

IN THE CHANCERY COURT OF SHELBY COUNTY, TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

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AKILAH LOUISE WOFFORD, et al )  
Individually and on behalf of all )  
similarly situated persons, )  
 )  
Plaintiffs, )  
v. )  
 )  
M.J. EDWARDS & SONS FUNERAL HOME, INC )  
N.J. FORD AND SONS FUNERAL HOME, INC. )  
CHRISTIAN FUNERAL DIRECTORS, INC. d/b/a )  
CHRISTIAN FUNERAL DIRECTORS )  
SOUTH EAST, )  
E.H. FORD MORTUARY SERVICES, INC., )  
JOSEPH SAMPSON FORD, individually and )  
d/b/a JOE FORD FUNERAL HOME, )  
JAMES E. HERNDON, III, individually and )  
d/b/a J.E. HERNDON FUNERAL HOME, LLC, )  
CASEY M. SANDERS, individually and d/b/a )  
HARDEMAN COUNTY FUNERAL SERVICE, )  
SIGNATURE FUNERAL SERVICES, LLC, )  
VERNAL H. BINS, JR., individually and d/b/a )  
V.H. BINS & SON MID-SOUTH, )  
PETER SHOWERS, JR., individually and )  
d/b/a SNOW FUNERAL HOME, )  
N.H. OWENS & SON FUNERAL HOME, INC., )  
R.S. LEWIS FUNERAL HOME, LLC, )  
DURELL ANTOINE WILLIAMS, individually and )  
d/b/a CALVARY MEMORIAL FUNERAL HOME,) )  
FAMILY MORTUARY, INC. )  
HARRISON'S FUNERAL HOME, )  
INCORPORATED, )  
PRESTON JEFFERSON, individually and )  
d/b/a JEFFERSON MORTUARY, )  
MILLINGTON FUNERAL HOME, INC., )  
SLS, LLC, d/b/a SUPERIOR FUNERAL HOME )  
HOLLYWOOD CHAPEL, )  
GRANT FUNERAL HOME, LLC, )  
AARON THADDEUS GUNN, III, )  
GOLDEN GATE FUNERAL HOME, )  
SHEILA DAVIS PARRIS, )  
J.A. LOFTIES FUNERAL HOME, )  
JAMES F. LOFTIES, )  
J.O. PATTERSON FUNERAL HOME, INC., )

No. CH-14-0197  
Part III

JURY DEMANDED

CLASS ACTION

JOSEPH IVY, )  
 M.J. EDWARDS – WHITEHAVEN CHAPEL, )  
 INC., d/b/a M.J. EDWARDS WHITEHAVEN )  
 FUNERAL CHAPEL, )  
 M.J. EDWARDS HILLSIDE CHAPEL, INC., d/b/a) )  
 M.J.EDWARDS FUNERAL HOME STAGE )  
 ROAD CHAPEL, )  
 KENNETH GERALD MAYS, individually and )  
 d/b/a MAYS FUNERAL HOME, )  
 NORTHSTAR FUNERAL SERVICES OF )  
 TENNESSEE, LLC d/b/a MEMORIAL PARK )  
 FUNERAL HOME, )  
 LARRY WOLFE, individually and d/b/a )  
 WOLFE BROTHERS FUNERAL HOME, INC., )  
 a/k/a WOLFE BROTHERS MORTUARY, )  
 WILLIAM WOLFE, individually and d/b/a )  
 WOLFE BROTHERS FUNERAL HOME, INC., )  
 a/k/a WOLFE BROTHERS MORTUARY, )  
 QUINCY S. BARLOW, individually and )  
 d/b/a BARLOW FUNERAL HOME, )  
 ANTHONY FUNERAL HOME, INC. )  
 GEORGE P. GILLESPIE, individually and d/b/a )  
 GILLESPIE FUNERAL HOME, )  
 EULA GILLESPIE, individually and d/b/a )  
 GILLESPIE FUNERAL HOME, )  
 CAROL FORD BEASLEY, individually and d/b/a )  
 H.C. JETT/H.C. FORD & SON FUNERAL HOME) )  
 GALILEE MEMORIAL GARDENS, )  
 JM&M SERVICES, INC., LAMBERT MEMORIAL) )  
 CO., aka LAMBERT MEMORIALS, INC., )  
 LAMBERT & SONS, INC., )  
 JEMAR LAMBERT, MARJE LAMBERT, and )  
 MARY H. LAMBERT, )  
 )  
 )  
 Defendants. )

**THIRD AMENDED CLASS ACTION COMPLAINT**

The Plaintiffs, by and through their below signed counsel, file this Third Amended Class Action Complaint:

1. This class action complaint arises from the mishandling, abuse and desecration of the bodies of the deceased loved ones of hundreds of citizens of Tennessee and other states. The remains

of the decedents came to this disrespectful and undignified end because the funeral home defendants<sup>1</sup> failed to carry out their sacred and contractual duties to ensure that the decedent's remains were laid to rest properly, legally and respectfully. Instead, these funeral home defendants abandoned the remains on the grounds of an unlicensed cemetery, Defendant Galilee Memorial Gardens, which, without the care and supervision of a licensed funeral director, stacked, crushed, mishandled, lost, misplaced and desecrated the remains.

### PARTIES

2. Plaintiff Akilah Louise Wofford is a citizen and resident of Memphis, Shelby County, Tennessee. She is the surviving daughter and next of kin of L.C. Wofford, deceased, who died on June 10, 2013. Ms. Wofford contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with M.J. Edwards & Sons Funeral Home, Inc., Stage Road Chapel, in Memphis, Tennessee.

3. Plaintiffs Robert and Priscilla Taylor, husband and wife, are citizens and residents of

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<sup>1</sup> As referenced in and throughout this complaint, "the funeral home defendants" collectively include: Defendants M.J. Edwards & Sons Funeral Home, Inc., N.J. Ford and Sons Funeral Home, Inc., Christian Funeral Directors, Inc. d/b/a Christian Funeral Directors Southeast, E.H. Ford Mortuary Services, Inc., Joseph Sampson Ford individually and d/b/a Joe Ford Funeral Home, James E. Herndon, III, individually and d/b/a J.E. Herndon Funeral Home, LLC, Casey Sanders, individually and d/b/a Hardeman County Funeral Service, Signature Funeral Services, LLC, Vernal H. Bins, Jr., individually and d/b/a V.H.Bins & Son Mid-South, Peter Showers, Jr., individually and d/b/a Snow Funeral Home, N.H.Owens & Son Funeral Home, Inc., R.S.Lewis Funeral Home, LLC, Durell Antoine Williams, individually and d/b/a Calvary Memorial Funeral Home, Family Mortuary, Inc., Harrison's Funeral Home, Incorporated, Preston Jefferson, individually and d/b/a Jefferson Mortuary, Millington Funeral Home, Inc., SLS, LLC d/b/a Superior Funeral Home Hollywood Chapel, Grant Funeral Home, LLC, Aaron Thadeus Gunn, III, Golden Gate Funeral Home, Sheila Davis Parris, J.A. Lofties Funeral Home, J.A. Lofties, J.O.Patterson Funeral Home, Inc., Joseph Ivy, M.J.Edwards – Whitehaven Chapel, Inc., d/b/a M.J.Edwards Whitehaven Funeral Chapel, M.J.Edwards Hillside Chapel, Inc. d/b/a M.J.Edwards Funeral Home Stage Road Chapel, Kenneth Gerald Mays, individually and d/b/a Mays Funeral Home, Northstar Funeral Services of Tennessee, LLC d/b/a Memorial Park Funeral Home, Larry and William Wolfe individually and d/b/a Wolfe Brothers, Quincy S. Barlow individually and d/b/a Barlow Funeral Home, Anthony Funeral Home, Inc., Carol Ford Beasley individually and d/b/a H.C. Jett/H.C. Ford & Son Funeral Home, George P. Gillespie and Eula W. Gillespie, individually and d/b/a Gillespie Funeral Home.

Cordova, Shelby County, Tennessee. They are the surviving parents of James Arthur Stokes, Jr., deceased, who died on November 9, 2011, and the surviving parents and next of kin of Ranita Leeshelle Burke who died on August 30, 2012. Plaintiffs James Arthur Stokes III is a citizen and resident of Memphis, Shelby County, Tennessee. Plaintiff Adrian Stokes is a citizen and resident of Talladega, Alabama. Mr. James A. Stokes III and Mr. Adrian Stokes are adult children and next of kin of James Arthur Stokes, Jr. deceased, who died on November 9, 2011. Mr. and Ms. Taylor contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, for both of their adult children with N.J. Ford and Sons Funeral Home, Inc., in Memphis, Tennessee.

4. Plaintiff Joe Johnson is a citizen and resident of Memphis, Tennessee. He is the surviving father and next of kin of Renisha Johnson, who died on April 22, 2013. Mr. Johnson contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Christian Funeral Directors, South East, in Memphis, Tennessee.

5. Plaintiff James Thomas is a citizen and resident of Memphis, Tennessee. He is the surviving son and next of kin of Katie Thomas, who died on July 23, 2013. Mr. Thomas contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with E.H. Ford Mortuary Services, Inc., in Memphis, Tennessee.

6. Plaintiffs Charles Stennis and Sonya Stennis are citizens and residents of Memphis, Tennessee. Ms. Sonya Stennis is the surviving child and next of kin of Barbara Jean Carmen, who died on July 10, 2013. Mr. and Ms. Stennis contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Joe Ford Funeral Home in Memphis, Tennessee.

7. Plaintiff Mattie Coleman is a citizen and resident of Memphis, Tennessee. She is the surviving mother and next of kin of Priscilla Ann Coleman, who died on October 21, 2011. Ms. Coleman contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with J.E. Herndon Funeral Home, in Memphis, Tennessee.

8. Plaintiff Tiffany Smith is a citizen and resident of Memphis, Tennessee. She is the surviving niece of Homer Lee Smith, who died on December 31, 2011. Ms. Smith contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Hardeman County Funeral Services in Bolivar, Tennessee.

9. Plaintiffs Maria Ordaz and Epolito Guevara, Husband and Wife, are residents of Memphis, Tennessee. They are the surviving parents and next of kin of Bryan Guevara, who died on March 14, 2013. Mr. Guevara contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Signature Funeral Services in Memphis, Tennessee.

10. Plaintiff Dewey Davis is a citizen and resident of Memphis, Tennessee. He is the surviving husband and next of kin of Ola Elizabeth Davis, who died on August 18, 2013. Mr. Davis contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with V.H. Bins & Son Mid-South Funeral Home in Memphis, Tennessee.

11. Plaintiffs Chejuana and Michael Chase, husband and wife, are adult residents of Memphis, Tennessee. They are the surviving parents and next of kin of Michael Bouie, who died on June 12, 2012. Mr. and Ms. Chase contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Snow Funeral Home in Memphis, Tennessee.

12. Plaintiff Glenda Faye Seay is an adult resident of Memphis, Tennessee. She is the surviving spouse and next of kin of Dwight Seay, Sr., who died on May 13, 2013. Ms. Seay contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with N.H. Owens & Son Funeral Home in Memphis, Tennessee.

13. Plaintiff Joyce Smith is an adult resident of Memphis, Tennessee. She is the surviving sister of William Franklin, who died on November 6, 2012. Plaintiff Kenya Franklin is the surviving spouse and next of kin of William Franklin, who died on November 6, 2012. Ms. Smith contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with R.S.

Lewis Funeral Home in Memphis, Tennessee.

14. Plaintiff Robert Oden is an adult resident of Memphis, Tennessee. He is the surviving son and next of kin of Juanita Oden, who died on August 4, 2011. Mr. Oden contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Calvary Memorial Funeral Home in Memphis, Tennessee.

15. Plaintiff Michael Hathaway is an adult resident of Memphis, Tennessee. He is the surviving son and next of kin of Carolyn Hathaway, who died on May 7, 2012. Mr. Hathaway contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Family Mortuary, Inc. in Memphis, Tennessee.

16. Plaintiff James Washington is an adult resident of Memphis, Tennessee. He is the surviving brother of Hattie Washington Bullard, who died on February 5, 2013. Plaintiff Leonard Bullard, Jr. is an adult resident of Hopkins, South Carolina. Plaintiff Treasure Bullard is an adult resident of Hopkins, South Carolina. Mr. Leonard and Mr. Treasure Bullard are the surviving children and next of kin of Hattie Washington Bullard, who died on February 5, 2013. Mr. Washington contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Harrison's Funeral Home, Inc. in Memphis, Tennessee.

17. Plaintiff Doretha Cain is an adult resident of Memphis, Tennessee. She is the surviving daughter and next of kin of Clydie B. Johnson, who died on January 31, 2013. Ms. Cain contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Jefferson Mortuary in Millington, Tennessee.

18. Plaintiff Carolyn Sanders is an adult resident of Memphis, Tennessee. She is the surviving mother and next of kin of Arthur Sanders, Jr., who died on March 14, 2013. Ms. Sanders contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Millington Funeral Home, Inc. in Millington, Tennessee.

19. Plaintiff Courtney Mitchell is an adult resident of Memphis, Tennessee. She is the surviving daughter and next of kin of Charles Livingston, Jr., who died on March 2, 2011. Ms. Mitchell contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Superior Funeral Home Hollywood Chapel, in Memphis, Tennessee.

20. Plaintiff Craig Baymon is an adult resident of Collierville, Tennessee. Plaintiff Randall Baymon is an adult resident of Memphis, Tennessee. Plaintiff Sue Baymon is an adult resident of Memphis, TN. They are the surviving children of Richard Baymon, who died on August 21, 2013. Mr. Craig Baymon contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Grant Funeral Home in Tunica, Mississippi.

21. Plaintiff Juanita Phillips is an adult resident and citizen of Memphis, Shelby County, Tennessee. She is the surviving spouse and next of kin of Marvin Phillips, who died on November 1, 2012. Ms. Phillips contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Golden Gate Funeral Home of Memphis, TN.

22. Plaintiff Susie Ann Cox is an adult resident and citizen of Memphis, Shelby County, Tennessee. She is the surviving spouse and next of kin of Robert Ivy Cox, who died on May 23, 2012. Ms. Cox contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with J. O. Patterson Mortuary of Memphis, TN.

23. Plaintiff Stella M. Johnson-Sawyer is an adult resident and citizen of Cordova, Shelby County, Tennessee. She is the surviving spouse and next of kin of James H. Sawyer, who died on October 13, 2012. Ms. Johnson-Sawyer contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with J.A. Lofties Funeral Home of Somerville, TN.

24. Plaintiff Charise Noble is an adult resident and citizen of Memphis, Shelby County, Tennessee. She is the surviving daughter and next of kin of Crystal Reynolds who died on March 26, 2011. Ms. Noble contracted for funeral services, including final disposition of the remains at Galilee

Memorial Gardens, with Defendant Kenneth Gerald Mays d/b/a Mays Funeral Home.

