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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

COREY GRAYSON; LORENZO GRAYSON;
LARRY GRAYSON, JR.; LATRICE
GRAYSON; and BRITNEY GRAYSON,

Plaintiffs,

vs.

BAY AREA CREMATION & FUNERAL
SERVICES, INC.; BAY AREA CREMATION
& FUNERAL SERVICES; A BAY AREA
CREMATORY, INC.; A BAY AREA
CREMATORY;
ADIRECTCREMATION.COM, INC.;
CLINTON W. LOVE; BOB COOPER
ENTERPRISES; ROBERT SMITH, JR.;
KAISER PERMANENTE; KAISER
FOUNDATION HEALTH PLAN, INC.;
KAISER FOUNDATION HOSPITALS;
KAISER RICHMOND MEDICAL CENTER;
and DOES 1-20, Inclusive,

Defendants.

FILED
ALAMEDA COUNTY

MAY 09 2016

CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

CASE NO. **RG16814806**

COMPLAINT FOR DAMAGES

- (1) Negligent Mishandling of Corpse; and
- (2) Negligent Infliction of Emotional Distress.

JURY TRIAL DEMANDED

BY FAX

1 Plaintiffs COREY GRAYSON, LORENZO GRAYSON, LARRY GRAYSON, JR.,
2 LATRICE GRAYSON, and BRITNEY GRAYSON (hereinafter referred to collectively as
3 "Plaintiffs") allege against BAY AREA CREMATION & FUNERAL SERVICES, INC.; BAY
4 AREA CREMATION & FUNERAL SERVICES; A BAY AREA CREMATORY, INC.; A BAY
5 AREA CREMATORY; ADIRECTCREMATION.COM, INC.; CLINTON W. LOVE; BOB
6 COOPER ENTERPRISES; ROBERT SMITH, JR.; KAISER PERMANENTE; KAISER
7 FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; KAISER
8 RICHMOND MEDICAL CENTER and DOES 1-20, Inclusive (hereinafter referred to collectively
9 as "Defendants") as follows:

10 INTRODUCTION

11 1. Plaintiffs are the children and sole surviving heirs of the decedent, Larry Grayson
12 (hereinafter referred to as "the decedent"), who died intestate on July 14, 2015 and for whom there
13 was no probate of the estate. Plaintiffs COREY GRAYSON, LORENZO GRAYSON, and LARRY
14 GRAYSON, JR. are the sons of the decedent. Plaintiffs LATRICE GRAYSON and BRITNEY
15 GRAYSON are the daughters of the decedent. At all material times, plaintiffs COREY GRAYSON
16 and LORENZO GRAYSON were acting for the other plaintiffs as their agents, with full authority
17 with respect to the disposal of the body of the decedent by cremation.

18 2. Defendants BAY AREA CREMATION & FUNERAL SERVICES, INC., BAY
19 AREA CREMATION & FUNERAL SERVICES, A BAY AREA CREMATORY, INC., A BAY
20 AREA CREMATORY, ADIRECTCREMATION.COM, INC., and CLINTON W. LOVE
21 (hereinafter referred to collectively as the "BAY AREA CREMATION Defendants") are, and at all
22 times mentioned were, engaged in the business of decedent removal, refrigeration services and
23 transportation services in the County of Alameda, State of California and are licensed by the State of
24 California to engage in the cemetery and funeral profession.

25 3. Defendants KAISER PERMANENTE, KAISER FOUNDATION HEALTH PLAN,
26 INC. and KAISER FOUNDATION HOSPITALS are located in and doing business in the City of
27 Oakland, County of Alameda, State of California. Said defendants own and operate KAISER

1 RICHMOND MEDICAL CENTER, a hospital organized and existing under the laws of the State of
2 California located at 901 Nevin Avenue, Richmond, California, 94801. Decedent was not a member
3 of KAISER PERMANENTE, KAISER FOUNDATION HEALTH PLAN, INC., KAISER
4 FOUNDATION HOSPITALS or KAISER RICHMOND MEDICAL CENTER (hereinafter referred
5 to collectively as the "KAISER Defendants"), but was a patient at KAISER RICHMOND
6 MEDICAL CENTER when he died on July 14, 2015 at 5:00 a.m.

7 4. Defendant BOB COOPER ENTERPRISES is, and at all times mentioned was,
8 engaged in the business of decedent removal, refrigeration services and transportation services in the
9 State of California.

10 5. Defendant ROBERT SMITH, JR. is, and at all times mentioned was, engaged in the
11 business of decedent removal, refrigeration services and transportation services in the State of
12 California.

