Insights: Alerts

California Supreme Court Holds That An Employee Who Settles Individual Claims Still Has Standing To Sue Under the Private Attorneys General Act

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PAGA Generally

Prior to 2004 employees could sue employers for damages or statutory penalties for Labor Code violations and only the state could sue for civil penalties. In 2004 the California Legislature enacted the Private Attorneys General Act (PAGA), Cal. Lab. Code § 2698 *et seq.*, authorizing "aggrieved employees" to pursue civil penalties on the state's behalf. An employee suing under PAGA does so as a "proxy" or "agent" of the state's labor law enforcement agency. Of the civil penalties recovered, seventy-five percent (75%) goes to the Labor and Workforce Development Agency (LWDA) and the remaining twenty-five percent (25%) goes to the "aggrieved employees."

Introduction

In *Kim v. Reins International California, Inc.*, No. S246911, 2020 Cal. LEXIS 1593 (Mar. 12, 2020), the California Supreme Court considered the impact of employees settling their individual claims on their ability to pursue a separate PAGA claim. The Court held that employees who settle their individual Labor Code claims do not lose standing to pursue civil penalties under PAGA. The Court reasoned that whether a plaintiff is an "aggrieved employee" entitled to bring a PAGA claim depends on whether the employer violated the Labor Code, not whether the plaintiff still can seek compensation for the resulting injury.

Underlying Facts

In the *Kim* case, Reins International California, Inc. (Reins) operates restaurants in California and employed Justin Kim as a training manager, a position exempt from overtime laws. Kim brought a putative class action alleging misclassification and sought overtime wages, meal- and rest-break premiums, and statutory penalties. Kim also brought a PAGA claim seeking civil penalties based on the same alleged violations. Reins moved to dismiss the class claims, moved to compel arbitration of the individual claims, and moved to stay the PAGA claim until arbitration was complete. The trial court dismissed the class claims and ordered arbitration of all other claims except the PAGA claim. The PAGA claim was stayed pending the completion of arbitration.

Ultimately, Kim accepted a statutory offer to settle all of his "individual claims" for $20,000, plus attorney's fees, and costs. In exchange, Kim dismissed his individual claims, leaving only his PAGA claim for resolution. Reins sought summary adjudication of the remaining PAGA claim on the ground that Kim lacked standing. The trial court concluded that Kim's rights were "completely redressed" by settlement and thus he was no longer an "aggrieved employee" possessing PAGA standing. The court of appeals affirmed. The California Supreme Court, however, in a

unanimous decision, reversed.

Legal Analysis

The Court analyzed PAGA's standing requirement. The PAGA statute defines an “aggrieved employee” as “any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.” Cal. Lab. Code § 2699(c). Reins argued that settlement ended Kim's PAGA standing. The Court disagreed, holding that the Legislature defined PAGA standing in terms of violations, not injury. According to the statute, employees who are subjected to at least one unlawful practice have standing to serve as the PAGA representative even if he or she did not personally experience each and every alleged violation. In other words, PAGA standing does not require the employee to claim that economic injury resulted from the alleged violations. The Court further noted that civil penalties, such as those sought in PAGA actions, are recovered on the state's behalf and are intended to “remediate present violations and deter future ones,” not to redress employees' injuries.

Important Take-Away

The important take-away from *Kim*, decided by a unanimous Court, is that settlement of individual claims does not deprive an employee of PAGA standing.

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