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12 SEE SIGNATURE PAGE FOR ADDITIONAL
13 COUNSEL FOR PLAINTIFFS

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF LOS ANGELES**

16 IN RE: LINCOLN MEMORIAL PARK
17 LITIGATION

18 MASTER CASE NO. BC 133 643
19 Honorable Richard L. Fruin

20 THELMA BINFORD, et. al.,

21 **CLASS ACTION**

22 Plaintiffs,

23 **APPLICATION OF CLASS PLAINTIFFS
24 FOR: (1) FINAL APPROVAL OF
25 SETTLEMENT WITH CEMETERY
26 DEFENDANTS; AND (2) ENTRY OF
27 FINAL ORDER AND JUDGMENT OF
28 SETTLEMENT WITH CEMETERY
DEFENDANTS; MEMORANDUM OF
POINTS AND AUTHORITIES AND
DECLARATION OF MIKE ARIAS IN
SUPPORT THEREOF**

vs.

LINCOLN MEMORIAL PARK, INC., et al.,

Defendants.

Date: April 4, 2005
Time: 1:30 p.m.
Dept: 15

AND RELATED AND CONSOLIDATED
ACTIONS

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

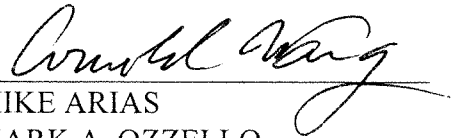
NOTICE WAS GIVEN in the Class Notice of Settlement that on April 4, 2005 at 1:30 p.m. or as soon thereafter as the matter may be heard in Department 15 of the above referenced Court, Class Counsel will move the Court for an Order (1) Granting Final Approval of the Proposed Settlement with Cemetery Defendants; and (2) for Entry of Final Order and Judgment of Settlement with Cemetery Defendants. This Application is based on the attached Memorandum of Points and

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Authorities filed in support thereof, the attached Declaration of Mike Arias, Esq., the pleadings and records on file in this action and such oral argument as may be presented at the hearing on this application.

Dated: April 1, 2005

ARIAS, OZZELLO & GIGNAC, LLP

By: 
MIKE ARIAS
MARK A. OZZELLO
J. PAUL GIGNAC
ARNOLD C. WANG
Attorneys for Class Plaintiffs

STANBURY FISHELMAN, INC.
GEORGE STANBURY

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TROY THIELEMANN

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, L.L.P.
MICHAEL W. SOBOL

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1 department which heard all Class Action matters and as such, all of the Class Actions and the
2 individual actions were assigned to Commissioner Bruce E. Mitchell in Department 59 and were
3 consolidated for pre-trial purposes. On October 15, 1996, the United States Bankruptcy Court
4 ordered that Plaintiffs' Motion For Relief From Automatic Stay be granted for the sole purpose of
5 proceeding with the litigation in state court and further held that the Plaintiffs could proceed to
6 judgment and that any judgment could be enforced as against the amount of insurance coverage
7 available to the Real Parties in Interest. Following several Demurrers and Motions To Strike, Class
8 Plaintiffs filed their Second Revised Fifth Amended Consolidated Class Action Complaint (the
9 operative complaint) on May 22, 1997. Following a settlement conference with Court of Appeal
10 Justice John Trotter, Ret. in 1998, the Mortuary Defendants settled with the Class Plaintiffs after
11 three years of litigation. After extensive discovery and briefing, the Court certified the Cemetery
12 Class on June 12, 2000.

13 It is alleged that for at least twelve years, beginning as early as 1983, the owners and
14 employees at Lincoln Memorial Park Cemetery ("Cemetery") engaged in conduct which included
15 the depletion of the Endowment Care Fund, the removal of water lines, the failure to maintain the
16 headstones, the use of headstones as curbstones, the failure to maintain the mausoleum, the failure
17 to maintain the grass, and the failure to maintain the fences. In addition, the owners of the cemetery
18 allegedly failed to maintain the Cemetery as a whole in a dignified and respectful condition.

19 Defendants have denied and continue to deny each and all of the claims and contentions
20 alleged by the Class Plaintiffs, including whether a certifiable litigation class exists.

21 **B. Court Certified Class with 2 Subclasses**

22 The Court, on June 12, 2000, certified the Class with Subclasses defined as:

- 23 1. Maintenance Subclass: (Failure to properly maintain the cemetery); and
- 24 2. Encroachment Subclass: (Failure to provide appropriate grave space for
25 which Defendants had a duty to provide.

26 **C. Court Certified Causes of Action**

27 The causes of action that were certified by the Court for the Subclasses are:

- 28 1. Maintenance Subclass: Breach of Contract, Breach of the Covenant of Good
Faith and Fair Dealing, Negligence and Negligence Per Se.

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2. Encroachment Subclass: Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing, Negligence and Negligence Per Se.

D. Court Defined Class Membership For Certification Of The Cemetery Class

The Court, in its Certification Order defined the class as follows:

The Following Persons May Be a Member of the Class:

Persons who are or were vested with the right, pursuant to *California Health & Safety Code* §7100, to control the disposition of the remains of any decedent who was buried at Lincoln Memorial Park Cemetery ("Lincoln"), located at 16701 South Central Avenue, Carson, California;

or

Persons who contracted with Lincoln Memorial Park for funeral or burial services of any decedent interred at Lincoln Memorial Park;

or

Persons who are close family members of any decedent interred at Lincoln; are relatives who lived in the household of the decedent at the time of death; or are qualified individuals with "exceptional circumstances," and who: (a) were aware of the death of the decedent; (b) were aware that funeral or burial services were being performed for the decedent; and (c) were among those on whose behalf or for whose benefit the funeral or burial services were performed.

