

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 12-cv-02338-RPM

ROBERT BRANCATO, individually and as parent and next friend of R.B.,
a minor child; and ROCHELLE BRANCATO, individually,

Plaintiffs,

v.

ALEXANDER PANIO, JR.;
MARY PANIO;
ADOLESCENT AND FAMILY INSTITUTE OF COLORADO, INC.,
A Colorado Corporation;
EDRA WEISS, MD;
WHITNEY HARRAH;
SCOTT JUAREZ;
JEFFREY NELSON and
JANE JORDAN,

Defendants.

ORDER DENYING DEFENDANTS' RULE 12(c) MOTION

On July 10, 2013, the AFIC defendants filed a motion to dismiss "The Next Friend" under Fed.R.Civ.P 12(c), contending that Robert Brancato cannot proceed as next friend of R.B., a minor child, because R.B. has not been named as a party to this civil action. Defendant Jeffrey Nelson joined in that motion [99] and [100]. The plaintiff responded on July 30, 2013 [104] and a reply was filed on August 7, 2013 [105].

It is clear from the allegations of the Amended Complaint, filed March 26, 2013 [84] that Robert Brancato, parent of R.B. is seeking relief for injuries sustained by his minor son and although plaintiff's counsel has inartfully pleaded that claim by failing to assert that R.B. is pursuing this civil action as a plaintiff, by and through his father, the motion for judgment on the pleadings must be denied. For clarification, the Court deems the Amended Complaint to include R.B. has a minor plaintiff, acting by and through his parent and next friend Robert Brancato. It is

ORDERED that the motion is denied.

DATED: August 30th, 2013

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge