

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

---

Civil Action No. 6-10-cv-767-RBH-BHH

---

Peter B., Karen W., Jimmy “Chip” E., Michelle M.,

Plaintiffs,

v.

Marshall C. Sanford, Emma Forkner, Beverly  
Buscemi, Kelly Floyd, the South Carolina Department  
Of Health and Human Services, and the South Carolina  
Department of Disabilities and Special Needs,

Defendants.

---

DEFENDANT GOVERNOR SANFORD’S  
MOTION TO DISMISS PLAINTIFFS’ COMPLAINT

---

Pursuant to 12(b)(1), or in the alternative 12(b)(6), of the Federal Rules of Civil Procedure, Defendant Governor Marshall C. Sanford (Governor Sanford) submits this Motion to Dismiss Plaintiffs’ Complaint because he is immune from suit under the Eleventh Amendment of the United States Constitution. Also, pursuant to Rule 12(b)(6), Governor Sanford moves to dismiss all claims against him in his individual capacity as he cannot be personally liable for the conduct alleged in Plaintiffs’ Complaint. Governor Sanford further moves to dismiss Plaintiffs’ claim under 42 U.S.C. § 1983 because Congress has foreclosed use of that statute as a means of redressing the disability discrimination alleged in Plaintiffs’ Complaint.

The grounds and arguments in support of this Motion are set forth in more detail in the Memorandum in Support of Defendant Governor Sanford's Motion to Dismiss.

Respectfully submitted by:

\_\_\_\_\_/s/  
E.  
Office  
1100  
Colum  
(803)

E. Brandon Gaskins  
Brandon Gaskins (Fed. I.D. # 9507)  
of the Governor of South Carolina  
Gervais Street  
Columbia, South Carolina 29201  
734-2100  
[bgaskins@gov.sc.gov](mailto:bgaskins@gov.sc.gov)

ATTORNEY FOR GOVERNOR MARK  
SANFORD

April 21, 2010  
Columbia, South Carolina