

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In Re:) LEAD CASE NO. BC 130375
PARADISE MEMORIAL PARK)
LITIGATION) CLASS ACTION
_____)

NOTICE OF PENDENCY OF CLASS ACTION
AND PROPOSED PARTIAL SETTLEMENT

THIS NOTICE MAY AFFECT YOUR RIGHTS -- PLEASE READ IT CAREFULLY

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IF YOUR DECEDENT WAS BURIED AT PARADISE MEMORIAL PARK, YOU MAY BE A MEMBER OF THE IN RE: PARADISE MEMORIAL PARK LITIGATION SETTLEMENT CLASS. YOUR RIGHTS MAY BE AFFECTED BY THIS SETTLEMENT.

A. INTRODUCTION

THE FOLLOWING PERSONS MAY HAVE A CLAIM AGAINST VARIOUS MORTUARY DEFENDANTS:

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 Paradise Memorial Park Cemetery ("Paradise"), located at 11541 East Florence Avenue, Santa Fe Springs, California;

or

Persons who contracted with one or more of the settling Mortuary Defendants for funeral or burial services of any decedent interred at Paradise;

or

Persons who are close family members of any decedent interred at Paradise; 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.

THIS NOTICE IS NOT AN EXPRESSION BY THE COURT OF AN OPINION CONCERNING THE MERITS OF ANY CLAIM OR DEFENSE OR THE TRUTH OR FALSITY OF ANY OF THE ALLEGATIONS OF THE PARTIES.

The purpose of this Notice is to advise you that:

➤ Your rights may be affected by the proposed settlement pending in this Court.

➤ By Order dated December 4, 1998, the Court has conditionally certified this as a mandatory non-opt-out class action for settlement purposes and determined that the proposed settlement deserves consideration as a fair, reasonable and adequate resolution of the pending claims against Mortuary Defendants Adams Funeral Home, Angelus, Angelus Funeral Home, Armstrong Family Corporation, Armstrong Family, a California corporation dba Armstrong Family Malloy Mitten Mortuary; Armstrong Family, dba Armstrong Family Malloy Mitten Mortuary, Ashley-Grigsby Mortuary, Inc., Bagues & Sons Mortuary, Inc., Boyd Funeral Home, Brown Colonial Mortuary, Castaneda-Crollet Mortuary, Inc., Cunningham & O'Connor Mortuary, Custer Christiansen Mortuaries, Dilday-Mottell's Mortuary, Douglass Family Mortuaries, Inc., Douglass & Zook Mortuaries, Inc., Elba Lee Hobbs, Jr. Corp. dba Hobbs-J.S. Williams-Albert J. Cooper Mortuary, Gates, Kingsley & Gates, Guerra-Gutierrez Mortuary, Inc., Hamrock Mortuary, Harrison-Ross Funeral Homes, Inc., Hobbs-J.S. Williams-Albert Cooper Mortuary, House of Winston, House of Winston, Inc., Hyde Park Mortuary, Hyde Park Mortuary, Inc., J.S. Williams-Albert J. Cooper-Hobbs, Lafayette Company dba Utter McKinley, Long Beach Colonial, Long Beach Colonial Mortuary, Long Beach Colonial Mortuary, Inc., Long Beach Colonial Mortuary, Inc. aka Harris Colonial Mortuary, McCormick-McMillan Mortuary, Mirabal Mortuary, Norwalk Artesia Mortuary, Paradise Chapel, Inc., Paramount Mortuary, Pierce Brothers Mortuaries, Rachal's Mortuary, Rachal's Mortuary, Inc., Risher, Inc., Risher Montebello Funeral Home, Riverside Mortuary, Inc., Rosecrans Mortuary, Rosecrans Mortuary, Inc., Ruckers Mortuary, SCI California Funeral Services, Inc., Snyders Southwest Mortuary, Solomon's Mortuary, Inc., South Los Angeles Mortuary, Spaulding Mortuary, Steel Mortuary, Inc., Stewart Enterprises, Inc., Stricklin-Snively Mortuary, Stricklyn-Snively, Tillman Riverside Mortuary, Inc., Turner & Stevens, White-Emerson Mortuary, White-Emerson Mortuary, Inc., Willlie F. Houston dba Houston's Mortuary, Willie F. Houston dba Peoples Funeral Home, Willie F. Houston dba Houston and Peoples Funeral Home, Woods-Valentine Funeral Home, Woods-Valentine Mortuary, Zeferino-Ramirez and Latino Americana Mortuary (hereinafter "Mortuary Defendants"). This is the second of two settlements reached with various defendants named in various actions filed as a result of the conduct which occurred at Paradise Memorial Park cemetery. Once final approval of this settlement is granted this litigation and all claims asserted therein will come to an end.

