IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

RACHEL BROWN HEFFERNAN BRYANT, et al.,
on behalf of themselves and others similarly situated PLAINTIFFS

V. CAUSE NO.: 1:13-CV-00246-SA-DAS

UNITED FURNITURE INDUSTRIES, INC., et al. DEFENDANTS

ORDER

Pending before the Court is Defendants' Motion to Strike Plaintiffs' Reply or for Alternate Relief [74]. Plaintiffs initiated this action under the Fair Labor Standards Act ("FLSA") and subsequently filed a Motion to Certify Class [47]. In the certification motion and accompanying memorandum brief, Plaintiff argued that certification was appropriate pursuant to Rule 23 of the Federal Rules of Civil Procedure. Defendant argued in its response that Rule 23 is an inappropriate vehicle for certification of actions under the FLSA. See LaChapelle v. Owens-Illinois, Inc., 513 F.2d 286-88 (5th Cir. 1975). Plaintiffs, in reply, rephrased their initial request and emphasized that they seek preliminary certification under Section 16(b) of the FLSA. 29 U.S.C. § 216(b). The Defendants have therefore filed the pending motion, requesting the Court to either strike Plaintiffs' request for certification pursuant to Section 16(b) or allow Defendants to file a sur-rebuttal addressing the merits of the Section 16(b) analysis raised for the first time by Plaintiffs' reply.

In the interests of justice, the Court declines to strike Plaintiffs' arguments advanced pursuant to Section 16(b), but finds Defendants' request to submit a sur-rebuttal to be well taken. Defendants' Motion to Strike Plaintiffs' Reply or for Alternate Relief [74] is therefore GRANTED IN PART and DENIED IN PART. Defendants are permitted to address preliminary

certification under Section 16(b) in a memorandum brief, which is due March 11, 2015, and which is to comply with the limitations applicable to a respondent's memorandum brief, set forth in Uniform Local Civil Rule 7(b)(5).

SO ORDERED, this 4th day of March, 2015.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE