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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CAROL THOMAS & GINA
ANTONELLI, as the health care
proxies on behalf of patient SHARON
LUCY FREDERICK,

Plaintiffs,

v.

MOHAWK VALLEY HEALTH
SYSTEM, ST. ELIZABETH
HOSPITAL, and DOES 1 through 10,
inclusive,

Defendants.

Case No.:

**COMPLAINT FOR DECLARATORY
RELIEF AND REQUEST FOR
TEMPORARY RESTRAINING ORDER
AND INJUNCTIVE RELIEF**

INTRODUCTION

This action seeks emergency relief to save the life of, SHARON LUCY FREDERICK.

(FRCP 65) The causes are as follows:

1. Violation of the Free Exercise Clause of First Amendment of the United States Constitution
2. Violation of the Right to Privacy Guaranteed Under the Fourth Amendment of the United States Constitution
3. Violation of the Right to Privacy Guaranteed under the Fourteenth Amendment of the United States Constitution
4. Violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794)
5. Violation of the Americans With Disabilities Act 42 U.S.C. § 12101 et seq.

JURISDICTION

1. Counts in this Action arise out of the First, Fourth and Fourteenth Amendments to the United States Constitution, The Rehabilitation Act of 1973 (29 U.S.C. § 794) and The Americans With Disabilities Act 42 U.S.C. § 12101 et seq.

VENUE

2. Venue is proper in the United States District Court for the Northern District of New York, pursuant to 28 U.S.C. sections 84 and 1391. The events that gave rise to this complaint are occurring in Utica, Oneida County, in the State of New York, and one or more of the defendants has its Principal Place of Business in Utica, Oneida County, New York.

PARTIES

1
2 3. Gina Antonelli is an adult and a resident of the State of New York. She is
3 one of two healthcare proxies for SHARON LUCY FREDERICK.
4

5 4. Carol Thomas is an adult and a resident of the State of New York. She is
6 one of two healthcare proxies for SHARON LUCY FREDERICK.

7 5. Defendant MOHAWK VALLEY HEALTH SYSTEM is a non-profit
8 hospital corporation with its principal place of business in Utica, Oneida County, New
9 York.
10

11 6. Plaintiffs are informed and believe, and on the basis of said information and
12 belief, alleged that MOHAWK VALLEY HEALTH SYSTEM receives funding from the
13 state and federal government which is used to directly and indirectly provide healthcare
14 services to individuals including but not limited to SHARON LUCY FREDERICK.
15

16 7. Defendant ST. ELIZABETH HOSPITAL is a non-profit hospital
17 corporation with its principal place of business in Utica, Oneida County, New York.

18 Plaintiffs are informed and believe, and on the basis of said information and belief,
19 alleged that MOHAWK VALLEY HEALTH SYSTEM receives funding from the state
20 and federal government which is used to directly and indirectly provide healthcare
21 services to individuals including but not limited to SHARON LUCY FREDERICK.
22

23 8. Plaintiffs are ignorant of the true names and capacities of defendants sued
24 herein as Does 1 through 10, inclusive, and therefore sue these defendants by such
25 fictitious names and capacities. Plaintiffs are informed and believe and based thereon
26 allege that each of the fictitiously named defendants is responsible in some manner for the
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1 occurrences herein alleged, and that plaintiffs' injuries as herein alleged were proximately
2 caused by the actions and/or in-actions of said Doe defendants. Plaintiffs will amend this
3 complaint to include the true identities of said Doe defendants when they are ascertained.
4

5 9. At all times mentioned, each of the defendants was acting as the agent,
6 principal, employee, and/or employer of one or more of the remaining defendants and
7 was, at all times herein alleged, acting within the purpose, course, and scope of such
8 agency and/or employment for purposes of respondent superior and/or vicarious liability
9 as to all other defendants.
10

11 10. At all times mentioned herein, the defendants, and each of them, employed,
12 hired, trained, retained, and/or controlled the actions of all other defendants and each of
13 them.
14