➤ **The distribution of settlement proceeds to individual claimants, from this and the previous settlement with the Cemetery Defendants, will begin once all settlements are approved and final. It is expected that the Claim Forms will be mailed out in the first quarter of the year 2000.**

➤ If you wish to comment on or object to this settlement you must follow the procedures described in paragraphs 14 through 18 below, by the objection postmark deadline.

B. DESCRIPTION OF THE ACTION

1. In June, 1995, shortly after allegations of improper handling of human remains at Paradise Memorial Cemetery were made, lawsuits were filed against the Cemetery and various mortuaries by a number of surviving relatives and persons who contracted for funeral services, on behalf of themselves and others similarly situated. The lawsuits were consolidated by the Los Angeles County Superior Court and are referred to as In Re: Paradise Memorial Park Litigation. From 1995 through the present time, Commissioner Bruce E. Mitchell (the "Court") has presided over pre-trial proceedings and motions in these cases.

2. The Consolidated actions against the Mortuary Defendants alleged that Mortuary Defendants, among other things, knew or should known of the actions by the Cemetery Defendants who allegedly mishandled, improperly buried, and otherwise improperly handled remains of the decedents entrusted to them, in a manner offensive to human sensibilities and/or expressly prohibited by law. On December 4, 1998, the Court granted preliminary approval of a settlement with the Mortuary Defendants only. On March 25, 1999 a hearing was held, the Court reviewed the written objections that were filed and also heard from many of the Class Members who were in attendance. On June 16, 1999 the Court ordered a Notice to be mailed to the Class regarding the proposed Point System to be used in the claims process. Following final approval of this settlement, and final resolution of all Class claims, proceeds will be distributed to certain qualified claimants.

3. Mortuary Defendants have denied, and continue to deny, any wrongdoing and deny any liability whatsoever.

C. CLASS CERTIFICATION

4. On December 4, 1998, the Court certified a mandatory non-opt-out Settlement Class to include persons who:

(a) Pursuant to California Health & Safety Code §7100, are or were vested with the right to control the disposition of the remains of any decedent who were buried at Paradise Memorial Park Cemetery ("Paradise"), located at 11541 East Florence Avenue, Santa Fe Springs, California; or

(b) Contracted with one or more of the Defendants for funeral or burial services of any decedent interred at Paradise; or

(c) Are close family members of any decedent interred at Paradise and who:

- (1) Were aware of the death of the decedent;
- (2) Were aware that funeral or burial services were being performed for the decedent; and
- (3) Were among those on whose behalf or for whose benefit the funeral or burial services were performed.

D. CLASS COUNSEL AND CLASS REPRESENTATIVES

5. The Court has appointed the following Plaintiff Class Counsel: Mike Arias, Esq., Arias & Ozzello, P.C., 11766 Wilshire Boulevard, Suite 720, Los Angeles, California 90025; J. Paul Gignac, Esq., Cappello & McCann, 831 State Street, Santa Barbara, California 93101; and Bruce C. Fishelman, Esq., Stanbury & Fishelman, 9200 Sunset Boulevard, Penthouse 30, Los Angeles, California 90069; and has certified the following Class Representatives to

represent the Settlement Class: Cheryl Ann Allison, Mary Guidry, Donna G. Brown, Patsy Fleming, Gloria Duran, Regina Brown, Curtis McGowan, Samuel Segarra, Francis Ramirez, Daisy M. Glover, John M. Harris, Jr., Patricia Hennessee, Jessie Henry, Jr., Lillie Williams, Anna Phelps, Mary Sawyers, Michelle Miller, Barbara Bealey, Margaret Duron, Deborah Carter, Elaine Young, Gloria Scott, Bobbie Brooks, Kathy Orozco, Evelyn Brinson, Adela Anaya-Ramos, Zora Smith, Preston Andres, Sr., Delores Pardner, Renell Woodard, Guadalupe Rodgirues, Arnecia Harris, Betty Hampton, Priscilla Carr and Albert Campbell or such other and further class representatives as may be designated by the court.

