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 United States District Court, W.D. Texas, El Paso
 Division.
 Olga YBARRA, Plaintiff,
 v.
 WAL-MART STORES, INC., Defendant.
No. EP-06-CV-264-PRM.

Oct. 10, 2006.

[Robert Leon Lovett](#), Lovett Law Firm, El Paso, TX,
 for Plaintiff.

[Arthur Robert Piacenti](#), [Laura M. Enriquez](#), Hicks &
 Lucky, P.C., El Paso, TX, for Defendant.

**ORDER DENYING DEFENDANT'S MOTION
 FOR MORE DEFINITE STATEMENT**

[PHILIP R. MARTINEZ](#), United States District Judge.
 *1 On this day, the Court considered Defendant
 Wal-Mart Store Texas, LP's ("Defendant") "Motion
 for More Definite Statement" (" Motion"), filed on
 September 21, 2006 in the above-captioned cause.
 Therein, Defendant asks the Court to require Plaintiff
 Olga Ybarra ("Plaintiff") to amend her complaint to
 include a more definite statement of certain claims
 pursuant to [Federal Rule of Civil Procedure 12\(e\)](#)
 ("[Rule 12\(e\)](#)"). Specifically, Defendant argues that
 Plaintiff's allegations regarding damages are inade-
 quately stated. Def.'s Mot. for More Definite State-
 ment ¶¶ 3-7.

However, on the same day Defendant filed the instant
 motion, Defendant also filed a "Motion for Leave to
 File Amended Pleading."The Court granted that mo-
 tion on September 25, 2006, and Defendant's amended
 answer was filed that day. Accordingly, Defendant
 now asks the Court to require Plaintiff to amend her
 complaint to include a more definite statement of
 certain claims, despite Defendant having already filed
 a responsive pleading to those claims. After due con-
 sideration, the Court is of the opinion that Defendant's
 Motion should be denied.

[Rule 12\(e\)](#) allows the Court to require a party to pro-
 vide a more definite statement "if a pleading to which
 a responsive pleading is permitted is so vague or am-

biguous that a party cannot reasonably be required to
 frame a responsive pleading." [FED.R.CIV.P.
 12\(e\).Rule 12\(e\)](#) clearly requires that the motion be
 made before the party has filed its response. Various
 courts have confirmed this interpretation. See,
e.g., [Marx v. Gumbinner](#), 855 F.2d 783, 792 (11th
 Cir.1988); [Daugaard v. Baldwin](#), No.
 CIV.A.98-612-ST, 1999 WL 778585, at *5 (D.Or.
 Sept. 17, 1999).

The Court recognizes that since Defendant's instant
 Motion was filed on the same day as its "Motion for
 Leave to Amend Pleading," the instant Motion may
 have been filed "before" the responsive pleading, and
 thus not barred by a strict reading of [Rule 12\(e\)](#). The
 Court nonetheless determines that Defendant's Motion
 should be denied. [Rule 12\(e\)](#) does not allow a party to
 request a more definite statement simply for "a lack of
 detail in the complaint," but rather "when a party is
 unable to determine the issues he must meet." [Cox v.
 Maine Maritime Academy](#), 122 F.R.D. 115, 116
 (D.Me.1988). Having already filed a responsive
 pleading, Defendant cannot show, as required by [Rule
 12\(e\)](#), that the original pleading was "so vague or
 ambiguous" such that it "cannot reasonably be re-
 quired" to respond. [FED.R.CIV.P. 12\(e\)](#).

Accordingly, **IT IS ORDERED** that Defendant's
 "Motion for More Definite Statement" (Docket No. 7)
 is **DENIED**.

W.D.Tex.,2006.

Ybarra v. Wal-Mart Stores, Inc.

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EXHIBIT E