

DISTRICT COURT, MONTROSE COUNTY, COLORADO
1200 North Grand Avenue, Montrose, Colorado 81401

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CASE NUMBER: 2019CV30093

Plaintiffs: Chris Artrup, surviving son of **Donald ARTRUP**; Chris Artrup, surviving son of **Holly ARTRUP**; Nicole Carter, surviving sister of **Mandy BALDT**; Edna Benson, surviving spouse of **Michael BENSON**; Mary Burgner, surviving spouse of **James BURGNER**; Michelle Ross, surviving ex-spouse of **Damon (Lee) COVERT**; John, Joy, Judy, and Winona Cressler, surviving children and spouse of **Harold CRESSLER**; Gail Erman, surviving spouse of **James ERMAN**; Helen Gonzales, surviving spouse of **Leroy GONZALES**; Candace Salazar, granddaughter of **Bonnie HAMBLIN**; Candace Salazar on behalf of Stephen Hamblin, surviving son of **Bonnie HAMBLIN**; Barbara and Belinda Hammer, surviving daughter and spouse of **John HAMMER**; Diana Hardin, surviving parent of **Hanna HARDIN**; Nicole Carter, surviving granddaughter of **Marlow HOLLOMAN**; Debra Schum, surviving POA and friend of **Lora Lee JOHNSON**; Michael Kuchler, surviving parent of **Johnathon KUCHLER**; Lee Phillips, surviving common law spouse of **Frank MAZZA**; Terri Reid, surviving ex-spouse of **William REID**; Amanda Miller and Jacy West, surviving daughters of **William SANDER**; LouAnn (Jazzy) Stover, surviving spouse of **Thomas STOVER**; Rodney Stowe, surviving son of **Cecilia STOWE**; Rodney Stowe, surviving son of **Roy STOWE**; Martha Troutman on behalf of Barbara Harshbarger, surviving sister of **John THOMAS**; Deborah Chelius, surviving granddaughter of **Barbara THURSTON**; Teri Valentine, surviving daughter of **William VALENTINE**; Virginia Watkins, surviving spouse of **Michael WATKINS**; James and Samuel Wilson, surviving sons of **Nanci WILSON**

v.

Defendants: **SUNSET MESA Funeral Foundation, Inc.**; **MEGAN M. HESS**; **MEGAN M. HESS**, as trustee of **PEYTON HESS TRUST**; **MEGAN M. HESS** as trustee of some unknown individual or family John Doe and/or Jane Doe trust; **SHIRLEY KOCH**; and, **ALAN KOCH**;

COURT USE ONLY

Case No.

Div.

J. Keith Killian, Esq.
KILLIAN, DAVIS, Richter & Mayle, PC
202 North Seventh Street
Post Office Box 4859
Grand Junction, Colorado 81502
Telephone: (970) 241-0707
Attorney for Plaintiffs

No. 9042

COMPLAINT AND JURY DEMAND

Plaintiffs, through their attorneys of record, KILLIAN DAVIS Richter & Mayle, PC, hereby submit this complaint and allege as follows:

JURISDICTION AND VENUE

Subject Matter Jurisdiction

1. This court has subject matter jurisdiction pursuant to Article VI of the Constitution of the State of Colorado.

Personal Jurisdiction

2. This court has personal jurisdiction over each party to this action, pursuant to § 13-1-124, C. R. S. either because such individual or entity is a citizen of the State of Colorado, or because plaintiffs' claims arise out of defendants' transaction of business within the state of Colorado or because defendants' commission of tortious acts within the state of Colorado.

3. This court has personal jurisdiction over the defendants, because:

(a) defendants purposefully availed themselves of the benefits and privileges of the laws of this State by conducting business in Colorado or have purposefully directed activity to this State;

- (b) the claims against each defendant are related to or arise out of the business in which each participated or the activities which each directed in Colorado; and,
- (c) maintaining this suit against these defendants, in this court is reasonable.

4. As supported by the detailed factual allegations set forth in this complaint, plaintiffs were informed by the Federal Bureau of Investigation (FBI), and/or other sources that CORCARAN now known as AMERICAN PLASTINATION, AXOGEN, GLOBAL ANATOMY PROJECT, LLC., INNOVED, MD GLOBAL, SOUTHWEST INSTITUTE OF BIO-ADVANCEMENT (SWIBA), M.A.C., C.L.I., and other yet-to-be-identified entities (BODY HANDLERS) entered into donation, purchase or lease agreements with SUNSET MESA, its employees, or agents or HESS (hereinafter referred to as SUNSET MESA) for the bodies or body parts of the plaintiffs' loved ones. Plaintiffs' claims against these defendants or potential defendants, arise out of these purchase agreements conducted in the State of Colorado. It is reasonable for the named defendants to be required to defend the nature of their conduct which occurred in Colorado and involved donating, selling, or leasing bodies and body parts of its residents.

5. As supported by the detailed factual allegations herein, plaintiffs have discovered that certain entities entered into agreements to donate, purchase, or lease their loved ones' bodies or body parts from the defendants. In conducting such transactions to donate, sell, or lease bodies and body parts, these defendants or potential defendants have breached duties to the deceased and their surviving families. The conduct of the defendants was purposeful and willfully reckless and thus it is reasonable for these defendants to be required by this court to defend the claims made against them.

Venue

6. Venue is proper in Montrose County, Colorado, pursuant to C.R.C.P. 98(c) because defendants, reside or have a registered agent in Montrose County, conducted business in Montrose County or have caused a substantial part of the conduct giving rise to the claims asserted herein to occur in Montrose County.

GENERAL ALLEGATIONS

(Claimant One) The Claims of Christopher Artrup, the surviving son of Donald Artrup

7. Donald Artrup was born December 3, 1956, in Colorado.
8. Donald Artrup was a business owner and worked in the construction trade.
9. Donald Artrup served his country in the armed forces.
10. Donald Artrup passed away January 15, 2012, in Montrose, Colorado at the age of 56.
11. The plaintiff, Christopher Artrup, is the surviving son of Donald Artrup.
12. Christopher Artrup made arrangements for Donald Artrup's cremation services on January 19, 2012, with SUNSET MESA.
13. The death certificate indicates Donald Artrup was cremated at SUNSET MESA.
14. SUNSET MESA was paid \$2,272.30 for cremation services.
15. Christopher Artrup did not consent to donate, sell, or lease the body of Donald Artrup.
16. The FBI informed Christopher in October of 2018 that about one half of Donald Artrup's body was sold and one half was cremated.

17. Christopher Artrup understood that HESS and SUNSET MESA were required to return the gold necklace with three or more gold pendants that Donald Artrup was wearing at the time of his death.

18. Although Christopher Artrup had the right to the gold jewelry, HESS and SUNSET MESA did not return the gold necklace with three or more gold pendants to Christopher Artrup.

19. Christopher Artrup has suffered emotional trauma due to the actions of SUNSET MESA. He has had visions of his father being sawed in half. It is an image that continues to haunt him.

20. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Christopher Artrup.

(Claimant Two) The Claims of Christopher Artrup, surviving son of Holly Artrup

21. Holly Artrup was born May 3, 1955, in Denver, Colorado.

22. The death certificate indicates Holly Artrup was cremated at SUNSET MESA.

23. Holly Artrup was a business owner involved in the construction industry.

24. Holly Artrup passed away on January 1, 2015, in Montrose, Colorado at the age of 59.

25. The plaintiff, Christopher Artrup, is the surviving son of Holly Artrup.

26. Christopher Artrup made arrangements for Holly Artrup's cremation with SUNSET MESA.

27. SUNSET MESA was paid \$3200.00-\$3500.00 for cremation services.

28. There was no consent given to donate, sell, or lease the body of Holly Artrup.

29. The FBI informed Christopher Artrup in October of 2018 that only one third of Holly Artrup' body was cremated. The rest of her body was dissected and sold. The FBI informed Christopher Artrup that they are attempting to track down his mother's body parts and pieces.