Each Class member may be a member of the following subclasses:

- (a) All persons as described above, who had a decedent interred at Lincoln Memorial Park prior to August 10, 1995 and whose remains were not disinterred prior to May 29, 1995.
- (b) All persons as described above, who had a decedent buried at Lincoln Memorial Park prior to August 10, 1995.

E. Court Defined the Class Period

The Court determined the Class Period for each of the Subclasses to be as follows:

- 1. Maintenance Subclass: The class period for this subclass is from May 29, 1995 through August 10, 1995;
- 2. Encroachment Subclass: The class period for this subclass is from the date of a burial to August 10, 1995.

1 the decedent at the time of death (within the meaning set forth in *Christensen v. Superior Court*,
 2 (1991) 54 Cal.3d 882 and its progeny).

3 2. The Class Representatives are Joetta D. Brown, Tracy Moore, Solisa Mathews-
 4 Sherrills, Dalina Miller, Regina Winston, Thelma Binford and Emma Smith.

5 3. The total amount of the Settlement Fund is \$1,600,879.25, which consists of the
 6 following: Mortuary Settlement Balance for Distribution (\$362,920.05); Cemetery Settlement I
 7 (\$330,000.00); Interest Paid to Date for Cemetery Settlement I (\$7,959.20); Cemetery Settlement
 8 II (\$900,000.00).

9 4. Any Settlement Class Member who objects to any aspect of the settlement may
 10 appear and be heard at the Final Approval Hearing. Any such person must submit a written notice
 11 of objection prior to the Settlement hearing upon the Court and the Class Counsel.

12 5. Settling Class Plaintiffs will release all claims that have or could have been asserted
 13 in the matters against the Settling Defendants. Class Plaintiffs upon final approval of the settlement
 14 and payment of the settlement funds will also provide for dismissal of this action, with prejudice,
 15 as to the Settling Defendants.

16 6. Ten (10) days following the final effective date, and subject to Court approval, Class
 17 counsel shall retain Four Seasons Landscaping as the Restoration/Contractor. An account shall be
 18 established to fund the repairs and improvements to the cemetery up to a maximum cost of
 19 approximately \$600,000.00 and funded by the settlement fund. The proposed restoration to the
 20 cemetery is as follows:

- 21 a. Full restoration of the roadways, which would include repairing all cracks
 22 and complete slurry coat from entrance to exit;
- 23 b. Re-seeding of the entire complex with perennial seed;
- 24 c. New fencing around cemetery perimeter where existing fence is inadequate
 25 (on the north, west, and south sides of the cemetery), including ivy to be put
 26 on the newly installed fence area and also on the existing fence area where
 27 needed;

- 1 d. New wrought-iron fences to be installed above the cement wall on the east
- 2 side of the cemetery approximately sixteen lineal feet by six foot high with
- 3 meshing to prevent animals from entering; and,
- 4 e. New entrance sign which states the name of the memorial park.

5 Additionally, subject to Court approval, the Restoration Contractor shall purchase a

6 Performance Bond in the amount of approximately \$14,000.00 to guarantee the completion of the

7 repair and improvement plan. The cost of the Bond will be paid from the settlement fund.

8 7. Class Plaintiffs' counsel have requested the Court to award attorneys' fees, in the

9 amount of approximately \$387,000.00 (30% of the settlement), and costs, in the amount of

10 approximately \$312,000.00, from the settlement fund. Additionally, Class counsel will also seek

11 an award, not to exceed an aggregate total of \$65,000.00 for the Class Representatives of the

12 Cemetery Settlement Class and for the Class Representatives of the Mortuary Settlement Class for

13 their efforts on behalf of the Settlement Class.

14 8. Class Plaintiffs shall pay \$56,000.00 to the Department of Consumer Affairs against

15 a lien reimbursing the Endowment Care Fund.

16 9. Class Plaintiffs shall pay \$133,131.00 to the Claims Administrator for prior services

17 performed, \$20,306.00 for the maintenance of the database, the website, monitoring the voice mail

18 and for the printing and mailing of the Class Notice regarding the *cy pres* distribution. Additionally,

19 the Claims Administrator estimates that there will be approximately \$5,000.00 in additional

20 professional fees in connection with the settlement. See ¶¶ 14-15 to the Declaration of Wesley L.

21 Nutten attached hereto.

22 10. Class Plaintiffs shall pay approximately \$12,000.00 to David Pasternak, Esq. for

23 fees and costs associated with his appointment by the Court as counsel for the Court appointed

24 Receiver of the cemetery.

25 **IV.**

26 **CLASS SETTLEMENT NOTICE**

27 The Class Action Settlement Notice provided detailed information on the terms and

28 provisions of the *cy pres* Settlement; the date, time and place of the final settlement approval

hearing; and the procedure and deadlines for submitting objections to the settlement. The Class

1 Action Settlement Notice also fulfilled the requirements of neutrality in class notices. Finally, the
2 Notice summarized the proceedings to date and the terms and conditions of the Settlement in an
3 informative and coherent manner.

4 Under the Order Granting Preliminary Approval to Proposed Settlement, the terms of the
5 proposed settlement and the right to comment on the terms of the settlement were disseminated via
6 first class mail to Class members whose name and address appear in the Cemetery records of
7 Defendant Lincoln Memorial Park, the names and addresses of the clients of class counsel, and a list
8 of names and addresses provided by counsel for the Individual Plaintiffs. Twenty-one thousand five-
9 hundred and ninety-four (21,594) Notices were mailed to Class Members by the Claims
10 Administrator. *See*, ¶ 7 of Declaration of Wesley L. Nutten attached hereto.

