

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

SHEILA HELMERT, WILMA BROWN,
and LORI WEST, on behalf of themselves
and others similarly situated

PLAINTIFFS

v. No. 4:08CV00342 JLH

BUTTERBALL, LLC

DEFENDANT

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ROXIE GARNER, ROY GARNER,
MIGUEL ANGUIANO ARAUJO,
CHRISTOPHER SMITH, JOHN SNARR,
and JASON FOSTER, on behalf of themselves
and others similarly situated

PLAINTIFFS

v. No. 4:10CV01025 JLH

BUTTERBALL, LLC; and
GARY R. LENAGHAN

DEFENDANTS

ORDER

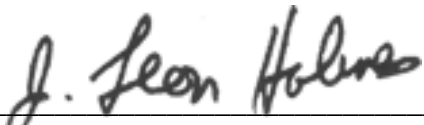
The defendants have filed a motion to stay the trial and expert deadlines pending a decision by the United States Court of Appeals for the Eighth Circuit in *Lopez v. Tyson Foods, Inc.*, No. 8:06-CV-459 (D. Neb.) on appeal, No. 11-2344 (8th Cir.). That appeal presents issues also presented in this action, so the defendants request the Court to stay the trial and the expert deadlines so that we can obtain the benefit of guidance from the Eighth Circuit. The plaintiffs oppose the request.

While this Court would be pleased to have a definitive ruling from the Eighth Circuit before these cases go to trial, the fact that one of these cases is already four years old and the other case is already two years old counsels against a stay, as does the fact that there is no certainty as to when a definitive ruling may be issued on appeal. There is no guarantee that the panel will rule on the merits inasmuch as the appellees in the *Lopez* appeal argue that at least some of the significant issues cannot be decided on the merits because the record was not preserved for appeal. Moreover, even

if the panel reaches the merits of all of the issues, and even if the panel does so in the next few months, the appellate process will not necessarily be concluded at that point. The appellate process could include a petition for rehearing before the panel, a petition for rehearing en banc, and a petition to the United States Supreme Court for writ of certiorari. It is possible that the final conclusion of the *Lopez* appeal could be years away. Fairness to the parties, as well as efficient administration of the court's docket, requires that this action proceed to trial.

The motion for stay is DENIED. Document #147.

IT IS SO ORDERED this 22nd day of May, 2012.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE