

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

BARBARA LATHAM, Individually §
Heir, & Representative MURIEL §
L. MINTZ, deceased, & ESTELLE §
NELSON, Individually & Heir of §
MURIEL MINTZ, deceased, §
§
vs. §
§
JUDGE MIKE WOOD, Ind. & in §
His capacity as Statutory Probate §
JUDGE OF HARRIS COUNTY; §
§
MICHELE GOLDBERG, Indiv. & §
Purported temporary Guardian §
MURIEL MINTZ, deceased §
§
DONALD MINTZ, Individually §
§
STACY KELLY, Individually §
§
TERESA PITRE, Individually & §
Purported attorney ad litem of §
MURIEL L. MINTZ, deceased §
§
HARRIS COUNTY, TEXAS, §
Defendants. §

CIVIL CASE NO. 4:17-cv-08325

PLAINTIFF’S AMENDED COMPLAINT, SUBJECT TO MOTION TO STAY,
ABATE, OR FOR UNOPPOSED MOTION FOR EXTENSION

TO THE HONORABLE JUDGE OF SAID COURT:

This AMENDED COMPLAINT is filed subject to PLAINTIFFS’ MOTION TO STAY, ABATE OR FOR UNOPPOSED EXTENSION in order for BARBARA LATHAM to be confirmed as personal representative of the Estate of MURIEL MINTZ, deceased, for which the

most critical civil rights, constitutional deprivations and ADA claims need to be maintained. See attached email from Schwager to Parties, with response only from Teresa Pitre, not objecting. This case is a civil rights and disability discrimination case in which (1) MURIEL MINTZ, deceased, was deprived of every fundamental right (life, liberty and property) guaranteed citizens of the United States in violation of the Bill of Rights of the U.S. Constitution, Title II of the Americans with Disabilities Act of 1990 (ADA) with amendments thereto (ADAAA as amended 2008, 2016 to strengthen its protections), and Section 504 of the Rehabilitation Act of 1973—resulting in severe injuries and her suspicious death, hastened in hospice without any GOLDBERG or legal authority for any DEFENDANT to decide to terminate MURIEL’S life, seize or property or deprive her of liberty without due process of law, equal protection of the law, freedom from discrimination, appropriate medical care given criminals, or the simple guarantee of safety while in government custody, as stated in *M.D. vs. Abbott*, No. 2:11-CV-00084 (2011); U.S. Dist. Corpus Christi, *affirmed by Cause No. 16-40023 (5th Circuit, 2016)*(holding that a federal district judge would have abused her discretion by refusing to assume authority over Texas’ broken foster care children in light of evidence that permanent wards of the State were denied appropriate medical care and unsafe in the custody of the State, violating the 14th Amendment).

(2) BARBARA LATHAM’S Constitutional rights were violated by MICHELE GOLDBERG, HARRIS COUNTY, DONALD MINTZ, STACY KELLY, TERESA PITRE and JUDGE MIKE WOOD (“CONSPIRING DEFENDANTS”), illegally seizing FDIC federally protected IRA and banking account funds, unlawfully depriving her of the fundamental right of access and visitation to her mother and familial association, during her mother’s last illness unto death, and denying information regarding MURIEL’S accident, cause of death, death certificate, medical records, disposition of funds and remains, HIPAA protected information, and access to treating medical

professionals to conceal MURIEL'S impending death caused by DEFENDANTS' gross negligence, recklessness, to conceal MURIEL'S impending death caused by DEFENDANTS' gross negligence, recklessness and suspect actions to hasten death on hospice, violating federal law—in a void guardianship for the failure to serve MURIEL MINTZ, deceased before stripping her of all rights in an illegal proceeding. LATHAM continues to be denied all information by CONSPIRING DEFENDANTS' efforts to cover up what happened that killed MURIEL MINTZ, deceased, in less than three weeks.

(3) ESTELLE NELSON'S Constitutional rights were violated by MICHELE GOLDBERG, HARRIS COUNTY, DONALD MINTZ, STACY KELLY, TERESA PITRE and JUDGE MIKE WOOD ("CONSPIRING DEFENDANTS"), unlawfully depriving her of the fundamental right of access and visitation to her mother and familial association, during her mother's last illness unto death, and further denying information regarding MURIEL'S accident, cause of death, death certificate, medical records, disposition of funds and remains, HIPAA protected information, and access to treating medical professionals to conceal MURIEL'S impending death caused by DEFENDANTS' gross negligence, recklessness and suspect actions to hasten death on hospice, violating federal law—in a void guardianship for the failure to serve MURIEL MINTZ, deceased before stripping her of all rights in an illegal proceeding. continues to be denied all information by CONSPIRING DEFENDANTS' efforts to cover up what happened that killed MURIEL MINTZ, deceased, in less than three weeks.

(4) CONSPIRING DEFENDANTS engaged in this fraudulent guardianship to seize more than \$150,000 in MURIEL'S assets, as well as funds in an irrevocable family trust over which the Court lacks jurisdiction, continue to violate LATHAM AND NELSON'S right to property in the family trust, and steamrolled federal and state law and rights of PLAINTIFFS by ignoring legally

documents, including a durable / medical power of attorney, designation of BARBARA LATHAM as guardian in the event of need, designation of LATHAM as agent for disposition of remains, healthcare surrogate, HIPAA protected medical records after death, and attorney in fact.

(5). HARRIS COUNTY and the DEFENDANTS, agents and appointees of the Harris County statutory guardianship program, failed to protect MURIEL L. MINTZ, deceased, and hastened her death after subjecting her to severe bodily injury through gross negligence and recklessness, and deliberately caused her death in hospice without any jurisdiction of her person or the subject matter by the lack of legally mandated notice and opportunity to be heard (service through law enforcement mandated and never accomplished), violating the 14th Amendment to the U.S. Constitution, ADA, Section 504 and a host of federal and State civil and criminal laws.

6. DEFENDANTS conspired to illegally seize MURIEL'S person and estate of over \$100,000 in violation of the 1st, 4th, and 14th Amendments, 42 U.S.C.1983, 42 U.S.C. 12101 et seq. and Section 504 of the Rehabilitation Act of 1973 as they schemed to unlawfully seize an irrevocable family trust with more than \$92,000 in assets—in the absence of all jurisdiction. MURIEL MINTZ, deceased was denied the right to hire her own counsel (violating the 6th Amendment), denied a jury trial (7th Amendment), illegally stripped of “all rights” (violating the ADA, Section 504 of the Rehabilitation Act and 42 USC 1983 with respect to the 1st, 5th, 4th, and 14th Amendments), in a void order for temporary guardianship, unlawfully finding MURIEL MINTZ, totally incapacitated *without any evidence*, much less the fraudulent clear and convincing evidence.