13 6. Plaintiffs are ignorant of the true names and capacities, whether individual, corporate,
14 associate or otherwise and the true involvement of those defendants named and sued herein as DOES
15 1-20, and for that reason has sued said defendants by such fictitious names. Plaintiffs will seek leave
16 to amend this complaint to reflect their true names when ascertained. Plaintiffs are informed and
17 believe, and accordingly allege, that each of the defendants sued herein as DOES 1-20 is responsible
18 in some manner for the occurrences alleged in this action and that these defendants proximately
19 caused the harms suffered by Plaintiffs. Plaintiffs are further informed and believe, and accordingly
20 allege, that, at all times herein mentioned, DOES 1-10 were and are individuals, corporations or non-
21 incorporated entities, licensed under California laws to perform various functions in the cemetery
22 and funeral profession, and were engaged in those functions as agents and/or employees of the above
23 mentioned corporate Defendants, and each of them, and at all times herein mentioned, were acting
24 within the course and scope of their agency or employment.

25 7. Plaintiffs are further informed and believe, and accordingly allege, that at all relevant
26 times each of the Defendants was the employer, employee, agent, servant, alter ego, principal, or
27 subsidiary of the other defendants and at all times acted within the course and scope of such

1 employment or agency with the express or implied authority of Defendants and with the knowledge
2 and approval of said co-defendants, and each of the Defendants ratified and approved the acts of its
3 agents and employees. Plaintiffs are further informed and believe, and accordingly allege, that at all
4 relevant times the defendants, and each of them, were participating in a joint venture, acting under
5 an express or implied agreement for a common purpose with a community of pecuniary purpose
6 wherein each defendant has an equal right to a voice in the direction of the joint venture.

7 **FIRST CAUSE OF ACTION**

8 **(Negligent Mishandling of Corpse)**

9 8. Plaintiff refers to paragraphs 1-7 and incorporates them into this cause of action as
10 though fully set forth herein.

11 9. In 2014, the KAISER defendants entered into a three-year Service Agreement with
12 the BAY AREA CREMATION Defendants for "Decedent Removal, Refrigeration Services &
13 Transportation services." The Service Agreement with the KAISER Defendants was signed by
14 Defendant CLINTON W. LOVE, President and Founder of BAY AREA CREMATION &
15 FUNERAL SERVICES, INC. on February 1, 2014.

16 10. The BAY AREA CREMATION Defendants would in turn hire defendant BOB
17 COOPER ENTERPRISES for decedent removal, refrigeration services and transportation services.

18 11. Defendant BOB COOPER ENTERPRISES would in turn hire defendant ROBERT
19 SMITH, JR. for decedent removal, refrigeration services and transportation services.

20 12. On July 14, 2105, the decedent was pronounced dead at 5:00 a.m. at KAISER
21 RICHMOND MEDICAL CENTER. He was 68-years-old at the time of his death. The immediate
22 cause of his death was cardiac arrest.

23 13. At the time of the decedent's death, the KAISER Defendants had custody, care, and
24 control of the decedent's body. When the KAISER Defendants first took custody, care and control
25 of the decedent's body upon his death on July 14, 2105, the body was in good condition and had not,
26 at that time, commenced to decompose, decay, or deteriorate.

27 14. Plaintiffs are informed and believe, and accordingly allege, that the morgue was full

1 at KAISER RICHMOND MEDICAL CENTER on July 14, 2105.

2 15. Plaintiff LORENZO GRAYSON informed a nurse at KAISER RICHMOND
3 MEDICAL CENTER at approximately 5:55 a.m. on July 14, 2015 that the family had not arranged
4 for a mortuary yet.

5 16. The BAY AREA CREMATION Defendants were called by the KAISER Defendants
6 at approximately 9:13 a.m. on July 14, 2015 to pick up the body of the decedent at KAISER
7 RICHMOND MEDICAL CENTER.

8 17. Plaintiffs are informed and believe, and accordingly allege, that the BAY AREA
9 CREMATION Defendants hired BOB COOPER ENTERPRISES to transport the decedent from
10 KAISER RICHMOND MEDICAL CENTER to their holding facility in Redwood City, California to
11 Chapel of the Chimes in the City of Oakland, County of Alameda, State of California. Plaintiffs are
12 further informed and believe, and accordingly allege, that defendant BOB COOPER ENTERPRISES
13 in turn hired ROBERT SMITH, JR. to perform the work requested regarding the body of the
14 decedent.

