

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**WILLIAM R. HAMPE**, by and through his mother / guardian Jill Hampe, **RICHARD L. WINFREY, III, ADAM CALE, OLIVIA WELTER**, by and through her parents/guardians John Welter and Tamara Welter, **PHILLIP BARON**, by and through his mother/guardian Barbara Baron, **JESSICA L. LYTLE**, by and through her mother/guardian Judith A Lytle, **JACOB STRACKA**, by and through his parents/guardians, David Stracka and Nicole Stracka, and **CHARLES STOUT** individually and on behalf of a class,

Plaintiffs,

vs.

**JULIE HAMOS**, in her official capacity as Director of the Illinois Department of Healthcare and Family Services,  
  
Defendant.

No. 10 C 3121

Judge William J. Hibbler

Magistrate Judge Arlander Keys

**DEFENDANT HAMOS' MOTION TO DISMISS  
CERTAIN PLAINTIFFS AS MISJOINED  
PARTIES PURSUANT TO Fed. Rules Civ. P. 21 and 20(a)(1).**

NOW COMES Defendant, JULIE HAMOS, in her official capacity as Director of the Illinois Department of Healthcare and Family Services, by and through her attorney, LISA MADIGAN, Attorney General of Illinois and pursuant to Fed. Rules Civ. P. 21 and 20(a)(1), hereby moves to dismiss Plaintiffs Richard L. Winfrey, III, Adam Cale, Olivia Welter, Phillip Baron, Jessica L. Lytle, Jacob Stracka and Charles Stout from this action because they fail to meet the permissive joinder criteria set forth in Fed. R. Civ. P. 20(a)(1), stating as follows:

1. The Plaintiffs named in this action do not assert any right to relief against Defendant jointly or severally within the meaning of Fed. R. Civ. P. 20(a)(1)(A).

2. The Plaintiffs named in this action do not assert any right to relief against Defendant with respect to, or arising out of, the same transaction, occurrence, or series of transactions or occurrences within the meaning of Fed. R. Civ. P. 20(a)(1)(A).

3. No question of law or fact common to all Plaintiffs will arise in this action within the meaning of Fed. R. Civ. P. 20(a)(1)(B).

4. Even if each Plaintiff named in this action could satisfy the criteria set forth in Fed. R. Civ. P. 20(a)(1), the Court should exercise its discretion to refuse joinder in the interest of avoiding prejudice to Defendant and delay.

5. The same deficiencies would exist if Kristen Kocourek were added as a Plaintiff by the Fourth Amended Complaint.

6. Defendant submits a memorandum of law in support of this Motion to Dismiss. A Proposed Order is also attached to this document as Defendant's Exhibit A.

WHEREFORE, for the foregoing reasons, Defendant JULIE HAMOS, in her official capacity as Director of the Illinois Department of Healthcare and Family Services prays that:

A. Plaintiff's Motion for Leave to File Fourth Amended Complaint Instantly be denied;

B. Defendant Hamos' Motion to Dismiss Certain Plaintiffs as Misjoined Parties be granted; and

C. Plaintiffs Winfrey, Cale, Welter, Baron, Lytle, Stracka and Stout are dismissed from this case without prejudice to their filing of separate actions that assert the same claims against the Defendant as those that are asserted here;

D. The Amended Complaint, the Second Amended Complaint and the Third Amended Complaint are dismissed. Plaintiff's original Complaint and Defendant's Answer to the original

Complaint are reinstated and shall be the pleadings for this case.

E. The Pretrial Scheduling Order entered September 7, 2010 shall remain in effect.

Respectfully submitted,

LISA MADIGAN  
Attorney General  
State of Illinois

By: */s/ Karen Konieczny*  
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DATED: November 18, 2010

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|   |   |                                |
|---|---|--------------------------------|
| <b>WILLIAM R. HAMPE</b> , by and through his  | ) |                                |
| mother / guardian Jill Hampe, etc., et al.    | ) |                                |
|   | ) |                                |
| Plaintiffs,                                   | ) |                                |
|   | ) | No. 10 C 3121                  |
| vs.   | ) |                                |
|   | ) | Judge William J. Hibbler       |
| <b>JULIE HAMOS</b> , in her official capacity | ) |                                |
| as Director of the Illinois Department of     | ) | Magistrate Judge Arlander Keys |
| Healthcare and Family Services,               | ) |                                |
|   | ) |                                |
| Defendant.                                    | ) |                                |

**ORDER**

THIS MATTER COMES before the Court on Plaintiffs’ Motion for Leave to File A Fourth Amended Complaint *Instanter* and Defendant’s Motion to Dismiss Certain Plaintiffs As Misjoined Parties. All parties received notice. The Court reviewed all the Motions, Responses and Memoranda filed by all parties in connection with these Motions. In addition, the Court heard argument from all parties in open Court on November 23, 2010.

IT IS HEREBY ORDERED:

1. Plaintiff’s Motion for Leave to File Fourth Amended Complaint *Instanter* is denied;
2. Defendant Hamos’ Motion to Dismiss Certain Plaintiffs as Misjoined Parties is granted; and
3. Plaintiffs Winfrey, Cale, Welter, Baron, Lytle, Stracka and Stout are dismissed from this case without prejudice to their filing of separate actions that assert the same claims against the Defendant as those that are asserted here. The Agreed Temporary Restraining Orders for Plaintiffs Winfrey, Cale and Welter (U.S. Civil Docket Doc. Nos. 33, 49 and 58, respectively) shall remain in effect for 10 days from the date of the entry of this Order to enable these

individuals to file new Complaints and attempt to secure such temporary or preliminary relief as may be appropriate;

4. The Amended Complaint, the Second Amended Complaint and the Third Amended Complaint are dismissed. Plaintiff's original Complaint and Defendant's Answer to the original Complaint are reinstated and shall be the pleadings for this case.

5. The Pretrial Scheduling Order entered September 7, 2010 shall remain in effect.

ENTER:

\_\_\_\_\_  
Honorable William J. Hibbler  
Judge, U.S. District Court