



CALIFORNIA EMPLOYMENT LAW UPDATE

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Employers on Winning and Losing Ends of California Supreme Court Decisions Involving Standing and Class Action Pleading Requirements

In a pair of companion cases, the California Supreme Court ruled on two major issues for employers facing workplace violation suits. In *Arias v. Superior Court (Angelo Dairy)*, the Court held that employees do not need to satisfy class action requirements in order to bring an action on behalf of themselves or other “aggrieved employees” under the Labor Code Private Attorneys General Act (“PAGA”), but that they are required to meet class action requirements to bring an action on behalf of others under California’s Unfair Competition Law. In *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court (First Transit, Inc.)*, the Court barred unions from bringing either unfair competition or PAGA claims on behalf of their members. Taken together, the two cases give employers reason for both concern and comfort.

Arias v. Superior Court

In *Arias*, the plaintiff employee sued his employer for labor violations under both PAGA and Business and Professions Code section 17200 (Unfair Competition Law or “UCL”) on behalf of himself and other current and former employees. Enacted in 2003, PAGA authorizes an employee to act as a Private Attorney General to recover civil penalties for him or herself and other aggrieved current or former employees. Under PAGA, 75% of any civil penalties recovered go to the Labor and Workforce Development Agency, and 25% go to the aggrieved employees. The UCL prohibits business practices that are “unlawful,” “unfair,” and “fraudulent.”

In the trial court, the employer sought and was granted a motion to strike for failure to comply with class action pleading requirements set forth in California Code of Civil Procedure section 382 (“section 382”). The Court of Appeal affirmed the class action pleading requirements for the UCL claim, but also held that no such requirement applied to the PAGA claims.

The Supreme Court agreed with the Court of Appeal on both counts. The Court sided with the employer on the UCL claim, citing Proposition 64, which narrowed standing under the UCL and mandated compliance with section 382, as support for class action pleading requirements on those claims. On the PAGA claim however, the Court declined to accept any of the employer’s primary arguments for class action pleading requirements. The Court reasoned that imposing class action requirements on representative PAGA claims would be inconsistent with the statute’s language and legislative history. Additionally, defendants’ due process rights remain protected in the absence of class action requirements because any judgment on PAGA claims in favor of a defendant would bind government agencies and aggrieved employees even if they were not parties to the case.

The Court conceded the existence of certain circumstances where the employer would be collaterally bound by a PAGA judgment in other actions while non-party employees would not be bound. However, the Court ruled that the situation was not unique to California law and that the limited circumstance did not amount to a due process violation.

Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court

In *Amalgamated*, two labor unions and seventeen individuals brought actions against the defendant employer under the UCL and PAGA. The unions asserted that they were assigned rights by current and former employees to sue in a representative capacity. The trial court ruled that the unions lacked standing to sue under the UCL because they did not suffer injury and also under PAGA because they were not aggrieved employees. In addition, the trial court ruled that employees could not confer standing on unions by assigning their rights and that UCL claims must satisfy section 382 requirements. The Court of Appeal subsequently denied plaintiff's writ of mandate petition.

Affirming the decision of the Court of Appeal, the Supreme Court reasoned that to allow assignment of UCL causes of action would be inconsistent with the Proposition 64 requirement of "actual injury." Furthermore, the Court explained that the right to recover statutory penalties such as those resulting from a PAGA claim was not assignable. As to the federal doctrine of "associational standing," which confers standing on an association without its own standing to bring suit on its members' behalf, the Court found that the doctrine conflicted with the "actual injury" amendment under Proposition 64. In addition, the express requirement in the PAGA that claims be brought by an aggrieved employee also precluded acceptance of associational standing. Therefore, the Court held, associational standing simply did not suffice for UCL or PAGA claims.

Practical Implications for Employers

The section 382 class certification pleading requirement for UCL claims establishes a formidable obstacle for individual employees seeking to bring such suits on behalf of others. However, the *Arias* holding allows employees to circumvent the section 382 requirements altogether by pursuing claims through the alternative means of PAGA.

Employers will face a great deal of uncertainty under the new interpretation of PAGA. Even where the employer defeats a PAGA claim, non-party aggrieved employees may continue to bring similar claims. Where the employer loses however, non-party aggrieved employees can use the PAGA judgment as a basis for claims based on the same conduct. However, employees may be less inclined to pursue PAGA claims since employee recovery is restricted to 25% of the award, with the remaining 75% going to the state. Nonetheless, these recent developments will likely encourage increased litigation in this area of law.

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