

IN THE STATE COURT OF WALKER COUNTY
STATE OF GEORGIA

DIANE BALLEW,
MARIE DENHAM,
LORENZO ERVIN,
CHRISTY HAMES,
DELORIS HEADRICK,
RENEE SANCHEZ,
JAMES HOOVER,
MARGUERITE MINGER,
KRISTINE LOWRANCE,
FREDRICK MINGER,
KATHRYN MINGER,
MELANIE STEINBERG,
MARK MINGER,
MARY MURPHY,
TERRY MURPHY,
SHANNON NICHOLS,
STACY BETHEL,
MARLENE PETREE,
VICKIE SEGREST,
AMY STANTON,
MARY ELIZABETH SCHWARTZ,
VANCE STINNETT,
JOYCE STINNETT,
JANE ZISA,
SYLVIA WARREN,
MARJORIE DAELKE,
LAVONDA RIDLEY,
CRYSTAL TAYLOR,
MARIAN WILLIAMS,
MARCIA JENISON,
MARK JENISON,
SCOTT JENISON,
LISA JENISON,
MARSHALL WILSON,
DAPHNE MOORE,
DAWN WOOD,
NATHANIEL STITES,
LOUIS E. HUNZIKER, JR.,
PEGGY PRICE,
HAILEY KUHN,
MARK COLLINS,
CHARLES COLLINS,
DENNIE COLLINS,
RACHAEL MURPHY,

Civil Action No. _____
JURY DEMAND

**COMPLAINT FOR DAMAGES
(CAPTION CONTINUED ON NEXT PAGE)**

RACHEL RICHARDS,
TIMMY RYMER,
EDDIE RYMER,
JAMES SHIRLEY,
TOM SZABO,
ROBERT GOLDIZEN,
RICHARD GOLDIZEN,
MICHAEL BELL,
THOMAS CONYERS,
BARBARA WILSON,
and WILLIAM F. REYNOLDS on behalf of
themselves and others similarly situated,

Individual and Representative
Plaintiffs,

v.

TRI-STATE CREMATORY, INC.,
T. RAY BRENT MARSH,
CLARA C. MARSH,
RHAMES L. MARSH,
TOMMY RAY MARSH,
PRIME SUCCESSION, INC.,
PRIME SUCCESSION HOLDING, INC.
PRIME SUCCESSION OF TENNESSEE,
INC.,
BUCKNER-RUSH, ENTERPRISES, INC.,
SERVICE CORPORATION
INTERNATIONAL,
SCI TENNESSEE FUNERAL SERVICES,
INC. d/b/a CHATTANOOGA FUNERAL
HOME-WEST CHAPEL,
SCI TENNESSEE FUNERAL SERVICES,
INC. d/b/a CHATTANOOGA FUNERAL
HOME-EAST CHAPEL,
SCI TENNESSEE FUNERAL SERVICES,
INC. d/b/a CHATTANOOGA FUNERAL
HOME-NORTH CHAPEL,
SCI TENNESSEE FUNERAL SERVICES,
INC. d/b/a CHATTANOOGA FUNERAL
HOME-VALLEY VIEW CHAPEL,
SCI TENNESSEE FUNERAL SERVICES
f/d/b/a HOOPER FUNERAL HOMES, INC.,
SCI TENNESSEE FUNERAL SERVICES,
INC. d/b/a FIKE FUNERAL HOME,
KERBY FUNERAL HOME, LLC,
SCI IOWA FUNERAL SERVICES, INC.,
SCI GEORGIA FUNERAL SERVICES
INC. d/b/a PARNICK JENNINGS
FUNERAL HOME,

**COMPLAINT FOR DAMAGES
(CAPTION CONTINUED ON NEXT PAGE)**

SCI GEORGIA FUNERAL SERVICES
INC., d/b/a JENNINGS HERITAGE
CHAPEL FUNERAL HOME,
SCI GEORGIA FUNERAL SERVICES
INC., d/b/a JENNINGS FUNERAL HOME,
SCI GEORGIA FUNERAL SERVICES, INC.,
d/b/a J.D. HILL FUNERAL HOME,
SCI GEORGIA FUNERAL SERVICES
INC., f/d/b/a KENEMER BROTHERS
FUNERAL HOME,
SCI GEORGIA FUNERAL SERVICES, INC.,
f/d/b/a J. AVERY BRYAN OF
CHICKAMAUGA,
SCI GEORGIA FUNERAL SERVICES, INC.,
f/d/b/a ERWIN PETTIT FUNERAL HOME,
SCI GEORGIA FUNERAL SERVICES, INC.,
f/d/b/a WALLIS STEWART FUNERAL
HOME,
WLWGEN PROPERTIES, LLC d/b/a
J.AVERY BRYAN OF CHICKAMAUGA,
WLWGEN PROPERTIES, LLC d/b/a
ERWIN PETTIT FUNERAL HOME,
WLWGEN PROPERTIES, LLC d/b/a
WALLIS STEWART FUNERAL HOME,
CARRIAGE SERVICES, INC.,
WALLIS-WILBANKS FUNERAL
HOME, LLC,
BURT FUNERAL HOME, INC.,
EWTON FUNERAL HOME, INC.,
FRANKLIN-STRICKLAND FUNERAL
HOME, INC.,
JESSE JONES FUNERAL HOME, INC.,
SCI ALABAMA FUNERAL SERVICES,
INC., f/d/b/a KERBY FUNERAL HOME,
KERBY FUNERAL HOME, INC.,
LAYNE FUNERAL HOME. INC.,
PUTNAM FUNERAL HOME, INC., (THE)
SEQUATCHIE VALLEY MEMORIAL
FUNERAL HOME & GARDENS, INC.,
J. AVERY BRYAN FUNERAL HOME, INC.,
TAYLOR FUNERAL HOME OF
CHATTANOOGA, INCORPORATED,
HOOPER FUNERAL HOMES, INC.,
WANN FUNERAL HOME, INC.,
LOVE FUNERAL HOME, INC.,
R.D. MOORE FUNERAL HOME, INC.,
WILLIS FUNERAL HOME, INC.,
W.L. WILSON & SONS, INC.,
WILSON FUNERAL HOME WALLIS

**COMPLAINT FOR DAMAGES
(CAPTION CONTINUED ON NEXT PAGE)**

STEWART CHAPEL, LLC,
ECI SERVICES OF GEORGIA, INC., f/d/b/a
RYAN FUNERAL HOME,
RYAN FUNERAL HOME, LLC,
GILMORE FUNERAL HOME, LLC,
VANDERWALL FUNERAL HOME, INC.,
TURNER FUNERAL HOME, INC.,
PIKEVILLE FUNERAL HOME, INC. (THE)
COVENANT FUNERAL SERVICE,
PATTON'S FUNERAL HOME,
PINKARD & MEE FUNERAL SERVICE
INC.,
JULIAN PEEPLES FUNERAL HOME,
PEEPLES FUNERAL HOME,
R. DUDLEY BARTON & SON
FUNERAL HOME, INC.,
PONDERS FUNERAL HOME, INC.,
PONDERS FUNERAL HOME
CALHOUN CHAPEL INC.,
THOMAS AND SON FUNERAL HOME,
INC.,
WILSON FUNERAL HOME
LAFAYETTE CHAPEL LLC,
WILSON FUNERAL HOME,
J. AVERY BRYAN CHAPEL LLC,
CAGLE FUNERAL HOME, INC.,
MAX BRANNON & SONS FUNERAL
HOME, INC.
FAMILY MORTUARY, INC.,
CUMBERLAND FUNERAL SERVICES,
INCORPORATED,
CUMBERLAND FUNERAL HOME,
CUMBERLAND FUNERAL HOME
TRACY CITY,
HARDWICK & SONS FUNERAL
HOME, INC.,
ROGERS FUNERAL SECURITIES, INC.,
PERRY FUNERAL HOME, INC.,
FOSTER & LAY FUNERAL HOME,
MEMORIAL MORTUARY,
HOUSE OF OVERSTREET
MORTUARY, INC.
HAY-GANTT FUNERAL HOME, INC.
and DOES 1 through 100, inclusive,

Defendants.

COMPLAINT FOR DAMAGES

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The plaintiffs allege as follows:

INTRODUCTION

1. This complaint arises from the macabre mishandling, abuse and desecration of the bodies of the deceased loved ones of hundreds of citizens of Tennessee, Georgia, Alabama and other states. The remains of the plaintiffs' decedents came to this disrespectful and undignified end because the defendant funeral homes, whom the decedents' family members entrusted with the duty of properly and respectfully handling their loved ones' remains, chose to hire and failed to monitor or supervise, Defendant Tri-State Crematory, Inc. (hereinafter "Tri-State"), an unlicensed crematory in Noble, Georgia. Upon information and belief, Tri-State had been the subject of complaints and investigations regarding its cremation practices since at least the early 1990s.

2. Rather than appropriately discharging the solemn duties entrusted to the funeral homes by the grieving families, Defendant Tri-State Crematory strewed the cremated and uncremated remains of countless decedents in wooded areas and in rudimentary mass graves in violation of all applicable laws and in violation of basic human decency.

3. This defendants in this action include the unlicensed crematory, Tri-State, and the funeral companies, including the parent and affiliate entities of these funeral companies, that contracted with and delivered bodies to Tri-State to cut costs and then turned a knowing blind eye to its practices. The suit seeks damages on behalf of the plaintiffs and, in the Court's discretion, unitary adjudication of the common claims at issue of the families of all decedents

whose remains were consigned to Tri-State. The suit alleges breach of contract, breach of the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, negligent misrepresentation, negligence, intentional mishandling of a corpse, negligent mishandling of a corpse, intentional infliction of emotional distress, negligent infliction of emotional distress and unjust enrichment.

