

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLASSEE DIVISION**

LORINE GAINES, as Personal
Representative of the Estate and Mother of
VINCENT GAINES,

Plaintiff,

v.

JULIE JONES, in her official and individual
capacities; KEVIN D. JORDAN, individually;
CORIZON HEALTH, INC.; and DOES 1-20,
in their individual capacities.

Defendants.

Civil Division

Case No.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

Plaintiff LORINE GAINES, as Personal Representative of the Estate and Mother of VINCENT GAINES (Decedent), brings this civil rights, statutory, and simple negligence action to redress the deprivation, under color of state law, of rights, privileges, and immunities secured to the Decedent by the Civil Rights Act, provisions of the Eighth and Fourteenth Amendments to the United States Constitution, the Americans with Disabilities Act (“ADA”), and the Rehabilitation Act. Mr. Gaines was denied and deprived entirely of adequate nutrition and treatment for his basic and serious mental health and medical needs during a critical period, which resulted in his malnutrition, starvation, and death.

JURISDICTION AND VENUE

1. This Court has jurisdiction over Plaintiff's civil rights claims pursuant to 28 U.S.C. §§ 1331 and 1343, which prescribe the authority of the Federal District Courts to exercise jurisdiction over claims arising under the United States Constitution, laws, or treaties of the United States, and to redress the deprivation, under color of state law, of rights, privileges, and immunities secured by the Constitution of the United States.

2. Accordingly, this Court has subject matter jurisdiction over Plaintiff's claims under the Eighth and Fourteenth Amendments to the Constitution of the United States and under the Americans with Disabilities Act, 42 U.S.C. § 12102 *et seq.* and the Rehabilitation Act, 29 U.S.C. § 701 *et seq.*

3. Venue is proper in the United States District Court for the Northern District of Florida under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred within this district, as set forth below.

4. All conditions precedent to the filing of this action have occurred, been performed, or have been waived.

PARTIES

5. Plaintiff, Lorine Gaines, is the mother of Decedent, Vincent Gaines, and is an adult resident of Florida. She is the Personal Representative acting on behalf of the Estate of Vincent Gaines, as well as the survivor of the Decedent as Mr. Gaines' mother.

6. Defendant Julie Jones is the Secretary of the Florida Department of

Corrections (“FDOC”), the state agency that manages correctional facilities in the State of Florida. The Florida Department of Corrections (“FDOC”) is the third largest state prison system in the country with a budget of \$2.4 billion, approximately 96,000 inmates incarcerated, and nearly 167,000 offenders on active community supervision. FDOC has nearly 22,000 employees and is an agency under the purview of the Executive Office of the Governor.¹ In addition, FDOC receives federal financial assistance and is covered by the Rehabilitation Act. FDOC is a public entity within the meaning of Title II of the ADA. Defendant Jones is has ultimate responsibility for the promulgation and implementation of FDOC policies, procedures, and practices and for the management of FDOC. As an incarcerated individual, Mr. Gaines was under the custody and control of FDOC. At all material times hereto, Defendant Jones was an employee or agent of FDOC and at the relevant times described in this Complaint, was acting within the scope and course of her employment and was acting under color of state law. Defendant Jones is sued in her official and individual capacities.

7. Defendant Kevin D. Jordan is an adult resident of the State of Florida, who at all times material hereto worked for FDOC and was charged with implementing, enforcing and following laws, rules, regulations, and policies and providing access to

¹ See “About the Florida Department of Corrections”, <http://www.dc.state.fl.us/about.html> (last accessed: Jul. 11, 2018).

mental health and medical care for prisoners in the custody of FDOC. At all relevant times, Defendant Jordan was the Warden of Union Correctional Institution (UCI), where Mr. Gaines was housed immediately prior to his death, and was responsible for all policies, procedures, and training regarding the mental health and medical treatment of prisoners in that facility. At all times relevant hereto, Defendant Jordan acted under color of law and within the scope of employment. He is sued individually.

