

**U.S. District Court [LIVE]
Eastern District of TEXAS (Beaumont)
CIVIL DOCKET FOR CASE #: 1:02-cv-00600-RC**

McCarthy, et al v. Gilbert, et al
Assigned to: Judge Ron Clark
Demand: \$0
Cause: 42:12181 Americans with Disabilities Act of 1990

Date Filed: 09/06/2002
Date Terminated: 04/08/2003
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Christy McCarthy
By & through her next friend Jamie Travis

represented by **Geoffrey Neil Courtney**
Attorney at Law
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Austin, TX 78703
512/236-0875
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Email: g.n.courtney@alumni.nd.edu
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
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7800 Shoal Creek Blvd
Suite 171-E
Austin, TX 78757-1024
512/454-4816
Fax: 15124543999
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Plaintiff

Todd Gordon
By & through his next friend Trisha Gordon

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
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Garth A Corbett
(See above for address)

Plaintiff

Allison Pratt
By & through her next friend Paula Pratt

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
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Garth A Corbett
(See above for address)

Plaintiff

Gail Truman
By & through her next friend Ken Truman

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
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Garth A Corbett
(See above for address)

Plaintiff

Jim Floyd, Jr
By & through his next friend Jim Floyd Sr

represented by **Geoffrey Neil Courtney**
(See above for address)

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

Sam Lindsay
By &through his next friend Betty Lindsay

represented by **Geoffrey Neil Courtney**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

Oshea Brooks

represented by **Geoffrey Neil Courtney**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

Joe Ray Comacho

represented by **Geoffrey Neil Courtney**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

Micha Chastain
*By &through his next friend Lori
Chastain*

represented by **Geoffrey Neil Courtney**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

AL
By &through her next friend LL

represented by **Geoffrey Neil Courtney**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

The ARC of Texas
*On behalf of its members &for thos
similarly situated*

represented by **Geoffrey Neil Courtney**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Garth A Corbett
(See above for address)

Plaintiff

Sue Ann Ortiz

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)

V.

Defendant

Don A Gilbert

*In His official capacity as Commissioner
of The Texas Health & Human Services
Commission
TERMINATED: 01/15/2003*

represented by **Nancy K Juren**
Attorney General's Office
PO Box 12548
Capitol Station
Austin, TX 78711-2548
512/463-2120
Fax: 15123200667
Email: nancy.juren@oag.state.tx.us
TERMINATED: 01/15/2003
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Karen F Hale

*In her official capacity as Commissioner
of The Texas Department of Mental
Health & Mental Retardation*

represented by **Nancy K Juren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

James R Hine

*In his official capacity as Commissioner
of The Texas Department of Human
Services*

represented by **Nancy K Juren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Don Green

*Interim Commissioner of The Texas
Health and Human Services Commission*

represented by **Nancy K Juren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Patrick Sostack

*by and through their parents and next
friends Gary and Lisa Sostack*

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Scott Sostack

*by and through their parents and next
friends Gary and Lisa Sostack*

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Shyan Forough
*by and through his parents and next
friend Reza and Arzu Forough*

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

David Zweifel
*by and through his parents and next
friends Linda and Leroy Zweifel*

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Ashton Bowlen
*by an through her mother and next friend,
Patricia Bowlen*

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Tyler Blanchard
*by and through his mother and next
friend, Faith Blanchard*

represented by **Geoffrey Neil Courtney**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Garrett Gillard
*by and through his mother and next
friend, Keeya Gillard*

represented by **Geoffrey Neil Courtney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Kameron Lane
*by and through his mother and next
friend, Angie Lanea*

represented by **Geoffrey Neil Courtney**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Madison Polk
*by and through her father and next friend,
 John Polk*

represented by **Geoffrey Neil Courtney**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
 (See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Paige Smith
*by and through her mother and next
 friend, Gretta Smith*

represented by **Geoffrey Neil Courtney**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Garth A Corbett
 (See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Albert Hawkins
*In his official capacity as Commissioner
 of The Texas Health and Human Services
 Commission*