PARTIES

4. Plaintiff Diane Ballew is a citizen and resident of Saugus, Los Angeles, County, California. She is the daughter of James Wilburn Ballew, who died on December 8, 1993.

5. Plaintiff Marie Presley Denham is a citizen and resident of Harrison, Hamilton County, Tennessee. She is the daughter of Rosa Presley, who died in August 1994.

6. Plaintiff Lorenzo Edward Ervin, Jr., is a citizen and resident of Kalamazoo, Kalamazoo County, Michigan. He is the son of Minnie Lou Ervin and Lorenzo Ervin, Sr. Minnie Lou Ervin died on March 14, 2001. Lorenzo Ervin, Sr., died on July 11, 1998.

7. Plaintiff Christy Hames is a citizen and resident of Smyrna, Cobb County, Georgia. She is the daughter of Edwina Louise Fisher, who died on February 9, 1990.

8. Plaintiff Deloris Marlene Headrick is a citizen and resident of Winston, Douglas County, Georgia. She is the daughter of Doris Mozelle Lanier, who died on August 13, 1996.

9. Plaintiff Renee Sanchez is a citizen and resident of Tyrone, Fayette County, Georgia. She is the daughter of Doris Mozelle Lanier, who died on August 13, 1996.

10. Plaintiff James Hoover is a citizen and resident of Cleveland, Bradley County, Tennessee. He is the widower of Christine Hoover, who died on January 10, 1997.

11. Plaintiff Marguerite Minger is a citizen and resident of Manchester, Coffee County, Tennessee. She is the widow of Fredrick H. Minger, who died on April 3, 1992. Plaintiff Kristine Lowrance, the daughter of Fredrick Minger, is a citizen and resident of Tullahoma, Coffee County, Tennessee. Plaintiff Fredrick Minger, the son of Fredrick Minger, is a citizen and resident of Baltimore, Baltimore County, Maryland. Plaintiff Kathryn Minger, the daughter of Frederick Minger, is a citizen and resident of Murfreesboro, Rutherford County, Tennessee. Plaintiff Melanie Steinberg, the daughter of Fredrick Minger, is a citizen and resident of Purcellville, Loudoun County, Virginia. Plaintiff Mark Minger, the son of Fredrick Minger, is a citizen and resident of Manchester, Coffee County, Tennessee.

12. Plaintiff Mary Murphy is a citizen and resident of Cleveland, Bradley County, Tennessee. She is the daughter of Elizabeth Devore, who died on February 9, 2000. Plaintiff Terry Murphy the grandson of Elizabeth Devore is a citizen and resident of Cleveland, Bradley County, Tennessee.

13. Plaintiff Shannon Nichols is a citizen and resident of Rome, Floyd County, Georgia. She is the granddaughter of Louise Dean Whitener, who died on January 11, 1994. Plaintiff Stacy Bethel, the granddaughter of Louise Dean Whitener is a citizen and resident of Reynoldsburg, Franklin County, Ohio.

14. Plaintiff Marlene Petree is a citizen and resident of Memphis, Shelby County, Tennessee. She is the daughter of Bessie Stanley, who died on April 6, 1995.

15. Plaintiff Vickie Segrest is a citizen and resident of Armuchee, Floyd County, Georgia. She is the daughter of William Onis Pierce, who died on April 18, 2000.

16. Plaintiff Amy L. Stanton is a citizen and resident of Salem, Marion County, Oregon. She is the daughter of David L. Schwartz, who died on January 5, 1998. Plaintiff Mary Elizabeth Schwartz, the widow of David Schwartz, is a citizen and resident of Salem, Marion County, Oregon

17. Plaintiff Vance Stinnett is a citizen and resident of Gurley, Madison County, Alabama. He is the father of Michael Dewayne Stinnett, who died on January 22, 1994.

18. Plaintiff Joyce Stinnett is a citizen and resident of Cleveland, Bradley County, Tennessee. She is the mother of Michael Dewayne Stinnett, who died on January, 22, 1994.

19. Plaintiff Jane Zisa is a citizen and resident of Strasburg, Shenandoah County, Virginia. She is the sister of Eloise Marie Haddock Cartwright, who died on June 22, 1996.

20. Plaintiff Sylvia Warren is a citizen and resident of Barnegat, Ocean County, New Jersey. She is the sister of Eloise Marie Haddock Cartwright, who died on June 22, 1996.

21. Plaintiff Marjorie Daelke is a citizen and resident of Barnegat, Ocean County, New Jersey. She is the sister of Eloise Marie Haddock Cartwright, who died on June 22, 1996.

22. Plaintiff LaVonda Ridley is a citizen and resident of Crandall, Murray County, Georgia. She is the daughter of Peggy Pate, who died on or around July 15, 2001, and Hiram Pate, who died December 27, 1995.

23. Plaintiff Crystal Taylor is a citizen and resident of Dalton, Whitfield County, Georgia. She is the daughter of Janna S. Taylor, who died on March 30, 2001. Plaintiff Marian Williams is also a citizen and resident of Dalton, Whitfield County, Georgia. She is the mother of Janna S. Taylor.

24. Plaintiff Marcia Jenison is a citizen and resident of Chattanooga, Hamilton County, Tennessee. She is the daughter of Gertrude Matteson, who died on November 8, 1997. Plaintiff Lisa Jenison, the granddaughter of Gertrude Matteson, is a citizen and resident of Chattanooga, Hamilton County, Tennessee. Plaintiff Mark Jenison, the grandson of Gertrude Matteson, is a citizen and resident of Virginia Beach, Princess Anne County, Virginia. Plaintiff Scott Jenison, the grandson of Gertrude Matteson, is a citizen and resident of Chattanooga, Hamilton County, Tennessee.

25. Plaintiff Marshall Wilson is a citizen and resident of Chattanooga, Hamilton County, Tennessee. He is the brother of Patrick Joseph Wilson, Sr., who died on January 15, 2002.

26. Plaintiff Daphne Moore is a citizen and resident of Macon, Bibb County, Georgia. She is the daughter of Kirby Price Moore, who died on December 22, 1998.

27. Plaintiff Dawn Wood is a citizen and resident of Lizella, Bibb County, Georgia. She is the daughter of Kirby Price Moore, who died on December 22 1998.

28. Plaintiff Nathaniel Stites is a citizen and resident of Chickamauga, Walker County, Georgia. He is the widower of Linda Stites, who died on June 6, 1995.

29. Plaintiff Louis Edward Hunziker, Jr., is a citizen and resident of Temple Terrace, Hillsborough County, Florida. He is the son of Louis Edward Hunziker, Sr., who died on June 16, 2000. Plaintiff Peggy Price, the daughter of Louis Edward Hunziker, Sr., is a citizen and resident of Tracy City, Grundy County, Tennessee.

30. Plaintiff Hailey Kuhn is a citizen and resident of Lake Station, Lake County, Indiana. She is the sister of Clarence Monroe Collins, who died on March 1, 1998. Plaintiff Mark Collins, the son of Clarence Collins, is a citizen and resident of Valparaiso, Porter County, Indiana. Plaintiff Charles James Collins, the brother of Clarence Collins, is a citizen and resident of Oldfort, Polk County, Tennessee. Plaintiff Dennie Collins, the niece of Clarence is a citizen and resident of Oldfort, Polk County, Tennessee.

31. Plaintiff Rachael Murphy is a citizen and resident of Cleveland, Bradley County, Tennessee. She is the granddaughter of Virginia Edith Hugenberger, who died on January 18, 2002.

32. Plaintiff Rachael Richards is a citizen and resident of Wilmington, New Hanover County, North Carolina. She is the sister of Jacob Richards and the niece of Tida Landry. Jacob Richards died on April 15, 1996. Tida Landry died in 1998.

33. Plaintiff James Shirley is a citizen and resident of Omaha, Douglas County, Nebraska. He is the son of Marie A. Shirley, who died on September 14, 2001.

34. Plaintiff Tom Szabo is a resident of Golden Beach, Dade County, Florida. He is the son of Irene Szabo, who died on January 8, 2001.

35. Plaintiff Timmy Rymer is a resident of Chatsworth, Murray County, Georgia. He is the son of J. W. Rymer, who died on October 15, 2000.

36. Plaintiff Eddie Rymer is a resident of Chatsworth, Murray County, Georgia. He is the son of J. W. Rymer, who died on October 15, 2000.

37. Plaintiff Robert Goldizen is a resident of Chattanooga, Hamilton County, Tennessee. He is the son of Robert Lake Hutton, who died on August 10, 1993.

38. Plaintiff Richard Goldizen is a resident of Plymouth, Hancock County, Illinois. He is the son of Robert Lake Hutton, who died on August 10, 1993.

39. Plaintiff Michael Bell is a resident of Monroe, Ouachita Parish, Louisiana. He is the son of Hester Louise Bell, who died on February 4, 1998.

40. Plaintiff Thomas Conyers is a resident of Cincinnati, Hamilton County, Ohio. He is the son of Thomas J. Conyers, who died on August 24, 2001.

41. Plaintiff Barbara Wilson is a resident of Chattanooga, Hamilton County, Tennessee. She is the sister of David Wilson, who died in July, 1997.

42. Plaintiff William F. Reynolds is a resident of Chattanooga, Hamilton County, Tennessee. He is the son of Ethel B. Reynolds who died on August 6, 1998 and Frederick Baxter Reynolds who died on September 30, 2001.

