

2007 WL 4189499

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United States District Court,  
W.D. Arkansas,  
El Dorado Division.

Rosalino PEREZ-BEMOTES, Luis Alberto  
Asencio-Vasquez, and Pascual Noriega-Narvaez,  
individually and on behalf of all others similarly  
situated, Plaintiffs

v.

CANDY BRAND, LLC, Arkansas Tomato Shippers,  
LLC, Charles Searcy, Randy Clanton, Dale  
McGinnis, and Brooks Lisenby, Defendants.

No. 07-CV-1048. | Nov. 21, 2007.

#### Attorneys and Law Firms

Jennifer J. Rosenbaum, Montgomery, AL, Martin W.  
Bowen, Robinson, Biggs, Ingram, Solop, & Farris, PLLC,  
Little Rock, AR, Edward J. Tuddenham, Attorney at Law,  
New York, NY, for Plaintiffs.

H. Wayne Young, Jr., Michael S. Moore, Friday,  
Eldredge & Clark, Little Rock, AR, Hani W. Hashem,  
Hashem Law Firm PLC, Monticello, AR, for Defendants.

#### Opinion

#### ORDER

HARRY F. BARNES, District Judge.

\*1 Before the Court is a Motion for More Definite  
Statement filed on behalf of the Defendants, Arkansas  
Tomato Shippers, LLC, Charles Searcy, Randy Clanton,  
Dale McGinnis and Brooks Lisenby. (Doc. No. 17). The  
Plaintiffs have responded. (Doc. No. 24). The Defendants  
have filed a reply to Plaintiffs' response. (Doc. No. 25).  
The matter is ripe for consideration.

This lawsuit was filed by three Mexican workers who  
entered the United States on H-2A guest-worker visas to  
harvest and pack tomatoes and perform other agricultural  
work for the Defendants in and around Bradley County,  
Arkansas. They are pursuing this action against the  
Defendants for violations of the Fair Labor Standards Act  
("FLSA"), 29 U.S.C. § 201 *et seq.*, Arkansas contract law,  
and the federal common law of contracts. These H-2A  
workers claim that the Defendants failed to pay them the  
promised wage for all hours worked, failed to reimburse  
them for travel, visa and hiring fees expended for the

benefit of the Defendants and failed to pay them the  
hourly wages and overtime required by federal law. They  
are suing on behalf of themselves and a class of  
approximately 2700 similarly situated workers who  
entered the United States with H-2A visas to perform  
agricultural work for the Defendants during 2002-2007.

Defendant Candy Brand, LLC has filed an Answer to the  
Plaintiffs' Complaint. Defendants Arkansas Tomato  
Shippers LLC, Charles Searcy, Randy Clanton, Dale  
McGinnis and Brooks Lisenby have filed the pending  
Motion for More Definite Statement pursuant to Rule  
12(e) of the Federal Rules of Civil Procedure.

#### DISCUSSION

The Federal Rules of Civil Procedure provide that "[i]f 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, the party may  
move for a more definite statement before interposing a  
responsive pleading." Fed.R.Civ.P. 12(e). Such a motion  
should not be granted unless the Complaint is so vague or  
ambiguous as to be unintelligible "that the opposing party  
cannot respond to it, even with a simple denial as  
permitted by Rule 8(b), with a pleading that can be  
interposed in good faith or without prejudice to himself."  
5C Wright & Miller, Federal Practice & Procedure: Civil  
3d § 1376 at 311 (2004). This is a stringent standard that  
is rarely met in light of the liberal notice pleading  
standards of the federal rules which require only "a short  
and plain statement of the claim that will give the  
defendant fair notice of what the plaintiff's claim is and  
the grounds upon which it rests." Fed.R.Civ.P. 12(e);  
*Meridian Enterprises Corp. v. Bank of America Corp.*,  
2006 WL 3210497, at \*1 (E.D.Mo. Nov. 3, 2006). It is a  
"remedy for unintelligible pleadings; not a tool to correct  
a claimed lack of detail." *Kia Motors America Inc. v.*  
*Autoworks Distributing*, 2006 WL 2943306, at 3\*  
(D.Minn. Sept. 28, 2006).

Defendants argue that they are unable to frame a response  
to Plaintiffs' Complaint because it makes vague and  
ambiguous allegations against the "Defendants" rather  
than specific allegations against the individual defendants.

\*2 Rule 8(a) of the Federal Rules of Civil Procedure  
requires that every pleading setting forth a claim for relief  
contain 1) a short and plain statement of the grounds upon  
which the court's jurisdiction depends, 2) a short and  
plain statement of the claim showing that the pleader is  
entitled to relief, and 3) a demand for judgment for the  
relief that pleader seeks. In this case, Plaintiffs'  
Complaint sets forth the grounds for the Court's

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jurisdiction, (29 U.S.C. § 216(b)(Fair Standards Labor Act), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1337 (action arising under Acts of Congress regarding commerce), and 28 U.S.C. § 1367 (supplemental jurisdiction over state law claims). It sets forth the claims on which it is seeking relief (breach of contract and violations of the FLSA). It makes a demand for judgment based upon those claims. In reviewing the Complaint, the Court does not believe that it is so unintelligible as to

these Defendants that they cannot reasonably frame a responsive pleading. Therefore, the Court finds that the Defendants' Motion for More Definite Statement should be and hereby is **denied**.

IT IS SO ORDERED.