30. The knowledge that his mother's body was dissected and dispersed to a variety of locations haunts and traumatizes Christopher Artrup.

31. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Christopher Artrup.

(Claimant Three) The claim of Nicole Carter, surviving sister of Mandy Baldt

32. Mandy Baldt was born February 15, 1982, in Florida.

33. Mandy Baldt worked much of her life as a cashier.

34. Mandy Baldt passed away November 29, 2017, at her home in Olathe, Colorado at the age of 35.

35. Mandy Baldt's death was unexpected.

36. The plaintiff, Nicole Carter, is the surviving sister of Mandy Baldt.

37. Funeral arrangements for cremation services were made by family members with SUNSET MESA.

38. Mandy Baldt's family did not suggest to or agree with SUNSET MESA that it could donate, sell or lease her body or body parts.

39. Mandy Baldt's memorial service and viewing were held at SUNSET MESA.

40. The body of Mandy Baldt was supposed to be embalmed but upon information and belief SUNSET MESA did not do this.

41. The casket appeared to be shorter than the body of Mandy Baldt.

42. At the viewing, Mandy Baldt's body appeared to be deformed.
43. SHIRLEY KOCH refused to let anyone touch Mandy Baldt's body.
44. Upon recent information and belief, the body of Mandy Baldt had been dissected prior to the viewing held at SUNSET MESA.
45. Mandy Baldt's death certificate indicates her body was cremated.
46. The death certificate indicates Mandy Baldt was cremated by SUNSET MESA.
47. Mandy Baldt's "cremains" appeared to be similar to the "cremains" represented by SUNSET MESA to be her grandmother's "cremains," which upon information and belief were not actually the cremains of her grandmother.
48. The FBI has taken Mandy Baldt's "cremains" to Quantico for testing.
49. The facts concerning the inappropriate statements and actions of SUNSET MESA traumatized and continue to be emotionally disturbing to Nicole Carter.

(Claimant Four) The Claims of Edna Benson, surviving mother of Michael Benson

50. Michael Benson was born May 10, 1962, in Grand Junction, Colorado.
51. During much of his life, Michael Benson worked as an outdoor guide.
52. Michael Benson passed away on July 20, 2015, in Grand Junction, Colorado at the age of 53.
53. The plaintiff, Edna Benson, is the surviving mother of Michael Benson.
54. Cremation arrangements were made with SUNSET MESA after Michael Benson passed.
55. SUNSET MESA was paid \$800.00 for the cremation.
56. The family had a viewing at SUNSET MESA on July 22, 2015.

57. After the viewing, HESS asked Edna Benson if she would consent to donate the body and body parts of Michael Benson.

58. Edna Benson asked HESS if you could still help people by donating the body this long after a death. HESS told her the donation of his body or body parts would be able to help someone.

59. Edna Benson agreed to the proposed donation with the understanding the donation would help someone.

60. The death certificate indicates Michael Benson was cremated.

61. The FBI informed Edna Benson in 2018 that Michael Benson's body was not cremated, but sold and sent to an unknown location in China.

62. Michael Benson's "cremains" were tested by CMU at the request of the FBI.

63. The results of the test are consistent with bone material.

64. The test does not establish whether such bone material belonged to Michael Benson.

65. These facts concerning the inappropriate statements and actions of SUNSET MESA traumatized and continue to be emotionally disturbing to Edna Benson.

(Claimant Five) The Claims of Mary Burgner, surviving spouse of James Burgner

66. James Burgner was born March 2, 1936, in Brooklyn, NY.

67. Throughout much of his life James Burner was employed in sales.

68. James Burgner served in the United States Navy Reserves for 8 years.

69. James Burgner passed away on February 6, 2015, at the age of 78 in Olathe, CO, at Colorow Care Center.

70. The plaintiff, Mary Burgner, is the surviving spouse of James Burgner.

71. Mary Burgner made arrangement for cremation services with SUNSET MESA on February 6, 2015.

72. Mary Burgner paid a total of \$1,461.83 to SUNSET MESA for the last services and cremation of James Burgner's remains. She paid \$1,058.00 on February 13, 2015, and \$433.83 on March 5, 2015.

73. Before his death, James Burgner told his wife, Mary Burgner, he did not want his body donated for research.

74. To honor James Burgner's wishes, Mary Burgner told SUNSET MESA and in particular, HESS that she did not want his body to be donated.

75. Mary Burgner was given the cremains which were represented by SUNSET MESA to be those of James Burgner. The cremains included a brass identification tag.

76. The death certificate indicates James Burgner was cremated.

77. Mary Burgner received a telephone call prior to November 19, 2018, from the FBI asking if she had given SUNSET MESA permission for James Burgner's body to be sold. She indicated to the FBI that she had not given SUNSET MESA such permission. The FBI told her James Burgner's body parts were listed in HESS' notebook.

78. On November 19, 2018, Mary Burgner received a letter, from the FBI, stating she was a potential victim of SUNSET MESA's actions.

79. Mary Burgner was notified by the FBI that James Burgner's head, neck, both hands, both wrists, both feet and both ankles had been cut off and sold to INNOVED.

80. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Mary Burgner.

(Claimant Six) The Claims of Michelle Ross, who was Caretaker and Power of Attorney for

Damon "Lee" Covert

81. Damon "Lee" Covert was born September 20, 1957, in Texas.
82. Damon "Lee" Covert spent much of his life working as a horseback guide.
83. Damon "Lee" Covert passed away July 1, 2017, at home, at the age of 59.
84. The plaintiff, Michelle Ross, is the surviving caretaker for Damon "Lee" Ross.
85. Damon "Lee" Covert and Michelle Ross had been married, but divorced before his death.
86. After Damon "Lee" Covert was diagnosed with squamous cell cancer, he moved in with Michelle Ross and she was his caregiver.
87. Michelle Ross made decisions for and took actions on behalf of Damon "Lee" Covert and did so with a Power of Attorney.
88. Arrangements were made with SUNSET MESA in June of 2017 to have Damon "Lee" Covert cremated upon his death.
89. After Damon "Lee" Covert passed away, there was no request by SUNSET MESA nor consent given by Michelle Ross on behalf of Damon "Lee" Covert to donate or sell his body or body parts.
90. Damon "Lee" Covert's death certificate indicated method of disposition as cremation.
91. SUNSET MESA was paid \$973.78 for final services and cremation.
92. Michelle Ross was billed by SUNSET MESA approximately an additional \$59.00 to receive the "cremains."

93. The FBI informed Michelle Ross in July 2018 that she was a potential victim of SUNSET MESA.

94. The FBI informed Michelle Ross in July 2018 that Damon "Lee" Covert's torso and both legs from the knees down were dismembered and sold to INNOVED.

95. Colorado Mesa University (CMU) tested the "cremains" of Damon "Lee" Covert.

96. The CMU report states the "cremains" consisted of bone, metal and dirt which was inconsistent with being the cremains of Damon "Lee" Covert.

97. The test does not establish whether such bone material belonged to Damon "Lee" Covert.

98. CMU told Michelle Ross the amount of ashes returned to the family seemed to be an abnormally large amount for his height and weight.

99. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Michelle Ross.

(Claimant Seven, Eight, Nine and Ten) The Claims of Winona, John, Joy and Judy Cressler, surviving spouse and children of Harold Cressler

100. Harold Cressler was born August 9, 1931, in Colorado.

101. Harold Cressler served in the Army from 1951-1956 and received his General Educational Diploma (GED).

102. Harold Cressler spent his life working as a coal and uranium miner.

103. Harold Cressler contracted lung cancer as a result of his work as a uranium miner.

104. Harold Cressler passed away on December 7, 2015, at the San Juan Living Center located in Montrose, Colorado at the age of 84.

