

CLOSED,MEDIATION,STAYED,USMJ Gates

**U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Western Division)
CIVIL DOCKET FOR CASE #: 5:09-cv-00535-BO**

M. et al v. Cansler et al
Assigned to: District Judge Terrence W. Boyle
Cause: 42:12101 The Americans with Disabilities Act of 1990

Date Filed: 12/11/2009
Date Terminated: 06/13/2011
Jury Demand: None
Nature of Suit: 446 Civil Rights:
Americans with Disabilities – Other
Jurisdiction: Federal Question

Plaintiff

Marlo M.
*by her guardians and next friends
William and Carlette Parris*

represented by **Jennifer Leah Bills**
Disability Rights of North Carolina
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ATTORNEY TO BE NOTICED

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LEAD ATTORNEY
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Plaintiff

Durwood W.
*by his guardian and next friend Willie
Williams*

represented by **Jennifer Leah Bills**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

John R. Rittelmeyer
(See above for address)
LEAD ATTORNEY
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V.

Defendant

Lanier Cansler
*in his official capacity as Secretary of the
Department of Health and Human
Services*

represented by **Lisa G. Corbett**
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Defendant

Karen Salacki
in her official capacity as Area Director

represented by **Christopher P. Brewer**
Poyner Spruill LLP

*of the Beacon Center Local Management
Entity*

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Amicus

UNITED STATES OF AMERICA

represented by **David W. Knight**
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Date Filed	#	Docket Text
12/11/2009	<u>1</u>	COMPLAINT against all defendants (Filing fee \$ 350 receipt number 0417000000001049868.), filed by Marlo M., Durwood W.. (Attachments: # <u>1</u> Summons for Def. Cansler, # <u>2</u> Summons for Def. Salacki, # <u>3</u> Civil Cover Sheet) (Rittelmeyer, John) (Entered: 12/11/2009)
12/11/2009	<u>2</u>	FINANCIAL DISCLOSURE STATEMENT by Marlo M.. (Rittelmeyer, John) (Entered: 12/11/2009)
12/11/2009	<u>3</u>	FINANCIAL DISCLOSURE STATEMENT by Durwood W.. (Rittelmeyer, John) (Entered: 12/11/2009)
12/11/2009	<u>4</u>	MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> by Marlo M., Durwood W.. (Attachments: # <u>1</u> Exhibit Declaration of Carlette Parris, # <u>2</u> Exhibit Declaration of Willie Williams, # <u>3</u> Exhibit Declaration of Joyce Barnes) (Rittelmeyer, John) (Entered: 12/11/2009)
12/11/2009	<u>5</u>	Memorandum in Support re <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> filed by Marlo M., Durwood W.. (Rittelmeyer, John) (Entered: 12/11/2009)
12/11/2009		Case Selected for Mediation – A printable list of certified mediators for the Eastern District of North Carolina is available on the court's Website, http://www.nced.uscourts.gov/applications/mediators.asp . Please serve this list on all parties. (Beasley, B.) (Entered: 12/11/2009)
12/11/2009		NOTICE TO COUNSEL: For future reference, counsel must complete the caption portion of the Financial Disclosure Statement. (Heath, D.) (Entered: 12/11/2009)
12/14/2009	<u>6</u>	Summons Issued as to Lanier Cansler, Karen Salacki. Counsel should print summons to effect service. (Talbert, S.) (Entered: 12/14/2009)
12/14/2009	<u>7</u>	ORDER granting <u>4</u> Motion for TRO. Signed by Judge Terrence W. Boyle on 12/14/09. Copy of Order mailed to Defendants. (Talbert, S.) (Entered: 12/14/2009)