8. Defendant Corizon Health, Inc. (“Corizon”) is a Tennessee Corporation registered in the state of Florida that contracted with correctional institutions, including FDOC, to provide medical care to prisoners. At all times material hereto, it was acting under color of law and was responsible for the promulgation and enforcement of rules, regulations, policies, and practices regarding the access to and administration of mental health and medical treatment to prisoners in the custody of FDOC. Corizon was responsible for ensuring that prisoners were not denied mental health and medical treatment and received such treatment in a timely and adequate manner. Defendant Corizon was also responsible for the employment, qualifications, training, supervision, and conduct of its employees and agents. Additionally, Corizon’s employees and agents directly oversaw Mr. Gaines’ initial mental health and medical intake following his sentencing and remand into the custody of FDOC, as well as his subsequent treatment and his treatment classifications between various FDOC facilities and within the housing units of each FDOC facility. Corizon is therefore both directly and vicariously liable under a

theory of *respondeat superior* for the actions of its employees, implied agents, agents, and Defendants in this action.

9. The true names and identities of Defendants DOES 1 through 20 are presently unknown to Plaintiff. Each of Defendants DOES 1 through 20 are or were employed by and are or were agents of FDOC and/or Corizon when some or all of the events in this Complaint took place. Each of Defendants DOES 1 through 20 were personally involved in the provision of nutrition, mental health, and/or medical services to prisoners in FDOC custody. Plaintiff will seek to amend this Complaint as soon as the true names and identities of Defendants DOES 1 through 20 have been ascertained.

FACTUAL ALLEGATIONS²

10. On or about June 4, 2013, Mr. Gaines pled guilty in the Fifteenth Judicial Circuit, Palm Beach County, to violation of Fla. Stat. § 810(1)(3) (Burglary of a Dwelling). He was sentenced to 60 months imprisonment with credit for three hundred and thirty-one (331) days served. At the sentencing hearing, the Court recommended that Mr. Gaines be housed close to his family in Palm Beach County, and that he be placed in a mental health program. Mr. Gaines was remanded into the custody of FDOC to begin serving his sentence.

² The following facts were obtained from the custodial and medical records maintained by FDOC and Corizon.

11. On or about June 24, 2013, Mr. Gaines was received into the custody of FDOC at the South Florida Reception Center (“SFRC”). At the inception of his prison term, he weighed approximately 190 pounds with a height of 5 feet 9 inches, for a Body Mass Index (BMI) of 28.1. This BMI is considered overweight by the National Institutes of Health.³ Under the Custody Assessment and Reclassification System, Mr. Gaines was classified for Close Custody⁴ and was assigned to South Bay Correctional Facility (“SBCF”).

12. On or about October 9, 2013, mental health staff at SBCF conducted a biopsychosocial assessment of Mr. Gaines. Staff noted his history of auditory hallucinations, which had twice led to his being involuntarily held for several months under Florida’s Mental Health Act (commonly referred to as the “Baker Act”). In addition, mental health staff at SBCF diagnosed him under the Diagnostic and Statistical Manual of Mental Health Disorders (DSM) as follows:

AXIS I: 296.44 Bipolar Disorder, mania, with psychotic features
AXIS II: 317.00 Mild Mental Retardation
AXIS III: None
AXIS IV: Incarceration
AXIS V: GAF= 65 (current).

³ Indeed, the FDOC Admission Summary for Mr. Gaines described his build as “Stocky.”

⁴ “Close custody refers to that class of inmates who must be maintained within an armed perimeter or under direct, armed supervision when outside of a secure perimeter.” Fla. Dep’t of Corr., *Inmate Orientation Handbook: Reception Center Processing*, available at www.dc.state.fl.us/pub/files/Inmate%20Orientation%20Handbook.pdf.

13. On or about March 21, 2014, Mr. Gaines was transferred from SBCF to Dade Correctional Institution (“DCI”) with a provisional diagnosis under the DSM for Axis I Bipolar Disorder and Mania and Axis II Borderline Intellectual Functioning.⁵ Prison staff processed the transfer as an emergency referral because Mr. Gaines was exhibiting mood swings, auditory hallucinations, paranoia, disorganized thinking, and was talking to himself. In addition, he was non-complaint with his medications, only taking them sporadically. Prison staff also noted that at this time, Mr. Gaines was at risk for exploitation, and staff further noted Mr. Gaines’ two prior hospitalizations under the Baker Act for a period of 6 months due to psychosis. On March 27, 2014, Mr. Gaines was admitted to the Transitional Care Unit at DCI with a diagnosis of bipolar disorder and psychosis.