15 18. At approximately 9:18 a.m. on July 14, 2015, the BAY AREA CREMATION
16 Defendants and/or BOB COOPER ENTERPRISES dispatched defendant ROBERT SMITH, JR. to
17 pick up the body of the decedent from KAISER RICHMOND MEDICAL CENTER and to transport
18 the body of the decedent to the BAY AREA CREMATION Defendants' Redwood City holding
19 facility. At the time the decedent's body was picked up from KAISER RICHMOND MEDICAL
20 CENTER, plaintiffs are informed and believe, and accordingly allege, that the body of the decedent
21 had some damage indicating that it was not properly refrigerated at KAISER RICHMOND
22 MEDICAL CENTER.

23 19. At approximately 5:54 p.m. on July 14, 2015, defendant ROBERT SMITH, JR.
24 delivered the body of the decedent to the BAY AREA CREMATION Defendants' Redwood City
25 holding facility. Plaintiffs are informed and believe, and accordingly allege, that the BAY AREA
26 CREMATION Defendants never looked at the body of the decedent at any time on July 14, 2015.

27 20. On July 15, 2015 at approximately 9:27 a.m., the mortuary selected by Plaintiffs,

1 Chapel of the Chimes, faxed a letter to the BAY AREA CREMATION Defendants indicating that
2 the BAY AREA CREMATION Defendants were authorized and requested to release the remains of
3 the decedent and the personal property of the decedent to Chapel of the Chimes in Oakland,
4 California. Plaintiffs are informed and believe, and accordingly allege, that the BAY AREA
5 CREMATION Defendants never looked at the body of the decedent at any time on July 15, 2015.

6 21. On July 15, 2015 at approximately 11:41 a.m., the body of the decedent was picked
7 up at the BAY AREA CREMATION Defendants' Redwood City, California holding facility by
8 ROBERT SMITH, JR.

9 22. On July 15, 2015 at approximately 2:00 p.m., the body of the decedent was delivered
10 to Chapel of the Chimes by ROBERT SMITH, JR. When defendant ROBERT SMITH, JR.
11 delivered the body of the decedent to Chapel of the Chimes, the embalmer there inspected the body
12 and found that it was in very poor condition. The body showed numerous changes and had
13 decomposed substantially; among other changes, the body was in such condition that it emitted
14 extremely offensive, strong, obnoxious and nauseating odors, the decedent's facial tissue was
15 swollen and had a bloated appearance, the decedent had "skin slip," or a loosening of the skin from
16 the body, and the decedent was purging fluids from his nose and mouth. It looked as if the decedent
17 had been dead for a month instead of just a day. Plaintiffs are informed and believe, and accordingly
18 allege, that the condition of the decedent's body presented a classic case of tissue gas, which is the
19 name given to the action of the bacteria *Clostridium perfringens* in dead bodies. Its effect on the
20 deceased is that of an extreme accelerated decomposition, especially if the decedent was not
21 embalmed or properly refrigerated.

22 23. Plaintiffs entrusted Defendants to exercise care and caution in handling and
23 transporting the decedent's body. Yet during the period of time that the body of the decedent was in
24 the possession of Defendants, Defendants did not keep apprised of the condition of the body, and it
25 began to decompose and deteriorate from the condition in which it was at the time it was received by
26 Defendants. Eventually, the body reached such a condition that it was barely recognizable by
27 members of the decedent's immediate family. Defendants did not advise Plaintiffs of this, nor did

1 Defendants advise plaintiffs of the necessary steps to prevent the body from decomposing.

2 24. As described herein, on or about July 14, 2015 and thereafter Defendants undertook
3 and had a duty to Plaintiffs to properly handle and care for the body of decedent in a competent and
4 professional manner. Defendants owed professional duties to each of the Plaintiffs as close family
5 members of the decedent. Defendants, as providers of funeral related services, also have a
6 heightened duty to the family members of decedents during these particularly vulnerable times of
7 need. Those duties include, but are not limited to, the duty to (1) take all reasonable and necessary
8 steps to keep and maintain the body of the decedent in good condition so that the body would be
9 suitable for a decent and proper public viewing and funeral; (2) deliver the body to Plaintiffs, or their
10 authorized representatives, in substantially the same condition the body was in when the decedent
11 died; (3) take all reasonable and customary steps necessary to preserve the body of the decedent and
12 to take whatever steps were necessary to ensure that it would be maintained in as good a condition as
13 it was when received; (4) keep properly apprised of the condition of the body while it was in
14 Defendants' possession; (5) give the body immediate care and attention while Plaintiffs were
15 determining the place and manner of decedent's burial or cremation; (6) advise the Plaintiffs or their
16 representatives if the body began to decompose; (7) advise the Plaintiffs or their representatives of
17 the steps necessary to prevent such decomposition; and (8) treat Plaintiffs with respect and dignity
18 during this most tragic time in their lives and to not unnecessarily cause any additional mental
19 distress or anguish.