12/15/2009	<u>8</u>	NOTICE of Hearing: Motion for Preliminary Injunction. Hearing before Judge Terrence Boyle on December 28, 2009 at 2:00 p.m. at the Terry Sanford Building in Raleigh. Copy of Notice of Hearing mailed to unserved defendants. (Talbert, S.) (Entered: 12/15/2009)
12/17/2009	<u>9</u>	Joint MOTION to Continue <i>DEFENDANTS LANIER CANSLER and KAREN SALACKI'S JOINT MOTION TO CONTINUE HEARING FOR PRELIMINARY INJUNCTION</i> by Lanier Cansler, Karen Salacki. (Attachments: # <u>1</u> Exhibit Exhibit A: 12/14/09 Letter from Rittelmeyer to Salacki, # <u>2</u> Text of Proposed Order) (Brewer, Christopher) (Entered: 12/17/2009)
12/17/2009	<u>10</u>	NOTICE of Appearance by Lisa G. Corbett on behalf of Lanier Cansler (Corbett, Lisa) (Entered: 12/17/2009)
12/18/2009	<u>11</u>	NOTICE of Appearance by Wilson Hayman on behalf of Karen Salacki (Hayman, Wilson) (Entered: 12/18/2009)
12/18/2009	<u>12</u>	NOTICE of Appearance by Jennifer Leah Bills on behalf of all plaintiffs (Bills, Jennifer) (Entered: 12/18/2009)
12/18/2009	<u>13</u>	RESPONSE in Opposition re <u>9</u> Joint MOTION to Continue <i>DEFENDANTS LANIER CANSLER and KAREN SALACKI'S JOINT MOTION TO CONTINUE HEARING FOR PRELIMINARY INJUNCTION</i> filed by Marlo M., Durwood W.. (Attachments: # <u>1</u> Exhibit Email correspondence dated 12/10/09) (Rittelmeyer, John) (Entered: 12/18/2009)
12/21/2009		Motions Submitted: <u>9</u> Joint MOTION to Continue <i>DEFENDANTS LANIER CANSLER and KAREN SALACKI'S JOINT MOTION TO CONTINUE HEARING FOR PRELIMINARY INJUNCTION</i> submitted to Judge Boyle's Chambers. (Talbert, S.) (Entered: 12/21/2009)
12/21/2009	<u>14</u>	MOTION for Leave to File <i>Amicus Curiae</i> by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Supplement Proposed Memorandum as Amicus Curiae) (Knight, David) (Entered: 12/21/2009)
12/21/2009	<u>15</u>	Memorandum in Support re <u>14</u> MOTION for Leave to File <i>Amicus Curiae</i> filed by UNITED STATES OF AMERICA. (Knight, David) (Entered: 12/21/2009)
12/21/2009	<u>16</u>	ORDER denying <u>9</u> Motion to Continue. PLEASE NOTE THAT THE HEARING ON THE MOTION FOR PRELIMINARY INJUNCTION WILL NOW BE HEARD AT 11:00 A.M. ON 12/28/09 NOT AT 2:00 P.M. Signed by Judge Terrence W. Boyle on 12/21/09. (Talbert, S.) (Entered: 12/21/2009)
12/21/2009		CORRECTION TO THE NOTICE OF HEARING – THE MOTION FOR PRELIMINARY INJUNCTION WILL BE HEARD AT 11:00 A.M. AT THE TERRY SANFORD BUILDING IN RALEIGH ON 12/28/09 BEFORE JUDGE BOYLE. (Talbert, S.) (Entered: 12/21/2009)
12/21/2009		Motions Submitted: <u>14</u> MOTION for Leave to File <i>Amicus Curiae</i> submitted to Judge Boyle's chambers. (Talbert, S.) (Entered: 12/21/2009)
12/23/2009	<u>17</u>	ORDER granting <u>14</u> Motion for Leave to File Supplement Memorandum as Amicus Curiae. Counsel for USA is directed to re-file the Supplement Memorandum as Amicus Curiae so that it may appear on the docket as a separate entry. Signed by Judge Terrence W. Boyle on 12/22/09. (Talbert, S.) (Entered: 12/23/2009)
12/23/2009	<u>18</u>	Memorandum in Support re <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction as Amicus Curiae</i> filed by UNITED STATES OF AMERICA. (Knight, David) (Entered: 12/23/2009)
12/23/2009	<u>19</u>	RESPONSE re <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> filed by Lanier Cansler. (Corbett, Lisa) (Entered: 12/23/2009)
12/23/2009	<u>20</u>	RESPONSE re <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> filed by Karen Salacki. (Hayman, Wilson) (Entered: 12/23/2009)
12/23/2009	<u>21</u>	Memorandum in Opposition re <u>20</u> Response, <u>19</u> Response, <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction (Joint)</i> filed by Lanier

