

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re:

Activated Carbon-Based Hunting
Clothing Marketing and Sales Practices
Litigation

Multidistrict Litigation
No. 09-md-2059 (RHK/JJK)

ORDER

THIS DOCUMENT RELATES TO:

Buetow, *et al.* v. A.L.S. Enterprises, Inc., *et al.*, Civ. No. 07-3970 (RHK/JJK)

This matter is before the Court *sua sponte*. Following the Eighth Circuit’s remand, the parties were asked to submit status reports regarding this case. In their status report, Defendants A.L.S. Enterprises, Inc. (“ALS”) and Gander Mountain Company (“Gander Mountain”) indicated that they believe Plaintiffs’ remaining claims must be dismissed under Ly v. Nystrom, 615 N.W.2d 302 (Minn. 2000), as Plaintiffs “no longer satisfy the ‘public benefit’ requirement for maintaining suit,” and they requested the opportunity to brief that issue. (See Doc. No. 401 at 1-2.) The Court agrees that this issue should be resolved before this case proceeds further, as it potentially disposes of this action in its entirety.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED:**

1. Defendants shall serve and file their Motion to Dismiss, along with all supporting documents, on or before October 11, 2011. The Motion shall be limited to

addressing whether “Plaintiffs now fail to satisfy the ‘public benefit’ requirement under the Private AG statute, Minn. Stat. § 8.31, subd. 3a” (Doc. No. 401 at 1);

2. Plaintiffs shall serve and file their response to the Motion, along with all supporting documents, on or before October 25, 2011;

3. Defendants shall serve and file their Reply in support of their Motion, if any, along with all supporting documents, on or before November 4, 2011;

4. The Memoranda submitted in accordance with this Order shall conform to the word limitation in Local Rule 7.1(d);¹ and

5. If the Court desires a hearing on the Motion, the parties will be so notified.

Date: September 26, 2011

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge

¹ Although only ALS and Gander Mountain have indicated that they intend to raise the public-benefit issue, the remaining Defendants also may do so. In that case, however, *all* Defendants should jointly submit *one* opening brief and *one* reply brief, the combined total of which shall not exceed 12,000 words.