43. At all material times, the plaintiffs were and are persons who presently possess or who may subsequently acquire the right to the immediate custody and possession of the remains of their respective decedents; who were and are entrusted with the right to and responsibility of disposition of those remains and/or who were and are the persons who entered into written contracts with one or more of the defendants for disposition services, paid for such services and/or represent the estate of their decedents who entered into such written contracts and paid for such services.

44. Defendant Tri-State Crematory, Inc. (“Tri-State”) is a Georgia corporation with its principal place of business in Noble, Georgia. Tri-State may be served by service on its registered agent: Tommy R. Marsh, Rt. 4, Box 1170A, LaFayette, Georgia 30728.

45. Defendant T. Ray Brent Marsh is a natural person who is a resident of Walker County, Georgia. He can be served by service on McCracken K. Poston, Jr., Attorney at Law, 62 Nance Lane, Ringgold, GA 30736.

46. Defendant Tommy Ray Marsh is a natural person who is a resident of Walker County, Georgia. He can be served by serving a summons at Route 4, Box 1170A, LaFayette, Walker County, Georgia 30728.

47. Defendant Clara C. Marsh is a natural person who is a resident of Walker County, Georgia. She can be served by serving a summons at Route 4, Box 1170A, LaFayette, Walker County, Georgia 30728.

48. Defendant Rhames L. Marsh is a natural person who is a resident of Walker County, Georgia. She can be served by serving a summons at Route 4, Box 1170A, LaFayette, Walker County, Georgia 30728.

49. At all times material to this action, Defendants T. Ray Brent Marsh, Tommy Ray Marsh, Clara Marsh, and Rhames Marsh (collectively, the “Marsh defendants”) were officers, directors, agents, employees, and/or affiliates of Tri-State Crematory, Inc., and were acting within the course and scope of their authority.

50. At all times material to this action, the Marsh defendants and Defendant Tri-State were hired, engaged, and retained by the other defendants to effectuate, as its agent, ostensible agent, servant, employee, representative and associate, the process of cremating the remains of Rosa Presley. At all material times, Defendant Tri-State and the Marsh defendants were acting within the course and scope of that authority and with the knowledge, authorization, consent, permission or ratification of the defendants.

51. Defendant Prime Succession, Inc. is a Delaware corporation with its principal place of business at 3940 Olympic Blvd., Suite 500 Erlanger, Kentucky 41018. Defendant Prime Succession, Inc. owns, operates and controls, directly or through subsidiary corporations, Defendants Prime Succession Holdings, Inc, Defendant Prime Succession of Tennessee, Inc. and Buckner-Rush Enterprises, Inc.

52. Defendant Prime Succession Holdings, Inc. is a Delaware corporation with its principal place of business at 3940 Olympic Blvd., Suite 500, Erlanger, Kentucky 41018. It may be served through its agent: CT Corporation Systems, Kentucky Home Life Building, Louisville, Kentucky 40202.

53. Defendant Prime Succession of Tennessee, Inc. is a Delaware corporation with its principal place of business located at 3940 Olympic Blvd.; Suite 500, Erlanger, Kentucky 41018. It may be served with process through its registered agent C T Corp. System, 530 Gay Street, Knoxville, Tennessee 37902.

54. Defendant Buckner-Rush Enterprises, Inc. is a Tennessee Corporation with a place of business in Cleveland, Tennessee. Buckner-Rush Enterprises, Inc. may be served by service on its registered agent: CT Corporation System, 530 Gay Street, Knoxville, TN 37902.

55. Defendant Prime Succession, Inc. wholly-owns, controls, operates and uses its subsidiaries, Defendants Prime Succession Holdings, Inc. and Prime Succession of Tennessee, Inc. as alter-egos and mere instrumentalities (collectively, hereinafter, the “Prime Succession Defendants”). The Prime Succession Defendants wholly own, control and are the alter-egos of Defendant Buckner-Rush Enterprises, Inc., which they use as a mere instrumentality and alter-ego. Through this corporate arrangement, the Prime Succession Defendants have used Buckner-Rush Enterprises, Inc. as a sham, to defeat justice, to perpetrate fraud and/or to evade state, contractual and/or tort responsibility, including but not limited to, using Buckner-Rush Enterprises to contract with an unlicensed crematory in Georgia to avoid the requirements of Tennessee law that such services be performed only by licensed persons. Piercing the corporate

veils to hold these parent and affiliate corporations liable for the acts and omissions of their instrumentalities is necessary to accomplish justice.

56. Defendant Service Corporation International is a Texas Corporation with its principal place of business at 1929 Allen Parkway, Houston, TX 77019. Service Corporation International may be served through its agent: James M. Shelger, 1929 Allen Parkway, Houston, TX 77019.

57. Defendant Service Corporation International, owns, operates and controls, directly or through subsidiary corporations, Defendant SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-West Chapel, Defendant SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-East Chapel, Defendant SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-North Chapel, Defendant SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-Valley View Chapel, Defendant SCI Tennessee Funeral Services, Inc. f/d/b/a Hooper Funeral Homes, Inc., Defendant SCI Tennessee Funeral Services, Inc. d/b/a Fike Funeral Home, SCI Iowa Funeral Services, Inc., Defendant SCI Georgia Funeral Services, Inc. d/b/a J.D. Hill Funeral Home, Defendant SCI Georgia Funeral Services, Inc. d/b/a Parnick Jennings Funeral Home, Defendant SCI Georgia Funeral Services, Inc. d/b/a Jennings Heritage Chapel Funeral Home, Defendant SCI Georgia Funeral Services, Inc., f/d/b/a J. Avery Bryan of Chickamauga, Defendant SCI Georgia Funeral Services, Inc., f/d/b/a Erwin Pettit Funeral Home, Defendant SCI Georgia Funeral Services, Inc. f/d/b/a Wallis Stewart Funeral Home and Defendant SCI Georgia Funeral Services, Inc. f/d/b/a Kenemer Brothers Funeral Home.

58. Defendant SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-West Chapel, SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral

Home-East Chapel, SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-North Chapel, Defendant SCI Tennessee Funeral Services, Inc. d/b/a Chattanooga Funeral Home-Valley View Chapel, SCI Tennessee Funeral Services, Inc. f/d/b/a Hooper Funeral Homes, Inc and SCI Tennessee Funeral Services, Inc. d/b/a Fike Funeral Home, is a Tennessee Corporation with its principal place of business at 59 N. Jefferson, Cookeville, TN 38501. SCI Tennessee Funeral Services, Inc. may be served through its agent: The Prentice-Hall Corporation System Inc., 2908 Poston Avenue, Nashville, TN 37203.

59. Defendant Kerby Funeral Home LLC is an Alabama Limited Liability Corporation with its principal place of business in Albertville, Alabama. Kerby Funeral Home LLC, may be served through its agent: A.M. Brewer, 3364 Highway 205 N, Albertville, AL 35950.

60. Defendant Hooper Funeral Homes, Inc. is a Tennessee Corporation with its principal place of business in Whitwell, Tennessee. Hooper Funeral Homes, Inc. may be served through its agent: The Prentice-hall Corporation System, Inc., 2908 Poston Avenue, Nashville, TN 37203.

61. Defendant SCI Iowa Funeral Services, Inc., is an Iowa corporation with its principal place of business at 729 Insurance Exchange Building, Des Moines, Iowa, 50309. SCI Iowa Funeral Services, Inc., may be served through its registered agent: Prentice-Hall Corp. System, 729 Insurance Exchange Building, Des Moines, Iowa, 50309. Defendant SCI Georgia Funeral Services, Inc., is a Delaware corporation with its principal place of business at 4550 Peachtree Road, NE, Atlanta, Georgia, 30319. Defendant SCI Georgia Funeral Services, Inc. d/b/a Parnick Jennings Funeral Home, Defendant SCI Georgia Funeral Services, Inc. d/b/a

Jennings Heritage Chapel Funeral Home, Defendant SCI Georgia Funeral Home d/b/a Jennings Funeral Home and Defendant SCI Georgia Funeral Services, Inc. Defendant SCI Georgia Funeral Home d/b/a J.D. Hill Funeral Home, Defendant SCI Georgia Funeral Services, Inc., f/d/b/a J. Avery Bryan of Chickamauga, Defendant SCI Georgia Funeral Services, Inc., f/d/b/a Erwin Pettit Funeral Home, Defendant SCI Georgia Funeral Services, Inc. f/d/b/a Wallis Stewart Funeral Home, f/d/b/a Kenemer Brothers Funeral Home may be served through its registered agent: CSC of Gwinnett County, Inc., 4845 Jimmy Carter Boulevard, Norcross, Georgia, 30093.

62. Defendant Service Corporation International wholly-owns, controls and uses its subsidiaries identified above as alter-egos and mere instrumentalities. Through this corporate arrangement, Service Corporation International has used these subsidiaries as a sham, to defeat justice, to perpetrate fraud and/or to evade state, contractual and/or tort responsibility, including but not limited to, using the subsidiaries to contract with an unlicensed crematory in Georgia to avoid the requirements of Tennessee law that such services be performed only by licensed persons. Piercing the corporate veils to hold these parent and affiliate corporations liable for the acts and omissions of their instrumentalities is necessary to accomplish justice.

63. Defendant WLWGEN Properties, LLC owns, operates and controls, directly or through subsidiary corporations, J. Avery Bryan of Chickamauga, Erwin Pettit Funeral Home, Wallis Stewart Funeral Home. WLWGEN Properties, LLC may be served through its attorney of record: Robert M. Brinson, Brinson, Askew, Berry, Seigler, Richardson, & Davis, LLP, 615 West First Street, PO Box 5513, Rome, GA 30162-5513.

