UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Jose Miller v. Building Services Inc., Michael A. Gomez, and Vivian Gomez

Miller v. Building Services Inc. · No. 2:24-cv-04814 · Decided January 28, 2026

SUMMARY

The Eastern District of New York grants Jose Miller's motion to amend an earlier default-judgment order in an FLSA and New York Labor Law action. Applying a 2025 amendment to New York Labor Law § 198(1)(1-a) retroactively to the pending litigation, the court reduces damages for untimely wage payments from $108,313.93 in liquidated damages to $332.36 in interest-based damages. The court leaves the remaining awards unchanged, vacates the prior judgment, and directs entry of a new judgment.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Nusrat J. Choudhury
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	January 28, 2026
DOCKET	2:24-cv-04814
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to amend a prior order granting in part and denying in part his motion for default judgment in an action under the Fair Labor Standards Act and New York Labor Law.
STANDARD OF REVIEW	The court applied the amended statutory damages provision to the pending action and reviewed the prior damages calculation in light of the statutory amendment.
PRECEDENTIAL VALUE	Unpublished district court memorandum and order; persuasive value only.
PARTIES	Jose Miller v. Building Services Inc., Michael A. Gomez, Vivian Gomez

TOPICS

wage and hour | flsa | remedies | statutory interpretation | civil procedure

PRACTICE AREAS

employment law | wage and hour | Fair Labor Standards Act | New York Labor Law

QUESTIONS PRESENTED

1. Whether the 2025 amendment to New York Labor Law § 198(1)(1-a) applies retroactively to this pending action.
2. What damages are available under the amended statute for an employer's biweekly payment of wages on regular paydays in violation of New York Labor Law § 191.
3. Whether the prior damages award for untimely wage payments should be amended.

HOLDINGS

1. The 2025 amendment to New York Labor Law § 198(1)(1-a) applies retroactively to pending litigation.
2. When an employer pays wages on a regular payday no less frequently than semi-monthly, a first violation of New York Labor Law § 191 is subject to damages of no more than the lost interest attributable to the delayed payment, rather than liquidated damages equal to the delayed wages.
3. The prior award of $108,313.93 in damages for untimely wage payments must be reduced to $332.36, and the remainder of the July 11, 2025 order remains unchanged.

KEY QUOTATIONS

> *"liquidated damages shall not be applicable to violations of paragraph a of subdivision one of [§ 191 (Frequency of payments)] where the employer paid the employee wages on a regular payday, no less frequently than semi-monthly."* (at 2)

> *"Such violations shall be subject to damages . . . [in an amount] no more than one hundred percent of the lost interest found to be due for the delayed payment of wages calculated using a daily interest rate for each day payment is late"* (at 2)

FACTUAL BACKGROUND

Miller alleged that Defendants paid him biweekly rather than weekly from July 11, 2018, through December 16, 2024. The prior order treated one week of pay for each two-week period as liquidated damages for untimely payment under New York Labor Law § 191 and awarded $108,313.93. After New York amended Labor Law § 198(1)(1-a), the court determined that Defendants' regular biweekly payments permitted only interest-based damages for a first violation and calculated those damages at $332.36.

PROCEDURAL HISTORY

Miller filed a motion for default judgment on December 16, 2024. The court adopted, with corrections, a magistrate judge's report and recommendation and granted the motion in part on July 11, 2025. After an amendment to New York Labor Law § 198(1)(1-a), the court reopened the case to permit supplemental briefing and granted Miller's motion to amend the July 11 order, reducing damages for untimely wage payments from $108,313.93 to $332.36 while leaving the remainder of the prior order unchanged.

DISPOSITION

other

CASES CITED

- Garcia v. New Force Constr. Corp., No. 23-cv-2336, 2025 WL 2015158, at *15 (E.D.N.Y. July 18, 2025)
- Millea v. Metro-N. R. Co., 658 F.3d 154, 169 (2d Cir. 2011)

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