		Cansler, Karen Salacki. (Attachments: # <u>1</u> Exhibit 1 – Affidavit of Leza Wainwright, # <u>2</u> Exhibit 2 – Declaration of Rose Burnette, # <u>3</u> Exhibit 3 – Declaration of Karen M. Salacki, MSW, LCSW, ACSW) (Hayman, Wilson) (Entered: 12/23/2009)
12/24/2009	<u>22</u>	REPLY to Response to Motion re <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> filed by Marlo M., Durwood W.. (Attachments: # <u>1</u> Affidavit Declaration of Deborah B. Thome) (Rittelmeyer, John) (Entered: 12/24/2009)
12/28/2009	<u>23</u>	MOTION to Amend/Correct <u>21</u> Memorandum in Opposition, <i>DEFENDANT'S MOTION FOR LEAVE TO FILE CORRECTED ATTACHMENT B TO EXHIBIT 3</i> by Karen Salacki. (Attachments: # <u>1</u> Corrected Attachment B, # <u>2</u> Text of Proposed Order Granting Leave to Substituted Corrected Attachment B) (Hayman, Wilson) (Entered: 12/28/2009)
12/28/2009	<u>27</u>	Minute Entry for proceedings held before Judge Terrence W. Boyle: Motion Hearing held in Raleigh, NC on 12/28/2009 re <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> filed by Durwood W., Marlo M. All parties present and ready to proceed with the hearing. After hearing from all parties Oral Order entered by the court. ORAL ORDER – Motion for Preliminary Injunction is GRANTED , reasons stated on the record – written order to follow. (Court Reporter Sharon Kroeger) (Ruffin, L.) (Entered: 01/04/2010)
12/30/2009	<u>24</u>	AFFIDAVIT re <u>6</u> Summons Issued <i>of Service by Certified Mail</i> by Marlo M.. (Rittelmeyer, John) (Entered: 12/30/2009)
12/30/2009	<u>25</u>	AFFIDAVIT re <u>6</u> Summons Issued <i>of Service by Certified Mail</i> by Marlo M.. (Rittelmeyer, John) (Entered: 12/30/2009)
01/04/2010	<u>26</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint by Lanier Cansler. (Attachments: # <u>1</u> Text of Proposed Order Extending time to file answer) (Corbett, Lisa) (Entered: 01/04/2010)
01/04/2010	<u>28</u>	Corrected MOTION for Extension of Time to File Answer re <u>26</u> MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <u>1</u> Complaint <i>corrected to reflect eastern division in caption</i> by Lanier Cansler. (Attachments: # <u>1</u> Text of Proposed Order granting extension of time to answer(corrected caption)) (Corbett, Lisa) (Entered: 01/04/2010)
01/04/2010	<u>29</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint by Karen Salacki. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order granting enlargement of time to respond to complaint) (Hayman, Wilson) (Entered: 01/04/2010)
01/04/2010		MOTIONS REFERRED: <u>28</u> Corrected MOTION for Extension of Time to File Answer re <u>26</u> MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <u>1</u> Complaint <i>corrected to reflect eastern division in caption</i> Corrected MOTION for Extension of Time to File Answer re <u>26</u> MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <u>1</u> Complaint <i>corrected to reflect eastern division in caption</i> , <u>29</u> MOTION for Extension of Time to File Answer re <u>1</u> Complaint referred to Clerk of Court. (Talbert, S.) (Entered: 01/04/2010)
01/04/2010		Motions Submitted: <u>23</u> MOTION to Amend/Correct <u>21</u> Memorandum in Opposition, <i>DEFENDANT'S MOTION FOR LEAVE TO FILE CORRECTED ATTACHMENT B TO EXHIBIT 3</i> MOTION to Amend/Correct <u>21</u> Memorandum in Opposition, <i>DEFENDANT'S MOTION FOR LEAVE TO FILE CORRECTED ATTACHMENT B TO EXHIBIT 3</i> submitted to Judge Boyle's Chambers. (Talbert, S.) (Entered: 01/04/2010)
01/04/2010	<u>30</u>	OFFICIAL TRANSCRIPT of MOTION FOR PRELIMINARY INJUNCTION Proceedings held on 12/28/09, before Judge Boyle. Court Reporter Sharon Kroeger. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Please review Attorney obligations regarding the redaction of electronic transcripts of court proceedings available on the court's website .. Redaction Request due 1/25/2010. Redacted Transcript Deadline set for 2/4/2010. Release of Transcript