64. Defendant SCI Alabama Funeral Services, Inc. is a Alabama Corporation with its principal place of business in Birmingham, Alabama. Defendant SCI Alabama Funeral

Services, Inc. owned, operated and controlled, directly or through subsidiary corporations, Defendant Kerby Funeral Home. SCI Alabama Funeral Services, Inc. may be served through its agent: Prentice-Hall Corporation System, 150 S. Perry St. Montgomery, AL 36104.

65. Defendant ECI Services of Georgia, Inc. is a Delaware Corporation with its principal place of business in Houston, Texas. Defendant ECI Services of Georgia, Inc. owned, operated and controlled, directly or through subsidiary corporations, Defendant Ryan Funeral Home. ECI Services of Georgia, Inc. may be served through its agent: Corporation Service Company, 4845 Jimmy Carter Blvd., Norcross, GA 30093.

66. Defendant Carriage Services, Inc. is a Delaware Corporation with its principal place of business at 1900 Saint James Place, 4th Floor, Houston, Texas 77056. Defendant Carriage Services, Inc. owns, operates and controls, directly or through subsidiary corporations, Defendant Wallis-Wilbanks Funeral Home, LLC. Carriage Services, Inc. may be served through its agent: W. Christopher Schaeper, Two Allen Ctr. 1200 Smith Street, Suite 3600, Houston, TX 77002.

67. Defendant Carriage Funeral Holdings, Inc. is a Delaware Corporation. Carriage Funeral Holdings, Inc. may be served by service on its registered agent: CT Corporation System 530 Gay Street, Knoxville, TN 37902.

68. Defendant Wallis-Wilbanks Funeral Home, LLC is a Georgia Limited Liability Company with its principal place of business in Lafayette, Georgia. Wallis-Wilbanks Funeral Home, LLC may be served by service on its registered agent: CT Corporation System, 1201 Peachtree Street, NE, Atlanta, GA 30361.

69. Defendant Carriage Services, Inc. wholly-owns, controls and uses its subsidiary, Defendant Wallis-Wilbanks Funeral Home, LLC as an alter-ego and mere instrumentality. Through this corporate arrangement, Carriage Services, Inc. has used this subsidiary as a sham, to defeat justice, to perpetrate fraud and/or to evade state, contractual and/or tort responsibility, including but not limited to, using these subsidiaries to contract with an unlicensed crematory in Georgia to avoid the requirements of Tennessee law that such services be performed only by licensed persons. Piercing the corporate veil to hold these parent and affiliate corporations liable for the acts and omissions of their instrumentalities is necessary to accomplish justice.

70. Defendant Burt Funeral Home, Inc. is an Alabama Corporation with its principal place of business in Ft. Payne, Alabama. Burt Funeral Home, Inc. may be served by service on its registered agent: W.H. Borders, Jr., 207 Gault Ave. S., Fort Payne, AL 35967.

71. Defendant Ewton Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Dunlap, Tennessee. Ewton Funeral Home, Inc. may be served by service on its registered agent: L.T. Austin Cherry Street, Dunlap, TN 37327.

72. Defendant Franklin-Strickland Funeral Home, Inc. is a Tennessee Corporation with a business located in Chattanooga. Franklin-Strickland Funeral Home, Inc. may be served by service on its registered agent: William A. Carson II, Brinkley Plaza, 80 Monroe Ave, #700, Memphis, TN 38103.

73. Defendant J. Avery Bryan Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. J. Avery Bryan Funeral Home,

Inc. may be served by service on its registered agent: H. Wayne Grant, 9th Floor Republic Ctr., 633 Chestnut St., Chattanooga, TN 37450.

74. Defendant Kerby Funeral Home, Inc. is an Alabama Corporation with its principal place of business in Henagar, Alabama. Kerby Funeral Home, Inc. may be served by service on its registered agent: The Corporation Company, 2000 Interstate Park Dr. Ste 204, Montgomery, AL 36109.

75. Defendant Jesse Jones Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Tunnel Hill, Georgia. Jesse Jones Funeral Home, Inc. may be served through its agent: Jesse Jones P.O. Box 44, Chatsworth GA 30705.

76. Defendant Layne Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Palmer, Tennessee. Layne Funeral Home, Inc. may be served by service on its registered agent: Ben L. Hill, III, Number One Oak Ave., Jasper, TN 37347.

77. Defendant Putnam Funeral Home, Inc. (The) is a Tennessee Corporation doing business as Putnam Reed Funeral Home and Putnam-Standefor-Reed Funeral Home with business locations in Pikeville, Dunlap and Whitwell Tennessee. Putnam Funeral Home, Inc. (The) may be served by service on its registered agent: George H. Reed, P.O. Box 178, Old York Hwy., Pikeville, TN 37367.

78. Defendant Sequatchie Valley Memorial Funeral Home & Gardens, Inc. is a Tennessee Corporation with its principal place of business in Kimball, Tennessee. Sequatchie Valley Memorial Funeral Home & Gardens, Inc. may be served by service on its registered agent: Byron B. Boyd, 4630 Shallowford Rd., Chattanooga, TN 37421.

79. Defendant Taylor Funeral Home of Chattanooga, Incorporated is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. Taylor Funeral Home of Chattanooga, Incorporated may be served by service on its registered agent: John R. Taylor, Sr., 3417 Wilcox Blvd., Chattanooga, TN 37411.

80. Defendant Wann Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. Wann Funeral Home, Inc. may be served by service on its registered agent: Petty & Landis, P.C., 1 Union Square, 602 Krystal Bldg., Chattanooga, TN 37402.

81. Defendant Love Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Dalton, Georgia. Love Funeral Home, Inc. may be served by service on its registered agent: Charles E. Joyce, 1402 Chattanooga Road, Dalton, GA 30720.

82. Defendant R.D. Moore Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Trenton, Georgia. R.D. Moore Funeral Home, Inc. may be served by service on its registered agent: Larry Gene Moore, 11910 South Main, Trenton, GA. 30752.

83. Defendant Willis Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Dalton, Georgia. Willis Funeral Home, Inc. may be served by service on its registered agent: William J. Willis, Sr., 425 Fourth Ave., Dalton, GA 30721.

84. Defendant W.L. Wilson & Sons, Inc. is a Georgia Corporation with its principal place of business in Fort Oglethorpe, Georgia. W.L. Wilson & Sons, Inc. may be

served by service on its registered agent: Leroy W. Wilson, 555 West Cloud Springs Road, Ft. Oglethorpe, GA 30742.

85. Defendant Wilson Funeral Home Wallis Stewart Chapel, LLC is a Georgia Limited Liability Company with its principal place of business in Ft. Oglethorpe, Georgia. Wilson Funeral Home Wallis Stewart Chapel, LLC may be served by service on its registered agent: Leroy W. Wilson, 555 West Cloud Springs Road, Ft. Oglethorpe, GA 30742.

86. Defendant Ryan Funeral Home, LLC is a Georgia Limited Liability Company with its principal place of business in Trenton, Georgia. Ryan Funeral Home, LLC may be served at 11415 Hwy 11 South, P.O. Box 506, Trenton, GA 07520.

87. Defendant Gilmore Funeral Home, L.L.C. is a Tennessee Limited Liability Company with its principal place of business in Manchester, Tennessee. Gilmore Funeral Home, L.L.C. may be served by service on its registered agent: Gilmore Funeral Home LLC, 1600 McArthur Dr., Manchester, TN 37355.

88. Defendant Vanderwall Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Dayton, Tennessee. Vanderwall Funeral Home, Inc. may be served by service on its registered agent: Thomas Vanderwall US Highway 27 Bypass, Dayton, TN 37321.

89. Defendant Turner Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. Turner Funeral Home, Inc. may be served by service on its registered agent: James M. Turner 1101 Dodds Ave., Chattanooga, TN. 37404.

90. Defendant Pikeville Funeral Home, Inc. (The) is a Tennessee Corporation with its principal place of business in Pikeville, Tennessee. Pikeville Funeral Home, Inc. may be served by service on its registered agent: Mary Beach, Main Street, Pikeville, TN 37367.

91. Defendant Covenant Funeral Service has its principal place of business at 2114 Chapman Road, Chattanooga, TN 37421.

92. Defendant Patton's Funeral Home has its principal place of business at 265 Fair St. SE, Cleveland, TN 37311.

93. Defendant Pinkard & Mee Funeral Service, Inc. is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. Pinkard & Mee Funeral Service, Inc. may be served through its agent: Keneth O. Fritz, 400 Pioneer Bank Bldg., Chattanooga, TN 37402.

94. Defendant Julian Peoples Funeral Home is a funeral home business operating in Dalton, Whitfield County, Tennessee that has its principal place of business at 2801 Cleveland Hwy, Dalton, GA 30721.

95. Defendant Peoples Funeral Home is a funeral home business operating in Georgia that has its principal place of business at 208 3rd Ave. South Chatsworth, GA 30705.

96. Defendant R. Dudley Barton & Son Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Adairsville, Georgia. R. Dudley Barton & Son Funeral Home, Inc. may be served by service on its registered agent: Ovelle P. Barton, 115 South Main St. Box 265, Adairsville, GA 30103.

97. Defendant Ponders Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Dalton, Georgia. Ponders Funeral Home, Inc. may be served by service on its registered agent: Stonewall Ponders, 138 Melrose Dr., Dalton, GA 30721.

