

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAVID SCOTT HASTINGS,

Plaintiff,

v.

Case No: 2:17-cv-507-FtM-38CM

CITY FORT MYERS, DOUGLAS  
BAKER, STEPHEN RUSSELL,  
DENNIS EADS, MIKE SCOTT,  
EMILY DESTEPHANIS, JUSTIN  
TRASK, RICHARD ERRETT and  
STEPHANIE RUSSELL,

Defendants.

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**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on Defendants Dennis Eads, Emily Destefanis, and Justin Trask's (FMPD Defendants) Motion to Dismiss ([Doc. 27](#)) filed on October 26, 2017. The Plaintiff filed a Response in Opposition to multiple motions to dismiss ([Doc. 33](#)) on January 9, 2018.

FMPD Defendants' Motion states:

The undersigned respectfully requests the Court to allow the aforementioned Defendants to adopt the Motion to Dismiss filed on behalf of Defendant, State Attorney Stephen Russell, and the Assistant State Attorney, Stephanie Russell, as to their Memorandum of Law concerning the factual background

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sections entitled “Standard for Motion to Dismiss” and “Failure to State a Cause of Action” and the Attorney General’s Motion to Dismiss with respect to the absolute qualified immunity of the officers.

([Doc. 27 at ¶ 1](#)). The Defendants then discuss the FMPD Defendants’ case based on the arguments made in those briefings without reference to any case law or context, and conclude the case should be dismissed.

In filing motions before this Court, Defendants are reminded that they cannot state empty legal conclusions nor expect the Court to fill in the missing analysis and authority that may support their conclusions. Rule 3.01(a) of the Middle District of Florida Local Rules states,

[i]n a motion or other application for an order, the movant shall include a concise statement of the precise relief requested, a statement of the basis for the request, and a memorandum of legal authority in support of the request, all of which the movant shall include in a single document not more than twenty-five (25) pages.

M.D. Fla. Local Rule 3.01(a) (emphasis added). The Court is not obligated to ferret through Co-Defendants’ other filings to decipher the arguments FMPD Defendants want it to consider on a particular point. See [Delta Sigma Theta Sorority, Inc. v. Bivins, No. 2:14-CV-147-FTM-38, 2014 WL 7273913, at \\*3–4 \(M.D. Fla. Dec. 19, 2014\)](#) Like “[t]he Seventh Circuit memorably said . . . judges ‘are not like pigs, hunting for truffles buried in briefs.’” [Chavez v. Sec’y Fla. Dep’t of Corr., 647 F.3d 1057, 1061 \(11th Cir.2011\)](#) (quoting [United States v. Dunkel, 927 F.2d 955, 956 \(7th Cir.1991\)](#)); [Adler v. Wal-Mart Stores, Inc., 144 F.3d 664, 672 \(10th Cir.1998\)](#) (“[D]istrict courts . . . have a limited and neutral role in the adversarial process, and [ought to be] wary of becoming advocates who comb the record . . . and make a party's case for [him].”).

With these principles in mind, the Court finds that the FMPD Defendants' Motion violates the Local Rule, and is therefore due to be denied. But the Court would prefer to rule on the merits, and will allow FMPD Defendants to file an amended motion to dismiss that complies with the foregoing standards.

Accordingly, it is now

**ORDERED:**

Defendants Dennis Eads, Emily Destefanis, and Justin Trask's (FMPD Defendants) Motion to Dismiss ([Doc. 27](#)) is **DENIED without prejudice**. FMPD Defendants may file an Amended Motion to Dismiss on or before **July 11, 2018**.

**DONE** and **ORDERED** in Fort Myers, Florida this 27th day of June, 2018.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies:  
All Parties of Record  
SA: FTMP-2