

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CARLOS DOE, LUIS DOE, ERNESTO
DOE, and GABRIEL DOE,

Plaintiffs,

v.

Case No. 1:23-cv-00971-MLG-JMR

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.,

Defendants.


ORDER DENYING PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Plaintiffs filed their Motion for Class Certification, Doc. 8, on November 3, 2023, the same day they filed their Class Action Complaint. Doc. 1. Federal Rule of Civil Procedure 23(c)(1)(A) requires the Court to determine whether to certify a class action “[a]t an early practicable time after a person sues . . . as a class representative.” However, Rule 23 does not establish a mere pleading standard, and parties seeking class certification must make an affirmative showing that they can in fact comply with the requirements of the Rule. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). To that end, at least some discovery is necessary to conduct the certification analysis. *See Holmes v. Crown Asset Mgmt., LLC*, No. 2:19-cv-00758-HCN-DAO, 2020 WL 4904166, at *3 (D. Utah Aug. 20, 2020).

As this case stands, there is essentially no evidence before the Court. Plaintiffs attached no evidentiary material to their class certification motion. *See* Doc. 8. Deadlines for discovery have not passed, *see* Doc. 69, and the parties are actively litigating the status of the administrative record. *See* Doc. 73. Consequently, the Court does not have information sufficient to conduct a class certification analysis and will not for some time. *See Dukes*, 564 U.S. at 350-51; *see also*

Fed. R. Civ. P. 23(c)(1) advisory committee's note to 2003 amendment ("Time may be needed to gather information necessary to make the certification decision."). The Court therefore denies Plaintiffs' Motion for Class Certification as premature. Plaintiffs may refile their motion once they have developed evidence sufficient to fully brief the matter.

It is so ordered.



UNITED STATES DISTRICT JUDGE
MATTHEW L. GARCIA