

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

STEVEN HILTIBRAN, by and through his	)	
Mother and guardian, Debra Burkhart;	)	
NICHOLAS TATUM, by and through his	)	
Mother and next friend, Stacy Tatum;	)	
RONALD COONTZ, by and through his	)	
Mother and guardian, Patricia Coontz; and	)	
NENA HAMMOND,	)	
Plaintiffs,	)	Case No. 10-4185-CV-C-NKL
v.	)	
RONALD J. LEVY, in his official capacity	)	
As Director of the Missouri Department of	)	
Social Services; and	)	
IAN McCASLIN, M.D., in his official	)	
Capacity as Director of the MO HealthNet	)	
Division,	)	
Defendants.	)	

**STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA**

The United States respectfully submits this Statement of Interest, pursuant to 28 U.S.C. § 517,<sup>1</sup> in support of Plaintiffs’ Motion for Summary Judgment in regards to the Plaintiffs’ claim under the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101, *et. seq.* As noted in the United States’ first Statement of Interest in this matter, this litigation implicates the proper interpretation and application of the integration mandate of Title II of the ADA, *See Olmstead v. L.C.*, 527 U.S. 581 (1999). The Attorney General has authority to enforce Title II of the ADA, and pursuant to Congressional mandate, to issue regulations setting forth the forms of discrimination prohibited by Title II. 42 U.S.C § 12134. The United States thus has a strong interest in this matter.

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<sup>1</sup> 28 U.S.C. § 517 states that “[t]he Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.”

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, summary judgment is appropriate if the moving party establishes that there are no genuine issues of material fact and that, as a matter of law, the moving party is entitled to judgment. Fed. R. Civ. P. 56(a); *see Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986); *see, e.g., Liebe v. Norton*, 157 F.3d 574, 578 (8th Cir. 1998); *Hall v. Lhaco, Inc.*, 140 F.3d 1190, 1193 (8th Cir. 1998).

The facts presented by both parties are not substantially different from those presented in the briefing for the Plaintiffs' Motion for a Preliminary Injunction. For the reasons stated in the Statement of Interest filed by the United States in support of Plaintiffs' Motion for Preliminary Injunction, the United States respectfully urges this Court to grant Plaintiffs' Motion for Summary Judgment. (*See* Statement of Interest of the United States, Oct. 15, 2010, ECF No. 19.)

### **CONCLUSION**

Accordingly, the Court should grant the Plaintiffs' Motion for Summary Judgment with respect to the Plaintiffs' claim under the ADA. With the Court's permission, counsel for the United States will be present at any upcoming hearings.

Dated: April 4, 2011

Respectfully submitted,

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/s/ Regan Rush

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CERTIFICATE \_\_\_\_\_ OF SERVICE

I hereby certify that on April 4, 2011, a copy of foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

s/ Charles M. Thomas  
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