

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

ELIZABETH MICHELLE ANGELL  
and BRETT ANGELL, her husband,

Plaintiffs,

v.

Case No. 3:18-cv-282-J-34JBT

ALLERGAN SALES, LLC, a foreign  
limited liability company,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on Plaintiffs' Response to Motion to Dismiss Second Amended Complaint (Doc. 49; Response) filed on October 23, 2018. At the outset of their Response, Plaintiffs note that they "have briefed these issues in their response to Allergan's motion to dismiss their amended complaint and in their reply in support of their motion for leave to file a second amended complaint. Plaintiffs incorporate by reference their previous arguments on these issues." See Response at 3 n.1. However, adopting and incorporating by reference the arguments in prior briefing violates the page limit requirements set forth in Local Rule 3.01(b), United States District Court, Middle District of Florida (Local Rule(s)), and places an undue burden on judicial resources. Accordingly, the Court will strike the Response and direct Plaintiffs to re-file an appropriate Response which sets forth the entirety of their arguments in one document.

As aptly explained in Mobile Shelter Sys. USA, Inc. v. Grate Pallet Solutions, LLC, 845 F. Supp. 2d 1241 (M.D. Fla. 2012), incorporation by reference "foists upon the Court

the burden of sifting through irrelevant materials to find the materials referenced while permitting the [respondent] to circumvent this Court's page limit requirement." See Mobile Shelter, 845 F. Supp. 2d at 1253 aff'd in part, 505 F. App'x 928 (11th Cir. 2013). Significantly, the page limit requirement is not designed to burden the parties, but to conserve judicial resources by "focus[ing] the parties' attention on the most pressing matters and winnow[ing] the issues to be placed before the Court . . . ." Id. at 1253. By filing the instant Response and incorporating their prior briefing as well, Plaintiffs have done no "winnowing" and instead have engaged in a "throw-the-spaghetti-and-see-what-sticks motion practice [which] leads to imprecise and inartful briefing." See Gov't Employees Ins. Co. v. Path Medical, Case No. 8:17-cv-2848-T-17TGW, ECF No. 79 at 2 (M.D. Fla. entered Mar. 2, 2018) (order denying motions to dismiss without prejudice).

Here, Plaintiffs have not only filed a twenty-page Response to Defendant Allergan Sales, LLC's Motion to Dismiss Plaintiffs' Second Amended Complaint (Doc. 46; Motion to Dismiss), they have also incorporated by reference their twenty-five page response to a previous motion to dismiss, addressing an earlier version of the pleadings, as well as their ten-page reply in support of their request for leave to amend. As such, were the Court to "adopt and incorporate by reference" these other documents, Plaintiffs' briefing in response to the Motion to Dismiss would total fifty-five pages, well in excess of the 20-page limit set by Local Rule 3.01(b). More importantly, much of the material incorporated would be redundant or irrelevant, but it would fall to the Court to sift through this voluminous briefing to determine what portions of the incorporated briefs add anything new to the arguments, and extrapolate how such arguments might apply in context of the current version of the pleadings. This is not a proper or efficient use of judicial resources.

Accordingly, the Court will strike the Response and provide Plaintiffs with the opportunity to file an amended response which sets forth the entirety of their arguments. As the Court recognizes that Plaintiffs may need additional space in which to do so, the Court will extend the page limit to twenty-five pages. Accordingly, it is

**ORDERED:**

1. Plaintiffs' Response to Motion to Dismiss Second Amended Complaint (Doc. 49) is **STRICKEN**.
2. Plaintiffs shall have up to and including **November 7, 2018**, to file an amended response which shall not exceed **twenty-five (25) pages** in length.

**DONE AND ORDERED** at Jacksonville, Florida this 24th day of October, 2018.

  
MARCIA MORALES HOWARD  
United States District Judge

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Copies to:

Counsel of Record