

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SEBASTIAN RICHARDSON,	:	No. 3:11-CV-02266
	:	
Plaintiff,	:	(Judge Brann)
	:	
v.	:	
	:	
BRYAN A. BLEDSOE, THOMAS R.	:	
KANE, JOSEPH NORWOOD, DAVID	:	
YOUNG, DONALD HUDSON, JR.,	:	
CAPTAIN BRADLEY TRATE, SEAN	:	
SNIDER, LT. CHRIS MATTINGLY,	:	
LT. JAMES FLEMING, LT. PEDRO	:	
CARRASQUILLO, LT. MATTHEW	:	
SAYLOR, LT. JASON SEEBA,	:	
LT. ROGER MILLER, LT. THOMAS	:	
JOHNSON, LT. CAMDEN	:	
SCAMPONE, LT. KYLE	:	
WHITTAKER, LT. AARON	:	
SASSAMAN, LT. THOMAS	:	
JOHNSON,	:	
	:	
Defendants.	:	

ORDER

1. On January 27, 2017, Plaintiff filed a Motion for Class Certification pursuant to Federal Rule of Civil Procedure 23.
2. Plaintiff did not introduce any evidence into the record to support this motion.
3. Discovery is currently ongoing.

4. Under Rule 23(a), “[o]ne or more members of a class may sue or be sued as representative parties on behalf of all members only if: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

5. The United States Court of Appeals for the Third Circuit has stated that “[f]actual determinations necessary to make Rule 23 findings must be made by a preponderance of the evidence. In other words, to certify a class the district court must find that the evidence more likely than not establishes each fact necessary to meet the requirements of Rule 23.” *In re Hydrogen Peroxide Antitrust Litigation*, 552 F.3d 305, 320 (3rd Cir. 2008); *see also Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (“Rule 23 does not set forth a mere pleading standard. A party seeking class certification must affirmatively demonstrate his compliance with the Rule – that is, he must be prepared to prove that there are *in fact* sufficiently numerous parties, common questions of law or fact, etc.”).

6. Because Plaintiff has not introduced any evidence into the record to support his Motion for Class Certification, this Court is unable to make the factual findings necessary to grant it.

THEREFORE, this 17th day of October 2017, **IT IS HEREBY**

ORDERED that:

7. Plaintiff's Motion for Class Certification, ECF No. 68, is **DENIED WITHOUT PREJUDICE**.
8. Plaintiff is **GRANTED** leave to re-file his Motion for Class Certification within a reasonable time after discovery is complete.
9. The deadline to complete discovery is extended to March 16, 2018.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
United States District Judge