

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

-----X		
BRIAN A., by his next friend, Bobbi Jean Brooks;)	
TRACY B., by her next friend, Pamela Pallas;)	
JACK and CHARLES C., by their next friend,)	
Linda Lloyd;)	
AMY D., by her next friend, Frank Koon;)	
DENISE E., by her next friend, Linda Lloyd;)	
CHARLETTE F., by her next friend, Juanita Veasy;)	
TERRY G., by her next friend, Carol Oldham;)	
ANDREW H., by his next friend, Laura Hash;)	
KENNETH I., by his next friend, Russell Morel;)	
NANCY J., by her next friend, Laura Hash;)	
DONNA K., by her next friend, Laura Hash;)	
KIERA L., by her next friend, Laura Hash;)	Civil Action No. 3-00-0445
JOSHUA M., by his next friend, Angela Blevins;)	
on their own behalf and on behalf of all others)	Judge Campbell
similarly situated,)	Magistrate Brown
)	
Plaintiffs,)	
)	
--against--)	
)	
PHIL BREDESEN, Governor of the State)	
of Tennessee; and)	
VIOLA MILLER, Commissioner of the)	
Tennessee Department of Children's Services,)	
)	
Defendants.)	
-----X		

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs respectfully move this Court, pursuant to the *Brian A.* Consent Decree and Fed. R. Civ. P. 65, for a preliminary injunction to enjoin Section 30 of Public Chapter No. 531, which amends Tennessee Code Annotated § 37-2-205 by adding a new subsection (f), from being implemented.

This motion is supported by the accompanying Memorandum in Support of Plaintiffs' Motion for a Preliminary Injunction and the Affidavit (with exhibits) of Ira P. Lustbader, sworn to on December 9, 2009.

As explained in full in Plaintiffs' accompanying memorandum of law, a preliminary injunction will prevent irreparable harm to children in Tennessee who are subject to possible commitment to DCS custody because the challenged law is designed and intended to affect the case-by-case, individual evaluation of their safety and circumstances by the Juvenile Courts. The requirements for injunctive relief are amply met by the evidence and arguments submitted with this motion.

Plaintiffs respectfully request that the Court enter an order for preliminary injunctive relief pursuant to the Consent Decree in this action and Fed. R. Civ. P. 65, enjoining Tennessee Code Annotated § 37-2-205(f), until such time as the Court can conduct a hearing to declare unlawful and permanently enjoin the challenged law together with such other and further relief as may be necessary.

Dated: December 9, 2009

Respectfully Submitted,

ATTORNEYS FOR PLAINTIFFS:

/s/ Marcia Robinson Lowry
MARCIA ROBINSON LOWRY (*pro hac vice*)
IRA LUSTBADER (*pro hac vice*)
YASMIN GREWAL-KOK (*pro hac vice*)
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/s/ David L. Raybin

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CERTIFICATE OF SERVICE

I, Laura Mumm, hereby certify that, on December 9, 2009, a true and correct copy of Plaintiffs' Motion for a Preliminary Injunction has been served electronically via operation of the Court's electronic filing system on Defendants' counsel, Douglas E. Dimond, Esq., Office of the Attorney General, Cordell Hull Building, Ground Floor, 425 Fifth Avenue North, Nashville, Tennessee 37247 and via e-mail to Doug.Dimond@ag.tn.gov.

DATED: December 9, 2009

Laura Mumm