

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 11-24296-CIV-LENARD/O'SULLIVAN

OSCAR MATOS,

Plaintiff,

vs.

AMERICAN LAYOUT, CORP., MIRIAN
GOMEZ and JOSE ARMANDO GOMEZ,

Defendants.

ORDER

THIS MATTER is before the Court on the Motion for More Definite Statement (DE# 13, 2/10/12) filed by the defendants. This motion was referred to the undersigned by the Honorable Joan A. Lenard pursuant to 28 U.S.C. § 636(b). See Referral Order (DE# 14, 2/13/12). Having reviewed the applicable filings and the law, it is

ORDERED AND ADJUDGED that the Motion for More Definite Statement (DE# 13, 2/10/12) is **DENIED without prejudice to renew** if the parties are unable to resolve the matter. The gist of the instant motion is that the name of the plaintiff in the body of the complaint is different from the name of the plaintiff in the caption. Id. at 1. Local Rule 7.1(a)(3) provides, in part, that:

Prior to filing any motion in a civil case, [with certain inapplicable exceptions], counsel for the movant shall confer (orally or in writing), or make reasonable effort to confer (orally or in writing), with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion. . . . At the end of the motion, and above the signature block, counsel for the moving party shall certify either: (A) that counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and has been unable to do so; or (B) that counsel for the movant has made reasonable efforts to confer with all

parties or non-parties who may be affected by the relief sought in the motion, which efforts shall be identified with specificity in the statement, but has been unable to do so. . . . **Failure to comply with the requirements of this Local Rule may be cause for the Court to grant or deny the motion**

S.D. Fla. L.R. 7.1(a)(3) (2011) (emphasis added). The instant motion does not certify that the defendants conferred with the plaintiff prior to filing the motion. Because a motion for more definite statement is not listed among the exceptions to Local Rule 7.1(a)(3), the defendants were required to confer with the plaintiff prior to filing the instant motion. The purpose of Rule 7.1(a)(3) is twofold. “Local Rule 7.1 serves the purpose not only of attempting to avoid unnecessary expenditure of judicial resources resolving motions that are not opposed, but also to allow the Court to ascertain whether it should wait for a response from the opposing party before deciding the motion.” Wrangen v. Pennsylvania Lumbermans Mut. Ins. Co., No. 07-61879, 2008 WL 5427785, at *1 (S.D. Fla. Dec. 30, 2008). It appears to the undersigned that the issue raised in the instant motion is precisely the type of discrepancy that a Rule 7.1(a)(3) conferral would clear up. In the future, counsel shall confer with the opposing side prior to filing motions which fall under S.D. Fla. L.R. 7.1(a)(3).

DONE AND ORDERED, in Chambers, at Miami, Florida, this **13th** day of February, 2012.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies provided to:
U.S. District Judge Lenard
All counsel of record