

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**Case Number: 21-60515-CIV-MORENO**

PRESTIGE INSURANCE GROUP, a Delaware  
limited liability company, and ULISES  
CICCIARELLI, individually,

Plaintiffs,

vs.

ALLSTATE INSURANCE COMPANY, an  
Illinois corporation,

Defendant.

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**ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE**

THIS CAUSE came before the Court upon Defendant's Partial Motion to Dismiss Plaintiffs' Complaint (D.E. 14), filed on **April 28, 2021**. Though Defendant does not raise the argument that Plaintiffs' complaint is a shotgun pleading, the Court has a responsibility to ensure that complaints are in compliance with the Federal Rules of Civil Procedure.

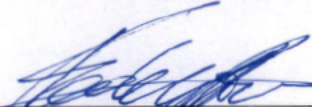
THE COURT has reviewed Plaintiffs' complaint and it is a shotgun pleading. Here, the Plaintiffs' complaint is "the most common type" of shotgun pleading because "each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint." *Weiland v. Palm Beach Cnty. Sheriff's Office*, 792 F.3d 1313, 1321 (11th Cir. 2015). For example, the sixth count begins by stating that "Plaintiffs reincorporate all prior paragraphs of the complaint as if restated herein," (D.E. 1 ¶ 118), which makes the sixth and final count "a combination of the entire complaint." See *id.*

Accordingly, it is

**ORDERED and ADJUDGED:**

1. The complaint is DISMISSED without prejudice. Plaintiffs may file an amended complaint no later than **October 14, 2021**.
2. In redrafting the complaint, counsel is required to ensure that the amended complaint is not a shotgun pleading. *Weiland*, 792 F.3d at 1321-23.
3. Further, each count shall state with specificity both the factual and legal basis for the claim it sets forth. If a claim is one where Federal Rule of Civil Procedure 9 is applicable, that claim must be pled with particularity. Other numbered paragraphs may be incorporated by reference, but this must be done with particularity so that only relevant paragraphs are referenced. It is impermissible to attempt a wholesale incorporation by reference of all preceding paragraphs.
4. Failure to file an amended complaint in compliance with this order may result in the Court dismissing the amended complaint with prejudice.
5. Defendant's Partial Motion to Dismiss Plaintiffs' Complaint is DENIED with leave to refile in the event that Plaintiffs file an amended complaint.

DONE AND ORDERED in Chambers at Miami, Florida, this 6<sup>th</sup> of September 2021.

  
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FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record