25. Plaintiff Alicia White is an adult resident and citizen of Memphis, Shelby County, Tennessee. She is the surviving sister and next of kin of Marile White, who died on January 5, 2013. Ms. White contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Northstar Funeral Services of Tennessee, LLC d/b/a Memorial Park Funeral Home.

26. Plaintiff Mary Golden is an adult resident and citizen of Memphis, Shelby County, Tennessee. She is the surviving daughter and next of kin of Stella Hamer, who died on May 25, 2012. Ms. Golden contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Larry and William Wolfe d/b/a Wolfe Brothers Mortuary.

27. Plaintiff Lueshand Nunn is an adult citizen and resident of Peoria, Illinois. Ms. Nunn is the surviving sister of Willie Taylor, who passed away on September 8, 2012. Ms. Nunn contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Quincy S. Barlow d/b/a Barlow Funeral Home.

28. Plaintiff Jelita Chaffin is an adult citizen and resident of Southaven Mississippi. She is the surviving daughter and next of kin of Peggy Chaffin, who passed away on October 25, 2011. Ms. Chaffin contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Durell Antoine Williams individually and d/b/a Calvary Memorial Funeral Home.

29. Plaintiff Frank Davis, II is an adult citizen and resident of Houston, Texas. He is the surviving father and next of kin of Frank Davis, III, who died on January 13, 2013. Mr. Davis contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Anthony Funeral Home, Inc.

30. Plaintiff Jacquelyn Taylor is an adult citizen and resident of Memphis, Shelby County, Tennessee. She is the surviving daughter and next of kin of Edgar Briggs, who died on December 31,



2011. Ms. Taylor contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with George P. Gillespie and Eula W. Gillespie d/b/a Gillespie Funeral Home.

31. Sally Ann Woodard is an adult citizen and resident of Collierville, Shelby County, Tennessee. She is the surviving spouse and next of kin of Terry Boyce, Sr., who died on September 23, 2011. Ms. Woodard contracted for funeral services, including final disposition of the remains at Galilee Memorial Gardens, with Carol Ford Beasley d/b/a H.C. Jett/H.C. Ford & Son Funeral Home.

32. Defendant M.J. Edwards & Sons Funeral Home, Inc. is a Tennessee corporation with its principal place of business at 1165 Airways Blvd, Memphis, Tennessee 38114, and may be served through its registered agent for service of process: Corporation Service Company, 2908 Poston Ave., Nashville, TN 37203-1312.

33. Defendant N.J. Ford and Sons Funeral Home Inc. is a Tennessee corporation with its principal place of business at 12 S Parkway W, Memphis, Tennessee 38109, and may be served through its registered agent for service of process: Harold Ford, 12 S Parkway W, Memphis, TN 38109.

34. Defendant Christian Funeral Directors, Inc. is a corporation organized under the laws of the State of Tennessee, which may be served with process through its agent Laron Jackson at 2615 Overton Crossing Street, Memphis, Tennessee 38127-8612. Christian Funeral Directors, Inc. operates under a d/b/a Christian Funeral Directors South East. Christian Funeral Directors, Inc. is licensed by the State of Tennessee as a funeral establishment.

35. Defendant E.H. Ford Mortuary Services, Inc. is a Tennessee corporation with its principal place of business at 3390 Elvis Presley Boulevard, Memphis, Tennessee 38116, and may be served through its registered agent for service of process: Edmund H. Ford, Sr., 3390 Elvis Presley Boulevard, Memphis, Tennessee 38116.

36. Defendant Joe Sampson Ford a resident of Memphis, Tennessee, is a licensed funeral director, and may be served at 1616 Winchester Road, Memphis, Tennessee 38116. Defendant Ford

operates under a d/b/a Joe Ford Funeral Home, LLC, which is licensed in the State of Tennessee as a funeral establishment.

37. Defendant James E. Herndon, III, a resident of Memphis, Tennessee, is a licensed funeral director, and may be served at 1779 Winchester Road, Memphis, Tennessee 38116. Defendant Herndon operates under a d/b/a J.E. Herndon Funeral Home, LLC, which is licensed in the State of Tennessee as a funeral establishment.

38. Defendant Casey M. Sanders a resident of Bolivar, Tennessee, is the owner of a funeral establishment, and may be served at 109 South Porter Street, Bolivar, Tennessee 38008. Defendant Sanders operates under a d/b/a Hardeman County Funeral Service, which is licensed in the State of Tennessee as a funeral establishment.

39. Defendant Signature Funeral Services, LLC is a Tennessee limited liability company with its principal place of business at 5359 Knight Arnold Road, Memphis, Tennessee 38115, and may be served through its registered agent for service of process: Signature Funeral Services, LLC at 5359 Knight Arnold Road, Memphis, Tennessee 38115.

40. Defendant Vernal H. Bins, Jr. a resident of Memphis, Tennessee, is the owner of a funeral establishment, and may be served at 1265 Mississippi Boulevard, Memphis, Tennessee 38106. Defendant Bins operates under a d/b/a V.H. Bins & Son Mid-South Funeral Home, which is licensed in the State of Tennessee as a funeral establishment.

41. Defendant Peter Showers, Jr. a resident of Memphis, Tennessee, is the owner of a funeral establishment, and may be served at 1382 Florida Street, Memphis, Tennessee 38106. Defendant Showers operates under a d/b/a Snow Funeral home, which is licensed in the State of Tennessee as a funeral establishment.

42. Defendant N.H. Owens & Son Funeral Home, Inc. is a Tennessee corporation with its principal place of business at 421 Scott Street, Memphis, Tennessee 38112, and may be served through

its registered agent for service of process: Cheryl L. Owens, 1857 South Parkway E., Memphis, Tennessee 38114.

43. Defendant R.S. Lewis Funeral Home, LLC is a Tennessee limited liability company with its principal place of business at 3380 Pearson Road, Memphis, Tennessee 38118, and may be served through its registered agent for service of process: Kevin Swinton, 3380 Pearson Road, Memphis, Tennessee 38118.

44. Defendant Durell Antoine Williams a resident of Memphis, Tennessee, is the owner of a funeral establishment, and may be served at 659 Semmes Street, Memphis, Tennessee 38111. Defendant Williams operates under a d/b/a Calvary Memorial Funeral home, which is licensed in the State of Tennessee as a funeral establishment.

45. Defendant Family Mortuary, Inc. is a Tennessee limited liability company with its principal place of business at 878 Jackson Avenue, Memphis, Tennessee 38107, and may be served through its registered agent for service of process: Essie B. Williams, 878 Jackson, Memphis, Tennessee 38107.

46. Defendant Harrison's Funeral Home, incorporated is a Tennessee corporation with its principal place of business at 2647 Carnes Avenue, Memphis, Tennessee 38114, and may be served through its registered agent for service of process: Adriana C. Harrison, 2647 Carnes Avenue, Memphis, Tennessee 38114.

47. Defendant Preston Jefferson a resident of Millington, Tennessee, is the owner of a funeral establishment, and may be served at 7788 Church Street, Millington, Tennessee 38053. Defendant Jefferson operates under a d/b/a Jefferson Mortuary, which is licensed in the State of Tennessee as a funeral establishment.

48. Defendant Millington Funeral Home, Inc. is a Tennessee corporation with its principal place of business at 7738 Church Street, Millington, Tennessee 38053, and may be served through its

registered agent for service of process: Eva E. Smith, 7738 Church Street, Millington, Tennessee 38053.

