

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Julio Cesar Silvera-Fernandez v. Ivan Duque and La Aguacatala Lounge Inc. d/b/a El Abuelo Gozon

Silvera-Fernandez · No. 25-CV-486 (MKB) · Decided February 20, 2026

SUMMARY

The United States District Court for the Eastern District of New York considers Defendants’ Rule 12(b)(6) motion in an action alleging violations of the Fair Labor Standards Act and New York Labor Law. The Court concludes that the corporate defendant qualifies as an employer and that Plaintiff adequately pleaded minimum-wage and limited overtime claims, but Plaintiff failed to plead sufficient facts establishing individual employer liability against Ivan Duque. The Court grants in part and denies in part the motion and grants Plaintiff leave to amend.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Margo K. Brodie
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	February 20, 2026
DOCKET	25-CV-486 (MKB)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the complaint alleging violations of the Fair Labor Standards Act and New York Labor Law. The court granted the motion in part, denied it in part, and granted plaintiff leave to amend.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court construes the complaint liberally, accepts factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint pleads sufficient facts to state a facially plausible claim. Legal conclusions and conclusory recitations of the elements are not accepted as true. Article III standing is required for subject-matter jurisdiction.
PRECEDENTIAL VALUE	unpublished district court memorandum and order; nonprecedential

PARTIES

Julio Cesar Silvera-Fernandez v. Ivan Duque, La Aguacatala Lounge Inc. d/b/a El Abuelo Gozon

TOPICS

wage and hour

flsa

motions to dismiss

subject matter jurisdiction

civil procedure

PRACTICE AREAS

employment law

wage and hour

civil procedure

subject matter jurisdiction

QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged that the corporate defendant was an employer covered by the FLSA and NYLL.
2. Whether the complaint plausibly alleged that Ivan Duque was an employer individually liable under the FLSA and NYLL.
3. Whether the complaint plausibly stated NYLL minimum-wage and overtime claims against the corporate defendant.
4. Whether the FLSA permits an employee to bring a private claim for violations of the FLSA recordkeeping provisions.
5. Whether plaintiff could assert an NYLL wage-notice claim based on employment that began before the effective date of the Wage Theft Prevention Act.
6. Whether plaintiff alleged an injury sufficient to establish Article III standing for an NYLL wage-statement claim.
7. Whether plaintiff should receive leave to amend.

HOLDINGS

1. The complaint sufficiently alleged that La Aguacatala Lounge Inc. was an enterprise engaged in interstate commerce and therefore qualified as an employer under the FLSA; because the NYLL's employer definition is coextensive with the FLSA's definition for these purposes, the corporate defendant also qualified as plaintiff's employer under the NYLL.
2. The complaint did not plausibly allege that Ivan Duque was plaintiff's employer under the FLSA or NYLL.
3. Plaintiff sufficiently pleaded a NYLL minimum-wage claim against the corporate defendant for violations occurring on or after January 28, 2019.
4. Plaintiff sufficiently pleaded an overtime claim against the corporate defendant for the 2019-2020 period, but not for the 2020-2025 period because he alleged working only thirty hours per week during the latter period.
5. The FLSA does not authorize an employee to bring a private action to enforce the employer recordkeeping requirements in 29 U.S.C. § 211(c); enforcement authority is vested in the Secretary of

Labor.

6. Plaintiff could not recover under NYLL § 195(1)(a) for failure to provide a wage notice because his employment began before the Wage Theft Prevention Act's effective date.
7. Plaintiff lacked Article III standing to pursue the NYLL wage-statement claim because he alleged no concrete injury resulting from the failure to receive wage statements.
8. Plaintiff was granted thirty days to file an amended complaint addressing Duque's employer status, the NYLL wage-statement claim, and the exact months worked in each year.

KEY QUOTATIONS

“Because the “economic reality” of a relationship is the primary consideration of the employer-employee relationship analysis for the purposes of the FLSA, the determination must be made on a case-by-case basis in light of the totality of the circumstances and cannot rest on “technical concepts.”” (Section II.b.ii)

“courts have repeatedly found that the FLSA does not authorize employees to bring a private right of action against an employer for failure to abide by the record-keeping requirements of [FLSA] Section 211(c) . . . [r]ather, that authority is vested exclusively with the Secretary of Labor.” (Section II.e.i)

“A bare procedural violation, divorced from any concrete harm, does not satisfy the injury-in-fact requirement of Article III.” (Section II.e.ii.2)

FACTUAL BACKGROUND

Plaintiff alleged that he worked as a bathroom attendant for defendants for more than twenty-two years. He alleged that from 2018 through 2020 he worked seven days per week, approximately forty-two hours per week, and from 2020 through 2025 he worked five days per week, approximately thirty hours per week. He was allegedly paid \$125 per week in cash, required to sign payroll or timesheet documents reflecting \$125 in wages and \$75 in tips, and was not paid the applicable minimum wage or overtime for the period in which he worked more than forty hours per week. He left the job on January 12, 2025, after defendants refused to increase his wages.

PROCEDURAL HISTORY

Plaintiff commenced the action on January 28, 2025. Defendants moved to dismiss on July 14, 2025, and plaintiff opposed. The court dismissed the claims against Duque, the FLSA recordkeeping claim, and the NYLL wage-notice and wage-statement claims, while allowing the NYLL minimum-wage and overtime claims against the corporate defendant to proceed. Plaintiff was granted thirty days to amend the complaint.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. Plaintiff may file an amended complaint within thirty days of the filing of the Memorandum and Order to address Duque's employer status and the NYLL wage-statement claim, and must specify the exact months worked in each year.

CASES CITED

- *Sacerdote v. N.Y. Univ.*, 9 F.4th 95, 106-07 (2d Cir. 2021)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Mei Xing Yu v. Hasaki Rest., Inc.*, 944 F.3d 395, 402 (2d Cir. 2019)
- *Mendez v. MCSS Rest. Corp.*, 564 F. Supp. 3d 195, 205 (E.D.N.Y. 2021)
- *Irizarry v. Catsimatidis*, 722 F.3d 99, 104-05 (2d Cir. 2013)
- *Herman v. RSR Sec. Servs. Ltd.*, 172 F.3d 132, 139 (2d Cir. 1999)
- *Hernandez v. Lira of N.Y. Inc.*, 2023 WL 2647639, at *4 (S.D.N.Y. Mar. 27, 2023)
- *Nakahata v. N.Y.-Presbyterian Healthcare Sys., Inc.*, 723 F.3d 192, 200 (2d Cir. 2013)
- *Lundy v. Catholic Health Sys. of Long Island Inc.*, 711 F.3d 106 (2d Cir. 2013)
- *Ayala v. Looks Great Servs., Inc.*, 2015 WL 4509133, at *6 (E.D.N.Y. July 23, 2015)
- *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338, 340-41 (2016)
- *Maddox v. Bank of N.Y. Mellon Tr. Co., N.A.*, 19 F.4th 58, 64 (2d Cir. 2021)
- *Mahon v. Ticor Title Ins. Co.*, 683 F.3d 59, 62 (2d Cir. 2012)