98. Defendant Ponders Funeral Home Calhoun Chapel, Inc. is a Georgia Corporation with its principal place of business in Calhoun, Georgia. Ponders Funeral Home Calhoun Chapel, Inc. may be served by service on its registered agent: Stonewall Ponders, 138 Melrose Dr., Dalton, GA 30721.

99. Defendant Thomas and Son Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Calhoun, Georgia. Thomas and Son Funeral Home, Inc. may be served by service on its registered agent: Bruce G. Thomas, 535 Red Bud Rd., Calhoun, GA 30701.

100. Defendant Wilson Funeral Home Lafayette Chapel, LLC is a Georgia Limited Liability Company with its principal place of business in Lafayette, Georgia. Wilson Funeral Home Lafayette Chapel, LLC may be served by service on its registered agent: Leroy Wilson, 555 W. Cloud Springs Road, Fort Oglethorpe, GA 30742.

101. Defendant Wilson Funeral Home J. Avery Bryan Chapel, LLC is a Georgia Limited Liability Company with its principal place of business in Chickamauga, Georgia. Wilson Funeral Home J. Avery Bryan Chapel, LLC may be served by service on its registered agent: Leroy Wilson, 555 W. Cloud Springs Rd., Fort Oglethorpe, GA 30742.

102. Defendant Cagle Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Jasper, Georgia. Cagle Funeral Home, Inc. may be served by service on its registered agent: Robert Cagle, 364 East Church St., Jasper, GA 30143.

103. Defendant Max Brannon & Sons Funeral Home has its principal place of business in Calhoun, Georgia. Max Brannon & Sons Funeral Home, Inc. may be served at 705 Old Red Bud Road, Calhoun, GA 30701.

104. Defendant Family Mortuary, Inc. is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. Family Mortuary, Inc. may be served by service on its registered agent: Phillip C. Lawrence, 633 Chestnut St., Suite 760, Chattanooga, TN 37450.

105. Defendant Cumberland Funeral Services, Incorporated is a Tennessee Corporation with its principal place of business in Monteagle, Tennessee. Cumberland Funeral Services, Incorporated may be served by service on its registered agent: William C. Killian, Courthouse Square, Jasper, TN 37347.

106. Defendant Cumberland Funeral Home is a Tennessee Company with its principal place of business in Monteagle, Tennessee. Cumberland Funeral Home may be served at 210 Fairmont, P.O. Box 247, Monteagle, TN 37356.

107. Defendant Cumberland Funeral Home – Tracy City is a Tennessee Company with its principal place of business in Tracy City, Tennessee. Cumberland Funeral Home – Tracy City may be served at 210 Fairmont, P.O. Box 247, Monteagle, TN 37356.

108. Defendant Hardwick & Sons Funeral Home, Inc. is a Tennessee Corporation with its principal place of business in Chattanooga, Tennessee. Hardwick & Sons Funeral Home, Inc. may be served by service on its registered agent: Gertrude C. Trammell, 765 ML King Blvd., Chattanooga, TN 37403.

109. Defendant Rogers Funeral Securities, Inc. is a Tennessee Corporation with its principal place of business in South Pittsburg, Tennessee. Rogers Funeral Securities, Inc. may be served by service on its registered agent: Edwin Z. Kelly, Jr., 309 Betsy Pack, Jasper, TN 37347.

110. Defendant Perry Funeral Home, Inc. is a Alabama Corporation with its principal place of business in Centre, Alabama. Perry Funeral Home, Inc. may be served by service on its registered agent: WM C Perry, P.O. Box 57, Centre, AL 35960-0057.

111. Defendant Foster & Lay Funeral Home is a Tennessee Company with its principal place of business in Tracy City, Tennessee. Foster & Lay Funeral Home may be served at 116 St. Clair St. P.O. Box 459, Tracy City, TN 37387.

112. Defendant Memorial Mortuary is a Tennessee Company formerly doing business as Memorial Mortuary, Inc., with its principal place of business in Chattanooga. Memorial Mortuary may be served at 48 East Main Street, Chattanooga, TN 37408.

113. The House of Overstreet Mortuary, Inc. is a Georgia Corporation with its principal place of business in Dalton, Georgia. The House of Overstreet Mortuary, Inc. may be served by service on its registered agent: Waymon Sims, 434 Flat Shoals Ave. S.E., Atlanta, GA 30316.

114. Hay-Gantt Funeral Home, Inc. is a Georgia Corporation with its principal place of business in Marietta, Georgia. Hay-Gantt Funeral Home, Inc. may be served by service on its registered agent: Charles E. Johnson, 1010 Roswell St., Marietta, GA 30060.

115. The plaintiffs do not yet know the true names and capacities, whether individual corporation, association, or otherwise, of the defendants sued herein as DOES 1 through 100 and therefore sue these defendants under fictitious names. The plaintiffs will amend this complaint to set forth the true names and capacities of these defendants, and each of them, when they are ascertained.

116. These fictitiously-named defendants, upon information and belief, are other funeral homes and entities in the funeral services business that delivered remains for cremation to Tri-State. As with the identified defendants, these fictitiously-named defendants intentionally, negligently or otherwise wrongfully performed each of the acts and omissions alleged herein and, thereby, proximately caused the plaintiffs and the class members' injuries and damages described herein.

CLASS ACTION COORDINATION ALLEGATIONS

117. This Court may wish to consider procedures to streamline the determination of common claims on issues in this case, and/or to coordinate its proceedings with those of other courts that may exercise jurisdiction over this matter. Accordingly, to facilitate any such efforts, the Plaintiffs propose a plaintiff class (hereinafter included, as appropriate, in the designation "plaintiffs") which consists of the surviving spouses, relatives and/or designated representatives of decedents whose remains were entrusted to the defendants and delivered to

Tri-State, during the Class Period commencing at a date certain, presently unknown to the plaintiffs and continuing through February 15, 2002.

118. This action is brought individually as an action for damages for the named plaintiffs, and to the extent the Court may in its discretion deem appropriate, as a class action on common claims or issues, pursuant to the applicable provisions of Ga. R. Civ. P. Code § 9-11-23, on behalf of a proposed plaintiff class defined as:

All those who presently possess or who may subsequently acquire the right to control the disposition of the remains of any decedents delivered for cremation to Defendant Tri-State Crematory, Inc.; all persons who were parties to any contract with any of the defendants regarding funeral arrangements for a decedent who was delivered for cremation to Defendant Tri-State Crematory, Inc.; and the estates of the decedents and the representatives thereof.

119. 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. The class may exclude persons within the class definition who have otherwise retained counsel and filed suit.

120. The class is so numerous that individual joinder of all its members is impracticable; the identities of the class members for purposes of class notice may be readily obtained from the defendants' records and public records; 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; and the claims of the named plaintiffs are typical of the claims of the class in that they have all been subjected to the same unlawful behavior of the defendants, giving rise to common claims or issues.

121. There is a community of interest in obtaining adequate individual compensation for the damages, injuries, grief and anguish that the defendants' actions have inflicted on the survivors. The plaintiffs have retained competent counsel, whose experience includes cases involving the desecration, commingling, mishandling and abuse of human remains. They will fairly and adequately represent and protect the interests of the members of the class and neither has any interests that are adverse to the interests of the class.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

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

123. Commencing at a time certain, presently unknown to the plaintiffs, and continuing through February 15, 2002 the defendants other than Tri-State Crematory, Inc., including DOES 1 through 100, contracted to provide funeral-related services, for the benefit of the plaintiffs and to accomplish the cremation of the plaintiffs' decedents remains with dignity and respect in keeping with public sensibilities and in accordance with the law.

124. These defendants then contracted with Defendant Tri-State Crematory, Inc. to carry out this cremation process for the plaintiffs' benefit.

125. Contrary to their contractual, fiduciary and non-delegable duties, the defendants commonly and systematically failed to accomplish the cremation and disposition process with the dignity and respect expected of them by public sensibilities and required of them by law. Rather than discharging their duties to the plaintiffs 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, desecration, abuse and commingling of the remains of the decedents.

126. Commencing upon a date presently unknown to the plaintiffs, and continuing through February 15, 2002, Defendant Tri-State Crematory, Inc., 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.

127. The failure of each and every defendant funeral home to discharge its duty of special care to ensure that the remains entrusted to their care were handled respectfully and in accordance with the wishes of the families of the deceased contributed to and caused harm to the plaintiffs and the class as a whole. Had any one of the defendant funeral homes inspected, supervised or monitored Tri-State's cremation practices, as this special duty requires, Tri-State's practices would have been discovered and stopped before widespread injury took place. Because each and every defendant funeral home failed to meet its duty, Tri-State 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' conspiracy of silence about the true nature of the practices at Tri-State, each defendant contributed to and caused harm to every member of the class by enabling and facilitating the mishandling, commingling and desecration of the plaintiffs' decedents' remains.

Factual Allegations Regarding Family of James Wilburn Ballew, Deceased

128. The remains of decedent James Wilburn Ballew, who died on or about December 8, 1993, were entrusted at or about that time to Defendant Buckner-Rush Enterprises,

Inc., by Diane Ballew, his daughter, and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc., for cremation to its agent, Defendant Tri-State.

129. Upon information and belief the remains of James Wilburn Ballew were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Rosa Presley, Deceased

130. The remains of decedent Rosa Presley, who died in August, 1994, were entrusted at or about that time to Defendant Turner Funeral Home by Marie Presley Denham, her daughter, and thereafter delivered by Defendant Turner Funeral Home for cremation to its agent, Defendant Tri-State.

