

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

J. Patrick DeDyn, Jeffrey Erny, and Jeffrey Kasprzyk, et al. v. Gintzler Graphics, Inc. and Resource Label Group LLC

DeDyn · No. 1:23-cv-1291-GWC · Decided January 28, 2026

SUMMARY

The United States District Court for the Western District of New York reviews objections to a Report and Recommendation concerning claims under the Fair Labor Standards Act, ERISA, and New York Labor Law § 191(1)(a). The court dismisses the FLSA prompt-payment claim, dismisses the ERISA claims without prejudice and with leave to amend, and declines to dismiss the New York Labor Law claim based on the availability of a private right of action. The opinion also addresses the effect of recent amendments to New York Labor Law § 198.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Geoffrey W. Crawford
JURISDICTION	United States District Court for the Western District of New York
DECIDED	January 28, 2026
DOCKET	1:23-cv-1291-GWC
DISPOSITION	other
PROCEDURAL POSTURE	District court review of a magistrate judge's report and recommendation on defendants' motion to dismiss and plaintiffs' motion for conditional certification of an FLSA collective action.
STANDARD OF REVIEW	De novo review of portions of a magistrate judge's recommended disposition to which a party properly objects; clear-error review of unobjected-to portions. Rule 12(b)(1) dismissal is reviewed based on whether the court lacks statutory or constitutional subject-matter jurisdiction, and Rule 12(b)(6) dismissal is appropriate when the complaint fails to state a plausible claim or the claim is barred as a matter of law.
PRECEDENTIAL VALUE	unpublished district court opinion

TOPICS

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QUESTIONS PRESENTED

1. Whether paying plaintiffs biweekly rather than weekly, despite their alleged status as manual workers under NYLL § 191(1)(a), stated a claim for violation of the FLSA's prompt-payment requirement.
2. Whether plaintiffs adequately pleaded ERISA claims based on delayed remittance and use of employee 401(k) contributions.
3. Whether NYLL § 198 provides a private right of action for an employer's violation of NYLL § 191(1)(a)'s weekly-pay requirement.
4. Whether plaintiffs' motion for conditional certification of an FLSA collective action remained viable after dismissal of the FLSA claim.

HOLDINGS

1. A biweekly pay schedule is not, by itself, an unreasonable delay or a per se violation of the FLSA's prompt-payment requirement. Plaintiffs failed to allege facts showing that the employer's change from weekly to biweekly payments failed the four-factor test in *Rogers*.
2. The ERISA claims were properly dismissed without prejudice and with leave to amend because plaintiffs failed to allege sufficient facts, including facts establishing injury in fact and that defendants acted as fiduciaries.
3. NYLL § 198 provides a private right of action for an employer's violation of NYLL § 191(1)(a)'s requirement that manual workers be paid weekly. The 2025 amendment to § 198 confirms that such violations fall within actionable wage claims and specifies available remedies.
4. The motion for conditional certification was denied as moot because the court dismissed the FLSA claim.

KEY QUOTATIONS

“In general, the prompt payment requirement is not violated when an employer changes the pay schedule, provided that the change: (a) is made for a legitimate business reason; (b) does not result in an unreasonable delay in payment; (c) is intended to be permanent; and (d) does not have the effect of evading the FLSA’s substantive minimum wage or overtime requirements.” (5)

“Without more, however, the fact that an employer has chosen a biweekly pay schedule—and paid its workers on time according to that schedule—is not sufficient to establish untimely payment under the FLSA.” (10)

“Count I of the Complaint is DISMISSED WITH PREJUDICE, Count III is DISMISSED WITHOUT PREJUDICE, with leave to file an amended complaint as to that claim.” (17)

FACTUAL BACKGROUND

Plaintiffs were current or former employees of Gintzler Graphics, working in positions that allegedly required them to perform physical tasks constituting more than 25 percent of their time. Gintzler paid employees weekly before October 2017, biweekly from October 2017 through July 1, 2022, and weekly thereafter. Plaintiffs alleged that the biweekly schedule violated the FLSA and NYLL because they were manual workers entitled to weekly pay, and that defendants remitted employee 401(k) contributions between one week and one month late while using the funds for business operations.

