

APPENDIX A

**US COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

June 2, 2022
Clerk - Middle District of Florida
US District Court
801 N. Florida Ave
Tampa, Fl. 33602-3849

Appeal No: 22-11257-J
Case Style : Gilbert Roman v. Fire Life Safety
America Inc.
District Court Docket NO: 8:22-cv-241-KKM-CPT

The enclosed copy of the Clerks Order of Dismissal
for Failure to prosecute in the above reference appeal
is issued as the mandate of this Court. See 11th Cir.
R. 41-4.

Any pending motions are now rendered moot in light
of the attached order.

Sincerely,

David J. Smith Clerk of Court

Reply to: Davina C. Burney-Smith, J.
Phone: 404-335-6183

**IN THE US COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 22-11457-J

Gilbert Roman,
Plaintiff-Appellant,

versus,

Fire Life Safety America, Inc.
Defendant-Appellee,

**Appeal from the US District Court
For the Middle District of Florida**

**ORDER : Pursuant to the 11th Cir. R. 42-1(b), this
Appeal is DISMISSED for want of prosecution
Because the appellant Gilbert Roman failed to pay
The filing and docketing fees to the district court, or
Alternatively, file a motion to proceed in forma
pauperis in the district court within the time fixed by
the rules. Effective June 2, 2022**

**David J. Smith Clerk of Court of the US Court of
Appeals for the Eleventh Circuit For the Court - By
Direction**

APPENDIX B

US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Gilbert Roman, Plaintiff

V. No. 8:22-cv-241-KKM-CPT

Fire Life Safety America Inc., Defendants,

ORDER

On three previous occasions, this Court has dismissed pro se Plaintiff Gilbert Roman's complaints for failing to adequately allege jurisdiction and because each of those complaints constitute impermissible shotgun pleadings.(doc. 5, doc. 7; doc 16) Upon review, the Court concludes that Roman's Third Amended Complaint again fails to adequately allege jurisdiction, constitute an impermissible shotgun pleading, and is improperly formatted under the local rules. The Court therefore dismisses Roman's Third Complaint with prejudice. Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 US 375, 377 (1994). In 28 USC Sec. 1331 and 1332(a) Congress granted federal courts jurisdiction over two types of cases; that arise under federal law, sec. 1331, and cases in which the amount in controversy exceeds \$75,000 and there is diversity of citizenship among the parties, sec. 1332(a) :"*Home Depot USA Inc. v. Jackson*, 139 S. Cgt. 1743, 1746(2019). The

Former is known as federal question jurisdiction; the later is known as diversity jurisdiction. Here Roman fails to adequately allege a sufficient basis to establish either. Presumably, given the cause of action, Roman is attempting to allege diversity jurisdiction under sec. 1332(a). See *Thermoset Corp. v. Bldg. Material Corp. of Am*, 849 F3d 1299, 1306 (11th Cir. 2017) (Diversity jurisdiction is determined at time of filing the complaint (quoting *PTA-Fla, Inc. v. ZTE USA Inc.* 844 F3d 1299, 1306(11th Cir. 2016) Roman's Third Amended Complaint again fails to include any information about Fire Life Safety America principal place of business, which is required to determine the citizenship of the corporation. (doc. 20 at 1) see sec. 1332(c)(1) A corporation shall be deemed to be a citizen of every State by which it has been incorporated and where it has its principal place of business (emphasis added) see *Hertz Corp. v. Friend*, 559 US 77, 92-93 (2010) (concluding the phrase "principal place of business" refers where a corp. Nerve center" Once again, therefore , the Court is unable to properly assess whether it has jurisdiction over Roman's claims.

Roman's Third Amended Complaint also constitutes an impermissible shotgun pleading. See *Weiland v. Palm Beach Cnty Sheriff off.* 792 F3d 1313, 1320 (11th Cir. 2015) The Eleventh Cir. has recognized four basic types of shotgun pleading: (1) a complaint that contains multiple counts where each count adopts the allegations of all preceding counts. (2) a complaint that is replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of

Action; (3) a complaint that fails to separate into different counts each cause of action or claim for relief; and (4) a complaint that asserts multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions or which of the defendants the claim is brought against. *Id.* at 1321-23. 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.

Roman's Third Amended Complaint includes four causes of action, (Doc. 20 at 3-8). But Roman fails to identify the legal elements to state a claim for relief. See Fed. R. Civ. P. 8(a). Roman's Third Amended Complaint has the "unifying characteristic" of all shotgun pleadings: it fails "give defendants adequate notice of the claim against them and grounds upon which each claim rests" *Weiland*, 792 F.3d at 1323. Admittedly, Roman's Third Complaint, unlike his initial complaints, does break out his allegations into numbered paragraphs and includes at least some factual allegations under each claim. But these factual allegations are not clearly connected to the legal elements for each of Roman's claims. It is not at all "obvious how Roman's various vague and conclusory allegations under each of his four claims relate to the legal elements of his various claims. See *Weiland*, 792 F.3d at 1323. Therefore, Roman's Third Amended Complaint constitutes an impermissible shotgun pleading because it fails to give Defendants *Flsa*

Adequate notice of the legal claims against them.

The 11th Cir. has explained that shotgun complaints are "altogether unacceptable," as they "exact an intolerable toll on the trial courts docket". *Cramer v State of Fla.*, 117 F3d 1258, 1263 (11th Cir. 1997) Although pro se pleadings are to be construed liberally and held to a less stringent standard than those drafted by attorneys, the Court has "little tolerance for shotgun pleadings" *Arington v Green*, 757 Fed. App'x 796, 797 (11th Cir); See *Vibe Micro, Inc. v Shabanets*, 878 F3d 1291, 1295 (11th Cir. 2018) (Explaining that a district court must "sua sponte allow a litigant one chance to remedy such deficiencies" in the circumstances of a non-merits dismissal on shotgun pleadings grounds).

As a final note, Roman's Third Amended Complaint, like each of his previous complaints, violates the Local rule. Local Rule 1.08 lays out the formatting requirements for pleadings, motion, and other papers filed in the Middle District of Florida. Here, the Third Amended Complaint's typeface, fontsize, and margins each violate Local Rule 1.08 (Doc 20)

The Court previously warned Roman that it would give him one final opportunity to amend his third opportunity. (Doc 16 at 7); See *Vibe Micro*, 878 F3d at 1295 (explaining that a district court must give at least one opportunity to amend following the sua sponte dismissal of a shotgun pleading). Because Roman's Third Amended Complaint again failed to allege jurisdiction and fails to comply with Rules 8 and 10 of Fed. R. Civ. P. and with the formatting

**Additional material
from this filing is
available in the
Clerk's Office.**