

CALIFORNIA COURT SAYS AN EMPLOYER'S SUCCESS AT ARBITRATION CAN BAR LATER PAGA REPRESENTATIVE CLAIMS: 3 STEPS EMPLOYERS SHOULD TAKE

News
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A recent California Court of Appeal decision handed employers a solid win by reinforcing the principle that employees may not be able to pursue PAGA penalty claims in court if an employer has already prevailed in arbitration. The October 10 decision in *Rodriguez v. Lawrence Equipment, Inc.* said that an arbitrator's finding in favor of an employer can serve to bar relitigation of the same wage and hour claims in a California Labor Code Private Attorneys General Act (PAGA) representative action post arbitration. Below are key considerations from the decision and three proactive steps employers should consider taking in light of this positive decision.

Issue Preclusion Can Foreclose an Employee's PAGA Standing

Julian Rodriguez alleged his employer committed wage and hour labor code violations and filed a class action lawsuit to recover both his own damages and PAGA penalties on behalf of California's Labor Workforce Development Agency.

- The trial court ordered him to arbitrate his individual wage and hour claims since he had previously executed an arbitration agreement with his employer. It stayed his claim pending the outcome of the arbitration.
- Following a two-day arbitration, the arbitrator issued a ruling in favor of the employer, ruling that Rodriguez had not suffered from any Labor Code violations.

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- Rodriguez then attempted to relitigate his PAGA claims in court. But the trial court found that he lacked standing to assert a PAGA claim given the arbitrator's findings, because having an actionable "injury" – having suffered a wage and hour violation – is a prerequisite to assert a PAGA claim.

Rodriguez appealed this decision, but the Court of Appeal affirmed the trial court's decision. It agreed that the arbitrator's decision deprived him of standing to seek PAGA penalties.

The Court of Appeal explained that issue preclusion will prevent re-litigation of previously decided issues if there is a final adjudication of an identical issue that was actually litigated and necessarily decided in the first suit. The Court of Appeal found each element of issue preclusion was satisfied by the arbitrator's order. Thus, it ruled that Rodriguez was barred from relitigating these exact Labor Code violations and issues under a PAGA claim.

Positive Takeaways From this Ruling

This decision solidifies how fruitful it can be for employers to arbitrate individual wage and hour claims – provided, of course, you have implemented compliant wage and hour practices. In the *Rodriguez* case, the employer was able to avoid litigating the PAGA claim on a representative because it successfully defended itself in arbitration. While arbitration can be a costly, the benefit to doing so can substantially outweigh its cost.

3 Proactive Measures Employers Can Take to Substantially Reduce or Eliminate PAGA Exposure

1. Review your policies and handbooks regularly to maintain compliant policies. This can make a substantial difference in success at arbitration of an individual's wage and hour claims. [A new law in California](#) encourages employers to conduct "PAGA audits" both to ensure legally compliant wage and hour practices and to substantially reduce exposure to PAGA claims.
2. If you have not already done so, consider implementing arbitration agreements to minimize class action and PAGA exposure.

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3. Finally, in the event an employee does initiate wage and hour litigation, make sure to seek counsel to evaluate whether to demand arbitration.

Conclusion

Fisher Phillips' counsel can assist in addressing these and other wage and hour issues. If you have any questions regarding this recent ruling or other employment-related issues your company may need to address, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#). Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.