

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; et al.,

Plaintiffs,

v.

CASE NO. 2012-CA-00412 ✓

KEN DETZNER, in his official capacity
as Florida Secretary of State; PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

THE LEAGUE OF WOMEN VOTERS OF
FLORIDA; THE NATIONAL COUNCIL OF
LA RAZA; et al.,

Plaintiffs,

v.

CASE NO. 2012-CA-00490

KEN DETZNER, in his official capacity
as Florida Secretary of State; THE FLORIDA
SENATE, et al.,

Defendants.

**MOTION OF THE ATTORNEY GENERAL
TO DISMISS ROMO PLAINTIFFS' AMENDED COMPLAINT**

Pursuant to Florida Rule of Civil Procedure 1.140(b), Pamela Jo Bondi, Attorney General of Florida, moves to dismiss the Amended Complaint filed by Plaintiffs Rene Romo, et al., on March 7, 2012 (the "Romo Complaint"). As shown below, and in the "Florida House of Representatives and Florida Senate's Joint Motion to Dismiss Romo Plaintiffs' Amended Complaint," dated March 23, 2012 (the "House/Senate Motion to Dismiss") – in which the

IN COUNTY CLERK
D.B.

Attorney General hereby joins – the Romo Complaint sets forth only broad, conclusory allegations that fail to provide sufficient particularity to meet the fact pleading requirement under the Florida Rules of Civil Procedure.

Applicable Legal Standard

Florida Rule of Civil Procedure 1.110(b) requires that a pleading setting forth a claim for relief must, *inter alia*, contain “(2) a short and plain statement of the ultimate facts showing that the pleader is entitled to relief....” Thus, to survive dismissal, a complaint under Florida law must satisfy this applicable fact pleading requirement (as distinguished from the more general notice pleading requirement applicable to complaints filed in federal courts). *See, e.g., Louie’s Oyster, Inc. v. Villagio Di Las Olas, Inc.*, 915 So. 2d 220, 221-22 (Fla. 4th DCA 2005); *Ranger Constr. Indus., Inc. v. Martin Cos. of Daytona, Inc.*, 881 So. 2d 677, 680 (Fla. 5th DCA 2006); *Deloitte & Touche v. Gencor Indus., Inc.*, 929 So. 2d 678, 681 (Fla. 5th DCA 2006).

The requirement for pleading ultimate facts serves the important function of informing litigants of the nature of the asserted claims with sufficient particularity to enable defenses to be prepared. *See, e.g., Arky, Freed, Stearns, Watson, Greer, Weaver & Harris, P.A. v. Bowmar Instrument Corp.*, 537 So. 2d 561 (Fla. 1988); *Horowitz v. Laske*, 855 So. 2d 169, 173 (Fla. 5th DCA 2003); *Barnett v. City of Margate*, 743 So. 2d 1160, 1162 (Fla. 4th DCA 1999).

Bare legal conclusions that lack support in well-pleaded ultimate facts are insufficient to meet the test, as a matter of law. *See, e.g., Miami-Dade County v. Deerwood Homeowners’ Ass’n*, 979 So. 2d 1103, 1104 (Fla. 3d DCA 2008); *K.R. Exch. Serv., Inc. v. Fuerst, Humphrey, Ittleman, P.L.*, 48 So. 3d 889, 892 (Fla. 3d DCA 2010).

Likewise, pleadings that in effect do no more than cite the language of a law and then claim it has been violated do not pass muster under Rule 1.110(b)(2). *See, e.g., Bohannon v.*

Shands Teaching Hosp. and Clinics, Inc., 983 So. 2d 717, 721 (Fla. 1st DCA 2008); *Ginsberg v. Lennar Fla. Holdings, Inc.*, 645 So. 2d 490, 501 (Fla. 3d DCA 1994).

