Cottrell v. Duke et al Doc. 118

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

IN RE WAL-MART STORES, INC. SHAREHOLDER DERIVATIVE LITIGATION	)	Master Docket No. 4:12-cv-4041
This Document Relates to: ALL ACTIONS	)	

ORDER

Before the Court is Plaintiffs' Motion for Entry of Initial Scheduling Order Under Local Rule 16.1. ECF No. 78. Defendants have responded to the motion. ECF No. 85. The Court finds that the motion is ripe for the Court's consideration.

Plaintiffs move the Court to enter an initial scheduling order in this action setting forth the dates when Defendants shall file their answer or motion to dismiss, the date by which the parties must hold their Fed. R. Civ. P. 26(f) conference, the date by which the parties must submit their Fed. R. Civ. P. 26(f) report, a tentative date for a Fed. R. Civ. P. 16(b) conference, and a proposed trial date. After Plaintiffs filed the present motion, Defendants filed a Motion to Dismiss for Failure to Establish Demand Futility. ECF No. 109.

Upon consideration, the Court finds that the entry of a scheduling order in this case would be premature, because the Court has not yet ruled on the critical threshold issue of demand futility.[1] Accordingly, Plaintiffs' Motion for Entry of a Scheduling Order (ECF No. 78) is **DENIED**.

IT IS SO ORDERED, this 26th day of September, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge

[1] If the Court does not excuse Plaintiffs' failure to make a pre-suit demand, Plaintiffs have no standing to sue.

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