14. On or about November 10, 2014, Mr. Gaines continued to experience auditory hallucinations and delusions, and was urinating and defecating on the floor of his cell. He refused medication and treatment. According to mental health staff at the facility, he did not exhibit any suicidal ideations.

15. On or about November 12, 2014, due to his worsening mental condition, Mr. Gaines was transferred to the Crisis Stabilization Unit of the SFRC under doctor’s orders

⁵ Historically referred to as mental retardation.

that he:

- a. Be placed on suicide watch with checks every 15 minutes;
- b. Be provided with a suicide mattress, wrap, and blanket;
- c. Not be permitted any reading materials; and
- d. Be fed a boneless diet in a Styrofoam tray, without utensils.

16. Mr. Gaines continued to refuse medication and treatment. At this time, he reported sleeping only 2 to 3 hours a night. On November 12, 2014, his weight was recorded by mental health staff as 151 pounds.⁶ He denied having any suicidal ideations to medical staff at the SFRC.

17. On or about April 16, 2015, a disciplinary report was prepared against Mr. Gaines for Failure to Follow a Verbal or Written Order after he allegedly became belligerent when being reprimanded by a correctional officer for attempting to enter the food service area without permission.

18. Sometime after this disciplinary incident, Mr. Gaines was transferred from the SFRC to Florida State Prison (“FSP”), almost 400 miles away from the SFRC and over 300 miles away from all of his family, who live in West Palm Beach, Florida.

19. Shortly after, Mr. Gaines was yet again transferred a short distance to Union

⁶ At that point, since his admission into FDOC custody approximately 16 months earlier, Mr. Gaines had lost 39 pounds.

Correctional Institution (“UCI”) in Raiford, Florida, which was still hundreds of miles away from his family.

20. On or about May 15, 2015, as a result of his mental illness and deteriorating mental condition, Mr. Gaines was placed in Close Management (CM) status at UCI.⁷

21. On or about August 24, 2015, mental health staff at UCI requested that Mr. Gaines be transferred for inpatient treatment from UCI’s Transitional Care Unit to the Crisis Stabilization Unit. Staff reported that Mr. Gaines had “been in [the Transitional Care Unit] for a few months and has consistently had difficulty...” and that while he was cooperative with staff and security, he “has been observed smearing feces on his floor.”

22. Nevertheless, on or about September 29, 2015, only a month later, mental health staff at UCI requested that Mr. Gaines be transferred for inpatient treatment from UCI’s Crisis Stabilization Unit to the Transitional Care Unit. At that time, staff indicated that Mr. Gaines no longer demonstrated psychosis or bizarre behavior, and that he “has achieved a level of stability than can be addressed in Transitional Care Unit.”

23. On or about December 1, 2015, Annette Eccles, a Registered Clinical Social

⁷ According to FDOC, “CM refers to the confinement of an inmate apart from the general population, for reasons of security or the order and effective management of the institution, where the inmate through his/her own behavior has demonstrated an inability to live in the general population without abusing the rights and privileges of others.” Fla. Dep’t of Corr., “Impact of the ‘Rethinking Personal Choice Program: September 2002’” available at <http://www.dc.state.fl.us/pub/RPChoice/intro.html>.

Worker Intern employed by Corizon who was involved in Mr. Gaines' mental health treatment at UCI, reported the following of Mr. Gaines:

Inmate was alert, standing at cell door looking through the window
Inmate's cell was clean and organized; Inmate was alert, calm and cooperative and his speech was appropriate

Appearance: clean, appropriate and neat; Condition of cell was clean

24. On or about December 2, 2015, Bih Tambi, M.D., a psychiatrist employed by Corizon who was involved in Mr. Gaines' psychiatric and/or medical treatment at UCI, noted that per laboratory results from two months earlier, Mr. Gaines' prescription for Tegretol was discontinued due to hyponatremia, and that he was not on an alternate psychotropic medication to replace the Tegretol.⁸ FDOC was aware that Mr. Gaines had been prescribed Tegretol prior to his incarceration at a mental health center in West Palm Beach. In addition, Mr. Gaines was prescribed Tegretol while he was in FDOC custody since at least 2013.

