

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CT-3187-D

SANDRA ETTERS, et al.,

Plaintiffs,

v.

SECRETARY BOYD BENNETT, et al.,

Defendants.

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ORDER

On November 18, 2009, plaintiffs filed a complaint [D.E. 1] and also filed a motion for class certification [D.E. 2]. Since that date, defendants have filed various motions [D.E. 29, 30, 44] and responded in opposition to the motion for class certification [D.E. 33].

Because the court's rulings on the various defense motions (particularly the motion for judgment on the pleadings as to certain defendants) will impact the scope of the claims remaining in the complaint, the court denies without prejudice the motion for class certification [D.E. 2]. See, e.g., Lecs v. Martinsburg Police Dep't, 138 Fed. Appx. 562, 564 (4th Cir. 2005) (per curiam) (unpublished). Once the court rules on the various defense motions, plaintiffs may file a new motion for class certification. The court will rule on the pending motions in due course.

Finally, no attorney has filed a notice of appearance on behalf of defendant Simms or defendant Barbosa. Simms has filed a pro se motion for an extension of time to answer and to find counsel [D.E. 29]. Simms motion to extend time [D.E. 29] is granted.

Not later than September 27, 2010, the Office of the Attorney General shall notify the court whether it will represent Simms and Barbosa. If the Office of the Attorney General is going to represent Simms and Barbosa, the Office of the Attorney General shall file an answer or responsive

pleading not later than October 12, 2010. If the Office of the Attorney General is not going to represent Simms or Barbosa, then Simms or Barbosa shall file an answer or responsive pleading not later than October 12, 2010.

SO ORDERED. This 10 day of September 2010.


JAMES C. DEVER III
United States District Judge