**How PAGA Reform Can Inform Employer Strategies In 2025**

By **Kacey Riccomini and Cara Strike** (January 23, 2025)

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The Private Attorneys General Act, or PAGA, has been a headache for employers for more than two decades, as it grants employees the authority to sue their employers for violations of the California Labor Code on behalf of themselves and other employees.[1]

In lieu of a ballot measure last November that would have repealed PAGA, California Gov. Gavin Newsom signed PAGA reform into law on July 1,[2] which he proclaimed "streamlines the current system, improves worker protections, and makes it easier for businesses to operate."[3]

The new rules went into effect for cases in which the required prelitigation PAGA notice was filed with the California Labor and Workforce Development Agency on or after June 19.[4]

The new law directly addresses some of the many issues that employers previously had with PAGA. However, it likely won't result in the overhauling reform that many had hoped for, and several problems remain unaddressed.

As background, PAGA allows employees to stand in the state's shoes, act as de facto attorneys general and recover a portion of the civil penalties that were previously only available to the California labor commissioner.

The purported goal of PAGA is to grant individual workers legal recourse to deter and hold bad-acting employers accountable, amid underfunded and overworked state agencies that are unable to pursue every potential Labor Code violation. In practice, however, it has allowed employees to stack PAGA civil penalties with other penalties for the same alleged wrongs.

The only remedies available under PAGA are civil penalties in the form of monetary fines.[5] In addition to the civil penalties in a PAGA claim, an individual may seek statutory damages and penalties, in separate causes of action in the same litigation, for themself or as a putative class representative. Thus, employees and their attorneys can recover significantly more for a single violation than they otherwise would have.

PAGA has also notoriously created loopholes and overly technical violations. For example, an employer being in violation if its ZIP code is missing from its address on wage statements, or penalties being doubled if employees are paid weekly instead of biweekly. These do not align with the supposed purpose of ensuring that employees receive all wages due.

Instead, prior to reform, PAGA was incredibly punitive toward employers, including those that were well-meaning but had records containing technical deficiencies, despite their efforts to comply.

Similarly, aggrieved employees received a small portion of the civil penalties available under PAGA, especially when compared to the amounts of penalties employers paid and the legal fees that employee-side attorneys sought.

The new PAGA law is unlikely to significantly deter plaintiffs attorneys from pursuing these claims. California courts have created employee-friendly precedent over the years, distinguishing PAGA claims from typical wage and hour class actions by getting rid of many safeguards and defenses for employers.

For instance, PAGA claims do not have to meet typical class action standards, e.g., common issues of law and fact, typicality, and adequacy, in order to proceed to trial.[6] Even employees who settled their individual claims could maintain standing to sue on behalf of others.[7]

Instead of the grand sweeping reform that employers sought to significantly reduce PAGA claims, it is likely that the plaintiffs bar will merely alter their current strategies and continue to pursue PAGA claims.

Employers should be aware of these potential strategies and proactively use the new PAGA to their advantage to potentially limit their future exposure.

The new PAGA does not alter California's underlying wage and hour rules. Instead, it changes the rules that dictate how employers can limit liability, who can bring PAGA claims, and the available penalties. Countless articles describe the recent changes in detail.

Below are the three changes we anticipate will have some of the greatest impact on PAGA litigation in 2025.

**1. Employers could save big bucks by taking "all reasonable steps" to comply.**

The new PAGA opens the door for employers to significantly reduce potential penalties when they proactively take "all reasonable steps" to comply with California wage and hour laws.

Employers can reduce their PAGA penalties by a whopping 85% if they take all reasonable steps before being alerted of the claim.[8] Further, employers who take all reasonable steps within 60 days after receiving notice of a claim can reduce their penalties by 70%.[9]

The law states that all reasonable steps could include conducting periodic payroll audits, and actually responding to the audit results; disseminating lawful written policies; training supervisors; and taking appropriate corrective action when supervisors fail to comply with the Labor Code.[10]

The new PAGA law also signals where future litigation is likely headed: how to define "all reasonable steps." According to the law, these steps will be considered based on the totality of the circumstances, including the size and resources of the employer, as well as the nature, severity,

and duration of the alleged violations.[11]

Presumably, the plaintiffs bar will attempt to build a robust employee-friendly interpretation of the phrase to create an extremely high standard for employers to meet to have this relief.

Conversely, employers will undoubtedly argue that they have limited resources, that any purported violations are minor and that any actions they took to address the issues were significant.

