

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

VALERIE DOUSE,

Plaintiff,

v.

Case No: 2:17-cv-599-FtM-38MRM

BOSTON SCIENTIFIC  
CORPORATION,

Defendant.

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

This matter comes before the Court on Defendant Boston Scientific Corporation's Motion to Dismiss ([Doc. 3](#)) and Plaintiff Valerie Douse's opposition thereto ([Doc. 13](#)). As explained below, the Court will dismiss without prejudice the Complaint as a shotgun pleading.

This is a product liability suit. Fourteen years ago, Boston Scientific's Greenfield Vena Cava Filter was implanted in Douse to prevent pulmonary embolism. According to Douse, the implant has caused her substantial injuries and health complications. Douse thus filed this suit in Florida state court, alleging strict liability, negligence, breach of warranty, consumer fraud, fraudulent misrepresentation and concealment, and negligent misrepresentation. ([Doc. 2](#)). Boston Scientific timely removed the case to this Court

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(Doc. 1) and moved to dismiss the Complaint for, among other things, being an impermissible shotgun pleading (Doc. 3).

Federal Rules of Civil Procedure 8 and 10 provide the minimum requirements for pleadings. Rule 8(a)(2) requires a complaint to contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” [Fed. R. Civ. P. 8\(a\)\(2\)](#). Rule 10(b) further provides that “[a] party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances.” [Fed. R. Civ. P. 10\(b\)](#). A problem arises when a plaintiff fails to follow the rules. One such problem is a “shotgun pleading.” A common type of shotgun complaint is a pleading “containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint.” [Weiland v. Palm Beach Cnty. Sherriff’s Office](#), 792 F.3d 1313, 1322 (11th Cir. 2015). Shotgun pleadings “in one way or another, [fail] to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” [Id. at 1323](#) (footnoted omitted).

The Eleventh Circuit has long frowned on shotgun pleadings. See [id. at 1324](#); [Strategic Income Fund, LLC v. Spear, Leeds & Kellogg Corp.](#), 305 F.3d 1293, 1295 (11th Cir. 2002) (stating “in ruling on the sufficiency of a [shotgun] claim, the trial court must sift out the irrelevancies, a task that can be quite onerous” (footnote omitted)). [Cramer v. Florida](#), 117 F.3d 1258, 1263 (11th Cir. 1997) (stating shotgun pleadings “exact an intolerable toll on the trial court’s docket”). Consequently, when faced with a shotgun pleading, a district court should require the plaintiff to file an amended complaint rather than allow the case to proceed to trial. See [Paylor v. Hartford Fire Ins.](#)

Co., 748 F.3d 1117, 1127-28 (11th Cir. 2014) (criticizing the district court for not policing shotgun pleadings).

Here, the Complaint is a typical shotgun pleading. Paragraphs 18 through 39 set out general factual allegations, while paragraphs 40 through 55 are “Plaintiff Specific Factual Allegations.” (Doc. 2 at ¶¶ 18-55). Paragraphs 68 through 220 are divided into twelve counts, eleven of which Douse “repeats, reiterates, and re-alleges each and every allegation contained” in the Complaint. (Doc. 2 at ¶¶ 68, 79, 94, 100, 127, 144, 155, 163, 181, 201, 217). This is impermissible under the pleading requirements. See *Kendall v. Boston Scientific Corp.*, No. 6:17-cv-1888-Orl-37GJK, 2017 WL 6042020, at \*2 (M.D. Fla. Dec. 6, 2017). Douse thus must file an amended complaint.

Accordingly, it is now

**ORDERED:**

- (1) Defendant Boston Scientific’s Motion to Dismiss (Doc. 3) is **GRANTED**.
- (2) The Complaint (Doc. 2) is **DISMISSED without prejudice**.
- (3) Plaintiff Valerie Douse may file, on or before **January 2, 2018**, an amended complaint that remedies the deficiency identified in this Order. **Failure to file a timely amended pleading will result in the closing of this case without further notice.**

**DONE and ORDERED** in Fort Myers, Florida this 18th day of December 2017.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record