7. The Texas Estates Code's procedures for temporary or permanent guardianship of MURIEL'S person and/or estate were violated, denying her substantive or procedural due process guaranteed by the 14th Amendment. She was ultimately discarded by DEFENDANTS, who forced her into assisted living without the 24/7 supervision HARRIS COUNTY'S expert mandated and

suffered a fatal accident within approximately one week of the grossly negligent, reckless decision of purported temporary guardian, MICHELE GOLDBERG in concert with DEFENDANTS, with GOLDBERG making the decision to terminate her life through starvation, drugging and dehydration when she was not terminally ill, in violation of the 8th Amendment guarantee against cruel and unusual punishment.

8. Guardianship is purportedly for protection of the elderly and disabled but the administration of it by Harris County proves that “protection” is not the goal or result of guardianship and Harris County’s practice, policies and performance of guardianship of the elderly and disabled removes protection, places them in hazardous, unsafe environments in violation of the 14th Amendment guarantee of safety and appropriate medical care, as stated in *M.D. vs. Abbott, attached hereto and incorporated by reference. The elderly and disabled are discriminated against strictly based upon disability and involuntarily made guardianship “wards” of the State of Texas, at which time private professional guardians knowing nothing about their disabilities, unqualified to serve in the capacities appointed, and lacking in the motivation or inclination to protect the ward, but instead financially exploit them under the auspice of court protection, egregiously violating their rights under the U.S. Constitution, federal and State law to a degree that shocks the conscience.*¹

I. INTRODUCTION

1. BARBARA LATHAM, at all times prior to the death of her mother, MURIEL MINTZ, was a “person interested” in the welfare of her mother, who was an incapacitated person. Tex. Est. Code 1002.018(2).

2. MURIEL MINTZ was a "qualified individual with a disability" as defined by the Americans With Disabilities Act 1990 (as amended) (the “Act”) at 42 U.S.C. § 12131(2); 3 see

¹ All exhibits mentioned herein or the prior complaint and/or supplement are incorporated as if fully set forth herein.

also, 28 C.F.R. §§ 35.104 and 35.108(b)(1-2) and (c)(1)(I-ii), Definitions.

3. GOLDBERG was illegally appointed temporary guardian of the person and estate of MURIEL MINTZ without notice and the opportunity to be heard, a jury trial or hearing in which she was notified or allowed to attend, an attorney of her choosing, an attorney who zealously represented her, a guardian ad litem being appointed, an expert witness determination of incapacity prior to removing all of her rights illegally and JUDGE WOOD finding her totally incapacitated based upon no evidence at all.

4. A litany of statutory provisions were violated and ignored and all of MURIEL'S wishes as expressed in her durable and medical power of attorney, designation of guardian in the event of need, advanced directives, designation of LATHAM as agent for disposition of remains, attorney in fact, agent to receive HIPAA protected records, and otherwise—were steamrolled violating her right to procedural or substantive due process. o perform his statutorily-mandated duties as Guardian of the Person of MURIEL MINTZ, which includes

(a). . . (2) the duty to provide care, supervision, and protection of [MURIEL MINTZ from abuse and neglect at the nursing home from which GOLDBERG refused to remove her]; and

(3) the duty to provide [MURIEL MINTZ] with . . . food and medical care; Tex. Est. Code §1151.051.

5. Tex. Est. Code 1§1054.054 says the same thing, essentially:

. . . The Guardian ad litem shall protect the incapacitated person in a manner that will enable the court to determine what action will be in the best interests of the incapacitated person . .

6. GOLDBERG's gross negligence, recklessness, and breach of fiduciary duty to MURIEL MINTZ and fraud put into action an unbroken course of events beginning with the DEFENDANTS knowingly proceeding to appoint an attorney ad litem who failed to represent MURIEL MINTZ's

interests or even ensure she was served with process as mandated by State and Federal law to include several “hearings” in which MURIEL MINTZ was excluded and DEFENDANTS to include JUDGE MIKE WOOD agreed upon rulings that violated MURIEL’S right to due process, equal protection, safety, and appropriate medical care, as they illegally seized her person, non-probate assets for the purpose of looting the estate and irrevocable family trust not even part of her estate, using a purported temporary guardian who lacked standing to spy on and seize MURIEL’S federally protected bank account and/or IRA funds

7. MICHELE GOLDBERG further threatened BARBARA LATHAM with arrest, subjecting her to knowingly false reports of neglect to law enforcement to intimidate her into not interfering as she seized BARBARA’S personal assets and conspired with DONALD MINTZ AND STACY KELLY, his attorney, to freeze IRA RETIREMENT funds of BARBARA LATHAM not subject to the Court’s jurisdiction and in the absence of all evidence to merit this. *See December 12, 2017 Transcript wherein Judge Wood states that the injunction he ordered does not cover LATHAM’S IRA ACCOUNTS which were frozen by STACY KELLY AND DONALD MINTZ with the knowledge and participation of MICHELE GOLDBERG, warning that even BANK OF AMERICA was on thin ice if they froze BARBARA’S IRA’S worth over \$100,000. WOODS acknowledged this action would be a pre-hearing deprivation of property, which is exactly what STACY KELLY AND DONALD MINTZ’S emptying LATHAM’S checking account of over \$6000 consisted of.*

8. JUDGE MIKE WOOD is subject to a judicial bond via the Texas Estates Code of \$500,000 for gross negligence in failing to exercise reasonable diligence to prevent MURIEL MINTZ’ tortured suffering, starvation, and death, which was brought to his attention as the attorney for LATHAM asked for access to medical professionals, medical records, and information

along with liberal visitation and access by MURIEL MINTZ'S two registered nurse daughters, LATHAM AND NELSON, specifically asking for a Temporary Restraining Order and Injunction barring GOLDBERG from banning the same and mandating they be given HIPAA releases and medical records and he refused to ORDER it. LATHAM and NELSON knew the DEFENDANTS were in cover up mode, but had no idea the lengths they would go to cover up what happened to MURIEL MINTZ when she fell and died in three weeks under the protection of the Harris County guardianship program, JUDGE MIKE WOOD AND MICHELE GOLDBERG.

9. Even when JUDGE MIKE WOOD was presented with undeniable proof of MURIEL MINTZ' rapidly deteriorating health and medical condition he "turned a blind eye" to the danger to MURIEL MINTZ and became liable for conscious indifference to danger to MURIEL MINTZ in the acknowledgement that GOLDBERG knew nothing about MURIEL'S medical history, was unqualified to read medical records, and still did nothing to ensure MURIEL was safe after hearing that she had fallen with GOLDBERG AND THE CONSPIRING DEFENDANTS knowing already that she was a high fall risk.

10. JUDGE MIKE WOOD' illegal, *ex parte* accommodations to probate court insiders led to higher and higher levels of JUDGE MIKE WOOD' GROSS NEGLIGENCE, CONSCIOUS INDIFFERENCE AND RECKLESSNESS, contributing to MURIEL MINTZ'S death.