		Restriction set for 4/4/2010. (Steele, F.) (Entered: 01/04/2010)
01/04/2010		NOTICE of Filing of Official Transcript <u>30</u> Transcript,,,. The parties have seven calendar days from the filing of the transcript to file a Notice of Intent to Request Redaction. The parties must also serve a copy on the court reporter or transcriber. After filing the Notice of Intent to Request Redaction, a party must submit to the court reporter or transcriber, within 21 calendar days of the filing of the transcript, a written statement indicating where the personal data identifiers to be redacted appear in the transcript. (Steele, F.) (Entered: 01/04/2010)
01/05/2010	<u>31</u>	ORDER granting <u>28</u> Motion for Extension of Time to Answer re <u>1</u> Complaint. Lanier Cansler answer due 2/5/2010. Signed by Clerk of Court on 1/5/10. (Talbert, S.) (Entered: 01/05/2010)
01/05/2010	<u>32</u>	ORDER granting <u>29</u> Motion for Extension of Time to Answer re <u>1</u> Complaint. Karen Salacki answer due 2/5/2010. Signed by Clerk of Court on 1/5/10. (Talbert, S.) (Entered: 01/05/2010)
01/05/2010	<u>33</u>	ORDER granting Defendant's Corrected Attachment B to be filed under seal. Signed by Judge Terrence W. Boyle on 1/5/10. (Talbert, S.) (Entered: 01/05/2010)
01/05/2010	<u>34</u>	SEALED Exhibit B – Hearing Officer's Report by Defendant Karen Salacki re <u>21</u> Memorandum in Opposition. (Talbert, S.) (Entered: 01/05/2010)
01/15/2010	<u>35</u>	ORDER GRANTING <u>4</u> MOTION for Temporary Restraining Order <i>and Preliminary Injunction</i> filed by Durwood W., Marlo M. Signed by Judge Terrence W. Boyle on 1/14/10. (Talbert, S.) (Entered: 01/15/2010)
02/05/2010	<u>36</u>	ANSWER to <u>1</u> Complaint by Lanier Cansler. (Corbett, Lisa) (Entered: 02/05/2010)
02/05/2010	<u>37</u>	FINANCIAL DISCLOSURE STATEMENT by Lanier Cansler (Corbett, Lisa) (Entered: 02/05/2010)
02/05/2010	<u>38</u>	ANSWER to <u>1</u> Complaint by Karen Salacki. (Hayman, Wilson) (Entered: 02/05/2010)
02/05/2010	<u>39</u>	FINANCIAL DISCLOSURE STATEMENT by Karen Salacki. (Hayman, Wilson) (Entered: 02/05/2010)
02/08/2010	<u>40</u>	ORDER FOR DISCOVERY PLAN sent to all parties. Signed by Clerk of Court on 2/8/10. (Talbert, S.) (Entered: 02/08/2010)
03/05/2010	<u>41</u>	Rule 26(f) Report (joint) by Marlo M., Durwood W., Lanier Cansler, Karen Salacki. (Hayman, Wilson) (Entered: 03/05/2010)
03/12/2010	<u>42</u>	SCHEDULING ORDER: Discovery due by 9/15/2010. Motions due by 10/15/2010. Counsel should review the Order in its entirety for critical deadlines and information. Signed by USMJ James E. Gates on 3/12/10. (Talbert, S.) (Entered: 03/12/2010)
03/16/2010		Pursuant to Local ADR Rule 101.1c(a), counsel is reminded that the parties must file a statement identifying an agreed upon mediator within twenty one (21) days of the entry of the Scheduling Order. If a statement is not timely filed, the Clerk of Court will appoint a mediator from the list of court certified mediators. (Beasley, B.) (Entered: 03/16/2010)
04/01/2010	<u>43</u>	NOTICE by Marlo M., Durwood W., Lanier Cansler, Karen Salacki <i>NOTICE OF SELECTION OF MEDIATOR</i> (Hayman, Wilson) (Entered: 04/01/2010)
07/01/2010	<u>44</u>	ORDER Appointing Mediator Anne R. Slifkin appointed. Signed by Clerk of Court on 7/1/2010. (Beasley, B.) (Entered: 07/01/2010)
08/30/2010	<u>45</u>	Joint MOTION for Extension of Time to Complete Discovery <i>and to File Dispositive Motions</i> by Lanier Cansler, Marlo M., Karen Salacki, Anne R. Slifkin, Durwood W. (Attachments: # <u>1</u> Text of Proposed Order) (Brewer, Christopher) (Entered: 08/30/2010)
08/31/2010		MOTION REFERRED: <u>45</u> Joint MOTION for Extension of Time to Complete Discovery <i>and to File Dispositive Motions</i> referred to U.S. Magistrate Judge James

