

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HARRISON DIVISION**

**DAVID STEBBINS**

**PLAINTIFF**

**v.**

**CASE NO. 10-3086**

**WAL-MART STORES, INC.**

**DEFENDANT**

**WAL-MART'S RESPONSE IN OPPOSITION TO  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Defendant Wal-Mart Stores Arkansas, LLC ("Wal-Mart"), erroneously identified as "Wal-Mart Stores, Inc.," by its attorneys, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., for its Response in Opposition to Plaintiff's Motion for Summary Judgment, states:

1. Plaintiff's sole argument in support of his Motion for Summary Judgment is that Wal-Mart did not provide him with timely responses to his "Request for Admission." [Doc. # 73].

2. Wal-Mart, through its undersigned counsel, was not served with the "Request for Admissions" which is attached to Plaintiff's Brief in Support of Motion for Summary Judgment. *See* Affidavit of Jeffrey L. Spillyards, attached hereto as Exhibit "1." The undersigned received the document for the first time when Plaintiff filed his Motion for Summary Judgment on August 9, 2011. *Id.* In fact, Plaintiff attaches no evidence or indication that this document was served upon counsel, nor does the document even contain a certificate of service.

3. Wal-Mart respectfully requests that Plaintiff's Motion for Summary Judgment be denied on this basis alone.

4. In any event, as noted in Wal-Mart's pending Motion for Summary Judgment [Doc. # 55], Wal-Mart is not a covered entity under the Rehabilitation Act of 1973. Wal-Mart is entitled to summary judgment on this claim.

Respectfully submitted,

**/s/ Marshall Ney**

Ark. Bar No. 91108

**/s/ Kathlyn Graves**

Ark. Bar No. 76045

**/s/ Jeffrey L. Spillyards**

Ark. Bar No. 2004159

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 23, 2011, I mailed this document by U.S. Mail to the following non CM/ECF participant:

David A. Stebbins  
1407 N. Spring Rd., Apt. # 5  
Harrison, Arkansas 72601

**/s/ Jeffrey L. Spillyards**