUTION OF THE CLAIMS CURRENTLY RESOLVED VIA PAGA SHOULD BE RETURNED TO DLSE.**

An approximate calculation of the workload needed to handle the current total yearly number of PAGA notices received and claims resolved indicates that 420 positions added to DLSE at a cost of \$73 million per year would be more than sufficient to handle all of these claims, using current DLSE case resolution procedures instead of the cumbersome and grossly inefficient process LWDA has been utilizing to resolve PAGA claims.

We believe current DLSE case resolution procedures could be made timelier and more efficient, reducing the budgetary cost and improving case resolution times, but for the purposes of pricing this estimate we assume no changes in DLSE procedures.

This calculation is based on a Budget Change Proposal (BCP) to add positions to DLSE that appeared in DIR's proposed budget for FY 17-18.

- This BCP indicated that DLSE processes approximately 6 cases per staff member per year and provided the overall yearly cost of all filled positions in the agency.
- From this information, the average overall cost per filled position was calculated, and these numbers were used to estimate the cost of resolving 2000 PAGA cases per year (Chart 1), the average number we are currently seeing resolved by the courts and LWDA,
- The number of notices of potential PAGA cases received has ranged between 3,707 and 7,626 per year from FY 13-14 through 17-18, the most recent data we have on notices received (Table 4).

- These numbers are obviously greater than the number of cases actually resolved, and the difference is due to the number of notices received that are not pursued to resolution.
  - Accordingly, we have assumed that there may be some staff time consumed by processing those notices received that do not become actual cases resolved/settled.
  - This is most likely a very small number if significant at all, since the notices that do not result in resolved cases are never followed up on by LWDA and this is likely due to the claim being abandoned.
  - However, in the spirit of robustly estimating the cost of DLSE managing all PAGA activity, we have taken the number of staff members needed to resolve 2000 cases, i.e., 350, and added to it 20% more to account for whatever staff time might be taken up in handling notices that are not pursued, to come up with the estimated figure shown above of 420 positions to be added to DLSE.

**Bottom line:** The languishing PAGA Fund, now containing well over \$115 million, is more than sufficient to support the startup of DLSE's resolution of all PAGA claims and subsidize it further while assessment funding, which can easily handle the ongoing cost, is put into place.

# Appendix

## APPENDIX I: LOCATION OF CASES REVIEWED

Three-fifths of all settlement were in just four Southern California counties. Of these Los Angeles accounted for 37% of the case documents reviewed in the sample. In Northern California, Alameda had 6% of the settlement and Sacramento had 5%.

Measured Settlement Data for LWDA Retained Cases and PAGA Court Cases by County

County of Court	# of Settlements	% of Settlements	Avg Total Case Amount	Avg Award Amount	Avg Penalty	Avg # of Employees	Avg Award per Employee	Avg Attorney Fee*	Avg Litigation Fee*	Avg Original Plaintiff Award or Incentive	Avg Amount Paid to Admin
Total	1,157	100.0%	\$1,231,620	\$732,635	\$45,888	2,702	\$2,078	\$405,724	\$23,604	\$12,828	\$20,335
Los Angeles	428	37.0%	\$1,185,926	\$712,793	\$32,556	2,099	\$1,586	\$394,100	\$26,674	\$11,985	\$21,628
San Bernardino	108	9.3%	\$1,132,063	\$613,706	\$86,616	1,223	\$2,363	\$386,885	\$18,741	\$13,078	\$17,024
San Diego	98	8.5%	\$1,269,632	\$790,470	\$31,552	1,647	\$5,566	\$401,005	\$19,748	\$17,154	\$20,004
Orange	85	7.3%	\$1,468,818	\$781,287	\$63,412	6,758	\$841	\$495,200	\$42,435	\$9,979	\$16,773
Alameda	67	5.8%	\$2,814,537	\$1,848,020	\$69,342	7,582	\$1,596	\$875,232	\$33,086	\$17,142	\$39,971
Sacramento	55	4.8%	\$1,069,303	\$653,866	\$26,005	665	\$3,168	\$355,647	\$18,780	\$13,978	\$16,730
Santa Clara	48	4.1%	\$1,219,138	\$693,733	\$103,755	3,947	\$1,203	\$420,412	\$14,995	\$13,952	\$19,825
San Francisco	33	2.9%	\$1,112,659	\$633,562	\$74,193	1,103	\$868	\$367,095	\$19,982	\$14,274	\$17,781
Kern	32	2.8%	\$1,391,733	\$855,921	\$17,772	746	\$331	\$471,478	\$15,073	\$13,883	\$20,520
Riverside	26	2.2%	\$1,230,033	\$753,983	\$37,906	7,602	\$1,196	\$410,885	\$28,089	\$9,840	\$19,442
Contra Costa	19	1.6%	\$1,132,845	\$528,400	\$186,274	9,183	\$1,060	\$373,862	\$25,044	\$11,633	\$18,223
San Joaquin	17	1.5%	\$349,809	\$196,521	\$11,108	251	\$529	\$117,030	\$7,788	\$9,300	\$16,307
Stanislaus	13	1.1%	\$361,408	\$196,198	\$13,133	82	\$2,631	\$128,375	\$8,667	\$13,094	\$23,164
Monterey	12	1.0%	\$652,286	\$401,992	\$4,477	52	\$1,910	\$201,540	\$11,452	\$7,045	\$19,339
Tulare	11	1.0%	\$370,344	\$198,482	\$19,712	502	\$919	\$114,776	\$10,933	\$13,273	\$13,168
San Mateo	10	0.9%	\$978,912	\$589,466	\$24,069	1,988	\$313	\$317,892	\$21,637	\$9,111	\$19,607

