

Private Attorneys General Act in California: Defending against PAGA Claims

A Practical Guidance® Practice Note by Steven P. Gallagher, Fox Rothschild LLP



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This practice note provides comprehensive guidance to employers on defending against claims brought under California's Private Attorneys General Act (PAGA). PAGA allows "aggrieved employees" to bring actions to recover civil penalties for violations of the California Labor Code or workplace health and safety violations on behalf of the state, themselves, and other employees.

This practice note explains the differences between PAGA actions and class actions, including the requirement to exhaust administrative remedies with the Labor and Workforce Development Department (LWDA), the focus on

civil penalties, the one-year limitations period, and the lack of a certification requirement. It outlines steps for defending against PAGA claims, such as identifying the claim, classifying the types of violations, assessing whether the plaintiff is an "aggrieved employee," evaluating compliance with notice requirements, investigating administrative remedies, curing violations, determining penalties, responding to complaints, litigating claims, settling actions, and implementing measures to avoid future claims.

Additionally, this note details the types of violations under PAGA, administrative requirements for filing notices, the process for curing violations, and potential penalties. It covers procedural aspects of responding to complaints, including compelling arbitration, removing claims to federal court, and filing motions to dismiss or demurrer.

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Steven is an experienced litigator who defends employers in complex, bet-the-company litigation, most potently in wage-and-hour class actions, Private Attorneys General Act (PAGA) actions, and FLSA collective actions.

Steven's high-stakes trial, appellate, and arbitration experience are unique. Steven represents *Fortune 50* clients in an array of industries, routinely handling their highest value cases.

He works with companies to correct hard-to-spot time and pay errors to prevent future liability from accruing and coordinates changes with payroll departments and vendors, often rewriting payroll coding himself.

Steven defends employers in informal tribunals, such as with the Department of Industrial Relations, Department of Labor Standards Enforcement, Department of Labor, Civil Rights Department and the Equal Employment Opportunity Commission.

Steven is also a labor and employment specialist for buy- and sell-side multistate and international mergers and acquisitions.

Employers also rely on Steven for advice on a full range of human resources policy matters, including, e.g.: arbitration agreements, class action waivers, drafting and revising employee handbooks, and meal period waivers. Steven also conducts wage-and-hour audits and counsels businesses on day-to-day risks, such as discipline, terminations, leaves of absence, and internal investigations.

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