49. Defendant SLS, LLC is a Tennessee limited liability company with its principal place of business at 460 E. McLemore Avenue, Memphis, Tennessee 38106, and may be served through its registered agent for service of process: Business Filings Incorporated, 8005 Gay Street, Suite 2021, Knoxville, Tennessee 37929. Defendant SLS, LLC operates under a d/b/a Superior Funeral Home Hollywood Chapel.

50. Defendant Grant Funeral Home, LLC, is a limited liability company organized under the laws of the State of Mississippi, which may be served with process through its registered agent for service of process: Christopher L. Thomas at 815 Sears Avenue, P.O. Box 957, Tunica, Mississippi 38676. Grant Funeral Home, LLC, operates under a d/b/a Grant Funeral Home and is licensed by the State of Mississippi as a funeral establishment.

51. Defendant Aaron Thaddeus Gunn, III an adult resident citizen of the State of Mississippi, is a funeral director licensed by the State of Mississippi, which does business in the State of Tennessee, is the owner and/or manager of Defendant Grant Funeral Home, LLC, and may be served at either 309 Edgar Avenue, Clarksdale, Mississippi 38614 or 491 1st Street, Marks, Mississippi 38646.

52. Defendant Golden Gate Funeral Home is a licensed funeral establishment doing business in the State of Tennessee and which may be served upon Sheila Davis Parrish, Manager, at its principal place of business located at 734 Vance Avenue, Memphis, Tennessee 38126.

53. Defendant Sheila Davis Parrish is an adult resident of the State of Tennessee, is funeral director licensed by the State of Tennessee, is the owner and/or manager of the Defendant Golden Gate Funeral Home, and may be served at 734 Vance Avenue, Memphis, Tennessee 38126.

54. Defendant J.A. Lofties Funeral Home is a licensed funeral establishment doing business in the State of Tennessee and which may be served upon James F. Lofties, Manager, at its principal

place of business located at 112 E North Street, Somerville, Tennessee 38068.

55. Defendant James F. Lofties is an adult resident of the State of Tennessee, is a funeral director licensed by the State of Tennessee, is the owner and/or manager of the Defendant J.A. Lofties Funeral Home, and may be served at 112 E. North Street, Somerville, Tennessee 38068.

56. Defendant J.O. Patterson Funeral Home Inc. is a dissolved corporation originally organized under the laws of the State of Tennessee that is still doing business in the State of Tennessee despite its currently inactive status with the Tennessee Secretary of State. Defendant J.O. Patterson Funeral Home, Inc.'s funeral establishment license issued by the State of Tennessee expired on November 30, 2013. Defendant J.O. Patterson Funeral Home, Inc.'s registered agent for service of process is listed as JO Patterson, Jr., 5034 Elvis Presley, Memphis, Tennessee 38116; however, in the event that service upon this Defendant cannot be obtained at that location, service may be made upon its current owner and/or manager, Joseph H. Ivy, at 2944 Walnut Grove, Memphis, Tennessee 38111.

57. Defendant Joseph H. Ivy is an adult resident of the State of Tennessee, is a funeral director licensed by the State of Tennessee, is the owner and /or manager of the Defendant J.O. Patterson Funeral Home, Inc., and may be served at 2944 Walnut Grove, Memphis, Tennessee 38111.

58. Defendant M.J. Edwards - Whitehaven Funeral Chapel, Inc., d/b/a as M.J. Edwards Whitehaven Funeral Chapel, is a corporation formed under the laws of the State of Tennessee with its principal office located at 9th Floor Dept. 2934, 1929 Allen Parkway, Houston, Texas 77019-2506, and its registered agent for service of process listed as Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203-1312. This Defendant is a funeral establishment licensed by the State of Tennessee in Shelby County, Tennessee.

59. Defendant M.J. Edwards Hillside Chapel, Inc., d/b/a M.J. Edwards Funeral Home Stage Road Chapel, is a corporation formed under the laws of the State of Tennessee with its principal office located at 9th Floor Dept. 2934, 1929 Allen Parkway, Houston, Texas 77019-2506, and its registered

agent for service of process listed as Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203-1312. This Defendant is a funeral establishment licensed by the State of Tennessee and does business in Shelby County, Tennessee.

60. Defendant Kenneth Gerald Mays is a resident of Tennessee and a licensed funeral director, and may be served at 2034 Elvis Presley Blvd., Memphis, TN 38106. Defendant Mays operates under a d/b/a Mays Funeral Home, which is licensed in the State of Tennessee as a funeral establishment.

61. Defendant Northstar Funeral Services of Tennessee, LLC d/b/a Memorial Park Funeral Home is a corporation formed under the laws of the State of Delaware with its principal office located at Suite 300, 1900 Saint James PL, Houston, TX 77056-4128, and its registered agent for service of process listed as CT Corporation System, Suite 2021, 800 S. Gay St., Knoxville, TN 37929-9710. This Defendant is a funeral establishment licensed by the State of Tennessee and does business in Shelby County, Tennessee.

62. Defendants Larry Wolfe and William Wolfe are residents of Arkansas and licensed funeral directors, and may be served at 128 S. Seventh, West Memphis, AR 72303. Defendants operate under a d/b/a Wolfe Brothers Funeral Home, Inc. which is licensed in the State of Arkansas as a funeral establishment.

63. Defendant Quincy S. Barlow is a resident of Tennessee and a licensed funeral director, and may be served at 205 North Main Street, Covington, TN 38019. Defendant Barlow operates under a d/b/a Barlow Funeral Home, which is licensed in the State of Tennessee as a funeral establishment.

64. Defendant Anthony Funeral Home, Inc. is a corporation formed under the laws of the State of Arkansas with its principal office located at 135 South 16th St., West Memphis, AR 72301, and its registered agent for service of process listed as Solon Anthony, 135 South 16th, West Memphis, AR 72301. This Defendant is a funeral establishment licensed by the State of Arkansas and does business in

Shelby County, Tennessee.

65. Defendants George P. Gillespie and Eula W. Gillespie are residents of Mississippi, are licensed funeral directors, and may be served at 9179 Pigeon Roost, Olive Branch, MS 38654.

Defendants operate under a d/b/a Gillespie Funeral Home, which is licensed in the State of Mississippi as a funeral establishment.

66. Defendant Carol Ford Beasley is a resident of Tennessee and a licensed funeral director, and may be served at 203 Washington St. Collierville, TN 38017. Defendant Beasley operates under a d/b/a H.C. Jett/H.C. Ford & Son Funeral Home, which is licensed in the State of Tennessee as a funeral establishment.

67. Defendant Galilee Memorial Gardens is a Tennessee cemetery with its principal place of business at 8283 Ellis Road, Memphis, Tennessee 38133, and address also shown as Bartlett, Tennessee, and may be served through its registered agent for service of process, Jemar Lambert, who may be served at 8283 Ellis Road, Memphis, Tennessee 38133. The Chancery Court for Davidson County has appointed the Tennessee Commissioner of Commerce and Insurance as the receiver for this entity and service is also appropriate on the Commissioner.

68. Defendant JM&M Services, Inc. (JM&M) is a Tennessee corporation that does business under the name of Galilee Memorial Gardens. Its principal office is located at 8283 Ellis Road, Memphis, Tennessee 38133, and its registered agent for service of process is Jemar Lambert, who may be served at 8283 Ellis Road, Memphis, Tennessee 38133. The Chancery Court for Davidson County has appointed the Tennessee Commissioner of Commerce and Insurance as the receiver for this entity and service is also appropriate on the Commissioner.

69. Upon information and belief, Defendant Lambert Memorial Co., aka Lambert Memorials Inc. (LMC) is a business name that has appeared on one or more bank accounts that have been used by Jemar Lambert in connection with the operation of Galilee. The address for LMC is also

8283 Ellis Road, Memphis, Tennessee 38133. The Chancery Court for Davidson County has appointed the Tennessee Commissioner of Commerce and Insurance as the receiver for this entity and service is also appropriate on the Commissioner.