11 Furthermore, the Claims Administrator also monitored the case telephone number to allow
12 Class Members to receive status updates and request copies of the Notice. Additionally, the Claims
13 Administrator's website provided up dates to the Class Members and has posted the Motion for
14 Preliminary Approval, the order approving the Class Notice, the Notice, and the Motion for Attorney
15 Fees, Costs and Incentive Payments. *See*, ¶11 Declaration of Wesley L. Nutten attached hereto.

16 V.

17 ARGUMENT

18 A. The Applicable Standards for Approval of Class Action Settlements

19 Settlements, in general, are highly favored by the courts. *Stambaugh v. Superior Court*
20 (1976) 62 Cal.App.3d 231, 236. In evaluating a class action settlement, the Court must
21 determine whether the settlement is fair, adequate and reasonable. *Officers for Justice v. Civil*
22 *Service Com'n*, 688 F.2d 615, 625 (9th Cir. 1982). The purpose of these requirements is to
23 ensure "the protection of those Class Members, including the named plaintiffs, whose rights may
24 not have been given due regard by the negotiating parties." *Id.*

25 In reaching its determination as to the fairness, adequacy and reasonableness of a class
26 action settlement, the Court may consider a variety of factors including, *inter alia*: the strength of
27 plaintiffs' case; the risk, expense, complexity and likely duration of further litigation; the risk of
28 maintaining the case as a class action through trial; the amount offered in settlement; the extent
of discovery completed; the experience and views expressed by Plaintiffs' Counsel; and the

1 reaction of the Class Members to the proposed settlement. *Dunk v. Ford Motor Co.* (1996) 48
2 Cal.App.4th 1794, 1801. However, this “list of factors is not exhaustive and should be tailored
3 to each case.” *Id.* Moreover, “[d]ue regard should be given to what is otherwise a private
4 consensual agreement between the parties.” *Id.*

5 Therefore, in the final analysis, the Court’s inquiry:

6 “must be limited to the extent necessary to reach a reasoned
7 judgment that the agreement is not the product of fraud or
8 overreaching by, or collusion between, the negotiating parties, and
that the settlement, taken as a whole, is fair, reasonable and
adequate to all concerned.”

9 *Officers for Justice, supra* at 625. In this regard, a presumption of fairness exists where: (1) the
10 proposed settlement is the product of arm’s length negotiations; (2) discovery is sufficient to
11 allow counsel and the Court to evaluate the case intelligently; (3) Plaintiffs’ Counsel is
12 experienced in handling similar litigation; and (4) the percentage of objectors is small. *Dunk*
13 *supra*, at 1802.

14 **B. The Proposed Settlement Is Fair, Reasonable and Adequate**

15 Applying the four-part test endorsed by the Court in *Dunk*, it is clear that the proposed
16 settlement in this action qualifies for approval as fair, reasonable and adequate.

17 First, as this Court is aware, the settlement was ultimately reached after settlement
18 conferences before the Honorable Carl J. West. Thus, the settlement is the result of intensive
19 arm’s length bargaining by the parties. Second, the extensive investigation, research, document
20 review and discovery conducted in this action were exhaustive. Third, Class Plaintiffs are
21 represented by counsel with many years of experience in litigating class actions that have been
22 approved by courts in the State of California. Defense Counsel for Lincoln Memorial Park are
23 also experienced in the defense of class action matters. *See*, Declaration of Mike Arias, ¶4 and
24 ¶5.

25 **C. Objections to the Settlement**

26 The Class Notice required that any Settlement Class member who objects to any aspect to
27 the settlement, the *cy pres* distribution, the requested incentive awards to the Class Plaintiffs or
28 the application for attorneys’ fees or expenses may submit a written objection and may appear
and be heard at the Settlement Hearing. Any such person must submit a written notice of

1 objection, postmarked on or before March 28, 2005. Counsel for Settlement Class have received
2 seventeen (17) objections to the Settlement. A summary of the objections are attached as
3 Exhibit "A" to the Declaration of Mike Arias and the true and correct copies of each of those
4 objections are attached as Exhibit "1 through 17" of Exhibit "A" that is attached to the
5 Declaration of Mike Arias.

6 **D. Counsel Have Not Received Any Requests by Class Members to Speak at the**
7 **Hearing**

8 Class counsel have not received any requests from Class Members to speak at the
9 hearing.

10 **E. Plaintiffs' Counsel Support the Proposed Settlement**

11 When the counsel recommending the proposed settlement for approval are known to the
12 Court as competent and experienced, significant weight may be given to their opinion. *Kirkorian*
13 *v. Borelli*, 695 F.Supp. 446, 451 (N.D. Cal. 1988). *See also, Warren v. City of Tampa*, 693
14 F.Supp. 1051, 1060 (M.D. Fla. 1988) ("[T]he Court is affording great weight to the
15 recommendations of counsel for the parties, given their considerable experience in this type of
16 litigation") *aff'd.*, 893 F.2d 347 (11th Cir. 1989); *Flinn v. FMC Corp.* 528 F.2d 1169, 1173 n. 14
17 (4th Cir. 1975), *cert. denied*, 424 U.S. 967 (1976); *In re Minolta Camera Products Antitrust*
18 *Litigation*, 668 F.Supp. 456, 459 (D.Md. 1987); *Blank v. Talley Industries, Inc.*, 64 F.R.D. 125,
19 132 (S.D.N.Y. 1974).

