

NO. 456,059

GUARDIANSHIP OF

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§
§

IN THE PROBATE COURT

MURIEL LUBA MINTZ,

NUMBER TWO (2) OF

AN INCAPACITATED PERSON

HARRIS COUNTY, TEXAS

MOTION FOR SUBSTITUTED SERVICE

1 per by PP
W/S
Attach all

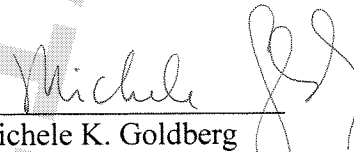
This Motion for Substituted Service is brought by MICHELE K. GOLDBERG, Movant, who shows in support:

1. Service has been attempted unsuccessfully on Respondent, CANDICE SCHWAGER, A/K/A CANDICE LEE 'CANDICE SCHWAGER' LEONARD, as shown in the attached affidavit of GREG COX, private process server with Brothers Process, the person who attempted service by personal delivery to CANDICE SCHWAGER, A/K/A CANDICE LEE 'CANDICE SCHWAGER' LEONARD .
2. Service of citation on Respondent has been attempted by personally delivering it to the following addresses all of which Respondent uses in her pleadings that are on file with the courts: a) 2210 Village Dale Ave., Houston, TX 77059; b) 1417 Ramada Drive, Houston, TX 77062; and, c) 2437 Bay Area Blvd., #137, Houston, TX 77058, but such attempts at service have not been successful, as shown by the attached affidavit.
3. As authorized by Rule 106(b) of the Texas Rules of Civil Procedure, service on Respondent by the following method, by having any person authorized by Rule 103 of the Texas Rules of Civil Procedure, will be reasonably effective to give Respondent notice of the Motion, Order and hearing date: by leaving a copy of the citation, with the petition attached, with anyone over the age of sixteen years of age at the following address that is specified in the attached affidavit: 2210

Village Dale Ave., Houston, TX 77059, OR, by affixing a copy of the citation with a copy of the petition attached, to the door of 2210 Village Dale Ave., Houston, TX 77059, which is the home of Respondent's brother in law and with whom she is in contact, as stated in the attached affidavit. Further, Respondent is a licensed attorney in the State of Texas and was notified of this proceeding by the e-file automatic notice to all attorneys of record on a particular case when the Motion and Order were filed. Respondent has a professional duty to inform the courts and clerk's offices of any change of address; she must have an available location for professional purposes.

Movant, MICHELE K. GOLDBERG, prays that the Court grant this Motion for Substituted Service.

Respectfully submitted,



Michele K. Goldberg
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MOVANT

NO. 456,059

GUARDIANSHIP OF	§	IN THE PROBATE COURT
MURIEL LUBA MINTZ,	§	NUMBER TWO (2) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

RULE 106 SUPPORTING AFFIDAVIT

GREG COX appeared in person before me today and stated under oath:

"My name is GREG COX. I am above the age of eighteen years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

1. I am a private process server with Brothers Process, my private business, and have been a certified process server for more than 25 years.
2. I have attempted to serve Respondent, CANDICE SCHWAGER, a/k/a CANDICE LEE 'CANDICE SCHWAGER' LEONARD, at the following addresses all of which Respondent uses in her pleadings on file with the courts: a) 2210 Village Dale Ave., Houston, TX 77059; b) 1417 Ramada Drive, Houston, TX 77062; and, c) 2437 Bay Area Blvd., #137, Houston, TX 77058.
3. I attempted service of citation at 2210 Village Dale Ave., Houston, TX 77059 on the following days and times: 8/8/2018 at 7:10 am until 8:20 am, but the Respondent is not located at this address because it is the private residence of her brother-in-law and his family; on 9/10/2018 at 7:00 pm, I returned to this address and spoke with Respondent's brother in law who stated Respondent no longer resides at that address; he gave me a telephone number to contact Respondent. I called said number and left a voicemail message on 9/13/2018, but Respondent has not returned my call.