		E. Gates. (Talbert, S.) (Entered: 08/31/2010)
09/02/2010	<u>46</u>	AMENDED SCHEDULING ORDER – Fact Discovery shall be completed by October 15, 2010. Dispositive Motions shall be filed by November 15, 2010. All other provisions of the Original Scheduling Order remain in effect. Signed by USMJ James E. Gates on 9/1/10. (Talbert, S.) (Entered: 09/02/2010)
10/11/2010	<u>47</u>	Joint MOTION to Stay re <u>46</u> Order on Motion for Extension of Time to Complete Discovery, <i>and to Amend Discovery Scheduling Order</i> by Lanier Cansler, Marlo M., Karen Salacki, Durwood W. (Attachments: # <u>1</u> Text of Proposed Order) (Hayman, Wilson). (Entered: 10/11/2010)
10/11/2010	<u>48</u>	NOTICE by Lanier Cansler, Marlo M., Karen Salacki, Durwood W. re <u>47</u> Joint MOTION to Stay re <u>46</u> Order on Motion for Extension of Time to Complete Discovery, <i>and to Amend Discovery Scheduling Order</i> Joint MOTION to Stay re <u>46</u> Order on Motion for Extension of Time to Complete Discovery, <i>and to Amend Discovery Scheduling Order EXHIBIT A TO JOINT MOTION TO STAY</i> (Hayman, Wilson) (Entered: 10/11/2010)
10/12/2010		Motion Submitted: <u>47</u> Joint MOTION to Stay re <u>46</u> Order on Motion for Extension of Time to Complete Discovery, <i>and to Amend Discovery Scheduling Order</i> submitted to Judge Boyle's chambers. (Talbert, S.) (Entered: 10/12/2010)
10/14/2010	<u>49</u>	ORDER granting <u>47</u> Motion to Stay and Amending Scheduling Order. Discovery is STAYED until 4/1/11 and all discovery shall be completed by 5/1/11. All dispositive motions shall be filed by 6/1/11. Counsel should review the Order in its entirety for critical deadlines and information. Signed by Judge Terrence W. Boyle on 10/13/10. (Talbert, S.) (Entered: 10/14/2010)
03/29/2011		Remark – Received a call that this case has been settled and the parties are working on the settlement documents and hope to have the Stipulation of Dismissal filed by May 2011. (Talbert, S.) (Entered: 03/29/2011)
06/13/2011	<u>50</u>	STIPULATION of Dismissal <i>With Prejudice</i> by Marlo M. (Rittelmeyer, John) (Entered: 06/13/2011)