

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-50827

KURT CHADWELL,

Plaintiff-Appellant,

v.

VIRGIL YANTA; VIRGIL YANTA, PC,

Defendants-Appellees.

Appeal from the United States District Court for the
Western District of Texas, Waco
W-00-CV-321

October 4, 2002

Before SMITH and BENAVIDES, Circuit Judges, and ENGELHARDT*,
District Judge.

PER CURIAM:**

Plaintiff-Appellant Kurt Chadwell appeals from the dismissal of his Fair Labor Standards Act (FLSA) claim seeking overtime compensation from the appellees, his former employers. Specifically, Chadwell claims that although he was hired as an

*District Judge of the Eastern District of Louisiana, sitting by designation.

**Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

attorney he spent 20% of his time performing sub-professional tasks (e.g., answering his own telephone, interviewing witnesses), thus he is not an exempt professional under the FLSA and is entitled to overtime compensation, and he also claims that the district court erred in relying on the parties' affidavits converting the Rule 12b dismissal motion into a summary judgment proceeding without proper notice. We have reviewed the record and briefs and arguments advanced by the parties and, after conducting our own de novo review, conclude that the district court did not err in dismissing appellant's claim. Accordingly, the judgment of the district court is AFFIRMED.