20 25. Defendants, and each of them, breached their duties to Plaintiffs as set forth herein.
21 Defendants were negligent in failing to take any measure to preserve the body of the decedent upon
22 death. Plaintiffs are informed and believe, and accordingly allege, that the body was maintained in a
23 room with temperature that was not sufficiently controlled. Such acts by Defendants were made
24 with full knowledge of what would happen to the corpse if it was not maintained at the proper
25 temperature. More specifically, Defendants are guilty of the following acts of negligence on the
26 occasion in question which, separately and concurrently, directly and proximately caused injuries
27 and damages to Plaintiffs:

1 a. Failing to take any of the necessary and reasonable measures to preserve the body of
2 the decedent;

3 b. Failing to disinfect or preserve the body of the decedent by the injection or external
4 application of antiseptics, disinfectants, or preservative fluids, all of which are procedures well
5 known to Defendants;

6 c. Failing to maintain the body of the decedent at a temperature of 32 degrees
7 Fahrenheit or below in order to prevent rapid decomposition;

8 d. Failing to maintain the body of the decedent at a temperature that was reasonable
9 and prudent under the facts and circumstances then existing in order to prevent rapid
10 decomposition;

11 e. Failing to notify and advise any of Plaintiffs that the body of the decedent was
12 deteriorating and decomposing while in the possession of Defendants;

13 f. Failing to advise Plaintiffs of the proper steps to be taken to preserve the body of the
14 decedent while Defendants had possession;

15 g. Failing to keep adequately apprised of the condition of the body of the decedent
16 while Defendants had possession;

17 h. Failing to follow generally accepted industry standards and practices for the care and
18 custody of deceased bodies;

19 i. Failing to exercise proper care, custody and control in accordance with the generally
20 accepted industry standards and practices in the handling of the decedent's body; and

21 j. Failing to take reasonable steps in accordance with the generally accepted industry
22 standards and practices to assure the preservation of the decedent's body and to prevent
23 decomposition.

24 26. The BAY AREA CREMATION Defendants, BOB COOPER ENTERPRISES,
25 DOES 1-10 and their agents and employees violated California Business and Professions Code
26 §7711.1, by negligently performing acts related to the operation of a cemetery or crematory.

27 27. The BAY AREA CREMATION Defendants, BOB COOPER ENTERPRISES,

1 DOES 1-10 and their agents and employees also violated California Health and Safety Code
2 §7100(e), by failing to faithfully and promptly perform disposition services in a responsible manner,
3 which triggers the applicability of California Health and Safety Code §7109, which allows plaintiffs
4 to recover costs and reasonable attorneys' fees against said defendants.

5 28. Defendants breached their duty owed to Plaintiffs by failing to use ordinary care and
6 exercise reasonable diligence in properly handling the body of the decedent. Defendants, as
7 providers of funeral services, have assumed a position of trust towards the family members of the
8 decedent. Defendants breached the trust of Plaintiffs when they negligently mishandled the body of
9 the decedent. While in the care, custody and control of Defendants, the decedent's body was
10 severely neglected, not refrigerated, and left to prematurely decompose and decay before being
11 delivered to the Chapel of the Chimes. Defendants performed their professional duties to the
12 Plaintiffs in a negligent manner, which allowed for the mutilation of the body of the decedent as
13 described herein. Defendants knew or should have known by the exercise of reasonable care and
14 diligence from a reasonably prudent person perspective that a failure to take the necessary steps to
15 care for and properly handle and store decedent's body would interfere with the disposition and
16 interment, and that such disruption and interference was foreseeable and likely to happen, if
17 reasonable steps were not implemented to prevent the same.

18 29. As a result of the above-described acts of Defendants, the extremely offensive,
19 strong, obnoxious and nauseating odors emanating from the decedent's body on July 15, 2015 were
20 so bad that Chapel of the Chimes could not put the decedent's body in a private room for plaintiff
21 COREY GRAYSON to view. Plaintiff COREY GRAYSON therefore had to see his father's badly
22 decayed body in the garage of Chapel of the Chimes. When viewing the body, Plaintiff COREY
23 GRAYSON was overwhelmed by the revolting and obnoxious odor emanating from the decedent's
24 body, deteriorated flesh falling off his body, bodily fluids excreting from his orifices and the
25 disfigurement of the decedent's face. This was overwhelming and devastating to Plaintiff COREY
26 GRAYSON, and, as a result, he suffered severe emotional shock and mental anguish, which was
27 proximately caused by the conduct of Defendants. Each of the Plaintiffs had the same reaction,

1 shock, disbelief, and immediate grief. The agents, employees and representatives of Defendants
2 conducted their duties and relations with Plaintiffs and the decedent so carelessly as to destroy for
3 the family the importance of the life passage experience.

