

Hate to Be Mean, PAGA Plaintiffs Can't Intervene

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California employment practitioners have fought for years over whether a plaintiff averring a Private Attorneys General Act (PAGA) action can intervene in a separate PAGA action not brought by that plaintiff. Fight no more; *Turrieta v. Lyft, Inc.* resolves the split. In *Turrieta*, the Supreme Court of California held that a plaintiff who files a PAGA action cannot intervene in another plaintiff's ongoing PAGA action, even if both cases assert overlapping claims. The court ruled that only the California Labor and Workforce Development Agency (LWDA) and trial courts have the authority to review and approve proposed settlements.

Background

Before PAGA, only the LWDA could pursue and recover civil penalties for California Labor Code violations. However, since its enactment, PAGA permits "aggrieved employees" to file lawsuits on California's behalf against employers to recover civil penalties for California Labor Code wage and hour violations. These law enforcement actions brought by deputized private attorney general plaintiffs acting as proxies for California are subject to additional oversight and cannot be settled without the trial court's approval.

Turrieta involved what the California Supreme Court called a "common scenario in PAGA litigation" where multiple individuals filed separate PAGA lawsuits as an "aggrieved employee" seeking recovery of civil penalties from the same employer for the same alleged California Labor Code violations. Once a PAGA plaintiff reaches a settlement with an employer, other PAGA plaintiffs cannot bring actions against the employer for the same claims during this time frame.

In *Turrieta*, the original plaintiff filed her PAGA complaint in May 2018. Two other individuals filed separate PAGA complaints in July 2018 and August 2018. *Turrieta* and Lyft settled, and the parties moved for trial court approval of that settlement. The LWDA did not oppose or object to the proposed settlement, but the other individuals filed separate motions to intervene in *Turrieta*'s action and objected to the settlement. The trial court denied the motions, approved the settlement, and later denied the individuals' motions to vacate the judgment. The Court of Appeal affirmed the trial court's decision.

California Supreme Court's Decision

The California Supreme Court affirmed, holding in a 5-2 decision that PAGA plaintiffs cannot intervene in overlapping PAGA cases or object to settlements based solely on their status as PAGA plaintiffs.

The court also held that the authority to commence and prosecute a PAGA action on California's behalf does not include the power to vacate a judgment issued in another plaintiff's separate PAGA action, intervene in that action, or object to a separate action's settlement because the law's express language does not contemplate such authority.

The court noted that PAGA requires not only court approval for all PAGA settlements, but also notice to the LWDA. In doing so, the court rejected the arguments that courts are not able to identify unfair settlements, that the LWDA's financial resources are so insufficient as to prevent it from fully performing its oversight functions, and that joint oversight by the courts and the LWDA is inadequate.

The court further noted that allowing PAGA plaintiffs to intervene in actions brought by other plaintiffs would make PAGA litigation more complex and create situations where multiple proxies represented by multiple sets of lawyers all purporting to represent California disagree on how to proceed and seek to take control of actions brought by the other plaintiffs. The court explained that intervening plaintiffs and their counsel have personal financial interests in disrupting a PAGA plaintiff's settlement in an overlapping action, while a neutral judge does not.

In short, the *Turrieta* opinion clarifies an important point when an employer is dealing with multiple, related PAGA actions: the parties are entitled to settle a PAGA action without intervention from a plaintiff in a separate action on the grounds that they are a state proxy.

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