IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 94-50191

Summary Calendar

YOLANDA BARRIENTOS and NORMA BUSTILLOS,

Plaintiffs-Appellants,

versus

EL PASO AUTO TRUCK STOP, INC., d/b/a UNOCAL 76 EL PASO AUTO TRUCK STOP,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(EP-93-CA-377-B)

(August 29, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:[*]

Plaintiffs were employees of Turnkey Services, Inc., which leased workers to defendant El Paso Auto Truck Stop, Inc. (EPATS). Their employment contracts contained arbitration clauses. Plaintiffs filed this sexual harassment suit on April 20, 1993, EPATS was served with process on August 16, and EPATS removed to federal court on September 15. On October 15, EPATS, in its motion

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[*]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

to Add Third-Party Defendant, notified the court and plaintiffs that it intended to move for arbitration. Neither party undertook discovery. Trial was scheduled for February 14, 1994. On February 9, EPATS filed a Motion to Compel Arbitration and Dismiss or Stay All Proceedings, which the court granted on February 25.

Plaintiffs contend that EPATS waived its right to seek arbitration by not making a timely request for arbitration. This argument is without merit. There is a strong federal policy in favor of arbitration, and courts will only find waiver "when the party seeking arbitration substantially invokes the judicial process to the detriment of the other party." Frye v. Paine, Webber, Jackson & Curtis, Inc., 877 F.2d 396, 398 (5th Cir. 1989) (internal quotation marks omitted), cert. denied, 494 U.S. 1016 (1990). The only prejudice alleged by plaintiffs is the expense of trial preparation and witness interviewing. They have expended no time or money on discovery. Furthermore, EPATS had notified them of its intent to move for arbitration as early as October 1993. They have adduced no affidavits or other evidence of prejudice. These skeletal allegations of expense, combined with a pretrial delay of six months after service of process, are insufficient to overcome the strong presumption in favor of arbitration and against waiver. See Tenneco Resins, Inc. v. Davy Int'l, AG, 770 F.2d 416, 420-21 (5th Cir. 1985) (collecting cases in which substantial discovery and longer delays were held not to amount to waiver). AFFIRMED.