20 As this Court is aware, this action was settled after significant settlement discussions.
21 Although Plaintiffs' Counsel are confident that Plaintiffs would prevail at trial and are prepared
22 to go forward with the trial, Plaintiffs Counsel also recognize that Defendants have raised certain
23 legal defenses which, if accepted, could, at a minimum, greatly reduce the compensation the
24 Class might receive.

25 Moreover, past experience demonstrates that the level of Plaintiffs' confidence in their
26 case is hardly an accurate means of measuring the likelihood of success. As the Court explained
27 in *Rebney v. Wells Fargo Bank, N.A.* (1990) 220 Cal.App.3d 1117 in affirming the trial court's
28 approval of a class action settlement in a case which challenged certain banks' checking account
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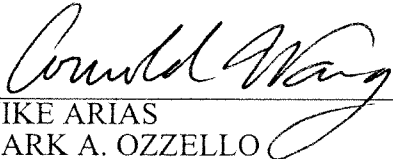
VI.

CONCLUSION

As the Settlement with the Cemetery Defendants is fair and reasonable Class Plaintiffs respectfully request that the Court: (1) approve the Settlement with the Cemetery Defendants; (2) approve the inclusion of the balance of the Mortuary Settlement funds into the *cy pres* distribution; (3) enter the Final Order and Judgment Approving Settlement and (4) retain jurisdiction over the parties to enforce the terms of the judgment.

Dated: April 1, 2005

ARIAS, OZZELLO & GIGNAC, LLP

By: 
MIKE ARIAS
MARK A. OZZELLO
J. PAUL GIGNAC
ARNOLD C. WANG
Attorneys for Class Plaintiffs

STANBURY FISHELMAN, INC.
GEORGE STANBURY

CAPPELLO & NOEL, LLP
TROY THIELEMANN

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, L.L.P.
MICHAEL W. SOBOL

Declaration of Wesley L. Nutten, CPA

DECLARATION OF WESLEY L. NUTTEN

I, Wesley L. Nutten, declare as follows:

1. I am a Certified Public Accountant, licensed to practice in the state of California and am a Principal at Desmond, Marcello & Amster. I make this declaration based on my personal knowledge, and if called to testify, I could and would testify competently to the facts stated in this declaration.

2. Continuously from June 29, 1998 to the present, I have supervised all class notification procedures in connection with the Lincoln Memorial Park ("Lincoln") matter. During the April 3, 1998 through September 10, 1999 period, I was employed by the firm of Biggs & Company, Certified Public Accountants ("Biggs & Co."). From September 20, 1999 to March 15, 2001, I was employed by the firm of BDO Seidman, LLP, Accountants and Consultants ("BDO Seidman"). From March 16, 2001 to the present, I have been employed by the firm of Desmond, Marcello & Amster ("DM&A").

3. As previously discussed in a prior declaration, the Notice of Pendency of Class Action and Proposed Partial Settlement ("Mortuary Settlement Notice") was mailed to 1,341 class members on or about July 22, 1998. This notice was also published in the legal notices section of the Los Angeles Sentinel, the Wave Community Newspapers, and the Los Angeles Times and was posted as a sign at Lincoln Memorial Park Cemetery.

4. After the manual addition of over 30,000 name and address records obtained from the Lincoln Memorial Park Cemetery records to the Class Member Address Database, the Notice of Certification of Class Action ("Cemetery Certification Notice") was mailed to 36,302 class members on or about April 20, 2000. This notice was also published in the legal notices section of the Los Angeles Sentinel, the Wave Community Newspapers, and the Los Angeles Times and was posted as a sign at Lincoln Memorial Park Cemetery.

5. On approximately February 10, 2005, I received a computer file from Class Counsel containing the text of the Notice of Class Action Settlement ("Cemetery Settlement Notice").

6. Due to the age of the address records in the Lincoln Class Member Address

1 Database, DM&A coordinated a scrub of the data against the National Change of Address
2 Database ("NCOA") in an attempt to obtain more current addresses for class members. As a
3 result of the scrub, 1,986 addresses were updated.

4 7. DM&A arranged for the printing and mailing of 21,594 Cemetery Settlement
5 Notices on or about February 25, 2005. At the request of Class Counsel, notices were not mailed
6 to approximately 15,000 individuals whose addresses were determined to be incorrect following
7 the Cemetery Certification Notice mailing.

8 8. Between February 25, 2005 and March 31, 2005, DM&A has monitored all
9 Cemetery Settlement Notices returned as undeliverable by the post office. During this time
10 period, approximately 4,500 Cemetery Settlement Notices were returned by the Post Office.

11 9. Approximately 8 of the undeliverable Cemetery Settlement Notices were returned
12 with a forwarding address. DM&A has re-mailed the Cemetery Settlement Notice to the updated
13 addresses for each of these class members.

14 10. At the request of Class Counsel and individual class members, DM&A has mailed
15 approximately 45 additional Cemetery Settlement Notices since February 25, 2005.

16 11. Since February 25, 2005, DM&A has maintained a copy of the Cemetery
17 Settlement Notice on the Internet. The address of the internet site is
18 <http://www.dmaaction.com>. This website also contains copies of the Mortuary Settlement
19 Notice, the Cemetery Certification Notice, the Order Approving Notice of Class Action
20 Settlement, the Motion for Preliminary Approval of the Settlement and the Application For
21 Attorney Fees, Costs and Incentive Payments.

22 12. Federal and California income tax returns have been prepared annually by
23 DM&A and mailed to the Internal Revenue Service and Franchise Tax Board, respectively; the
24 most recent being filed on March 15, 2005.

25 13. Continuously since June 1998, we have maintained the Class Member Address
26 Database and have updated it with new addresses received from Class Counsel and from
27 individual class members.

