CALIFORNIA COURT OF APPEAL PROVIDES PRACTICAL ROADMAP FOR MANAGING OVERLAPPING PAGA ACTIONS IN BROWN V. DAVE & BUSTER'S OF CAL., INC.

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The California Court of Appeal, Second Appellate District's decision in *Brown v. Dave & Buster's of Cal., Inc.*[1] (*Brown*) offers employers meaningful clarity and a workable strategy for navigating overlapping actions under the Private Attorney's General Act (PAGA).

While PAGA actions have long posed a host of challenges for employers with employees in California, the landscape has become even more complex with the rise of overlapping PAGA claims. As PAGA litigation continues to proliferate, employers increasingly face multiple suits brought by different employees, covering the same time period, and asserting the same alleged Labor Code violations. *Brown* reinforces that courts have both the authority and tools to manage parallel and duplicative PAGA litigation efficiently, including by approving a global settlement in one action that extinguishes the other through the doctrine of claim preclusion.

Importantly, *Brown* provides practical support for employers so they can strategically sequence stays, amendments, and settlement approvals to achieve finality in one action while foreclosing parallel claims.

OVERVIEW OF THE BROWN CASE

Dave & Buster's (D&B) faced two separate PAGA lawsuits from two different employees as outlined below:

First Action (*Andrade v. Dave & Buster's Mgmt. Corp., Inc.* (*Andrade*))[2]

In *Andrade*, an employee sued for standard wage-and-hour violations under the California Labor Code (unpaid overtime, unpaid wages, and missed meal periods and rest breaks) against D&B, only.

Second Action (*Brown*)

Subsequently, a second employee, Brown, filed a standalone PAGA claim with similar allegations to Andrade's as well as a claim for unpaid vacation pay[3] against D&B and two affiliated entities.

After obtaining a stay of the second-filed *Brown* lawsuit, D&B reached a comprehensive settlement in *Andrade*. Andrade then amended the PAGA notice and the PAGA complaint to include the vacation pay claim and additional entities named in the *Brown* action. After the trial court approved the settlement, D&B successfully moved for judgment on the pleadings, arguing that the settlement's claim-preclusive effect barred the overlapping suit as the actions involved the same parties and the same causes of action.

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In siding with D&B, the court applied the doctrine of claim preclusion, which bars subsequent lawsuits when the first lawsuit has: (1) the same cause of action; (2) the same parties, or those in privity; and (3) a final judgment on the merits.

The court's reasoning demonstrated that the scope of the Labor and Workforce Development Agency (LWDA) notice in the settling action is pivotal in this determination. In affirming the trial court's decision, the court distinguished *Lacour v. Marshalls of Cal.,*[4] which was procedurally identical, but differed in one important aspect: the LWDA notice in the settling action *did* not include the same violations raised in the subsequent action that it sought to extinguish.

As in *Brown*, *Lacour* involved an employer who invoked claim preclusion based on an earlier PAGA settlement to extinguish the PAGA claims raised in a subsequent action. However, unlike *Brown*, the competing PAGA actions differed with respect to the scope of the underlying LWDA notices. The first action addressed only off-the-clock work claims, while the subsequent action involved a broader array of wage and hour violations not alleged in the first notice. Consequentially, the *Lacour* court held that the settlement in the prior action could not preclude the claims in the subsequent action since the settling plaintiff was only authorized to settle claims raised in their own LWDA notice.

By contrast, in *Brown*, the parties to *Andrade* avoided this result by amending the LWDA notice and PAGA complaint to include the vacation pay claims and the parties not originally alleged in the initial notice. This ensured that the settlement addressed the full scope of alleged violations (i.e. same cause of action and same parties) and thus triggered claim preclusion for the second action.

Brown also challenged Andrade's standing to settle the expanded PAGA claims. Specifically, Brown argued that Andrade's amended notice and complaint violated PAGA's 65-day waiting period, as Andrade filed her amended complaint only 35 days after filing the amended notice. However, the Court of Appeal disagreed, characterizing the shortened wait time as a “harmless defect.” The Court of Appeal held that while pre-filing notice is a condition of suit, there is nothing in the statute that suggests the 65-day period applies to amended notices. Even if it did, the Court of Appeal determined that Andrade “substantially complied” because the LWDA received notice before the amended complaint was filed, which was the core purpose of the notice requirement.

A PRACTICAL ROADMAP: THE BROWN COURT ENDORSES A STRATEGIC APPROACH TO OVERLAPPING PAGA CLAIMS

Although *Brown* was not framed as a how-to guide for employers facing overlapping PAGA actions, the Court of Appeal's opinion effectively provides one. When combined with two recent decisions—*Shaw v. Superior Ct. of Contra Costa Cnty*.[5] (second-filed PAGA action, which contains same or similar PAGA claims can be stayed under the doctrine of Exclusive Concurrent Jurisdiction or the court's inherent authority) and *Turrieta v. Lyft, Inc.*[6] (overlapping PAGA plaintiff lacks standing to intervene or object to a PAGA settlement approved by the trial court), *Brown* outlines a potential roadmap for employers:

- Move to stay the second-filed action;
- Settle the first-filed action broadly;
- Amend the PAGA notice and complaint to include any nonoverlapping claims;

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- Obtain court approval; and
- Move for judgment on the pleadings on the second-filed action.

PAGA REFORMS—A NOTE OF CAUTION

Effective 1 July 2024, the California Legislature enacted significant reforms to PAGA, which limited the ability of PAGA plaintiffs to bring claims only to labor code violations for which the plaintiff *personally suffered*. The *Brown* decision was based on the pre-reform PAGA framework, which broadly applied to any labor code violation suffered by the PAGA plaintiff or similarly situated aggrieved employees during the one-year PAGA period. It remains to be seen how the limiting nature of the legislative reforms may impact the LWDA's determination to get involved at the amendment stage or how trial courts may react to expanding the claims or statutes of limitations of the initially filed PAGA notice.

CONCLUSION

The *Brown* decision confirms that employers can effectively manage overlapping PAGA claims through strategic settlements and procedural motions. The lawyers of our Labor, Employment, and Workplace Safety practice regularly counsel clients on the issues discussed herein and are well-positioned to provide guidance and assistance to clients on these significant developments.

FOOTNOTES

[1] No. B339729, 2025 WL 3228867 (Cal. Ct. App. Nov. 19, 2025).

[2] *Andrade v. Dave & Buster's Mgmt. Corp.*, San Diego Superior Court No. 37-2019-00019561-CU-OE-CTL.

[3] Cal. Lab. Code § 227.3.

[4] 94 Cal.App.5th 1172 (2023).

[5] 78 Cal.App.5th 245 (2022).

[6] 16 Cal.5th 1001 (2024).

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