131. Upon information and belief the remains of Rosa Presley were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Minnie Lou Ervin, Deceased

132. The remains of decedent Minnie Lou Ervin, who died on March 14, 2001, were entrusted at or about that time to Defendant House of Overstreet's Mortuary by Lorenzo Ervin, her son, and thereafter delivered by Defendant House of Overstreet's Mortuary for cremation to its agent, Defendant Tri-State.

133. Upon information and belief the remains of Minnie Lou Ervin were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Lorenzo Ervin Sr., Deceased

134. The remains of decedent Lorenzo Ervin, Sr., who died on July 11, 1998, were entrusted at or about that time to Defendant Franklin-Strickland Funeral Home by Lorenzo Ervin, his son, and thereafter delivered by Defendant Franklin-Strickland Funeral Home for cremation to its agent, Defendant Tri-State.

135. Upon information and belief the remains of Lorenzo Ervin, Sr., were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Edwina Louise Fisher, Deceased

136. The remains of decedent Edwina Louise Fisher, who died on February 9, 1990, were entrusted at or about that time to Defendant Hay-Gantt Funeral Home by Christy Hames, her daughter, and thereafter delivered by Defendant Hay-Gantt Funeral Home for cremation to its agent, Defendant Tri-State.

137. Upon information and belief the remains of Edwina Louise Fisher were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Doris Mozelle Lanier, Deceased

138. The remains of Doris Mozelle Lanier, who died on August 13, 1996, were entrusted at or about that time to Defendant Thomas and Son Funeral Home, by her daughter, Deloris Marlene Headrick, and daughter, Renee Sanchez, and thereafter delivered by Defendant Thomas and Son Funeral Home for cremation to its agent, Defendant Tri-State.

139. Upon information and belief the remains of Doris Mozelle Lanier were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Christine Hoover, Deceased

140. The remains of Christine Hoover, who died on January 10, 1997, were entrusted at or about that time to Defendant Peeples Funeral Home by her husband, James Hoover, and thereafter delivered by Defendant Peeples Funeral Home for cremation to its agent, Defendant Tri-State.

141. Upon information and belief the remains of Christine Hoover were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Fredrick H. Minger, Deceased

142. The remains of Fredrick H. Minger, who died on April 3, 1992, were entrusted at or about that time to Defendant Gilmore Funeral Home by his wife, Marguerite Minger, and his children, Kristine Lowrance, Fredrick Minger, Kathryn Minger, Melanie Steinberg, and Mark Minger, and thereafter delivered by Defendant Gilmore Funeral home for cremation to its agent, Defendant Tri-State.

143. Upon information and belief the remains of Fredrick H. Minger were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Elizabeth Devore, Deceased

144. The remains of Elizabeth Devore, who died on February 9, 2000, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by her daughter,

Mary Murphy, and grandson, Terry Murphy and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc., for cremation to its agent, Defendant Tri-State.

145. Upon information and belief the remains of Elizabeth Devore were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Louise Dean Whitener, Deceased

146. The remains of Louise Dean Whitener, who died on January 11, 1994, were entrusted at or about that time to Defendant Love Funeral Home, by her granddaughter, Shannon Lynne Nichols, and granddaughter Stacy Bethel and thereafter delivered by Defendant Love Funeral Home for cremation to its agent, Defendant Tri-State.

147. Upon information and belief the remains of Louise Dean Whitener were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Bessie Stanley, Deceased

148. The remains of Bessie Stanley, who died on April 6, 1995, were entrusted at or about that time to Defendant Peeples Funeral Home by her daughter, Marlene Petree, and thereafter delivered by Defendant Peeples Funeral Home for cremation to its agent, Defendant Tri-State.

149. Upon information and belief the remains of Bessie Stanley were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of William Onis Pierce, Deceased

150. The remains of William Onis Pierce, who died on April 18, 2000, were entrusted at or about that time to Defendant Peeples Funeral Home by his daughter, Vickie Segrest, and thereafter delivered by Defendant Peeples Funeral Home for cremation to its agent Defendant Tri-State.

151. Upon information and belief the remains of William Onis Pierce were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of David L. Schwartz, Deceased

152. The remains of David L. Schwartz, who died on January 5, 1998, were entrusted at or about that time to Defendant Peeples Funeral Home by his daughter, Amy L. Stanton, and his widow, Mary Elizabeth Schwartz, and thereafter delivered by Defendant Peeples Funeral Home for cremation to its agent Defendant Tri-State.

153. Upon information and belief the remains of David L. Schwartz were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Michael Dewayne Stinnett, Deceased

154. The remains of Michael Dewayne Stinnett, who died on January 22, 1994, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by his father, Vance Stinnett, and his mother Joyce Stinnett, and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc., for cremation to its agent Defendant Tri-State.

155. Upon information and belief the remains of Michael Dewayne Stinnett were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Eloise Marie Haddock Cartwright, Deceased

156. The remains of Eloise Marie Haddock Cartwright, who died on June 22, 1996, were entrusted at or about that time to Defendant Peoples Funeral Home by her sister, Jane Zisa, sister Sylvia Warren and sister Marjorie Daelke, and thereafter delivered by Defendant Peoples Funeral Home for cremation to its agent Defendant Tri-State.

157. Upon information and belief the remains of Eloise Marie Haddock Cartwright were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Peggy Pate, Deceased

158. The remains of Peggy Pate, who died on or around July 15, 2001, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by her daughter, LaVonda Ridley, and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc., for cremation to its agent Defendant Tri-State.

159. The uncremated remains of Peggy Pate were recovered on the grounds of Tri-State Crematory.

160. Upon information and belief the remains of Peggy Pate were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Hiram Pate, Deceased

161. The remains of Hiram Pate, who died on December 27, 1995, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by his daughter, LaVonda Ridley, and thereafter delivered by Defendant Buckner-Rush Enterprises Inc., for cremation to its agent Defendant Tri-State.

162. Upon information and belief the remains of Hiram Pate were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Janna S. Taylor, Deceased

163. The remains of Janna S. Taylor who died on March 30, 2001, were entrusted at or about that time to Defendant House of Overstreet's Mortuary by her daughter, Crystal Taylor, and her mother, Marian Williams, and thereafter delivered by Defendant House of Overstreet's Mortuary for cremation to its agent Defendant Tri-State.

164. Upon information and belief the remains of Janna S. Taylor were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Gertrude Matteson, Deceased

165. The remains of Gertrude Matteson, who died on November 8, 1997, were entrusted at or about that time to Defendant Franklin-Strickland Funeral Home, by her daughter, Marcia Jenison, and her grandchildren, Lisa Jenison, Mark Jenison, and Scott Jenison, and thereafter delivered by Defendant Franklin-Strickland Funeral Home for cremation to its agent Defendant Tri-State.

166. Upon information and belief the remains of Gertrude Matteson were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Patrick Joseph Wilson, Sr., Deceased

167. The remains of Patrick Joseph Wilson, Sr., who died on January 15, 2002, were entrusted at or about that time to Defendant Wann Funeral Home, by his brother, Marshall Wilson, and thereafter delivered by Defendant Wann Funeral Home for cremation to its agent Defendant Tri-State.

168. Upon information and belief the remains of Patrick Joseph Wilson, Sr. were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Kirby Price Moore, Deceased

169. The remains of Kirby Price Moore, who died on December 22, 1998, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc. by his daughters, Daphne Moore and Dawn Wood, and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc. for cremation to its agent Defendant Tri-State.

170. Upon information and belief the remains of Kirby Price Moore were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Linda Stites Deceased

171. The remains of Linda Stites who died on June 6, 1995 were entrusted at or about that time to Defendant Turner Funeral Home by her widower Nathaniel Stites, and

thereafter delivered by Defendant Turner Funeral Home for cremation to its agent Defendant Tri-State.

172. Upon information and belief the remains of Linda Stites were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Louis Edward Hunziker, Sr. Deceased

173. The remains of Louis Edward Hunziker, Sr. who died on June 16, 2000, were entrusted at or about that time to Defendant Foster & Lay Funeral Home by his son, Louis Edward Hunziker, Jr., and his daughter, Peggy Price and thereafter delivered by Defendant Foster & Lay Funeral Home for cremation to its agent Defendant Tri-State.

174. Upon information and belief the remains of Louis Edward Hunziker, Sr. were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Clarence Monroe Collins, Deceased

175. The remains of Clarence Monroe Collins, who died on March 1, 1998, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by his sister, Hailey Kuhn, his son, Mark Alan Collins, his brother, Charles James Collins, and his niece Dennie Collins and thereafter delivered by Defendant Buckner-Rush Enterprise, Inc., for cremation to its agent Defendant Tri-State.

176. Upon information and belief the remains of Clarence Monroe Collins were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Virginia Edith Hugenberger, Deceased

177. The remains of Virginia Edith Hugenberger, who died on January 18, 2002, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by her granddaughter, Rachael Murphy, and thereafter delivered by Defendant Buckner-Rush Enterprise, Inc., for cremation to its agent Defendant Tri-State.

178. Upon information and belief the remains of Virginia Edith Hugenberger were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Jacob Richards, Deceased

179. The remains of Jacob Richards, who died April 15, 1996, were entrusted at or about that time to Defendant Wann Funeral Home by his sister, Rachel Richards, and thereafter delivered by Defendant Wann Funeral Home for cremation to its agent Defendant Tri-State.

180. Upon information and belief the remains of Jacob Richards were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Tida Landry, Deceased

181. The remains of Tida Landry, who died in 1998, were entrusted at or about that time to Defendant Wann Funeral Home by her niece, Rachel Richards, and thereafter delivered by Defendant Wann Funeral Home for cremation to its agent Defendant Tri-State.