28 14. Claims administration fees and expenses have not been reimbursed since August

1 1998. Claims administration fees of \$90,584 and expenses of \$62,853 for a total of \$153,437 for
2 the September 1998 through March 2005 period are currently outstanding. These fees and
3 expenses are broken down as follows:

- 4 a. Biggs & Co. (September 1998 through August 1999) – professional fees
5 of \$12,191 and expenses of \$12,305 for a total of \$24,496 outstanding.
- 6 b. BDO Seidman (September 1999 through March 2001) – professional fees
7 of \$57,568 and expenses of \$35,533 for a total of \$93,101 outstanding.
- 8 c. DM&A (April 2001 through March 2005) – professional fees of \$20,825
9 and expenses of \$15,015 for a total of \$35,840 outstanding.

10 15. Please note, the amounts listed above do not include an estimate of future
11 professional fees and expenses. DM&A anticipates approximately \$5,000 of professional fees
12 and expenses will be needed to complete the administration of this matter.

13 16. We respectfully request that the Court approve the payment of \$158,437 of
14 professional fees and expenses incurred in the administration of this matter.

15 I declare under penalty of perjury under the laws of the state of California, that the
16 foregoing is true and correct.

17 Executed this 1st day of April, 2005 at Los Angeles, California.

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20 Wesley L. Nutten
21 Declarant
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Declaration of Mike Arias, Esq.

DECLARATION OF MIKE ARIAS

I, MIKE ARIAS, declare:

1. I am an attorney at law, duly licensed to practice before all courts in the States of California, New York, New Jersey and the District of Columbia. I am a partner in the firm of Arias, Ozzello & Gignac, LLP. I am also lead counsel for the Class. I am personally familiar with the matters stated herein, and if called upon to testify, I could and would testify accordingly.

2. My firm and I have been involved as lead counsel, liaison counsel, or co-counsel in well over 50 class actions.

3. As one of the Class Counsel who has taken the lead role in the matter, I have been actively involved in all aspects of the litigation in this matter. In addition to preparing many of the documents generated in this matter on behalf of Class Plaintiffs, I have received each and every document generated by all the parties to this litigation.

4. I have also participated in most, if not all of the proceedings held in this matter, including without limitation, each and every settlement conference over the past 10 years, including the settlement conference conducted by Judge Carl W. West.

5. Based upon the investigation, research, motion practice, document review, discovery and analysis, my personal knowledge and experience, I believe the *cy pres* Settlement terms and conditions are in the best interests of the members of the Class. I further believe the Settlement is fair, reasonable and adequate.

6. Seventeen (17) objections to the settlement have been received by my office. Attached hereto as Exhibit "A" is a summary of those objections

7. True and correct copies of each of the 17 objections are attached as Exhibits 1 through 17 to **Exhibit "A"** as follows:

Exhibit "1," Walterine Jones;

Exhibit "2," Johnnie M. St. Julian;

Exhibit "3," Carolyn Comick;

Exhibit "4," Troy Brooks;

Exhibit "5," Mack W. McCowen, Uneeda McCowen, James Baldwin, Clyde Baldwin, Tenisha Walker, James Willis Jacobs, William Boyde Jacobs;

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- Exhibit "6," Mack W. McCowan;
- Exhibit "7," Uneeda McCowan;
- Exhibit "8," James Baldwin;
- Exhibit "9," Douglas Phillips;
- Exhibit "10," Elaine Palmer;
- Exhibit "11," Shwonder Inyard;
- Exhibit "12," Barbara Armstrong;
- Exhibit "13," Robert Price;
- Exhibit "14," Luvesta Car;
- Exhibit "15," Randi D. Quinn;
- Exhibit "16," Carol Jordan; and,
- Exhibit "17," Cindy Howard.

8. Class counsel have not received any requests from Class Members to speak at the hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 1st day of April, 2005, at Los Angeles, California.

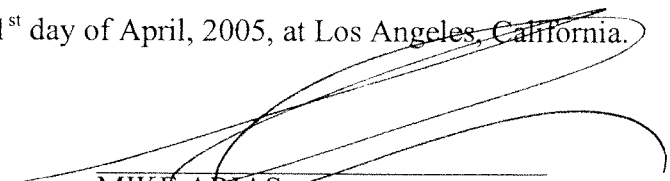

MIKE ARIAS
DECLARANT

EXHIBIT "A"

In Re Lincoln Memorial Park Litigation
 Objections to Final Approval of the *Cy Pres* Settlement
 April 1, 2005