25. At or around 12:30 PM on the afternoon of December 3, 2015, correctional officers served Mr. Gaines lunch. When the officers returned to his cell a short time later, they noticed that Mr. Gaines had not moved and had not eaten any of his food. The officers

⁸ Hyponatremia is a condition that occurs when the level of sodium in the blood is too low. It is a common side effect of taking Tegretol, which is often prescribed to control acute mania associated with manic depressive disorder, also known as bipolar disorder.

contacted the prison nurse who advised the officers to enter Mr. Gaines' cell.

26. At around 1:26 PM, correctional officers entered Mr. Gaines' cell and found him unresponsive. Cardiopulmonary resuscitation (CPR) was started and Mr. Gaines was transported to UCI's Urgent Care Center. Mr. Gaines was not able to be revived and was pronounced dead at 2:48 PM on December 3, 2015.

27. On December 4, 2015, an autopsy was performed on Mr. Gaines where the Medical Examiner made the below findings:

1. MALNUTRITION (HEIGHT 69 INCHES, WEIGHT 115 POUNDS)⁹
2. GENERALIZED UNWASHED APPEARANCE AND PROBABLE FECES ON SOLES OF FEET
3. CORONARY ARTERY ATHEROSCLEROSIS, MILD TO MODERATE
4. HEAVY LUNGS (1865g) WITH MARKED CONGESTION AND EDEMA
5. MINOR SKIN INJURIES OF VARIABLE AGE INVOLVING ANTERIOR AND POSTERIOR TRUNK AND EXTREMITIES
6. KING TL TUBE PLACEMENT IN TRACHEAL LUMEN
7. NEGATIVE TOXICOLOGY (SEE UF PATHLABS FORENSIC

⁹ In the year between his transfer from the SFRC in November 2014 and his placement at UCI at the time of his death in December 2015, Mr. Gaines lost 36 pounds; he lost a total of 75 pounds during the approximately two and a half years he was in the custody of FDOC. At the time of his death, Mr. Gaines' BMI was 17.0 – well under the 18.5 minimum considered “underweight” by the National Institutes of Health.

TOXICOLOGY REPORT RI 5-02466)

PROBABLE CAUSE OF DEATH: UNDETERMINED

(Emphasis in original autopsy report). Additionally, the Medical Examiner noted that while the paramedic on scene had attributed the difficulty in using the King L-T tube on Mr. Gaines during resuscitation efforts to trismus,¹⁰ the Examiner indicated that “[i]n my opinion the ‘trismus’ was actually rigor mortis of jaw muscles in a dead patient.”

28. Following Mr. Gaines’ death, Defendants did not timely inform Plaintiff. As a result, Mr. Gaines was not released to his family; the Decedent was buried by FDOC on FDOC property against the wishes and without the consent of Plaintiff.

¹⁰ Trismus is the medical name for “lock-jaw”, a condition that causes muscles in the jaw to spasm due to various reasons, including neurological conditions, inflammation, or disease.

COUNT I

**VIOLATION OF 42 U.S.C. § 1983 AND
THE EIGHTH AND FOURTEENTH AMENDMENTS
TO THE UNITED STATES CONSTITUTION**

(Against all Defendants)

29. Plaintiff hereby incorporates by reference the allegations in paragraphs 5 through 8 and 11 through 28 as though set forth herein.

30. Defendants, with knowledge of Mr. Gaines' mental illness and susceptibility to erratic eating habits, and with deliberate indifference to such mental health and resultant medical conditions, acted or failed to act in such a way as to deprive him of necessary and adequate mental health and medical care and treatment, including prescribed treatment, thus endangering his health and life. Such acts and omissions of Defendants violated rights secured to Mr. Gaines under the Eighth and Fourteenth Amendments to the United States Constitution.

