

What The California Supreme Court's *Kim v. Reins International California, Inc.* Decision Tells Us About Settling PAGA Claims

On March 12, 2020, the California Supreme Court decided *Kim v. Reins International California, Inc.* (Case No. S246911) (“*Reins*”) a case in which Plaintiff Justin Kim (“Kim”) settled his individual claims against his employer Reins International California, Inc. (“Reins”), then tried to continue his Private Attorneys General Act (“PAGA”) suit against Reins. The Court ruled that a PAGA plaintiff like Kim *could* continue to litigate a PAGA action despite settling his individual claims. This case raises important questions regarding the value of settling an employee’s underlying, individual claims when the possibility of a representative action continues to loom.

The Facts

Reins – a restaurant operator – employed Kim as an exempt training manager. Kim sued Reins in a putative class action, claiming that his employer misclassified its training managers and alleging Labor Code violations for failure to: pay wages and overtime (§ 1194); provide meal and rest breaks (§ 226.7); provide accurate wage statements (§ 226, subd. (a)); and for waiting time penalties (§ 203); unfair competition (Bus. & Prof. Code, § 17200); and civil penalties under the PAGA (§ 2699).

Reins successfully moved to compel arbitration of Kim’s individual claims and dismissed the class claims, based on an arbitration agreement and class action waiver he signed when Reins hired him. The trial court ordered arbitration of all claims except the PAGA claim and the injunctive relief portion of the unfair competition claim. The court also stayed the PAGA litigation until the parties completed arbitration of the individual claims.

Reins and Kim subsequently settled Kim’s individual claims. As one would expect, Reins moved for summary adjudication in the PAGA action on the ground that the settlement completely redressed Kim’s individual claims and, thus, Kim was no longer an “aggrieved employee” with standing under the PAGA.

The trial court agreed, and the Court of Appeal affirmed, ruling that Kim’s decision to settle his individual claims precluded him from maintaining the PAGA claims because he no longer qualified as an “aggrieved employee” under the PAGA statute.



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Kim v. Reins International California, Inc., 18 Cal.App.5th 1052 (2017). The Court of Appeal found “by accepting the settlement and dismissing his individual claims against Reins with prejudice, Kim essentially acknowledged that he no longer maintained any viable Labor-Code-based claims against Reins.” *Id.* at 1058.

The California Supreme Court Decision

On appeal, the California Supreme Court framed the issue as follows:

Do employees lose standing to pursue a claim under the Labor Code Private Attorneys General Act of 2004 (PAGA; Lab. Code, § 2698, *et seq.*) if they settle and dismiss their individual claims for Labor Code violations?

In answering that question in the negative, the Court took a narrow, strict view of the statutory language defining who can bring a PAGA claim. The PAGA defines an “aggrieved employee” as “any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.” § 2699, subd. (c). Citing this language, the Court found that a plaintiff **does not lose the status** of an “aggrieved employee” simply because he/she settles his/her underlying claims based upon violations of the Labor Code.

Because at one time Reins was employed and may have suffered a violation, the fact that he settled his claims did not remove him from the “aggrieved employee” definition simply because he now has no damages as a result of his settlement.

The Court also noted that representative actions were different in nature than class actions. The latter are merely procedural devices for individual claims, while PAGA representative actions are brought on behalf of the state. As such, “Rein’s injury-based view of standing would deprive many employees of the ability to prosecute PAGA claims, contrary to the statute’s purpose to ensure effective code enforcement.” (Op. at 12)

Employer Takeaways: What About Pre-litigation Settlements?

The *Reins* case involved the settlement of claims after Kim had filed his PAGA claim. The Court noted that Reins conceded Kim’s PAGA claim had to be stayed in the trial court while arbitrating the other claims; settled the arbitral claims with an offer that encompassed only Kim’s “individual claims;” then, when Kim tried to litigate the remaining PAGA claim, argued that Kim had lost standing. That fact seemed to irk the Court, noting: “*Reins’s conduct below is troubling.*” (Op. at 18, fn 7)

Despite these unique facts, which may have colored the Court’s thinking, the decision has broad implications. Many employers settle claims pre-litigation to obtain a general release of all claims and expect to not hear again from the employee. In light of *Reins*, that *may no longer* be possible, at least not in the context of a threatened PAGA claim.

Thus, employers need to plot a course carefully to steer through class and PAGA claim forums, varying standards of proof, and consequences of any settlements. While the employer in *Reins* was able to dismiss the class claims and settle the underlying individual claims, it found itself still litigating a PAGA claim in court. Employers should consult with their counsel as soon as they receive employee demand letters and/or copies of those employee letters to the California Labor & Workforce Development Agency, alerting the LWDA to specific alleged labor violations, and craft any settlement offers with full consideration of the

above-described risks.

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