

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION
CASE NO. 5:09CV-121-R**

TERRY POWELL, ET AL.

PLAINTIFFS

V.

JIMMY TOSH, ET AL.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Multiple motions are before this Court.

Two motions involve the class claims. After reviewing the controlling law, the Court will defer deciding whether the current case meets the requirements of a class action until the class certification motion is fully briefed. At that time, the Court will also determine whether a class certification hearing is needed. The class definition in Plaintiffs' motion for class certification seems to address the majority of the concerns in Defendants' motions. Defendants, however, take issue with the fact that Plaintiffs' have not included their proposed definition in any of their pleadings. If class certification is granted, this Court will allow Plaintiffs to file an amended complaint that states the class definition certified by this Court. Accordingly, the Motion to Dismiss Plaintiff's Class Allegations is DENIED (DN 138). Defendants also filed a Motion for a More Definite Statement in regards to the class action claim. As discussed above, the majority of those issues seem to have been addressed and are better resolved during the class certification phase of this action. Accordingly, the Motion for a More Definite Statement is DENIED (DN 151).

The parties also request a hearing (DN 152, 186). The Court has addressed all the issues by written opinion. Accordingly, the Motion for Hearing is DENIED.

A motion to hold expert disclosure in abeyance has also been filed (DN 162). This seems

to have been addressed by the agreed amended scheduling order. Accordingly, the motion is DENIED as MOOT (DN 162).

A motion for an extension of time to respond to the class certification is also before the Court (DN 179). This was also addressed by the agreed amended scheduling order. Accordingly, it is DENIED as MOOT (DN 179).

Finally, a motion for an extension of time to reply to the motion for class certification is before this Court (DN 193). In light of a more recent motion asking for the same, this motion is DENIED as MOOT.

The following motions are DENIED: Motion to Dismiss Plaintiffs' Class Allegations (DN 138); Motion for More Definite Statement (DN 151); Motion for Hearing (DN 152); Motion for Hearing/Status Conference (DN 186).

The following motions are DENIED as MOOT: Motion to Hold Expert Disclosure in Abeyance (DN 162); Motion for Extension of Time to File Response to Motion to Certify Class (DN 179); Motion for Extension of Time to File Response/Reply as to Motion for Class Certification (DN 193).

IT IS SO ORDERED.