31. Defendants were aware of Mr. Gaines' psychotic hallucinations, bipolar disorder, and other mental health issues and that his mental health compromised his ability to independently maintain an adequate diet, and his need for medical treatment, care, and/or supervision as a result. Defendants nevertheless acted with deliberate indifference to the risks to Mr. Gaines' health by failing and refusing to provide or interfering with needed mental health and medical services, to include medical staff, medication, nutrition, and related treatment during the length of Mr. Gaines' confinement, thus endangering his health

and well-being and increasing the risk of serious harm and death.

32. Defendant Jones was aware of a history of widespread and longstanding abuse and deliberately indifferent treatment by her employees and agents, including that of Corizon, during the latter's tenure as FDOC's mental health and medical services provider. Jones was aware that such abuse and deliberately indifferent treatment resulted in many unnecessary and avoidable prisoner deaths and medical injuries.

33. Jones was deliberately indifferent when she:

- a) Failed to properly evaluate Mr. Gaines' mental health history, including his two prior Baker Act commitments, of which FDOC was aware;
- b) Failed to consider Mr. Gaines' mental illness when determining in which prison and in which level of confinement he should be housed, given the sentencing court's recommendation that he be confined close to his family support in Palm Beach County, Florida;
- c) Failed to adequately manage and treat his mental illness, in that she housed Mr. Gaines in an environment whose squalor and isolation exacerbated his psychotic hallucinations and bipolar disorder;
- d) Failed to ensure that Mr. Gaines was kept clean, clothed and fed during his incarceration, rather than the unsanitary, disheveled, naked, and starved conditions under which he died;
- e) Failed to take steps to ensure that Mr. Gaines received adequate nutrition when his mental health disorders prevented him from eating enough food, to the point of losing 75 pounds in the approximately two and a half years that he was in the custody of FDOC; and
- f) Failed to properly and adequately supervise Corizon to ensure

that the mental health and medical provider adequately treated mentally ill and malnourished prisoners in FDOC custody at UCI.

34. Defendant Jordan was or should have been aware of a history and culture of widespread and longstanding abuse and deliberately indifferent treatment by FDOC's agents and employees, including that of FDOC staff under his authority at UCI and that of Corizon during the latter's tenure as FDOC's mental health and medical services provider, which has resulted in many unnecessary and avoidable prisoner deaths and medical injuries.

35. Defendant Jordan was deliberately indifferent when he:
- a) Failed to properly evaluate Mr. Gaines' mental health history, including his two prior Baker Act commitments, of which FDOC was aware;
 - b) Failed to consider Mr. Gaines' mental illness when determining in which prison and in which level of confinement he should be housed, given the sentencing court's recommendation that he be confined close to his family support in Palm Beach County, Florida;
 - c) Failed to adequately manage and treat his mental illness, in that he housed Mr. Gaines in an environment whose squalor and isolation exacerbated the Decedent's psychotic hallucinations and bipolar disorder;
 - d) Failed to ensure that Mr. Gaines was kept clean, clothed and fed during his incarceration, rather than the unsanitary, disheveled, naked, and starved conditions under which he died;
 - e) Failed to take steps to ensure that Mr. Gaines received adequate nutrition when his mental health disorders prevented him from eating enough food, to the point continuing to lose weight from

the time he was transferred to UCI until the time of his death;
and

- f) Failed to properly and adequately supervise prison and Corizon staff at UCI to ensure adequate and appropriate mental health and medical treatment of a mentally ill and malnourished prisoners in the custody of FDOC at that facility.

36. Defendant Corizon, at all times pertinent to this action, contracted with FDOC to provide mental health and medical care and services to prisoners, and as such, the above-mentioned actions and/or omissions of Corizon and/or its agents and employees were committed under color of law and/or pursuant to policies, customs, practices, rules, regulations, ordinances, statutes, and/or usages of Defendant Corizon.

37. Defendant Corizon was aware of a history of widespread and longstanding abuse and deliberately indifferent treatment by its employees, agents, and implied agents which has resulted in many unnecessary and avoidable prisoner deaths and medical injuries during its brief contract with FDOC to provide mental health and medical care.