| No. | Date | Name | Objection |
|-----|-----------|--|--|
| 1 | 3/14/2005 | Walterine Jones | Ms. Jones feels that the Class Members should get their money because maintenance of the grave was paid for when the family purchased the gravesite |
| 2 | 3/14/2005 | Johnnie M. St. Julian | Ms. Julian has five relatives buried in the cemetery and does not want the money to go to the restoration of the cemetery because she is hurt and has had sleepless nights because she does not understand how so many bodies can be squeezed into the sections of the cemetery where her loved ones are buried. Additionally, her father's grave was opened in error when burrying her brother and the cemetery caretaker did not even apologize to her for this traumatic experience |
| 3 | 3/16/2005 | Carolyn Comick | Ms. Comick wants the money that she is suppose to get and she does not like what is going on and has the right to know where her son is buried. |
| 4 | 3/18/2005 | Troy Brooks | Mr. Brooks objects to the settlement and disagrees that any money go to the restoration of the cemetery because the cemetery maintenance should have been kept up to standards. He is still at a loss of words when he thinks of the events and conditions of the grounds in the summer of 1995. He claims that his mother's body was never found nor her headstone. It disgusts him to think that the money is going to the restoration of the cemetery and not to the parties. |
| 5 | 3/25/2005 | Mack W. McCowan Uneeda McCowan James Baldwin Clyde Baldwin Tenisha Walker James Willis Jacobs William Boyde Jacobs | These class members filed a group objection and additionally Mack W. McCowan, James Baldwin and Uneeda McGowan also filed separate objections. These class members object to the settlement as they feel that because they choose Lincoln Memorial Park to bury their loved ones the cemetery should have been more respectful with the care taken at the cemetery. It is totally unacceptatble with our family that the cemetery be paid, instead of our family for the pain we have suffered. Additionally, the cemetery should not even be allowed to accept any more business due to the negligent treatment and lack of up keep |
| 6 | 3/21/2005 | Mack W. McCowan | Mr. McCowan object to the settlement because he doesn't like the way the settlement is being handled. He has many loved ones and friends buried at the cemetery and has been hurt over and over again. He wants to know why the class members should pay for the cemetery's mistakes. He feels it is unfair and un-American and that the court should reconsider its decision |
| 7 | 3/21/2005 | Uneeda McCowan | Ms. McCowan is disappointed with the courts action because she still wakes up at night wondering where her children were laid to rest or if they are still in their graves at all. She further feels that if you would be giving the attorneys their fees, why would you not give her compensation as she is the one that is hurting. |
| 8 | 3/25/2005 | James Baldwin | Mr. Baldwin does not think that it is fair for everyone to receive money when he is the one that is hurting and does not know if his brothers remains are at the cemetery |
| 9 | 3/21/2005 | Douglas Phillips | Mr. Phillips objects to the class settlement and requests that his settlement be returned to him. No other explanation was found in his notarized exclusion request statement. |
| 10 | 3/23/2005 | Elaine Palmer | Ms. Palmer objects to the settlement and feels that the amount of the settlement proposed is totally unsatisfactory and the funds should not be used to benefit the cemetery, who is the offender. She also feels it's an insult to the memory of the descedents to give the settlement dollars back to the people that caused the problems. Additionally, she feels that the matter should go back to litigation in the court and if after that there are funds available they should be distributed among the class members. |

In Re Lincoln Memorial Park Litigation
 Objections to Final Approval of the *Cy Pres* Settlement
 April 1, 2005

| No. | Date | Name | Objection |
|-----|-----------|-------------------|--|
| 11 | 3/28/2005 | Shwonder Inyard | Ms. Inyard objects to the settlement because she does not know if her mothers remains are still at the cemetery because the last time she was at the cemetery the mausoleum doors were open and vacant which was very devastating and she hopes that this court will consider her objection |
| 12 | 3/28/2005 | Barbara Armstrong | Ms. Armstrong objects because she feels that the lawsuit was not ever the focus of new grass seeds or fences. Furthermore, her father's and grandmother's headstone is locatted fifty feet from their graves. Additionally, she feels that the people have taken advantage of poor and low status peoole and she is entitled to damages for physical illness, and the stress this case has caused. Additionally, she feels that the defendants and the attorneys have made a mockery of the ordeal because they are asking for attorneys fees and costs and incentive payments. |
| 13 | 3/28/2005 | Robert Price | Mr. Price objects because he feels that the attorneys are allowing the defendants to get away with saying that the plaintiffs have not been injured and are not entitled to damages. He hopes that the judge will let justice be served and because he was victimized. He feels it's not fair to allow the defendants and attorneys to benefit because of his loss. |
| 14 | 3/28/2005 | Luvesta Car | Ms. Car objects to the settlement and believes that the cemetery should pay for damages for its malicious conduct. She feels that the cemetery should pay her and the other class members for pain, stress and anguish that was cause when the cemetery intentionally removed loved ones from their final resting places and for re-selling her grave plot and the hundreds of other remains and plots that it destroyed or re-sold. She feels that Lincoln has profited millions of dollars by selling and reselling graves. She feels that she will never know what happened to her husband's remains or headstone, and she cannot afford to purchase a burial plot for herself. The settlement will only deepen her family's pain and suffering because it will allow Lincoln to restore a cemetery that it willfully allowed to fall into disrepair. She goes on to say that, "Lincoln was lining its pockets with profits by destroying graves and paying no attention to the upkeep of the cemetery." Finally, she feels that the proposed settlement is fundamentally unfair because it does not compensate her and fellow class members. She also prays that the court will send a message to the profit-seekers who feed on the poor, and for justice and fairness. |
| 15 | 3/29/2005 | Randi D. Quinn | Ms. Quinn objects to the settlement because her loved ones gravesites were disturbed and the remains where removed and discarded without notification or permission. She further feels that the proposed settlement unjustly designates improvements to the park and since her decedents remains were destroyed future upkeep is of no consequence and defendants should be liable to the plaintiffs' families for the destruction of those remains. |
| 16 | 3/29/2005 | Carol Jordan | Ms. Jordan has the same decedents buried at the cemetery and has filed the same objections as Ms. Quinn |
| 17 | 3/29/2005 | Cindy Howard | Ms. Howard has the same decedents buried at the cemetery and has filed the same objections as Ms. Quinn |

EXHIBIT “1”

① March 10, 2005

To The Counsel Settlement Class

I know or feel like the
people should get their money
in this class settlement.
When my father pass away
all that was paid for when
the grave was purchase
the maintenance of the graves.
all that was included.

How many times are you
going to collect on that?

My Father Name is
Walter F. Jones
Grave # C15.

When I went out there
to locate the grave
first time, I couldn't
even find it.

