# EMPLOYMENT
LAW UPDATE

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## LEGISLATIVE

### California

On June 30, 2026, Governor Gavin Newsom signed AB 2155 (Aguiar-Curry). This new law will amend California Code of Civil Procedure section 1281 and will become effective on January 1, 2027. The law provides that any agreement unenforceable under the Federal Arbitration Act is also unenforceable under the California Arbitration Act.

## JUDICIAL

### Federal

**Ninth Circuit Upholds Arbitration Agreement Despite Waiver of PAGA**

In *Cocom v. ABM Aviation*, the Ninth Circuit Court of Appeals found an arbitration agreement was not substantively unconscionable, emphasizing that its core purpose of arbitrating employment-related claims was both lawful and enforceable.

In the arbitration agreement at issue in *Cocom*, "covered claims" were defined as "any claim . . . including but not limited to claims arising and/or relating" to the employee's employment. This phrase was interpreted by the Ninth Circuit as language focusing solely on employment claims. The Ninth Circuit emphasized that the phrase, "including but not limited to," was not limitless, but was anchored by the listed employment-related claims: breach of contract, unpaid wages, wrongful termination, and similar disputes arising from the employment relationship. The *Cocom* court reinforced this interpretation by applying California's deference of upholding agreements rather than voiding them. The Ninth Circuit also found that by limiting arbitration to employment-related claims, the agreement's duration was naturally bounded by the employment relationship and applicable statute of limitations. In *Cocom*, although some asymmetry existed, the employment-related limitation naturally restricted who could be compelled to arbitrate, reducing the risk of inequity. The Ninth Circuit further acknowledged that any claims the employee might have against third parties unrelated to employment would fall outside the agreement.

*Cocom* makes clear that arbitration agreements limited to employment claims are far less vulnerable to defeat. Employers should consider whether agreements clearly limit the scope of claims, expressly adopt industry-standard employment arbitration rules, and include a strong and enforceable severability clause.

## California

### California Courts Have Ability to Reduce PAGA Penalties and Attorneys' Fees

In *Taduran v. Glidewell*, a California Court of Appeal provided employers two positive rulings under the Private Attorneys General Act ("PAGA"). The court confirmed that trial courts have broad discretion to reduce a maximum PAGA penalty using any reasonable method as well as to apply a negative multiplier that lowers a prevailing plaintiff's attorneys' fee award.

Plaintiff Abraham Taduran ("Plaintiff") sued his former employer, dental-products maker Glidewell, under PAGA, alleging a series of California Labor Code violations. By the time of trial, the parties had stipulated to liability and undisputed facts on four issues — defective wage statements, rest-period pay calculated on rounded fractional hours, underpaid overtime because non-productive time pay was left out of the regular-rate calculation, and underpaid overtime because bonus pay was excluded from the regular rate of pay calculation. The singular question for the trial court was the amount of civil penalties.

Plaintiff argued the maximum aggregate PAGA penalty was $56 million. The trial court awarded $515,965. For attorneys' fees, Plaintiff's counsel sought over $1.57 million (a $1.047 million lodestar — the hours-times-rate baseline fee — enhanced by a 1.5 multiplier). The lower court accepted the lodestar but applied a 0.70 multiplier, awarding $733,440 in fees. Plaintiff appealed both rulings. The Court of Appeal affirmed the trial court's rulings.

Labor Code section 2699(e)(2) permits a court award a lesser amount of PAGA penalties when the maximum would be unjust, arbitrary and oppressive, or confiscatory. The dispute on appeal in this case was but how the court could reduce the penalties. Plaintiff argued the reduction should be applied on a per pay period basis — the same metric used to calculate maximum PAGA penalties — rather than the per employee basis the trial court implemented for three of the four violations. The Court of Appeal disagreed. The appellate court held that Labor Code section 2699(e)(2) supplies no formula for reducing the maximum penalties; once the court calculates the maximum on a per pay period basis, it may bring that figure down by any reasonable method; including a flat percentage, a per pay period figure, or a per employee figure.

In connection with the attorneys' fee ruling, the trial court multiplied the baseline fee by 0.70. Plaintiff argued that this decrease must satisfy heightened scrutiny. The Court of Appeal noted that California appellate courts are split on whether heightened scrutiny applies to wholesale cuts, an issue currently before the California Supreme Court in *Cash v. County of Los Angeles*. Here, the appellate court did not have to resolve the split because the trial court gave specific, articulated reasons for the 0.70 multiplier. Thus, the reduction held under either standard.

The trial court justified its .70 multiplier by considering:

- Past, lower billing rates. The lodestar used counsel's current billing rates for work performed years earlier, when the rates were materially lower. The Court of Appeal held that a trial court may consider those lower past rates when applying a negative multiplier, so long as it does not count the same factor twice — once in the lodestar and again in the multiplier.

- Reasonable and expected skill in prosecuting the claims. The claims in this case were relatively straightforward and records-based. The trial court found that the skill of the attorneys was a neutral factor as to the multiplier.

- Limited success. Because the penalty award came in below one percent of what Plaintiff sought, the court weighed that limited degree of success against the fee. The Court of Appeal confirmed that in representative actions, the percentage of recovery can properly support a negative multiplier.

- The contingency risk. The trial court held that the contingency risk weighed in favor of an upward multiplier given the case lasted seven years, involved 1,500 attorney hours and nearly $100,000 in litigation costs, but only slightly given that liability of certain claims was established over four years prior to the attorneys' fees motion.

In sum, *Taduran* confirms that a trial court may use any reasonable method to decrease a maximum PAGA penalty to a fair figure, and that even a significant reduction from the statutory maximum can survive appeal when it is tied to the facts and circumstances of the case. The reduction in this case was supported by the findings — no lost wages on the wage statement claim, good faith calculation methods, prompt correction, and minimal actual underpayment.