

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

TERRI WAITES and
PAULA MARKHAM

PLAINTIFFS

VS.

CASE NO. 15-CV-4026

HOUSING OPPORTUNITIES EXTENSION, INC.
and HOUSING OPPORTUNITIES, INC.

DEFENDANT

ORDER

Before the Court is Defendants' Motion for Summary Judgment. (ECF No. 16). Plaintiffs have filed a response (ECF No. 20), and Defendants have filed a reply. (ECF No. 22). The Court finds this matter ripe for consideration.

This suit involves allegations by Plaintiffs Terri Waites and Paula Markham that Defendants Housing Opportunities Extension, Inc. and Housing Opportunities, Inc. have failed to pay them proper overtime compensation and sleep time compensation in violation of the Fair Labor Standards Act, 29 U.S.C. §201 et seq. ("FLSA") and the Arkansas Minimum Wage Act, A.C.A. §11-4-201, et seq. ("AMWA"). Prior to any discovery being conducted, Defendants request that this Court enter summary judgment in their favor because Plaintiffs cannot establish that they were employed by the Defendants. Defendants claim that they are non-profit Arkansas corporations with no employees. Plaintiffs maintain that they worked at group homes that were operated by Defendants and that Defendants meet the broad definition of employer pursuant to the relevant statutes. In the alternative, Plaintiffs request that they be permitted to amend their Complaint to add Texarkana Special Education Center, Inc. ("TSEC") as a defendant. Plaintiffs state that they believe TSEC to

be Plaintiffs' "nominal employer."

Upon consideration, the Court finds that Defendants' Motion for Summary Judgment (ECF No. 16) should be and hereby is **DENIED WITHOUT PREJUDICE**. The Court believes that some limited discovery on the employment relationship between Plaintiffs and Defendants is warranted in this case. Discovery on this issue must be completed no later than **April 15, 2016**. If Plaintiffs wish to amend their complaint to add or substitute a defendant in light of this discovery, they must file their motion to amend on or before **April 29, 2016**. If Defendants wish to re-file a summary judgment motion as to this issue, they must do so on or before **May 13, 2016**.

IT IS SO ORDERED, this 1st day of March, 2016.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge