

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF ALABAMA
 NORTHEASTERN DIVISION**

**HISPANIC INTEREST COALITION OF)
 ALABAMA; *et al.*,)**

Plaintiffs,)

vs.)

Case Number: 5:11-CV-2484-SLB

**ROBERT BENTLEY, in his official)
 capacity as Governor of the State of)
 Alabama; *et al.*,)**

Defendants.)

ORDER

This case is presently pending before the court on defendants’ Motion for More Definite Statement and Motion to Strike. (Doc. 36.) Defendants contend plaintiffs’ Complaint is a shotgun pleading and that it contains “redundant, immaterial, impertinent, [and] scandalous” material that should be stricken. (*Id.* at 1.)

The court notes that plaintiffs’ Complaint, brought by 36 plaintiffs against 11 defendants, contains 380 paragraphs, including 144 paragraphs of facts and history, and 9 counts. Each count incorporates all “the foregoing allegations;” the Complaint does not specify which plaintiffs are bringing which counts against which defendants. Therefore, the court finds the Complaint is a shotgun complaint, repeatedly criticized by the Eleventh Circuit. *See Thompson v. RelationServe Media, Inc.*, 610 F.3d 628, 650 n.22 (11th Cir. 2010)(citing *Davis v. Coca-Cola Bottling Co.*, 516 F.3d 955, 984 (11th Cir. 2008); *M.T.V. v. DeKalb County Sch. Dist.*, 446 F.3d 1153, 1156 n.1 (11th Cir. 2006); *Byrne v. Nezhat*,

261 F.3d 1075, 1131 (11th Cir. 2001); *Beckwith v. City of Daytona Beach Shores*, 58 F.3d 1554, 1567 (11th Cir. 1995); *Pelletier v. Zweifel*, 921 F.2d 1465, 1518 (11th Cir. 1991)).¹

Plaintiffs oppose defendants Motion for More Definite Statement and contend that their Complaint contains all the information defendants need to discern their claims.

(Doc. 104 at 7.)² However, the Federal Rules of Civil Procedure do not impose upon defendants and the court the task of “sift[ing] through the facts presented and decid[ing] . . . which [facts are] material to the particular cause of action asserted,” *Pelletier*, 921 F.2d at 1518; such task belongs to plaintiffs.

Therefore, defendants’ Motion for More Definite Statement, (doc. 36), is **GRANTED**. On or before **SEPTEMBER 16, 2011**, plaintiffs shall file an Amended

¹The Eleventh Circuit noted:

The complaint was a typical “shotgun” pleading, in that each count incorporated by reference all preceding paragraphs and counts of the complaint notwithstanding that many of the facts alleged were not material to the claim, or cause of action, appearing in a count's heading. . . . The first 50 paragraphs of the complaint contained allegations of fact that appeared to relate to a particular count of the complaint but not to other counts. Utilizing this method of pleading, Count I incorporated the first 50 paragraphs of the complaint, many of which had nothing to do with the Count I claim(s). Counts II through IX successively incorporated the allegations of all preceding paragraphs and counts, such that each succeeding count was loaded down with allegations having no bearing on the claim(s) the count purported to assert.

Thompson, 610 F.3d at 650 n. 22.

²Reference to page numbers for document 104 refer to the page numbers assigned by the court’s electronic filing system.

Complaint. In compliance with Rules 8(a),³ 8(e)(1),⁴ 10(b),⁵ and 11(b)⁶ of the Federal Rules of Civil Procedure, each count in the Amended Complaint shall contain only one discrete claim for relief and shall specify the plaintiff or plaintiffs on whose behalf the claim is asserted, the defendant or defendants against whom relief is sought, and all allegations of fact that support that discrete claim. *See Davis*, 516 F.3d at 980 and n.57.

The court notes that many of the grounds asserted in the Motion to Strike have merit. Nevertheless, defendants' Motion to Strike, (doc. 36), is **DENIED** without

³Rule 8(a) **Claims for Relief**. A pleading which sets forth a claim for relief . . . shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks.

⁴Rule 8(e)(1) **Pleading to be Concise and Direct**. Each averment of a pleading shall be simple, concise, and direct.

⁵Rule 10(b) **Paragraphs; Separate Statements**. All averments of claim . . . shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances Each claim founded upon a separate transaction or occurrence . . . shall be stated in a separate count . . . whenever a separation facilitates the clear presentation of the matters set forth.

⁶Rule 11(b) **Representations to Court**. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims . . . and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery

prejudice to defendants' right to refile a motion to strike with regard to the Amended Complaint. The Amended Complaint should not include any "redundant, **immaterial**, impertinent, or scandalous matter[s]." Fed. R. Civ. P. 12(f). (emphasis added.)

DONE, this 6th day of September, 2011.



SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE