

**In The
Supreme Court of the United States**

Christine CLIFFORD (as Administrator of
the Estate of John Clifford), et al.,

Petitioners,

v.

Richard FEDERMAN, et al.,

Respondents.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit**

**BRIEF FOR RESPONDENT ROBERT HALF
INTERNATIONAL INC. IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI**

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QUESTIONS PRESENTED

1. Whether this case presents a “compelling reason” for this Court’s review when the Eleventh Circuit’s application of the “shotgun pleadings” rule to determine whether pleadings comply with Federal Rules of Civil Procedure 8(a)(2) and/or 9(b) is neither inconsistent with Rule 8 and 9’s pleading requirements, nor this Court’s decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), particularly when many of Petitioners’ claims, which are based on allegations of fraud, are subject to the heightened pleading requirements of Federal Rules of Civil Procedure 9(b).

2. Whether the dismissal of Petitioners’ Original Complaint and First Amended Complaint on “shotgun pleading” grounds was in contravention of Rule 8 and Rule 9’s pleading requirements, and this Court’s decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) when (1) Petitioners’ Original Complaint incorporated by reference 312 paragraphs of factual allegations into each of their 50 enumerated causes of action, with each cause of action incorporating by reference each and every prior cause of action, essentially accusing all 42 defendants of the same misconduct, such that no individual defendant could identify exactly what he or she did wrong, and (2) after being given specific instructions for refiling following the shotgun nature of the Original Complaint, Petitioners filed their First Amended Complaint which failed to comply with the

QUESTIONS PRESENTED—Continued

directives of the District Judge, and failed to meet the heightened pleading standards required for fraud cases contained in Rules 8 and 9 of the Federal Rules of Civil Procedure.

PARTIES TO THE PROCEEDING

1. Clifford, Christine C., as administrator of the estate of John Clifford, Plaintiff-Appellant;
2. Clifford, Craig, Plaintiff-Appellant;
3. Clifford, John, Plaintiff;
4. Clifford, Paul, Plaintiff-Appellant;
5. Clifford, Scott, Plaintiff-Appellant;
6. Dazzo, Stephen, Plaintiff-Appellant;
7. Jersey Cord Cutters, LLC, Plaintiff-Appellant;
8. Kasolas Family & Friends VG Investment, LLC, Plaintiff-Appellant;
9. 1094 Digital Distribution LLC, Defendant-Appellee;
10. 2251 Lake Park Investment Group, LLC, Defendant-Appellee;
11. 2496 Digital Distribution LLC, Defendant-Appellee;
12. Arnold, Mark, Defendant;
13. Arthur, Daryl, Defendant-Appellee;
14. Ashcraft, Katie, Defendant-Appellee;
15. Ashcraft Opperman & Associates, LLC, Defendant-Appellee;
16. Business Consulting LLC, Defendant-Appellee;
17. Cascade Northwest, Inc., Defendant-Appellee;
18. Clippard, Heather, Defendant-Appellee;
19. DMM-Expendables 3 LLC, Defendant-Appellee;

PARTIES TO THE PROCEEDING—Continued

20. Doc Maandi Movies LLC, Defendant-Appellee;
21. Emmenegger, Jan, Defendant;
22. Federman, Richard, Defendant-Appellee;
23. Gotham Media Corporation, Defendant-Appellee;
24. Gotham Media Services, Inc., Defendant-Appellee;
25. Guthrie, Todd, Defendant-Appellee;
26. Hairston, George, Defendant;
27. Johnson, Winston, Defendant-Appellee;
28. Kimberlyte Production Services, Inc., Defendant-Appellee;
29. Kostensky, Robert, Defendant-Appellee;
30. KT Communications Consulting, Inc., Defendant-Appellee;
31. Maandi Entertainment LLC, Defendant-Appellee;
32. Maandi Media Holdings International LLC, Defendant-Appellee;
33. Maandi Media Productions LLC, Defendant-Appellee;
34. Maandi Media Productions Digital LLC, Defendant-Appellee;
35. Maandi Park MS LLC, Defendant-Appellee;
36. Megatone Music, LLC, Defendant-Appellee;
37. Poole, Lori, Defendant-Appellee;

PARTIES TO THE PROCEEDING—Continued

38. Rickshaw Productions, LLC, Defendant-Appellee;
39. Robert Half International Inc. d/b/a The Creative Group and d/b/a Robert Half Technology, Defendant-Appellee;
40. Shaw, Patrick, Defendant-Appellee;
41. Snipes, Wesley, Defendant;
42. Spellman, Dr. Eric, Defendant;
43. SST Swiss Sterling, Inc., Defendant-Appellee;
44. Su, Justin, Defendant-Appellee;
45. Tech CXO, LLC, Defendant-Appellee;
46. Thurman, Kristy, Defendant-Appellee;
47. Walker, Tamela, Defendant;
48. Winsonic Digital Cable Network Holdings, Ltd., Defendant-Appellee;
49. Winsonic Digital Cable Systems Network, Ltd, Defendant-Appellee;
50. Winsonic Digital Media Cable Systems Holdings, Inc., Defendant; and
51. Winsonic Digital Media Group, Ltd, Defendant-Appellee.

CORPORATE DISCLOSURE STATEMENT

Respondent Robert Half International Inc.'s Corporate Disclosure Statement

1. Robert Half International Inc. is a publicly traded company (NYSE: RHI) and relying upon the public record of Schedule 13G filings made to the Securities and Exchange Commission, states that as of December 31, 2020 Vanguard Group, Inc., an investment company, owns 10% or more of Robert Half International Inc.'s stock; and
2. Relying upon the public record of Schedule 13G filings made to the Securities and Exchange Commission, as of December 31, 2020, Blackrock, Inc. (NYSE: BLK), an investment management company, also owned 10% or more of Robert Half International Inc.'s stock.

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OPINIONS BELOW

The Eleventh Circuit Court of Appeals’ unpublished Opinion affirming the district court’s dismissal of Petitioners’ First Amended Complaint can be found at *Clifford v. Federman*, No. 20-12294, 2021 U.S. App. LEXIS 13356, 2021 WL 1788472 (11th Cir. May 5, 2021) and Petitioners’ Appendix (“Pet. App.”) 1a-10a.

The United States District Court, Northern District of Georgia, Atlanta Division’s unpublished order dismissing the Petitioners’ First Amended Complaint with prejudice can be found at *Clifford v. Federman*, No. 1:18-cv-01953-JPB, 2020 U.S. Dist. LEXIS 13977, 2020 WL 377026 (N.D. Ga. Jan. 7, 2020) and Petitioners’ Appendix 95a-104a.

The United States District Court, Northern District of Georgia, Atlanta Division’s unpublished order denying Petitioners’ Motion for Reconsideration can be found at Petitioners’ Appendix 105a-112a.

The United States District Court, Northern District of Georgia, Atlanta Division’s unpublished order striking Petitioners’ Original Complaint can be found at Petitioners’ Appendix 47a-62a.



BASIS FOR JURISDICTION

Petitioners invoked the subject matter jurisdiction of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1332.

The District Court denied Petitioners' Motion for Reconsideration on June 15, 2020, and Petitioners filed their appeal to the Eleventh Circuit on June 18, 2020. The Eleventh Circuit Court of Appeals had jurisdiction over this matter pursuant to 28 U.S.C. § 1291.

The opinion of the Eleventh Circuit Court of Appeals was issued on May 5, 2021. The Petition for Writ of *Certiorari* was served on July 30, 2021 and docketed on August 3, 2021.

The United States Supreme Court's jurisdiction has been invoked pursuant to 28 U.S.C. § 1254(1).



STATUTES INVOLVED IN THE CASE

1. *Federal Rule of Civil Procedure 8(a):*

(a) Claim for Relief. A pleading that states a claim for relief must contain:

- (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;
- (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and
- (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

2. *Federal Rule of Civil Procedure 9(b):*

(b) Fraud or Mistake; Conditions of Mind. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

3. *Federal Rule of Civil Procedure 12(b)(6):*

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

...

(6) failure to state a claim upon which relief can be granted; and

...

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

4. *Federal Rule of Civil Procedure 12(c):*

Motion for Judgment on the Pleadings. After the pleadings are closed—but early enough

not to delay trial—a party may move for judgment on the pleadings.



STATEMENT OF THE CASE

This matter originates from allegations of fraud. Petitioners’ entire complaint, which consists of a myriad of tangled accusations and conclusions regarding fraud, lacks in specificity as to the “when, how and where” each of the Defendants committed such fraud, and fails to identify which factual allegations are attributable to which defendant. On May 3, 2018, Petitioners filed their 195-page, 50 count Original Complaint against 42 defendants. Many of the defendants filed either a motion to strike or a motion for judgment on the pleadings raising the heightened pleading requirements of Federal Rules of Civil Procedure 8 and 9, and the shotgun pleading mechanism used by the Eleventh Circuit to effectuate the requirements of Rules 8 and 9. The district judge reviewed Petitioners’ Original Complaint for compliance with Rules 8 and 9, and this Court’s decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). After determining that the Original Complaint was a shotgun pleading and failed to satisfy the federal pleading requirements, District Judge Totenberg granted the Motion to Strike and provided Petitioners with specific instructions on how to cure their deficient complaint. These instructions were as follows:

(1) [Plaintiffs] may not incorporate all 312 factual paragraphs into each count. [Plaintiffs] instead must indicate which of the factual paragraphs are alleged to support each individual count alleged.

(2) Each individual count may only be based on a single legal claim or legal basis for recovery (i.e. [Plaintiffs] may not assert “Legal Fraud, Fraud in the Inducement, and Alter-Ego Liability” together in the same count).

(3) [Plaintiffs] are permitted to assert a single count against multiple defendants; however, [Plaintiffs] must identify what precise conduct is attributable to each individual defendant separately in each count.

(4) As to Count 24 (Securities Fraud): [Plaintiffs] must satisfy the heightened pleading requirements of Federal Rule of Civil Procedure 9(b) and the Private Securities Litigation Reform Act of 1995 (PSLRA).

(5) As to Counts 28 through 46 (Fraud) and Count 51 (Intentional Misrepresentation): [Plaintiffs] must satisfy the heightened pleading requirements of Federal Rule of Civil Procedure 9(b).

(See Pet. App. 4a-5a, 58a.)

On April 23, 2019, Petitioners filed their First Amended Complaint. As the Eleventh Circuit noted:

The First Amended Complaint contained 258 pages and 52 counts against 36 defendants. As with the Original Complaint, many Appellees

[Respondents herein] moved to dismiss the First Amended Complaint on shotgun pleading grounds. The case was reassigned to Judge J.P. Boulee in June of 2019. On January 7, 2020, Judge Boulee found that the First Amended Complaint was a “quintessential shotgun pleading of the kind the Eleventh Circuit has condemned repeatedly.” Judge Boulee stated it was “virtually impossible to know which allegations of fact are intended to support which claims of relief since each cause of action incorporates more than 200 paragraphs.” He found that Appellants failed to correct the pleading deficiencies identified by Judge Totenberg—specifically identifying which facts support each individual count alleged and adequately identifying the precise conduct attributable to each defendant. He concluded that Appellants’ method of pleading was no clearer than it was in the Original Complaint and remained an impermissible shotgun pleading.

Judge Boulee also stated that Judge Totenberg had “thoroughly explained to [Appellants] why the Original Complaint violated the shotgun pleading rule,” and provided notice of the defects. However, because the Appellants “did not meaningfully amend their Original Complaint,” Judge Boulee determined they should not be afforded another opportunity to amend. Thus, the court granted the motions to dismiss based on shotgun pleading grounds and dismissed the case with prejudice.

(Pet. App. 4a-5a.) The District Court properly dismissed the First Amended Complaint and all original jurisdiction claims. Petitioners then filed a Motion for Reconsideration on January 31, 2020, which Judge Boulee denied on June 15, 2020. (Pet. App. 105a-112a.)

Petitioners then appealed these rulings to the Eleventh Circuit, which rendered its opinion on May 5, 2021. (Pet. App. 1a-10a.) The Eleventh Circuit, per curiam, affirmed the District Court's rulings after assessing the Original Complaint, the directives provided to Petitioners for refileing, the First Amended Complaint, and the Motion for Reconsideration.

In reaching the affirmance of the lower courts' orders, the Eleventh Circuit noted:

In dismissing a shotgun complaint, a district court must give the plaintiffs one chance to remedy its deficiencies. *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1358 (11th Cir. 2018). 'What matters is function, not form: the key is whether the plaintiff had fair notice of the defects and a meaningful chance to fix them. If that chance is afforded and the plaintiff fails to remedy the defects, the district court does not abuse its discretion in dismissing the case with prejudice on shotgun pleading grounds.' [Citing to *Weiland v. Palm Beach Cty. Sheriff's Ofc.*, 792 F.3d 1313, 1321-1323 (11th Cir. 2015).]

(Pet. App. 6a.) The Eleventh Circuit also considered the issue of dismissal of the state law claims. The First Amended Complaint asserted both federal question

jurisdiction and diversity jurisdiction, both original jurisdiction claims.

This case is in federal court both on the basis of original federal question jurisdiction and diversity jurisdiction. Thus, any state law claims would be in federal court on the basis of diversity jurisdiction with or without federal questions. The reasoning for remanding in *Vibe Micro* was because the state law claims there were in federal court on the basis of supplemental jurisdiction, rather than diversity jurisdiction. *Id.* Thus, the district court did not abuse its discretion in denying reconsideration on this basis.

(Pet. App. 8a.) Petitioners also appealed on the grounds that the district court abused its discretion in applying Rule 8 to the portion of the Amended Complaint asserting fraud-based claims. The Eleventh Circuit stated:

Appellants also contend the district court abused its discretion by applying Rule 8 to the portion of the Amended Complaint asserting fraud-based claims, since Rule 9(b) governs fraud-based claims. While Rule 8 requires a “short and plain statement of the claim,” Rule 9(b) requires “the circumstances constituting fraud or mistake shall be stated with particularity.” *Am. United Life Ins. Co. v. Martinez*, 480 F.3d 1043, 1066-1067 (11th Cir. 2007) (citing Fed. R. Civ P. 8 and 9(b)).

Although Appellants assert the district court should have evaluated their fraud claims

solely under Rule 9(b), the requirement to plead with particularity does not allow them to evade Rule 8's requirements. *See Ashcroft v. Iqbal*, 556 U.S. 662, 686-687, 129 S. Ct. 1937, 173 L.Ed.2d 868 (2009). The district court did not abuse its discretion in denying reconsideration on this basis.

(Pet. App. 9a.) Regardless of the nomenclature used to describe Petitioners' Original Complaint and First Amended Complaint, Petitioners' complaints were properly dismissed because they failed to satisfy Rule 8, Rule 9 and/or *Twombly/Iqbal*.



SUMMARY OF THE ARGUMENT

The Eleventh Circuit refers to certain types of pleadings that fail to comply with Federal Rules of Civil Procedure 8(a)(2), 9(b) and 10(b) as “shotgun pleadings.” “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.” *Weiland v. Palm Beach County Sheriff's Office*, 792 F.3d 1313, 1323 (2015). In *Bell Atlantic Corp. v. Twombly*, this Court articulated the governing pleading standard for evaluating whether a complaint is sufficiently plead to survive a motion to dismiss. 550 U.S. at 555. The Court held that Rule 8(a)(2) requires only “a short and plain statement of the claim showing that the pleader is entitled to relief in order to give the defendant fair notice

of what the claim is and the grounds upon which it rests.” *Id.* at 555 (internal quotations and alterations omitted). The Eleventh Circuit’s application of the shotgun pleading rule is simply a mechanism to assist courts in analyzing pleadings for compliance with applicable pleading standards; it is not a separate or competing standard in conflict with federal pleading standards.

The heightened pleading standard for fraud claims in Federal Rule of Civil Procedure 9(b) also applies to many of Petitioners’ claims in this case. However, because Plaintiffs’ First Amended Complaint fails to comply with the pleading requirements of Federal Rule of Civil Procedure 8, the district court found no need to assess whether the pleading also complied with the more stringent standard of Federal Rule of Civil Procedure 9(b). (Pet. App. 110a; *see id.* 9a.) The district court’s holding was consistent with *Ashcroft v. Iqbal*, which explained that even though Rule 9(b) excuses a party from pleading discriminatory intent under an elevated pleading standard, it does not give a party “license to evade Rule 8’s less rigid, though still operative, strictures.” 556 U.S. at 687. Therefore, Petitioners’ fraud claims were properly dismissed for failure to comply with Rule 8(a)(2).

Finally, the shotgun pleadings rule is not applied in a manner that results in the inappropriate dismissal of pleadings with prejudice. Shotgun pleadings fail to comply with Rule 8 because they are plead in a manner that fails to provide fair notice to other parties of the claims against them and the grounds upon which

the claims rest. Before a district court is to dismiss a shotgun pleading with prejudice, the Eleventh Circuit requires that a district court give the faulting party one chance to replead before dismissing the case with prejudice on non-merits shotgun pleading grounds. (Pet. App. 9a (citing *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1296 (11th Cir. 2018)).) The Eleventh Circuit has held that “the key is whether the plaintiff had fair notice of the defects and a meaningful chance to fix them. If that chance is afforded and the plaintiff fails to remedy the defects, [a court] does not abuse its discretion in dismissing the case with prejudice on shotgun pleading grounds.” *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1358 (11th Cir. 2018).

Here, Petitioners, represented by counsel, had the opportunity to cure their Original Complaint and even with specific instructions from the district on what they needed to do to cure their deficient complaint in order to comply with Rule 8(a)(2), Petitioners filed another shotgun pleading that failed to give defendants fair notice of the claims against them and the grounds upon which each claim rests. The dismissal of their First Amended Complaint with prejudice was the direct result of Petitioners’ and their counsel’s refusal to heed the court’s instructions; it was *not* a product of the courts’ improper application of the shotgun pleading rule.

The shotgun pleadings rule was appropriately applied in this case, and the dismissal of Petitioners’ First Amended Complaint was proper. The shotgun pleadings rule is not inconsistent or in conflict with

decisions of this Court, nor does this case raise any other compelling reason for this Court's review. The Petition should be denied.