2005

(2)

The second time I went
my mother had passed
away. It was the Man
from the Court that
funded it. It had
bunk so far down &
my father was in the
service. The marker had
a Crab grass growing
on it. I had to part
the grave open because
my father was buried
below ~~to~~ debt. My mother
and father were in the same
grave. And also there
was suppose to have
2 Caps they were missing
someone took them.
What about that? The Caps
were suppose to be there
for pulling flowers on
the grave.

(3)

People have paid for
funerals. It isn't
right to take all the money
that left after attorney's
are taken out to fix up
the Cemetery. No No

Ms Walter Jones

12029 Yellowbrook #C

Compton Ca 90222

(310)

438-1705

Pay the ~~the~~ People
on the settlement

EXHIBIT “2”

MAR 14 2005

John A. Gasko, Executive Officer/Clerk
By: _____ Deputy
Elizabeth Martinez

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Johanne M. St. Julian
1243 N. 50th St
Los Angeles, Ca 90037

Superior Court of the State
of California County of Los Angeles
Case #
BC 133643

Johanne M. St. Julian
v
Lincoln Memorial Park

Subject to the Notice of Class
Action Settlement.

March 4.2005
Los Angeles, Ca.
Re:BC133643
Lincoln Memorial

To Whom it May Concern.:

I received the Notice of Class Action Settlement and I object to the settlement I have five (5) relatives buried at Lincoln Memorial Cemetery'

1. John Lillie I (Father).
2. Vivian Lillie (Mother)..
3. James Lillie (Brother).
4. Ward Aaron Lillie (Nephew)
5. John LillieII (Nephew)

Please check your records.

I would visit my parents graves at least three times a year. My vantage point was a water hydrant across from their graves ,where I would count twelve headstones,however, about ten years ago I noticed that ,in counting , there would be fifteen (15) headstones and several years after that there was two graves near the roadway which made it seventeen (17). I could not understand how they could squeeze bodies in like that.

My Nephew (Ward Aaron Lillie) was placed in a crypt at the top of the mausoleum,which was open wide,an empty, the last I was at the cemterey. My brother was to be buried on top of his son (John Lillie II). My fathers grave was opened in error when the family and relatives arrived for the burial. The caretaker didn't even apologize he left his body near his son grave and proceeded to cover my fathers grave. This is unexcuseable an a traumattic experience.

Your notice states that the Settlement will go toward a limited restoration of the cemetery, I read the five conditions.

What about my conditions the anguish, hurt, sleepness nights, an other conditions you can imagine that would happen to you because of the treatment of your love ones?

I was appalled and knew that I had to express my objection to the Settlement. You must reconsider.

I am an alive human being. Please take into consideration my position.

Respectfully
Johnnie M. St.Julian
1243 W. 50th St.

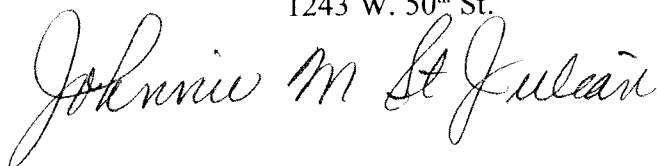


EXHIBIT “3”

Concerning Lincoln Memorial Park

This is Brian Lewis writing
you that I received your letter. I
haven't been going to court, because
The lawyer & the hospital that a
lawyer told me that I didn't have
to go to court. I just want to
know where is my son; because the
lawyer told me he isn't there!
Just because I'm in the hospital
doesn't mean that I have the right
to know where he is! I want the lawyer
to tell me how long that my
son is in hospital - to know how
long the lawyer has taken from
the lawsuit money and I want to get
- the money, I want that my money
I want the lawyer to get the money
and the lawsuit money. This lawsuit
isn't about the money - how the
money is used. I don't like what's
going on. And I'm going to take care
of this matter when I get out
sincerely, Carolyn to: Ann

Correct

EXHIBIT “4”

Counsel for Settlement Class

Mike Arias, Esq.
Arias, Ozzello & Gignac, LLP
6701 Center Drive West Ste# 1400
Los Angeles, CA 90045

MAILED
MAR 18 2005
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
LOS ANGELES

March 16, 2005

To Whom It May Concern:

I have received your letter dated February 7, 2005 regarding case# BC 133643.

My name is Troy Brooks. I am one of the son's of the deceased.
My Address: 3230 Triumph Lane #3 Ontario, CA 91764

My Attorney is: Mike Arias, Arias, Ozzello & Gignac, LLP
Address: 11766 Wilshire Blvd., Ste# 720 Los Angeles, CA 90025

Deceased Name: Christine Brooks

The purpose of this letter is to voice my concerns with the proposed settlement. I disagree with any awarded monies to go towards the restoration of Lincoln Memorial Park Cemetery. Due to the fact that the maintance of the cemetery should have already been kept up to standards! Since this was not done, I do not have a place to go and visit my **MOTHER'S** burial. Even though this has taken place so many years ago, I am still at a lost of words of the events and the condition the grounds of Lincoln Memorial Park were in on that **Horrific Day**.. My mother's body was never found and neither was her head stone. My mother had bared 17 children and it **DISGUSTS** me to think that you want to put money towards restoration of the cemetery and not the parties with such a loss.

To you this may seem minor and irrelevant. You, the judge and anyone else that will be making a final decision should speak with the parties that this has greatly affected. Our lives will never be the same. To this day I fear the fact of what my mother has gone through on this day when Lincoln Memorial decided to destroy our lives. Not is it sad that my mother passed away, but where are her remains? I want someone at Lincoln Memorial Park and the judge to answer that question. If they can not answer that question then they should not tell me I am not entitled to any compensation.