11. What began as illegal, *ex parte* accommodations to probate court insiders, culminated in JUDGE MIKE WOOD' gross negligence to protect MURIEL MINTZ with knowledge of the high risk of serious bodily injury and death that MURIEL faced in the care of GOLDBERG, leading to the tortured, suffering death of MURIEL MINTZ from deprivation ordered by GOLDBERG of life-sustaining nutrition.

12. GOLDBERG'S gross negligence, conscious indifference to the suffering, civil rights

violations, discrimination, and tortured death were made possible by the breaches of fiduciary duty and conspiracy of STACY KELLY, DONALD MINTZ, TERESA PITRE, JUDGE WOOD, and HARRIS COUNTY employees, appointees, and/or agents. The conspiracy of fraud against MURIEL MINTZ, LATHAM AND NELSON, led in an unbroken series of events to MURIEL MINTZ' death AND ALL PLAINTIFFS' injuries and damages.

13. MURIEL MINTZ was qualified for in-home care with 24/7 supervision which was determined to be mandatory by Dr. Edward Poa, the expert witness appointed by JUDGE WOOD May 23, 2017—the day JUDGE WOOD stated that MURIEL was incapacitated without the benefit of even evaluation. See Transcript of May 23, 2017. But for the constant harassment, threats of incarceration, fraudulent calls to the police and adult protective service for well checks CONSPIRING DEFENDANTS knew were unlawful reports against LATHAM, given she is an advanced 30 year psychiatric registered nurse, had home health care visits weekly and ESTELLE NELSON, a 30 year geriatric nurse also visited LATHAM'S home to evaluate MURIEL—MURIEL would never have had to leave LATHAM'S home.

14. MICHELE GOLDBERG harassed, threatened and terrorized LATHAM as she and/or STACY KELLY seized and froze her IRA over \$100,000, tried to steal the family trust and emptied her checking account, using the court to threaten jail for contempt when GOLDBERG AND KELLY had no right to spy on federally protected banking accounts of MURIEL OR BARBARA LATHAM. This led to the inevitable emotional and physical exhaustion of LATHAM and MURIEL being taken as GOLDBERG threatened for months, Against her will, unnecessarily institutionalized assisted living facility which set her up for death by not providing medically mandated 24/7 supervision DR EDWARD POA said was critical. Without supervision, MURIEL fell being blind and suffered a fractured spin in the thoracic region on December 2, 2017 and was

put to death on hospice on Christmas Eve while denying NELSON AND LATHAM access to their mother and all information regarding her injuries, health, prognosis, diagnosis, care, and hospice, as well as the cause of death, death certificate, medical records, the identify of the person who identified the body, leading them to believe she was cremated to destroy evidence of a homicide. MURIEL was not terminal and did not appear eligible for hospice, so she was denied food, water and drugged with dangerous opiate drugs to hasten her death in hospice in violation of her civil rights, ADA and federal / state laws, both civil and criminal.

15. MURIEL MINTZ was not accommodated in any fashion to visit with her daughters or grandchildren, and consequently the lack of accommodation deprived MURIEL MINTZ of the right to attend social, recreational or religious activities as well as the fundamental right of familial association. MURIEL was denied visitors and her daughters were banned, such that MICHELE GOLDBERG lied and only allowed them to see her 4-5 days while she was hospitalized and put to death in hospice from December 2-24, 2017. MURIEL MINTZ' experienced unnecessary and prolonged institutionalization in violation of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132 et seq.

16. PLAINTIFFS assert claims against JUDGE MIKE WOOD individually and officially as statutory probate judge up to the amount of his bond stated in Texas Estates Code 1201.003 and he has no immunity because he took actions in violation of MURIEL'S civil and constitutional rights IN THE ABSENCE OF ALL JURISDICTION. In doing so, he was the employee who acted with appointees and agents of HARRIS COUNTY, TEXAS, who violated the Americans with Disabilities Act, Title II, by disability discrimination and unlawful segregation and retaliation against LATHAM, wrongful death under Texas law (along with the CONSPIRING DEFENDANTS), breach of fiduciary duty, fraud or conspiracy against rights of LATHAM,

NELSON AND/OR MURIEL, and intentionally inflicted emotional distress as they unlawfully deprived MURIEL NELSON AND LATHAM of Constitutionally protected rights in violation of the 1st, 14th, 5th, 6th, 7th, and 8th Amendments and 42 USC 1983. WOOD further violated the Texas Estates Code in ignoring a litany of provisions which ultimately denied THE PLAINTIFFS procedural and substantive due process, equal protection of the law, and his liability as a supervisor is well established under the ADA and Texas Estates Code.

17. MICHELE GOLDBERG, DONALD MINTZ AND TERESA PITRE also owed MURIEL MINTZ, deceased, A FIDUCIARY DUTY, and conspired against her in order to loot her estate and the family trust and hasten her death to do it. The trust prohibits removal of a trustee UNTIL MURIEL MINTZ was dead, but DEFENDANTS filed a trust action to remove BARBARA LATHAM, the sole acting trustee, on November 27, 2017, three days after GOLDBERG took MURIEL and dumped her in an inappropriate placement which caused the fatal accident that took her life. Given she was not dead yet and had not injured herself until December 2, 2017 according to the death certificate, filing the lawsuit to remove a trustee that cannot be removed even for cause suggests much more than an accident, if not a planned homicide.

18. This case argues for the Court to apply the reasoning of *Estelle v. Gamble*, 429 U.S. 97 (1976); *Youngberg v. Romeo*, 457 U.S. 307 (1982); *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983) and *M.D. v. Perry*, 675 F.3d 832 (5th Cir. 2012) and the Memorandum Opinion and verdict of the Court in *M.D. v. Abbott*, 152 F. Supp.3d 684 (S.D. TX 2015)

19. HARRIS COUNTY wards, in a pattern and practice of civil rights violations similar to those experienced by MURIEL MINTZ, which will be established if the Court permits the critically needed time for the PLAINTIFFS to amend this COMPLAINT, after BARBARA LATHAM is confirmed personal representative of the ESTATE OF MURIEL MINTZ, deceased, is

to isolate the wards from their families to hide neglect and exploitation, overmedicate the wards to keep them from complaining to families and subdue them into not displaying behaviors unwanted in institutional settings, deprive them of the opportunity to provide for their own needs and safety, as well as their family members by citing “family conflict”; ban them from associating with their chosen kin or friends; and deprive them of the ability to complain of maltreatment or abuse because of the closed system created by the Texas guardianship scheme as set out in the Texas Estates Code which took effect on January 1, 2014.