County of Court	# of Settlements	% of Settlements	Avg Total Case Amount	Avg Award Amount	Avg Penalty	Avg # of Employees	Avg Award per Employee	Avg Attorney Fee*	Avg Litigation Fee*	Avg Original Plaintiff Award or Incentive	Avg Amount Paid to Admin
Ventura	9	0.8%	\$377,944	\$198,206	\$11,743	109	\$2,772	\$130,889	\$15,013	\$7,938	\$9,106
San Benito	8	0.7%	\$1,384,265	\$841,774	\$13,406			\$468,623	\$12,893	\$16,786	\$32,881
Santa Cruz	7	0.6%	\$328,542	\$201,821	\$5,846	140	\$1,868	\$102,444	\$10,504	\$10,200	\$6,375
Solano	7	0.6%	\$496,543	\$312,643	\$6,757	374	\$1,142	\$150,776	\$10,406	\$8,511	\$10,485
Fresno	6	0.5%	\$707,268	\$403,250	\$27,586			\$235,757	\$18,387	\$18,333	\$15,745
Our of State	5	0.4%	\$2,047,921	\$1,288,895	\$26,250	4,885	\$519	\$676,899	\$29,577	\$14,900	\$11,400
San Luis Obispo	5	0.4%	\$1,475,800	\$903,336	\$43,050	89	\$2,587	\$491,933	\$12,381	\$8,125	\$18,600
Imperial	4	0.3%	\$279,128	\$162,796	\$5,016			\$79,732	\$9,085	\$14,875	\$7,625
Merced	4	0.3%	\$663,125	\$398,884	\$23,533	259	\$1,606	\$207,500	\$5,246	\$18,333	\$14,213
Santa Barbara	4	0.3%	\$416,250	\$202,260	\$22,906	322	\$79	\$159,833	\$13,667	\$9,500	\$11,500
Sonoma	4	0.3%	\$1,908,750	\$1,150,181	\$59,063	79	\$8,576	\$647,917	\$24,324	\$19,000	\$8,267
Unknown	4	0.3%	\$270,875	\$156,086	\$5,404	1	\$22,619	\$92,122	\$8,433	\$6,833	\$7,333
Yolo	4	0.3%	\$741,726	\$444,015	\$7,031			\$253,333	\$8,347	\$14,000	\$11,833
Madera	3	0.3%	\$158,000	\$82,054	\$6,005			\$52,322	\$5,453	\$6,250	\$12,000
Marin	3	0.3%	\$812,730	\$533,312	\$5,469	2,470	\$258	\$262,778	\$19,671	\$8,333	\$27,667
Placer	3	0.3%	\$295,833	\$165,854	\$29,260	697	\$675	\$79,236	\$13,224	\$8,000	\$11,000
Colusa	2	0.2%	\$200,000	\$90,469	\$21,875			\$70,000	\$7,406	\$6,500	\$3,750
Lassen	2	0.2%	\$609,750	\$377,505	\$9,938			\$202,500	\$8,332	\$5,000	\$8,976
Napa	2	0.2%	\$299,750	\$164,823	\$8,625			\$102,450	\$14,602	\$5,000	\$6,750
Shasta	2	0.2%	\$1,775,001	\$1,109,388	\$13,125			\$591,667	\$18,934	\$12,500	\$24,699
Butte	1	0.1%	\$1,900,000	\$1,164,402	\$15,000			\$665,000	\$22,303	\$20,000	\$13,295
El Dorado	1	0.1%	\$120,000	\$56,300	\$2,000			\$42,000	\$7,200	\$3,500	\$9,000
Mendocino	1	0.1%	\$237,500	\$98,625	\$1,500	78	\$1,264	\$59,375	\$15,000	\$50,000	\$13,000
Plumas	1	0.1%	\$225,000	\$124,375	\$1,875			\$78,750	\$10,000	\$2,500	\$7,500
San Jose	1	0.1%	\$600,000	\$353,250	\$30,000	310	\$1,140	\$200,000		\$10,000	\$6,750
Sutter	1	0.1%	\$682,500	\$421,431	\$10,500			\$227,500	\$9,000		\$14,069
Yuba	1	0.1%	\$207,500	\$126,650	\$4,500			\$62,250	\$3,600	\$4,000	\$6,500

\*Does not Include Attorney's Fees or Litigation Costs paid by the employer/defendant.

Source: PAGA Court Case Documents

# About the Authors

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## **CHRISTINE BAKER**

Christine Baker is the former Director of the California Department of Industrial Relations under Governor Jerry Brown.

## **LEN WELSH**

Len Welsh is the former Chief of Cal/OSHA under Governor Arnold Schwarzenegger.

# About the CABIA Foundation

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The CABIA Foundation seeks to guarantee that no small businesses are in the dark on their legal obligations simply because they can't afford the cost of compliance. The Foundation also seeks to educate legislators on commonsense alternatives to protect workers without creating unreasonable requirements for employers.



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