

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

STATE OF FLORIDA, by and)	
through BILL McCOLLUM, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:10-cv-91-RV/EMT
)	
UNITED STATES DEPARTMENT)	
OF HEALTH AND HUMAN)	
SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

DEFENDANTS' MOTION TO DISMISS

Defendants, by their undersigned attorneys, hereby move, pursuant to Rules 12(b)(1) and 12(b)(6), Federal Rules of Civil Procedure, to dismiss this action. The grounds for this motion are that the Court lacks subject-matter jurisdiction over the claims asserted in Counts One, Two, Three, and Six of the Amended Complaint; and that, with respect to all counts, the Amended Complaint fails to state a claim upon which relief can be granted.

In support of this motion, the Court is respectfully referred to the Memorandum of Points and Authorities filed herewith.

Dated: June 16, 2010

Respectfully submitted,

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Assistant Attorney General

IAN HEATH GERSHENGORN
Deputy Assistant Attorney General

THOMAS F. KIRWIN
United States Attorney

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/s/ Eric Beckenhauer

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2010, the foregoing document was filed with the Clerk of Court via the CM/ECF system, causing it to be served on Plaintiffs' counsel of record.

/s/ Eric B. Beckenhauer
ERIC B. BECKENHAUER