

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 16, 2015

Lyle W. Cayce
Clerk

No. 14-51124
Summary Calendar

ANDREW TIMM; JET LOGIC CONSULTANTS, INCORPORATED,

Plaintiffs-Appellees

v.

ADVANCED ENGINEERING SOLUTION, INCORPORATED; AKHIL
SETH,

Defendants-Appellants

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:12-CV-227

Before SMITH, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Plaintiffs-Appellees, Andrew Timm (“Timm”) and Jet Logic Consultants, Inc. (“Jet Logic”) commenced this litigation by filing a complaint in a Texas state court against Defendants-Appellants, Advanced Engineering Solution, Inc. (“AES”) and Akhil Seth (“Seth”). Defendants-Appellants removed the case to federal court.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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After their original attorney withdrew from the case, Defendants-Appellants took virtually no action while Plaintiffs-Appellees advanced claims for an accounting, breach of an express agreement, fraud or misrepresentation, violations of the Fair Labor Standards Act (“FLSA”) and Texas compensation laws, quantum meruit, conversion, constructive trust and breach of fiduciary duty, and retaliation prohibited by the FLSA. Plaintiffs-Appellants filed motions for summary judgment against AES and Seth, and eventually filed a motion for default judgment against AES. As of March 2014, neither Seth nor Advanced Engineering had filed a response.

On March 18, 2014, the magistrate judge before whom this matter was tried by consent issued an Opinion and Order tracing the history of this matter and analyzing the law and facts applicable, then denied Plaintiffs-Appellees’ motion for judgment against AES, and granted in part and denied in part their motion for summary judgment against Seth and their joint motion for summary judgment against AES. Eventually, pursuant to his Order of June 2014, the magistrate judge issued an Amended Final Judgment of even date, awarding Jet Logic \$19,800 and Timm \$228,600, jointly and severally against AES and Seth, and awarded \$12,500 attorneys fees and costs of suit to Jet Logic against AES and Seth, plus interest of 0.08 percent per annum from the date of judgment until paid. The magistrate judge then ordered the case closed.

Defendants-Appellants sought reconsideration of the summary judgment in favor of Timm and Jet Logic, asking the court to reconsider its grant of joint summary judgment motions, and seeking permission to file an amended answer. The magistrate judge again explained in detail the facts, law, and reasoning for its rejection of Seth’s contentions regarding his alleged medical conditions, the objection to Plaintiffs-Appellees’ affidavit evidence, the

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grant of quantum meruit damages, the calculation of hours claimed to have been worked by Timm, and their claim for attorneys fees. The magistrate Judge concluded that there was no basis for reconsideration or for leave to file an amended answer, and he denied those motions. The Amended Final Judgment was then rendered accordingly.

On appeal, Defendants-Appellants renew arguments that they advanced before the magistrate judge regarding Timm's affidavit, challenging the hours he claims to have worked and seeking to distinguish calculations for the fraud claim from the quantum meruit claim. They also reiterate the issue advanced before the magistrate judge regarding Timm's summary judgment affidavit, insisting here as they had in the district court that Timm's "rampant narratives" contain hearsay, are not based on personal knowledge, and are conclusionary.

We have reviewed the briefs of the parties and the record on appeal, and we conclude that the orders and judgments appealed from are imminently correct for the reasons patiently explained by the magistrate judge in his several rulings. For essentially those same reasons, such orders and judgments are, in all respects,

AFFIRMED.