15 **FACTS**

16 11. On September 17, 2020 at about 7:20 PM SHARON LUCY FREDRICK, a
17 devout Roman Catholic, was praying the Rosary over the telephone with her friend
18 Jennifer Nolan. At this time, Sharon began slurring her words and apparently experienced
19 a stroke, causing her to become mentally and physically incapacitated. Sharon was taken
20 by ambulance that night and was admitted to St. Elizabeth Hospital in Utica, NY.
21

22 12. Prior to the stroke, Sharon was an essentially healthy 63-year-old woman
23 who spent her time caring for her disabled adult sister, praying, and going to church.
24

25 13. Upon her admission to the hospital, Sharon was in a state of mental
26 incapacity and therefore could not communicate her wishes for medical treatment.
27

28 14. Her wishes for medical treatment were however set forth in an Advanced

1 Written Directive, which also indicated her decision to choose Plaintiffs as her health care
2 agents. Attached hereto as Exhibit “A” is the Advanced Written Directive.

3 15. Sharon Lucy Frederick’s wish to be provided nutrition, hydration, “life
4 support” and all treatment to sustain her life is clearly specified in her Advanced Written
5 Directive as are her religious convictions as a Roman Catholic.

7 16. Sharon has time and time again expressed her wishes to Plaintiffs, family,
8 and friends that in the event she was unable to make her own health care decisions, she
9 wanted all possible care to be provided to her to sustain her life.

11 17. Plaintiffs provided Defendants’ doctors and health care professionals a copy
12 of the Advanced Written Directive on September 18, 2020.

13 18. Plaintiffs communicated to Defendants Sharon’s wishes to be provided all
14 possible care and treatment to sustain her life on September 18, 2020.

16 19. Despite knowing Sharon’s express wishes, Defendants did not provide
17 Sharon with basic nutrition from September 17, 2020 to September 22, 2020. Defendants
18 did this in direct contradiction to Plaintiffs’ requests, which they communicated and re-
19 communicated to Defendants throughout.

21 20. Despite failing to feed Sharon, on September 18, 2020, according to the
22 medical records, Defendants determined that Sharon “does not meet criteria for brain
23 death examination post-operatively.”

24 21. Furthermore, Plaintiffs, on September 21, 2020, instructed Dr. Victor not to
25 do the procedure of an apnea test. Plaintiffs vigorously objected to this procedure citing
26 Sharon’s religious objections to it and because of the danger the test would pose to
27
28

1 Sharon's health. Indeed, the procedure of an apnea test would require that Sharon be taken
2 off her ventilator for up to ten (10) minutes and therefore potentially have a suffocating
3 effect on Sharon.
4

5 22. Defendants told Plaintiffs on September 21, 2020, that they would not
6 perform the procedure of the apnea test in accordance with their wishes.

7 23. Notwithstanding, Defendants on September 21, 2020, performed the
8 procedure of the apnea test anyways and likely harmed Sharon's health significantly.
9

10 24. On September 23, 2020 at approximately 11:00am, a meeting was held with
11 Dr. Stephen Hudyncia (who is a member of the ethics committee from St. Elizabeth
12 Hospital and was not a doctor attending to Sharon), Plaintiffs, Plaintiffs' counsel, and
13 others. Dr. Hudyncia stated during the meeting that Defendants made a "mistake" by
14 giving Sharon the apnea test.
15

16 25. In fact, up until this time, Defendants failed to keep Plaintiffs informed in a
17 timely manner regarding Sharon's medical condition, failed to return phone calls made by
18 Plaintiffs seeking information, and failed to obtain Plaintiffs' consent to treatment and
19 procedures – and even lied and violated Plaintiffs' and Sharon's express wishes.
20

21 26. Also, at the meeting with Dr. Hudyncia, he communicated to Plaintiffs that
22 Sharon is "brain dead" and has been pronounced dead by hospital doctors. Although on
23 September 23, 2020 Defendants told Plaintiff Carol Thomas they believed Sharon was
24 "brain dead," this was the first time anyone told Plaintiffs that Sharon was formally
25 pronounced dead.
26

27 27. Plaintiffs requested a copy of the death certificate at the meeting with Dr.
28

1 Hudyncia and requested it through counsel multiple times thereafter. Defendants however
2 have never produced a certificate of death specifying a date and time of death.