REASONS FOR DENYING THE PETITION

- A. This case does not present a “compelling reason” for this Court’s review because the Eleventh Circuit’s application of the “shotgun pleadings” rule did not result in the improper dismissal of Petitioners’ First Amended Complaint, when the complaint failed to give defendants fair notice of the claims against them, and the grounds upon which each claim rests.**

Petitioners seek review of the Eleventh Circuit’s decision affirming the district court’s dismissal of their First Amended Complaint as a “shotgun pleading” under Supreme Court Rule 10(c). Petitioners argue that the application of the shotgun pleadings rule conflicts with pleading standards set forth in Federal Rule of Civil Procedure 8(a)(2) (hereinafter “Rule 8(a)(2)”) and this Court’s decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) (collectively referred to herein as “*Twombly/Iqbal*”). As demonstrated herein, the shotgun pleadings rule is consistent with federal pleading standards, and contrary to Petitioners’ assertion, it is not a separate or competing pleading standard warranting this Court’s review.

In *Twombly*, this Court articulated the governing pleading standard for evaluating whether a complaint is sufficiently plead to survive a motion to dismiss.¹ 550 U.S. at 555. The Court held that Rule 8(a)(2) requires only “a short and plain statement of the claim showing that the pleader is entitled to relief in order to give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Id.* at 555 (internal quotations and alterations omitted). In *Iqbal*, this Court addressed the pleading standard under Rule 9(b)—which requires particularity when pleading “fraud or mistake,” but allows “other conditions of a person’s mind [to] be alleged generally.” *Iqbal*, 556 U.S. at 686 (alteration in original). The Court held that “Rule 9(b) does not require courts to credit a complaint’s conclusory statements without reference to its factual context. Rule 9 merely excuses a party from pleading discriminatory intent under an elevated pleading standard. It does not give him license to evade Rule 8’s less rigid, though still operative, strictures.” *Iqbal*, 556 U.S. at 686-687.

The Eleventh Circuit’s “shotgun pleadings” rule is designed to assist courts in reviewing pleadings for compliance with Rule 8(a)(2), Rule 9 and *Twombly/Iqbal*. Here, Petitioners’ Original Complaint and First Amended Complaint are “quintessential ‘shotgun’

¹ The Rule 12(b)(6) standard for failure to state a claim upon which relief may be granted also applies to a Rule 12(c) motion for judgment on the pleadings. See *Strategic Income Fund, L.L.C. v. Spear, Leeds & Kellogg Corp.*, 305 F.3d 1293, 1295 n.8 (11th Cir. 2002).

pleading[s]” and are in obvious violation of the applicable federal pleading standards, including Rule 9 which applies to their numerous fraud claims.² As two District Judges and three Eleventh Circuit Judges correctly found, the complaints are a “tangled mess of allegations” that fail to give each of the defendants “adequate notice of the claims against them and the grounds upon which each claim rests.” (Pet. App. 5a-6a, citing *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1294-1295 (11th Cir. 2018).) Accordingly, the dismissal of Petitioners’ shotgun pleadings for failure to comply with Rule 8(a)(2) was not an abuse of discretion, nor was the application of the shotgun pleadings rule inconsistent with the pleadings standards under Rule 8(a)(2), Rule 9(b), and/or *Twombly/Iqbal*. As discussed in more detail below, this case does not present a compelling reason for this Court’s review under Supreme Court Rule 10, and the Petition should be denied.

1. The Eleventh Circuit’s “shotgun pleadings” rule is a mechanism to assist courts in analyzing pleadings for compliance with Rule 8(a)(2); it is not a separate or competing pleading standard.

The Eleventh Circuit refers to certain types of pleadings that violate Rule 8(a)(2) (or Federal Rule of

² Tellingly, Petitioners failed to submit their complaints to this Court for review as part of their appendix, despite repeated assertions in their Petition that the Eleventh Circuit erred by dismissing their complaints when they otherwise complied with Rule 8(a)(2) and *Twombly/Iqbal*.

Civil Procedure 10(b)) as “shotgun” pleadings. *See Weiland v. Palm Beach County Sheriff’s Office*, 792 F.3d 1313, 1320 (2015). Although the shotgun pleadings rule has been in play since 1985,³ the Eleventh Circuit recently acknowledged that the rule had, at times, been used “to mean little more than ‘poorly drafted complaint.’” *Id.* Therefore, the Eleventh Circuit set out to “impose some clarity on what [it] had said and done about unclear complaints.” *Id.* at 1321. As recently described, shotgun pleadings are characterized by:

- (1) multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint;
- (2) conclusory, vague, and immaterial facts not obviously connected to any particular cause of action;
- (3) failing to separate into a different count each cause of action or claim for relief; or
- (4) asserting multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts

³ In *Weiland*, the court noted that the “first published opinion to discuss shotgun pleadings in any meaningful way (albeit in a dissenting footnote)” was *T.D.S. Inc. v. Shelby Mut. Ins. Co.*, 760 F.2d 1520 (11th Cir. 1985). 792 F.3d at 1320.

or omissions, or which of the defendants the claim is brought against.⁴

Id. at 1321-1323. **“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.”** *Id.* at 1323. This is precisely the standard required by Rule 8(a)(2). *See Twombly*, 550 U.S. at 555 (“Federal Rule of Civil Procedure 8(a)(2) requires only a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the claim is and the grounds upon which it rests.”). Petitioners’ assertion that it is a separate or competing pleading standard is simply not accurate.

⁴ Petitioners’ assertion that in *Barmapov v. Amuial*, 986 F.3d 1321 (11th Cir. 2021), the Eleventh Circuit created another category of shotgun pleadings—which they refer to as the “too many facts” category—misstates the holding of the case, and their argument relies heavily on a concurring opinion. (Petition 18-24.) The Eleventh Circuit’s actual holding affirmed the district court’s dismissal of an amended complaint as a shotgun pleading because it failed to give fair notice of the claims to defendants. *Barmapov*, 986 F.3d at 1326. The Eleventh Circuit also pointed out that the district court had given notice to the plaintiff of the defects in the pleadings and an opportunity to cure the defects before dismissing the complaint, and the plaintiff failed to do so. *Id.* Contrary to Petitioners’ assertion, *Barmapov* did not create a new category of shotgun pleadings, and the district court’s application of the shotgun pleadings rule was consistent with, and in furtherance of, assuring the pleadings complied with Rule 8(a)(2).