70. Upon information and belief, Defendant Lambert & Sons, Inc. is a business name that has appeared on one or more bank accounts that have been used by Jemar Lambert in connection with the operation of Galilee. The address for Lambert & Sons, Inc. is also 8283 Ellis road, Memphis, TN 38133. The Chancery Court for Davidson County has appointed the Tennessee Commissioner of Commerce and Insurance as the receiver for this entity and service is also appropriate on the Commissioner.

71. Defendant Jemar Lambert is an adult citizen of Shelby County, Tennessee whose business address is 8283 Ellis Road, Memphis, Tennessee 38133.

72. Defendant Marje Lambert is an adult resident of Shelby County, Tennessee whose business address is 8283 Ellis Road, Memphis, Tennessee 38133.

73. Defendant Mary H. Lambert is an adult resident of Shelby County, Tennessee whose business address is 8283 Ellis Road, Memphis, Tennessee 38133.

74. Defendants Galilee Memorial Gardens, JM&M Services, Inc., Lambert Memorial Co., aka Lambert Memorials, Inc., Jemar Lambert, Marje Lambert and Mary H. Lambert are collectively referred to herein as “Galilee defendants.”

#### JURISDICTION AND VENUE

75. This Court has jurisdiction over this matter pursuant to Tenn. Code. Ann. §16-11-101, 16-11-103 and 16-11-102.

76. Venue is properly situated in Shelby County, Tennessee pursuant to Tenn. Code. Ann. § 20-4-101.

#### CLASS ACTION ALLEGATIONS



77. The named plaintiffs (hereinafter “The Families”) seek equitable relief and damages on behalf of themselves and all other families of decedents whose remains were consigned to Galilee. This action alleges breach of contract, breach of fiduciary duty, reckless and negligent mishandling of remains, negligence, reckless and negligent infliction of emotional distress, and unjust enrichment. Additionally, should a class not be certified, these families seek all recoverable damages and remedies under the Tennessee Consumer Protection Act including treble damages and attorneys’ fees and costs.

78. Because of the exceptional public importance of this case, the need for timely answers to grieving Tennessee families, and the need to ensure that the statute of limitations is tolled. The Families request that the Court provisionally certify this class action as soon as practicable.

79. The extraordinary public importance of this situation was demonstrated on January 24, 2014, when the Shelby County District Attorney General announced that she had executed a search warrant for Galilee Memorial Gardens, and issued the following release:

Jemar Lambert, 38, was arrested by investigators with the District Attorney’s Office who also executed a search warrant for burial records in the cemetery office.

Last year Lambert was indicted on charges of theft of property over \$60,000 for allegedly selling burial plots to bereaved families on adjacent land not owned by the cemetery that encompasses about nine acres at 8283 Ellis Road.

He is scheduled to be in Criminal Court on Feb. 13 on that case.

In connection with Friday’s action, the Tennessee Department of Commerce and Insurance, which regulates cemetery and funeral home practices, filed a request for a temporary restraining order shutting down cemetery operations.

“We are sensitive to the importance of Galilee Memorial Gardens to countless families and to our community,” Weirich said Friday. “We will continue working with the Department of Commerce and Insurance to resolve this situation respectfully and effectively.”

The search warrant and new arrest stem from an investigation that began in November when a search for a missing body led those helping with the search to make a report to the Tennessee Department of Commerce and Insurance.

That report indicated the cemetery had improperly buried the remains of three different individuals in the same grave on March 9 and March 12 of last year.

The search warrant seeks cemetery files, computer records and electronic or digital storage data used to record information related to potential criminal acts involving the burial records kept by the cemetery.

In Nashville, Department of Commerce and Insurance Commissioner Julie Mix McPeak and the Tennessee Attorney General’s Office also filed a petition asking a Davidson County court for an order appointing the commissioner as receiver for Galilee Memorial Gardens.

“We believe that the owners and proprietors of Galilee Memorial Gardens cannot act in the best interest of the community,” said McPeak. “This is a complex process that involves many moving parts. Know that we are working alongside the Shelby County District Attorney General’s Office to identify the extent of issues with Galilee.”

<http://www.scdag.com/news/item/469-shelby-county-district-attorney-general-executes-search-warrant-at-local-cemetery-owner-arrested>

80. In addition to the criminal proceedings initiated by The Shelby County District Attorney's Office, the Davidson County Chancery Court appointed the Commissioner of the Tennessee Department of Commerce and Insurance as the Receiver for Galilee Memorial Gardens and granted certain injunctive relief. The Cemetery continues to be under the exclusive custody and control of the Receiver and the jurisdiction of the Chancery Court.

81. Mr. Jemar Lambert, an unlicensed owner and operator of Galilee Memorial Gardens, is faces charges for theft and abuse of a corpse in Shelby County, Tennessee Criminal Court.

82. The magnitude and complexity of this catastrophe has been described in the local press:

The arrests were followed by revelations about multiple bodies buried in the same grave at Galilee and inaccurate records about who was buried where in the cemetery on Ellis Road east of Germantown Road.

Witnesses reported seeing workers crush caskets with the tires of heavy equipment to get multiple caskets in graves, and Galilee employees peeling back the tops of coffins to determine the identities of the corpses. The cemetery apparently was out of space, leading to the practices.

*Cemetery operator took cash till the end*, The Commercial Appeal (Feb. 8, 2014)

Lambert’s actions were further described by Shelby County Criminal Court Judge Lee Coffey during Lambert’s bond hearing as a "crime against humanity...and everything that is good."

83. This action is brought pursuant to the applicable provisions of Rule 23 of the Tennessee Rules of Civil Procedure on behalf of a class defined as:

All those who are or were next of kin<sup>2</sup> of any decedent delivered to Galilee for burial from January 1, 2011 through January 31, 2014; and

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<sup>2</sup> Next of kin for purposes of this class is defined pursuant to Akers v. Buckner-Rush Enterprises, Inc., 270 S.W.3d 67 (Tenn. Ct.App. 2007).

all persons or entities who were parties to any contract with any defendant regarding funeral arrangements for a decedent who was delivered to Galilee for burial from January 1, 2011 through January 31, 2014.

84. Excluded from the class are the defendants, including any parent, subsidiary, affiliate or controlled person of these entities and their officers, directors, agents, employees and members of their immediate families; and the judicial officers to whom this case is assigned, their staff, and the members of their immediate families.

85. The class and subclass are so numerous that individual joinder of all its members is impracticable.

86. The identities of the class members for purposes of class notice may be readily obtained from the defendants' and public records.

87. In this action, common issues of law and fact relating to the conduct, duty and resulting liability of the defendants predominate over any issues affecting only individual class members.

88. The claims of the Families are typical of the claims of the class. The Families and the class members have been subjected to the same unlawful behavior of the defendants, giving rise to common legal and equitable claims.

89. The Families will fairly and adequately represent and protect the interests of the class and none have any interests that are adverse to the interests of the class.

90. The Families have retained counsel who are competent and experienced in class actions and complex litigation, including in cases involving the desecration, commingling and mishandling of remains.

91. This Court may elect, in its discretion, to maintain these claims as a class action under Rule 23.02(1), (2) and/or (3) of the Tennessee Rules of Civil Procedure.

92. Class certification is appropriate pursuant to Rule 23.02(1) of the Tennessee Rules of Civil Procedure because the prosecution of separate actions by the individual members of the class

would create a risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for the defendants and/or because adjudications respecting individual members of the class would, as a practical matter, be dispositive of the interests of the other members or would risk substantially impairing or impeding their ability to protect their interests.

