Insights: Alert

California High Court Rejects Manageability as a PAGA Consideration

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On January 18, 2024, the California Supreme Court issued a long-awaited decision looking to resolve a conflict between California's Private Attorneys General Act (PAGA) and a concept called “manageability” which refers to the practicality of the courts and litigants effectively conducting a trial.

In *Estrada v. Royalty Carpet Mills, Inc.*, a group of former employees brought class action claims against the defendant, Royalty Carpet Mills, including claims related to alleged failures to provide meal periods. The trial court decertified those class claims, and dismissed the PAGA claims, on the grounds that individual issues predominated. The Court of Appeals reversed the trial court's order. The Supreme Court affirmed.

In affirming, the Supreme Court emphasized the procedural and legislative distinctions between class actions and representative PAGA actions. Class actions consist of claims of numerous aggrieved individuals represented by an individual named plaintiff. A class may include hundreds or thousands of individuals. To certify a class, the named plaintiff must demonstrate that the class members share enough in common and their claims are similar enough that it would be more effective to litigate the claims together in a single action than in many individual actions. The “manageability” of the case is part of this inquiry and the court has the inherent authority to refuse to certify or decertify a class action if it would be unmanageable. If a class is certified, the attorney for the named plaintiff becomes the attorney for the class and is subject to the fiduciary responsibilities of the attorney-client relationship. The court will consider whether the attorney has the experience, time, and resources to manage a case of that scale.

On the other hand, the Court held “PAGA claims are essentially administrative enforcement actions” and that the purpose of the law is “to maximize the enforcement of labor laws.” In a PAGA action, the representative plaintiff represents the State's interest in enforcing its labor code, not the interests of individual aggrieved employees. PAGA does not expressly require the same intensive inquiry that Courts undertake before certifying traditional class actions. In fact, it is not even necessary for the named plaintiff in a PAGA action to have actually suffered the harm for which penalties are sought. The law permits a single individual to seek penalties based on violations that “vary wildly in nature” which allows for multiple unrelated claims to be brought in the same action.

Defense attorneys in PAGA actions have long argued that the same intensive inquiry employed by courts in class action suits should be undertaken in PAGA actions. These arguments are all aimed at the idea that many

PAGA claims share the same large-scale manageability concerns as class action claims. Because of the manageability issues that present in PAGA actions, employers, like Royal Carpet Mills in *Estrada*, argue PAGA plaintiffs should be required to establish that common issues among the absent employees predominate or that a representative action would be the superior method of adjudication as opposed to individual trials. This makes sense. For instance, determining whether a labor code violation occurred and the number of individuals affected generally requires collecting, reviewing, and analyzing voluminous records and data about the employees who were purportedly aggrieved in the same or similar manner, just as would be required for a class action, but often broader in scope.

The *Estrada* Court acknowledged some similarities between the two types of actions, but offered the cold comfort that individualized damages do not need to be calculated, which lessens the burden of litigating PAGA claims as compared to class action suits. The Court also reiterated that courts have various tools to manage complex litigation, including the court's broad authority to manage discovery. Ultimately, the *Estrada* Court concluded that the legislature did not allow for manageability considerations when it drafted PAGA.

The decision constitutes another erosion by the California Supreme Court of traditional defenses utilized by employers in the state. For employers, PAGA actions remain a serious concern that must be acted upon as soon as a notice or lawsuit is received to avoid potentially sprawling litigation and high exposure. Kilpatrick's California Labor & Employment Team has extensive experience defending against PAGA actions. They are ready to assist with any issues that you may have.

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