I ask you how can you put any compensation on such a loss. You can not! Due to Lincoln Memorial's negligence my mother is not resting peacefully. This is very disturbing!

Compensation is the least Lincoln Memorial and the Judge could do for us!

Sincerely,

Troy Brooks
909-559-0236

EXHIBIT “5”

03-20-05

MAR 21 2005

This letter is in response
TO THE NOTICE OF CLASS
Action Settlement. LEAS CASE # BC 133
6034

From the Family Members. As
Following

MR. MACK McCowan: 323 569-2880
OF 9913 MAIE Ave Los Angeles CA 90002
~~Mack W McCowan~~

MRS UNEDA McCowan 323 569-2880
OF 9913 MAIE Ave Los Angeles 90002
~~Uneda McCowan~~

MIS VERLON McCowan 323 569-2880
OF 9913 MAIE Ave Los Angeles CA 90002
~~Verlon McCowan~~

MR. JAMES Baldwin: 323 569-2880
OF 9913 MAIE Ave LA CA 90002

~~James Baldwin~~

MR. Clyde Baldwin Jr. 323 569-2880
OF 9913 MAIE Ave LA CA 90002

Mrs Tenisha Walker-Baldwin
OF 9913 MAIE Ave Los Angeles CA 90002

Cont.

MIR James Willis Jacobs (805) 985-8116
1701 Brookside St Ukiah CA.

© James W. Jacobs

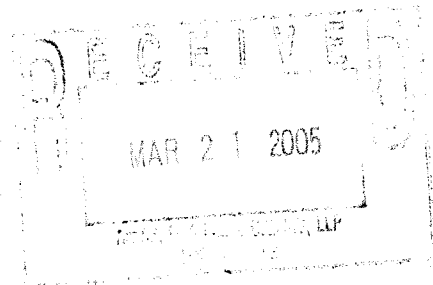
MIR William Boyde Jacobs (310) 212-5993
Of. 1437 W. 225th St Torrance CA 90501

©

ON BEHALF OF OUR ENTIRE FAMILY
WE ALL BELIEVE THAT UNDER THE
CIRCUMSTANCES IN WHICH WE ENTRUSTED
LINCOLN MEMORIAL PARK TO PROTECT
AND TAKE CARE OF OUR LOVED ONE
THAT WAS BURIED THERE, THEY
SHOULD HAVE BEEN MORE RESPONSIBLE
WITH THE CARE IN WHICH THEY
WERE WELL COMPENSATED FOR. OUR
FAMILY MEMBERS WERE BURIED THERE
IN THE INTENT THAT THEY WOULD
BE ABLE TO REST IN PEACE
WE WERE ALL DEVASTATED BY
WHAT WAS DONE TO THE GROUNDS
AND THE UP LIFT OF THE GRAVE
SITES. THESE GRAVE SITES WERE
ALL PAID FOR IN FULL SO WHY
SHOULD LINCOLN MEMORIAL PARK
BE COMPENSATED FOR OUR FAMILY

Pain And Suffering Du To Their
Neglect. This is total unexceptional.
With our Entire Family. Our Entire
Family Feel As Though The Entire
Settlement Should Be Distributed
Amunse the Family members Equally
NOT TO THE Lincoln Memorial Park.
This NOTICE OF ACTION HAS BEEN
PAINFUL ENOUGH FOR OUR FAMILY
AND NOW THIS IS JUST ANOTHER
SLAP IN THE FACE TO OUR FAMILY
TO EVEN CONSIDER SUCH AN
ACTION TO BE SUGGESTED TO
US. WE ALL FEEL AS THOUGH
LINCOLN MEMORIAL PARK SHOULD
NOT BE ALLOWED TO CONTINUE
TO MISTREAT THESE CLIENTS & THE CLOSEST
LOVE ONE THAT ARE BURIED THERE
WITH SUCH LACK OF CONCERN.
THIS MEMORIAL PARK SHOULD
NOT EVEN BE ABLE TO EXCEPT
ANY MORE BUSINESS DUE TO
NEGLECT. TREATMENT. AND LACK
OF UPKEEP.

EXHIBIT "6"



3-18-05

Mac W McCowan

9913 S. Main Hwy.

LA 60670002

To whom it may concern.

I am a Member of the settlement Class At Lincoln Memorial park, located at 16701 S. Central ave. Carson, Calif..

I am very much displeas, with the way you are handling thing, we don't need a lawyer, we need s. am. am in office who is fair + just. I've two sons, an aunt, Brother in law sister in law, and lots of friends that been laid to rest there, to be there for their final resting place. I've been hurt over an over again, because of many hungry, people, why should we pay for their Misotaki?

This is unfair an un American you should stop, think, reconsider this put yourself in our shoes. Don't feel to good does it?

Mac W. McCowan
Lead Case No. B.C 133643

EXHIBIT “7”

Case No. BC 133643

March 18, 2005
Uneda McCowan
9913 Mail Ave.
Los Angeles Ca, 90002

To Who It May Concern:

I'm writing concern Lincoln Memorial Park Cemetery located at 16701 South Central Ave. in Carson California.

I'm devastated with your action you have taken, against the plaintiffs. I'm still waking up at night wondering if my childrens or where they was laid to rest. Or if they are still in their grave at all. I was there today putting flowers where they was suppose to be.

I feel if you going to give the Attorneys A fee, why not the plaintiffs. I'm the one who is hurting. I wish you would look closely at the settlement before you make the wrong decision

Yours Truly
Uneda McCowan

EXHIBIT “8”