The Eleventh Circuit has also explained the role of the shotgun pleadings rule in furthering the administration of justice.

Shotgun pleadings, whether filed by plaintiffs or defendants, exact an intolerable toll on the trial court's docket, lead to unnecessary and unchannelled discovery, and impose unwarranted expense on the litigants, the court and the court's parajudicial personnel and resources. Moreover, justice is delayed for the litigants who are 'standing in line,' waiting for their cases to be heard. The courts of appeals and the litigants appearing before them suffer as well.

(Pet. App. 98a (quoting *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1356-1357 (11th Cir. 2018).) The use of the shotgun pleadings rule to further this purpose is entirely consistent with *Twombly*, where this Court reiterated the power vested in district courts to "insist upon some specificity in pleading before allowing a potentially massive factual controversy to proceed." *Twombly*, 550 U.S. at 558. In this case, with 36 defendants and 52 claims asserted against various groupings of defendants, and many of the allegations referring only to "defendants" generally and collectively, the district court was well within its discretionary authority to require a more particularized pleading in order to avoid unchannelled discovery and a "massive factual controversy." When Petitioners "squandered that opportunity by filing another shotgun pleading," the district court did not abuse its discretion in dismissing their complaint. See *Barmapov*, 986 F.3d at 1326.

As set forth herein, the shotgun pleadings rule is not a separate or competing pleading standard. There being no conflict between the shotgun pleading rule and the pleading requirements set forth in Rule 8(a)(2), Rule 9(b), or *Twombly/Iqbal*, the Petition should be denied.

2. The Eleventh Circuit does not formulaically apply the shotgun pleadings rule to dismiss complaints that otherwise satisfy applicable pleading standards.

Petitioners’ assertion that they were “refused” “substantive merits-based review,” and their suggestion that the Eleventh Circuit dismisses complaints based on a formulaic application of the shotgun pleadings rule, even though the complaints otherwise satisfy Rule 8, Rule 12 and *Twombly/Iqbal*, is inaccurate in this case, and in cases relied upon by Petitioners. Here, even though Petitioners’ complaints are obvious shotgun pleadings and violate Rule 8(a)(2) and Rule 9(b), the district court nevertheless “engaged in the painstaking task of wading through and deciphering Plaintiffs’ tangled mass of allegations to determine the merits of Defendants’ pending [Rule 12] motions.”⁵

⁵ In the district court’s initial attempt to review Petitioners’ Original Complaint with respect to the Rule 12 motions, it reiterated the applicability of *Twombly/Iqbal*. (Pet. App. 72a.) But, the shotgun pleading nature of the complaint made it impossible for the court to conduct a meaningful review of the complaint to determine whether Petitioners had stated a claim for relief against any of the defendants under Rule 12. (Pet. App. 56a, 89a & n.20.) To the extent Petitioners suggest that courts within the Eleventh

(Pet. App. 56a.) The court described the difficulty of reviewing the motions as follows:

the difficulty of this Augean task is exponentially compounded because: (a) the Complaint incorporates by reference 312 paragraphs of factual allegations into each of its 50 enumerated causes of action; (b) each cause of action incorporates by reference each and every prior cause of action; (c) many of its enumerated causes of actions are actually comprised of multiple sub-causes of action; (d) each enumerated cause of action is asserted against multiple defendants; and (e) Plaintiffs essentially accuse all defendants of being responsible for the alleged acts and omissions, such that no one defendant can identify what exactly he or she did wrong. ***As a result, the Complaint as currently written makes it nearly impossible for the Court to determine with any certainty which factual allegations give rise to which claims for relief against which defendants.***

(Pet. App. 56a (emphasis added; internal quotations and alterations omitted).) Ultimately, the court was compelled to strike the original complaint because the shotgun nature of the complaint made it impossible for

Circuit ignore *Twombly/Iqbal*, this is not the case. Compliance with Rule 8(a)(2) and/or Rule 9, as applicable, is a necessary precursor to any meaningful Rule 12 analysis, and since Petitioners' pleadings fail to comply with both rules, the district court was unable to conduct any meaningful Rule 12 review.

the court to review the validity of the Rule 12 motions. (Pet. App. 56a.)

In the order striking Petitioners' Original Complaint, the district court gave Petitioners specific instructions as to what they needed to do to cure the deficient complaint. (Pet. App. 58a.) The instructions were an effort by the court to preserve the claims of Petitioners, give fair notice of their claims to all parties, including the defendants, and to reiterate the guidelines of *Twombly/Iqbal*. Petitioners failed to heed the court's instructions and instead, filed a First Amended Complaint that the court found "may be even more confusing and cumbersome than the Original Complaint." (Pet. App. 99a.) As the district court explained:

... the vast majority of the fifty-two counts contained within the First Amended Complaint incorporate the entirety of the section entitled "The Facts." which consists of almost 250 paragraphs and spans 104 pages. . . . requires the reader to identify and sift through hundreds of individual paragraphs that are incorporated into each count and then parse through numerous allegations to a particular defendant or cause of action.

...

Despite this Court's direction to identify the precise conduct attributable to each individual defendant, Plaintiffs changed the Original Complaint only in minor ways. For example, in Count 1, instead of realleging every

paragraph (the 312 previously explained), Plaintiffs simply identify the factual paragraphs that state the particular defendant's residence and then incorporate every single paragraph from the factual section, which spans more than 100 pages. Plaintiffs never attempt to segregate the alleged wrongdoing of the defendants, and many of the paragraphs refer to all defendants or a grouping of defendants.”⁶

(Pet. App. 100a-101a.) Again, Petitioners made it “virtually impossible” for the court to review the merits of the Rule 12 motions, and in no way did the First Amended Complaint even come close to satisfying Rule 8, Rule 9, Rule 12 or *Twombly/Iqbal*. (Pet. App. 99a.) Although the district court ultimately dismissed Petitioners’ First Amended Complaint on shotgun pleading grounds, it made every effort to review the merits of the Rule 12 motions to determine if Petitioners stated a claim against each of the defendants for which relief could be granted, but was prevented from doing so because of Petitioners’ failure to comply with Rule 8(a)(2)’s notice requirements.