182. The uncremated remains of Tida Landry, were recovered on the grounds of Tri-State Crematory.

183. Upon information and belief the remains of Tida Landry were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Marie A. Shirley, Deceased

184. The remains of Marie A. Shirley, who died on September 14, 2001, were entrusted at or about that time to Defendant Franklin-Strickland Funeral Home, Inc., by her son, James Shirley, and thereafter delivered by Defendant Franklin-Strickland Funeral Home, Inc., for cremation to its agent Defendant Tri-State.

185. Defendant Franklin-Strickland Funeral Home, Inc. then returned to Mr. Shirley an urn which they represented contained the cremated remains of Marie Shirley.

186. On March 21, 2002, Mr. Shirley was told by the Georgia Bureau of Investigation that the urn in fact contained adulterated substances including concrete and did not contain his mother's cremated remains.

187. Upon information and belief the remains of Marie Shirley were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Irene Szabo, Deceased

188. The remains of Irene Szabo, who died on January 8, 2001, were entrusted at or about that time to Defendant Buckner-Rush Enterprises, Inc., by her son Tom Szabo, and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc., for cremation to its agent Defendant Tri-State.

189. Upon information and belief the remains of Irene Szabo were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of J. W. Rymer, Deceased

190. The remains of J.W. Rymer, who died October 15, 2000, were entrusted at or about that time to Defendant Peeples Funeral Home, by his son Timmy Rymer, and son Eddie Rymer, and thereafter delivered by Defendant Peeples Funeral Home for cremation to its agent Defendant Tri-State.

191. The uncremated remains of J.W. Rymer were recovered on the grounds of Tri-State Crematory.

192. Upon information and belief the remains of J. W. Rymer were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Robert Lake Hutton, Deceased

193. The remains of Robert Lake Hutton, who died August 10, 1993, were entrusted at or about that time to Defendant Turner Funeral Home by his sons Robert Goldizen and Richard Goldizen, and thereafter delivered by Defendant Turner Funeral Home for cremation to its agent Defendant Tri-State.

194. Upon information and belief the remains of Robert Lake Hutton were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Hester Louise Bell, Deceased

195. The remains of Hester Louise Bell, who died on February 4, 1998, were entrusted on or about that time to Defendant Buckner-Rush Enterprises, Inc., by her son, Michael Bell and thereafter delivered by Defendant Buckner-Rush Enterprises, Inc., for cremation to its agent Defendant Tri-State.

196. Upon information and belief the remains of Hester Louise Bell were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Thomas J. Conyers, Deceased

197. The remains of Thomas J. Conyers, who died on August 24, 2001, were entrusted on or about that time to Defendant Franklin Strickland Funeral Home, by his son Thomas Conyers and thereafter delivered by Defendant Franklin Strickland Funeral Home, for cremation to its agent Defendant Tri-State.

198. The uncremated remains of Thomas J. Conyers were recovered upon the grounds of Tri-State Crematory.

199. Upon information and belief the remains of Thomas J. Conyers were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of David Wilson, Deceased

200. The remains of David Wilson, who died in July, 1997 were entrusted on or about that time to defendant Wann Funeral Home by his sister Barbara Wilson and thereafter delivered by Defendant Wann Funeral Home, for cremation to its agent Defendant Tri-State.

201. Upon information and belief the remains of David Wilson were subjected to Tri-State's unlawful practices.

Factual Allegations Regarding Family of Ethel B. Reynolds, Deceased

202. The remains of Ethel B. Reynolds, who died on August 6 1998 were entrusted on or about that time to defendant Turner Funeral Home by her son William F. Reynolds and thereafter delivered by Defendant Turner Funeral Home for cremation to its agent Defendant Tri-State.

203. On March 3, 2002 the body of Ethel B. Reynolds was identified on the Tri-State property.

204. Upon information and belief the remains of Ethel B. Reynolds were subjected to Tri-States unlawful practices.

Factual Allegations Regarding Family of Frederick Baxter Reynolds, Deceased

205. The remains of Frederick Baxter Reynolds, who died on September 30, 2001 were entrusted on or about that time to defendant Turner Funeral Home by his son William F. Reynolds and thereafter delivered by Defendant Turner Funeral Home for cremation to its agent Defendant Tri-State.

206. Upon information and belief the remains of Frederick Baxter Reynolds were subjected to Tri-State's unlawful practices.

General Allegations

207. The plaintiffs are now informed and believe, and thereupon allege, that their parents and decedents were subjected to the unlawful and improper practices of Tri-State. Family members' remains were not cremated with dignity and respect or in accordance with their wishes or the law. Instead, these remains were subjected by the defendants to commingling, mishandling, abuse and other improper practices and processes and, as a proximate result, were desecrated, mishandled and/or commingled, together with the remains of other decedents.

208. Perhaps more horrifying to the plaintiffs 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 delivered to Tri-State by the other defendants will never know to what treatment the remains of their loved ones were subjected.

209. Moreover, as a proximate result of (a) the representations of defendants that the decedents' remains would be and had been cremated in the authorized and requested manner, with dignity and respect; (b) the defendants' possession and control of the remains 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, desecration and abuse of the remains, the plaintiffs did not discover that their decedents' remains were subjected to the defendants' misconduct until within one year preceding the filing of this complaint.

210. Specifically, this discovery of the defendants' misconduct occurred in or about the middle of February, 2002, when the plaintiffs first learned from public media reports that the remains of decedents delivered to Tri-State had been mishandled, commingled, abused and desecrated.

FIRST CAUSE OF ACTION

BREACH OF CONTRACT

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

212. The plaintiffs and/or their decedents entered into written or oral contracts with the defendants to obtain and ensure the cremation of the decedents in an individual, dignified, respectful and lawful manner. The plaintiffs and/or their decedents were induced to enter into such contracts by the defendants' representations, which emphasized and assured the dignified and respectful manner in which the decedents' remains would be handled and cremated, and omitted information regarding Tri-State's practices and the defendants' failure to inspect, monitor or supervise Tri-State.

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

214. The defendants breached their express written and oral contracts, implied contracts with and promises to the plaintiffs and their decedents by improperly handling the decedents' remains as described herein, by concealing the true nature of their practices and procedures, and by representing to the plaintiffs that the contracts and promises had been fully performed, as agreed, in order to prevent detection by the plaintiffs of these breaches.

215. Plaintiffs were the natural and intended beneficiaries of the contracts with the defendants regarding funeral services to be provided for the decedents.

216. As a proximate result of the defendants' breaches of contract, the plaintiffs and/or their decedents have incurred damages in the amounts they previously paid the defendants for cremation services improperly performed, and, as a further result of the defendants' breaches of contract, the plaintiffs have incurred and will incur additional monetary losses in attempting to recover, identify and respectfully dispose of their decedents' remains.

SECOND CAUSE OF ACTION

BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING

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

218. At all material times, the defendants, other than Tri-State and the Marsh defendants, held themselves out to be reputable, experienced, caring and trustworthy entities engaged in the business of dignified and respectful disposition and cremation of human remains.

219. The defendants, other than Tri-State and the Mash defendants, represented to the public at large and, in particular, to the plaintiffs that they would properly, carefully, professionally, decently and respectfully perform or accomplish the cremation of the decedents' remains in a manner conforming with the law, with human dignity and with the wishes of the plaintiffs and of their decedents as specified in their agreements.

220. In conducting the activities and making the representations described herein, these defendants breached the covenants of good faith and fair dealing, implicit in their contracts and imposed upon them by law, by failing to abide by their agreements and promises to cremate, respectfully and with dignity, the remains of the decedents, by abusing the trust that the

plaintiffs placed in them, by improperly handling the decedents' remains, and by falsely stating that the decedents' remains had been properly treated and/or in concealing the true methods and results of the handling of the remains.

221. As a direct and proximate result of the defendants' breaches of the covenants of good faith and fair dealing, the plaintiffs have incurred damages in the amounts previously paid to the defendants and have incurred and will incur additional monetary losses and have suffered and will continue to suffer physical injury, shock, outrage, extreme anxiety, worry, mortification, embarrassment, humiliation, distress, grief and sorrow upon the discovery of the defendants' mishandling, abuse and desecration of the decedents' remains.

222. In performing their acts, omissions, false representations and concealments herein alleged, the defendants acted intentionally, knowingly, with oppression, fraud and malice and in reckless and conscious disregard of the rights of the plaintiffs. The plaintiffs are, therefore, entitled to punitive and exemplary 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.

THIRD CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY/SPECIAL DUTY

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

224. By offering funeral-related services and by representing to the plaintiffs and their decedents that they would perform or accomplish remains disposition services in the

dignified and respectful manner requested and authorized, the defendants knowingly and intentionally entered into a special relationship of trust and confidence with the plaintiffs and their decedents. In entering into agreements to dispose of remains, the defendants undertook to respectfully, responsibly and lawfully discharge these duties.

225. The defendants were, therefore, charged with a fiduciary or special duty to the plaintiffs and their decedents to fully and faithfully perform the disposition duties.

226. By mishandling, abusing and desecrating the decedents' remains as described herein, in making misleading representations that crematory services would be and had been properly performed and by failing to properly perform or accomplish those services that the defendants had expressly or impliedly agreed to perform, the defendants, and each of them, breached the fiduciary duties owed by them to the plaintiffs and their decedents.

227. Further, the failure of each and every defendant funeral home to faithfully perform the disposition duties, including the failure to ensure that its agent, Tri-State, properly and respectfully handled the decedents' remains, contributed to and caused injury to plaintiffs as a whole because, but for the failure of each funeral home properly to discharge its duty, Tri-State's horrific practices would have been discovered and stopped before widespread injury took place.

