

# NOW & NEXT

## Labor & Employment Alert

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### *Estrada v. Royalty Carpet Mills* largely curtails manageability defense in California PAGA cases

By Robert H. Pepple

The ruling instructs trial courts to use “tools” to make unwieldy PAGA cases manageable within bounds of due process.



#### What's the Impact

- / The California Supreme Court held that trial courts do not have the inherent authority to strike unmanageable PAGA claims for judicial economy.
- / The ruling does not bar trial courts from using other “tools”, such as limiting testimony, types of evidence, using representative testimony, surveys, ensure that “PAGA claim[s] are effectively tried.”
- / The ruling does not foreclose the possibility of a trial court striking a PAGA claim where no amount of “tooling” could adequately protect an employer’s constitutional due process rights.

On January 18, 2024, the California Supreme Court issued its much-anticipated decision in *Estrada et al. v. Royalty Carpet Mills Inc.*, which was poised to resolve a conflict between California Private Attorneys General Act (“PAGA”) lawsuits and a litigation concept called “manageability.” Before proceeding any further, some definitions may be useful:

#### / **PAGA (Private Attorneys General Act):** A unique California statute that empowers

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employees to file lawsuits for labor law violations on behalf of themselves and other employees. Under PAGA, these employees act as private attorneys general to enforce state labor laws, allowing them to seek civil penalties for violations that would otherwise be pursued only by the state labor enforcement agencies.

- / **Class Action:** A legal process where one or several individuals represent a larger group (the “class”) in a lawsuit. It’s used when many individuals have similar claims, making individual lawsuits impractical. Class actions consolidate these claims into a single lawsuit, addressing common legal issues efficiently. Key aspects include commonality of legal or factual issues, adequacy of representation by class representatives, and the typicality of their claims. “Class certification,” a crucial step, requires court approval to proceed as a class action, ensuring the case meets specific criteria like cohesiveness and representativeness of the class.
- / **Manageability:** In legal terms, manageability refers to the practicality of effectively conducting a trial. It encompasses considerations such as the complexity of the issues involved, the number of parties or claims, and the efficiency with which the case can be tried. Manageability is a key factor in class action certification, where courts assess whether the common issues in a case predominate over individual issues and whether a class action is a superior method of adjudication compared to individual lawsuits.
- / **Due Process:** A fundamental principle under the Constitution that guarantees fair legal procedures and the right to a fair trial. In the context of litigation, due process ensures that all parties involved in a legal dispute receive an impartial hearing, have an opportunity to present their case and evidence, and have access to the legal remedies available to them. Due process is essential to maintaining the integrity and fairness of the judicial system.

## Case Background:

Plaintiff Estrada sued Royalty Carpet Mills (Royalty) for multiple violations of the California Labor Code, including failure to provide first and second meal breaks, and for derivative civil penalties under PAGA. Estrada, and his 12 co-named plaintiffs, sued on behalf of themselves and others in two capacities, under California’s class-action procedural rules (i.e., the “class claims”), and as representatives of the state of California under PAGA (i.e., the “PAGA claim”). At trial, numerous people testified, including several named plaintiffs, managers and HR staff of Royalty, and a few former employees. Importantly, the trial court did not prohibit Royalty from calling additional witnesses.

At the end of the trial, the trial court decertified the class, citing a predominance of individualized issues that rendered class treatment unmanageable. The trial court also dismissed (or “struck”) the PAGA claim on the grounds that it was too complex and unwieldy to proceed—i.e., that it was “unmanageable.”

## Appeal:

The Court of Appeal reversed the trial court's decision, holding that manageability is not a valid basis for dismissing PAGA claims, which conflicted with at least one other Court of Appeal decision.

## California Supreme Court Decision:

In a detailed opinion, the California Supreme Court held that trial courts do not have the inherent authority to strike unmanageable PAGA claims—at least for the sake of judicial economy. This conclusion arose from reasoning that (1) the inherent authority of trial courts to adopt procedures must yield where inconsistent with statutory procedures, (2) permitting trial courts to strike claims for manageability would inappropriately “graft” or impose a class action factor into PAGA claims, and (3) Royalty had failed to demonstrate prohibiting trial courts from striking PAGA claims would violate due process—at least on the facts of the Estrada case.

Although the holding is articulated in broad terms, it did not go so far as to hold that PAGA claims are invulnerable to trial court discretion to strike unwieldy claims, explaining:

While certain characteristics of some PAGA claims, occasioned by the statute's broad standing rules and the lack of need for common proof or class certification, may present trial courts with challenges in ensuring that a defendant's due process rights are preserved, we express no opinion as to the hypothetical questions of whether, and under what circumstances, a defendant's right to due process might ever support striking a PAGA claim.

(Op. at 40.) The California Supreme Court went on to explain that its holding does not bar the use of other “tools” available to trial courts to ensure that “PAGA claim[s] are effectively tried,” including limiting testimony, types of evidence, using representative testimony, surveys, and statistical analyses. However, the Court's ruling again acknowledged that even the full toolkit may not be sufficient to protect an employer's due process in certain circumstances:

[W]hile we do not foreclose the possibility that a defendant could demonstrate that a trial court's use of case management techniques so abridged the defendant's right to present a defense that its right to due process was violated, that showing has not been made here.

(Op. at 44.) Yet, the Court offered no clear guidelines on when trial courts should utilize their “toolkit” for PAGA claims, nor did it define what constitutes an “unfixable” claim that defies fair processing. This vagueness presents a challenge in discerning the appropriate approach for exceptionally intricate PAGA cases and identifying claims that are too problematic for standard legal procedures. Furthermore, this omission leaves unanswered questions about the approach courts should take with particularly complex PAGA claims and the threshold at which a claim becomes too burdensome for fair adjudication.

## Key Take Aways

The *Estrada* decision significantly alters the litigation landscape for PAGA claims. With this ruling, the California Supreme Court continues its trend of eroding traditional defenses and safeguards available to employers, such as those established in class action procedures (*Arias v. Superior Court*) and arbitration agreements (*Adolph v. Uber*). These developments harshen the already perilous landscape for California employers, who are faced with massive amounts of representative liability, prosecuted by employees vested with state power, who have practicably no state oversight or control.

Nevertheless, there is a thin silver lining. Whereas the California Supreme Court spoke in broad terms, it twice conceded that the public policy underlying PAGA is subordinate to constitutional due process protections. This is the critical takeaway. Because the typical PAGA case is plead in the broadest possible terms, involving numerous claims, a wide range of employees, multiple worksites, and encompassing all employees within state lines. A wide net may catch a lot of fish, but if the haul is so large or varied that the crew cannot separate (and release) the fish that are out-of-season, the entire operation may be forfeit. Alternatively, the crew must use a smaller or more thoughtfully constructed net.

For employers and defendants' counsel, the *Estrada* decision necessitates a strategic shift. From the moment a PAGA Notice or lawsuit is received, it is crucial to approach the case with an eye towards trial, with a laser focus on arguments related to potential due process violations.

For more information on the content of this alert, please contact the author.

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