



1 Rule 12(e) provides that “[a] party may move for a more  
2 definite statement of a pleading to which a responsive pleading  
3 is allowed but which is so vague or ambiguous that the party  
4 cannot reasonably prepare a response.” Fed. R. Civ. P. 12(e).  
5 “[M]otions for a more definite statement are disfavored, and  
6 ordinarily restricted to situations where a pleading suffers from  
7 unintelligibility rather than want of detail.” Medrano v. Kern  
8 Cnty. Sheriff’s Officer, 921 F. Supp. 2d 1009, 1013 (E.D. Cal.  
9 2013). A motion for a more definite statement should generally  
10 be denied “if the complaint is specific enough to notify  
11 defendant of the substance of the claim being asserted” or “if  
12 the detail sought by a motion for a more definite statement is  
13 obtainable through the discovery process.” Id.; accord  
14 Craigslist, Inc. v. Autoposterpro, Inc., Civ. No. 08-05069 SBA,  
15 2009 WL 890896, at \*4 (N.D. Cal. Mar. 31, 2009).


16 Although unnecessary confusion frequently arises when a  
17 complaint fails to allege whether a defendant is sued in his  
18 individual capacity, official capacity, or both capacities,  
19 determining the appropriate capacity from the allegations in the  
20 complaint is neither impossible nor difficult. Simply stated, if  
21 a plaintiff seeks damages from an official, the suit is generally  
22 against the official in his individual capacity; and if the  
23 plaintiff seeks an injunction, the suit is generally against the  
24 official in his official capacity. See Price v. Akaka, 928 F.2d  
25 824, 828 (1990); Biggs v. Meadows, 66 F.3d 56, 61 (4th Cir.  
26 1995). Because of this distinction, a majority of the circuits  
27 have rejected the argument that a plaintiff is required to state  
28 the capacity in which a defendant is sued. Biggs, 66 F.3d at 59.

1 Instead, the majority approach "look[s] to the substance of the  
2 plaintiff's claim, the relief sought, and the course of  
3 proceedings to determine the nature of a § 1983 suit when a  
4 plaintiff fails to allege capacity." Id. (citing cases from the  
5 Second, Fifth, Seventh, Ninth, Tenth, and Eleventh circuits).

6 Here, there is no doubt from the Complaint that the  
7 only claims asserted against Vogt are for violations of  
8 plaintiff's constitutional rights under § 1983, and plaintiff's  
9 prayer for relief is also limited to seeking compensatory  
10 damages, attorneys' fees, and costs. Plaintiff's § 1983 claims  
11 against Vogt are therefore clearly asserted against him in his  
12 individual capacity.<sup>1</sup>

13 IT IS THEREFORE ORDERED that Vogt's motion for a more  
14 definite statement (Docket No. 4) be, and the same hereby is,  
15 DENIED.

16 Dated: January 14, 2014

17   
18 **WILLIAM B. SHUBB**  
19 **UNITED STATES DISTRICT JUDGE**

20 <sup>1</sup> In response to Vogt's motion, plaintiff purports to  
21 settle the issue by stating that Vogt was sued in his  
22 "professional capacity" and pointing out that the Complaint  
23 alleges Vogt was "acting under color of state law." (Pl.'s Resp.  
24 at 2 (Docket No. 6).) Plaintiff thus appears to "confuse[] the  
25 capacity in which a defendant is sued with the capacity in which  
26 the defendant was acting when the alleged deprivation of rights  
27 occurred." Price, 928 F.2d at 828. As the Ninth Circuit has  
28 explained, "[t]he former need not coincide with the latter.  
Clearly, under § 1983, a plaintiff may sue a state officer in his  
individual capacity for alleged wrongs committed by the officer  
in his official capacity." Id. As noted above, it is the nature  
of the relief sought, not the capacity in which the defendant was  
acting, that dictates the capacity in which a defendant is sued  
under § 1983.