105. The plaintiff, Winona Cressler, is the surviving spouse of Harold Cressler.

106. The plaintiff, John Cressler, is the surviving son of Harold Cressler.
107. The plaintiff, Joy Cressler, is the surviving daughter of Harold Cressler.
108. The plaintiff, Judy Cressler, is the surviving daughter of Harold Cressler.
109. Winona Cressler filled out a body donation form provided to her by SUNSET MESA. This was given to her to sign in the middle of the night right after Harold Cressler passed away.
110. On December 14, 2015, Winona Cressler received the death certificate.
111. There were two mistakes on the death certificates that were contrary to written information Winona Cressler had provided to SUNSET MESA.
112. SUNSET MESA neglected to indicate Harold Cressler served in the armed forces and that Harold Cressler received his GED.
113. When Winona Cressler insisted on an accurate copy, HESS advised she would amend the death certificate but insisted Winona Cressler pay an additional \$85.00 for the second set of corrected certificates.
114. HESS stated she would not return the cremains until the additional payment was made.
115. Winona Cressler filed a complaint with the Better Business Bureau following HESS's refusal to provide the corrected death certificates without additional payment.
116. Harold Cressler wanted his remains to be used for research in the hope that his remains could assist in finding a cure for the lung cancer he contracted working as a uranium miner.
117. HESS told Winona Cressler she did her own medical research on Harold Cressler and kept him for 45 days.

118. HESS told Winona Cressler that Harold Cressler's cremains were ready to be returned to the family.

119. Judy Cressler filed a complaint with the Department of Regulatory Agencies because of the inappropriateness of HESS and SUNSET MESA claiming they kept Harold Cressler's remains for 45 days and HESS claiming to have done her own "medical research."

120. Harold Cressler's death certificate indicates he was donated.

121. The FBI told Judy Cressler that the body of Harold Cressler was not cremated or donated but instead SUNSET MESA sold Harold Cressler's whole body to GLOBAL ANATOMY PROJECT.

122. The Cressler family did not authorize SUNSET MESA to sell Harold Cressler's body or body parts.

123. Harold Cressler's family was appalled and distressed after learning that SUNSET MESA did not send Harold Cressler's remains to be used for medical research in an attempt to cure cancer.

124. The "cremains" given to Winona Cressler contained material which was inconsistent with Harold Cressler's attire at the time of his death, including: tooth caps; shattered glass; wire; pieces of metal possibly part of an earring; rivets from jeans; a snap for a Wrangler western shirt; the inlay of a Swiss Army knife; and what appears to be a round rubber seal/gasket of some kind. Harold Cressler did not have any of these items on his person.

125. Based upon information and belief, the Cressler family believes SUNSET MESA and HESS were burning trash along with human remains.

126. Due to the FBI having documentation that Harold Cressler's whole body was sold, the "cremains" given to the family were not those of Harold Cressler.

127. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to the Cressler family.

(Claimant Eleven) The Claims of Gail Erman, surviving spouse of James Erman

128. James Erman was born February 5, 1939, in Toledo, Ohio.
129. James Erman spent much of his life working as an educator.
130. James Erman passed away on May 6, 2014, at the age of 75.
131. The plaintiff, Gail Erman, is the surviving spouse of James Erman.
132. After James Erman passed away, Gail Erman made arrangements for cremation of the body of James Erman with SUNSET MESA.
133. Gail Erman paid SUNSET MESA \$795.00 for cremation.
134. SUNSET MESA asked Gail Erman if James Erman was a body donor.
135. Gail Erman informed SUNSET MESA that James Erman was not a body donor.
136. SUNSET MESA requested James Erman's driver's license to see if he was a body donor.
137. Gail Erman complied with SUNSET MESA's request, but James Erman's driver's license did not indicate he was an organ and tissue donor.
138. Gail Erman did not consent for James Erman's body or body parts to be donated or sold.
139. The death certificate indicates James Erman was cremated.
140. The FBI informed the family that certain parts of James Erman's body were sold to a body handler(s) approximately one month after James Erman had passed away.
141. The family does not know the name(s) of the body handler(s) to whom the body parts of James Erman were sold.

142. Gail Erman and her family feel chagrined and distressed as a result of these circumstances. Gail Erman's knowledge that James Erman was dissected is disturbing to her, and the images in her mind are horrible. She wants to know what ultimately happened to her husband.

143. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Gail Erman and her family.

(Claimant Twelve) The claims of Helen Gonzales, surviving spouse of Leroy

Gonzales

144. Leroy Gonzales was born July 6, 1944, in Colorado.

145. Leroy Gonzales spent his life working as a uranium miner.

146. Leroy Gonzales passed away February 22, 2017, at the age of 72.

147. The plaintiff, Helen Gonzales, is the surviving spouse of Leroy Gonzales

148. After Leroy Gonzales passed away, Helen Gonzalez made arrangements for cremation services with SUNSET MESA.

149. Helen Gonzales did not consent to Leroy Gonzales' body being donated or sold by SUNSET MESA.

150. According to MEGAN HESS, an insurance company, which provided burial insurance, overpaid SUNSET MESA for the cremation services.

151. MEGAN HESS indicated to Helen Gonzales, that SUNSET MESA would refund \$600.00 to Helen Gonzales.

152. Helen Gonzales requested to view the body of her husband, Leroy Gonzales.

153. SUNSET MESA agreed, but then charged Helen Gonzales the aforesaid \$600.00 to view her husband's body.

154. The death certificate indicates that Leroy Gonzales was cremated.

155. Helen Gonzales' daughter Tammy Neil received a letter from the FBI on October, 1, 2018, stating Helen Gonzales was a potential victim of SUNSET MESA.

156. The FBI informed Helen Gonzales that Leroy Gonzales had been beheaded; his arms and legs from the knees down detached; and these body parts were sold.

157. The thought of Leroy Gonzales being dissected in this matter constantly haunts his widow, Helen Gonzales.

158. CMU tested the cremains presented to Helen Gonzales. It was determined that they were consistent with human bones. However, there was metal in the ashes which is inconsistent with being the cremains of Leroy Gonzales.

159. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Helen Gonzales.

(Claimant Thirteen and Fourteen) The Claims of Candace Salazar, surviving granddaughter and Candace Salazar, on behalf of Stephen Hamblin, surviving son of Bonnie Hamblin

160. Bonnie Hamblin was born August 11, 1930, in Nunn, CO.

161. Bonnie Hamblin spent much of her life her life working as a nurse, some of which was spent working as a hospice nurse.

162. Bonnie Hamblin passed away on April 4, 2014, at the age of 83.

163. The plaintiff, Candace Salazar, is the surviving granddaughter of Bonnie Hamblin.

164. The plaintiff, Stephen Hamblin, is the surviving son of Bonnie Hamblin.

165. Candace Salazar holds the Power of Attorney responsibilities for her father Stephen Hamblin.

166. Prior to her death, Bonnie Hamblin made arrangements with SUNSET MESA for cremation services.

167. Bonnie Hamblin paid \$1,532.00 for cremation services.

168. Bonnie Hamblin did not consent to the donation or sale of her remains.

169. The death certificate indicates Bonnie Hamblin was cremated.

170. The FBI informed the family of Bonnie Hamblin that her body parts were sold by SUNSET MESA to an unknown body hander(s).

171. Bonnie Hamblin's family does not know to whom her body parts were sold or where they are located.

172. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Stephen Hamblin.

(Claimant Fifteen and Sixteen) The Claims of Barbara Hammer and Belinda Hammer, surviving spouse and daughter of John Albert Hammer.

173. John Hammer was born on February 17, 1934, in Denver, CO.

174. John Hammer spent much of his life working as a telephone lineman.

175. John Hammer served his country in the Air Force and was a Korean War Veteran.

176. John Hammer was a Mason and a member of Albert Pike Masonic Lodge in Denver, CO for 57 years. John Hammer joined the Masons on March 16, 1968, and became a Master Mason on September 12, 1968. He reached the highest degree in Freemasonry.

