

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

Marcosquared, LLC v. Wilkes

Marcosquared · No. 8:25-cv-3146-CEH-LSG · Decided November 28, 2025

SUMMARY

The United States District Court for the Middle District of Florida sua sponte addressed deficiencies in a complaint asserting abuse of process and conspiracy to commit abuse of process. The court found that the complaint inadequately alleged the citizenship of the members of the plaintiff limited liability company and constituted a shotgun pleading under Federal Rule of Civil Procedure 8(a). The complaint was dismissed without prejudice, with deadlines for filing Rule 7.1 disclosure statements and a jurisdictionally sufficient amended complaint.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Charlene Edwards Honeywell
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	November 28, 2025
DOCKET	8:25-cv-3146-CEH-LSG
DISPOSITION	dismissed
PROCEDURAL POSTURE	On the court's sua sponte review of an initial complaint invoking diversity jurisdiction and asserting abuse of process and conspiracy to commit abuse of process, the district court dismissed the complaint without prejudice, required Rule 7.1 disclosure statements, and granted leave to amend.
STANDARD OF REVIEW	The court sua sponte reviewed whether subject matter jurisdiction was adequately established and whether the complaint complied with Federal Rule of Civil Procedure 8(a).
PRECEDENTIAL VALUE	Unknown

TOPICS

- subject matter jurisdiction
- pleadings
- civil procedure

PRACTICE AREAS

civil procedure

federal jurisdiction

pleading

QUESTIONS PRESENTED

1. Whether the complaint adequately alleged the citizenship of Marcosquared, LLC and therefore established diversity jurisdiction under 28 U.S.C. § 1332(a).
2. Whether the complaint violated Federal Rule of Civil Procedure 8(a) by constituting a shotgun pleading.
3. Whether the complaint should be dismissed without prejudice with an opportunity to amend.

HOLDINGS

1. A complaint invoking diversity jurisdiction must identify all members of a limited liability company and each member's citizenship; alleging only that the LLC is a California LLC and identifying individual plaintiffs as founding partners and majority owners is insufficient.
2. A complaint that is lengthy, contains conclusory, vague, and immaterial allegations not clearly connected to a particular claim, and fails to give adequate notice of the claims and grounds for relief is an impermissible shotgun pleading and violates Rule 8(a).
3. The deficient complaint should be dismissed without prejudice, with leave to file an amended complaint curing the jurisdictional and pleading defects.

KEY QUOTATIONS

“The jurisdiction of a court over the subject matter of a claim involves the court’s competency to consider a given type of case, and cannot be waived or otherwise conferred upon the court by the parties.” (Discussion § A)

“The unifying characteristic of all types of shotgun pleadings is that they fail to one degree or another, and in one way or another, to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” (Discussion § B)

FACTUAL BACKGROUND

Plaintiffs Marcosquared, LLC, Marco Morante, and Christopher Psaila sued attorney James L. Wilkes, II, for abuse of process and conspiracy to commit abuse of process. The complaint relied on diversity jurisdiction but did not identify Marcosquared, LLC's members or their citizenships. The complaint devoted most of its thirty-two pages to allegations concerning nonparties and unrelated events, while providing few specific facts connecting Wilkes to the alleged claims or identifying the predicate proceedings for the abuse-of-process theories.

PROCEDURAL HISTORY

Plaintiffs filed a complaint against James L. Wilkes, II, alleging abuse of process and conspiracy to commit abuse of process and invoking diversity jurisdiction under 28 U.S.C. § 1332(a). The court determined that the complaint did not adequately allege the citizenship of Marcosquared, LLC's members and therefore did not

establish diversity jurisdiction. The court also found that the thirty-two-page complaint was an impermissible shotgun pleading under Federal Rule of Civil Procedure 8(a), dismissed it without prejudice, and allowed plaintiffs 21 days to amend.

DISPOSITION

dismissed

CASES CITED

- Cadet v. Bulger, 377 F.3d 1173, 1179 (11th Cir. 2004)
- Univ. of S. Ala. v. Am. Tobacco Co., 168 F.3d 405, 410 (11th Cir. 1999)
- Jackson v. Seaboard Coast Line R.R. Co., 678 F.2d 992, 1000 (11th Cir. 1982)
- Taylor v. Appleton, 30 F.3d 1365, 1367 (11th Cir. 1994)
- Riley v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 292 F.3d 1334, 1337 (11th Cir. 2002)
- Triggs v. John Crump Toyota, Inc., 154 F.3d 1284, 1287 (11th Cir. 1998)
- McCormick v. Aderholt, 293 F.3d 1254, 1257 (11th Cir. 2002)
- Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C., 374 F.3d 1020, 1022 (11th Cir. 2004) (per curiam)
- Plevin v. U.S. Bank Nat'l Ass'n for Fla. Mortg. Resolution Trust, Series 2014-4, No. 6:15-cv-412-CEM-KRS, 2015 WL 12859413, at *1 (M.D. Fla. May 13, 2015)
- Molinos Valle Del Cibao, C. por A. v. Lama, 633 F.3d 1330, 1341-42 (11th Cir. 2011)
- Moss & Assocs., LLC v. E Light Elec. Servs., Inc., No. 1:16-cv-702-WSD, 2016 WL 3355892, at *2 (N.D. Ga. June 16, 2016)
- Weiland v. Palm Beach Cnty. Sheriff's Off., 792 F.3d 1313, 1320-23 (11th Cir. 2015)
- Trump v. New York Times Co., No. 8:25-CV-2487-SDM-NHA, 2025 WL 2680597, at *2 (M.D. Fla. Sept. 19, 2025)
- Johnson Enters. of Jacksonville, Inc. v. FPL Grp., Inc., 162 F.3d 1290, 1333 (11th Cir. 1998)
- Ebrahimi v. City of Huntsville Bd. of Educ., 114 F.3d 162, 165 (11th Cir. 1997)
- Davis v. Coca-Cola Bottling Co. Consol., 516 F.3d 955, 984 (11th Cir. 2008)