20. While PLAINTIFFS assert claims for wrongful death and ancillary state law claims for conspiracy, fraud, breach of fiduciary duty, and intentional infliction of emotional distress, the civil rights deprivations under color of state law by JUDGE WOOD, TERESA PITRE, AND STACY GOLDBERG, along with HARRIS COUNTY employees, appointees and agents, and ADA violations of HARRIS COUNTY by failing to train attorney ad litem and ensure persons competent to testify and state “best interests” under the rules of evidence—are appointed instead of courtroom regulars who favor the judges.

21. Given the widespread pattern and practice of banning family members who report neglect, abuse or exploitation and/or banning those with enough expertise to recognize that MURIEL was not terminal and her death was illegally hastened by DEFENDANTS, SUCH AS REGISTERED NURSES BARBARA LATHAM AND ESTELLE NELSON, without cause that can be identified, it is indisputable that HARRIS COUNTY and individuals acting under color of state law are engaged in widespread civil rights deprivations and violations of the ADA and Section 504 of the Rehabilitation Act of 1973 through conscious indifference, gross negligence, recklessness or deliberate actions to conceal wrongdoing.

22. HARRIS COUNTY and DEFENDANTS conceal their wrongful acts which frequently end

in premature death, suffering and civil / constitutional rights violations and disability discrimination in purported immunity that they do not have when they are grossly negligent and consciously indifferent to the ward's safety, medical care, suffering and death and attempts by LATHAM AND NELSON to intervene and save their mother's life—thwarted because the court appointees and judge have the sole discretion and power to do anything at all. Family members are banned to hide the crimes and wrongdoing.

23. HARRIS COUNTY DEFENDANTS engage in a conspiracy of fraud in which the elderly and disabled are discriminated against and suffer routine civil rights and constitutional rights violations ending in premature death—by guardianship, which does not protect and is not intended to protect by the plain wording of the Code, which states that guardianship is to be administered like decedent's estates, treating wards as chattel or in rem proceedings, rather than citizens with Constitutional rights and rights protected by the ADA, the emancipation proclamation for the disabled which has been watered down by courts and strengthened to achieve its purpose in 2008 and 2016.

24. This case also argues that the several federal statutes demand protections for disabled wards – persons – in the public entity context, such as state-ordered guardianships, and that Texas and its statutory guardianship scheme are failing to apply the proper protections which arise under the United States Constitution; the Americans with Disabilities Act, Titles II and III; and the rights of disabled wards in guardianship proceedings.

25. This case seeks declaratory relief, injunctive relief and damages under both federal and state causes of action, with damages under the ADA and State law statutes, as more fully set out herein.

II. RIGHTS OF WARDS OF THE STATE

26. Effective June 19, 2015, the Texas Estates Code § 1151.351 merely codified existing constitutionally-protected rights and existing public policies as to persons placed under guardianship. It did not create new rights not previously recognized, but it did clarify that impaired persons retained these rights in spite of disability and impairment.

27. A ward under a guardianship of the person pursuant to the laws of the State of Texas is, by definition, disabled and impaired to some degree, whether physical, mental, or both. A ward who is subject to a guardianship of their person has been deemed sufficiently disabled and impaired with regard to one or more of their major life activities as to require the appointment of a guardian.

28. According to the ADA, Section 504, the Constitution, Bill of Rights, the Texas Estates Code and Texas Penal Code, as well as a litany of other federal and state laws, a ward

- has a constitutional right to be free from an unreasonable risk of harm, including protection from psychological as well as physical abuse;
- has a substantive due process right to be free from unreasonable and unnecessary intrusions into privacy and emotional well-being;
- may be subjected to harm that includes, but is not limited to: neglect, physical abuse, and psychological mistreatment.

29. LATHAM, individually, in her capacity as “an interested person” and as a daughter and heir of her now-deceased mother, MURIEL MINTZ, alleges claims for the acts and failures to act ultimately leading to MURIEL MINTZ’ death, against Defendants/Co-Conspirators jointly and severally; as well as a multitude of other indignities and wrongs as more fully set out herein against the following Defendants: GOLDBERG, WOOD, KELLY, MINTZ, HARRIS COUNTY, and PITRE. Additionally, LATHAM makes a claim against the bond, up to the amount of the bond, of JUDGE MIKE WOOD for gross negligence pursuant to Tex. Est. Code 1201.003. PLAINTIFFS

assert a claim for the bond limits of MICHELE GOLDBERG as well.

III. JURISDICTION

1. This court has jurisdiction pursuant to 28 U.S.C.A. §§ 1331 and 1343, because the matters in controversy arise under the laws of the United States. In Addition, jurisdiction is conferred upon this Court, pursuant to the Rehabilitation Act and the ADA, ADA, 2008 AND 2016 federal regulations of the ADA, 42 U.S.C. 1983, and state law as ancillary relief. This action arises under the United States Constitution, particularly the 1ST, 4TH, 5TH, 6TH, 7TH, 8TH AND 14TH Amendments, and under federal law, specifically, Title 42 U.S.C. § 1983, and § 2000cc et seq.

This court has jurisdiction:

30. Plaintiffs' claims arising under the United States Constitution and federal law pursuant to 28 U.S.C. § 1331, 29 U.S.C. §794, 42 U.S.C. § 1983, and 42 U.S.C. §12101 *et seq.*;

31. Further this Court has jurisdiction to award attorney's fees and costs pursuant to 42 USC 1988 as well as the ADA and Section 504.

32. This Court also has jurisdiction over the pendent state claims pursuant to 28 U.S.C. § 1367.

IV. VENUE

33. Venue is proper before this Court pursuant to 28 U.S.C. § 1391. All acts for which this case is brought occurred in Harris and/or Brazoria County and MURIEL MINTZ died in HARRIS COUNTY, TEXAS

V. PARTIES

A. PLAINTIFFS

34. BARBARA LATHAM is a citizen of the United States and was, at all times relevant to this complaint, a resident of BRAZORIA COUNTY, TEXAS, and has resided at 1022 Northwick

Drive, Pearland, Texas 77584. She may be served through attorney, CANDICE SCHWAGER, 1417 Ramada Drive, Houston, Texas 77062, Tel: 832.315.8489, Fax: 713.456.2453, candiceschwager@icloud.com.

35. MURIEL MINTZ, DECEASED (ESTATE OF MURIEL MINTZ) was a citizen of the United States and a resident of BRAZORIA COUNTY, and has resided at 1022 Northwick Drive, Pearland, Texas 77584. She died at Houston Hospice, 1905 Holcomb Blvd, Houston Texas, 77030. BARBARA LATHAM was the durable and medical power of attorney, designee for guardian in the event of need, agent for HIPPAA RECORDS before death and post-mortem, agent for disposition of remains of MURIEL MINTZ, healthcare surrogate, and attorney in fact. She is currently seeking appointment as personal representative / independent executrix of the estate of MURIEL MINTZ to maintain claims for the estate of MURIEL MINTZ, which consist of the deprivation of life, liberty and property resulting in serious bodily injury and death under 42 U.S.C. 1983, 42 U.S.C. 12101 et seq., 29 U.S.C. 794, and pendent state law claims for wrongful death, breach of fiduciary duty, fraud and conspiracy, and intentional infliction of emotional distress.

