

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE, NASHVILLE DIVISION

Vinicius Batista De Lucena v. Tootsies Entertainment, LLC, et al.

De Lucena v. Tootsies Entertainment · No. 3:25-cv-00661 · Decided February 3, 2026

SUMMARY

This Report and Recommendation addresses a removed employment discrimination action involving alleged discrimination, retaliation, wage issues, and labor trafficking. The magistrate judge recommends granting the plaintiff’s motion to remand to state court because the complaint is unclear and the plaintiff maintains that he asserts only state-law claims. Alternatively, the recommendation would grant defendants’ motions to dismiss the shotgun pleading under Rules 8 and 10, with leave to amend.

CASE DETAILS

COURT	United States District Court for the Middle District of Tennessee, Nashville Division
WRITING FOR THE COURT	Jeffery S. Frensley
JURISDICTION	United States District Court for the Middle District of Tennessee, Nashville Division
DECIDED	February 3, 2026
DOCKET	3:25-cv-00661
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation in a removed employment-discrimination action addressing the plaintiff's motion to remand and defendants' motions to dismiss for failure to state a claim.
STANDARD OF REVIEW	On removal, the removing defendant bears the burden of establishing federal-question jurisdiction, and removal statutes are strictly construed with doubts resolved in favor of remand. For the Rule 12(b) (6) analysis, the court applied the plausibility standard under Rules 8 and 10, accepting well-pleaded factual allegations as true and construing the complaint in the plaintiff's favor.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Vinicius Batista De Lucena v. Tootsies Entertainment, LLC, HTDG LLC d/b/a Honky Tonk Central, Harry O's Steakhouse LLC d/b/a Kid

TOPICS

subject matter jurisdiction motions to dismiss pleadings civil procedure employment discrimination

PRACTICE AREAS

civil procedure employment law civil rights immigration

QUESTIONS PRESENTED

1. Whether the action should be remanded because the complaint did not clearly assert a federal cause of action or a substantial federal question.
2. Whether the complaint failed to satisfy Federal Rules of Civil Procedure 8(a) and 10(b) because it was an unclear, conclusory, shotgun-style pleading that did not identify separate claims or connect factual allegations to specific defendants.
3. Whether plaintiff should be granted leave to amend if dismissal were adopted.

HOLDINGS

1. The action should be remanded to state court because, despite references to federal law, plaintiff maintained that he asserted only state-law claims, and the unclear complaint did not establish a sufficiently clear federal question for removal.
2. The complaint failed to comply with Rules 8(a) and 10(b) because it did not provide a short and plain statement of identifiable claims, separate causes of action into clear counts, or connect factual allegations to particular defendants.

KEY QUOTATIONS

“The “mere presence of a federal issue in a state cause of action does not automatically confer federal-question jurisdiction.”” (Discussion, Motion to remand)

“Plaintiff’s complaint bears no resemblance to the sample pleadings in the official Appendix of Forms to the Federal Rules of Civil Procedure.” (Discussion, Motion to Dismiss)

“Therefore, defendants cannot reasonably be expected to frame responsive pleadings.” (Discussion, Motion to Dismiss)

FACTUAL BACKGROUND

Plaintiff worked as a food runner at Harry O's in Nashville beginning in February 2023. He alleged discriminatory remarks and unequal treatment based on national origin and race, retaliation, reduced hours, workplace discipline, withheld tip-share wages, and a forced resignation. His 97-page complaint referred to numerous state and federal laws but did not clearly identify separate claims or connect particular allegations to particular defendants.

PROCEDURAL HISTORY

Plaintiff filed suit in the Circuit Court of Davidson County, Tennessee. Defendants removed the action to the Middle District of Tennessee under federal-question jurisdiction. Plaintiff moved to remand, and defendants moved to dismiss under Rules 8 and 10. The magistrate judge recommended remand; alternatively, the judge recommended dismissal with leave to amend and denial of plaintiff's miscellaneous motions.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the action be remanded to state court. Alternatively, if the district judge declined to remand and adopted the dismissal recommendation, plaintiff should be allowed fifteen days to file and serve an amended complaint stating the jurisdictional grounds, presenting short and plain claims, linking factual allegations to specific legal claims and defendants, and using separate counts for each legal theory where appropriate.

CASES CITED

- Eastman v. Marine Mech. Corp., 438 F.3d 544, 549 (6th Cir.)
- Thornton v. Sw. Detroit Hosp., 895 F.2d 1131, 1133 (6th Cir.)
- Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 13, 27-28 (1983)
- Hatridge v. Aetna Cas. & Sur. Co., 415 F.2d 809, 814 (8th Cir.)
- Transit Cas. Co. v. Certain Underwriters at Lloyd's of London, 119 F.3d 619, 625 (8th Cir.), cert. denied, 522 U.S. 1075 (1998)
- Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108-09 (1941)
- Merrell Dow Pharmaceuticals, Inc. v. Thompson, 478 U.S. 804, 813 (1986)
- Gully v. First Nat'l Bank, 299 U.S. 109 (1936)
- Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Rosecrans v. Lozier, 142 F.2d 118, 123 (8th Cir.)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 564 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-78 (2009)
- Bibbo v. Dean Witter Reynolds, Inc., 151 F.3d 559, 561 (6th Cir.)
- Bank of St. Louis v. Morrissey, 597 F.2d 1131, 1134-35 (8th Cir.)
- Lee v. Ohio Educ. Ass'n, 951 F.3d 386, 392-93 (6th Cir.)
- Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986)