

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**WARREN GREEN, et al.**

**PLAINTIFFS**

**v.**

**4:07CV01055-WRW**

**WELLS FARGO HOME MORTGAGE, INC.**

**DEFENDANT**

**ORDER**

Pending is Plaintiff's Motion For More Definite Statement (Doc. No. 10). Defendant has responded (Doc. No. 12). For the reasons set out below, Plaintiff's Motion is DENIED.

Plaintiffs filed a Complaint naming numerous causes of action, all in connection with Defendant's alleged improper efforts to collect a purported debt.<sup>1</sup> Defendant's answer asserts various affirmative defenses.<sup>2</sup> Plaintiffs filed a Motion for More Definite Statement, asking the Court to order Defendant to provide more information in connection with Defendant's affirmative Defenses.<sup>3</sup>

Federal Rule of Civil Procedure 12(e) reads: "if a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading . . . ." Rule 7(a) of the Federal Rules of Civil Procedure provides that "[t]here shall be a complaint and an answer . . ." and that "[n]o other pleading shall be allowed, except that the court may order a reply to an answer . . . ." If a defendant plans on asserting affirmative defenses, the defendant must set out those defenses in its answer.<sup>4</sup>

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<sup>1</sup>Doc. No. 3.

<sup>2</sup>Doc. No. 7.

<sup>3</sup>Doc. No. 10. Plaintiff asked that the Defendant be directed to: "state the particular facts upon which each defense is based"; "state, specifically, what defects were found in service of process to support their defense of insufficiency of service of process and insufficiency of process"; "specify the claims to which each defense applies"; and "provide a more definite statement for the defenses" stated in the Answer.

<sup>4</sup>Fed. R. Civ. P. 8(c).

It is not necessary for a plaintiff to file a responsive pleading to a defendant's answer, even when the answer sets out affirmative defenses.<sup>5</sup> Generally, a district court will order a reply to a defendant's answer only when the answer raises a new matter, or, for example, contains a counter-claim.<sup>6</sup> An affirmative defense is adequately pled if it gives a plaintiff fair notice of the defense.<sup>7</sup>

Defendant's Answer sets out numerous affirmative defenses.<sup>8</sup> Defendant pled its affirmative defenses specifically enough to put Plaintiffs on notice of the defenses.<sup>9</sup>

Because Defendant adequately pled its affirmative defenses, because a response to an answer is not permitted, and because motions for a more definite statement are considered in connection with responsive pleadings permitted under the Federal Rules of Civil Procedure, Plaintiff's Motion is DENIED.

IT IS SO ORDERED this 5<sup>th</sup> day of February, 2008.

/s/Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE

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<sup>5</sup>See *Kansas-Nebraska Natural Gas Co. v. Village of Deshler*, 192 F. Supp. 303 (D.C. Neb. 1960), *affirmed* 288 F.2d 717.

<sup>6</sup>See 5 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1185 (3d ed. 2004).

<sup>7</sup>*Mark v. Gov't Props. Trust, Inc.*, No. 8:06-CV-769, 2007 U.S. Dist. Lexis 25642, at \*7 (D.C. Neb. April 5, 2007). “Rule 8(c) merely requires affirmative defenses to be affirmatively set forth, but does not require even a short and plain statement.” *Id.* at \*8 (citing *Conocophillips Co. v. Shaffer*, No. 3:05-CV-7131, 2005 U.S. Dist. Lexis 20384, at \*2 (N.D. Ohio Sept. 19, 2005)).

<sup>8</sup>Doc. No. 7.

<sup>9</sup>See *Id.*