

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MONSHA STALLWORTH, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	CASE NO. 2:10-cv-918-MEF
v.	)	
	)	
ALABAMA DEPARTMENT OF	)	
MENTAL HEALTH & MENTAL	)	
RETARDATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION AND ORDER**

Now pending before this Court is Plaintiffs’ Opposed Motion for Discovery Pursuant to Fed. R. Civ. P. 56(f), (Doc. # 13), filed on December 22, 2010. On November 3, 2010, Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1), alleging that this Court lacks subject matter jurisdiction over the instant action. (Doc. # 5). Specifically, Defendants contend that they are entitled to sovereign immunity under the Eleventh Amendment. (Doc. # 5, at 1). The following day, on November 4, 2010, this Court ordered Plaintiffs to file “a response which shall include a brief and any evidentiary materials on or before November 24, 2010.” (Doc. # 8). “Plaintiffs read the Court’s order as setting a dispositive motion deadline in essence converting the Motion to Dismiss to a Motion for Summary Judgment” because it calls for the submission of evidentiary materials. (Doc. # 13, at 2 ¶ 8). Thus, Plaintiffs filed the instant motion seeking limited discovery on December 22, 2010. That same day, Plaintiffs also filed their response to the motion to dismiss. (Doc. # 14).

However, Plaintiffs are mistaken in their interpretation of this Court’s November