38. Defendant Corizon was deliberately indifferent by having a pattern and practice of:

- a) Failing to appropriately adjust and/or maintain the medications for treatment of mentally ill prisoners like Mr. Gaines;
- b) Failing to make the appropriate recommendations to FDOC authorities regarding where and in which housing level mentally ill prisoners like Mr. Gaines should be confined;
- c) Failing to properly document when prisoners under its care like Mr. Gaines cease eating adequately as result of their mental illness;

- d) Failing to take steps to ensure that mentally ill prisoners under its care like Mr. Gaines receive adequate nutrition when their mental health disorders prevent them from eating enough food, to the point that Mr. Gaines lost 75 pounds in the approximately two and a half years that he was in the custody of FDOC;
- e) Otherwise failing to adequately manage and treat mentally ill prisoners like Mr. Gaines in a manner that exacerbates their psychotic and bipolar disorders; and
- f) Failing to properly and adequately supervise its agents, implied agents, and employees to ensure that they adequately treat mentally ill and malnourished prisoners like Mr. Gaines in the custody of correctional entities like FDOC.

39. Defendants Doe 1-20 were deliberately indifferent, as noted in the above, including but not limited to, failing to provide necessary and adequate nutrition, mental health, and/or medical treatment and failing to supervise the provision of nutrition, mental health, and/or medical treatment that would have kept Mr. Gaines adequately fed, clothed, clean, and safe while in the custody of FDOC.

40. The conduct of all of Defendants in failing to keep Mr. Gaines adequately fed, clothed and clean is a violation of clearly established constitutional rights under the Eighth and Fourteenth Amendments of the Constitution, which prohibit the infliction of cruel and unusual punishment and guarantee equal protection under the laws respectively. In addition, their actions violated clearly established statutory rights under the Civil Rights Act, 42 U.S.C § 1983.

41. Defendants' conduct was so deliberately indifferent as to Mr. Gaines'

nutritional, medical and/or mental health needs as to violate his right against cruel and unusual punishment.

42. Defendants' conduct violated Mr. Gaines' right to equal protection because in depriving him of nutrition, medical and/or mental health, Defendants' treated Mr. Gaines differently from other prisoners with whom he is similarly situated. Defendants' failure to keep Mr. Gaines clean, clothed, and fed, resulting in his gradual malnutrition, starvation, and death in squalid conditions, demonstrates Defendants' intentional or purposeful discrimination against Mr. Gaines rising to level of a discriminatory animus against him.

43. Furthermore, the conduct of all of the Defendants was of a gross and flagrant character, suggestive of a reckless disregard of human life or safety, and/or a complete lack of care suggesting indifference to consequences, thereby entitling Plaintiff to punitive damages.

44. Plaintiff was obliged to retain counsel in bringing this lawsuit and is entitled to the reasonable value of the attorneys' services, as well as the costs of litigation.

WHEREFORE, Plaintiff demands the following relief against all Defendants:

- a. Equitable relief against Defendant Jones in her official capacity in the form of the relinquishment of Mr. Gaines' remains to Plaintiff;
- b. Judgment in her favor against the individual Defendants and Corizon for their violation of the Eighth and

Fourteenth Amendment and 42 U.S.C. § 1983 in an amount to be proven at trial for damages, including, without limitation, pecuniary injury, compensatory damages, and punitive damages;

- c. Plaintiff's attorneys' fees, interest and costs under 42 U.S.C. § 1988; and
- d. All such other relief as the Court deems just and proper.

COUNT II

VIOLATIONS OF TITLE II OF THE AMERICAN WITH DISABILITIES ACT AND THE REHABILITATION ACT

(Against Defendant Jones)

45. Plaintiff hereby incorporates by reference the allegations in paragraphs 5 through 7 and 10 through 28 as though set forth herein.

46. At all material times hereto, Defendant Jones' employees and agents were operating within the scope of their employment.

47. Count II is a claim for disability discrimination against Defendant Jones for violating Title II of the Americans with Disabilities Act (ADA) (public entities). Title II of the ADA prohibits disability-based discrimination by any public entity. *See* 42 U.S.C. §§ 12131-12132; 28 C.F.R. § 39.130; and 28 C.F.R. §35.130.

