

California Courts Lack Authority to Strike PAGA Claims on Manageability Grounds, but Due Process Could Be a Ticket Out

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California employers lost the chance last week to have trial courts act as gatekeepers for the onslaught of Private Attorneys General Act (PAGA) representative suits alleging wage and hour violations. Previously, some trial courts have dismissed such lawsuits, claiming they could not be managed. But “no more,” said the California Supreme Court [last week](#) when it held unanimously that California courts lack inherent authority to do so. While employee class actions can be dismissed on manageability grounds, the Supreme Court held, PAGA claims “differ significantly” from class action claims, making it “inappropriate to impose a class action-based manageability requirement on PAGA actions.” The court gave the following reasons for its decision:

- First, in contrast to class actions, which require a finding of class actions being superior to individual lawsuit and the predominance of common issues among the class members before the class can be certified, there is no requirement that a plaintiff establish a predominance of common issues to state a PAGA claim.
- Second, unlike class claims, PAGA claims are effectively administrative enforcement actions, and imposing a manageability requirement would impede the effectiveness of such actions and undermine the legislature's intent to maximize the enforcement of labor laws.
- Lastly, unlike class actions, a court's authority to provide relief under PAGA is subject to specific statutory provisions that make it inappropriate to impose a manageability requirement on PAGA claims.

However, the Supreme Court went on to hold that trial courts still have “numerous tools” that do not involve striking a PAGA claim, and all of those case management tools “remain undisturbed by our decision in this case.” “[T]estimony, surveys, and statistical analysis, along with other types of

evidence, are available as tools to render manageable determinations of the extent of liability" in PAGA actions, the court continued. **So, what does this decision mean for employers?** Unfortunately, when PAGA claims are involved, the California Supreme Court has now shut the door on a line of traditional defenses defendants used in employee class action lawsuits. Following last year's blow of *Adolph v. Uber*, in which the California Supreme Court held that employees who have their individual PAGA claims compelled to arbitration still maintain standing to pursue a representative PAGA action in civil court, employers are left to wrestle with the landmine of litigation PAGA presents with dwindling recourse. However, within the opinion, the court may have left California employers with a trail of breadcrumbs to follow. In rejecting the employer's argument that the lower court's decision violated its due process rights, the court opined that "certain characteristics of some PAGA claims ... may present trial courts with challenges in ensuring that a defendant's due process rights are preserved." Accordingly, this may present a potential path of defense for employers to explore after receiving a PAGA action, namely, whether the employer's due process rights have been violated.

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