PAGA Claimant Alleges Employer Failed To Pay For COVID-19 Time And Expenses

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This week's spotlight on familiar trends among the COVID-19 related workplace complaints involves a plaintiff who alleges she and her fellow employees were not properly reimbursed for purported business expenses. The plaintiff further alleges she and her fellow employees were not properly compensated for time spent related to COVID-19 safety preparation. Overall, this is another example of a Private Attorneys General Act (PAGA) representative action combining COVID-19 related allegations with unrelated wage and hour allegations.

The plaintiff in *Atienza v. Homegoods, Inc., et al.* brought a PAGA claim on behalf of herself and all other allegedly "aggrieved employees" for the defendant. The plaintiff, an hourly-paid employee, alleges the defendant required employees to wait in line and submit to mandatory temperature checks for COVID-19 screening prior to clocking in, but failed to compensate employees for this work.

Further, the plaintiff claims the defendant required employees to use "personal cellular phones as a result of and in furtherance of their job duties." Specifically, the plaintiff alleges that "prior to coming into work for the day," employees were required to complete mandatory surveys on their cell phones while at home regarding whether or not they were experiencing symptoms related to" COVID-19. According to the plaintiff, the defendant violated the California Labor Code by not reimbursing employees for this purported business expense.

Unrelated to the COVID-19 claims, the plaintiff brings PAGA claims alleging meal break violations, and alleging that the defendant required employees to perform unspecified off the clock work, and failed to pay employees for all hours worked.

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Atienza is not the first, and will not likely be the last, PAGA suit in connection with an employer's response to COVID-19. When developing a plan to respond to COVID-19, including workplace reopening, employers may want to consult with counsel to avoid similar pitfalls. As always, the Barnes & Thornburg Wage and Hour Practice Group will continue to monitor employment-related COVID-19 litigation, and will provide updates as more developments emerge. Stay tuned.