36. ESTELLE NELSON is a citizen of the United States and was at all times a resident of Harris County, Texas during relevant time periods. She may be served through attorney, CANDICE SCHWAGER, 1417 Ramada Drive, Houston, Texas 77062, Tel: 832.315.8489, Fax: 713.456.2453, candiceschwager@icloud.com.

B. DEFENDANTS

37. MICHELLE GOLDBERG is a resident of Harris County, Texas and may be served with process at 6750 W. Loop S. Suite 615, Bellaire, Texas 77401.

38. STACY KELLY is a citizen of the United States and resident of Harris County, Texas. She may be served with process at 6363 Woodway, Suite 300, Houston, Texas 77057.

39. TERESA PITRE is a citizen of the United States and resident of Harris County, Texas. She may be served with process at 12808 W. Airport STE 255C, Sugarland, Texas 77478.

40. HON. JUDGE MIKE WOOD is a citizen of the United States and resident of Harris County, Texas. He may be served with process at 201 Caroline Street, Suite 680, Houston, Texas 77002, Statutory Probate Court No. 2.

41. HOUSTON HOSPICE is located at 1950 HOLCOMB BLVD, HOUSTON, TEXAS. 77030 and may be served with process through registered agent, Christine V. Blackmon. MURIEL is currently being confined and starved at this facility.

42. DONALD MINTZ is a resident of HARRIS COUNTY TEXAS and may be served with process at 3519 Yupon Street, Houston Texas 77006.

VI. STAY OR ABATEMENT OR UNOPPOSED

EXTENSION UNDER RULES 15 AND 16

43. LATHAM seeks an abatement, stay or extension of the deadlines set by this court to re-plead and include claims on behalf of the Estate pending her imminent appointment as Personal Representative or Independent Executrix of the Estate of Muriel Mintz, deceased. When this case was filed, MURIEL MINTZ was alive and LATHAM filed the COMPLAINT AND APPLICATION FOR TRO AND TEMPORARY INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT in order to save her life. Justice so requires the same and good cause exists for LATHAM to be appointed personal representative to have the authority to pursue estate claims on behalf of her mother.

44. DEFENDANTS caused her death in a scheme to hasten death illegally on hospice by drugs, starvation and dehydration, to remove BARBARA LATHAM from the trust and seize all assets, a frequent practice in HARRIS COUNTY probate and guardianship. This cannot yet be

confirmed because GOLDBERG AND THE COURT refuse to provide medical records or the death certificate o the PLAINTIFFS, with the PLAINTIFFS having to go to Bureau of Vital Statistics and subpoena health care providers to get these records.

45. Counsel for LATHAM and NELSON wrote to MICHELE GOLDBERG repeatedly after the Court refused to grant her injunctive relief and mandate that GOLDBERG provide HIPAA releases or the court mandate that medical records be released to MURIEL MINTZ'S registered nurse daughters on December 12, 2017—10 days after the fatal accident MURIEL suffered by GOLDBERG, HARRIS COUNTY AND JUDGE WOOD'S GROSS NEGLIGENCE AND CONSCIOUS INDIFFERENCE TO HER WELL-BEING, SUFFERING AND HEALTH, and 12 days prior to her death.

46. PLAINTIFFS now fear that contrary to GOLDBERG'S statements to this court, GOLDBERG had their mother cremated, as they were banned from hospice without cause throughout the last days of their mother's life, denied the right to be with her other than 4-5 days in which they were harassed and accused of things they did not do, and denied an open casket or wake which was held for their father years prior—by GOLDBERG, whose guardianship legally ended at death to the extent it was ever legal to begin with, which it was not due to lack of service.

47. STACY KELLY lied to this Court in stating that “officer” includes a private process server and that MURIEL was served on April 1, 2017, when the Court itself spoke of MURIEL not being properly served in the hearing held May 23, 2017.

48. Judge WOOD told TERESA PITRE, the attorney ad litem appointed before MURIEL was ever served, that she could not accept service for MURIEL. COUNSEL complained that the HARRIS COUNTY constables and/or SHERIFF would not serve MURIEL where she lived with LATHAM in Brazoria County. Though the solution was to change venue, which was demanded by

LATHAM, it was denied. MURIEL was never served and GOLDBERG made all decisions through the burial but still cannot say who even identified the body, suggesting something is awry. Why would GOLDBERG, WOOD, AND KELLY deceive the Court, LATHAM AND NELSON and block them from all access to their mother and medical information or personnel if they had nothing to hide?

VII. CAUSES OF ACTION

Breach of Fiduciary Duty

49. The elements of Breach of Fiduciary Duty under Texas law are:

- a. The plaintiff and defendant had a fiduciary relationship.
- b. The defendant breached his fiduciary duty to the plaintiff.
- c. The defendant's breach(s) resulted in injury to the plaintiff, or benefit to the defendant

50. As guardian of the person of MURIEL MINTZ GOLDBERG's duties and rights were:

(A) A guardian of the person has:

- (1) the right to have physical possession of the ward and to establish the ward's legal domicile;
- (2) the duty to provide care, supervision, and protection for the ward;
- (3) the duty to provide the ward with clothing, food, medical Care, and shelter;
- (4) The power to consent to medical, psychiatric, and surgical treatment other than the in-patient psychiatric commitment of the ward;

51. As set forth below, GOLDBERG's breach(s) of his fiduciary duties to MURIEL MINTZ, in the conspiracy with KELLY, PITRE, DONALD MINTZ, JUDGE MIKE WOOD, and Harris County, caused the death of MURIEL MINTZ and the damages to LATHAM, NELSON AND THE ESTATE OF MURIEL MINTZ, deceased. NELSON and LATHAM were persons interested in MURIEL MINTZ' welfare and as such maintain claims under the Texas Wrongful Death Statute.

VIII. 42 USC 1983

52. Plaintiff asserts that GOLDBERG's fraudulent concealment *ex parte* meeting with JUDGE MIKE WOOD, appointment in September 2017 on the phone in which neither MURIEL MINTZ nor GOLDBERG were in court, and GOLDBERG had filed no application such that MURIEL had no notice of her impending appointment as temporary guardian, despite not being served, not having the opportunity of notice and the chance to meaningful participate or participate at all in violation of her civil and constitutional rights and the ADA and Section 504, was illegal and deprived MURIEL of the 1st, 4th, 5th, 6th, 7th, 8th and 10th Amendment rights in violation of 42 USC 1983 and they seek a declaratory judgment of the same.

