

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

OUTLAWLESSNESS PRODUCTIONS, INC.,  
BAND OF OUTLAWS TOURING, INC., and  
GUITAR ARMY PUBLISHING, INC.,

Plaintiffs,

v.

CASE NO: 8:10-cv-24-T-26TBM

HENRY PAUL, MONTE YOHO,  
CHRIS ANDERSON, BILLY CRAIN,  
RANDY THREET, JOHN COLEMAN,  
JOHN GELLMAN, BLACKHAWK, and  
THE HENRY PAUL BAND,

Defendants.

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**ORDER**

Defendant has filed a motion to dismiss Plaintiffs' complaint or alternative motion for more definite statement (Dkt. 9), thereby prompting this Court to examine the complaint's allegations. In the Court's view, Plaintiffs' complaint is the quintessential shotgun pleading that has been condemned on numerous occasions by the Eleventh Circuit Court of Appeals. See Davis v. Coca-Cola Bottling Co. Consolidated, 516 F.3d 955, 979 n.54 (11<sup>th</sup> Cir. 2008) (collecting cases).<sup>1</sup> As in Strategic Income Fund, L.L.C. v.

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<sup>1</sup> The Davis Court, speaking through Judge Tjoflat, also engaged in a thorough and extensive discussion of the havoc that such pleadings wreak on the judicial system, litigants, and the public at large. 516 F.3d at 979-84.

Spear, Leeds & Kellogg Corporation, 305 F.3d 1293, 1295 (11<sup>th</sup> Cir. 2002), the complaint “contains several counts, each one incorporating by reference the allegations of its predecessors, leading to a situation where most of the counts (i.e., all but the first) contain irrelevant factual allegations and legal conclusions.” Under these circumstances, the Court has the inherent authority, even if not requested by opposing counsel, to demand a repleader *sua sponte*. See Lumley v. City of Dade City, Fla., 327 F.3d 1186, 1192 n.13 (11<sup>th</sup> Cir. 2003) (suggesting that when faced with a shotgun pleading a district court, acting on its own initiative, should require a repleader); Magluta v. Samples, 256 F.3d 1282, 1284 n.3 (11<sup>th</sup> Cir. 2001) (noting that district courts confronted by shotgun complaints have the inherent authority to demand repleader *sua sponte*).

Defendants also correctly point out that Plaintiffs’ out-of-state counsel has yet to be formally admitted to practice before this Court *pro hac vice*.

**ACCORDINGLY**, it is **ORDERED AND ADJUDGED** as follows:

- 1) Plaintiffs shall replead the complaint within fifteen (15) days of this order.
- 2) Defendants shall file their response within fifteen (15) days of service.
- 3) The Motion to Dismiss and Alternative Motion for More Definite Statement (Dkt. 24) are denied as moot.

4) Plaintiffs' out-of-state counsel shall file a formal motion seeking special admission to practice in the Middle District of Florida pursuant to Local Rule 2.02(a) at the time he files the repleader.<sup>2</sup>

**DONE AND ORDERED** at Tampa, Florida, on March 23, 2010.

*s/Richard A. Lazzara*  
**RICHARD A. LAZZARA**  
**UNITED STATES DISTRICT JUDGE**

**COPIES FURNISHED TO:**  
Counsel of Record

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<sup>2</sup> The Court notes that out-of-state counsel has previously complied with the provisions of the rule requiring designation and consent to act by a member of the bar of the Middle District, as well as payment of the fee and e-mail registration requirements of Local Rule 2.01(d). See dockets 6 and 7.