WORKERS AT CONDO COMPLEX ALLEGE VIOLATION OF LABOR LAWS

Two former employees of a condominium complex filed a suit against the company, claiming that it violated the Fair Labor Standards Act (FLSA) by not paying them minimum wage and overtime due. The plaintiffs recently appealed a district court's decision. The two men worked at Aragon Towers Condo in Florida for nearly three years, performing cleaning duties in common areas – areas such as land, hallways, etc. utilized by multiple condo owners. They also performed additional duties but did not clean individual residences. The employees lived in a one-bedroom condo in the building and paid neither rent nor mortgage. In July of 2010, the men filed a complaint, alleging an FSLA violation for not being reimbursed minimum and overtime wage for work exceeding 40 hours in a week. In the complaint, they alleged that the business affected interstate commerce and earned 500,000 dollars annually for at least the time period during which the men were employed. These issues were likely intended to address FLSA guidelines. Enterprises, for example, must have at least two employees and 500,000 annual dollars. Likewise, an employee may still be covered by the FSLA even if an enterprise is not, so long as the work involves the employee in commerce between states. A motion was filed by both parties for summary judgment. In their motion, however, the employees no longer claimed FLSA coverage via the business' earnings or interstate commerce. They instead claimed that they were covered by the FLSA because they handled domestic service work, an assertion that had not been made in the initial complaint. The district ruled in favor of the company, stating that the plaintiffs' time to amend the complaint had passed (the trial was only a week away) and that they did not qualify as domestic service employees.

On appeal, the men claimed that the district court abused its discretion to disallow an amendment to the complaint and erred in finding them unqualified for domestic service. The U.S. Court of Appeals, Eleventh Circuit, noted a previous case, including a rather blunt quote: "[A] plaintiff may not amend her complaint through argument in a brief opposing summary judgment." The complaint could have been amended, but the appeals court concurred with the prior ruling that the oral motion made by the plaintiffs would have been "futile" due to the trial's proximity. The "domestic service" to which the men referred is covered under the FLSA: "Any employee who in any workweek is employed in domestic service in a household" or "one or more households" for over eight hours is eligible for coverage. This type of service was intended for employees working in a "private home" belonging to the employer. In this case, the men were employed by the complex association to care for the common areas and were not employed by individual condo owners. The U.S. Court of Appeals agreed with the district court's decision on both counts and affirmed the grant of summary judgment to the company.