E. TERMS OF THE SETTLEMENT

6. Class Counsel and counsel for Mortuary Defendants have reached a proposed settlement which has obtained the preliminary approval of the Court. The proposed settlement provides for injunctive relief against the settling Mortuary Defendants and generates, under certain terms and conditions, a fund with a value of \$3,795,000 to be allocated and distributed, under Court supervision, to members of the Settlement Class. The injunctive relief includes Mortuary Defendants agreement:

(a) to refrain from the business of buying or selling, leasing or exchanging cemetery property or interment services unless properly licensed to do so;

(b) to refrain from offering to buy, sell, lease or exchange cemetery property or interment services unless properly licensed to do so;

(c) not to receive any compensation for the performance of any activity in connection with buying, selling, leasing or exchanging cemetery property or interment services unless properly licensed to do so;

(d) not to act as a cemetery broker or salesperson without the appropriate license;

(e) not to advertise themselves as cemetery brokers or salespersons without the appropriate license;

(f) to provide their customers who state or indicate an intent to bury an individual at Paradise Memorial Park with information concerning allegations of problems at Paradise Memorial Park and the fact that litigation was brought concerning the same;

(g) to provide Paradise Memorial Park with an edited version of their computerized data base in order to assist in creating a swift and effective method for the future operators of that cemetery to determine the burial location of Decedents and for use by plaintiffs' counsel to assist with class notice.

(h) to waive their equitable right to receive the return of funds paid voluntarily to support operation of the cemetery during the pending litigation.

The proposed settlement is subject to certain conditions. In exchange for the injunctive relief and the payment of the settlement fund, all members of the class will release all claims which have been or could have been asserted in the In Re: Paradise Memorial Park Litigation cases against Mortuary Defendants. This release includes a waiver of the rights set forth in **Civil Code** section 1542 which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THIS RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

This settlement is the result of extensive Court-supervised and approved

negotiations by counsel conducted after Class Counsel engaged in substantial investigation, document review and discovery into the allegations against Mortuary Defendants.

7. The amount each class-member claimant will receive is not known at this time, but will depend on the type of damage suffered by claimant, relationship to the decedent and number of qualified timely filed claims.

F. CLAIM DISTRIBUTION PLAN

8. The claims will be distributed from the Cemetery and Mortuary Defendants' settlements based on the following point system. Each claimant will qualify for points based upon the type of impropriety suffered by the family and the relationship of the claimant to the decedent.

(a) Types of Improprieties

Single Graves Reused or Unauthorized Disinterment	6 Points
Multiple Graves Reused/reopened or Unauthorized Disinterment	5 Points
New Single Grave in a Used Grave	3 Points
New Double/multiple/extra Depth Grave in a Used Grave or Pre-need Grave not available	2 Points
Missing Headstone/different Grave Location	1 Point
Maintenance/cemetery Degradation	.5 Points

(b) Relationship between claimant and decedent.

Spouse/children	5 Points
Parents/siblings	4 Points
Grandparents/grandchildren/contracting Party	3 Points
Other Relatives Residing in The Decedent's Household at The Time of The Decedent's Death	2 Points
Exceptional Circumstances	1 Point

9. THE COURT IS ALSO CONSIDERING APPLYING THE MORTUARY SETTLEMENT TO ALL CLAIMANTS, REGARDLESS OF WHETHER OR NOT A PARTICULAR DECEDENT'S REMAINS WERE HANDLED BY A SETTLING MORTUARY. THE COURT WOULD ALSO ADD ANY LATER JUDGMENTS OR SETTLEMENTS RECEIVED FROM THE FEW NON-SETTLING MORTUARIES TO THE TOTAL SUM DISBURSED TO THE CLASS.

G. IF YOU ARE DISSATISFIED WITH YOUR CLAIM

10. Persons dissatisfied with the determination of their claim will have a right to participate in either a binding or nonbinding (with right of review by the court) arbitration process. The cost of arbitrations will be paid from the settlement and by persons who unsuccessfully pursue a review by the court of a non-binding arbitration decision.

H. RECOMMENDATION OF CLASS COUNSEL

11. Plaintiffs' Counsel believe that class members are best served by participating in the proposed settlement. Plaintiffs' Counsels' extensive investigation, document review, discovery and insurance issues evaluation has lead them to the conclusion that the Preliminary Approval Settlement is in the best interests of all class members.

I. ATTORNEYS' FEES AND COSTS

12. All petitions for attorneys' fees and expenses are subject to Court

approval. To date, Class Counsel have incurred out-of-pocket costs and have invested substantial time, on a priority basis, to protect and prosecute the Class claims, without receiving compensation of any kind. In class actions, counsel who generate a monetary recovery for the benefit of the class are entitled to an award of attorneys' fees and costs representing a reasonable percentage of the recovery in recognition of their efforts, expenses, risks, and performance. This percentage generally ranges from 25% to 40% of the class action Settlement Fund. In this case, Class Counsel will apply to the Court for reimbursement of their actual out-of-pocket costs, and an award of attorneys' fees in an aggregate amount which represents thirty-three and one-third percent (33 1/3%) of the class action Settlement Fund. The Settlement Fund, less Court-approved attorneys' fees and costs (the "Net Settlement Fund"), will be available for distribution to the Class.

