

LAW

Fight for PAGA Reform

Valley group hires lobbying firm to change labor law after tracking nearly 8,000 suits.

By **ETHAN VARIAN** Staff Reporter

In an effort to change the Private Attorneys General Act, also known as PAGA, a San Fernando Valley group has launched an educational campaign targeting business owners, politicians and the general public about the increasing threat the law poses to companies.

The Sunland group, named **California Business and Industrial Alliance**, or CABIA, claims disgruntled employees have used the state labor law to wreak financial havoc on small businesses.

Under the law, employees can file civil suits on behalf of themselves and other workers against companies that fail to follow California's labor code. The infractions can range from unpaid overtime to not documenting employee schedules.

Coast to Coast Computer Products Inc. has felt the negative financial impact of PAGA full force. The Simi Valley-based company recently settled two lawsuits amounting to potentially \$15 million in fines over alleged labor violations. The suits were brought by a group of former employees utilizing PAGA.

The aggrieved employees hired a law firm to help file a \$4 million PAGA claim against the company for not printing its business address on employee paychecks. They also filed a more expensive \$11 million class action suit alleging the company miscalculated commissions.

Coast to Coast owner **Rick Roussin** ultimately decided to settle the class action lawsuit – which he believed he could win in court – in exchange for the employees dropping the frivolous PAGA claim. Roussin said no employees had complained to him about the missing address on their paychecks. But his lawyers advised him that the PAGA case was a loser and that it would be cheaper to settle than to continue fighting both suits.

“They used the power that was given to them by the state to file these PAGA lawsuits as leverage to settle what would normally be a very difficult class action lawsuit,” said Roussin.

Proponents of the law say it provides an important protection for employees. It was enacted in 2004 to create a financial punishment for employers who routinely violated state labor laws. Individual fines are multiplied by the total number of shifts worked by each of the company's employees during the time the infraction took place, often resulting in millions of dollars in potential damages.

CABIA's response

Tom Manzo, a Valley business owner and president of CABIA, says the lucrative payouts have incentivized trial lawyers to seek out PAGA cases in order to collect fees on the settlements. Manzo formed the group after settling a PAGA suit for \$1 million that was filed against his Pacoima business **Timely Prefinished Steel Door Frames**.

“Last year we tracked close to 8,000 PAGA lawsuits,” Manzo said. “They're going after all sorts of companies from Apple and Google to children's homes and Salvation Armies. ... The law was designed to protect the employees, but the employees aren't being protected. The attorneys are often the ones making the largest sums of money on these claims.”

In a PAGA settlement, 75 percent of the fine goes to the state for education and outreach on the labor code. The other 25 percent is distributed among the company's employees and the attorneys, who can take as much as a third of the 25 percent in fees. In a recent \$8 million settlement with Uber, employees reportedly received an average payment of only \$1.08 after the total amount



Settled Lawsuit: Rick Roussin at Coast to Coast Computer Products in Simi Valley.

was split among Uber's 1.6 million California employees.

Because the Coast to Coast settlement also involved a traditional class action suit, the employees walked away with the majority of the payment, while the state received just \$20,000, according to Roussin. The agreement was finalized in 2016 and he made his final payment in November.

Since the settlement, Roussin has restructured his business operations to more closely track employee payments and schedules and ensure he is not at risk of another PAGA suit. But the legal battle has taken a toll.

“The morale of the company has been heavily affected,” he said. “My personal morale and attitude may never be the same.”

Proposed reforms

Some of the changes CABIA is pushing for include reduced fines and increasing the “cure time” businesses are granted to fix violations before being hit with a penalty. Currently, companies have 33 days to address an infraction after they are given a PAGA notice.

The group has hired the lobbying firm **Kammerer and Co. Inc.** to present its concerns to Sacramento. It plans to work closely with labor groups to pass a bipartisan bill by the end of Gov. **Jerry Brown's** final term later this year.

Three separate PAGA reform bills have already been introduced to the California Assembly or Senate, but none have been scheduled for a vote. One of the bills' sponsors,

Assemblyman **Heath Flora**, R-Ripon, has witnessed several businesses in his district hurt by PAGA claims.

“PAGA requirements have become an unnecessary source of immense, frivolous and abusive litigation,” Flora said in statement. “I believe my bill creates an honest avenue for employers to correct paystub issues while still maintaining the integrity and protection PAGA offers to California's workers.”

In 2016, the state's Labor and Workforce Development Agency which oversees the PAGA process introduced a series of changes to improve transparency and data collection. Agency spokesman **Garin Casaleggio** said the department is aware of business owners' complaints but has not yet taken any specific action to address them.

“The 2016 changes will result in better tracking of cases, more transparency and ultimately a better understanding of whether the system is working as intended,” he said. “The Labor and Workforce Development Agency continues to gather data on the program.”

For Roussin at Coast to Coast, reform cannot come soon enough. Last month, he was served with a second PAGA suit from an employee making a paystub claim. He says he plans to fight the suit now that the violations from the original have been resolved.

Still, the constant litigation makes it increasingly difficult to run his company.

“This is crushing California businesses,” he said. “If I could move my business out of state, I would.”



PHOTOS BY MIKE BAKER

Kudos: List of Coast to Coast's awards.