

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ARIE S. FRIEDMAN, M.D. and The Illinois)	
State Rifle Association,)	
)	
Plaintiffs,)	
)	
v.)	No. 13-cv-09073
)	
THE CITY OF HIGHLAND PARK,)	Hon. John W. Darrah
)	
Defendant.)	

**OPPOSITION TO PLAINTIFFS' MOTION TO STRIKE THE BRIEF
OF AMICUS CURIAE BRADY CENTER TO PREVENT GUN VIOLENCE**

Amicus Curiae Brady Center to Prevent Gun Violence hereby opposes Plaintiffs' Motion to Strike Amicus Brief ("Motion to Strike"). The Motion to Strike is moot and incorrect on the substantive law, and therefore should be denied.

Given that this Court has already granted the Brady Center's Motion for Leave to File Amicus Brief (ECF Nos. 20, 23), which notably attached the very brief Plaintiffs now seek to strike, Plaintiffs' Motion to Strike is moot because it does not ask the Court to reconsider its previous decision. Certainly this Court is now able to give the Amicus Brief whatever weight it deems appropriate without the aide of Plaintiffs' counsel.¹

Even if Plaintiffs' Motion to Strike was not procedurally deficient, its substantive arguments are not persuasive. Plaintiffs argue that the Brady Center has no unique information or perspective to offer the Court. (Pl.'s Br. at 2). But the Supreme Court and the Seventh Circuit (including Judge Posner himself) have allowed the Brady Center to file numerous amicus briefs

¹ Notably, Plaintiffs' Notice of Motion (ECF No. 30) in support of the Motion to Strike is also untimely, as it was filed on Monday, February 24, 2014 for a hearing three days later on Thursday, February 27, 2014. The Court's Motion Procedures require that "[a]ny motions noticed for Thursday must be filed no later than the close of business on the Friday prior to the date the motion is to be heard."

in litigations involving federal and state gun laws, thereby recognizing that the Brady Center does have unique information or perspective that can help the court beyond the help that lawyers for the parties are able to provide. See e.g., *United States v. Hayes*, 555 U.S. 415, 427 (2009) (citing Brady Center brief), *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. Chicago*, 130 S.Ct. 3020 (2010); *United States v. Skoien*, 614 F.3d 638 (7th Cir. 2010); *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012) (Posner, J.); *Moore v. Madigan*, 842 F.Supp.2d 1092 (C.D. Ill 2012); *City of Chicago v. U.S. Dept. of Treasury*, 384 F.3d 429 (7th Cir. 2004). This particular Amicus Brief drew on the Brady Center's unique expertise on federal and state gun legislation and Second Amendment issues, which has been developed over 25 years, and was carefully drafted to provide useful background on the issues implicated by the Highland Park Ordinance.

Similarly, Plaintiffs' argument that the Court should strike the portions of the Amicus Brief asserting or relying upon facts is also futile, as evidenced by the complete absence of any Seventh Circuit opinions standing for such a proposition in Plaintiffs' brief. In actuality, a significant role of an amicus is to present "facts [] or data that are not to be found in the parties' briefs." *Voices for Choices, et al. v. Illinois Bell Telephone Co.*, 339 F.3d 542, 545 (7th Cir. 2003). Notably, the majority opinion of the Supreme Court cited to facts in a Brady Center amicus brief in *United States v. Hayes*, 555 U.S. 415, 427 (2009).

CONCLUSION

For the foregoing reasons, the Brady Center respectfully requests that this Court deny Plaintiffs' Motion to Strike.

Respectfully submitted,

Amicus Curiae Brady Center to Prevent Gun
Violence

By: /s/ Alexander D. Marks

One of its Attorneys

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Dated: February 26, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that on February 26, 2014, he caused the foregoing Opposition to Plaintiffs' Motion to Strike the Brief of Amicus Curiae to be electronically filed with the Clerk of the United States District for the Northern District of Illinois by filing through the CM/ECF system, which served a copy of the foregoing upon all counsel of record.

/s/ Alexander D. Marks

Alexander D. Marks