

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**GARY COVINGTON, on behalf of himself
and all others similarly situated**

PLAINTIFF

v.

No. 2:12-cv-123-DPM

**ULESS WALLACE, individually and in his
official capacity; NEAL BYRD, in his official
capacity; DALE ACOSTA, individually and
in his official capacity; and HERMAN HALL,
individually and in his official capacity**

DEFENDANTS

ORDER

The motion for class certification is premature; discovery does not close for another few weeks. And the Court set a post-discovery deadline for the motion. It, *Ne 64*, is therefore denied without prejudice. When Covington files a new motion to certify, the Court would appreciate Eighth Circuit authority, and analysis based on that authority, about a potential Rule 23(b)(3) class on the first-appearance issue. *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2557 (2011). If Covington intends to pursue a class on the jail-conditions issue as well, he should also cover that issue in the briefing.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

20 March 2014