

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

J.A., by and through her next friend, Kimberly Hornsby; L.R., by and through her next friend, Robert Rosenthal; R.B., by and through her next friend, Helen Johnson, on behalf of themselves and all other persons similarly situated; H.D., by and through her next friend, Roy Dowdy; S.G., by and through her next friend, Billie Stewart; M.S., by and through her next friend, Audrea Sibley; E.S., by and through next friend, Alicia Stojic; S.W., by and through her next friend, Virginia Cook; and the Mississippi Protection and Advocacy Systems, Inc.

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:07cv394DPJ-JCS

GOVERNOR HALEY BARBOUR, in his official capacity; DONALD TAYLOR, in his official capacity as Executive Director of the Mississippi Department of Human Services; L. DONALD ARMAGOST, in his official and individual capacities as the Administrator of Columbia Training School; RICHARD JAMES, in his official and individual capacities as Assistant Administrator of Columbia Training School; KATHY PITTMAN, in her official capacity as Director of the Division of Youth Services; Mr. ALEXANDER in his official and individual capacities as a Columbia Training School Security Officer

DEFENDANTS

DEFENDANTS' MOTION TO DISMISS

COME NOW the Defendants, in their official capacities,¹ and file their Motion to Dismiss pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure. Pursuant to

¹Defendants L. Donald Armagost, Richard James and "Mr. Alexander" are represented by separate counsel regarding Plaintiffs' individual capacity claims.

the Memorandum of Authorities accompanying this Motion, including the assertion of Eleventh Amendment, the Defendants respectfully request that this Court grant their Motion.

Wherefore, premises considered, the Defendants respectfully request that this Court GRANT the present Motion to Dismiss.

Respectfully submitted, this the 20th day of August 2007.

By: JIM HOOD, ATTORNEY GENERAL

s/ Shawn S. Shurden

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2007, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This 20th day of August, 2007.

s/ Shawn S. Shurden
SHAWN S. SHURDEN