

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

JOSEPH LEWIS, JR., ET AL.

CIVIL DOCKET NO.: 3:15-CV-318

VERSUS

JUDGE: SHELLY DICK

BURL CAIN, ET AL.

MAGISTRATE: RICHARD BOURGEOIS

ORDER

This matter is before the Court on the pending *Motion to Certify Class*¹ and class certification hearing set for November 1, 2017. It is the general rule that the issue of class certification issues should be addressed before consideration of a dispositive motion.² Further, at the class certification stage, “the merits of Plaintiff’s claims are not an issue before the court, ‘evidence relevant to the commonality requirement is often intertwined with the merits.’³ Thus, it sometimes is necessary ‘to probe behind the pleadings before coming to rest on the certification question.’”⁴

Because the class certification issue must be decided before dispositive motions, and the Court believes that resolution of this issue may (or may not) alter the facts and/or analysis regarding the dispositive motions filed in this case, the Court will deny the *Motion for Partial Summary Judgment on Plaintiffs’ ADA Claims*,⁵ the *Motion for Partial Summary*

¹ Rec. Doc. No. 133.

² See *Bowling v. Pfizer, Inc.*, 142 F.R.D. 302 (S.D. Ohio).

³ *Briggs v. Countrywide Funding Corp.*, 188 F.R.D. 645, 647 (M.D. Alabama)(quoting *Nelson v. United States Steel Corp.*, 709 F.2d 675, 679 (11th Cir.1983)).

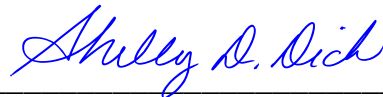
⁴ *Id.* (quoting *General Tel. Co. v. Falcon*, 457 U.S. 147, 160, 102 S.Ct. 2364, 72 L.Ed.2d 740 (1982)).

⁵ Rec. Doc. No. 193.

Judgment on Plaintiffs' Eighth Amendment Claims,⁶ and the Defendants' *Motion for Summary Judgment*⁷ without prejudice. Following the class certification hearing, the Parties are granted leave of Court to re-urge these motions by reference to record document numbers, without the necessity of re-filing same. Should supplemental briefing be required based on the class certification determination, such leave is granted to file supplemental briefs not to exceed 15 pages without leave of Court.

IT IS SO ORDERED.

Baton Rouge, Louisiana, this 21st day of September, 2017.



**SHELLY D. DICK, DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA**

⁶ Rec. Doc. No. 194.

⁷ Rec. Doc. No. 261.