



Common Sense Prevails In California Wage Victory, Falters In PAGA Action

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[Section 226 of the California Labor Code](#) requires employers to provide and maintain accurate wage statements, including all applicable pay rates. A plaintiff is “injured” “if the accuracy of any of the items... cannot be reasonably ascertained from the four corners of the wage statement.”

In the recent case [Raines v. Coastal Pacific Food Distributors, Inc.](#), an employee sued her employer complaining that she could not readily figure out her overtime wage rate without using a calculator. She also brought a similar PAGA action for wage related violations. At her deposition, the employee explained that her wage statements showed the number of overtime hours and total payment she earned for working overtime. She also testified that she could not normally do division in her head, but conceded that she did know how to use a calculator.

Then, in court, the plaintiff argued that figuring out her overtime rate “present[ed] a relatively complex mathematical problem that surely most people could not readily do in their heads.” She also argued the calculation would require the use of a calculator, and therefore, as a matter of law, a reasonable person cannot “readily ascertain” the hourly rate for overtime.

Applying common sense, the court noted that there was a technical violation, but rejected the plaintiff’s position. It reminded the parties that “the mathematical operation . . . is division, which is taught in grade school.” The court further held, “An actual injury is shown where there is a need for both additional documentation and additional mathematical calculations in order to determine whether Plaintiffs were correctly paid and what they may be owed. In contrast, where the deficiency in the wage statement could be corrected by ‘simple math,’ there is no actual injury.”

Nevertheless, the court refused to adopt the same common sense approach

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to the plaintiff's PAGA claim for a similar violation of section 226(a), reasoning that PAGA does not require the plaintiff to prove injury, that the plaintiff is seeking civil penalties (not statutory penalties or damage), and that absence of injury does not necessarily amount to absence of violation. Instead, the court sought to strike a balance by exercising discretion in awarding civil penalties and reducing the award for technical violations that cause no injury.

This decision is troubling for California employers, as it adds a layer of uncertainty to the outcome of [derivative PAGA actions](#), depending on which judge is assigned to the case. California employers should strive to provide employees with accurate itemized wage statements that comply with the requirements listed in section 226(a), because this case makes clear employers could be exposed to liability even when none of the employees suffered an injury.