3 28. On September 24, 2020, Plaintiffs' counsel sent the general counsel for
4 Defendants a letter mentioning the meeting with Dr. Hudyncia, some of the abuses by the
5 Defendants, and also requesting that all treatment and care be continued to be provided to
6 Sharon. Attached hereto as Exhibit "B" is Plaintiffs' counsel's letter.

7 29. From September 23, 2020 to the present, Defendants have provided Sharon
8 with hydration and nutrition and have been in communication with Plaintiffs regarding
9 Sharon's conditions and plans to provide her continued treatment. Defendants as of
10 October 1, 2020 even told Plaintiffs that they intended to provide Sharon with a G-tube
11 and a tracheostomy – procedures that are given to people who are alive, not dead.
12 Defendants and Plaintiffs have also been communicating as late as October 1, 2020
13 discussing the possibility of transferring Sharon to another facility as well as determining
14 Sharon's medical insurance situation.

15 30. At that time, Defendants led Plaintiffs to believe they would continue to
16 treat and care for Sharon. However, Defendants' counsel on October 1, 2020 told
17 Plaintiffs they had 24 hours to file an Order to Show Cause, after which time they would
18 subject Sharon to the "NYS Guidelines." Defendants' counsel indicated the hospital could
19 then deprive Sharon of all treatment and care, including nutrition and hydration, in direct
20 contravention to Sharon's express wishes. Defendants' counsel's indications were in
21 complete contradiction to both how Defendants' doctors have been caring for Sharon from
22 September 23rd to present as well as Defendants' communications to Plaintiffs leading
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1 them to believe they would continue to care for and treat Sharon.

2 31. Indeed, Sharon is alive according to the universal standard of determining
3 whether someone is alive or dead. This is precisely why Defendants have been caring for
4 and treating Sharon and communicating with Plaintiffs regarding how to best treat and
5 care for Sharon.
6

7 32. Sharon is alive under the NYS criteria with respect to “brain death” as well.
8 Defendants therefore erroneously determined Sharon to be “brain dead.”
9

10 33. We plead with the court to compel the hospital and doctors to provide all
11 treatments and care, including all needed surgeries, proper nutrition and hydration,
12 however ministered, that will protect and preserve Sharon Lucy Frederick’s life and allow
13 her to be transferred to another facility of Plaintiff’s choosing. We also plead with this
14 court to allow Plaintiffs to visit Sharon in private, with accompaniment of Plaintiffs’
15 choosing.
16

17
18 **FACTS WARRANTING EMERGENCY TEMPORARY RESTRAINING ORDER**
19
20 **AND INJUNCTIVE RELIEF**

21 34. There is a substantial likelihood of success on the merits given the wealth of
22 decisional authority, both in the Court of Appeal, and the U.S. Supreme Court
23 demonstrating the constitutional rights people have over their decision-making role in
24 their healthcare and for people to select health care proxies to make health care decisions
25 for them.
26

27 35. The injuries threatened if Defendants’ conduct is not enjoined will be
28

1 irrevocable and irreparable, SHARON LUCY FREDERICK will be taken off a ventilator,
2 she will stop breathing, her heart will stop beating, and she will cease to show any signs
3 associated with a living body. If CAROL THOMAS and GINA ANTONELLI are
4 prohibited from making healthcare decisions regarding nutrition, medications, and other
5 aspects of Sharon's care, SHARON LUCY FREDERICK, she will starve to death or
6 complications will arise that will hasten and ultimately lead to SHARON LUCY
7 FREDERICK's death.
8

9
10 36. The threatened injury is death to SHARON LUCY FREDERICK.

11 37. Defendants have stated no reason they would suffer a loss.

12 38. This case is one of national interest and the issue of the right to participate
13 in healthcare decisions is one of great public concern. Therefore, granting of preliminary
14 injunction is in the public interest.
15

16 **TERMS OF THE PROPOSED RESTRAINING ORDER**

17 39. Plaintiffs seek to have defendants be restrained from removing the
18 ventilator.

