

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 15-13855
Non-Argument Calendar

D.C. Docket No. 0:15-cv-60480-JIC

HEATHER ANDREWS MCGEE,
LAKETHA D. WILSON,

Plaintiffs-Appellants,

versus

BANK OF AMERICA, N.A.,

Defendant-Appellee.

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

(January 18, 2017)

Before MARCUS and WILLIAM PRYOR, Circuit Judges, and DAVIS,* District
Judge.

PER CURIAM:

* Honorable Brian J. Davis, United States District Judge for the Middle District of Florida, sitting
by designation.

The issue in this appeal is whether the extended charge that Bank of America assesses on its deposit accounts constitutes “interest” for purposes of the National Bank Act, 12 U.S.C. §§ 85–86. The plaintiffs concede that, under our decision in *Video Trax, Inc. v. Nationsbank, N.A.*, 205 F.3d 1358 (11th Cir. 2000), the extended charge is not interest. The plaintiffs brought this appeal because they want to petition the en banc Court to overrule *Video Trax*, a petition they are free to file within 21 days of our opinion, *see* 11th Cir. R. 35-2. The plaintiffs also argue that the district court should have allowed them to proceed to discovery before dismissing their complaint, but that argument fails because their complaint fails to state a claim as a matter of law.

We **AFFIRM** the dismissal of the complaint. We **DENY AS MOOT** the appellants’ motion to dismiss the appeal.