

**GIBSON DUNN**



**Appellate & Constitutional Law Update**

**August 1, 2024**

## **California Supreme Court Holds That PAGA Plaintiffs Do Not Have A Right To Intervene To Object To Proposed Settlements In Related PAGA Actions**

*Turrieta v. Lyft, Inc.*, S271721 – Decided August 1, 2024

**In a rare split decision, the California Supreme Court held 5–2 today that a plaintiff bringing a representative action under the California Labor Code Private Attorneys General Act (PAGA) does not have a right to intervene in another PAGA action involving overlapping claims or to object to a proposed settlement.**

*“[A]n aggrieved employee’s status as the State’s proxy in a PAGA action does not give that employee the right to seek intervention in the PAGA action of another employee, to move to vacate a judgment entered in the other employee’s action, or to require a court to receive and consider objections to a proposed settlement of that action.”*

**JUSTICE JENKINS, WRITING FOR THE MAJORITY**

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### Background:

Under PAGA, an employee “aggrieved” by a violation of the Labor Code can bring an action seeking penalties “on behalf of himself or herself and other current or former employees.” Cal. Lab. Code, § 2699(a). When aggrieved employees bring representative PAGA claims, they act as the agents or proxies of the State, which is deemed the real party in interest.

In 2018, Tina Turrieta brought a PAGA action against Lyft, claiming that she and other drivers using Lyft’s platform were being misclassified as independent contractors. In 2019, Turrieta and Lyft mediated and ultimately agreed to settle the dispute for \$15 million, with Lyft agreeing to pay more than \$3 million to the State’s Labor & Workforce Development Agency (LWDA). As PAGA requires, the parties gave the LWDA notice of their settlement.

Brandon Olson had brought his own PAGA action against Lyft based on the same misclassification claim. When Turrieta moved for approval of the settlement, Olson moved to intervene in Turrieta’s action. The trial court denied Olson’s motion to intervene and approved the settlement, ruling that Olson lacked standing to intervene since the State was the real party in interest. The trial court likewise denied Olson’s later motion to vacate the resulting judgment. And the California Court of Appeal affirmed, holding that Olson had an insufficient stake in Turrieta’s action to either intervene in the case or challenge the judgment.

### Issue Presented:

Does the plaintiff in a representative PAGA action have the right to intervene, object to a proposed settlement, or move to vacate a judgment in a related PAGA action presenting overlapping claims?

### Court's Holdings:

No. A PAGA plaintiff does not have a right to intervene in the ongoing PAGA action of another plaintiff asserting overlapping claims, object to a proposed settlement, or move to vacate a judgment in that action.

### What It Means:

- The Court’s opinion will create a race to settlement or judgment in PAGA actions that involve overlapping claims. The first representative action to reach a settlement or judgment will resolve overlapping claims, and PAGA plaintiffs in other actions will have no automatic right to intervene or to move to vacate the first-in-time judgment.
- The Court expressly reserved the question whether the State itself, separate from the representative plaintiff, could object to a proposed settlement. It also emphasized that although courts are not *required* to consider objections to a proposed settlement by nonparties, they could choose to do so as a matter of discretion.
- In future cases, attention will shift to procedural maneuvers other than intervention, including (i) the right of “plaintiffs in overlapping PAGA actions [to] seek[] consolidation or coordination” and (ii) outreach by other PAGA plaintiffs to the LWDA at the settlement-approval stage.

- Dissenting, Justice Liu suggested that allowing intervention by other PAGA plaintiffs would help ensure that proposed PAGA settlements are fair. But the majority explained there are countervailing policy concerns that do not support a right to intervention—including the fact that counsel for other PAGA plaintiffs may use intervention to derail settlement so they can recover higher fees themselves.
- Justices Kruger and Groban concurred and wrote separately to emphasize (i) that the opinion does not foreclose intervention by private plaintiffs “to vindicate their own personal interests, as employees who have been aggrieved”; and (ii) that courts have “a duty to ensure the fairness and soundness of any settlement of PAGA claims.”

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### Gibson Dunn Appellate Honors



The Court's opinion is available [here](#).

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the California Supreme Court. Please feel free to contact the following practice group leaders:

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