

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION**

ALABAMA DISABILITIES ADVOCACY

PROGRAM,

Plaintiff,

vs.

SAFETYNET YOUTHCARE, INC.,

Defendant.

SAFETYNET YOUTHCARE, INC.,

Third Party Plaintiff,

vs.

ALABAMA DEPARTMENT OF HUMAN

RESOURCES,

Third Party Defendant.

CIVIL ACTION NO. 13-0519-CG-B

PLAINTIFF ADAP'S MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and in accordance with Local Rule 7.1 and 7.2, Plaintiff files its motion for Summary Judgment and further states as follows:

I. Plaintiff is entitled to summary judgment as to its claim for injunctive and declarative relief.

1. There are no genuine issues of material fact as to whether the Plaintiff ADAP is the designated state Protection and Advocacy agency, granted the legal right under PADD, PAIMI, and PAIR statutes to access facilities providing care and treatment to any individual with any disability, monitor for and investigate abuse and neglect and to inform individuals receiving care and treatment of their civil rights.
2. There are no genuine issues of material fact as to whether Defendant SafetyNet Academy is a child care institution licensed by the Alabama Department of Human Resources (“DHR”) pursuant to Ala. Code §38-7-1, et seq. (1975), which provides overnight care and treatment services at its Moderate Program to youth with disabilities.
3. There are no genuine issues of material fact as to whether Defendant denied ADAP access to monitor its SafetyNet Academy Moderate Program.
4. There are no genuine issues of material fact as to whether Defendant’s have violated federal law by having denied ADAP access to the SafetyNet Academy Moderate Program, thereby preventing ADAP from carrying out its federally-authorized activities for the protection of the civil rights and safety of individuals with disabilities.
5. There are no genuine issues of material fact as to whether ADAP has no adequate remedy at law to redress Defendant’s failure to provide ADAP with access to Defendant’s facility.
6. There are no genuine issues of material fact as to whether Defendant’s past and continued refusal to allow ADAP access to its facility causes irreparable harm to ADAP by preventing it from carrying out its federal statutory mandates.

7. There are no genuine issues of material fact as to whether such harm to ADAP will be remedied by the requested injunctive and declaratory relief, and that Defendant will not be harmed by the grant of this relief.

WHEREFORE, Plaintiff moves for summary judgment in its favor on the above issues.

Respectfully submitted,

Signature: /s/Andrea J. Mixson

COUNSEL FOR THE PLAINTIFF

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