53. The elements of a cause of action for common-law fraud are set forth below along with GOLDBERG's acts constituting commission of each element:

- a. The defendant made a representation to the plaintiff
- b. The representation was material.
- c. The representation was false.
- d. When the defendant made the representation, the defendant knew the representation was false . . .
- e. The defendant made the representation with the intent that the plaintiff act on it.
- f. The plaintiff relied on the representation.
- g. The representation caused the plaintiff injury.

54. GOLDBERG's exercise of control of MURIEL MINTZ, combined with the conspiracy to hide MURIEL MINTZ'S true health condition and serious bodily injury causing death could be homicide but it is definitely conscious indifference to her well-being and there was no jurisdiction for any of this temporary guardianship such that GOLDBERG, WOOD, PITRE, KELLY AND HARRIS COUNTY are liable, if not DONALD MINTZ as well for conspiring to hasten his

mother's death to seize the trust which could not be obtained before she died. Wrongful Death
Against GOLDBERG and GOLDBERG

55. The elements of a wrongful death cause of action in Texas are:

a. The plaintiff is a statutory beneficiary of the decedent.

NELSON and LATHAM are MURIEL MINTZ' daughters and heirs under Texas law

b. The defendant is a person or corporation.

GOLDBERG AND DONALD MINTZ are natural persons. The defendants' wrongful act caused the death of the decedent as the conspired to cover it up. PLAINTIFFS incorporate for all purposes as if fully set forth verbatim all paragraphs hereinabove citing DEFENDANTS' and GOLDBERG's wrongful acts of fraud, conspiracy, and breach of fiduciary duty to MURIEL MINTZ deceased. The decedent would have been entitled to bring an action for the injury if she had lived. Moreover, her claims under 42 USC 1983 AND 42 USC 12101 et seq. and 29 USC 794, as well as wrongful death survive death.

c. The plaintiff suffered actual injury.

MURIEL MINTZ died from starvation dehydration and drugging in hospice as the DEFENDANTS seem to have illegally hastened her death in violation of federal law. The cover up and concealment of evidence by DEFENDANTS speaks loudly to this and PLAINTIFFS require additional time to more fully set forth this complaint and survive 12b6 by LATHAM'S appointment as personal representative to maintain claims against the defendants ON BEHALF OF THE ESTATE.

IX. CONSPIRACY

56. The elements of a conspiracy claim in Texas are:

a. The defendant was a member of a combination of two or more persons
LATHAM incorporates for all purposes the foregoing paragraphs to show conspiracy;

b. The object of the combination was to accomplish an unlawful purpose or lawful purpose by unlawful means.

c. The members had a meeting of the minds on the object or course of action

d. **One of the members committed an unlawful, overt act to further the object or course of action.**

e. **The plaintiff suffered injury as a proximate result of the wrongful act.**

57. The evidence in the transcripts of May 23, October 31, November 28, and December 12, 2017 reveal that DEFENDANTS were engaged in a conspiracy to cover up what occurred and/or deprive the PLAINTIFFS of liberty, property and ultimately, life. The trust action could not be filed to remove LATHAM until MURIEL MINTZ was dead and three weeks after MICHELE GOLDBERG took custody and control of her person, given she had already seized her estate and was attempting to seize the trust and BARBARA'S funds, MURIEL was dead and no information would be given.

X. JUDGE WOOD LIABLE TO THE AMOUNT OF HIS BOND \$500,000 UNDER TEX. EST. CODE 1201.003

58. JUDGE MIKE WOOD, in his capacity as an elected Harris County Probate Court Judge and employee of HARRIS COUNTY under color of state law in the absence of all jurisdiction and is liable pursuant to Tex. Est. Code §1201.003:

Judge's Liability:

A judge is liable on the Judge's bond to those damaged if damage or loss results to a guardianship or ward because of the gross neglect of the judge to use reasonable diligence in the performance of the Judge's duty under this subchapter.

59. The judge's duty as of January 1, 2014, is found in Tex. Est. Code §1201.001, which provides:

Determining Guardian's performance of Duties

The court shall use reasonable diligence to determine whether a guardian is performing all of the duties required of the guardian that relate to the guardian's ward.

60. Plaintiff will show that JUDGE MIKE WOOD, provided a surety bond to Harris County

for the benefit of Harris County in the amount of \$500,000.00. MICHELE GOLDBERG likewise obtained a bond for \$250,000 for damage incurred to the ward's person or estate. The Texas Legislature expressly waived immunity to quasi judicial immunity in enacting 1201.003.

61. JUDGE MIKE WOOD affirmed that he had been elected to the office of the Harris County Probate Judge Court No. 2 for a period of 24 years or more and gave an oath to "well and faithfully perform and discharge all the duties required of him by law as the aforesaid officer and shall Abide by All Duties of This Office." WOOD violated the duties required of elected office pursuant to Tex. Ext. Code §1201.003 and the surety on his official bond is liable to the Plaintiff for all damages pursuant to Tex. Ext. Code §1201.003.

62. JUDGE MIKE WOOD is liable in an amount not to exceed the amount of the bond, or \$500,000.00 for all actual and consequential damages, damages for pain and suffering, damages for mental anguish, reasonable attorney's fees, and costs and expenses of court resulting from gross neglect of duty and conscious indifference as well as acting in the absence of all jurisdiction for which no immunity exists or quasi immunity at best.

63. JUDGE MIKE WOOD failed to use reasonable diligence in the performance of duties with regard to the guardianship of MURIEL MINTZ, to whom JUDGE MIKE WOOD owed a statutory duty of reasonable diligence and as a proximate cause of the breach of duty of reasonable diligence that rose to a level of gross neglect on the part of JUDGE MIKE WOOD, and MURIEL MINTZ ESTELLE NELSON and BARBARA LATHAM were damaged in an amount that exceeds the limits of the official bond posted by JUDGE MIKE WOOD.

64. JUDGE MIKE WOOD held no trial on the issue of court appointed guardian GOLDBERG. MURIEL MINTZ was callously left to die a painful and tortured death as a result of the gross negligence of JUDGE MIKE WOOD to exercise due diligence in reviewing whether guardian

GOLDBERG was performing GOLDBERG's duties as guardian. WOOD likewise denied access to medical records to PLAINTIFF and permitted GOLDBERG to ban access to their mother and information, violating their civil and constitutional rights and the ADA, admitting he was not familiar with the statute on the 28th of November, 2017.

65. JUDGE MIKE WOOD violated MURIEL MINTZ' and LATHAM's rights of due process by her *ex parte* communications with GOLDBERG and other parties, through *ex parte* communications which further violated the rules of ethics and Estates Code.