represented by **Nancy K Juren**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/06/2002	<u>1</u>	Original Complaint filed. Cause: 42:12181 American Disability Act (bst) (Entered: 09/09/2002)
09/06/2002		Filing Fee Paid; FILING FEE \$ 150 RECEIPT # 105899 (bst) (Entered: 09/09/2002)
09/09/2002		Summons(es) issued for Don A Gilbert, Karen F Hale, James R Hine & mailed to pla's atty for service (bst) (Entered: 09/09/2002)
09/09/2002		Magistrate consent forms mailed to pla's atty Geoffrey N Courtney (bst) (Entered: 09/09/2002)
10/04/2002	2	Motion by Don A Gilbert, Karen F Hale, James R Hine for extension of time to file responsive pleading (bjc) (Entered: 10/07/2002)
10/07/2002	3	Return of service executed as to Don A Gilbert 9/23/02 on sum/cmp. Answer due on 10/14/02 for Don A Gilbert (bjc) (Entered: 10/07/2002)
10/07/2002	4	Return of service executed as to Karen F Hale 9/23/02 on sum/cmp. Answer due on 10/14/02 for Karen F Hale (bjc) (Entered: 10/07/2002)
10/07/2002	5	Return of service executed as to James R Hine 9/23/02 on sum/cmp. Answer due on 10/14/02 for James R Hine (bjc) (Entered: 10/07/2002)
10/07/2002	<u>6</u>	ORDER granting [2-1] motion for extension of time to file responsive pleading; reset answer due on 11/1/02 for James R Hine, Karen F Hale, Don A Gilbert (signed by Judge Thad Heartfield) cc: attys 10/7/02 (bjc) (Entered: 10/07/2002)
10/15/2002	<u>7</u>	1st Amended complaint by all plas', amending [1-1] complaint added plas' Patrick Sostack, Scott Sostack, Shyan Forough, David Zweifel (bjc) (Entered: 10/17/2002)
10/30/2002	8	Motion by Don A Gilbert, Karen F Hale, James R Hine to extend time to file responsive pleading to pltf's first amended complaint. (rll) (Entered: 10/30/2002)
10/30/2002	<u>9</u>	ORDER granting [8-1] motion to extend time, reset answer due on 11/22/02 for James R Hine, for Karen F Hale, for Don A Gilbert (signed by Judge Thad

		Heartfield) cc: parties of record 10/31/02 (fbc) (Entered: 10/30/2002)
11/12/2002	10	MOTION by all plas' to certify class action and brief in support (bjc) Modified on 11/14/2002 (Entered: 11/14/2002)
11/22/2002	11	Motion by Don A Gilbert, Karen F Hale, James R Hine for extension of time to file resp to plas' mo for class certification (bjc) (Entered: 11/25/2002)
11/22/2002	12	MOTION by Don A Gilbert, Karen F Hale, James R Hine to exceed page limitation – motion to dismiss (bjc) (Entered: 11/25/2002)
11/22/2002	13	MOTION by Don A Gilbert, Karen F Hale, James R Hine to transfer venue (bjc) (Entered: 11/25/2002)
11/22/2002	14	MOTION by Don A Gilbert, Karen F Hale, James R Hine to dismiss pla ARC of TX (bjc) (Entered: 11/25/2002)
11/26/2002	<u>15</u>	ORDER granting [12–1] motion to exceed page limitation – motion to dismiss (signed by Judge Thad Heartfield 11/25/02) cc: attys 11/27/02 (bjc) (Entered: 11/27/2002)
11/26/2002	16	MOTION by Don A Gilbert, Karen F Hale, James R Hine to dismiss case (bjc) (Entered: 11/27/2002)
12/09/2002	17	Memorandum in opposition by all plas' to dfts' [14–1] motion to dismiss pla ARC of TX (bjc) Modified on 12/10/2002 (Entered: 12/10/2002)
12/09/2002	18	Memorandum in opposition by all plas' to dfts' [11–1] motion for extension of time to file resp to plas' mo for class certification (bjc) (Entered: 12/10/2002)
12/09/2002	19	Memorandum in opposition by all plas' to dfts' [13–1] motion to transfer venue (bjc) (Entered: 12/10/2002)
12/09/2002	20	Motion by all plas' for extension of time to file resp to dfts' mo to dismiss (bjc) Modified on 12/10/2002 (Entered: 12/10/2002)
12/13/2002	21	Reply by Don A Gilbert, Karen F Hale, James R Hine to memorandum in opposition to [13–1] motion to transfer venue (mrp) (Entered: 12/13/2002)
12/13/2002	22	Supplemental [13–1] motion to transfer case – supplemental by Don A Gilbert, Karen F Hale, James R Hine (mrp) (Entered: 12/13/2002)
12/13/2002	23	Reply by Don A Gilbert, Karen F Hale, James R Hine to response to [10–1] motion to certify class action (mrp) (Entered: 12/13/2002)
12/13/2002	24	Reply by Don A Gilbert, Karen F Hale, James R Hine to response to [14–1] motion to dismiss pla ARC of TX (mrp) (Entered: 12/13/2002)
12/16/2002	25	Response by Don A Gilbert, Karen F Hale, James R Hine to [16–1] motion to dismiss case (mrp) (Entered: 12/17/2002)
12/16/2002		ORDER transferring this case to the docket of Judge Ron Clark (signed by Judge Thad Heartfield) **ORIGINAL ORDER EOD IN 1:99cv83** (jec) (Entered: 12/19/2002)
12/16/2002		Case reassigned to Judge Ron Clark (jec) (Entered: 12/19/2002)
12/23/2002	26	Sur–reply by Christy McCarthy, Todd Gordon, Allison Pratt, Gail Truman, Jim Floyd Jr, Sam Lindsay, Oshea Brooks, Joe Ray Comacho, Micha Chastain, AL, The ARC of Texas, Sue Ann Ortiz, Patrick Sostack, Scott Sostack, Shyan Forough, David Zweifel to dfts' [13–1] motion to transfer venue (bjc) (Entered: 12/24/2002)
12/23/2002	<u>27</u>	2nd Amended complaint by all plas', amending [1–1] complaint added plas' Ashton Bowlen, Tyler Blanchard, Garrett Gillard, Kameron Lane, Madison Polk, Paige Smith (bjc) (Entered: 12/24/2002)
01/06/2003	28	MOTION by Don Green, Karen F Hale, James R Hine for leave to file response to pltf's venue sur–reply to defts' motion to transfer venue (tkd) (Entered: 01/07/2003)