48. Section 504 of the Rehabilitation Act prohibits discrimination against an

individual based on disability by any program or entity receiving federal funds. *See* 29 U.S.C. §§ 794(a), (b)(1)(A), (b)(1)(B), and (b)(2)(B).

49. These disability anti-discrimination laws impose an affirmative duty on public entities to create policies or procedures to prevent discrimination based on disability.

50. Mr. Gaines was disabled as defined in 42 U.S.C. § 12102 and 42 U.S.C. §§ 12131, 28 C.F.R. §§ 35.108, as he suffered mental impairments that substantially limited one or more of his major life activities.¹¹

51. FDOC is a program or entity that receives federal financial assistance.

52. FDOC is a public entity as defined by Title II of the ADA.

53. FDOC's prison, Union Correctional Institution, is a facility and its operation comprises a program of service for purposes of Title II of the ADA.

54. As a prisoner in FDOC's custody, Mr. Gaines was an individual qualified to participate in or receive the benefit of FDOC's services, programs, or activities, which included the provision of adequate nutrition and a clean and safe prison environment.

55. Mr. Gaines was denied the benefits, programs, and services of FDOC's facilities by Jones and her employees, agents, and implied agents because of his mental disability.

¹¹ *See supra*, ¶¶ 12, 13, and 15.

56. Mr. Gaines was abused by Jones and her employees, agents, and implied agents when he was not provided with adequate nutrition, cleanliness, and safety during his incarceration due to his mental disability, which was known to Jones and her employees, agents, and implied agents. Such abuse constitutes discrimination against individuals based on their disability in violation of the Rehabilitation Act and Title II of the ADA.

57. Defendant Jones failed to provide adequate nutrition, cleanliness, and safety to Mr. Gaines while he was in her custody. Left unaddressed, Mr. Gaines' mental illness led to his malnutrition – a condition that Defendants ignored until it resulted in Mr. Gaines' starvation and death. The inadequate nutrition, cleanliness, and safety provided to Mr. Gaines by FDOC was so grossly incompetent and inadequate that it shocks the conscience and shows a deliberate indifference and reckless disregard for Mr. Gaines' disability.

58. Defendant Jones showed deliberate indifference toward Mr. Gaines and his disability when she:

- a) Housed Mr. Gaines in an environment whose squalor and isolation exacerbated his psychotic hallucinations and bipolar disorder;
- b) Failed to ensure that Mr. Gaines was kept clean, clothed, and fed during his incarceration, rather than the unsanitary, disheveled, naked, and starved conditions under which he died;
- c) Failed to take steps to ensure that Mr. Gaines received adequate nutrition when his mental health disorders prevented him from eating enough food, to the point of losing 75 pounds in the approximately two and a half years that he was in the custody of FDOC; and

- d) Failed to properly and adequately supervise Corizon to ensure that the mental health and medical provider adequately kept Mr. Gaines clean, clothed, and fed as a disabled prisoner in the custody of FDOC.

59. Had Defendant Jones and her agents, implied agents, and employees not discriminated against Mr. Gaines due to his mental disability, he would not have been kept in such insalubrious conditions and in isolation, nor would he have become malnourished to the point of starving to death in the custody of FDOC.

WHEREFORE, Plaintiff demands the following relief against Defendant Jones:

- a. Declaratory relief that Jones violated Mr. Gaines' rights under the Americans with Disabilities Act and Rehabilitation Act;
- b. Equitable relief against Jones in the form of the relinquishment of Mr. Gaines' remains to Plaintiff; and
- c. Judgment in her favor against Jones for violating the ADA and Rehabilitation Act in an amount to be proven at trial for damages including, without limitation, pecuniary injury, compensatory damages, and punitive damages;
- d. Plaintiff's attorneys' fees, interest and costs; and
- e. All such other relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lorine Gaines, as Personal Representative of the Estate and Mother of Vincent Gaines, respectfully requests that the Court grant judgment in her

favor as to each Count of this Complaint as alleged therein.

JURY DEMAND

Plaintiff, by and through its attorneys, hereby demands a trial by jury on all issues so triable.

Dated: August 1, 2018

Respectfully submitted,

/s/ Sabarish Neelakanta

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**Pro hac vice applications to be filed*