

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

Joshua Marrero v. Envases USA, Inc.

2026 DNH 063 · No. 25-cv-513-JL · Decided May 29, 2026

SUMMARY

The United States District Court for the District of New Hampshire denies Envases USA, Inc.’s motion to reopen a Fair Labor Standards Act case that Joshua Marrero voluntarily dismissed without prejudice. The court holds that a pending Rule 12(b)(6) motion to dismiss is neither an answer nor a motion for summary judgment under Rule 41(a)(1), and declines to convert the motion into one for summary judgment.

CASE DETAILS

COURT	United States District Court for the District of New Hampshire
JURISDICTION	United States District Court for the District of New Hampshire
DECIDED	May 29, 2026
DOCKET	25-cv-513-JL
DISPOSITION	other
PROCEDURAL POSTURE	After Marrero voluntarily dismissed all claims without prejudice following Envases's filing of a motion to dismiss, Envases moved to reopen the case, arguing that the motion to dismiss should be construed as a motion for summary judgment and therefore barred dismissal by notice under Federal Rule of Civil Procedure 41(a)(1).
STANDARD OF REVIEW	The court applied the Rule 41(a)(1) framework and exercised its discretion whether to convert the Rule 12(b)(6) motion into a Rule 56 motion.
PRECEDENTIAL VALUE	Unknown
PARTIES	Joshua Marrero v. Envases USA, Inc.

TOPICS

- motions to dismiss
- civil procedure
- pleadings
- wage and hour
- flsa

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Envases's pending motion to dismiss should be construed as a motion for summary judgment, thereby preventing Marrero from voluntarily dismissing the action by notice under Federal Rule of Civil Procedure 41(a)(1).
2. Whether the court should reopen the case after Marrero's voluntary dismissal without prejudice.

HOLDINGS

1. A Rule 12(b)(6) motion to dismiss is neither an answer nor a motion for summary judgment and generally does not terminate a plaintiff's right to voluntarily dismiss an action by notice under Rule 41(a)(1).
2. The court declined to construe or convert Envases's motion to dismiss as a motion for summary judgment.

KEY QUOTATIONS

“Because a motion to dismiss under Fed.R.Civ.P. 12(b)(6) is neither an answer nor a motion for summary judgment, its filing generally does not cut off a plaintiff's right to dismiss by notice.” (2026 DNH 063)

“the conversion of a Rule 12(b)(6) motion into a Rule 56 motion is a matter quintessentially within the purview of the district court’s sound discretion.” (2026 DNH 063)

“The court declines to construe the motion to dismiss as a motion for summary judgment, and DENIES the defendant’s motion to reopen.” (2026 DNH 063)

FACTUAL BACKGROUND

Marrero brought a Fair Labor Standards Act case against Envases USA, Inc. Envases filed a motion to dismiss, and Marrero thereafter voluntarily dismissed all claims without prejudice. Envases argued that its motion to dismiss should be treated as a motion for summary judgment because documents referenced in the complaint were attached as exhibits.

PROCEDURAL HISTORY

Marrero filed a Fair Labor Standards Act case. After Envases filed a motion to dismiss, Marrero voluntarily dismissed all claims without prejudice by notice. Envases then moved to reopen the case. The district court denied the motion to reopen, declining to construe the pending motion to dismiss as a motion for summary judgment.

DISPOSITION

other

CASES CITED

- Hughes v. Standard Hardware Distributors, Inc., No. 10-CV-207-SM, 2010 WL 3895910, at *1 (D.N.H. Oct. 4, 2010)
- Hughes v. Standard Hardware Distributors, Inc., No. 10-CV-207-SM, 2010 WL 3895910, at *2 (D.N.H. Oct. 4, 2010)
- Beddall v. State St. Bank & Trust Co., 137 F.3d 12, 17 (1st Cir. 1998)
- Universidad Cent. Del Caribe, Inc. v. Liaison Comm. on Med. Educ., 760 F.2d 14, 19 (1st Cir. 1985)

OPINION

Marrero

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Joshua Marrero, v. Civil No. 25-cv-513-JL Opinion No. 2026 DNH 063 Envases USA, Inc.

SUMMARY ORDER

Defendant Envases USA, Inc. moves to reopen this Fair Labor Standard Act case after the plaintiff, Joshua Marrero, voluntarily dismissed all claims without prejudice. Marrero's voluntary dismissal came after Envases filed a motion to dismiss. Envases argues that the dismissal was improper under Fed. R. Civ. P. 41(a)(1) because its pending motion to dismiss should be construed as a motion for summary judgment. The court disagrees. Fed. R. Civ. P. 41(a)(1) allows a plaintiff to dismiss a court action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. "Because a motion to dismiss under Fed.R.Civ.P. 12(b)(6) is neither an answer nor a motion for summary judgment, its filing generally does not cut off a plaintiff's right to dismiss by notice." Hughes v. Standard Hardware Distributors, Inc., No. 10-CV-207-SM, 2010 WL 3895910, at *1 (D.N.H. Oct. 4, 2010) (McAuliffe, C.J.). A court may, at its discretion, convert the motion to dismiss to a motion for summary judgment; doing so would bar the plaintiff from unilaterally withdrawing his complaint without prejudice. See Beddall v. State St. Bank & Trust Co., 137 F.3d 12, 17 (1st Cir. 1998) ("the conversion of a Rule 12(b)(6) motion into a Rule 56 motion is a matter quintessentially within the purview of the district court's sound discretion."); Universidad Cent. Del Caribe, Inc. v. Liaison Comm. on Med. Educ., 760 F.2d 14, 19 (1st Cir. 1985) ("Other than to determine, should the question arise, whether an answer or a motion for summary judgment has in fact been filed prior to the filing of a notice of dismissal, a court has no function under Rule 41(a)(1)(i)."). Here, the defendant's motion is one to dismiss, not for summary judgment. Beside the fact that the standard of review and arguments in the motion pertain to the plaintiff's alleged failure to state a claim or make plausible allegations, see Hughes, 2010 WL 3895910, at *2, the defendant specifically states in its motion that "[d]ocuments referred to by the Plaintiff in the Complaint are attached hereto as exhibits, and as such should not convert this motion to dismiss into a motion for summary

judgment.””! The court declines to construe the motion to dismiss as a motion for summary judgment, and DENIES the defendant’s motion to reopen.’ SO ORDERED. Joke United States District Judge Dated: May 29, 2026 ce: Counsel of record. ‘Mem. Law on Mot. Dismiss (doc. no. 21-1) at 1. Doc. no. 26.

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