177. John Hammer passed away November 5, 2013, at the age of 79.

178. The plaintiff, Barbara Hammer, is the surviving spouse of John Hammer.

179. The plaintiff, Belinda Hammer, is the surviving daughter of John Hammer.

180. Arrangements for cremation services were made on November 7, 2013, at SUNSET MESA.

181. Barbara Hammer paid \$880.00 for cremation services for John Hammer, and received what was alleged by SUNSET MESA to be his "cremains."

182. After John Hammer's passing his family provided SUNSET MESA with several Masonic items belonging to John Hammer that were to be cremated with him.

183. There was no agreement for donation or sale of John Hammer's body or body parts.

184. The death certificate indicates John Hammer was donated.

185. The family did not initially realize that the method of disposition listed on John Hammer's death certificate was donation instead of cremation.

186. The FBI contacted Barbara Hammer on November 15, 2018, to inform her that she was a potential victim of SUNSET MESA.

187. The FBI informed Barbara Hammer and Belinda Hammer that John Hammer's entire body was sold.

188. Barbara Hammer and Belinda Hammer do not know to whom the body was sold, the location of the body of John Hammer or the location of the Masonic items they provided to be cremated with him.

189. After Barbara Hammer and Belinda Hammer were contacted by the FBI, and told that John Hammer's body was not cremated but sold they were outraged and heartbroken.

190. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Barbara and Belinda Hammer.

(Claimant Seventeen) The Claims of Diana Hardin, surviving mother of Hannah Hardin

191. Hannah Hardin was born February 12, 1991, in Grand Junction, CO.

192. Hannah Hardin was a veterinarian technician.

193. Hannah Hardin passed away March 15, 2014, at the age of 23.

194. The plaintiff, Diana Hardin, is the surviving mother of Hannah Hardin.

195. Hannah Hardin's death was unexpected and was very difficult for her mother.

196. Hannah Hardin's mother made funeral arrangements, including arrangements for cremation with MESA FUNERAL SERVICE.

197. Diana Hardin paid MESA FUNERAL SERVICES \$3,845.21 for cremation services.

198. MESA FUNERAL SERVICES sent Hannah Hardin's body to SUNSET MESA for embalming.

199. SUNSET MESA sent Hannah Hardin's body back to MESA FUNERAL SERVICE for the viewing.

200. MESA FUNERAL SERVICE sent Hannah Hardin's body back to SUNSET MESA for cremation.

201. Diana Hardin did not consent for Hannah Hardin's body or body parts to be donated or sold.

202. The death certificate indicates Hannah Hardin was cremated.

203. Diana Hardin placed the urn with Hannah Hardin's "cremains" above her bed to keep her daughter close.

204. On October 17, 2018, Diana Hardin sent an e-mail to the FBI to determine if they had been a victim of SUNSET MESA's actions.

205. On October 17, 2018, Alicia Wagner, the Victim Specialist for the FBI, confirmed Hannah Hardin's spine was sold to CORCORAN LABORATORIES, now known as AMERICAN PLASTINATION, and located in Michigan.

206. On November 23, 2018, Diana Hardin received the victim notification letter from the FBI dated November 15, 2018.

207. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Diana Hardin.

(Claimant Eighteen) The claim of Nicole Carter, surviving granddaughter of Marlow

Holloman

208. Marlow Holloman was born on July 19, 1932, in Princeton, Illinois.

209. Marlow Holloman spent much of her life working for a county government.

210. Marlow Holloman passed away on December 5, 2014, at the age of 82.

211. The plaintiff, Nicole Carter, is the surviving granddaughter of Marlow Holloman.

212. Arrangements were made for cremation services with SUNSET MESA on December 5, 2014.

213. There was no consent for Marlow Holloman's body or body parts to be donated or sold.

214. The death certificate indicates Marlow Holloman was cremated.

215. Marlow Holloman's "cremains" were buried in Florida.

216. The FBI contacted the family regarding Nicole Carter's grandmother.

217. Nicole Carter now understands that Marlow Holloman's body was embalmed and sold to MD GLOBAL within 3 hours of her death.

218. The FBI indicated Marlow Holloman's whole body was sold to MD GLOBAL by SUNSET MESA.

219. Nicole Carter became especially traumatized by this information because SUNSET MESA also mishandled the body of her sister, Mandy Baldt.

220. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Nicole Carter.

(Claimant Nineteen) The Claims of Debra Schum, friend and personal representative of

Lora Lee Johnson

221. Lora Lee was born February 5, 1952, in Colorado.

222. Lora Lee Johnson was an artist.

223. Lora Lee Johnson passed away at age 65 on June 13, 2017.

224. Lora Lee Johnson died at the home of her best friend, Debra Schum, which is located in Hotchkiss, Colorado.

225. Debra Schum is the surviving friend, caretaker and personal representative of Lora Lee Johnson.

226. When Lora Lee Johnson was diagnosed with bladder cancer, she chose to forego chemotherapy and radiation for a more holistic approach to her end of life.

227. As Lora Lee Johnson grew sicker, she moved in with Debra Schum.

228. Debra Schum and HOPEWEST HOSPICE helped care for Lora Lee Johnson.

229. Debra Schum called HOPEWEST HOSPICE after Lora Lee Johnson's passing. She informed HOPEWEST HOSPICE no arrangements had been made with a funeral home.

230. The HOPEWEST HOSPICE representative indicated they would take care of it.
231. SHIRLEY KOCH came to the home of Debra Schum.
232. SHIRLEY KOCH saw Debra Schum's Emergency Medical Services/Fire Fighter shirt and began speaking inappropriately about the nature of calls involving the death of others.
233. SHIRLEY KOCH informed Debra Schum about the condition of bodies she had picked up that week including the death of a teenager she had seen who had died in the mountains.
234. SHIRLEY KOCH asked Debra Schum if she wanted "on-site cremation" when referring to the cremation to be done at SUNSET MESA.
235. SHIRLEY KOCH repeatedly referred to Lora Lee Johnson as "the body."
236. SHIRLEY KOCH asked Debra Schum to help load Lora Lee Johnson onto the gurney.
237. SHIRLEY KOCH dropped the head of Lora Lee Johnson on the gurney bar, nearly dropped her off the gurney while trying to get the sheet out from under her, and wanted to undress the body of Lora Lee Johnson in front of Debra Schum.
238. SHIRLEY KOCH handled Lora Lee Johnson inappropriately in the presence of Debra Schum.
239. SHIRLEY KOCH asked Debra Schum if she wanted to send a special outfit or jewelry with Lora Lee Johnson to place on her body prior to the cremation.
240. Debra Schum wanted to tell SHIRLEY KOCH to leave, but at the time thought she had to accept the funeral home chosen by HOPEWEST HOSPICE.
241. On June 14, 2017, Debra Schum went to SUNSET MESA.

242. SUNSET MESA was provided a copy of Lora Lee Johnson's will which stated her wish to be cremated and her ashes spread.

243. HESS advised Debra Schum the total due was \$1,000, Debra Schum tried to pay with a credit card, but was told they could not accept credit cards at that time. Nevertheless, HESS told Debra Schum she needed payment at that time in order to complete the death certificate.

244. HESS told Debra Schum if she agreed to organ donation, the cremation would be free.

245. Debra Schum said she needed time to think about the organ donation because she did not think Lora Lee Johnson would have wanted that.

246. After comforting Debra Schum and asking about Lora Lee Johnson as a person, HESS asked about organ donation again.

247. Since Lora Lee Johnson had bladder cancer, HESS told Debra Schum to think about how many lives could be saved by using Lora Lee Johnson's body for cancer research.

248. Debra Schum agreed to have only Lora Lee Johnson's bladder donated.

249. HESS wrote on a donation form, "BLADDER ONLY." Debra Schum initialed and signed the form.

250. Debra Schum contacted SUNSET MESA numerous times over a seven week period attempting to get the death certificates and Lora Lee Johnson's cremains.