66. JUDGE MIKE WOOD refused to hear evidence by LATHAM'S attorney and only allowed GOLDBERG AND KELLY to speak, citing everything SCHWAGER said as irrelevant. See transcript of December 12, 2017.

XI. Violations of Federal Disability Laws - Harris County

67. Plaintiff brings disability discrimination claims under the Americans With Disabilities Act 1990 (as amended) (the "Act"); 42 U.S.C. § 12101 *et seq.* ("ADA"); and in particular under Title II of the Act; 42 U.S.C. §12131 *et seq.*

68. Plaintiff also brings claims under ADA Title III 42 U.S.C. § 12203 (ADAAA) involving retaliation.

69. For purposes of all of Plaintiff's disability related claims, the Plaintiff incorporates by reference all related paragraphs with the same force and effect as if set forth verbatim herein.

70. MURIEL MINTZ was a "qualified individual with a disability" as defined in the Act at 42 U.S.C. § 12131: § 12131. Definitions

(2) Qualified individual with a disability.

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of

architectural, communication, or transportation barriers, or the provision of auxiliary aids and services meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.”

71. Defendant, Harris County, is a "public entity" as defined in and under the Act, see 42 U.S.C. § 12131.

§ 12131. Definitions As used in this title:

- Public entity. The term “public entity” means –
- any state or local government;
- any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- not relevant to this case.

72. GOLDBERG, WOOD, PITRE and employees, appointees, and agents of HARRIS COUNTY, collectively, were responsible for developing, implementing, accommodating, and/or administering to MURIEL MINTZ the services, programs, and activities of Harris County in and under their immediate control with JUDGE WOOD responsible to ensure that his appointees were competent to serve in the capacities that he appointed with respect to the ADA among other laws protecting the disabled and elderly and he utterly failed admitting he is not familiar with the ADA.

73. Defendants’ violations of the ADA, includes the following violations of federal law by Defendants’ acting under color of state law in the guardianship of MURIEL MINTZ with the appointees GOLDBERG, PITRE AND WOOD as JUDGE acting under color of state law and meriting declaratory, injunctive and damages relief:

- a. illegal disability discrimination under the ADA;
- b. violations of the integration mandate of Title II of the ADA;
- c. violation of the implementing regulations for these statutes.

74. The combined acts and omissions committed by the Defendants, as described herein, resulted in and proximately caused MURIEL MINTZ to be deprived of the benefits of the federal

law protecting the rights of disabled persons to be protected in her right of participation as more fully elaborated herein. Courts have held that any service provided by an entity of the government such as here, guardianship, is covered by the ADA and subjects the county to liability for failure to accommodate disabilities by providing the persons involved with a meaningful opportunity to access the program and participate.

75. Persons who have been involuntarily committed are entitled to more considerate treatment and conditions of confinement than prisoners whose conditions of confinement are designed to punish. Memorandum Opinion and verdict of the Court in *M.D. v. Abbott*, 152 F. Supp.3d 684 (S.D. TX 2015). Yet, MURIEL had all rights removed when that isn't done to criminals and she was not afforded competent counsel, a trial, a hearing, evidence, due process, equal protection, the right to be safe, and the right to medical treatment appropriate.

76. In order to establish a prima facie case under Title II of the American with Disabilities Act 42 U.S.C. § 12101 *et seq.*, the Plaintiff must establish:

- a. MURIEL MINTZ was a qualified individual with a disability;
- b. MURIEL MINTZ was entitled to the services, programs or activities of Harris County and Harris County's guardianship courts; and
- c. MURIEL MINTZ was denied the benefits of the services, programs or activities of the Harris County Guardianship Courts. MURIEL MINTZ, and/or persons advocating on her behalf, were subjected to discrimination by Harris County and by the Harris County Guardianship Courts.

77. By virtue of the Order of Guardianship, MURIEL MINTZ, "was a qualified individual with a disability" by law, as contemplated under the ADA.

78. By virtue of the Order of Guardianship, MURIEL MINTZ became entitled to all of the services, programs or activities of Harris County and Harris County's Guardianship courts.

79. Harris County is a local governmental entity and is therefore a “public entity” as contemplated under the ADA.

80. The remaining Defendants, in all capacities pled, were responsible for developing, implementing, accommodating, and/or administering to MURIEL MINTZ the services, programs, and activities of Harris County and/or the Harris County Guardianship Courts compatible with the requirements of the ADA

81. The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law.

" We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." *Washington v. Glucksberg*, 521 U.S. 702, 719, 138 L. Ed. 2d 772, [**2060] 117 S. Ct. 2258 (1997). [***15] The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." 521 U.S. at 720; see also *Reno v. Flores*, 507 U.S. 292, 301-302, 123 L. Ed. 2d 1, 113 S. Ct. 1439 (1993).”
Troxel v. Granville, 530 U.S. 57, 65 (2000).

82. The ward retains her right to Constitutional due process under the ADA.

83. The Defendants, with discriminatory animus, acted and failed and refused to act to extend any ADA accommodations to disabled guardianship wards such as MURIEL MINTZ in order that the ward may participate in court determinations relating to themselves as mandated by Title II of the ADA.

84. MURIEL MINTZ and LATHAM’s Rights to Due Process and a meaningful hearing were violated by the un-noticed, un-scheduled, un-recorded, *ex parte* meetings which resulted in GOLDBERG’s appointment without opportunity for MURIEL MINTZ and Interested Parties to MURIEL MINTZ, namely: LATHAM, AND NELSON, to be heard and to be heard in support of

her family member alternative choices for guardian of her person.

85. The “participation requirement” of Title II serves to protect MURIEL MINTZ’ due process rights to a meaningful hearing. *Popovich v. Cuyahoga County Court of Common Pleas*, 276 F.3d 808, 815 (2002), cert. denied 546 U.S. 1176 (2006).

86. Throughout the guardianship of MURIEL MINTZ up to and including her death, the Defendants intentionally discriminated with discriminatory animus against MURIEL MINTZ because of her disabilities by refusing to accommodate her “right of participation” under the ADA and her due process rights under the Fourteenth Amendment to a meaningful hearing in the court guardianship proceedings involving MURIEL MINTZ.

87. The right of family integrity and right to a permanent family derive from the First Amendment’s right of association, the Ninth Amendment’s reservation of rights to the people; and the Fourteenth Amendments substantive due process protections. Memorandum Opinion and verdict of the Court in *M.D. v. Abbott*, 152 F. Supp.3d 684 (S.D. TX 2015).

88. The First Amendment, Ninth Amendment and Fourteenth Amendment rights of MURIEL MINTZ, a disabled adult, to freely and routinely associate with, and be provided with emotional support and informed perspective by LATHAM AND NELSON were infringed by the Defendants’ acts and failures to act, acting in concert, jointly and severally and conspiring to do so. MURIEL MINTZ was prevented from exercising her constitutional rights under the First Amendment, Ninth Amendment and Fourteenth Amendment.