The Romo Complaint Fails to State a Cause of Action

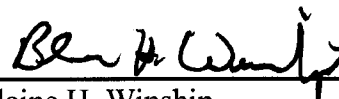
The Romo Complaint clearly does not provide the required ultimate fact pleading to put the Attorney General and the other named Defendants on notice of the gist of Plaintiffs' challenge to Florida's redistricting plan. Instead, the Romo Complaint offers up nothing more than a conclusory list of every conceivable category of deficiency that might in theory apply to any such plan, tracking the redistricting standards set forth in Article III, section 20 of the Florida Constitution. The Romo Complaint then proceeds, in boilerplate fashion, to repeat these conclusory claims over and over again, thereby adding to the length of the pleading but without ever providing any informative substance to enable the Attorney General and her co-defendants to formulate a defense.

Conclusion

For all of the reasons stated above and in the House/Senate Motion to Dismiss, the Romo Complaint should be dismissed for failure to state a cause of action.

Respectfully submitted,

PAMELA JO BONDI
ATTORNEY GENERAL OF FLORIDA

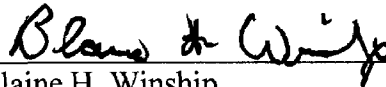


Blaine H. Winship
Special Counsel
Florida Bar No. 356913
Timothy D. Osterhaus
Florida Bar No. 0133728
Deputy Solicitor General
Office of the Attorney General of Florida
The Capitol, Suite PL-01
Tallahassee, Florida 32399-1050

Telephone: (850) 414-3300
Facsimile: (850) 488-4872
Email: blaine.winship@myfloridalegal.com
Attorneys for the Attorney General of Florida

CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of March, 2012, a copy of the foregoing was served by United States Mail on all persons listed in the attached Service List.



Blaine H. Winship
Special Counsel
Office of the Attorney General of Florida

SERVICE LIST

Michael A. Carvin, Esq.
JONES DAY
51 Louisiana Avenue N.W.
Washington, DC 20001

Peter M. Dunbar, Esq.
Cynthia S. Tunnicliff, Esq.
PENNINGTON, MOORE, WILKINSON,
BELL & DUNBAR, P.A.
215 South Monroe Street, Second Floor
Tallahassee, FL 32301

Miguel De Grandy, Esq.
800 Douglas Road, Suite 850
Coral Gables, FL 33134

Joseph W. Hatchett, Esq.
AKERMAN SENTERFITT
106 E. College Ave., Suite 1200
Tallahassee, FL 32301

John L. Mills, Esq.
Elan Nehleber, Esq.
BOIES, SCHILLER & FLEXNER, LLP
100 S.E. 2nd Street, Suite 2800
Miami, FL 33131-2144

Abha Khanna, Esq., Kevin J. Hamilton,
Esq., Marc Elias, Esq.
PERKINS COIE, LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099

Jessica Ring Amunson, Esq., Paul Smith,
Esq., Michael B. DeSanctis, Esq., Kristen
Mr. Rogers, Esq., Christopher Deal, Esq.
JENNER & BLOCK, LLP
1099 New York Avenue, N.W., Suite 900
Washington, DC 20001-4412

Andy Bardos, Esq.
Special Counsel to the President
The Florida Senate
404 South Monroe Street, Suite 409
Tallahassee, FL 32399

Charles T. Wells, Esq., George N. Meros,
Jr., Esq., Jason L. Unger, Esq., Allen
Winsor, Esq., Charles B. Upton, II, Esq.
GRAY ROBINSON, P.A.
Post Office Box 11189
Tallahassee, FL 32302

George T. Levesque, Esq.
General Counsel
Florida House of Representatives
422 The Capitol
Tallahassee, FL 32399-1300

Karen C. Dyer, Esq.
BOIES, SCHILLER & FLEXNER, LLP
121 South Orange Avenue, Suite 840
Orlando, FL 32801

John M. Devaney, Esq.
Mark Erik Elias, Esq.
PERKINS COIE, LLP
700 Thirteenth, Street, NW, Suite 700
Washington, DC 20005

Ronald Meyer, Esq., Lynn Hearn, Esq.
MEYER, BROOKS, DEMMA and
BLOHM, P.A.
131 North Gadsden Street
Post Office Box 1547
Tallahassee, FL 32302

Daniel E. Nordby, General Counsel
Ashley Davis, Assistant General Counsel
Florida Department of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, FL 32399

J. Gerald Hebert, Esq.
191 Somerville Street, #405
Alexandria, VA 22304