251. Debra Schum's calls were not answered and messages were not returned.

252. On August 4, 2017, Debra went to SUNSET MESA to inquire about the location of the ashes of Lora Lee Johnson.

253. HESS went into the back, came out 15 minutes later with a small red and pink dollar store gift bag without an identification tag. Inside the gift bag was a container approximately five inches by two inches by two inches in size.

254. HESS indicated the size of the container was small because of the donation.

255. Debra Schum was informed by the FBI that the entire body of Lora Lee Johnson (donor # 061707) had been sold by SUNSET MESA immediately after receipt of her body.

256. These facts concerning the inappropriate statements and actions of SUNSET MESA were traumatizing to Debra Schum and continue to be emotionally disturbing to Debra Schum.

(Claimant Twenty) The Claims of Michael Kuchler, surviving father of Johnathan

Kuchler

257. Johnathan Kuchler was born on February 18, 1983, in Glenwood Springs, CO.

258. Johnathan Kuchler passed away due to cancer at a hospice facility in Denver, CO, on January 25, 2014, at the age of 30.

259. The plaintiff, Michael Kuchler, is the surviving father of Johnathan Kuchler.

260. Michael Kuchler made arrangements with SUNSET MESA for cremation services, which included the eventual burial of the cremains.

261. SUNSET MESA sent an unidentified person to a hospice facility in Denver, CO to pick up the body Johnathan Kuchler.

262. SUNSET MESA was paid \$1,495.00 for cremation services, this included \$500.00 for transportation of body from Denver and \$650.00 for burial of his ashes.

263. There was no agreement for organ donation

264. Johnathan Kuchler's body was not cremated and interned as SUNSET MESA agreed to do.

265. The FBI removed the alleged "cremains" of Johnathan Kuchler directly from the premises of SUNSET MESA.

266. Michael Kuchler spoke to HESS at SUNSET MESA prior to the FBI raid. HESS assured Michael Kuchler that the body of Johnathan Kuchler would be interred with his grandfather as soon as Michael Kuchler was ready.

267. The FBI contacted Michael Kuchler after its raid of SUNSET MESA to inform him that he was a potential victim of SUNSET MESA.

268. The FBI informed Michael Kuchler that Johnathan Kuchler was not cremated as expected, but his body or parts of his body were sold to M.A.C.

269. The FBI has the alleged "ashes" Johnathan Kuchler and has tested them. The results of this testing is unknown to Michael Kuchler.

270. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Michael Kuchler.

(Claimant Twenty- one) The Claims of Lee Phillips, surviving common law spouse of

Frank Mazza

271. Frank Mazza was born December 19, 1950, in Baltimore, Maryland.

272. Frank Mazza spent much of his life working as a rancher.

273. Frank Mazza served in the United States Navy.

274. Frank Mazza passed away on October 24, 2014, at HOPEWEST HOSPICE in Grand Junction, Colorado at the age of 63.

275. The plaintiff, Lee Phillips, is the surviving common law spouse of Frank Mazza, Lee Phillips was diagnosed with cancer 5 days before Frank Mazza's death.

276. SHIRLEY KOCH picked up Frank Mazza's body at the HOPEWEST HOSPICE Facility.

277. After Frank Mazza died, arrangements for cremation services were made by Lee Phillips at SUNSET MESA.

278. Lee Phillips was told if she donated Frank Mazza's knee joints, cremation services would be at no charge.

279. Lee Phillips agreed to only donate Frank Mazza's knee joints. The rest of his body was to be cremated.

280. HESS asked Lee Phillips to bring Frank Mazza's Stetson cowboy hat to be cremated with him. Lee Phillips did this not knowing Frank Mazza's body would be sold. The loss of his hat, and knowing it was not cremated with him adds to the pain Lee Phillips suffers.

281. Lee Phillips asked for Frank Mazza's hair to be donated to Locks of Love, SHIRLEY KOCH assured Lee this would happen, it did not.

282. The FBI informed Lee Phillips that she was a potential victim of SUNSET MESA in 2018.

283. The FBI informed Lee Phillips that Frank Mazza's whole body was sold to INNOVED.

284. The FBI took the "cremains" to Quantico to be tested. Lee Phillips does not know the results of the testing.

285. Lee Phillips soon envisioned Frank's head being cut off and placed on someone's coffee table after the FBI informed her that Frank's body was sold.

286. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Lee Phillips.

(Claimant Twenty-two) The Claims of Terri Reid, surviving spouse of William Rolland

Reid

287. William Reid was born July 16, 1955, in Washington.

288. William Reid spent much of his life working as a land surveyor.

289. William Reid served in the United States Navy.

290. William Reid passed away March 7, 2016, at home in Austin, Colorado, at the age of 60.

291. The plaintiff, Terri Reid, is the surviving spouse of William Reid.

292. Arrangements for cremation services were made with SUNSET MESA at the Reid's home, prior to William Reid's passing.

293. After William Reid passed SUNSET MESA (ALAN KOCH and SHIRLEY KOCH) picked up his body.

294. SHIRLEY KOCH hugged and comforted Terri Reid and assured her she would take care of her husband's body in the best way.

295. Terri Reid spoke exclusively with SHIRLEY KOCH regarding arrangements to donate William Reid's body for scientific research, because this is what William Reid wanted.

296. Terri Reid was informed by the FBI that by the morning of March 8, 2016, William Reid's body had already been shipped to an unknown company and that arrangements to sell his body were likely made by SUNSET MESA before he died.

297. William Reid's death certificate states the method of disposition was cremation.

298. Terri Reid was given “cremains” purported to be that of William Reid, but due to his body being sold whole the “cremains” could not be those of William Reid.

299. William Reid’s body was not donated for scientific research as William Reid had requested and SUNSET MESA had agreed to do.

300. The “cremains” given to Terri Reid were taken by the FBI to Quantico. She has not been advised of the test results.

301. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Terri Reid.

(Claimant Twenty-three and Twenty-four) The claims of Amanda Miller and Jacy West, surviving daughters of William Sander

302. William Sander was born on September 8, 1948.

303. William Sander spent much of his life working as a truck driver.

304. William Sander served the United States in the Armed Services.

305. William Sander passed away at Delta Memorial Hospital in Delta, Colorado on April 17, 2011, at the age of 63.

306. The plaintiff, Amanda Miller, is the surviving daughter of William Sander.

307. The plaintiff, Jacy West, is the surviving daughter of William Sander.

308. Before William Sander passed away he asked that all his children come visit for a “living funeral.” His daughters, Amanda Miller and Jacy West, traveled to spend time with their father the week before he died.

309. After his death William Sander’s wife, Kim Sander, made arrangements with SUNSET MESA for cremation services.

310. Kim Sander made it very clear to SUNSET MESA that they did not want to donate any part of William Sander's body.

311. In the fall of 2018, William Sander's widow, Kim Sander, was speaking with a co-worker and learned of the accusations regarding HESS and SUNSET MESA.

312. The FBI informed them that William Sander was dissected and sold to different companies.

313. Jacy West and Amanda West are horrified to know how their father was treated during this time.

314. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Amanda Miller and Jacy West.

(Claimant Twenty-five) The Claims of LouAnn (Jazzy) Stover, surviving spouse of Thomas Stover

315. Thomas Stover was born on March 22, 1957, in LaJunta, CO.

316. Thomas Stover spent much of his life working in Communications, and owned his own business.

317. Thomas Stover served in the United States Air Force.

318. Thomas Stover passed away on August 3, 2015, in Montrose, CO at the age of 58.

319. The plaintiff, LouAnn (Jazzy) Stover, is the surviving spouse of Thomas Stover.

320. Thomas Stover died unexpectedly at his at his office.

321. When LouAnn (Jazzy) Stover arrived on scene, there was an officer and SHIRLEY KOCH already on scene.

322. LouAnn (Jazzy) Stover wanted to see Thomas Stover, but was told by the officer on scene he was in the van that just left.