The Eleventh Circuit *also* undertook “the painstaking task of wading through and deciphering [Petitioners’] tangled mess of allegations” before concluding that the district court did not abuse its discretion by striking the Original Complaint or dismissing the

⁶ All of Petitioners’ claims against RHI involve the common factual allegations of paragraphs 4-10, 42, 43, 57-225, 236, 249-250, 258-260 and 282-287, yet RHI is only referenced in 9 of those paragraphs.

First Amended Complaint as shotgun pleadings. (Pet. App. 6a.) Neither the district court nor the Eleventh Circuit formulaically applied the shotgun pleading rule to dismiss Petitioners' First Amended Complaint without first attempting to review the entire complaint for compliance with Rule 8.

The Eleventh Circuit's application of the shotgun pleading rule in *Weiland v. Palm Beach County Sheriff's Office*, also demonstrates that the court does not formulaically apply the shotgun pleading rule to dismiss complaints that otherwise satisfy Rule 8, and instead, corrects any misapplication of the rule. In *Weiland*, the district court dismissed plaintiff's complaint on shotgun pleading grounds because the complaint incorporated and re-alleged all the factual allegations in paragraphs 1-49 of the complaint, and failed to identify which allegations were relevant to the elements of which legal theories. 792 F.3d at 1324. After reviewing the complaint in its entirety, the Eleventh Circuit determined that the district court abused its discretion when it dismissed certain counts on shotgun pleading grounds because the counts were "informative enough to permit a court to readily determine if they state a claim upon which relief can be granted." *Id.* at 1326.⁷ *Weiland* is further evidence of

⁷ As discussed in Section A.1, *supra*, *Weiland* was the vehicle through which the Eleventh Circuit clarified the shotgun pleadings rule, recognizing that it has been misapplied. The court explained that the factors relied upon by the district court to deem the complaint a shotgun pleading were "different" from what the Eleventh Circuit had articulated to be a shotgun pleading. *Weiland*, 792 F.3d at 1324-1325.

the *Eleventh Circuit's* adherence to the federal pleading standards. *See id.* at 1325 (reiterating: “A dismissal under Rules 8(a)(2) and 10(b) is appropriate where it is *virtually impossible* to know which allegations of fact are intended to support which claims for relief.” (internal quotations and alterations omitted).)

As demonstrated herein, the Eleventh Circuit does not formulaically apply the shotgun pleadings rule to unjustly dismiss complaints that otherwise satisfy applicable pleading standards. Rather, **it is a tool to enhance courts’ analysis and identification of pleadings that may not be sufficiently plead.** As seen in *Weiland*, application of the rule is not always dispositive, particularly when the complaint otherwise provides defendants fair notice of what the claims are and the grounds upon which they rest. *Weiland* also demonstrates that the Eleventh Circuit enforces the federal pleading standards and requires pleadings to comply with these standards. Accordingly, the Eleventh Circuit’s use of the shotgun pleading rule does not contravene the federal pleading standards, therefore, this case does not warrant further review.

3. Petitioners also failed to satisfy the Rule 9(b) heightened pleading standard applicable to their fraud claims.

Petitioners focus solely on whether the Eleventh Circuit erred in dismissing their Amended Complaint with prejudice as a shotgun pleading based on the pleading standards set forth in Rule 8(a)(2) and

Twombly/Iqbal, and they completely ignore the applicability of Rule 9(b)'s heightened pleading standard to their multiple fraud claims. In their appeal to the Eleventh Circuit, Petitioners argued that the district court erred by failing to evaluate their fraud claims under Rule 9(b), which requires their fraud claims to be plead "with particularity." This includes "the who, what, when, where, and how." *Garfield v. NDC Health Corp.*, 466 F.3d 1255, 1262 (11th Cir. 2006). As the district court explained, "because Plaintiffs' Amended Complaint failed to comply with the pleading requirements of Federal Rule of Civil Procedure 8, no need existed for this Court to assess whether the pleading also complied with the more stringent standard of Federal Rule of Civil Procedure 9(b)." (Pet. App. 110a; see *id.* 9a.) Citing *Iqbal*, the Eleventh Circuit further explained that the "requirement to plead with particularity does not allow [Petitioners] to evade Rule 8's requirements." (Pet. App. 9a (citing *Iqbal*, 556 U.S. at 686-687).) Indeed, if the court and the defendants were all unable to ascertain the nature of the claims against each of the defendants, and the grounds upon which they rest under Rule 8(a)(2), there is no way the complaints would have satisfied the heightened Rule 9 pleading standard. Nor did they.

As Respondent RHI pointed out in its Motion for Judgment on the Pleadings, the First Amended Complaint is entirely devoid of any particularized allegations to support a claim for fraud or fraud in the inducement against RHI. While Petitioners alleged that RHI's employees "pretended" to work on the

VIDGO project whenever [Petitioners] visited the “Georgia Campus,” they did not allege any false statements made by any such staffer to Petitioners, let alone who made any such statement, what was said, what was gained by the statement, or even when the “pretending” occurred. Moreover, Petitioners incorporated 221 paragraphs into Count L, which alleges a claim for fraud against defendants Johnson, Ferman, RHI and Clippard, yet of those 221 paragraphs, RHI is specifically mentioned in *only* 9 of the paragraphs. Furthermore, many of the incorporated paragraphs refer to conduct of unidentified “defendants,” thereby improperly lumping the defendants together and failing to give each of the defendants fair notice of their alleged fraudulent misconduct. *See Brooks v. Blue Cross and Blue Shield of Fla., Inc.*, 116 F.3d 1364, 1380-1381 (11th Cir. 1997) (dismissing fraud claims where plaintiffs simply “lumped together” the defendants in their allegations of fraud).

As set forth herein, not only did Petitioners fail to comply with Rule 8(a)(2), but they also failed to comply with the heightened pleading requirements of Rule 9(b), an issue wholly ignored in the Petition. Since the dismissal of the complaints was warranted for this additional reason, this is yet another reason why this case does not present a compelling reason for this Court’s review, and the Petition should be denied.