93. Class certification is also appropriate pursuant to Rule 23.02(2) of the Tennessee Rules of Civil Procedure because the defendants acted on grounds generally applicable to the class, making appropriate equitable, injunctive and/or declaratory relief.

94. Class certification is also appropriate pursuant to Rule 23.02(3) of the Tennessee Rules of Civil Procedure because common issues of law and fact predominate over issues involving only individual class members.

95. A class action approach is superior to other available methods for the fair and efficient adjudication of this dispute because common questions of law and fact predominate over any questions that may affect only individual members of the class and there would be significant economies to the courts and the parties in litigating the common issues on a class wide basis rather than in repetitive individual trials. A class action approach is also superior in this matter because hundreds of individual lawsuits would unnecessarily burden the courts, multiply the costs of litigation, and could impede the ability of some class members to receive any compensation at all should the funds available to satisfy individual claims be exhausted. A class approach would consolidate these matters and create fewer management difficulties because it would provide the benefits of unitary adjudication, judicial economy, economies of scale and comprehensive supervision by a single court.

96. Class certification is also appropriate because this Court can designate particular claims or issues for class wide treatment pursuant to Rule 23.03(4)(a) and may designate one or more subclasses pursuant to Rule 23.03(4)(b) of the Tennessee Rules of Civil Procedure

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

97. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

98. Commencing on January 1, 2011 and continuing through January 31, 2014 (hereinafter, “Class Period”) the funeral home defendants contracted with and for the benefit of The Families in this complaint and the class members to provide funeral director services and to accomplish the disposition and burial of loved ones’ remains with dignity and respect in keeping with public sensibilities and in accordance with the law.

99. Under Tennessee law, only properly qualified and licensed persons can engage in the disposal and burial of human remains. *See* T.C.A. § 62-5-303 and 62-5-101(6)(A)(defining “Funeral Directing” as the “practice of directing or *supervising funerals* or the practice of preparing dead human bodies for burial by any means...”) Licensing requires continuing education and ethics. *See* Rules of the Tennessee Board of Funeral Directors and Embalmers, Ch. 0660-10. It is specifically prohibited for a person who is not duly registered and licensed as a funeral director to engage in funeral directing. *See* T.C.A § 62-5-303 (b). It is further required that no employee or member of any firm or corporation shall engage in the care, preparation, disposal or burial of dead bodies unless he is a licensed funeral director. *See* T.C.A § 62-5-313(a). Under Tennessee law, there are requirements that the license issued to a funeral establishment be for a period of two years and is not transferable or assignable. *See* T.C.A § 62-5-315. Grounds for the suspension, denial or revocation of a license under T.C.A § 62-5-317(5) include an applicant or holder of a funeral license knowingly permitting an unlicensed person to engage in the profession or business of funeral director or embalming under the applicant's or holder's supervision. Under Tennessee law funeral directing includes the “practice of preparing human bodies for burial by any means.” *See* T.C.A § 62-5-101(6)(A)(i). T.C.A § 62-5-317(b)(1) prohibits misrepresentation or fraud in the conduct of the business of the funeral establishment. T.C.A § 62-5-317(b)(6) prohibits “Aiding or abetting an unlicensed person to practice within the funeral profession.”

Tennessee law requires that a cemetery company shall maintain its cemeteries so as to reflect respect to the memory of the dead in keeping with the reasonable sensibilities of survivors whose remains are interred in the cemeteries. *See* T.C. A. § 46-1-304 (a).

100. Contrary to their contractual, fiduciary and non-delegable duties, the defendants commonly and systematically failed, throughout the Class Period, to accomplish the burial and disposition of the remains entrusted to them with the dignity and respect expected of them by public sensibilities and required of them by law. Rather than discharging their duties to The Families and the class members by fully and faithfully carrying out their obligations, and without describing their actual practices or obtaining express written permission therefore, the defendants knowingly, recklessly and/or negligently permitted and facilitated the disrespectful, improper and illegal mishandling, misplacement, loss and desecration of the remains of the decedents.

101. Throughout the Class Period, the Galilee defendants systematically and commonly mishandled, desecrated, abused and commingled the remains of the decedents in a manner offensive to human sensibilities and/or expressly prohibited by law. The Galilee defendants operated without a valid license and/or certificate, disinterred bodies without necessary court orders, stacked multiple caskets in single burial plots, crushed caskets in order to fit many caskets into single burial plots, misplaced or completely lost track of remains, and buried bodies without authorization on neighboring property owned by third parties both before and after a Restraining Order was issued by Chancery Court of Shelby County enjoining Galilee from encroaching on the neighboring property.

102. The funeral home defendants knew or reasonably should have known that Galilee was not licensed as of December 31, 2010, and that burials at Galilee were improper and illegal after that date. *See* Tenn. Code. Ann § 46-1-103, and Verified Petition for the Appointment of the Commissioner as Receiver for Galilee Memorial Gardens and for Temporary and Permanent Injunctive Relief. The funeral home defendants also knew or reasonably should have known that the individual who held the

Galilee license had died months before the license expired, and in the exercise of reasonable and ordinary care for their profession, should have inquired as to Galilee's authority to conduct business and its licensing status once the license-holder passed away.

103. The funeral home defendants contracted and charged for burial services and then, in violation of their contractual and legal duty, abandoned the remains at Galilee, negligently and recklessly failed to supervise the burials and, instead, allowed unlicensed agents and/or employees of Galilee to perform the burials and unlawful acts alleged in this complaint. Furthermore, these defendants allowed agents and/or employees of Galilee to perform tasks and duties legally entrusted exclusively to licensed funeral directors. Galilee did not have an agent and/or employee who was a licensed funeral director at any time relevant to the claims alleged.

104. Tennessee law and the standards of conduct for funeral directors required each funeral director in charge of the funeral for each class member personally to ensure that the burial of the deceased was accomplished in a proper fashion. By ignoring Tennessee law and their professional responsibilities, they allowed Galilee's unlawful and reprehensible practices to become routine. In breaching the contractual and solemn duties the funeral home defendants owed, these defendants also injured multiple parties not in privity with them by allowing Galilee to unlawfully disturb the graves and the remains of other decedents who had been buried at Galilee before and after December 31, 2010.

105. Had a licensed funeral director actually supervised the burials at Galilee, as was required by law, the unlawful mishandling and desecration of these remains would never have occurred. Galilee's unlawful business practices included stacking multiple, unrelated bodies in the same grave, removing caskets and bodies from graves and crushing them, losing bodies, illegally removing bodies from purchased burial plots, burying individuals in plots previously purchased by other families specifically for family members to be laid to rest next to their loved ones and spouses, and illegally

trespassing on neighboring land for purposes of burial.

106. Every funeral home and funeral director that did business with Galilee had a legal, non-delegable duty to ensure the burial of the decedents' remains was accomplished through a licensed and qualified (competent) facility. Each defendant further had a contractual and legal responsibility to investigate with due diligence to determine that the cemetery to which they were bringing remains for burial services was licensed and operating within the bounds of the law.

107. In gross and unconscionable dereliction of their contractual, moral, ethical and legal duties, the defendants uniformly failed to investigate the practices of Galilee, willfully ignored open and obvious conditions at the cemetery that should have been reported to the proper authorities, failed to ensure that the contracted for services were being provided and, perhaps most critically, failed to supervise the actual burials for which they were exclusively responsible.

