

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

STEVEN HILTIBRAN, et. al.)
)
 Plaintiffs,)
)
 v.)
)
 RONALD J. LEVY, et al.) Case No. 10-4185-CV-C-NKL
)
 Defendants.)

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

COME NOW Plaintiffs, by and through counsel, and move the Court pursuant to Fed. R. Civ. P. Rule 56 and Local Rule 56.1 for its order granting summary judgment in Plaintiffs' favor and against Defendants in their official capacities. As shown by Plaintiffs' Suggestions in Support of Motion for Summary Judgment, and by the declarations and other exhibits on file in this case, there is no genuine issue of material fact. Plaintiffs are entitled to judgment as a matter of law.

Wherefore, Plaintiffs pray that this Court grant declaratory relief and permanently enjoin Defendant from continuing to implement the regulation and policy at issue in this case and from otherwise denying medically necessary adult incontinent supplies. Plaintiffs further request that this Court grant their reasonable attorney's fees and costs, and such other and further relief as may be necessary and proper.

Dated: February 17, 2011

Respectfully submitted,

/s/ Joel Ferber

Joel Ferber # 35165
Daniel Claggett # 26982
Legal Services of Eastern Missouri
4232 Forest Park Avenue
St. Louis, Missouri 63108
(314) 534-4200 telephone
(314) 534-1028 facsimile
jdferber@lsem.org
declaggett@lsem.org

/s/ John J. Ammann

John J. Ammann # 34308
Saint Louis University Legal Clinic
321 N. Spring Street
St. Louis, Missouri 63108
(314) 977-2778 telephone
(314) 977-1180 facsimile
ammannjj@slu.edu

/s/ Thomas E. Kennedy, III

Thomas E. Kennedy, III # 46617
Heather B. Navarro # 60708
Law Offices of Thomas E.
Kennedy, III, L.C.
230 S. Bemiston Avenue
St. Louis, Missouri 63105
(314) 872-9041 telephone
(314) 872-9043 facsimile
tkennedy@tkennedylaw.com

/s/ Jane Perkins

Jane Perkins
National Health Law Program, Inc.
101 East Weaver St., Suite G-7
Carrboro, North Carolina 27510
(919) 968-6308 telephone
(919)968-8855 facsimile
perkins@healthlaw.org

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2011, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system which sent notification of such filing to the following counsel of record:

Mark E. Long
Assistant Attorney General
Broadway State Office Building
Post Office Box 899
Jefferson City, MO 65102

/s/ Joel Ferber