

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Mayra Cruz and Raul Herrera, individually and on behalf of all other similarly situated persons v. Ultimate Care, Inc.

Cruz v. Ultimate Care · No. 22-CV-7520 (AMD) (LKE) · Decided January 28, 2026

SUMMARY

The Eastern District of New York adopted a magistrate judge’s Report and Recommendation recommending denial of the plaintiffs’ motion for leave to file a third amended complaint in an FLSA and NYLL overtime action. Because no party objected, the court reviewed the recommendation for clear error and denied the motion.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Ann M. Donnelly
JURISDICTION	United States District Court, Eastern District of New York
DECIDED	January 28, 2026
DOCKET	22-CV-7520 (AMD) (LKE)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for leave to file a third amended complaint in an FLSA and NYLL wage-and-hour action. The motion was referred to a magistrate judge, who recommended denial; the district court adopted the recommendation after finding no clear error.
STANDARD OF REVIEW	Clear-error review of an unobjected-to report and recommendation under 28 U.S.C. § 636(b)(1)(C).
PRECEDENTIAL VALUE	unpublished
PARTIES	Mayra Cruz, Raul Herrera v. Ultimate Care, Inc.

TOPICS

- motion to amend
- wage and hour
- flsa
- civil procedure

PRACTICE AREAS

civil procedure

employment law

wage and hour

flsa

QUESTIONS PRESENTED

1. Whether the district court should adopt an unobjected-to magistrate judge's report and recommendation after reviewing the record for clear error.
2. Whether plaintiffs should be granted leave to file a third amended complaint after additional discovery.

HOLDINGS

1. When no timely objection is made to a magistrate judge's report and recommendation, the district court need only determine that there is no clear error on the face of the record before adopting it.
2. Plaintiffs' motion for leave to file a third amended complaint is denied.

KEY QUOTATIONS

"To accept a report and recommendation to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." "

FACTUAL BACKGROUND

Mayra Cruz and Raul Herrera brought a putative collective and class action alleging that Ultimate Care, Inc. failed to pay overtime wages required by the FLSA and NYLL. After the parties engaged in discovery and plaintiffs filed multiple amended complaints, plaintiffs sought leave to file a third amended complaint. The magistrate judge recommended denying that motion, and no party timely objected.

PROCEDURAL HISTORY

Plaintiffs filed the action on December 12, 2022, alleging failure to pay overtime wages under the FLSA, later adding NYLL claims. After multiple amended complaints and discovery, plaintiffs moved for leave to file a third amended complaint. Magistrate Judge Lara Eskenazi recommended denial on December 31, 2025. No party objected, and the district court adopted the recommendation and denied the motion.

DISPOSITION

other

CASES CITED

- VOX Amplification Ltd. v. Meusdorffer, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK -----
----- X MAYRA CRUZ and RAUL HERRERA, individually and on
behalf of all other similarly situated persons,; ORDER ADOPTING REPORT Plaintiffs,; A ND
RECOMMENDATION 22-CV-7520 (AMD) (LKE) – against – ULTIMATE CARE, INC.,;

Defendant.: ----- X A NN M. DONNELLY, United States District Judge: On December 12, 2022, the plaintiffs brought this action on behalf of themselves and others similarly situated for the defendant's failure to pay overtime wages in violation of the Fair Labor Standards Act ("FLSA").

(ECF No. 1.) Pursuant to a stipulation with the defendant, the plaintiffs filed a first amended complaint on August 22, 2023, adding claims under New York Labor Law ("NYLL"). (ECF No. 48.) The defendant moved to dismiss the first amended complaint, which the Court denied without prejudice to renew after completion of discovery. (ECF No. 66; ECF Minute Entry dated Mar.

20, 2024.) After some discovery, the parties stipulated to allow the plaintiffs to file a second amended complaint (ECF No. 126), which the plaintiffs filed on July 18, 2024 (ECF No. 130). After conducting additional discovery, on July 14, 2025, the plaintiffs filed a motion for leave to file a third amended complaint (ECF No. 160), which the defendants opposed on August 18, 2025 (ECF No. 162).

On December 31, 2025, Magistrate Judge Lara Eskenazi issued a Report and Recommendation recommending that the Court deny the motion. (ECF No. 178.) No party has filed an objection to the report and recommendation, and the time for doing so has passed.¹ A district court reviewing a report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C).

To accept a report and recommendation to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014) (citation omitted).

The Court has carefully reviewed Judge Eshkenazi's well-reasoned report and recommendation for clear error and finds none. Accordingly, the Court adopts the report and recommendation in its entirety. The plaintiffs' motion for leave to file a third amended complaint is denied. SO ORDERED. _ _ s/_A_n_n_ _M_ _D_o_n_n_e_lly_____ ANN M. DONNELLY United States District Judge Dated: Brooklyn, New York January 28, 2026 ¹ Instead, on January 9, 2026, the defendant notified the Court that the parties reached a settlement in principle.

(ECF No. 179.) On January 23, 2026, the plaintiffs filed a motion for settlement approval. (ECF No. 181.)