

both the substantive standard for next friend representation and the remedy for improper joinder. See Plaintiff's Resp. to Mot. Dism. at 1-6.

Plaintiff further respectfully submits that the decisions cited in support of the Court's decision do not support its announced judgment and in fact support plaintiff's his position. *See Adelman on behalf of Adelman v. Graves*, 747 F.2d 986, 988 (5th Cir. 1984) (reversing order of dismissal because district court did not meet its "primary concern . . . to assure that . . . [the incompetent person's] interests in vindicating his statutory and constitutional rights are properly protected."); *Krain v. Smallwood*, 880 F.2d 1119, 1121 (9th Cir. 1989) (reversing order of dismissal against *pro se* plaintiff where a "substantial question exists regarding the competence" of the plaintiff); *Zaro v. Strauss*, 167 F.2d 218, 220 (5th Cir. 1948) (disregarding as irrelevant fact that incompetent person was "otherwise represented"). *Westcott v. United States Fidelity & Guaranty Co.*, 158 F.2d 20, 22 (4th Cir. 1946), also cited by the court, is inapposite. There a defendant moved for appointment of a guardian ad litem in an untimely fashion as a litigation tactic. Plaintiff has not asked the Court to appoint anyone and is seeking to move forward toward a resolution of the serious substantive issues raised by this complaint.

Even if the Court will not reconsider its decision on the merits, however, clearly the editing error identified above needs to be corrected.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 1st day of May, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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