108. Moreover, the funeral home defendants failed to inform The Families and the class members that their loved ones' remains would be taken for burial to an uncertified Tennessee cemetery, that the funeral home defendants' sacred, legal and contractual duties for the proper and respectful disposition of remains would be handed over to an unlicensed and unqualified cemetery in violation of Tennessee law, and that the funeral director defendants would abandon the remains at Galilee with no investigation whatsoever of its practices, no care or effort to ensure the remains were treated with respect and in accordance with the law and no thought for the ultimate treatment and disposition of the remains.

109. The failure of each of the funeral home defendants to discharge the duty of special care to ensure that the remains entrusted to their care were handled and laid to rest respectfully and lawfully contributed to and caused harm to The Families and the class as a whole. Had any one of the defendant funeral homes inspected, supervised or monitored Galilee's practices, as this special duty requires, Galilee's practices would have been discovered and stopped before widespread injury took place.



Because each of the funeral home defendants failed to meet its duty, Galilee was able to continue, undiscovered, its practice of mishandling, commingling and desecrating the remains of the loved ones of family after family. Through the defendants' knowing, reckless, or negligent failure to discover and disclose the true nature of the practices, and procedures utilized at Galilee, each defendant contributed to and caused harm to every member of the class by enabling and facilitating the mishandling, commingling and desecration of the decedents' remains.

110. Furthermore, at all material times, Galilee was the agent, ostensible agent, servant, employee, representative, joint venturer, and associate of the funeral home defendants in effectuating the respectful and lawful disposition of the remains that are the subject matter of this action. At all material times, Galilee was acting within the course and scope of that authority and with the knowledge, authorization, consent, permission or ratification of each of the other defendants. The funeral home defendants owed a non-delegable contractual duty to The Families and to the class members to ensure that the remains of their loved one were respectfully laid to rest, in accordance with all legal obligations. The funeral homes breached that duty and thus are vicariously liable for the actions of Galilee, regardless of whether Galilee was an agent of defendants or an independent contractor.

111. Because of the nature of the conduct alleged herein, this is an appropriate case to pierce the corporate veil or hold the parent and affiliate corporations of all defendants liable under theories of alter-ego, domination, control, agency by estoppel, misrepresentation and unconscionability.

112. The Families are now informed and believe, and thereon allege, that their decedents were subjected to the unlawful and improper practices of Galilee. Their loved ones' remains were not laid to rest with dignity and respect or in accordance with their wishes or the law. Instead, their remains were subjected by the defendants to mishandling, abuse, misplacement, and desecration. The families have been and continue to be deprived of any closure and a final resting place for their loved

ones.

113. Perhaps more horrifying to The Families and the class members is the knowledge that, because the defendants exercised complete control over the remains of the decedents and due to the defendants' improper and unlawful desecration of the remains, including the efforts to conceal the bad acts, many families whose loved ones were abandoned at Galilee by the funeral home defendants may never know the final resting place of their loved ones and will never know to what treatment their loved ones' remains were subjected.

114. Moreover, as a proximate result of (a) the representations of defendants that the decedents' remains would be and had been handled and laid to rest in the lawfully authorized and requested manner, with dignity and respect; (b) the defendants' possession and control of the decedents' remains, and complete control over the manner of treatment of these remains; and (c) the concealment by the defendants of the mistreatment, mishandling, and desecration of the remains, The Families and class members did not discover that their decedents' remains were subjected to the defendants' misconduct until within one year preceding the filing of this complaint.

#### COUNT 1: BREACH OF CONTRACT

115. The allegations contained in the preceding paragraphs are incorporated as if fully set forth herein.

116. The Families and the class members and/or their decedents entered into written or oral contracts with the funeral home defendants and with the Galilee defendants to obtain and ensure the disposition of the decedents' remains in an individual, dignified, respectful and lawful manner. The expectations of The Families and the class members, as reasonable persons, were that these contracts, expressly or by reasonable implication, assured the legal, dignified and respectful disposition of their decedents' remains.

117. The defendants have copies of all written contracts with The Families and the class

members.

118. These contracts uniformly omitted material information regarding Galilee's actual practices, Galilee's unlicensed status, and the funeral home defendants' failure to carry out their duties including to ensure the burial was proper and lawful, and to inspect, monitor or supervise Galilee's laying to rest of the decedents' remains.

119. The Families and the class members were the natural and intended beneficiaries of those written and oral contracts.

120. The Families and the class members and/or their decedents performed all promises, covenants and conditions required on their part to be performed pursuant to the contracts and have fully paid the agreed-upon price for the defendants' services.

121. The funeral home defendants and the Galilee defendants breached their contracts with The Families and the class members by improperly handling or causing or allowing the improper handling of the decedent's remains, by failing to supervise and ensure proper, respectful burials, and by failing to disclose the true nature of Galilee's practices and conduct and their own lack of care, concern or investigation of what would befall the remains at Galilee.

122. As a direct and proximate cause of the defendants' breaches of their contractual agreements, The Families and the class members have suffered damages and losses including (a) the amounts they previously paid the defendants for funeral directing and burial services, and (b) the amounts that The Families and class members have incurred and will incur in attempting to recover, identify and respectfully lay their loved ones' remains to rest.

#### COUNT II: EQUITABLE (INJUNCTIVE AND/OR DECLARATORY) RELIEF

123. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

124. The remains of the decedents were improperly and unlawfully handled while in the

defendants' exclusive possession and control, without the authorization, knowledge, permission, consent or ratification of The Families or the class members. The decedents' remains were not afforded individual, respectful and dignified disposition and were, instead, mishandled, abused and desecrated.

125. The Families and the class members are charged by law, by their own perceived moral obligations and ethical duties and by natural sentiments to accomplish the disposition of their decedents' remains as requested by the decedents, as set forth in the funeral services contracts with the defendants, and in keeping with public sensibilities and the law.

126. No adequate remedy at law exists to address the desecration of the decedents' remains and, due to the defendants' actions, there may be no way to undo the injustices that have been done. Worse, many family members who entrusted their departed loved ones to the defendants many never be able to learn the true fate of their loved ones' remains.

127. Accordingly, The Families, on behalf of themselves and the class, request the following equitable relief:

- (a) A judicial determination and declaration of the rights of Families and the class and the responsibilities of the defendants with respect to the remains that are the subject of this action;
- (b) That the defendants disclose to The Families and the class, insofar as is possible, the whereabouts of the desecrated remains so that The Families and the class may carry out the dignified and respectful disposition of same;
- (c) That the property upon which the remains were desecrated and interred be held in trust for the benefit of the class pending the ultimate disposition by the Court;
- (d) That the defendants be enjoined to cease and desist all mishandling, and desecration of human remains; and
- (e) That the defendants be determined and declared to be financially responsible for the costs and expenses of accomplishing any and all dignified and respectful disposition of the decedents' remains as may be possible.

### COUNT III: BREACH OF FIDUCIARY DUTY

128. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

129. The funeral home defendants sought and undertook a position of special trust and confidence with the Families and the class members. The funeral home defendants undertook and assumed responsibility for the funeral, disposition and burial services for The Families and the class. The Families and the class members placed special trust and confidence in the funeral home defendants for these services.

130. Thus, the funeral home defendants had fiduciary relationships with The Families and the class members.

131. The funeral home defendants were under a duty to exercise good faith and due diligence, and to act with due regard for the interests of The Families and the class in effectuating the proper, lawful, dignified laying to rest of the remains of their loved ones.

132. The funeral home defendants breached their fiduciary duties to The Families and the class as described herein including by mishandling the decedents' remains, and causing, contributing to, or aiding and abetting Galilee's mishandling by knowingly failing to supervise, monitor and assure the final laying to rest of the decedents' remains, and by failing to assure that Galilee's operations were conducted properly, respectfully, and in accordance with all applicable law and regulations.

