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The Headless PAGA Saga Continues

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On February 26, 2025, in *Parra Rodriguez v. Packers Sanitation, Inc.*, the California Court of Appeal (Fourth Appellate District) issued the latest published decision addressing the practice of filing so-called "headless" Private Attorneys General Act (PAGA) claims. In such cases, the plaintiff seeks civil penalties for all allegedly aggrieved employees *except* themself. In the wake of *Viking River Cruises, Inc. v. Moriana, 596 U.S. 639 (2022)*, this tactic has become increasingly common among plaintiffs seeking to circumvent contractual obligations to submit "individual" PAGA claims to arbitration.

The *Parra Rodriguez* decision added some fuel to the headless PAGA debate by upholding a Superior Court order denying a motion to compel a headless PAGA claim to arbitration, concluding that because only an individual PAGA claim can be compelled to arbitration, there is nothing to arbitrate when no individual PAGA claim is pled.

In doing so, *Parra Rodriguez* created a split of authority with *Leeper v. Shipt, Inc.*, decided December 30, 2024, by the Second Appellate District. In *Leeper*, the court held that a PAGA claim cannot be headless, because "the unambiguous language in section 2699, subdivision (a), [states that] any PAGA action necessarily includes both an individual PAGA claim ***and*** a representative PAGA claim" (emphasis added). Under the reasoning of *Leeper*, where a defendant moves to compel arbitration of a headless PAGA claim, the individual PAGA claim is implicitly pled, and may be compelled to arbitration.

While a split unquestionably exists between *Parra Rodriguez* and *Leeper* regarding what courts should do when a defendant moves to compel arbitration of a headless PAGA claim, practitioners and courts should *not* overread these decisions as differing on whether it is procedurally proper to plead a headless PAGA claim in the first place. By concluding that a PAGA claim necessarily includes an individual component, *Leeper* clearly answers this question in the negative. By contrast, *Parra Rodriguez* expressly avoided that question, leaving open the possibility that a complaint pleading a headless PAGA claim "fails to comply" with PAGA's pleading requirements, exposing it to "an appropriate pleading challenge."

Nor does *Balderas v. Fresh Start Harvesting, Inc., 101 Cal. App. 5th 533 (2024)* contradict *Leeper*. In *Balderas,* the Second Appellate District held that a plaintiff had standing to pursue a representative PAGA action on behalf of other employees despite not filing an individual action seeking PAGA relief for herself. But the issue of standing merely concerns *who* may pursue a claim, not whether the statute permits a claim to be pled in headless fashion.

Parra Rodriguez may very well incentivize plaintiffs to continue the practice of pleading headless PAGA claims. Its disagreement with *Leeper* on how to handle motions to compel arbitration in this context injects new uncertainty into this issue and increases the likelihood that the California Supreme Court will take up the issue. But for the moment, the only published appellate authority coming to a holding regarding whether a plaintiff may properly plead a headless PAGA claim is *Leeper*, which holds that a plaintiff may not.

We will continue to monitor developments in this space and provide updates.

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