323. Thomas Stover's body was already being transported in the MONTROSE COUNTY CORONER's van, to the hospital.

324. LouAnn (Jazzy) Stover did not contact SUNSET MESA prior to the alleged cremation.

325. LouAnn (Jazzy) Stover does not know why SUNSET MESA became involved but believes the CORONER sent the body of Thomas Stover to SUNSET MESA

326. After SUNSET MESA had sold the body of Thomas Stover, without telling her of such, HESS reached out to LouAnn (Jazzy) Stover, befriending her when she was most vulnerable.

327. LouAnn (Jazzy) Stover did not agree to the donation or sale of the body of Thomas Stover.

328. LouAnn (Jazzy) Stover was notified by the FBI that the whole body of Thomas Stover was sold.

329. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to LouAnn (Jazzy) Stover.

(Claimant Twenty-six) The Claim of Rodney Stowe, surviving son of Cecilia Stowe

330. Cecilia Stowe was born September 24, 1940, in Dodge, North Dakota.

331. Cecilia Stowe spent much of her life as a homemaker, taking care of her family.

332. Cecilia Stowe passed away October 3, 2013, in her home, at the age of 73.

333. The plaintiff, Rodney Stow, is the surviving son of Cecilia Stowe.

334. Rodney Stowe made arrangements for cremation services with MESA FUNERAL HOMES on October 5, 2013.

335. Rodney Stowe paid MESA FUNERAL HOMES \$750.00 cash for cremation services.

336. There was no agreement for donation or sale of the body of Cecilia Stowe.

337. The FBI informed Rodney Stowe in late 2018 that Cecilia Stowe's hand and shoulder were sold.

338. The "cremains" were found to have contained metal fillings placed into teeth, but Cecilia Stowe had false teeth.

339. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Rodney Stowe.

(Claimant Twenty-seven) The claim of Rodney Stowe, surviving son of Roy Stowe

340. Roy Stowe was born February 18, 1933.

341. Roy Stowe spent much of his life working as a roofer.

342. Roy Stowe passed away on March 9, 2015, at Senior Community Care in Eckert, Colorado.

343. The plaintiff, Rodney Stowe, is the surviving son of Roy Stowe.

344. Arrangements for cremation services were made with SUNSET MESA on March 9, 2015.

345. Rodney Stowe paid \$99.66 at the time. He then received a bill for over \$1000.00 but it was reduced to \$500.00.

346. There was no agreement for the donation or sale of the body of Roy Stowe.

347. The death certificate indicates Roy Stow was donated.

348. The family did not initially realize that the method of disposition listed on John Hammer's death certificate was donation instead of cremation.

349. The FBI informed Rodney Stowe in July of 2018 that Roy Stowe's whole body was sold to a plastination company located in the Eastern United States.

350. Rodney Stowe is haunted by an image of his father hanging somewhere in plastic form.

351. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Rodney Stowe.

(Claimant Twenty-eight) The Claims of Martha Troutman on Behalf of Barbara

Harshbarger, surviving sister of John Thomas

352. Martha Troutman has Power of Attorney for her mother, Barbara Harshbarger.

353. John Thomas was born November 24, 1930, in St. Paul, Minnesota.

354. John Thomas passed away November 30, 2014, at San Juan Living Center in Montrose, CO, at the age of 84.

355. The plaintiff, Barbara Harschbarger, is the surviving sister of John Thomas.

356. Cremation arrangements for John Thomas were made with SUNSET MESA.

357. SUNSET MESA was paid around \$1,000.00 for the cremation service of John Thomas.

358. There was no agreement for the donation or sale of the body of John Thomas.

359. In November of 2018, the FBI informed the family that John Thomas's body had been sold by SUNSET MESA.

360. Martha Troutman and her mother, Barbara Harshbarger, were devastated by the news and could not bear to hear the details of what happened to their beloved brother/uncle at that time.

361. Martha Troutman contacted the FBI in the summer of 2019 to ask what happened to her uncle's remains. She was told his body parts were sold to three body handlers: CLI; INNOVED; and, AMERICAN PLASTINATION.

362. John Thomas's death certificate states cremation as the disposition of his remains.

363. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Barbara Harshbarger.

(Claimant Twenty-nine) The Claims of Deborah Chelius, surviving daughter of Barbara Thurston

364. Barbara Thurston was born October 24, 1933, in Glenwood Springs, CO.

365. Barbara Thurston spent much of her life working as a homemaker, taking care of her family.

366. Barbara Thurston passed away August 12, 2015, at Horizons Care Center in Eckert, CO, at the age of 81.

367. The plaintiff, Debbie Chelius, is the surviving daughter of Barbara Thurston.

368. Prior to her death, Barbara Thurston paid approximately \$1000 in payments to UNITED HERITAGE LIFE INSURANCE COMPANY starting August 29, 2014, for cremation services

369. The cremation services were to be performed by SUNSET MESA.

370. Barbara Thurston did not want her family to be burdened with her final death arrangements.

371. No agreement for donation or sale of her body or body parts were made with SUNSET MESA.

372. The death certificate indicates Barbara Thurston was cremated.

373. On November 15, 2018, the FBI sent Deborah Chelius a letter informing her she was a potential victim of SUNSET MESA.

374. The FBI informed Deborah Chelius that the entire body of Barbara Thurston had been sold.

375. It is not known at this time to whom the body of Barbara Thurston's was sold.

376. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Debbie Chelius.

(Claimant Thirty) The claims of Teri Valentine, surviving daughter of William

Valentine

377. William Valentine was born June 5, 1949, in Pekin, Illinois.

378. William Valentine spent his life working as a computer analyst.

379. William Valentine served his country in the United States Army. He was a Vietnam veteran.

380. William Valentine passed away at Montrose Memorial Hospital on July 13, 2015, in Montrose, CO at the age of 66.

381. The plaintiff, Teri Valentine, is the surviving daughter of William Valentine.

382. After William Valentine passed away, HESS and SHIRLEY KOCH arrived at the hospital and began rushing the staff and his family stating "his body was decomposing" and "we have to get going."

383. SUNSET MESA employees wanted to get the family out of the way instead of giving them time to say goodbye.

384. SUNSET MESA was paid more than \$1,100.00 for cremation services.

385. The family also gave SUNSET MESA billing/contact information for the Office of Veterans Affairs.

386. The FBI informed Teri Valentine that her family was a potential victim of SUNSET MESA.

387. The FBI took the ashes SUNSET MESA gave them.

388. The FBI told Teri Valentine and her family that William Valentine's body was sold whole to AMERICAN PLASTINATION.

389. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Teri Valentine.

(Claimant Thirty-one) The Claims of Virginia Watkins, surviving spouse of Michael

Watkins

390. Michael Watkins was born July 26, 1946, in Oklahoma.

391. Michael Watkins spent much of his life working as a salesman.

392. Michael Watkins served in the United States Navy.

393. Michael Watkins passed away May 13, 2016, at Colorow Care Center in Olathe, Colorado at the age of 69.

394. The plaintiff, Virginia Watkins, is the surviving spouse of Michael Watkins.

395. Arrangements for donation only for scientific purpose and cremation were made with SUNSET MESA.

396. Virginia Watkins paid \$2,537.07 to SUNSET MESA for cremation services.

397. Michael Watkins had previously been diagnosed with Progressive Supranuclear Palsy (PSP), which is similar to Parkinson's disease.

398. Virginia Watkins wanted her husband's organs, especially his brain, to be donated for research into PSP.

399. Virginia Watkins was notified by the FBI that her husband's head, spine, legs from the knee down and arms from the elbow down had been cut off and sold to a body broker in Chicago, Illinois.

400. The FBI took the "cremains" Virginia Watkins was given to Quantico for testing.

401. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to Virginia Watkins.

(Claimant Thirty-two and Thirty-three) The Claims of James Wilson and Samuel Wilson, surviving sons of Nanci Wilson

402. Nanci Wilson was born September 8, 1946, in California.

403. Nanci Wilson spent her life working in various jobs, including medical transcription, county health department, and of course raising her family.