89. The actions and inactions of Defendant JUDGE MIKE WOOD set out herein, assisted by court appointed agents and appointees, in their official capacities constitute a habit, custom, pattern or practice that is such a SUBSTANTIAL departure from accepted professional judgment, practice, and standards as to demonstrate that Defendants did not base their conduct on professional

judgment(s).

90. The acts and omissions of Defendants shock the conscience by constituting deliberate indifference to the constitutionally protected rights of MURIEL MINTZ,

91. LATHAM AND NELSON seek damages for a habit, pattern, practice or custom of disability discrimination by the Defendants, directed at MURIEL MINTZ, whether individually, collectively and/or collectively in concert, in violation of the ADA, Title II.

92. HARRIS COUNTY is liable for a habit, pattern, custom or practice of disability discrimination by the Defendants, whether individually, collectively and/or collectively in concert, in violation of 42 U.S.C. § 12132; 28 C.F.R. § 35.130 wherein guardianship wards in Harris County, Texas are routinely excluded from participation in the hearings involving their guardianships and by statutory scheme provided no redress for this practice to be discontinued. *See 2015 email from Candice Schwager to Harris County probate judges telling them of Title II violations in failure to train attorneys and incompetence regarding ADA mandates.*

XII - ADA - Title III - Retaliation Claims

93. In order to prove Title III - ADA - Retaliation Claims 42 U.S.C. § 12203 (ADAAA) a plaintiff must establish that:

- a. she engaged in a protected activity such as asking for reasonable accommodations or the filing of or making a complaint to an entity charged with the responsibility of oversight of disabled persons;
- b. she was subjected to an adverse action by the public entity; and
- c. a causal nexus subsisted between the adverse action and the protected activity.

94. NELSON AND LATHAM were engaged in advocating for MURIEL MINTZ' constitutionally-protected due process of law interests provided in and under the Fourteenth

Amendment, including, but not limited to the following:

- a. the right to be heard on her desire as to whom is appointed her guardian, especially as expressed in a written instrument prior to her mental incapacity;
- b. the right to be heard on issues involving allegations of neglect, maltreatment, and wrongful conduct by persons acting under the Court's direction;
- c. the right to receive notice of all hearings involving her person;
- d. the right to a meaningful hearing;
- e. the right to be free of retaliatory discrimination for exercise of her rights to due process, all guaranteed in, by, and under, the Fourteenth Amendment as made applicable to the states by the Fourteenth Amendment.

95. MURIEL MINTZ' constitutionally-protected liberty interests provided in and under the First Amendment including, but not limited to the following, were violated:

- a. the right of free association with family and friends;
- b. the right of privacy together with other persons of her choice;
- c. the right of personal autonomy;
- d. the right of free choice and self-determination; and
- e. right to be free of retaliatory discrimination for exercise of freedom to speak out on matters of public concern, all guaranteed in, by, and under, the First Amendment as made applicable to the states by the Fourteenth Amendment.

96. LATHAM and NELSON seeks damages for what retaliatory discrimination suffered by MURIEL MINTZ and by LATHAM herself by the Defendants, whether individually, collectively and/or collectively in concert, in violation of the Title III of the ADA referred to as the ADAAs wherein guardianship wards and their friends and families involving Harris County, Texas guardianships are routinely retaliated against for asserting or attempting to assert their rights under

the ADA and the ADAAA.42 U.S.C. § 12132;28 C.F.R. § 35.130; and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 790, *et seq.*

97. The Defendants, with discriminatory animus, acted and failed and refused to act to extend any ADA accommodations to disabled guardianship wards such as MURIEL MINTZ in order that they could participate in court determinations relating to themselves as mandated by Title II of the ADA

XII. Relief Requested

98. Plaintiff seeks compensatory damages, actual damages, resulting damages, pain and suffering damages and mental anguish damages, related to the harm done to MURIEL MINTZ and the harm done to PLAINTIFFS.

99. PLAINTIFFS seek a stay, abatement and extension of time to plead this complaint once more once BARBARA LATHAM is appointed personal representative of the estate, for currently she has yet to be confirmed by the Judge though she is named as such in the will and codicil attached hereto and incorporated by reference.

100. PLAINTIFF seeks declaratory and injunctive relief for violating 42 USC 1983 under color of state law and damages against GOLDBERG AND PITRE, WHO ACTED UNDER COLOR OF STATE LAW and are not immune.

101. PLAINTIFFS seek injunctive relief against JUDGE MIKE WOOD continuing to violate their civil or constitutional rights or deprive them of property in retaliation for this lawsuit.

102. Plaintiff seeks exemplary damages under her claims for civil rights violations and pendent state tort claims. The wrongful conduct of the Defendants was committed intentionally and with malice or, alternatively, with reckless disregard for the rights and sensibilities of the Plaintiff, and MURIEL MINTZ prior to her wrongful death.

103. Plaintiff seeks recovery of her reasonable attorneys fees, costs and expenses of court under the ADA and Section 1983, as well as other claims.

104. Defendants' conduct as described in this petition, and the resulting damages and losses to Plaintiff have necessitated that Plaintiff retain an attorney to represent her in her claims against the Defendants. Plaintiff is statutorily entitled to recover from Defendants an additional sum to compensate Plaintiff for reasonable fees for such attorney's services and the preparation and prosecution of this action, as well as a reasonable fees for any and all appeals to other courts.

105. Plaintiff is entitled to an award of attorney's fees and costs and expenses pursuant to the ADA violations.

106. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for abatement, stay or extension until LATHAM is confirmed as personal representative to represent the substantial claims of the estate of MURIEL MINTZ, which is to occur imminently. PLAINTIFFS pray that defendants be cited to appear and to answer herein and that upon final hearing, the Court enter judgment in favor of Plaintiff against Defendants, jointly and severally, in an amount in excess of the minimum jurisdictional limits of this Court, for:

1. Actual damages;
2. Compensatory damages;
3. Resulting damages;
4. Pain and suffering damages;
5. Mental anguish damages;
6. Exemplary damages;
8. Reasonable and necessary attorney's fees;

9. Costs of court and expenses;
10. Pre and post judgment interest at the highest rate allowed by law,
11. Such other and further relief, general or special, at law or in equity, to which Plaintiff may show herself to be justly entitled.

Respectfully Submitted,

SCHWAGER LAW FIRM

Candice Schwager

Candice L Schwager

Texas Bar No. 24005603

Federal I.D. 30810

1417 Ramada Drive

Houston Texas 77062

Tel: 832.315.8489

Fax: 713.456.2453

candiceschwager@icloud.com

<http://www.schwagerfirm.com>

ATTORNEY FOR BARBARA

LATHAM AND MURIEL MINTZ