

TUESDAY, JANUARY 30, 2024

PERSPECTIVE

Trial courts' tool box doesn't include PAGA manageability authority

By Chandra S. Andrade
and Benjamin R. Buchwalter

In *Estrada v. Royalty Carpet Mills, Inc.*, the California Supreme Court jump-started 2024 with a boon to employees, ending trial courts' inherent authority to dismiss unmanageable claims under the Private Attorneys' General Act (PAGA). The ruling eliminates one of employers' central tools to curb sprawling PAGA claims, though the Court emphasized existing procedures to limit PAGA actions. This article explains the Court's key holdings, and highlights remaining tools for employers to rein in PAGA claims.

Estrada's key holdings

Since PAGA took effect in 2004, trial courts have used their inherent authority to strike unmanageable PAGA claims, as one of the few available methods to protect their dockets from unwieldy representative actions. Yet the Court's unanimous *Estrada* decision concluded "trial courts lack inherent authority to strike PAGA claims on manageability grounds." The Court based its holding on two primary arguments: (1) PAGA claims are not equivalent to class actions and lack a similar manageability prerequisite; and (2) prior precedent does not grant trial courts broad authority to dismiss claims.

The PAGA statute lacks a class-type manageability requirement

Addressing the employer-defendant's argument that courts have long used class action-type manageability considerations to dismiss PAGA claims,



Shutterstock

the Court emphasized that class actions "differ significantly from PAGA claims in ways that make it inappropriate to impose a class action-based manageability requirement on PAGA actions." In particular, class action manageability considers superiority and predominance of common issues, which are not threshold PAGA requirements. "Given that a PAGA plaintiff need not demonstrate that common issues predominate or that a representative or non-individual PAGA claim is superior to other forms of adjudication," the Court wrote, "the requirement that a plaintiff demonstrate the manageability of a *class* claim does not establish a similar manageability

requirement for any related PAGA claim."

The Court also expressed concern that grafting a manageability requirement on PAGA would frustrate the Legislature's intent. In the absence of any manageability prerequisite, the Court found "little reason to presume that the Legislature would intend for courts to have broad extra-statutory inherent authority to strike PAGA claims that the Legislature has itself authorized." Furthermore, because the purpose of PAGA is to maximize enforcement of state wage and hour laws, the Court wrote, "imposing a manageability requirement would impede the effectiveness of such actions" and "lead to

the dismissal of many PAGA cases in contravention of the Legislature's intent."

No broad power to dismiss claims for manageability

The Court acknowledged prior precedent promoting judicial efficiency, but clarified that the trial courts' authority is not unlimited. Significantly, courts "do not have the authority to adopt procedures or policies that conflict with statutory law." In other words, because the PAGA statute lacks a manageability requirement, the Court declined to create one. The Court was unmoved by the employers' argument that its holding would rob courts of their "full toolbox" to

ensure judicial economy. Instead, the Court wrote, permitting courts to strike PAGA claims would “sanction a broad new power that we have never before recognized.”

The Court also recognized that its past precedent finding a PAGA plaintiff’s ability to demonstrate uniform policies violating wage and hour laws “is one way a plaintiff might seek to render trial of the action manageable.” Yet the Court wrote this was nothing more than the “unremarkable proposition” that parties “should endeavor in all cases (including PAGA cases) to ensure that a case is efficiently adjudicated” and was “distinct from concluding that trial courts may strike a PAGA claim for manageability reasons.”

Remaining PAGA limitation tools

In ruling that trial courts cannot dismiss PAGA claims for lack of manageability, the Court emphasized that existing tools remain available to courts to control PAGA claims.

First, the Court explained that judges retain inherent authority to dismiss claims in “cases involving a failure to prosecute, frivolous claims, or egregious misconduct.” Yet that authority is limited, and any use of

such outside of those enumerated situations should be “tightly circumscribed.”

Second, the Court wrote that PAGA defendants can rely on representative testimony, surveys, and statistical analysis to prove that certain issues or claims are untenable, and that courts retain their rights to limit the “types of evidence a plaintiff may present.” In practice, this means that employers can still bring substantive motions (such as summary adjudication motions or motions in limine) to dismiss claims or limit the evidence at trial. Furthermore, a statistical analysis of policies and covered employees may identify the number of aggrieved employees actually impacted by alleged unlawful practices.

Third, the Court wrote that judges may still dismiss or sever claims where a plaintiff improperly “seeks to join multiple claims arising out of different facts, premised on different legal theories, against several different defendants.” Yet those rights arise not from the Court’s inherent authority to dismiss unmanageable claims, but rather by statutes requiring that claims affect the named defendants (California Code of Civil Procedure section 379) and addressing courts’ authority

to order a separate trial of a particular cause of action to avoid prejudice or promote judicial economy (California Code of Civil Procedure section 1048).

While not as impactful as outright dismissal based on unmanageability, these existing tools can help employers to focus the judge and parties on the key issues, identify maximum potential PAGA liability, gain partial dismissal or evidence exclusion, and potentially lead to productive settlement discussions.

Conclusion

Following the Supreme Court’s newest employee-friendly PAGA ruling, employers can continue to employ traditional litigation tools to trim and adjudicate PAGA claims. *Estrada* declined to rule on whether certain PAGA claims can be dismissed to preserve employers’ due process rights. That question is likely to prompt future review and gives employers a glimmer of hope, however remote, toward an efficient process for dismissal of unmanageable PAGA claims.

Chandra S. Andrade is a partner, and **Benjamin R. Buchwalter** is special counsel in Farella Braun + Martel’s employment group.

