

## Publications

### California Court of Appeal Leaves 'Headless' PAGA Claims Lifeless

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In a significant development for California employers, the California Court of Appeal's decision in *Leeper v. Shipt, Inc.* closed out 2024 by strengthening the enforceability of arbitration agreements in Private Attorneys General Act (PAGA) cases. Under PAGA, plaintiffs may be compelled to arbitrate their individual PAGA claim, while their non-individual PAGA claim must proceed in court. In *Leeper*, the plaintiff tried to avoid arbitration of her individual PAGA claim by purporting to bring her PAGA action only "on a representative non-individual basis" to recover only "non-individual civil penalties." On December 30, 2024, the Court held that every PAGA action includes both an individual claim subject to arbitration and a representative claim that is not subject to arbitration.

The ruling should end the viability of "headless" PAGA claims brought by plaintiffs in hopes of bypassing arbitration by asserting only representative claims. The Court ruled that every PAGA claim inherently includes an individual component on behalf of the named employee. The Court relied primarily on the "unambiguous, ordinary meaning" of the conjunctive language in PAGA that requires claims to be brought on behalf of "the employee **and** other current or former employees." As the Court explained, the word "and" means that a PAGA action has both individual and representative components. Attempts to sever individual claims to avoid arbitration were rejected as inconsistent with legislative intent.

In so holding, the Court expressly rejected the approach leveraged by plaintiffs using language in the Court of Appeal's *Balderas v. Fresh Start Harvesting* case to assert claims only on behalf of a group of employees. *Leeper* clarified that such an argument relies entirely on dicta in *Balderas* and goes beyond the central issue in that case.

*Leeper* represents a notable win for California employers utilizing arbitration agreements. By invalidating the "headless" PAGA claim strategy, the Court reinforced the ability of employers to direct individual PAGA claims to arbitration.

Employers should review their arbitration agreements to ensure they comply with the courts' interpretations of PAGA. For more information or to discuss the impact of this ruling on your organization, contact your Vorys lawyer.