228. As a direct and proximate result of the defendants' breaches of their fiduciary duties, the plaintiffs have been damaged and injured as set forth above.

229. The defendants' conduct in breach of their fiduciary obligations, was intentional, knowing, done with oppression, fraud and malice and done in reckless and conscious

disregard of the rights of the plaintiffs. The plaintiffs are, therefore, entitled to punitive and exemplary 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.

FOURTH CAUSE OF ACTION

FRAUD AND DECEIT

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

231. The plaintiffs are informed and believe, and thereon allege that the defendants made representations through written agreements, written materials, and oral representations to the plaintiffs and their decedents, knowing that the representations were false, incomplete and misleading at the time they were made.

232. By making such false and deceitful representations, and by omitting and concealing the true facts, the defendants, and each of them, intended to induce the plaintiffs and their decedents to enter into contracts with the defendants, to entrust the decedents' remains to them for cremation and to pay for the cremation services arranged by the defendants.

233. The plaintiffs and their decedents believed that the representations, which were false, incomplete and misleading, were, in fact, true and complete. Relying on the truth and completeness of these representations, the plaintiffs and their decedents entered into cremation agreements with the defendants and trusted and relied on the defendants to perform the services and promises set forth therein.

234. This reliance was justified and reasonable in that the defendants, through their written and oral representations, held themselves out to be reputable, experienced and trustworthy entities in the business of funeral cremation and related services.

235. The plaintiffs first became aware and could first reasonably have become aware that these representations were false, incomplete and misleading in or about mid-February, 2002.

236. As a proximate result of the defendants' fraud and deceit, the plaintiffs have suffered damages and injuries described herein.

237. The defendants' fraud and deceit was intentional, knowing, done with oppression, fraud and malice and done in reckless and conscious disregard of the rights of the plaintiffs. The plaintiffs are, therefore, entitled to punitive and exemplary 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.

FIFTH CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION

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

239. When the defendants made the representations described herein, they had no reasonable grounds for believing them to be true. The defendants failed to exercise reasonable care or competence in making these representations and in obtaining the information communicated.

240. The defendants made these representations with the intent to induce the plaintiffs and their decedents to enter into disposition agreements with the defendants and with the intent to induce the plaintiffs and their decedents to trust and rely upon the defendants to perform or accomplish the services promised, including the individual respectful and proper cremation of decedents' remains.

241. The plaintiffs and their decedents believed that the representations were true and complete. Relying on the truth and completeness of these representations, the plaintiffs and their decedents entered into cremation agreements with the defendants and trusted and relied on the defendants to perform the services and promises set forth therein.

242. This reliance was justified and reasonable in that the defendants, through their written and oral representations, held themselves out to be reputable, experienced and trustworthy entities in the business of funeral cremation and related services.

243. In fact, the representations were false, incomplete and misleading.

244. The plaintiffs first became aware and could first reasonably have become aware that these representations were false, incomplete and misleading in or about mid-February, 2002.

245. As a proximate result of the defendants' negligent misrepresentations, the plaintiffs have suffered damages and injuries described herein.

SIXTH CAUSE OF ACTION

NEGLIGENCE

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

247. At all material times, the defendants owed a duty to the plaintiffs to act with the ordinary care of a reasonable person with respect to all aspects of the services promised including, but not limited to, all phases of the cremation process. These duties include but are not limited to the hiring, retention, training and supervision of all agents, employees and representatives of the defendants, in connection with such services and transactions, the management and administration of the services and transaction, the association with other persons and entities to accomplish the performance of such services, the individual, proper and respectful performance of all steps of the cremation process, and the ascertainment that all such services were being fully and properly undertaken and performed.

248. The defendants negligently and carelessly failed to discharge these duties.

249. As a proximate cause of the defendants' negligence, the plaintiffs have been damaged and injured as described herein.

SEVENTH CAUSE OF ACTION

WILLFUL INTERFERENCE WITH REMAINS AND INTENTIONAL MISHANDLING OF A CORPSE

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

251. The plaintiffs, as the decedents' next of kin, had or have a personal quasi-property right to ensure the proper handling and burial of the decedents' remains.

252. The plaintiffs expressed their wishes to the defendants regarding the manner in which the remains were to be handled.

253. The defendants had the opportunity to comply with the plaintiffs' expressed wishes.

254. The defendants, however, willfully and deliberately mishandled the decedents' remains and interfered with the rights and responsibilities of the plaintiffs to effect the proper disposition of the remains with utmost dignity, in accordance with the law and their wishes, requests and beliefs.

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

256. As a direct, known, foreseeable and proximate result of the intentional mishandling of the remains by the defendants, the plaintiffs have suffered and continue to suffer injury and damages.

257. In mishandling the remains of the decedents, the defendants acted the defendants acted intentionally, knowingly, with oppression, fraud and malice and in reckless and conscious disregard of the rights of the plaintiffs. The plaintiffs are, therefore, entitled to punitive and exemplary 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

EIGHTH CAUSE OF ACTION

**NEGLIGENT INTERFERENCE WITH REMAINS
AND MISHANDLING OF A CORPSE**

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

259. The plaintiffs, as the decedents' next of kin, had or have a personal quasi-property right to ensure the proper handling and burial of the decedents' remains.

260. The plaintiffs expressed their wishes to the defendants regarding the manner in which the remains were to be handled.

261. The defendants had the opportunity to comply with the plaintiffs' expressed wishes.

262. The defendants negligently, recklessly and carelessly mishandled the decedents' remains and interfered with the rights and responsibilities of the plaintiffs to dispose of the remains in ways unauthorized by the plaintiffs and their decedents, ways that were contrary to the law and contrary to their wishes, requests and beliefs.

263. The defendants' conduct was accomplished through a common course and practice of improper handling of remains, resulting from the defendants' own negligence 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' negligent failure to control, supervise and investigate the actions of such persons and entities.

264. As a direct and proximate result of the defendants' negligent interference with the decedents' remains, the plaintiffs have suffered and continue to suffer damages and injuries.

NINTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

265. The plaintiffs re-allege and incorporate herein, as if set forth in full, each and every allegation contained in the proceeding paragraphs and further allege:

266. The defendants' conduct directed toward the plaintiffs, as described herein, was intentional and/or reckless. It is so outrageous that it is not tolerated by civilized society.

267. As a direct and proximate result of the defendants' conduct, the plaintiffs suffered serious mental injuries and emotional distress that no reasonable person could be expected to endure or adequately cope with.

268. In their conduct, the defendants acted intentionally, knowingly, with oppression, fraud and malice and in reckless and conscious disregard of the rights of the plaintiffs. The plaintiffs are, therefore, entitled to punitive and exemplary 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.

TENTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

270. At all material times, the defendants owed a duty to the plaintiffs to act with the ordinary care of a reasonable person with respect to all aspects of the services promised, including but not limited to, all phases of the cremation process. These duties include, but are not limited to: the hiring, retention, training and supervision of all agents, employees and representatives of the defendants, in connection with such services and transactions; the management and administration of the services and transaction; the association with other persons and entities to accomplish the performance of such services; the individual, proper and respectful performance of all steps of the cremation process; and the ascertainment that all such services were being fully and properly undertaken and performed.

271. The defendants negligently and carelessly failed to discharge these duties.

272. As a proximate cause of the defendants' negligence, the plaintiffs have suffered serious and severe mental injuries and emotional distress that no reasonable person could be expected, or deserves, to endure.

ELEVENTH CAUSE OF ACTION

UNJUST ENRICHMENT

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

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

275. It would be inequitable and contrary to law to permit the defendants to retain the benefits they have wrongfully gained through these actions.

PRAYER FOR RELIEF

Wherefore, the plaintiffs request the following relief:

- a. An award of compensatory damages for each plaintiff, in an amount deemed appropriate by the trier of fact, jointly and severally against the defendants;
- b. An award of punitive damages, jointly and severally against the defendants;
- c. An award of prejudgment and post-judgment interest;
- d. An award of costs, including but not limited to discretionary costs, attorneys' fees and expenses incurred in pursuing this case;
- e. Any other and further relief this Court deems just and proper;
- f. Any other and further relief to which they may be entitled; and
- g. Such coordination and cooperation as may be appropriate between this Court and other courts that may exercise jurisdiction over the subject matter of this litigation.

Dated: April __, 2002

Respectfully submitted,
McCAMY, PHILLIPS, TUGGLE &
FORDHAM, LLP

By: _____

Robert H. Smalley, III
P.O. Box 1105
Dalton, Georgia
Phone: (706) 278-4499
Fax: (706) 278-5002

Don Barrett
BARRETT LAW OFFICE
404 Court Square North
Post Office Box 987
Lexington, MS 39095
Telephone: (662) 834-2376
Facsimile: (662) 834-2628

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
Elizabeth J. Cabraser
275 Battery Street 30th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

Charles Barrett
Marshall Smith
BARRETT LAW OFFICE
3319 West End Avenue
6th Floor
Nashville, TN 37203
Telephone: (615) 386-8391
Facsimile: (615)386-8392

Kathryn E. Barnett
Alistair E. Newbern
3319 West End Avenue, Suite 600
Nashville, Tennessee 37203
Telephone: (615) 313-9000
Facsimile: (615) 313-9965

Wendy R. Fleishman
780 Third Avenue, 48th Floor
New York, NY 10017-2024
Telephone: (212) 355-9500
Facsimile: (212) 355-9592