133. As a direct and proximate result of the defendants' breach of fiduciary duty, The Families and the class have suffered and continue to suffer injury and damages.

COUNT IV: RECKLESS AND NEGLIGENT  
MISHANDLING OF REMAINS

134. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

135. The Families and the class, as the decedents' next of kin, had or have a personal quasi-

property right to control the disposition of the remains of their loved ones.

136. The Families and the class expressed their wishes to the defendants regarding the manner in which the remains were to be handled.

137. The defendants had the opportunity to comply with The Families' and the class member's expressed wishes.

138. The defendants, however, recklessly and negligently mishandled the decedents' remains, and/or caused, contributed to, or aided and abetted Galilee's mishandling by knowingly failing to supervise, monitor and assure the final laying to rest of the decedents' remains, and by failing to assure that Galilee's operations were conducted properly, respectfully, and in accordance with all applicable law and regulations. The defendants' conduct was accomplished through a common course and practice of improper handling of remains, resulting from the defendants' own recklessness, negligence, and reckless and negligent entrustment of the decedents' remains to persons who lacked the qualifications, training, sensitivity, experience and integrity required to handle the remains properly and by the defendants' reckless and negligent failure to control, supervise and investigate the actions of such persons and entities.

139. Through this conduct, the defendants interfered with the rights and responsibilities of The Families and the class to effect the proper disposition of the remains with utmost dignity, in accordance with the law and their wishes, requests and beliefs.

140. The defendants' mishandling of the remains and their interference with the rights of The Families and the class precluded The Families and the class from exercising their rights and performing their responsibilities of appropriately disposing of the remains of their decedents.

141. As a direct, known, foreseeable and proximate result of the reckless and negligent mishandling of the remains by the defendants, The Families and the class have suffered and continue to suffer injury and damages.

COUNT V. NEGLIGENCE AND  
RECKLESS AND NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

142. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the proceeding paragraphs and further allege:

143. At all material times, the defendants owed a duty to The Families and the class to act with the ordinary care of a reasonable professional in the field with respect to all aspects of the services promised including, but not limited to, all phases of the disposition and burial process, including but not limited to the hiring, retention, training and supervision of all agents, employees and representatives of the defendants, the management and administration of the services and transaction, the association with other persons and entities to accomplish the performance of such services, the performance of and supervision and assurance of the individual, proper and respectful performance of all steps of the disposition and burial process, and the ascertainment that all such services were being fully and properly undertaken and performed.

144. The defendants negligently and recklessly failed to discharge these duties.

145. The defendants further negligently and recklessly violated the statutes set forth above, thus invoking the doctrine of negligence *per se*.

146. As a proximate cause of the defendants' recklessness and negligence, The Families and the class members have suffered damages, including but not limited to serious and severe mental injuries and emotional distress that no reasonable person could be expected to endure or adequately cope with.

COUNT VI: UNJUST ENRICHMENT

147. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

148. The Families and the class members conferred a benefit upon the defendants, which the

defendants received. Specifically The Families and the class members made payments for funeral directing services for the proper, respectful disposition and burial of their decedents' remains.

149. The defendants have been and will continue to be unjustly enriched at the expense of The Families and the members of the class by accepting payments from The Families and the class for services which they not only failed to render as promised but which were provided in a completely inappropriate, unauthorized, unlawful and egregious manner.

150. It would be inequitable to permit the defendants to retain the benefits they have wrongfully gained through these actions, which they accordingly hold in constructive trust for, and must be ordered to restore to, The Families and the class.

#### COUNT VII: PUNITIVE DAMAGES

151. The Families, on behalf of themselves and the class, re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

152. In mishandling or causing or contributing to the mishandling of the remains of the decedents, the defendants acted intentionally, fraudulently, maliciously, or recklessly, and in conscious disregard of the rights of The Families and the class.

153. The Families and the class are, therefore, entitled to punitive damages from the defendants in such amount as shall be necessary and appropriate to punish the defendants and to deter them and anyone else from ever committing similar indecencies upon human remains.

#### COUNT VIII: VIOLATION OF THE TENNESSEE CONSUMER PROTECTION ACT (ASSERTED SOLELY IN THE EVENT CLASS CERTIFICATION IS DENIED)

154. The Families re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the preceding paragraphs and further allege:

155. In addition to the above claims, in the event this Court does not grant class action certification, The Families individually assert claims against the defendants under the Tennessee



Consumer Protection Act.

156. The defendants' conduct was unfair and/or deceptive as defined in Tenn. Code. Ann §47-18-104. The defendants deceptively represented that they would perform their sacred and contractual duties with the legally and ethically required care to ensure that the decedents' remains would be treated with dignity and respect and would be laid to rest appropriately under the standards of human decency and the law.

157. To the contrary, the defendants abandoned the remains at an unlicensed, unsupervised, illegal operation, without a care, thought or provision for the ultimate fate of the remains.

158. The defendants' deceptive practices are all the more egregious under the circumstances, given the emotional vulnerability of The Families when they were contracting with the defendants, and the fact that The Families were required to entrust the remains of their loved ones entirely to the defendants to perform the disposition services. The funeral home defendants, in fact, are well aware of and specifically trained in the vulnerability and fragility of those grieving the recent loss of a loved one.

159. The defendants' unfair and/or deceptive practices were knowing and willful. Contrary to their representations about the seriousness and professionalism with which they would provide their services, the defendants knew – unlike The Families – either that Galilee was unlicensed or knew that they, the defendants, had not made any reasonable inquiry into Galilee's status. The defendants further knew that they would not supervise the burial, nor would they ensure that the decedent's remains were treated lawfully and respectfully and were laid to rest appropriately. The defendants – unlike The Families – also knew that they would abandon the remains at Galilee without another thought or care for how the remains were treated or laid to rest.

160. As a direct and proximate result of the defendants' unfair and/or deceptive practices, The Families suffered an ascertainable loss of money as well as interference with their quasi-property right in the remains of their loved ones for the purpose of final disposition of the remains.

DEMAND FOR JURY TRIAL

161. A jury trial is demanded.

PRAYER FOR RELIEF

WHEREFORE, The Families, individually and on behalf of the class, request the following relief:

- (a) Certification of this action as a class action, appointment of The Families as class representatives and undersigned counsel as class counsel, and designation of any appropriate subclasses, for any or all claims and issues, under the applicable class action provisions;
- (b) An award of equitable, injunctive and declaratory relief described herein, including judicial supervision of the Galilee property and a judicial determination of the rights and responsibilities of the parties regarding the remains that are the subject to this action;
- (c) An award of compensatory damages in an amount deemed appropriate by the trier of fact, jointly and severally against the defendants;
- (d) An award of punitive damages, jointly and severally against the defendants;
- (e) The establishment of a constructive trust upon the defendants' property, revenues and/or profits for the benefit of the class and disgorgement and restitution of the past revenues and/or profits to the class;
- (f) In the event a class is not certified, an award to The Families, individually, of all recoverable damages under the Tennessee Consumer Protection Act, including treble damages, attorneys' fees and costs;
- (g) An award of prejudgment and post-judgment interest;
- (h) An award of costs, including but not limited to discretionary costs, attorneys' fees and expenses incurred in pursuing this case;
- (i) Any other and further equitable relief this Court deems just and proper; and
- (j) Any other and further relief to which they may be entitled at law or in equity.

Respectfully Submitted,

/s/Kathryn E. Barnett

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been sent via U.S. Mail, postage prepaid, to the following:

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