

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

S.J., et. al.,)	
)	
Plaintiffs,)	
v.)	Case No. 2:20-CV-04036 MDH
)	
JENNIFER TIDBALL, et. al.,)	
)	
Defendants.)	

**MOTION OF DEFENDANTS JENNIFER TIDBALL IN HER OFFICAL CAPACITY AS
ACTING DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES AND
MISSOURI DEPARTMENT OF SOCIAL SERVICES TO DISMISS PLAINTIFFS’
COMPLAINT**

Comes now Defendants Jennifer Tidball, in her official capacity as an Acting Director of the Department of Social Services, and the Department of Social Services (“DSS”), by and through their undersigned counsel, and for their Motion to Dismiss Plaintiffs’ Complaint pursuant to Rule12(b)(1) and 12(b)(6) state as follows:

1. Plaintiffs’ Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction because plaintiffs lack standing.
2. Plaintiffs cannot use the declaratory judgment act as an independent cause of action.
3. Plaintiffs cannot state a claim for under 42 USC §1983 against the defendants because plaintiffs have not established a private right is established by 42 USC §1396a or 42 USC §1396d(a).
4. Plaintiff caring for complex kids coalition lack standing as an association.
5. Plaintiff fails to state a claim for a violation of the Americans with Disability Act and the Rehabilitation Act.

Defendants file herewith their Memorandum in Support of this Motion to Dismiss which is incorporated herein by reference.

Wherefore, all of Plaintiffs claims against Defendant Tidball, in her official capacity as an Acting Director of the Department of Social Services, and the Department of Social Services should be dismissed.

Respectfully submitted,

ERIC S. SCHMITT
Attorney General

/s/ Mary L. Reitz
Mary L. Reitz #37372
Assistant Attorney General
P.O. Box 899
Jefferson City, MO 65102
Phone: 573-751-9692
Fax: (573) 751-9456
Email: Mary.Reitz@ago.mo.gov

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of April 2020, a true and correct copy of the above and foregoing document was filed via the Court's electronic filing system which sent notice to the all counsel of record.

/s/Mary L. Reitz
Assistant Attorney General