

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

SPINNAKERS, INC., et. al.,)	
)	
Plaintiffs,)	
)	
VS.)	No. 01-1103
)	
THE CITY OF JACKSON, TENNESSEE,)	
et. al.,)	
)	
Defendants.)	

ORDER GRANTING SHERIFF WOOLFORK'S MOTION TO DISMISS
PLAINTIFF'S PETITION FOR CLASS ACTION CERTIFICATION

In Plaintiffs' complaint, Plaintiffs petition this court to certify this action as a class action pursuant to Federal Rule of Civil Procedure 23. On October 30, 2001, Defendant Sheriff Woolfork has filed a motion to dismiss Plaintiffs' petition for class action certification. Plaintiffs have failed to respond to this motion or the statement of undisputed facts contained therein. Accordingly, the court accepts Defendant Woolfork's statements of fact as undisputed.

On September 21, 2001, Defendant Woolfork submitted his request for admissions to Plaintiffs. By October 30, 2001, Plaintiffs had not responded to Defendant Woolfork's request for admissions. Federal Rule of Civil Procedure 36 provides that a request for admission is admitted if a party does not respond to the request within thirty days.

Accordingly, the court will regard Defendant Woolfork's request for admissions as admitted.

Plaintiffs allege that at or about midnight of September 1, 2000, Defendants staged a raid on Spinnaker's Inc., and that this raid infringed upon their constitutional rights. More specifically, Plaintiffs allege that Spinnaker's patrons were searched, detained, photographed, and placed in line-ups. See Complaint, ¶ 11. Plaintiffs Frankie Lax Jr., Phillip Jackson, and Bobby Morris are owners of Spinnaker's Inc., Frankie Lax Jr. and Phillip Jackson were not present at the time of the raid and were not searched, detained, photographed, or placed in a line-up. See Request for Admissions to Franklin Lax and Phillip Jackson, ¶¶ 1, 3. Plaintiff Bobby Morris was at Spinnaker's Inc. at the time of the raid. Bobby Morris, as well as many of the patrons of Spinnaker's Inc., was allowed to leave without being searched, detained, photographed, or placed in a line-up. See Request for Admissions to Franklin Lax and Phillip Jackson, ¶ 6. Plaintiff's Johnnie Bowie, Samantha Crocker, and James Davis were detained during the raid for a length of time which was different from the amount of time other patrons of Spinnaker's Inc. were detained. See Request for Admissions to Johnnie Bowie, Samantha Crocker, and James Davis, ¶ 9. Plaintiff's Johnnie Bowie, Samantha Crocker, and James Davis were not searched, photographed, or placed in a line-up. See id. ¶ 11.

In order for a plaintiff to maintain a class action lawsuit under Federal Rule of Civil Procedure 23, a plaintiff must establish all four elements of a class action suit contained in Rule 23 (a). In re American Medical Systems, Inc., 75 F.3d 1069, 1080 (6th Cir. 1996).

After establishing the four prerequisites contained in Rule 23 (a), a plaintiff must also demonstrate that the action falls within one of the three subcategories of Rule 23(b). See id. Of particular concern in this case is Rule 23 (a)(3) which requires Plaintiffs to establish that the “claims or defenses of the representative parties are typical of the claims or defenses of the class.”

It is clear from the pleadings and admissions that Plaintiff’s claims are significantly different from the claims which would be asserted by other patrons who were at Spinnaker’s Inc. None of the owners of Spinnaker’s Inc., were detained, searched, photographed, or placed in a line-up as they allege their patrons were. Further, Plaintiffs Bowie, Crocker, and Davis were patrons at Spinnaker’s Inc., at the time of the raid, but, unlike their fellow patrons, were not searched, photographed, or placed in a line-up. Thus, their claims are considerably different from the remainder of the potential plaintiffs. Since no Plaintiff’s claim is representative of the claims of the Spinnaker’s Inc. patrons, Defendant Woolfork’s motion to dismiss Plaintiff’s petition for class certification is GRANTED. Accordingly, this action will not be maintained as a class action.

IT IS SO ORDERED.

JAMES D. TODD
UNITED STATES DISTRICT JUDGE

DATE