

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

ALFREDIA BERRY

CIVIL ACTION

VERSUS

NUMBER: 10-743-RET-DLD

WAL-MART STORES, INC.

ORDER

The scheduling conference presently set for **February 3, 2011** is **CANCELLED**.

The parties have indicated in their status report filed on February 1, 2011, their agreement to have a Magistrate Judge handle all the remaining pretrial aspects of this case and preside over a trial, with appeal lying to the United States Court of Appeals for the Fifth Circuit. Within **45 days**, the parties shall sign and electronically file the attached consent form advising the Court that they agree to have a Magistrate Judge handle the remaining aspects of this case. The consent form shall be filed electronically **provided the consent of all parties has been obtained** and is so indicated by utilizing the procedures set forth in section F 3 of the Administrative Procedures for Filing Electronic Documents, relating to multiple signatures. Electronically filed partial consents will be stricken from the record and partial consents received conventionally will not be filed in the record. In the event the consent is approved by the presiding Judge, the court will contact the parties to set pretrial and trial dates.

The court notes that the record needs to be supplemented to address the citizenship of Wal-Mart Louisiana, LLC. The first amended and supplemental petition for damages filed by plaintiff does not provide the citizenship of defendant, Wal-Mart Louisiana, LLC for purposes of diversity jurisdiction. The citizenship of a limited liability company for diversity

purposes is determined by the citizenship of **its members**. The citizenship of **all of the members** of a limited liability company must be properly alleged. See *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5<sup>th</sup> Cir. 2008). The plaintiff shall file an amended complaint providing the citizenship of defendant, **Wal-Mart Louisiana, LLC**, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

**The deadlines established below are based on the parties' submissions and are final deadlines.** No extensions will be granted except under extreme circumstances. In accordance with Federal Rule of Civil Procedure 16(b), the following deadlines are established:

1. The deadline for amending the complaint or adding new parties, claims, counterclaims, or cross-claims is **March 1, 2011**.
2. Discovery must be completed as follows:
  - a. Exchanging initial disclosures required by F.R.C.P. 26(a)(1): **February 20, 2011**.
  - b. **Filing** all discovery motions and **completing** all discovery except experts: **October 31, 2011**.

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**NOTE:** Any motions filed regarding written discovery must be accompanied by a certificate of counsel for the moving party, stating that counsel have conferred in person or by telephone for purposes of amicably resolving the issues and stating why they are unable to agree or stating that opposing counsel has refused to so confer after reasonable notice.

- c. Disclosure of identities and resumés of experts:

**Plaintiff(s):            June 1, 2011.**

**Defendant(s):         July 1, 2011.**

- d. Expert reports must be submitted to opposing parties as follows:

**Plaintiff(s):            July 1, 2011.**

**Defendant(s): August 1, 2011.**

e. Discovery from experts must be completed by **November 30, 2011.**

3. All dispositive motions must be filed on or before **December 30, 2011.**

The time limits set forth in this order shall not be modified except by leave of court upon a showing of good cause.

The parties may contact the court at (225) 389-3602 after discovery has been completed should they wish to schedule a settlement conference.

Signed in Baton Rouge, Louisiana, on February 7, 2011.

  
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MAGISTRATE JUDGE DOCIA L. DALBY

**NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF  
CIVIL CASE BY A UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. 636(c), you are hereby notified that all of the parties in this civil case may consent to allow a United States Magistrate Judge of this district court to conduct any and all proceedings, including trial of the case and entry of a final judgment.

You may consent by signing the form contained within the status report, or you may use the attached form at any later stage of the proceedings should you decide at that time to proceed before the United States Magistrate Judge. A copy of a consent form is enclosed and is also available from the clerk of court.

You should be aware that your decision to consent, or not to consent, to the disposition of your case before a United States Magistrate Judge is entirely voluntary and should be communicated in writing to the clerk of the district court by signing the enclosed form. Either the district judge or the magistrate judge may again advise the parties of the availability of the magistrate judge, but in doing so, shall also advise the parties that they are free to withhold consent without adverse consequences.

Please note that the parties may appeal the magistrate judge's decision directly to the court of appeals in the same manner as an appeal from any other judgment of the district court.

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**ALFREDIA BERRY**

**CIVIL ACTION**

**VERSUS**

**WAL-MART STORES, INC.**

**NO. 10-743-RET-DLD**

**CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. 636(c), the parties to the above captioned civil proceeding hereby waive their right to proceed before a United States District Judge and consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including but not limited to the trial of the case, and order the entry of judgment in the case.

The parties are aware that in accordance with 28 U.S.C. 636(c)(3), any aggrieved party may appeal from the judgment directly to the United States Court of Appeals for the Fifth Circuit in the same manner as an appeal from any other judgment of the district court.

<b>Date</b>	<b>Party Represented</b>	<b>Pro Se or Atty. Name</b>	<b>Pro Se or Atty. Signature</b>