



## NJ Supreme Court Rules Undocumented Workers Protected by State Wage Laws

THE NJ SUPREME COURT HAS RULED that employers must pay undocumented workers in accordance with state wage-and-hour laws, even though they are prohibited by federal law to hire them in the first place. The decision overturned rulings from two lower courts and sends a clear message that immigration status cannot be used as a shield against wage obligations.

### *Case Details*

The dispute centered on Sergio Lopez, a building superintendent hired in 2015 to maintain rental properties for \$400 a month plus a free apartment. When his employer discovered Lopez had provided a false Social Security number during hiring, he stopped paying Lopez any wages, but allowed him to keep working in exchange for the apartment alone. Lopez continued performing superintendent duties for several years without receiving regular wages. After being terminated following a complaint to the state Department of Labor, he sued to recover his unpaid wages.

### *What the Lower Courts Found*

Two lower courts sided with the employer. First, a trial judge dismissed Lopez's case claiming his testimony was unreliable due to his use of a false Social Security number, and because he did not provide sufficient evidence of the hours worked. The Appellate Division upheld that decision and went even further, ruling that, as an undocumented worker, Lopez could not legally qualify as an employee under federal law and therefore could not seek relief. In addition, it held that the barter arrangement of free housing in exchange for labor, did not fall within the scope of New Jersey's wage and hour laws.

### *The Supreme Court's Ruling*

The New Jersey Supreme Court disagreed. Chief Justice Stuart Rabner found that federal and state law do not conflict on this point. If an employer hires an undocumented worker in violation of federal law, that employer is still required to compensate the worker under state law for work actually performed. To rule otherwise, the court noted, would create a perverse incentive that essentially rewards employers who knowingly hire undocumented workers by allowing them to pay below the legal minimum or nothing at all, the opposite of what federal law intends.

The court also noted concerns about how the trial judge handled the case, finding that the reliance on Lopez's false Social Security number to make credibility findings against him risked injecting undue prejudice. The court noted that such evidence can function as a proxy for immigration status, which is a hot-button issue capable of unfairly coloring a straightforward wage dispute. Ultimately, the case was remanded to a different trial court judge.

### *Why It Matters*

Lopez's attorney called the ruling an important clarification of principles not yet fully addressed in New Jersey, emphasizing that the state's wage and hour laws exist to protect all workers and cannot be selectively applied in ways that enable exploitation of vulnerable groups. Arriving at a time of heightened anti-immigrant sentiment and increased scrutiny of immigrant communities, the court's decision underscores that employers cannot weaponize immigration status to avoid paying workers what they are legally owed. ■

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*If you would like more information about undocumented worker labor laws, contact the NIEDWESKE LAW FIRM, LLC at 908-738-8500 and one of our highly skilled employment attorneys will assist you.*