PROCEDURAL HISTORY

Plaintiffs brought claims under the FLSA, ERISA, and New York Labor Law § 191(1)(a), alleging delayed wage payments and late remittance of 401(k) contributions. Defendants moved to dismiss, and plaintiffs moved for conditional certification of an FLSA collective action. The magistrate judge recommended granting dismissal, denying conditional certification, and dismissing the ERISA claim without prejudice with leave to amend. Plaintiffs objected to the recommendations concerning the FLSA and NYLL claims. The district court reviewed the objected-to portions de novo, reviewed the unobjected-to ERISA portion for clear error, and granted dismissal of the FLSA claim with prejudice, dismissed the ERISA claim without prejudice with leave to amend, denied conditional certification as moot, and denied dismissal of the NYLL claim.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Plaintiffs may file a motion to amend the complaint concerning the ERISA claim in accordance with Local Rule 15.

CASES CITED

- Trustees of Upstate N.Y. Engineers' Pension Fund v. Ivy Asset Management, 843 F.3d 561, 566 (2d Cir. 2016)
- Cullen v. United States, 194 F.3d 401, 405 (2d Cir. 1999)
- United States v. Shores, No. 17-cr-00083, 2024 WL 489313, at *10 (D. Vt. Feb. 8, 2024)
- Green v. Department of Education of City of New York, No. 18 Civ. 10817, 2020 WL 5814187, at *2 (S.D.N.Y. Sept. 30, 2020)
- Morrison v. National Australia Bank, 547 F.3d 167, 170 (2d Cir. 2008)
- Liranzo v. United States, 690 F.3d 78, 84 (2d Cir. 2012)
- United States ex rel. Chorchos v. American Medical Response, Inc., 865 F.3d 71, 78 (2d Cir. 2017)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Biocad JSC v. F. Hoffmann-La Roche, 942 F.3d 88, 93 (2d Cir. 2019)
- Parkcentral Global Hub Ltd. v. Porsche Auto Holdings SE, 763 F.3d 198, 208-09 (2d Cir. 2014)
- Rogers v. City of Troy, 148 F.3d 52, 55-58 (2d Cir.)
- Cooke v. Frank Brunckhorst Co., 734 F. Supp. 3d 206 (E.D.N.Y. 2024)
- Provencher v. Bimbo Bakeries USA, Inc., 705 F. Supp. 3d 238, 253 (D. Vt. 2023)

- McDonald v. H&M Fashion USA Inc., No. 24-CV-2476, 2025 WL 744014, at *3 (S.D.N.Y. Mar. 6, 2025)
- Cuzco v. Orion Builders, Inc., 262 F.R.D. 325, 333 (S.D.N.Y. 2009)
- Strain v. Southwest Airlines Co., No. 24-CV-8885, 2025 WL 1384156, at *3 (E.D.N.Y. May 13, 2025)
- Vega v. CM & Associates Construction Management, 175 A.D.3d 1144, 107 N.Y.S.3d 286 (N.Y. Ct. App. 2019)
- Grant v. Global Aircraft Dispatch, Inc., 223 A.D.3d 712, 204 N.Y.S.3d 117 (N.Y. Ct. App. 2024)
- Chufen Chen v. Dunkin' Brands, Inc., 954 F.3d 492, 497 (2d Cir. 2020)
- Toxqui v. R&P Pizza Corp., No. 24-cv-3339, 2025 WL 2430569, at *13 (S.D.N.Y. Aug. 22, 2025)
- Euson v. TRC Engineers, LLC, No. 24-CV-1168, 2025 WL 2591847, at *9 (N.D.N.Y. Sept. 8, 2025)
- Garzon v. Building Services Inc., No. 24-CV-5429, 2025 WL 1871171, at *10 (S.D.N.Y. July 2, 2025)
- Gabriel v. Albany College of Pharmacy & Health Sciences—Vermont Campus, No. 12-cv-14, 2012 WL 4718678, at *6 n.4 (D. Vt. Oct. 3, 2012)

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