19
20 40. Plaintiffs seek to have defendants initiate the provision of nutrition to
21 SHARON LUCY FREDERICK and insert a gastric tube (G-tube) so that she can be
22 transferred to a long-term health care facility.

23 41. Plaintiffs seek to have defendants insert a tracheostomy tube to ensure that
24 SHARON LUCY FREDERICK receives adequate ventilation and so that she can be
25 transferred to a long-term health care facility.
26

27 42. Plaintiffs seek to have to take all medically available steps/measures to seek
28

1 to improve SHARON LUCY FREDERICK's health and prolong her life, including
2 nutrition and including the insertion of a tracheostomy tube and a gastric tube.

3 43. Plaintiffs seek to have SHARON LUCY FREDERICK'S improperly issued
4 death certificate revoked.

5
6 44. Plaintiffs have located a long-term health care facility that will accept
7 SHARON LUCY FREDERICK as a transfer patient; however, the facility will not accept
8 her for transfer unless she has a tracheostomy tube and G-tube in place. The facility also
9 will not accept her as a transfer patient unless Defendants withdraw the death certificate,
10 so that SHARON LUCY FREDERICK remains eligible for health insurance.

11
12 45. Plaintiffs seek to be provided ample time and support (including the
13 placement of the tracheostomy tube and the gastric tube) to secure SHARON LUCY
14 FREDERICK's transfer to another health care facility.

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17 **FIRST COUNT**

18 **(Violation of First Amendment Rights - Free Exercise of Religion)**

19
20 46. Plaintiffs incorporate by reference as if fully set forth herein the foregoing
21 paragraphs.

22 47. This action arises under the United States Constitution, particularly under
23 the provisions of the Free Exercise Clause of the First Amendment to the Constitution of
24 the United States.

25
26 48. The acts complained of herein are being committed by the Defendants, and
27 are depriving SHARON LUCY FREDERICK of her right to freely express her religious
28

1 beliefs. The denial of these rights threatens the very existence of SHARON LUCY
2 FREDERICK.

3
4 49. The Defendants, and each of them, knowingly and willfully conspired and
5 agreed among themselves to violate Plaintiffs' civil rights so as to injure Plaintiffs, and
6 each of them.

7
8 50. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of
9 them, are incurring attorney fees and litigation costs, including the costs of retaining
10 experts.

11 51. Plaintiffs pray for relief in the form of a declaration of the right of Plaintiffs
12 CAROL THOMAS and GINA ANTONELLI as healthcare proxies to exercise control
13 over the determination of the healthcare to be provided to and received by SHARON
14 LUCY FREDERICK and a declaration that the application of 10 N.Y.C.R.R. § 400.16, as
15 Defendants seek to do, giving them the right to discontinue ventilator support and
16 withdraw all care and treatment over the objection of Plaintiffs CAROL THOMAS and
17 GINA ANTONELLI, is unconstitutional as an interference with SHARON LUCY
18 FREDERICK's exercise of her religious beliefs.

19
20
21 52. Plaintiffs pray for an injunction prohibiting Defendants from removing
22 ventilator support and an order that they institute nutritional support and other medical
23 treatments to as to provide her with proper care and treatment designed promote her
24 maximum level of medical improvement, to insert a tracheostomy tube and a gastric tube,
25 and to provide Plaintiffs a reasonable time to secure transfer to an alternate facility to care
26 for SHARON LUCY FREDERICK in accordance with SHARON LUCY FREDERICK's
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28

1 religious beliefs.

2 **SECOND COUNT**

3 **(Violation of Fourth Amendment Rights - Privacy Rights)**

4 53. Plaintiffs incorporate, herein by reference, the following paragraphs:

5 54. This action arises under the United States Constitution, particularly under
6 the provisions of the Privacy Rights established and recognized as existing within and
7 flowing from Fourth Amendment to the Constitution of the United States.

