

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

BONNIE BOSTON and SYLVIA WALLACE,)
on behalf of themselves and all others)
similarly situated,)
Plaintiffs,)
v.)
) Civil Action No. 2:14cv240-WHA
UNITED FLORALA, INC. d/b/a Florala)
Memorial Hospital;) (wo)
)
Defendants.)

ORDER

This cause is before the court on a Motion to Dismiss (Doc. #52) and a Motion for Leave to File Second Amended Complaint (Doc. #57).

Defendant United Florala, Inc. has moved to dismiss all claims against it. Defendant United Florala argues that the Plaintiffs cannot state a claim under the Fair Labor Standards Act (“FLSA”) because the Plaintiffs have failed to allege facts to demonstrate that United Florala was not entitled to pay overtime based on an eighty-hour pay period, rather than a forty-hour pay period. United Florala also requests that the court decline to exercise supplemental jurisdiction over the state law claim.

In response, the Plaintiffs have argued that they have not failed to state a claim under the FLSA, but also have sought to file a Second Amended Complaint which omits facts which were relevant only to previously-dismissed claims, and also adds facts relevant to the FLSA claim.

In reply, United Florala has conceded that if the court were to accept the Plaintiffs’ Second Amended Complaint, those allegations would correct the Plaintiffs’ pleading deficiencies under the FLSA. (Doc. #59 at p.3). United Florala does not oppose, and in fact requests as alternative

relief that the court permit, the Plaintiffs' filing of their Second Amended Complaint. (Doc. #59 at p.4). Accordingly, it is hereby ORDERED as follows:

1. The Motion for Leave to file Second Amended Complaint (Doc. #57) is GRANTED and the Plaintiffs are permitted to file the Second Amended Complaint attached to their Motion (Doc. #57-1).
2. The Motion to Dismiss (Doc. #52) is DENIED as moot.

Done this 1st day of December, 2014.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE