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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

AMBER J. WILLIAMS,

Plaintiff,

v.

CANDICE OSTERMAN, et al.,

Defendants.

Cause No. CV 20-00023-H-DLC-JTJ

DEFENDANTS KIDS BEHAVIORAL
HEALTH OF MONTANA d/b/a
ACADIA MONTANA AND
JENNIFER HEDKE'S BRIEF IN
SUPPORT OF MOTION FOR MORE
DEFINITE STATEMENT PURSUANT
TO FED. R. CIV. P. 12(e)

Defendants Kids Behavioral Health of Montana d/b/a Acadia Montana
("Acadia") and Jennifer Hedke ("Ms. Hedke") file this brief in support of their
Motion for More Definite Statement Pursuant to Federal Rule of Civil Procedure
12(e). The Court should require the Plaintiff Amber J. Williams to submit a more
definite statement of the allegations in her Complaint against Acadia and Ms.

Hedke, because the current Complaint with respect to these Defendants is so vague and ambiguous that neither Defendant can reasonably prepare a response.

I. BACKGROUND

Acadia operated a private residential psychiatric treatment facility for children located in Butte, Montana for a number of years before closing the facility in 2019. While Acadia often worked with state agencies to facilitate transitions to appropriate behavioral programs for its patients, Acadia is a private entity. Ms. Hedke worked as an employee of Acadia during the time frame alleged in the Complaint. Acadia and Ms. Hedke, along with approximately a dozen other parties, are identified as Defendants in Plaintiff's Complaint. (Doc. 2.)

Under the Statement of Claim(s) section, Plaintiff's Complaint contains a list of claims against "[a]ll defendants," including "[d]eprivation of civil rights by torturous intervention of a mother/child relationship, enslavement by a government entity, terrorism by a government entity, interference of civil and constitutional rights, violations of parenting rights. Robbery by a government entity, [and] parental alienation." (Doc. 2 at 13.) The Complaint, however, does not identify which particular claim(s) applies to which Defendant(s). In addition, as indicated by the listed claims, the majority of Plaintiff's causes of action require conduct by or on behalf of a government entity.

The Complaint is supported by a verbose and lengthy 17-page affidavit from Plaintiff containing the alleged supporting facts for her claims. Although there are allegations in the affidavit that A.R., N.R., and N.M. experienced “mental abuse,” “emotional abuse,” “physical abuses” and physical and “[c]hemical restraints” at Acadia, and that N. M. sustained a serious physical injury at Acadia, there are no allegations connecting this alleged wrongdoing to the stated claims. (*See* Doc. 2 at 22; 24.) Furthermore neither A.R., N.R. nor N.M. are plaintiffs to this action, and there are no allegations connecting their alleged injuries to Plaintiff’s claims. With respect to Ms. Hedke, the affidavit contains no factual allegations against her and in fact, does not contain any mention or reference to Ms. Hedke whatsoever.

The confusion created by the Complaint is further compounded by the fact that in addition to the claims stated above, the Complaint contains another significantly broader list of what could be interpreted as claims. This list, however, is located under the Injuries section of the Complaint, making it unclear as to whether they are intended as additional causes of action. (*See* Doc. 2 at 37.) In addition, these additional potential claims are intermingled with what appear to be forms of compensatory damages, making it impossible to distinguish between what may be intended as a potential claim and what is simply an allegation of damages.

In its present form, it is impossible for Acadia and Ms. Hedke to reasonably respond to Plaintiff's Complaint. As a result, they respectfully request the Court to grant their Motion for More Definite Statement.

II. DISCUSSION

A pleading is to be a short and plain statement of the claim showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2). A party may move for a more definite statement when a pleading to which the party must respond is vague or ambiguous to an extent that the party cannot reasonably prepare a response. Fed. R. Civ. P. 12(e). While 12(e) motions should not be used to attack the lack of detail in a complaint, where a complaint is unintelligible or fails to notify the defendant of the substance of the claims asserted, a Rule 12(e) motion is appropriate. *See Thompson v. City of Bozeman*, No. CV 18-75-BU-BMM-KLD, 2020 U.S. Dist. LEXIS 95839, at *5 (D. Mont. June 1, 2020) (citation omitted). *See also, e.g., Peterson v. Time Ins. Co.*, No. CV 11-81-M-DWM-JCL, 2011 U.S. Dist. LEXIS 137777, at *4 (D. Mont. Nov. 1, 2011) (citing *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002) (internal quotation omitted) (“A Rule 12(e) motion may be the appropriate remedy if a pleading fails to specify the allegations in a manner that provides sufficient notice to the responding party.”)). “The proper test in evaluating a motion under Rule 12(e) is whether the complaint provides the

defendant with a sufficient basis to frame a responsive pleading.” *Thompson*, 2020 U.S. Dist. LEXIS 95839, at *5 (internal quotations and citation omitted).

