

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Ara Acosta v. The New York Times Company d/b/a The New York
Times and Pamela Dryfoos, individually

25 Civ. 1119 (JPC) · No. 25 Civ. 1119 (JPC) · Decided December 3, 2025

SUMMARY

The United States District Court for the Southern District of New York considered Defendants’ motion to dismiss claims arising from Ara Acosta’s employment with The New York Times and The Athletic. The court dismissed Plaintiff’s NYCHRL disability-discrimination claim, holding that her five-day COVID-19 illness did not constitute a disability under the statute, and dismissed her FMLA interference claim because her requested leave was approved and she did not plausibly allege discouragement or prejudice. The opinion distinguishes the FMLA interference claim from Plaintiff’s separate FMLA retaliation claim, which was not challenged by Defendants’ motion.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	John P. Cronan
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	December 3, 2025
DOCKET	25 Civ. 1119 (JPC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's NYCHRL disability-discrimination claim and FMLA interference claim.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts factual allegations within the four corners of the complaint as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint states a claim for relief that is plausible on its face. Legal conclusions couched as factual allegations need not be accepted as true.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Ara Acosta v. The New York Times Company d/b/a The New York Times, Pamela Dryfoos, individually

TOPICS

disability discrimination

family and medical leave act

motions to dismiss

employment law

civil procedure

PRACTICE AREAS

employment law

civil rights

disability discrimination

family and medical leave act

civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff plausibly alleged that her five-day COVID-19 infection constituted a disability under the New York City Human Rights Law.
2. Whether Plaintiff plausibly alleged FMLA interference where her requested FMLA leave was approved, Defendants allegedly encouraged her to take leave, and she did not allege prejudice from any failure to designate the leave or provide required FMLA notices.

HOLDINGS

1. A mild, five-day COVID-19 infection consisting of a fever and sore throat, without allegations of serious or lasting impairment, does not satisfy the NYCHRL's disability threshold.
2. Plaintiff failed to state an FMLA interference claim because she received the leave she requested, was not discouraged from taking it, and did not allege prejudice from any failure to designate the leave as FMLA-protected or provide required notices.

KEY QUOTATIONS

“Ultimately, Plaintiff’s allegations of a five-day fever and sore throat—whether caused by COVID-19 or not—do not suffice to plead that she suffered a disability under the NYCHRL.” (10)

“Ultimately, “[s]ince plaintiff has not sufficiently alleged that she was formally denied FMLA benefits or was discouraged from exercising them, her FMLA interference claim is dismissed.”” (14)

FACTUAL BACKGROUND

Ara Acosta worked for The New York Times and The Athletic under an employment agreement extending through September 15, 2024. She contracted COVID-19 in February 2024 and alleged that she experienced a fever and sore throat for approximately five days. Later, after raising concerns about family leave, retaliation, and mental-health distress, she requested and received short-term disability and FMLA leave from August 26 through November 18, 2024, but was informed during that leave that her position had been eliminated. The court addressed only whether her mild COVID-19 infection supported an NYCHRL disability-discrimination claim and whether the pleaded facts supported FMLA interference.

PROCEDURAL HISTORY

Plaintiff filed suit on February 7, 2025, asserting claims under the NYSHRL, NYCHRL, FMLA, and New York Labor Law. After Defendants moved to dismiss, Plaintiff filed an Amended Complaint that dropped her

NYSHRL disability-discrimination and retaliation claims and added a New York Labor Law retaliation claim. Defendants then moved to dismiss the NYCHRL disability-discrimination and FMLA interference claims. The court granted the motion as to both claims; other claims, including NYCHRL retaliation and FMLA retaliation, were not dismissed by the motion addressed in this opinion.

DISPOSITION

dismissed

CASES CITED

- *Interpharm, Inc. v. Wells Fargo Bank, Nat'l Ass'n*, 655 F.3d 136, 141 (2d Cir. 2011)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Biro v. Condé Nast*, 807 F.3d 541, 544 (2d Cir. 2015)
- *LaFaro v. N.Y. Cardiothoracic Grp., PLLC*, 570 F.3d 471, 475-76 (2d Cir. 2009)
- *Fernandez v. Windmill Distrib. Co.*, 159 F. Supp. 3d 351, 366 (S.D.N.Y. 2016)
- *Shi v. Batgatelle Int'l, Inc.*, 2023 WL 4187557, at *7 (S.D.N.Y. June 26, 2023)
- *Makinen v. City of New York*, 86 N.E.3d 514, 519-20 (N.Y. 2017)
- *Local 3621, EMS Officers Union, DC-37, AFSCME, AFL-CIO v. City of New York*, 2025 WL 2781280, at *26 (S.D.N.Y. Sept. 30, 2025)
- *Arazi v. Cohen Bros. Realty Corp.*, 2022 WL 912940, at *9-10 (S.D.N.Y. Mar. 28, 2022)
- *Velez v. Giraphic LLC*, 2021 WL 1873233, at *5-6 (S.D.N.Y. May 10, 2021)
- *Jones-Cruz v. Rivera*, 2022 WL 20437017, at *14 (S.D.N.Y. Oct. 28, 2022)
- *Williams v. City of New York*, 2022 WL 976966, at *5 (S.D.N.Y. Mar. 31, 2022)
- *A. Anonymous v. Mount Sinai Hosp.*, 82 N.Y.S.3d 408, 409 (1st Dep't 2018)
- *Toth v. N.Y.C. Dep't of Citywide Admin. Servs.*, 988 N.Y.S.2d 488, 489 (1st Dep't 2014)
- *Dillon v. Silverman*, 2024 WL 1483666, at *5-6 (N.Y. Sup. Ct. N.Y. Cnty. Apr. 9, 2014)
- *Shankar v. Accenture LLP*, 2023 WL 2908660, at *4 (S.D.N.Y. Feb. 14, 2023), report and recommendation adopted, 2023 WL 2557315, at *1-2 (S.D.N.Y. Mar. 17, 2023)
- *Tatas v. Ali Baba's Terrace, Inc.*, 2022 WL 993566, at *11-12 (S.D.N.Y. Mar. 31, 2022)
- *Simmons v. Woodycrest Ctr. For Hum. Dev., Inc.*, 2011 WL 855942, at *4 (S.D.N.Y. Mar. 9, 2011)
- *Woods v. START Treatment & Recovery Ctrs., Inc.*, 864 F.3d 158, 166 (2d Cir. 2017)
- *Kemp v. Regeneron Pharms., Inc.*, 117 F.4th 63, 66, 68-69 (2d Cir. 2024)
- *Graziadio v. Culinary Inst. of Am.*, 817 F.3d 415, 424 (2d Cir. 2016)
- *Herron v. N.Y.C. Transit*, 2023 WL 4285816, at *2 (2d Cir. June 30, 2023)
- *McLoughlin v. Vill. of Southampton*, 2024 WL 4189224, at *5 (E.D.N.Y. Sept. 13, 2024)
- *Wasserman v. N.Y.C. Dep't of Educ.*, 2025 WL 1906978, at *4 (S.D.N.Y. July 10, 2025)
- *Lopera v. Compass Grp. USA, Inc.*, 578 F. Supp. 3d 130, 136 (D. Mass. 2021)

- *Nikolakopoulos v. Macy's Inc.*, 2022 WL 3903595, at *26 (S.D.N.Y. Aug. 30, 2022)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-southern-district-of-ne/2025/ara-acosta-v-the-new-york-times-company-d-b-a-the-new-york-o7e2dmr0>