

In Remarkable Reversal, California Supreme Court Takes a Broad View of Standing Under PAGA

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In *Kim v. Reins*, the Supreme Court was faced with the following question: *Do employees lose standing to pursue a PAGA claim if they settle and dismiss their individual claims for Labor Code violations?* To the surprise of many practitioners in this area, the Supreme Court concluded that the answer is “no”, and held that “settlement of individual claims does not strip an aggrieved employee of standing, as the state’s authorized representative, to pursue PAGA remedies.”

The facts underlying the case were straightforward. The plaintiff filed an action in civil court seeking: (1) wages and statutory penalties directly under certain Labor Code provisions; and (2) civil penalties under the Private Attorneys General Act of 2004 (Lab. Code, § 2698 *et seq.*). Pursuant to *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 378 (2014) (which states that PAGA claims cannot be compelled to arbitration), the court compelled the *individual* Labor Code claims to arbitration, and stayed the PAGA claim in the court action, pending the arbitration. During arbitration, the parties reached a settlement as to the individual Labor Code claims, and Kim dismissed those claims. Importantly, Kim’s settlement specifically *excluded* the pending PAGA claim.

When the case returned to the trial court, the stay was lifted and the court entered summary judgment in favor of the employer on the PAGA claim. Both the trial court and the appellate court reasoned that plaintiff no longer had standing to pursue his PAGA claim because such claims can only be brought by “aggrieved employees,” and plaintiff was no longer “aggrieved” upon the redress and dismissal of his individual Labor Code claims.

In rejecting the lower courts’ rulings, the Supreme Court stated that an “aggrieved employee” is simply someone: (1) “who was employed by the alleged violator;” and (2) “against whom one or more of the alleged violations was committed.” The Court did not find it dispositive that the plaintiff had already received compensation for the alleged Labor Code violations and therefore was no longer *injured*, stating that under PAGA,

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there is no “injury” requirement because “the Legislature defined PAGA standing in terms of [Labor Code] violations, not injury.”

The Court also stated that precluding employees who have settled their Labor Code claims from subsequently moving forward with a PAGA claim would diminish the State’s recovery in future PAGA actions (because in these actions, 75% of the penalties awarded go directly to the State). In doing so, the Court placed great emphasis on the administration of these actions in civil court. Specifically, the Court expressed concern that were it to rule otherwise, “[e]mployers could potentially avoid paying any penalties to the state simply by settling with the individual employees,” and that such “individual settlements would not be subject to the safeguards of PAGA settlements, which require notice to the LWDA and court [approval].”

These statements by the Court will likely be scrutinized in the weeks to come. Unfortunately, the Court’s stance appears to ignore the practical reality that not all parties will want to resolve their PAGA claims in connection with a pending court action – some may wish resolve these matters in arbitration, and others may choose to resolve them before any litigation commences. Accordingly, to the extent that the decision is interpreted as suggesting that the *only* way for an employer to obtain a release of a PAGA action is in civil court, the result would be unworkable and decrease judicial efficiency by allowing new PAGA actions on matters that had been resolved long ago. However, the better interpretation is that the *Kim* decision should be limited to its facts, wherein the release of the plaintiff’s PAGA claims was expressly excluded from the settlement reached during the arbitration.

We will be monitoring developments following the *Kim* decision closely. Given the Court’s expansive approach to standing in this decision, all settlements involving or referencing PAGA claims should be reviewed closely. Our Labor and Employment team is available to answer questions relating to this complex area of California law.