B. The district court did not abuse its discretion in dismissing Petitioners' Amended Complaint with prejudice when Petitioners refused to follow the court's specific instructions for curing their deficient complaint to comply with Rule 8(a)(2).

Specific to shotgun pleadings, the Eleventh Circuit instructs that “when a litigant files a shotgun pleading, is represented by counsel, and fails to request leave to amend, a district court must sua sponte give him one chance to replead before dismissing his case with prejudice on non-merits shotgun pleading grounds.” (Pet. App. 9a (citing *Vibe Micro*, 878 F.3d at 1296).) Dismissal of a shotgun pleading with prejudice is warranted where the plaintiff has been given an opportunity to remedy pleading deficiencies but fails to do so. *Jackson*, 898 F.3d at 1358. “[T]he key is whether the plaintiff had fair notice of the defects and a meaningful chance to fix them. If that chance is afforded and the plaintiff fails to remedy the defects, [a court] does not abuse its discretion in dismissing the case with prejudice on shotgun pleading grounds.” *Id.*

Here, before dismissing the First Amended Complaint with prejudice, the district court gave Petitioners, who were represented by counsel, fair notice of the defects in their original complaint, and the court went even further by providing *specific* instructions on what they needed to do to cure their defective pleading. (Pet. App. 57a-58a.) Petitioners subsequently filed a First Amended Complaint purporting to comply with the district court's instructions. But, as the district court

observed, the “First Amended Complaint may be even more confusing and cumbersome than the Original Complaint and suffers from many of the same deficiencies as the first,” “making it virtually impossible to know which allegations of fact are intended to support which claims of relief since each cause of action incorporates more than 200 paragraphs.” (Pet. App. 99a.)

Petitioners’ continued deficiency was their failure to provide fair notice of the nature of the claims against each of the separate defendants and the grounds upon which the claims rest, which violates Rule 8(a)(2) and ignores this Court’s guidance in *Twombly/Iqbal*. Even after some of the defendants renewed their Rule 12 motions to point out the continued pleading deficiencies in the First Amended Complaint, Petitioners still did not seek leave to amend their complaint,⁸ instead arguing that they complied with the Court’s instructions and, because some of the defendants were able to form a response to the First Amended Complaint in the form of a motion to dismiss on the merits, the defendants obviously understood with clarity the nature of the First Amended Complaint, and thus the First Amended Complaint could

⁸ The district court noted that “[a]lthough Plaintiffs argue that they should be given a second chance to amend in the event the First Amended Complaint is a shotgun pleading, Plaintiffs have not formally moved for leave to amend under Federal Rule of Civil Procedure Rule 15 through the filing of a separate motion. Even if a formal motion were made, it would not be granted.” (Pet. App. 103a, n.2) “Because Plaintiffs did not meaningfully amend their Original Complaint,” the court found that “Plaintiffs should not be afforded another opportunity to amend.” (Pet. App. 102a.)

not be a shotgun pleading. (*See* Pet. App. 101a.) The district court rejected these arguments, explaining as follows:

Despite this Court’s direction to identify the precise conduct attributable to each individual defendant, Plaintiffs changed the Original Complaint only in minor ways. For example, in Count 1, instead of realleging each and every paragraph (the 312 previously explained), Plaintiffs simply identify the factual paragraphs that state the particular defendants’ residence and then incorporate every single paragraph from the factual section, which spans more than 100 pages.⁹ Plaintiffs never attempt to segregate the alleged wrongdoing of the defendants, and many of the paragraphs refer to all defendants or grouping of defendants. This method of pleading is in no

⁹ Petitioners’ statement that the district court’s “January 7, 2020 shotgun pleading determination was based upon Petitioners allegedly incorporating too many facts into each count, a limitation never imposed by the March 22, 2019 Order and that was not at that time a shotgun pleading category” was directly refuted by the district court in its denial of Petitioners’ Motion for Reconsideration. (Pet. App. 110a (“Contrary to Plaintiffs’ arguments, Plaintiffs’ Amended Complaint was not dismissed because it was too long. . . . [It] was dismissed because it failed to identify which specific facts supported each count alleged (instead incorporating the entirety of the 104-page section entitled ‘The Facts’ into each and every count) and failed to adequately identify the precise conduct that was attributable to each defendant.”) Similarly, Petitioners’ assertion that the district judge acknowledged that they “technically complied” with the “repeating and realleging” directive while finding no fault with Petitioners separating each cause of action into single counts (Petition 8, 14), misstates the court’s order. (*See* Pet. App. 100a.)

manner any clearer than it was in the Original Complaint nor does it specifically identify the precise conduct attributable to each individual defendant. Ultimately, Plaintiffs' First Amended Complaint remains an impermissible shotgun pleading.

(Pet. App. 101a.) The court further explained that “after being put on notice of the specific defects in their Original Complaint, Plaintiffs filed their First Amended Complaint afflicted with almost all of the same defects, attempting halfheartedly to cure only one of the pleading’s many ailments by separating each cause of action into distinct counts. Given the aggregate negative effects of shotgun pleadings on trial courts and the resulting harm to the administration of justice,” the court justifiably denied Plaintiffs a second opportunity to amend their complaint. (Pet. App. 102a-103a (internal citations and quotations omitted.)) “There is simply a point in litigation when a defendant is entitled to be relieved from the time, energy, and expense of defending itself against seemingly vexatious claims, and the district court relieved of the unnecessary burden of combing through them.” (Pet. App. 103a (quoting *Jackson*, 898 F.3d at 1360.)) That time has come and gone in this case. Petitioners “had their chance,” (Pet. App. 102a), and they have presented no compelling reason justifying a third bite at the apple. The Petition should therefore be denied.

