



Eleventh Circuit Disarms Plaintiffs' "Shotgun Complaint"

A recent ruling by the Eleventh Circuit Court of Appeals held a district court may dismiss a case with prejudice when a plaintiff improperly uses "shotgun pleadings."

In *Jackson v. Bank of America, N.A.*, 898 F.3d 1348 (11th Cir. 2018), the plaintiffs filed suit against their mortgage lender and loan servicer after the foreclosure of their home. The complaint included 14 causes of action, which were vague and not defendant-specific.

The defendants moved for a more definite statement. The plaintiffs did not oppose that motion and filed an amended complaint, which did little to correct the pleading deficiencies. The defendants moved to dismiss the amended complaint for failure to state a claim; the motion was granted.

Despite the dismissal order, the plaintiffs moved for leave to further amend the amended complaint. The district court denied the request and entered a final judgment against the plaintiffs. They appealed.

The Eleventh Circuit affirmed the district court's judgment on the alternative ground of plaintiffs' obstruction of the due administration of justice.

The Eleventh Circuit held the district court should have dismissed the already-amended complaint with prejudice without addressing the merits because "the amended complaint was incomprehensible." It further held that although, normally, the district court should point out the defects of a pleading to afford the party an opportunity to correct them, it was unnecessary to do so a second time because the plaintiffs' counsel agreed to file an amended complaint to cure the defects.

The Eleventh Circuit also admonished the plaintiffs' counsel for filing a frivolous appeal and for the delay tactics employed at the trial and appellate levels. In its scathing opinion, the Eleventh Circuit concluded by ordering the plaintiffs' counsel to show cause why he should not be sanctioned.

Defendants and defense lawyers should take note of the Eleventh Circuit's disdain for shotgun pleadings illustrated in *Jackson*. When faced with a shotgun complaint, district courts are instructed to either dismiss the complaint without prejudice or allow one opportunity to cure the deficiencies by way of filing an amended complaint.

If you wish to further discuss this case or have any questions, please contact a Swift, Currie, McGhee & Hiers attorney at 205.314.2406 or via our website, swiftcurrie.com.

The foregoing is not intended to be a comprehensive analysis of the full effect of these changes. Nothing in this notice should be construed as legal advice. This document is intended only to notify our clients and other interested parties about important recent developments. Every effort has been made to ascertain the accuracy of the information contained within this notice.

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