01/15/2003	29	Notice of substitution of party; terminated deft Don A Gilbert. The correct party becomes deft Albert Hawkins (tkd) (Entered: 01/16/2003)
01/15/2003	30	Response by Albert Hawkins, Karen F Hale, James R Hine to pltfs' sur-reply to [13-1] motion to transfer venue (tkd) (Entered: 01/16/2003)
01/15/2003	31	MOTION by Albert Hawkins, Karen F Hale, James R Hine to strike [27-1] second amended complaint , or in the alternative, to amend [16-1] motion to dismiss (tkd) (Entered: 01/16/2003)
01/21/2003	32	Response by all plaintiffs to [31-1] motion to strike [27-1] second amended complaint, and [31-2] motion to amend [16-1] motion to dismiss (tkd) (Entered: 01/22/2003)
01/21/2003	32	MOTION by all plaintiffs for leave to file second amended complaint (tkd) (Entered: 01/22/2003)
01/27/2003	33	Reply by James R Hine, Albert Hawkins, Karen F Hale to response to [31-2] motion to amend [16-1] motion to dismiss, [31-1] motion to strike [27-1] second amended complaint (fbc) (Entered: 01/27/2003)
01/30/2003	34	Response by Albert Hawkins, Karen F Hale, James R Hine to plas' [32-1] motion for leave to file second amended complaint (bjc) (Entered: 01/30/2003)
02/04/2003	35	MOTION by all plaintiffs to exceed page limit on their response to motion to dismiss (tkd) (Entered: 02/05/2003)
02/04/2003	36	Reply by all plaintiffs to response to [32-1] motion for leave to file second amended complaint (tkd) (Entered: 02/05/2003)
02/06/2003	37	MOTION by Albert Hawkins, Karen F Hale, James R Hine to extend time to file reply to pltfs' response to motion to dismiss (tkd) (Entered: 02/06/2003)
02/13/2003	<u>38</u>	Initial ORDER governing proceedings; management conference set for 11:00 5/9/03 ; Rule 26(f) conference deadline 4/8/03 (signed by Judge Ron Clark) cc attys 2/13/03 (bsw) (Entered: 02/13/2003)
03/06/2003	39	Joint MOTION by all parties to stay initial order governing proceedings (tkd) (Entered: 03/07/2003)
03/10/2003	<u>40</u>	ORDER granting [39-1] motion to stay. The parties are relieved of their obligations under the initial order governing proceedings until a decision is made on motion to transfer venue, or until 5/9/03, whichever is later (signed by Judge Ron Clark) cc attys 3/11/03 (tkd) (Entered: 03/11/2003)
03/17/2003	<u>41</u>	Memorandum and Order granting [13-1], [22-1] motions to transfer. Ordered that this case is transferred to the Western District of Texas, Austin Division (signed by Judge Ron Clark) cc attys 3/18/03 (tkd) (Entered: 03/18/2003)
03/18/2003	42	Notice of Cancellation: Management Conference Hrg canceled for 5/9/03 at 11:00 am before Judge Clark cc: RC, attys of record 3/19/03 (bca) (Entered: 03/18/2003)
03/24/2003	43	MOTION by all plaintiffs for reconsideration of [41-1] memorandum and order granting motion to transfer (tkd) (Entered: 03/25/2003)
04/01/2003	<u>44</u>	ORDER denying [43-1] motion for reconsideration of [41-1] memorandum and order granting motion to transfer (signed by Judge Ron Clark) cc attys 4/2/03 (tkd) (Entered: 04/02/2003)
04/08/2003		Interdistrict transfer to the Western District of Texas, Austin Division (tkd) (Entered: 04/08/2003)
04/16/2003		Acknowledgement of receipt of original record by W/D of TX Austin Div on 4/11/03 and assigned case number A03ca231 SS (fbc) (Entered: 04/17/2003)