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## BLOGS

Employment

# Court Dismisses FLSA Claims for Lack of Employer Relationship But Leaves Door Open For Joint-Employer Basis

A federal district court in Alabama has granted a franchisor's motion to dismiss for failure to state a claim, holding that the plaintiff failed to show that the franchisor was the plaintiff's employer under the Fair Labor Standards Act ("FLSA"). *Rodriguez v. America's Favorite Chicken Co.*, 2017 WL 1684543 (N.D. Ala. May 3, 2017). Rodriguez was employed as a counter customer service employee at a Church's Chicken franchise location in Alabama. She alleged three claims against the franchisor and the franchisee: (1) failure to pay overtime pay under the FLSA; (2) failure to pay minimum wage under the FLSA; and (3) negligent supervision under state law. The franchisor moved to dismiss the complaint in full, and the franchisee defendant moved to dismiss the negligent supervision claim.

The Alabama court held that a franchisor's "[m]anagement and oversight of a franchisee" does not necessarily mean that an employment relationship exists between the franchisor and a person who works at a franchise. The court did not find persuasive Rodriguez's general assertions that the franchisor held a management role in the franchisee's business, or that the franchisor had the ability to remove the franchisee's management-level employees from its training program. The court left the door open, however, for Rodriguez to amend her complaint, alluding to the test for jointemployment as a possible basis for her claims. In addition, the court dismissed the state law claim as it could find no common nucleus of operative fact between the FLSA and negligent supervision claims.

## Related People

### Maisa Frank

Partner

Washington, D.C.

202.295.2209

[maisa.frank@lathropgpm.com](mailto:maisa.frank@lathropgpm.com)