While pro se complaints are construed liberally and held to less stringent standards than formal pleadings drafted by lawyers, courts have granted defendants’ motions for a more definite statement in pro se cases where the complaint does not identify which claims are being brought against which defendants or when the complaint fails to include supporting factual allegations. Compare *Maas v. City of Billings*, No. CV 19-79-BLG-SPW-KLD, 2019 U.S. Dist. LEXIS 191126, at *4 (D. Mont. Nov. 4, 2019) (granting Rule 12(e) motion for more definite statement where complaint “does not identify which claims are being brought against which Defendants, and contains virtually no supporting factual allegations”) with *Abrams v. Corwin*, No. CV 14-236-M-DLC, 2015 U.S. Dist. LEXIS 184930, at *7 (D. Mont. Jan. 12, 2015) (citation omitted) (denying 12(e) motion where complaint outlined each of the counts alleged singularly against the defendant and did not leave uncertain the nature of the claims or the parties against whom they are asserted).

In addition, although a lengthy or verbose complaint is not reason alone to dismiss a complaint or require a more definite statement, when the pleading results in other deficiencies, a more definite statement is warranted. *See Thompson*, 2020 U.S. Dist. LEXIS 95839, at *7. Such deficiencies include allegations which do not

specify which of the numerous defendants are liable for the numerous claims; allegations which do not specify conduct committed by each defendant that purports to give rise to that defendant's liability; and allegations that are confusing, conclusory, distracting, vague or ambiguous which, as a result, disguise the true substance of the claims. *Thompson*, 2020 U.S. Dist. LEXIS 95839, at *7 (citing *Hearns v. San Bernardino Police Dep't*, 530 F.3d 1124, 1130-32 (9th Cir. 2008)). *See also, e.g., Maas*, 2019 U.S. Dist. LEXIS 191126, at *4 (granting motion for more definite statement where complaint did not identify which claims are being brought against which defendants and simply listed several constitutional rights, but did not explain how any of the named defendants allegedly violated those rights).

Here, given the additional list of potential claims listed under the Injuries section of the Complaint, it is unclear what claims or causes Plaintiff seeks to maintain. Moreover, it is entirely unclear which Defendant the causes of action are alleged against. This makes it impossible for Acadia or Ms. Hedke to reasonably prepare a response. For example, if Plaintiff is alleging violation of or interference with her constitutional rights against Acadia or Ms. Hedke, those claims would require a showing that Acadia or Ms. Hedke was acting as or on behalf of a state actor. Accordingly, a motion to dismiss those claims could be appropriate, yet it is impossible to determine if Plaintiff is actually alleging these causes of action

against either of these Defendants. The various Defendants in this case are different individuals and entities that perform different services or interacted with the Plaintiff and her children in different capacities. Thus, their legal duties may be correspondingly different. As such it is imperative that the Complaint set forth the causes of action being prosecuted and against whom they are being made.

Similarly, if the Injuries section of the Complaint is intended to set forth additional causes of action, there are a variety of allegations that are not cognizable legal claims, including but not limited to, abuse of power, victimization, mishandling, misconduct, malicious interference of parental rights, and denial of supportive services, etc. If those claims are intended as causes of action, Acadia and Ms. Hedke should be informed of this fact so they may respond, or move to dismiss them appropriately.

Finally, as noted above, none of Plaintiff's minor children are parties to this action. Therefore, it is impossible to determine—based on the existing allegations in the Complaint as to Acadia, and the complete lack of allegations as to Ms. Hedke—which claims Plaintiff would have standing to pursue against either Defendant. Without that clarification, neither Defendant can adequately prepare a defense. Accordingly, Plaintiff should be directed to provide a more definite statement.

III. CONCLUSION

Acadia and Ms. Hedke cannot reasonably respond to Plaintiff's Complaint in its present form. The Complaint fails to identify the causes of action being pursued or the Defendant they are being pursued against. Instead the Complaint only states vague allegations, or in Ms. Hedke's case—no allegations—making it insufficient to provide notice of the claims asserted. As the Complaint is inadequate to allow either Defendant to properly respond, Acadia and Ms. Hedke respectfully request that the Court grant their motion for a more definite statement and require Plaintiff to specifically provide facts supporting allegations against Ms. Hedke (if any), stating each claim or cause of action she is alleging and the Defendant against whom the claim is being made.

DATED this 9th day of October, 2020.

/s/ Elizabeth L. Hausbeck
Attorneys for Defendants Kids Behavioral Health
of Montana d/b/a Acadia Montana and
Jennifer Hedke

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(d)(2)(E), I certify that this Defendants Kids Behavioral Health of Montana d/b/a Acadia Montana and Jennifer Hedke's Brief in Support of Motion for More Definite Statement Pursuant to Fed. R. Civ. P. 12(E) is printed with proportionately spaced Times New Roman text typeface of 14 points; is double-spaced; and the word count, calculated by Microsoft Office Word 2016, is 1554 words long, excluding Caption, Certificate of Service and Certificate of Compliance.

/s/ Elizabeth L. Hausbeck
Attorneys for Defendants Kids Behavioral Health
of Montana d/b/a Acadia Montana and
Jennifer Hedke

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2020, a copy of the foregoing document was served on the following persons by the following means:

_____ Hand Delivery
 1 Mail
_____ Overnight Delivery Service
_____ Fax (include fax number in address)
_____ E-Mail (include email in address)

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