4 30. As a result of the above-described acts of Defendants, Plaintiffs would not be able to
5 have the planned embalming and public viewing of the decedent due to the condition of the body,
6 the fact that the decedent no longer looked like himself, and due to the horrible odor that could not
7 be contained by a casket. This information came as a great shock to all of the Plaintiffs and, as a
8 result, they all suffered severe emotional shock and mental anguish and felt physically sickened,
9 which was proximately caused by the conduct of Defendants. The Plaintiffs' severe emotional
10 distress has continued and continues.

11 31. Defendants' negligence proximately caused physical and mental pain, suffering, and
12 anguish to Plaintiffs. As a direct result of the negligence, carelessness, and/or unlawful conduct of
13 Defendants, Plaintiffs have suffered severe physical pain and mental anguish in the past and will
14 continue to suffer such physical pain and mental anguish in the future for an indefinite period of
15 time in amounts which have not as yet been fully ascertained but which will be proven at trial.

16 32. At the time of Defendants' negligence, each of the Defendants were engaged in
17 activities that were in the course and scope of their employment for Defendants. In doing the acts
18 alleged in this complaint, Defendants were acting pursuant to authorization of Defendants. Plaintiffs
19 are also informed and believe, and accordingly allege, that at all times mentioned herein, Does 1-20,
20 were agents and employees of Defendants and that Does 1-20 were acting within the course and
21 scope of their agency and employment with Defendants at the time of the subject negligence. As
22 such, the negligence of Does 1-20 is imputed to their principal and employer, Defendants, under
23 principles of respondeat superior.

24 33. The BAY AREA CREMATION Defendants, BOB COOPER ENTERPRISES, and
25 DOES 1-10 acted wantonly and despicably, and said acts were carried out by said defendants with a
26 willful and knowing disregard of the rights or safety of others, including the plaintiffs. Said
27 defendants were aware of the probable dangerous consequences of their conduct and yet deliberately

1 failed to avoid those consequences. The conduct of said defendants was so vile, base, or
2 contemptible that it would be looked down on and despised by reasonable people. Said defendants
3 are therefore liable to plaintiff for punitive damages. Plaintiffs hereby request such damages
4 pursuant to Civil Code § 3294.

5 WHEREFORE, Plaintiffs pray for judgment as set forth hereinafter.

6 **SECOND CAUSE OF ACTION**

7 **(Negligent Infliction of Emotional Distress)**

8 34. Plaintiffs refer to paragraphs 1-33 and incorporate them into this cause of action as
9 though fully set forth herein.

10 35. Because of the conduct of Defendants, and as a direct and proximate result thereof,
11 Plaintiffs were and have been subjected to extreme fright, emotional distress, shock, and injury to
12 the nervous systems as a result of the negligent acts of Defendants in connection with the negligent
13 mishandling of the body of the decedent, their beloved family member. Plaintiffs have suffered,
14 and will continue to suffer, severe emotional distress, mental pain and anguish, and will continue to
15 be deprived of their emotional tranquility surrounding the funeral of the decedent.

16 36. Defendants knew that mishandling of the body of the decedent was likely to cause
17 extreme emotional distress to Plaintiffs and that their failure to exercise due care in the safe keeping
18 of the body of the decedent would result in injury to Plaintiffs.

19 Wherefore, Plaintiffs pray for judgment as set forth hereinafter.

20 **REQUEST FOR JURY TRIAL**

21 Plaintiffs request a jury trial.

22 **PRAYER**

23 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 24 1. For general damages according to law and proof;
- 25 2. For special damage according to law and proof;
- 26 3. For costs of suit;
- 27 4. For pre-judgment interest according to law;

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5. For punitive damages against the BAY AREA CREMATION Defendants,
BOB COOPER ENTERPRISES, and DOES 1-10 only; and
6. For such other and further relief as the Court may deem proper.

DATED:

STEBNER AND ASSOCIATES

5.5 16

By:

KATHRYN A. STEBNER
Attorneys for Plaintiffs

Courthouse News Service