

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL WILLIAMSON; et al.,

Plaintiffs - Appellants,

v.

ERICK GEISLER; et al.,

Defendants - Appellees.

No. 14-55843

D.C. No. 2:12-cv-08056-DSF-JC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Argued and Submitted March 8, 2016
Pasadena, California

Before: CLIFTON and IKUTA, Circuit Judges and BLOCK,** Senior District
Judge.

Michael Williamson and Dwight Lay appeal the district court's denial of
their motion for class certification pursuant to Federal Rule of Civil Procedure 23.

We have jurisdiction under 28 U.S.C. § 1291.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable Frederic Block, Senior District Judge for the U.S.
District Court for the Eastern District of New York, sitting by designation.

The district court did not abuse its discretion in holding that the appellants failed to meet their burden of demonstrating that their proposed class met the numerosity and superiority requirements of Rule 23 of the Federal Rules of Civil Procedure. *See Gen. Tel. Co. of the Nw., Inc. v. EEOC*, 446 U.S. 318, 330 & n.14 (1980); *Harik v. Cal. Teachers Ass'n*, 326 F.3d 1042, 1051–52 (9th Cir. 2003); *see also Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d 1168, 1175 (9th Cir. 2010). Although appellants argue on appeal that the proposed class contains in excess of 100 members, their argument to the district court indicated a class size in the neighborhood of 40 to 50 members. Numerosity is far from clear with numbers in that range. *Gen. Tel.*, 446 U.S. at 330 n.14. Moreover, nothing in the record contradicted the appellees' evidence that a majority of prospective class members had signed individual releases of their claims, *see Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011), and the appellants failed to provide any evidence supporting their argument that the individual releases were invalid under section 206.5(a) of the California Labor Code.

AFFIRMED.