13. In addition, it is anticipated that the Court appointed Receiver (who has been operating the cemetery under Court supervision) and his Counsel will also apply to the Court for payment of un-reimbursed out-of-pocket costs and fees, incurred by the Receiver and his counsel in this case. Any amounts approved for payment will be reimbursed from the class action Settlement Fund.

J. THE SETTLEMENT APPROVAL PROCESS

14. If you wish to comment in support of or opposition to any aspect of the settlement or applications described in this Notice, you are entitled to do so. In order to be considered by the Court, **comments must be in writing and postmarked no later than November 26, 1999.** Written comments must be mailed to:

Class Plaintiffs' Liaison Counsel
Mike Arias
Arias & Ozzello, PC
11766 Wilshire Boulevard, Suite 720
Los Angeles, California 90025
e-mail: marias@ariosozzello.com

PERSONS WHO ALREADY FILED WRITTEN OBJECTIONS FOR THE MARCH 25, 1999 HEARING AND/OR THE JULY 30, 1999 HEARING AND/OR WHO APPEARED AND WERE HEARD AT THE MARCH 25, 1999 HEARING MAY NOT SUBMIT ADDITIONAL WRITTEN COMMENTS.

15. Any member of the Class who has not previously commented on the Mortuary Settlement may comment **in writing** on whether: (1) the terms of the settlement are fair, reasonable and adequate; (2) the action should be dismissed as to Mortuary Defendants; (3) the point system is fair; (4) an award, in an amount to be determined, should be made to Plaintiffs' Counsel and/or Receiver's counsel of their reasonable fees and costs; (5) or whether Mortuary Defendants' settlement funds should be distributed to all claimants.

16. The Court will read and consider all suggestions, comments and objections. The Court will then consult with counsel and hear evidence and argument and thereafter issue a final order.

17. **Whether or not you submit any written comments or submit a timely Claim Form, as a class member you will be bound by the determination, order and judgment of the Court on final settlement approval.**

18. **If you come within the Class definition, you are bound by all orders of the Court regarding the final approval of the settlement, and the release of claims, described in this Notice, whether or not you make a claim.**

19. Any member of the Class will be able to file a Claim Form and share

in the Net Settlement Fund whether or not they have objected to the proposed settlement. ANY MEMBER OF THE CLASS WHO DOES NOT TIMELY RETURN A COMPLETED CLAIM FORM (ONCE THE CLAIMS PROCESS BEGINS) WILL NOT BE PERMITTED TO SHARE IN THE DISTRIBUTION OF THE NET SETTLEMENT FUND BUT WILL NEVERTHELESS BE BOUND BY THE PROPOSED SETTLEMENT AND JUDGMENT ENTERED IN THIS LITIGATION. YOU WILL BE NOTIFIED BY A SEPARATE FUTURE MAILING OF THE SCHEDULE FOR SUBMITTING A CLAIM.

20. Additional Notices can be obtained by writing to the following address:

Paradise Memorial Park Litigation
2801 Ocean Park Boulevard, PMB #10
Santa Monica, California 90405
Voice mail: (310)557-8248
Website: <http://web.usxc.net/classaction/>

K. REPRESENTATION BY COUNSEL AND FURTHER PROCEEDINGS

21. As a member of the Class, you may communicate with, seek the advice of, or enter an appearance through counsel of your own choice. Any member of the Class who does not enter an appearance either individually or through his or her own counsel will be represented by counsel for the Class Plaintiffs, who are proponents of the settlement, and will have no individual liability for attorneys' fees and costs, both of which will be payable from the Settlement Fund.

22. If the settlement does not receive final approval by the Court, the case will continue to be prepared for trial. In any event, this case will continue to be prosecuted against all other non-settling defendants.

L. FOR MORE INFORMATION

23. This Notice summarizes the basic terms of the settlement. For more detailed information you may review and copy the pleadings, records and other papers on file in this litigation during regular business hours at the office of the Clerk, Los Angeles County Superior Court, 111 North Hill Street, Room 111, Los Angeles, California, 90012 or you may contact Plaintiffs' Liaison Counsel:

Mike Arias, Esq.
ARIAS & OZZELLO, P.C.
11766 Wilshire Boulevard, Suite 720
Los Angeles, California 90025
Telephone: (310) 478-1212
e-mail: aolaw@ariasozzello.com

PLEASE DO NOT ADDRESS QUESTIONS OR REQUESTS FOR INFORMATION TO THE COURT.

DATED: October 15, 1999

BRUCE E. MITCHELL
Commissioner of the Superior Court