8 55. Each of the acts complained of herein was committed by
9 the Defendants, and each of them, and by seeking to deny CAROL THOMAS and GINA
10 ANTONELLI of the rights to privacy including but not limited to their rights to have
11 control over their health care, by refusing to provide health care to them, and by denying
12 them the right to have control over the health care decisions affecting SHARON LUCY
13 FREDERICK, which are recognized under the Fourth Amendment of the U.S.
14 Constitution.

15 56. The conduct of the Defendants, and each of them, has deprived Plaintiffs of
16 the rights of privacy that they have over their medical decisions.

17 57. As a direct and proximate result of the Defendants' conduct, as alleged
18 herein, Plaintiffs are in great risk of the death of SHARON LUCY FREDERICK
19 occurring. She has been suffering, as have CAROL THOMAS and GINA ANTONELLI
20 by being prohibited from obtaining proper care for SHARON LUCY FREDERICK and
21 by being deprived of the right of knowing that SHARON LUCY FREDERICK was being
22 cared for and, instead, fearing that she was becoming weaker and dying because of the
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1 refusal of the defendants to provide treatment.

2 58. As a direct and proximate result of the Defendants' conduct, Plaintiffs have
3 suffered past and future general damages in amounts to be determined by proof at trial.
4

5 59. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of
6 them, are incurring attorney fees and litigation costs, including the costs of retaining
7 experts.

8 60. Plaintiffs pray for relief in the form of a declaration of their rights of privacy
9 relating to their rights to control over their medical decisions and choices.
10

11 61. Plaintiff further request declaratory relief that the application of the
12 determination of the healthcare to be provided to and be received by SHARON LUCY
13 FREDERICK and a declaration that the application of 10 N.Y.C.R.R. § 400.16, in the
14 manner in which Defendants seek to do so, so as to deprive Plaintiffs of their ability to
15 choose to remain on ventilator support is an unconstitutional interference with Plaintiffs
16 exercise of rights to privacy.
17

18 62. Plaintiffs pray for an injunction prohibiting Defendants from removing
19 ventilator support and an order that they institute nutritional support and other medical
20 treatments to as to provide her with proper care and treatment designed to promote her
21 maximum level of medical improvement, to insert a tracheostomy tube and a gastric tube,
22 and to provide Plaintiffs a reasonable time to locate an alternate facility to care for
23 SHARON LUCY FREDERICK in accordance with SHARON LUCY FREDERICK's
24 religious beliefs.
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THIRD COUNT

(Violation of Fourteenth Amendment Rights to Privacy)

63. Plaintiffs incorporate, herein by reference, the foregoing paragraphs.

64. This action arises under the United States Constitution, particularly under the provisions of the Fourteenth amendment and its right to privacy.

65. Each of the acts complained of herein was committed by the Defendants, and each of them, and by seeking to deny CAROL THOMAS and GINA ANTONELLI of the rights to privacy including but not limited to their rights to have control over their health care, by refusing to provide health care to them, and by denying them the right to have control over the health care decisions affecting SHARON LUCY FREDERICK, which are recognized under the Fourteenth Amendment of the U.S. Constitution.

66. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of them, are incurring attorney fees and litigation costs, including the costs of retaining experts.

67. Plaintiffs pray for relief in the form of a declaration of their rights Privacy over the healthcare decisions concerning SHARON LUCY FREDERICK's rights to exercise control over her medical decisions and that the efforts to/decision of Defendants to unilaterally remove SHARON LUCY FREDERICK from the ventilator under 10 N.Y.C.R.R. § 400.16, are an unconstitutional interference with Plaintiffs' Privacy rights.

68. Plaintiffs pray for an injunction prohibiting Defendants from removing ventilator support and an order that they institute nutritional support and other medical

1 treatments so as to provide her with proper care and treatment designed to promote her
2 maximum level of medical improvement, to insert a tracheostomy tube and a gastric tube,
3 and to provide Plaintiff a reasonable time to locate an alternate facility to care for
4 SHARON LUCY FREDERICK in accordance with SHARON LUCY FREDERICK's
5 religious beliefs.
6

7 **FOURTH COUNT**

8 **(Violation of the Federal Rehabilitation Act)**

9
10 69. Plaintiffs incorporate, herein by reference, the foregoing paragraphs.

