

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-12129
Non-Argument Calendar

D.C. Docket No. 1:14-cv-24413-FAM

JORGE GUTIERREZ,
CYNTHIA RECONDO,
and other similarly situated individuals,
MANFRED ARAUJO,
RICARDO QUINONES,
YOANNY RODRIGUEZ,
JOHN C. AHEARN,
JIMMY VAZQUEZ,

Plaintiffs - Appellants,

ERNESTO NUEVO, et al.,

Plaintiffs,

versus

CABLE EQUIPMENT SERVICES, INC.,
CHARLES F. APPELDOORN, individually,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(October 15, 2015)

Before TJOFLAT, MARCUS and WILLIAM PRYOR, Circuit Judges.

PER CURIAM:

This appeal challenges the District Court's order of May 11, 2015, granting defendants summary judgment on plaintiffs' Fair Labor Standards Act, 29 U.S.C. §§ 201-219, claims on the ground that plaintiffs were not employees covered under the Act. Doc. 61. Plaintiffs admitted many of the material facts in the case when they failed to respond in any way to defendants' requests for admissions. In opposing defendants' motion for summary judgment, plaintiffs filed declarations containing assertions purportedly contrary to their earlier admissions, but they did not explain why the assertions were contrary to such admissions or seek any relief from their admissions.

Plaintiffs contend that they did seek relief from their admissions in their response to defendants' motion for summary judgment. Their response, they submit, "constituted a valid request to withdraw or amend any facts that had been automatically deemed admitted pursuant to Fed. R. Civ. P. 36," and the "District Court 'was required to analyze Plaintiffs' request as to whether withdrawal or

amendment [of the admitted facts] would have subserved the presentation of the case's merits, and whether it would have prejudiced Defendants." Appellants' Br. at 12. Plaintiffs seek the vacation of the summary judgment and a remand of the case so that the District Court can conduct such analysis. We are not persuaded.

We find no error in the District Court's consideration of the facts admitted via plaintiffs' failure to respond to the requests for admissions. There is no material issue of fact for submission to a jury in this case. Summary judgment was appropriate and was due to be granted.

AFFIRMED.