

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

JENNIFER J. MILLER, DARIN E. MILLER,)	
SECOND AMENDMENT FOUNDATION, INC.,)	
ILLINOIS STATE RIFLE ASSOCIATION, and)	
ILLINOIS CARRY,)	
)	No. 18-CV-3085
Plaintiffs,)	Hon. Sue E. Myerscough
)	Judge Presiding
v.)	
)	
BEVERLY J. WALKER, in her official capacity as)	
Director of the Illinois Department of Children and)	
Family Services, and LISA MADIGAN, in her)	
official capacity as Attorney General of the State of)	
Illinois,)	
)	
Defendants.)	

MOTION FOR MORE DEFINITE STATEMENT PURSUANT TO FED. R. CIV. P. 12(e)

NOW COME the Defendants, Beverly J. Walker, Acting Director, Illinois Department of Children and Family Services, and Lisa Madigan, Attorney General of the State of Illinois, by their attorney Lisa Madigan, Attorney General of the State of Illinois and Barbara L. Greenspan, Assistant Attorney General, and move this Court to order Plaintiffs to provide a more definite statement pursuant to Fed. R. Civ. P. 12(e). In support thereof, Defendants state as follows.

1. Plaintiffs, Jennifer J. Miller, Darin E. Miller, the Second Amendment Foundation, the Illinois State Rifle Association, and Illinois Carry, challenge the regulation of guns and ammunition in licensed day care homes.

2. Defendant Beverly J. Walker is the Director of the Illinois Department of Children and Family Services (DCFS). DCFS licenses and regulates day care homes in Illinois pursuant to the statutory obligations set forth in the Illinois Child Care Act and regulations promulgated in accordance with that Act.

3. Rule 12(e) provides that “[a] party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that a party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading and must point out the defects complained of and the details desired.” Fed. R. Civ. P. 12(e). In considering the sufficiency of a complaint, a motion for more definite statement pursuant to Rule 12(e) “is the right way to ask plaintiffs to lay out details that enable the defendants to respond intelligently and the court to handle the litigation effectively.” *Chapman v. Yellow Cab Cooperative*, 875 F.3d 846, 849 (7th Cir. 2018).

4. Here, critical aspects of Plaintiffs’ complaint are so vague and ambiguous that Defendants cannot reasonably prepare their response. Most importantly, Defendants are unable to ascertain which provisions Plaintiffs seek to invalidate, as the causes of action do not identify the specific statutes or regulations that Plaintiffs seek to enjoin. Rather, Plaintiffs broadly allege that “[t]he IDCFS policy, and all other Illinois statutory language, which restricts day care home licensees, and would-be day care home licensees . . .” violate Plaintiffs’ rights under the Second and Fourteenth Amendments to the U.S. Constitution. Compl., ¶¶ 34, 36.

5. Nor do Plaintiffs’ preceding allegations clarify the scope of their causes of action. For example, the State Law section of their complaint includes excerpts from a broad cross-section of statutes, rules, and policies that regulate the possession of handguns on day care home premises, the safe storage of firearms on day care home premises, the notification of parents or guardians of the presence of firearms and ammunition in the day care home, and the concealed carry of firearms in day care homes, among other things. *Id.* ¶¶ 27-32. Plaintiffs do not, however, assert whether they seek to challenge every aspect of each of the provisions identified

therein, or whether they instead intend for these provisions to provide factual background for a more targeted challenge. *Id.*

6. This ambiguity is further complicated by the Millers' alleged "stated willingness" to comply with the Concealed Carry Act provisions cited in the State Law section of the complaint. *Id.* ¶ 31. An inference could be drawn from this allegation that the Millers are only challenging the Illinois Child Care Act to the extent that it allegedly conflicts with the Illinois Concealed Carry Law. In order to draw that inference, however, Defendants would be required to disregard the broader allegations contained in the balance of the complaint. Defendants submit that clarification from Plaintiffs is a more effective approach.

7. In short, without clarification from Plaintiffs, Defendants are unable to discern which statutory or regulatory provisions Plaintiffs seek to invalidate, and consequently Defendants cannot respond to the complaint in a meaningful way. Clarification is of particular importance where, as here, the scope and nature of the claims would differ significantly depending on what statutes and regulations Plaintiffs are challenging.

8. In addition, it is unclear which Plaintiffs are challenging the statutes and on what grounds. As discussed, the complaint points to "the Millers' stated willingness to comply with the requirements of 430 ILCS 66/65(a)(2) [Illinois Concealed Carry Law] ..." but does not appear to extend those allegations to the other plaintiffs. Compl. ¶ 31. It is thus unclear whether the stated willingness to comply with the Illinois Concealed Carry Law applies to all Plaintiffs or only to the Millers. Furthermore, the causes of action refer only to the rights and privileges of "day care licensees, and would-be day care licensees," but at least one of the Plaintiffs, Darrin Miller, is not alleged to be either of those. *Id.* ¶¶ 11, 31. All told, the complaint does not clearly outline which of the Plaintiffs is challenging which statutes or regulations.

9. For the foregoing reasons, Defendants request that the Plaintiffs amend their complaint and specify the statutes and regulations each Plaintiff challenges, the basis for each challenge, and the relief requested.

WHEREFORE, Defendants respectfully request that this Honorable Court grant their motion for a more definite statement pursuant to Fed. R. Civ. P. 12(e) and for such other relief that this Court may deem necessary and appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of June, 2018, I will electronically file the foregoing with the Clerk of the United States District Court for the Central District of Illinois using the CM/ECF system, which will then send a notification of such filing to the following:

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