11 70. SHARON LUCY FREDERICK is a handicapped and/or disabled individual
12 as that term is defined under the Rehabilitation Act of 1973.

13 71. Section 504 of the Rehabilitation Act prohibits discrimination against an
14 "otherwise qualified" handicapped individual, solely by reason of her handicap, under any
15 program or activity receiving federal financial assistance.
16

17 72. Hospitals such as Defendant ST. ELIZABETH HOSPITAL, that accept
18 Medicare and Medicaid funding are subject to the Rehabilitation Act.
19

20 73. The Hospital has admitted that the sole reason it wishes to withhold
21 ventilator treatment and the sole reason that it refuses to provide nutrition and other
22 medical treatment for SHARON LUCY FREDERICK over her healthcare proxies'
23 objections, is because of SHARON LUCY FREDERICK's brain injury, i.e., her handicap
24 and disability.
25

26 74. SHARON LUCY FREDERICK is "otherwise qualified" to receive
27 treatment despite her brain injury.
28

1 75. Thus, Defendants' desire to withhold ventilator treatment, nutritional
2 support, and other medical treatment, from SHARON LUCY FREDERICK over her
3 healthcare proxies' objections, violates the Rehabilitation Act.
4

5 76. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of
6 them, are incurring attorney fees and litigation costs, including the costs of retaining
7 experts.
8

9 77. Plaintiffs pray for relief in the form of a declaration the effort to remove
10 SHARON LUCY FREDERICK from her ventilator under 10 N.Y.C.R.R. § 400.16, and
11 their refusal to provide her with medical care and nutritional support violates the
12 Rehabilitation Act and, therefore, Defendants should be ordered to continue said support
13 and to provide nutritional support and other medical support designed to allow SHARON
14 LUCY FREDERICK to continue to live.
15

16 78. Plaintiffs pray for an injunction prohibiting Defendants from removing
17 ventilator support and an order that they institute nutritional support and other medical
18 treatments so as to provide her with proper care and treatment designed to promote her
19 maximum level of medical improvement, to insert a tracheostomy tube and a gastric tube,
20 and to provide Plaintiffs a reasonable time to locate an alternate facility to care for
21 SHARON LUCY FREDERICK in accordance with SHARON LUCY FREDERICK's
22 religious beliefs.
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24

25 **FIFTH COUNT**

26 **(Americans with Disabilities Act)**

27 79. Plaintiffs incorporate, herein by reference, the foregoing.
28

1 80. Section 302 of the Americans with Disabilities Act (“ADA”) prohibits
2 discrimination against disabled individuals by “public accommodations.” 42 U.S.C. §
3 12182.
4

5 81. A “disability” is “a physical or mental impairment that substantially limits
6 one or more of the major life activities” of an individual. 42 U.S.C. §12102(2). This
7 includes any physiological disorder or condition affecting the neurological system,
8 musculoskeletal system, or sense organs, among others. C.F.R. § 36.104 (definition of
9 “physical or mental impairment”).
10

11 82. Brain damage from lack of oxygen is a disability because it affects
12 SHARON LUCY FREDERICK’s neurological functioning, ability to walk, and ability to
13 see or talk.
14

15 83. “Public accommodation” is defined to include a “professional office of a
16 health care provider, hospital, or other service establishment.” 42 U.S.C. 12181(7). The
17 Hospital is a public accommodation under the ADA. 28 C.F.R. § 36.104.
18

19 84. Section 302(a) of the ADA states a general rule of nondiscrimination against
20 the disabled: General rule. No individual shall be discriminated against on the basis of
21 disability in the full and equal enjoyment of the goods, services, facilities, privileges,
22 advantages, or accommodation of any place of public accommodations by any person
23 who owns, leases (or leases to), or operates a place of public accommodation. 42 U.S.C. §
24 12182(a).
25

26 85. In contrast to the Rehabilitation Act, the ADA does not require that a
27 handicapped individual be “otherwise qualified” to receive the benefits of participation.
28

