

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

**JENNIFER J. MILLER, DARIN E.)
MILLER, SECOND AMENDMENT)
FOUNDATION, INC., ILLINOIS)
STATE RIFLE ASSOCIATION, and)
ILLINOIS CARRY,)**

Plaintiffs,)

v.)

Case No. 18-cv-03085

**DEBRA DYER-WEBSTER, in her)
official capacity as Interim)
Director of the Illinois)
Department of Children and)
Family Services, and KWAME)
RAOUL, in his official capacity as)
Attorney General of the State of)
Illinois,¹)**

Defendants.)

ORDER

SUE E. MYERSCOUGH, U.S. District Judge:

This cause is before the Court on Defendants’ Motion for More
Definite Statement Pursuant to Fed. R. Civ. P. 12(e) (d/e 9). For the
reasons set forth below, the motion is DENIED.

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Debra Dyer-Webster and Kwame Raoul are substituted as parties in this matter.

I. BACKGROUND

On April 16, 2018, Plaintiffs filed a Complaint for Declaratory and Injunctive Relief (d/e 1). Plaintiff Jennifer Miller is a “day care home licensee” and operates a “child care facility” and “day care home.” Complaint, ¶¶ 9-10. Plaintiff Darin Miller is Jennifer’s husband and resides with her and their children. Id. ¶ 11. The Millers have Illinois FOID cards and concealed carry licenses. Id. ¶¶ 9, 11. Plaintiffs Second Amendment Foundation, Inc. (SAF), Illinois State Rifle Association (ISRA), and Illinois Carry (IC) are non-profit membership organizations that seek to preserve the rights to own, purchase, possess, and carry firearms guaranteed by the Second Amendment of the U.S. Constitution. See id. ¶¶ 14, 16, 18. SAF, ISRA, and IC have members who are “day care home licensees” in Illinois. See id. ¶¶ 14-15, 17, 19. The Millers are members of SAF, ISRA, and IC. Id. ¶ 20.

Plaintiffs set forth in their Complaint the following provisions of Illinois law that impose firearm restrictions that relate specifically to day care homes or child care facilities: 225 ILCS 10/7(a)(13)-(15); Section 406.8(a)(17)-(18) of Title 89 of the Illinois Administrative Code; and 430 ILCS 66/65(a)(2). See id. ¶¶ 27, 29-30. The Millers

indicate that they are willing to comply with the requirements posed by 430 ILCS 66/65(a)(2) and that they are “fearful of losing Jennifer’s day care home license if they . . . do not comply with 225 ILCS 10/7 and the [Illinois Administrative Code] sections” referenced in the Complaint. Id. ¶¶ 31-32.

Count I of Plaintiffs’ Complaint alleges that “[t]he IDCFS policy, and all other Illinois statutory language,” that restricts “the rights and privileges of possessing and carrying firearms for self-defense and defense of family” of day care home licensees “based solely on their status as day care home licensees” violate the Second Amendment to the United States Constitution. Id. ¶ 34.

Count II of Plaintiffs’ Complaint alleges that “[t]he IDCFS policy, and all other Illinois statutory language,” that restricts “the rights and privileges of possessing and carrying handguns for self-defense and defense of family” of day care home licensees “based solely on their status as day care home licensees” violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Id. ¶ 36.

Plaintiffs ask the Court for a declaratory judgment that the “IDCFS policy of prohibiting handgun possession and carrying to

day care home licensees . . . and the Illinois statutory language which restricts firearms rights and privileges based on status as a day care home licensee[], such as contained in 225 ILCS 10/7, are null and void.” Id. at 13. Plaintiffs also request that the Court issue preliminary and permanent injunctions preventing Defendants and their subordinates from enforcing “the IDCFS policy of prohibiting firearms possession and carrying to day care home licensees . . . and the Illinois statutory language which restricts handgun rights and privileges based on status as a day care home licensee, such as contained in 225 ILCS 10/7.” Id.

