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## Supreme Court Rules California Employers Can Force Arbitration of Individual PAGA Claims

The U.S. Supreme Court has ruled that employers may compel employees to arbitrate individual claims raised under the California Private Attorneys General Act (PAGA).

### The Details

#### Background:

In the case before the U.S. Supreme Court (*Viking River Cruises, Inc. v. Moriana*), Moriana – an employee of Viking River Cruises (Viking) – had signed an agreement to arbitrate any dispute arising out of her employment and waived her right to bring class-wide, representative or PAGA claims. PAGA enables employees to “stand in the shoes” of the state to recover penalties for Labor Code violations. If successful, 25 percent of the penalties are awarded to employees. PAGA claims are often brought as representative claims on behalf of other employees, which significantly increases exposure for employers.

After Moriana left Viking, she filed a PAGA claim alleging that Viking committed Labor Code violations affecting her and other employees. Viking moved to compel arbitration and, leading up to the U.S. Supreme Court’s review, lower courts had ruled that:

- California law requires that the representative PAGA action waiver in the agreement be treated as invalid, and
- Since state law precludes division of PAGA actions into individual and non-individual (representative) claims, the employer was barred from forcing arbitration of the individual PAGA claims as well.



## U.S. Supreme Court Ruling:

The U.S. Supreme Court disagreed with the lower courts in part and ruled that:

- The division of PAGA actions into individual and non-individual claims is permitted.
- Employers can compel arbitration of individual PAGA claims.
- Under PAGA, an individual can maintain non-individual PAGA claims only by virtue of also maintaining an individual claim in that action. Therefore, once an employer compels arbitration of an employee's individual PAGA claim, the non-individual claims should be dismissed.

## Next Steps

If you have employees in California and use (or intend to use) arbitration agreements:

- Review the U.S. Supreme Court's [decision](#) with legal counsel to determine whether you should consider using arbitration agreements (or modify existing agreements).
- Watch for developments to determine how state courts and the state legislature respond to the ruling.

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