C. The shotgun pleading rule is a cure for defective pleadings, not a contagion that needs remedying by this Court.

Petitioners argue that the “shotgun pleading rule is spreading to other federal circuits whose courts are adopting Eleventh Circuit shotgun pleading authority,” thereby necessitating “granting the instant petition rather than avoid further contagion of the shotgun pleading rule undermining *Twombly/Iqbal* in other federal circuits, especially given how long it took the Question Presented to arrive before this Court (and how much longer it will take-if ever-to arrive again.)”¹⁰ (Petition 28). As discussed herein, the shotgun pleading rule is merely a tool that assists courts in reviewing complaints for compliance with federal pleading standards. Petitioners have not identified any examples of the Eleventh Circuit dismissing complaints as shotgun pleadings when the complaints otherwise satisfy Rule 8(a)(2). Certainly, Petitioners’ complaints did not satisfy Rule 8, much less Rule 9, and, as seen in *Weiland*, where a district court misapplies the shotgun pleadings rule, the Eleventh Circuit remedies those

¹⁰ Contrary to Petitioners’ assertion, this Court recently had the opportunity to address the Eleventh Circuit’s application of the shotgun pleading rule in *Tran v. City of Holmes Beach, et al.*, No. 20-881, ___ S. Ct. ___ (2021), and denied the Petition. This case is worthy of the same result as the Petition is merely an attempt by Petitioners for a third bite of the apple, when their complaint was dismissed for reasons fully within their control to cure. Even if the shotgun pleading rule were to somehow raise an issue sufficient to compel this Court’s review, this case is not the proper vehicle for such review.

defects. Petitioners concern that properly plead complaints will be improperly dismissed are unwarranted.

Furthermore, Petitioners' reliance on *Bartol v. Barrowclough*, 251 F. Supp. 3d 855, 859-860 (E.D. Pa. 2017) as indication that the shotgun pleading rule is "a paradigm for how the shotgun pleading rule has and will spread to other federal circuits in contravention of this Court's *Twombly/Iqbal*" misstates the court's application of the rule in that case. Although the court did not cite *Twombly/Iqbal*, it did analyze the pleadings under Rule 8(a)(2) and, consistent with *Twombly*, determined that the complaint failed to give defendants adequate notice of the claims against them and the grounds upon which each claim rests. *Bartol*, 251 F.Supp.3d 860. Furthermore, the court granted the plaintiff leave to amend the complaint, which demonstrates that courts are not applying the shotgun pleading rule in a way that prejudices plaintiffs without giving a fair opportunity to cure the defects. If the defects are not cured, the resulting dismissal falls squarely within the lap of the pleading party.

There is also no indication that the shotgun pleading rule is being applied in other circuits in contravention of federal pleading standards. This is evident in the First Circuit, where a district court applied the shotgun pleading rule to a defective pleading to require a more definite statement, noting that the First Circuit "demand[s] that the complaint state with some minimal particularity how overt acts of the defendant caused a legal wrong." *Ames v. Dep't of Marine Res. Comm'r*, 256 F.R.D. 22, 30 (D. Me. 2009) (quoting *Pamel*

Corp. v. Puerto Rico Highway Authority, 621 F.2d 33, 36 (1st Cir. 1980) (relying on Rule 8(a)(2))). Similarly, in the Second Circuit, a court noted that whether complaints are “characterized as ‘puzzle pleadings’ or ‘shotgun pleadings’ matters little—both descriptors are apt in the sense that neither pleading comports with the Federal Rules or this Circuit’s “exhortation that plaintiffs ‘must demonstrate with specificity why and how’ each statement’ is ‘false or misleading.’” *In re Pareteum Sec. Litig.*, No. 19 CIV. 10460 (AKH), 2020 WL 3448526, at *2 (S.D.N.Y. June 23, 2020). In that case, the court dismissed the defective pleading without prejudice and instructed the plaintiffs to file amended complaints that “comport with Rule 8, as well as the PLSRA and Rule 9(b) as applicable.” *Id.* at *2.

Also consistent with Rule 8, the Third Circuit has rejected “the all too common shotgun pleading approach” to complaints, explaining that requiring a plaintiff to plead with specificity “ha[s] a twofold purpose: 1) to weed out at an early stage frivolous claims and those that should be heard in state court, and 2) to provide the defendant with sufficient notice of the claims asserted.” *Hynson v. Chester, Legal Dep’t*, 864 F.2d 1026, 1031 n.13 (3d Cir. 1988).

The Tenth Circuit also applies the shotgun pleading rule in furtherance of evaluating a complaint for Rule 8 compliance. In *Hart v. Salois*, 605 F. App’x 694, 701 (10th Cir. 2015), the Tenth Circuit affirmed the district court’s dismissal of a shotgun pleading because it contravened Rule 8’s notice pleading standard. The court explained that the defects in the complaint were

“not the sheer length of his filing, the number of paragraphs, or the number of claims, that trigger[ed] the Rule 8 violation. Rather, the culprit is Hart’s failure to connect his 60 separate claims to the Complaint’s hundreds of factual allegations. Moreover, Hart’s multiple collective allegations against the defendants and his corresponding failure to identify each individual defendant’s culpable actions only exacerbated this significant deficiency.” *Id.*

There is no indication that circuits are applying the shotgun pleadings rule in contravention of Rule 8, Rule 9 or *Twombly/Iqbal*. As stated before, “[t]he 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.” *Weiland*, 792 F.3d at 1323. As such, the shotgun pleading rule, and its application in this case, is fully consistent with federal pleading standards. Petitioners squandered their opportunity to cure the pleading deficiencies in their Original Complaint by filing another shotgun pleading. The dismissal of their complaint was *not* a product of the courts’ improper application of the shotgun pleading rule. For these reasons as well, this case does not present a compelling reason for this Court’s review.



CONCLUSION

The Eleventh Circuit's application of the shotgun pleading rule is designed to give defendants fair notice of the claims against them and the factual basis for the claims. The rule enforces the federal pleading requirements and is neither a separate nor competing standard that warrants review. The district court afforded Petitioners an opportunity to correct their deficient complaint and gave specific instructions on what they needed to do to cure the complaint so that it complied with Rule 8(a)(2) and Rule 9. Petitioners have failed to demonstrate that their complaint was unjustly dismissed, or that this case presents any compelling reason for this Court's review. Accordingly, Respondent respectfully requests that this Court deny the Petition for Writ of Certiorari.

Respectfully submitted this 30th day of August, 2021.

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