On June 20, 2018, Defendants filed their Motion for More Definite Statement Pursuant to Fed. R. Civ. P. 12(e). Defendants claim that they cannot reasonably respond to the allegations of Plaintiffs’ Complaint because they are unable to determine which statutes and regulations Plaintiffs seek to invalidate or whether Plaintiffs seek to invalidate the statutes and regulations cited in their entirety. Motion (d/e 9), ¶¶ 4-7. Defendants also claim that it is unclear to them which Plaintiffs are challenging which statutes or regulations and on what grounds. Id. ¶ 8.

Plaintiffs filed their Response to Defendants’ Motion for

More Definite Statement Pursuant to Fed. R. Civ. P. 12(e) on July 19, 2018. Plaintiffs note that references in their Complaint to “IDCFS policy” are references to the provisions of the Illinois Administrative Code quoted in the Complaint. Response (d/e 11), at 2. The response also states that the Millers’ willingness to comply with the requirements imposed by 430 ILCS 66/65(a)(2) should not be read in any way to limit Plaintiffs’ challenges to 225 ILCS 10/7(a)(13)-(15) and Section 406.8(a)(17)-(18) of Title 89 of the Illinois Administrative Code. Id. at 3.

II. ANALYSIS

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 the party cannot reasonably prepare a response. Fed. R. Civ. P. 12(e). 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 Coop., 875 F.3d 846, 849 (7th Cir. 2017).

However, “Rule 12(e) motions are generally disfavored, and courts should grant such motions only if the complaint is so unintelligible that the defendant cannot draft a responsive pleading.

Moore v. Fid. Fin. Servs., Inc., 869 F. Supp. 557, 559–60 (N.D. Ill. 1994). “Rule 12(e) motions are not to be used as substitutions for discovery.” Moore v. Fid. Fin. Servs., Inc., 869 F. Supp. 557, 560 (N.D. Ill. 1994).

Plaintiffs’ Complaint is not so vague or ambiguous that Defendants cannot reasonably prepare a response. Plaintiffs claim that 225 ILCS 10/7(a)(13)-(15) and Section 406.8(a)(17)-(18) of Title 89 of the Illinois Administrative Code are unconstitutional because they violate the Second and Fourteenth Amendments to the U.S. Constitution. Nowhere in the Complaint do Plaintiffs indicate that they are challenging only certain portions of these provisions. In addition, the Millers indicate in the Complaint that they are willing to comply with the requirements imposed by 430 ILCS 66/65(a)(2), a strong indicator that the Millers are not seeking to invalidate that statutory provision through this lawsuit.

Plaintiffs do, in some places, use general language to describe the provisions they are challenging. See Complaint, ¶¶ 34, 36 (alleging that “[t]he IDCFS policy, and all other Illinois statutory language” that restricts “the rights and privileges of possessing and carrying handguns for self-defense and defense of family” of day

care home licensees violate the Second and Fourteenth Amendments of the United States Constitution). However, other portions of Plaintiffs' Complaint provide clarification for these general statements. See id. ¶¶ 28, 32 (alleging that under "IDCFS policy and rules," Plaintiffs are subject to provisions of the Illinois Administrative Code and that the Millers are "fearful of losing Jennifer's day care home license if they . . . do not comply with 225 ILCS 10/7 and the [Illinois Administrative Code] sections" referenced in the Complaint); see also id. at 13 (listing 225 ILCS 10/7, but not 430 ILCS 66/65(a)(2), in Plaintiffs' requests for declaratory and injunctive relief).

Plaintiffs' Complaint sufficiently apprises Defendants of the statutory and regulatory provisions that Plaintiffs are seeking to invalidate and the grounds on which Plaintiffs seek to invalidate those provisions. In addition, Plaintiffs have provided clarification on certain aspects of the Complaint in their response to Defendants' Rule 12(e) motion. Therefore, Defendants can reasonably prepare a response to the Complaint.

III. CONCLUSION

For the reasons stated, Defendants' Motion for More Definite Statement Pursuant to Fed. R. Civ. P. 12(e) (d/e 9) is DENIED.

ENTER: March 25, 2019

/s/ Sue E. Myerscough
SUE E. MYERSCOUGH
UNITED STATES DISTRICT JUDGE