1 86. Further, section 302(b)(1)(A) of the ADA states that “[i]t shall be
2 discriminatory to subject an individual or class of individuals on the basis of a disability...
3 to a denial of the opportunity of the individual or class to participate in or benefit from the
4 goods, services, facilities, privileges, advantages, or accommodations of an entity.” 42
5 U.S.C. § 12182(b)(1)(A)(i).
6

7 87. The Hospital seeks to deny SHARON LUCY FREDERICK the benefits of
8 ventilator services, nutrition, and other medical treatment to SHARON LUCY
9 FREDERICK by reason of her disability. The plain language of the ADA does not permit
10 the denial of ventilator services, and other medical services such as the provision of
11 nutrition and medical treatment necessary to sustain the life of a brain-injured person
12 those life-saving services would otherwise be provided to a person without disabilities at
13 the healthcare proxy’s request. The Hospital’s reasoning would lead to the denial of
14 medical services to brain injured individuals as a class of disabled individuals. Such
15 discrimination against a vulnerable population class is exactly what the Americans with
16 Disabilities Act was enacted to prohibit.
17
18

19 88. The Hospital would therefore violate the ADA if it were to withhold
20 ventilator treatment, nutrition, and other medical treatment to SHARON LUCY
21 FREDERICK.
22

23 89. As a proximate cause of the Defendants’ conduct, Plaintiffs, and each of
24 them, are incurring attorney fees and litigation costs, including the costs of retaining
25 experts.
26

27 90. Plaintiffs pray for relief in the form of a declaration that the efforts of
28

1 Defendants, and each of them, to remove SHARON LUCY FREDERICK from her
2 ventilator under 10 N.Y.C.R.R. § 400.16, and their refusal to provide her with medical
3 care and nutritional support violates the ADA and, therefore, Defendants should be
4 ordered to continue said support and to provide nutritional support and other medical
5 support designed to allow SHARON LUCY FREDERICK to continue existing and to
6 have a best chance of regaining brain function.
7

8
9 91. Plaintiffs pray for an injunction prohibiting Defendants from removing
10 ventilator support and an order that they institute nutritional support and other medical
11 treatments so as to provide her with proper care and treatment designed to promote her
12 maximum level of medical improvement, to insert a tracheostomy tube and a gastric tube,
13 and to provide Plaintiffs a reasonable time to locate an alternate facility to care for
14 SHARON LUCY FREDERICK in accordance with SHARON LUCY FREDERICK's
15 religious beliefs.
16

17 **PRAYER**

18
19
20 Wherefore, Plaintiffs pray for judgment against the Defendants as follows:

21 1. An emergency order, temporarily restraining Defendants from removing of
22 ventilator support and mandating introduction of nutritional support, insertion of a
23 tracheostomy tube, gastric tube, and to provide other medical treatments and protocols
24 designed to promote her maximum level of medical improvement and provision of
25 sufficient time for Plaintiffs to locate an alternate facility to care for SHARON LUCY
26 FREDERICK in accordance with SHARON LUCY FREDERICK's religious beliefs.
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1 2. Injunctive relief including, but not limited, to injunctions precluding
2 removal of ventilator support and mandating introduction of nutritional support, insertion
3 of a tracheostomy tube, gastric tube, and to provide other medical treatments and
4 protocols designed to promote her maximum level of medical improvement and provision
5 of sufficient time for Plaintiffs to locate an alternate facility to care for SHARON LUCY
6 FREDERICK in accordance with SHARON LUCY FREDERICK's religious beliefs.
7

8 3. Declaratory Relief.
9

10 4. Plaintiffs also request that the Court issue whatever additional injunctive
11 relief the Court deems appropriate; and

12 5. Any and all other appropriate relief to which the Plaintiffs may be entitled
13 including all "appropriate relief" within the scope of F.R.C.P. 54(c).
14

15 6. Costs and attorney fees
16

17 Dated: October 30, 2020
18

19 *Gina Antonelli*
20 _____

21 Gina Antonelli

22 Attorney for Plaintiffs
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24
25
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