Courts will likely interpret the term strictly and hold employers to a high standard, especially because California courts have historically had employee-friendly interpretations of PAGA. The fact that the text refers to "all reasonable steps" — not just "reasonable steps" — also indicates this may be a high threshold for employers to meet. Employers should take full advantage of all these potential penalty reduction opportunities.

**2. Standing is greatly limited.**

Perhaps one of the most impactful parts of the PAGA reform is to significantly limit who can bring PAGA claims. Before the reform, an employee could pursue PAGA penalties for purported Labor Code violations they had not personally experienced, so long as they had experienced just one of the issues alleged.[12]

This meant that a disgruntled former employee, who was employed for several decades, could allege their employer interrupted their rest break on a single day, and could then raise PAGA claims for a litany of alleged Labor Code violations on behalf of thousands of other employees, despite never being subject to those violations.

This also meant that the employee's attorney could simply copy and paste the employee's name into a multipage template alleging a host of violations without proof that any violations occurred. They could provide the Labor and Workforce Development Agency notice, wait until the notice period ended, and then subsequently file a copied and pasted PAGA complaint.

Thus, a few minutes of an employee-side attorney's time could cause an employer's exposure to skyrocket. As a result, many employers felt like they had to enter into an early settlement regardless of whether there were significant violations, or any at all, in order to avoid exorbitant litigation costs, and potential exposure to penalties and attorney fee awards.

Now, more in alignment with any other type of lawsuit, the only person who has standing to bring a PAGA claim is an employee who has "personally suffered each of the violations alleged" within one year of the notice filed with the Labor and Workforce Development Agency.[13] Going forward, this likely means that PAGA suits will include fewer claims, at least at first.

Employees' attorneys may also choose to file lawsuits with more representatives up front, or try to quickly amend their PAGA complaint if they find additional employees with more alleged violations in order to pursue additional claims.

**3. Some penalties are capped and there is potential exposure for heightened penalties.**

The new PAGA introduced some necessary penalty caps. It reduced penalties by half for employers that pay weekly, and got rid of a punitive measure that imposed double the penalties against employers that paid employees weekly, rather than biweekly, because the penalty is by pay period.[14]

Further, wage statement violation penalties under Labor Code Section 226, which have led to some of the more outrageous technical claims, are capped at $25 per pay period for violations where the employee "could promptly and easily determine from the wage statement alone the accurate information" required to be on each wage statement in Labor Code Section 226.[15]

Penalties are capped at $50 per pay period for Labor Code Section 226 penalties when the violation is isolated and "did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods."[16]

However, an employer could face even greater penalties if a court finds it acted maliciously, fraudulently or oppressively, or if there was a finding within the past five years that its policy or practice was unlawful.[17]

There is a heightened $200 penalty per pay period per aggrieved employee if there is such a finding. The new law does not define what behavior may be considered malicious, fraudulent or oppressive, again creating a potential pathway for future litigation.

Further, the law gives courts judicial discretion not just to lower an award, but also to go beyond the maximum penalties dictated if the award would be "unjust, arbitrary and oppressive, or confiscatory," posing a risk to employers of potentially more detrimental verdicts than the maximum penalties allow.[18]

**Conclusion**

PAGA will likely continue to be a thorn in the side of employers. However, this reform is a step in the right direction to correct many of the obvious issues with PAGA. As a best practice, employers should ensure they are taking all reasonable steps that they can to comply with California law and greatly reduce potential future PAGA penalties. For now, PAGA is here to stay.

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[1] Labor Code sections 2698 et seq.

[2] Assembly Bill No. 2288; Senate Bill 92.

[3] Governor Newsom Signs PAGA Reform (July 1, 2024), https://www.gov.ca.gov/2024/07/01/governor-newsom-signs-paga-reform/.

[4] Labor Code section 2699 (v)(1).

[5] ZB N.A. v. Superior Court, 8 Cal.5th 175, 182 (2019).

[6] Arias v. Super. Ct., 46 Cal.4th 969, 985 (2009).

[7] Kim v. Reins Int'l California, Inc., 9 Cal. 5th 73, 84, 459 P.3d 1123, 1129 (2020).

[8] Labor Code section 2699(g)(1).

[9] Labor Code section 2699(h)(1).

[10] Labor Code section 2699 (g)(2);(h)(2).

[11] Id.

[12] See Huff v. Securitas Sec. Servs. USA Inc., 23 Cal.App.5th 745 (2018).

[13] Labor Code section 2699(c)(1).

[14] Labor Code section 2699(o).

[15] Labor Code section 2699 (f)(2)(A)(i).

[16] Labor Code section 2699(f)(2)(A)(ii).

[17] Labor Code section 2699(f)(B)(i-ii).

[18] Labor Code section 2699(e)(2).