PAGA Plaintiffs: No Injury, No Problem, Says Unanimous California Supreme Court

Friday, March 13, 2020

Yesterday, the California Supreme Court issued its long-awaited opinion in *Kim v. Reins International California, Inc.* and unanimously reversed the California Court of Appeal. The Court held an employee does not lose standing to pursue claims under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code § 2698 et seq., even when that employee settles his individual Labor Code claims asserted in that same action.

In *Reins*, the plaintiff claimed his employer had misclassified him as an exempt employee. He alleged the usual panoply of Labor Code claims (failure to pay overtime, failure to provide meal and rest breaks, failure to provide accurate wage statements, waiting time penalties) and sought civil penalties under the PAGA. The plaintiff later settled all of his individual claims, but not the PAGA claims.

The employer then moved for summary adjudication of the PAGA claim, arguing Kim lacked standing because he was no longer an “aggrieved employee” under the PAGA. The trial court agreed, and the plaintiff appealed. The Court of Appeal affirmed, reasoning that “by accepting the settlement and dismissing his individual claims against Reins with prejudice, Kim essentially acknowledged that he no longer maintained any viable Labor Code-based claims against Reins.”

According to the seven Supreme Court justices, however, the trial and appellate
courts were wrong. To be an “aggrieved employee” and therefore have standing to pursue a PAGA claim, one need only have been “employed by the alleged violator” against whom “one or more of the alleged violations was committed.” In ruling that Kim still had standing to pursue a PAGA claim after he had settled his underlying Labor Code claims, the Supreme Court explained the lower courts had conflated “injury” with what it means to be an “aggrieved employee” under the PAGA. According to the Court, in a PAGA action, one is interested in violations of the Labor Code, not injury to a particular plaintiff.

The Court reiterated a PAGA plaintiff is stepping into the shoes of the State. In doing so, the Court noted a “PAGA claim is legally and conceptually different from an employee’s own suit for damages and statutory penalties.” The Court also commented that “the civil penalties a PAGA plaintiff may recover on the state’s behalf are distinct from the statutory damages or penalties that may be available to employees suing for individual violations.”

Although some may view the Reins decision as another arrow in the plaintiff’s bar’s quiver, in actuality Reins merely reinforces the notion that PAGA claims are different than claims an individual brings to recover lost wages and penalties for harmed suffered by that individual. Nor does the Reins decision relieve PAGA plaintiffs from satisfying other statutory prerequisites before filing suit, such as exhausting administrative remedies. The Court also made very clear that a settlement of PAGA claims which occurs after providing the LWDA with the requisite notice and obtaining court approval will bar later attempts to prosecute the same claims in a separate action.

One notable question that remains unanswered is how federal courts will handle similar cases. Reins makes clear an employee may be “aggrieved” for purposes of PAGA standing despite not having a “redressable” injury. As federal practitioners well know, however, redressability is an “irreducible constitutional minimum” of Article III standing. If the factual scenario of Reins were to arise in federal court, it is unclear what, if any, impact Kim would have on a district court’s decision to allow a PAGA claim to proceed.

Needless to say, the Reins decision is another example of the ever more complex, and evolving nature of California employment law. Employers are well advised to work closely with California employment law specialists to stay abreast of these developments.

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