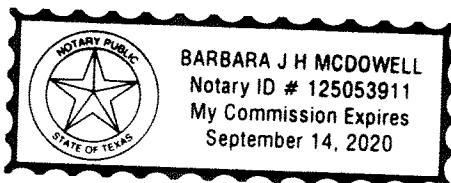
4. I attempted service of citation at 1417 Ramada Drive, Houston, TX 77062 on 8/8/2018 at 8:40 am, but there was no answer and no cars in the carport; on 8/9/2018 from 7:15 am until 8:30 am, waiting for Respondent to arrive at this location, but she did not; on 8/17/2018 at 3:50 pm, but there was no answer and no cars in the carport; on Saturday 8/18/2018 at 5:40 pm, but no one was present; and finally on 9/10/2018 at 6:30 pm, there was no answer so I spoke with a neighbor who said that Respondent and her family had moved from that location several months before and had not returned.
5. I attempted service of citation at 2437 Bay Area Blvd., #137, Houston, TX 77058 on 8/17/2018 at 3:30 pm, but found that it is a P.O. Box located in a UPS store in a commercial strip center.
6. Despite my reasonable and diligent attempts to secure service on Respondent, CANDICE SCHWAGER, a/k/a CANDICE LEE 'CANDICE SCHWAGER' LEONARD, I have been unsuccessful.

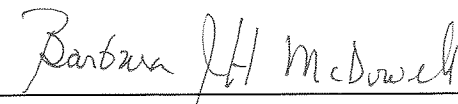


 GREG COX, Brothers Process

STATE OF TEXAS §
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 COUNTY OF HARRIS §

SIGNED under oath before me on September 14, 2018.





 Notary Public, State of Texas
 Page 2 of 2

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GUARDIANSHIP OF § IN THE PROBATE COURT
MURIEL LUBA MINTZ, §
AN INCAPACITATED PERSON § NUMBER TWO (2) OF
§ HARRIS COUNTY, TEXAS

ORDER ON MOTION FOR SUBSTITUTED SERVICE

On this day, the Court considered the Motion for Substituted Service of Movant MICHELE K. GOLDBERG under Rule 106(b) of the Texas Rules of Civil Procedure. After considering said Motion and the supporting affidavit, it appears to the Court that Movant has attempted but failed to serve Respondent CANDICE SCHWAGER, A/K/A CANDICE LEE 'CANDICE SCHWAGER' LEONARD at the addresses that Respondent, a licensed attorney in the State of Texas, uses on pleadings that she has filed with the courts. It further appears to the Court that the manner of service ordered herein will be reasonably effective to give said Respondent notice of the Motion, Order and hearing date. It is therefore

ORDERED, ADJUDGED, and DECREED that the Motion for Substituted Service is hereby GRANTED. It is further,

ORDERED, ADJUDGED, and DECREED that service on Respondent, CANDICE SCHWAGER, A/K/A CANDICE LEE 'CANDICE SCHWAGER' LEONARD, be effected by any person authorized by rule 103, Texas Rules of Civil Procedure, by leaving a copy of the citation with pleadings and orders attached at 2210 Village Dale Ave., Houston, TX 77059, with anyone over sixteen years of age at that address, or by posting a true copy of the citation with pleadings and orders attached to the front door of the abode at 2210 Village Dale Ave., Houston, TX 77059. It is further,

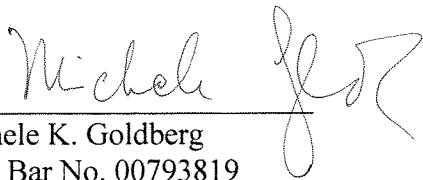
ORDERED, ADJUDGED, and DECREED that the return of service shall be made by the person executing the return, stating when the citation was served, on whom it was served, and

where it was served in accordance with Rule 107 of the Texas Rules of Civil Procedure.

SIGNED on _____.

JUDGE PRESIDING

APPROVED AS TO FORM ONLY:



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Movant

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MOTION TO SHOW CAUSE

TO THE HONORABLE JUDGE MIKE WOOD:

1 per by PP W/S

NOW COMES MICHELE K. GOLDBERG, former Temporary Guardian of the Person and Estate Pending Contest in the above styled and referenced cause (hereinafter referred to as “Movant”), and makes this Motion to Show Cause and moves this Court to require CANDICE SCHWAGER, a/k/a CANDICE LEE ‘CANDICE SCHWAGER’ LEONARD on the State Bar Website, (“Respondent”) to appear and show cause why she has failed to pay Sanctions to Movant, in the amount of “\$10,000.00 plus interest” pursuant to Order of this Court dated May 30, 2018 and in support thereof respectfully shows the Court the following:

1. This Court issued an Order dated May 30, 2018, ordering Respondent to pay directly to Movant cash sanctions in the amount of \$10,000.00, plus interest calculated at the current legal rate until paid in full, on or before June 8, 2018, at 3:00 p.m. at Movant’s office.
2. Movant has not received any payment thereon at all.
3. Movant served Respondent (via email) with a demand letter on July 23, 2018, which is attached hereto as Exhibit “A”. Movant notified Respondent of the delinquency and demanded full payment at Movant’s office on or before July 27, 2018, at 9:00 a.m.
4. Such second deadline has come and gone and Movant has received no payment

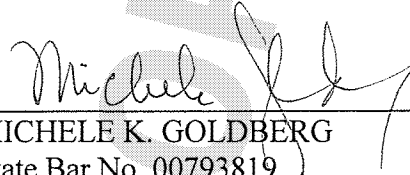
from Respondent whatsoever.

5. Respondent apparently filed a request for Writ of Mandamus against this Court, regarding the Sanctions Order specifically. However, such request for a Mandamus was filed (1) LONG after such Order was final (more than 30 days), (2) with no required procedural attempts to remedy the perceived “abuse of discretion” in the trial court first, and finally, (3) somehow at the exact same time that Respondent was absent from this Court’s July 19, 2018 hearing on her own Response and Objection to Movant’s Account for Final Settlement, allegedly because her child was ill.

6. Citation may be served on CANDICE SCHWAGER, a/k/a CANDICE LEE ‘CANDICE SCHWAGER’ LEONARD at: 1417 Ramada Drive, Houston, TX 77062; telephone: 832-315-8489; or 2437 Bay Area Blvd., #137, Houston, TX 77058; or wherever she may be located.

WHEREFORE, PREMISES CONSIDERED, Movant prays that Respondent be cited to Appear and Show Cause why she should not produce the previously Ordered Sanctions payments, that the Court set a hearing on this Motion; that Respondent be ORDERED to make full payment to Movant of the cash amount of \$10,000.00 plus statutory interest accruing from June 8, 2018, not later than 9:00 a.m. on August 1, 2018; and that if such payment is not made, Ordering that Respondent is thereafter subject to further Sanctions and Contempt by this Court, and that the Court grant such other and further relief to which Movant may show herself entitled or which the Court deems reasonable and necessary.

Respectfully submitted,



MICHELE K. GOLDBERG

State Bar No. 00793819

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Bellaire, TX 77401

713-218-8800

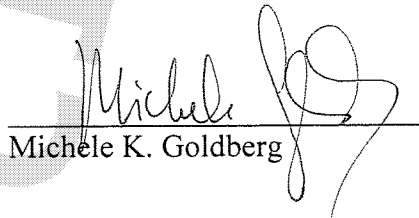
713-839-0142 Fax

lawmkg@sbcglobal.net

Former TEMPORARY GUARDIAN PENDING
CONTEST

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served on all counsel of record on this the 23rd day of August, 2018, according to the Texas Rules of Civil Procedure.



Michele K. Goldberg

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ORDER TO SHOW CAUSE

ON THIS DAY, the Court considered the Motion filed by Movant, MICHELE K. GOLDBERG, Former Temporary Guardian of the Person and Estate Pending Contest, asking this Court to Order Respondent, CANDICE SCHWAGER, a/k/a CANDICE LEE 'CANDICE SCHWAGER' LEONARD, to make immediate payment due to Movant under previous Order of this Court. This Court finds that such Motion should be Granted.

IT IS THEREFORE ORDERED that CANDICE SCHWAGER, a/k/a CANDICE LEE 'CANDICE SCHWAGER' LEONARD shall appear in person before Harris County Probate Court No. Two, 201 Caroline, Houston, Texas 77002, on September 20, 2018, at 10:00 am, and Show Cause why she should not immediately pay to MICHELE K. GOLDBERG, Former Temporary Guardian of the Person and Estate Pending Contest of Muriel Luba Mintz, cash in the amount of \$10,000.00 plus interest, as set forth in the Motion to Show Cause.

SIGNED on August 30, 2018.

Michele Wood

 JUDGE PRESIDING