404. Nanci Wilson passed away October 21, 2017, at HOPEWEST HOSPICE in Grand Junction, Colorado at the age of 71.

405. The plaintiff, James Wilson, is the surviving son of Nanci Wilson.

406. The plaintiff, Samuel Wilson, is the surviving son of Nanci Wilson.

407. Nanci Wilson made arrangements for cremation services with SUNSET MESA before she passed.

408. Nanci Wilson had been diagnosed with breast cancer and was concerned about her sons and did not want to cause them any additional burden upon her death.

409. Nanci Wilson's sons were a large part of her life and she was a large part of their lives. Both sons have tattoos bearing respect to their beloved mother.

410. Nanci Wilson paid SUNSET MESA \$1,300 for cremation services.

411. CMU tested the "cremains" purported to be those of Nanci Wilson and determined they contained metal nails, steel buttons, and some bone. This is inconsistent with being the cremains of Nanci Wilson.

412. These facts concerning the inappropriate statements and actions of SUNSET MESA have been and continue to be emotionally disturbing to James and Samuel Wilson.

FIRST CLAIM FOR RELIEF

FALSE REPRESENTATION – CJI - Civ 19:1

413. All paragraphs of this complaint are hereby incorporated into this claim for relief.

414. Each of the defendants made a false representation of a past or present fact;

415. The fact was material;

416. At the time the representation was made, each of the defendants:

(a) knew the representation was false; or

(b) was aware that he, she or it did not know whether the representation was true or false;

417. Each of the defendants made the representation with the intent that each individual plaintiff would rely on the representation;

418. Each individual plaintiff relied on the representation;

419. Each individual plaintiff's reliance was justified; and

420. This reliance caused injuries, damages and losses to each individual plaintiff, including but not limited to economic, non-economic and equitable damages. These damages

include any consequential damages each plaintiff sustained as a proximate result of each defendant's false representation, concealment, nondisclosure or deceit, including any earnings each defendant made as a result of the unauthorized sale of a body or body parts.

SECOND CLAIM FOR RELIEF

NONDISCLOSURE OR CONCEALMENT – CJI - Civ 19:2

421. All paragraphs of this complaint are hereby incorporated into this claim for relief.

422. Each of the defendants concealed a past or present fact and/or failed to disclose a past or present fact which each defendant had a duty to disclose;

423. The fact was material;

424. Each of the defendants concealed a fact and/or failed to disclose a fact with the intent of creating a false impression of the actual fact in the mind of each plaintiff;

425. Each of the defendants concealed and/or failed to disclose the fact with the intent that each plaintiff take a course of action he or she might not take if he or she knew the actual fact;

426. Each plaintiff took such action or decided not to act relying on the assumption that the concealed and/or undisclosed fact did not exist or was different from what it actually was;

427. Each plaintiff's reliance was justified; and

428. This reliance caused injuries, damages and losses to each individual plaintiff, including but not limited to economic, non-economic and equitable damages. These damages include any consequential damages each plaintiff sustained as a proximate result of each

defendant's false representation, concealment, nondisclosure or deceit, including any earnings each defendant made as a result of the unauthorized sale of a body or body parts.

THIRD CLAIM FOR RELIEF

BREACH OF FIDUCIARY DUTY – CJI - Civ 26:1, 26:2 & 26:5

429. All paragraphs of this complaint are hereby incorporated into this claim for relief.

430. A fiduciary relationship exists whenever one person is entrusted to act for the benefit of or in the interest of another and has the legal power or authority to do so.

431. Each of the defendants was acting as a representative of the funeral home on behalf of each plaintiff with respect to donating a body or parts of a body to a respected institution for medical, scientific or educational purposes, or with respect to cremating the body and deliver the cremains to each plaintiff.

432. Each of the defendants was acting as a fiduciary of each plaintiff with respect to handling the body of the loved one on behalf of each plaintiff.

433. Each defendant breached a fiduciary duty to each plaintiff;

434. Each such breach of fiduciary duty was a cause of each plaintiff's injuries, damages and losses; and

435. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages.

436. As a result each plaintiff is entitled to non-economic losses or injuries which the plaintiff has had or probably will have in the future including but not limited to pain and suffering, inconvenience, emotional stress and loss of enjoyment of life.

437. Each plaintiff is entitled to economic losses which the plaintiff has had or will probably have in the future including anything of value or any profit each defendant received as

a breach of the fiduciary duty, any loss of income which each plaintiff could reasonably have expected to earn had the fiduciary duty not been breached and any other losses permitted under the applicable law.

FOURTH CLAIM FOR RELIEF

VIOLATION OF FIDUCIARY RELATIONSHIP ARISING OUT OF A

CONFIDENTIAL RELATIONSHIP

CJI-Civ 26:3-26:5

438. A confidential relationship exists between parties to a transaction if the parties' relationship is such that one is induced to relax the care and vigilance one ordinarily would exercise when dealing with a stranger.

439. Each plaintiff had a confidential relationship with each of the defendants listed in this claim.

440. Each plaintiff justifiably placed trust and confidence in each defendant listed in the claim, because each defendant invited, accepted or appeared to accept, or acquiesced in each plaintiff's trust and confidence.

441. Each defendant invited this trust and confidence by acknowledging the suffering caused by the death of their loved one and assuring each plaintiff by words and/or physical comfort, including reassuring hugs, that the body would be handled with the utmost care and solemnity and that the aforesaid donations, if applicable, would be honored pursuant to the instructions given by the decedent and/or by each plaintiff and that the remains of any cremation would be provided to each plaintiff.

442. Each defendant assumed the duty to represent each plaintiff's interest in the transaction.

443. The duty that arose by reason of the confidential relationship between each plaintiff and each of the defendants applied to: the donating of the body or body parts of a loved one to a respected institution for medical, scientific or educational purposes; the cremation of the body of a loved one; and, the return of the cremains to each plaintiff.

444. Each defendant violated that duty, causing damage to each plaintiff.

445. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages.

446. As a result each plaintiff is entitled to non-economic losses or injuries which the plaintiff has had or probably will have in the future including but not limited to pain and suffering, inconvenience, emotional stress and loss of enjoyment of life.

447. Each plaintiff is entitled to economic losses which the plaintiff has had or will probably have in the future including anything of value or any profit each defendant received as a breach of the fiduciary duty, any loss of income which each plaintiff could reasonably have expected to earn had the fiduciary duty not been breached and any other losses permitted under the applicable law.

FIFTH CLAIM FOR RELIEF

EXTREME AND OUTRAGEOUS CONDUCT – CJI-Civ 23:1

Restatement (Second) of Torts § 868

Culpepper v. Pearl Street Building, Inc., 877 P.2d 877 (1994)

448. All paragraphs of this complaint are hereby incorporated into this claim for relief.

449. Each of the defendants engaged in extreme and outrageous conduct;

450. Each of the defendants did so recklessly; and

451. The conduct of each of the defendants caused each individual plaintiff severe emotional distress.

452. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

SIXTH CLAIM FOR RELIEF

BREACH OF CONTRACT – CJI - Civ 30:10

Restatement (Second) of Torts § 868

Culpepper v. Pearl Street Building, Inc., 877 P.2d 877 (1994)

453. All paragraphs of this complaint are hereby incorporated into this claim for relief.

454. Each of the defendants entered into a contract with each individual plaintiff to cremate and return the remains of each individual plaintiff's loved one to them; and

455. The defendant failed to cremate and return the remains of each individual plaintiff's loved one to them; (and)

456. Each individual plaintiff substantially performed or substantially complied with each plaintiff's part of the contract or each plaintiff is excused from performance.

457. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

SEVENTH CLAIM FOR RELIEF

RIGHTS AND STOLEN PROPERTY ACT

Sections 18-4-401 and 18-4-405, C.R.S

Restatement (Second) of Torts § 868

Culpepper v. Pearl Street Building, Inc., 877 P.2d 877 (1994)

458. All paragraphs of this complaint are hereby incorporated into this claim for relief.

459. Each defendant committed civil theft of a body or body parts because each defendant knowingly obtained or exercised control over a thing of value of another without authorization, or by threat or deception, and:

- a) intended to deprive each plaintiff permanently of the use or benefit of the thing of value; or
- b) knowingly used, concealed or abandoned the thing of value in such manner as to deprive the other person permanently of its use or benefit; or
- c) used, concealed or abandoned the thing of value intending that such use concealment or abandonment will deprive the other person permanently of its use and benefit; or
- d) demanded any consideration to which he, she or it is not legally entitled as a condition of restoring the thing of value to the other person.

460. Each plaintiff had a possessory interest in the body, body parts, gold or silver from teeth or cremated remains and lost something of value.

461. The intermediary transporters and body or body part dealers were not good faith holders of the bodies or body parts.

462. The body/body part buyers were not good faith purchasers for value.

463. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

464. Each plaintiff is entitled to the return of the body/body parts, treble damages, attorney fees and costs.

EIGHTH CLAIM FOR RELIEF

COLORADO CONSUMER PROTECTION ACT – CJI-Civ 29:1

465. All paragraphs of this complaint are hereby incorporated into this claim for relief.

466. Each of the defendants engaged in or caused another to engage in a deceptive trade practice;

467. The deceptive trade practice occurred in the course of the defendant's business;

468. The deceptive trade practice significantly impacted the public as actual or potential consumers of each of the defendant's goods and services;

469. Each individual plaintiff was an actual consumer of the defendant's goods and services and was harmed as a result of the deceptive trade practice; and

470. The deceptive trade practice caused actual damages or losses to each individual plaintiff.

471. Each defendant engaged in bad faith conduct which included fraudulent, willful, knowing and intentional conduct which caused each plaintiff injuries damages and losses.

472. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

473. The activities of each defendant entitles each plaintiff to treble damages.

NINTH CLAIM FOR RELIEF

COLORADO ORGANIZED CRIME CONTROL ACT

Section 18-17-104, C.R.S.

474. All paragraphs of this complaint are hereby incorporated into this claim for relief.

475. Colorado law allows for a private cause of action for racketeering. Section 18-17-106(7), C.R.S. provides that: Any person injured by reason of any violation of the provisions of section 18-17-104 shall have a cause of action for threefold the actual damages sustained and the cost of suit, including reasonable attorneys' fees for trial and appellate representation.

476. Plaintiffs have sustained injury, as well as economic and general damages as a direct and proximate result of defendants' pattern of racketeering.

477. At all relevant times, defendants have been involved in the above-described on-going fraudulent business scheme to acquire dead human bodies and body parts to sell for profit.

478. On information and belief, some or all of the defendants will plead guilty or be convicted of violations of federal and state penal codes in connection with their activities as part of the above-referenced fraudulent business scheme.

479. Defendants have knowingly received proceeds derived, directly or indirectly, from a pattern of racketeering activity to use or invest whether directly or indirectly, a part of such proceeds or the proceeds derived from the investment or use thereof in the acquisition of a title to, or a right, interest, or equity in, real property or in the establishment or operation of an enterprise.

480. Each plaintiff has suffered injuries, damages and losses caused by a pattern of racketeering and the investment of the proceeds of such into personal property, real property and into enterprises.

481. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

TENTH CLAIM FOR RELIEF

CIVIL CONSPIRACY – CJI – Civ 27:1 (2017)

482. All paragraphs of this complaint are hereby incorporated into this claim for relief.

483. Each of the defendants and at least one other person agreed, by words or conduct, to sell bodies or parts of bodies, unbeknownst to each individual plaintiff, for profit or to otherwise accomplish an unlawful goal or accomplish a goal through unlawful means;

484. One or more unlawful acts were performed to accomplish the goal or one or more acts were performed to accomplish the unlawful goal;

485. Each individual plaintiff suffered injuries, damages and losses, including but not limited to non-economic damages and, if such be permitted to be pled under Colorado law, exemplary damages; and

486. The plaintiff's injuries, damages and losses were caused by the acts performed to accomplish the goal.

487. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

ELEVENTH CLAIM FOR RELIEF

AIDING AND ABETTING / COLLUSION

Restatement (Second) of Torts § 876

Lego v. Schmidt, 805 P.2d 1119 (Colo. App. 1990)

488. All paragraphs of this complaint are hereby incorporated into this claim for relief.

489. Each of the defendant's participation included helping or encouraging a tortious act.

490. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

TWELFTH CLAIM FOR RELIEF

UNJUST ENRICHMENT –

Robinson v. Colo. State Lottery Div., 179 P.3d 998, 1007 (Colo.2008).

Redd Iron, Inc. v. Int'l Sales & Servs. Corp., 200 P.3d 1133, 1136 (Colo.App. 2008).

491. All paragraphs of this complaint are hereby incorporated into this claim for relief.

492. Each of the defendants engaged in fraud, nondisclosure or concealment, breach of fiduciary duty, deceptive trade practices, outrageous conduct, theft, bad faith, and/or deceitful or misleading conduct.

493. Each defendant received a benefit.

494. The benefit was received at the expense of each plaintiff; and

495. Under the circumstances, it was unjust for each individual defendant to retain the benefit without paying for it.

496. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

THIRTEENTH CLAIM FOR RELIEF

NEGLIGENCE – CJI-Civ 9:1

Restatement (Second) of Torts § 868

Culpepper v. Pearl Street Building, Inc., 877 P.2d 877 (1994)

497. All paragraphs of this complaint are hereby incorporated into this claim for relief.

498. Each defendant was negligent; and

499. The negligence of each defendant was a cause of each individual plaintiff's injuries, damages and losses.

500. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

FOURTEENTH CLAIM FOR RELIEF

NEGLIGENCE PER SE (ABUSE OF CORPSE 18-13-101(1)(b)) – CJI-Civ 9:14

501. All paragraphs of this complaint are hereby incorporated into this claim for relief.

502. Each defendant was negligent; and

503. The negligence of each defendant was a cause of each individual plaintiff's injuries, damages and losses.

504. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

FIFTEENTH CLAIM FOR RELIEF

NEGLIGENCE PER SE (VIOLATION OF MORTUARY SCIENCE CODE § 12-54-101,

C.R.S., et seq. and CREMATION STATUTE §12-54-301, C.R.S., et seq.)– CJI-Civ 9:14

505. All paragraphs of this complaint are hereby incorporated into this claim for relief.

506. Each defendant was negligent; and

507. Each defendant violated the Mortuary Science Code § 12-54-101, C.R.S., et seq.

508. Each defendant violated the Cremation statute §12-54-301, C.R.S., et seq.

509. The negligence of each defendant was a cause of each plaintiff's injuries, damages and losses.

510. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

SIXTEENTH CLAIM FOR RELIEF

NEGLIGENCE PER SE (VIOLATION OF UNIFORM ANATOMICAL GIFT ACT)

§15-19-214 C.R.S.– CJI-Civ 9:14

511. All paragraphs of this complaint are hereby incorporated into this claim for relief.

512. Each defendant was negligent; and

513. Each of the defendants violated the Uniform Anatomical Gift Act § 15-19-214 C.R.S.

514. The negligence of each defendant was a cause of each individual plaintiff's injuries, damages and losses.

515. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

SEVENTEENTH CLAIM FOR RELIEF

NEGLIGENCE PER SE (VIOLATION OF AMERICAN ASSOCIATION OF

TISSUE BANK, CODE OF ETHICS) – CJI-Civ 9:14

516. All paragraphs of this complaint are hereby incorporated into this claim for relief.

517. Each defendant was negligent; and

518. Each of the defendants violated the American Association of Tissue Bank's Code of Ethics.

519. The negligence of each defendant was a cause of each individual plaintiff's injuries, damages and losses.

520. Each plaintiff had injuries, damages and losses, including but not limited to economic, non-economic and equitable damages and, if such be permitted to be claimed under Colorado law, exemplary damages.

WHEREFORE, plaintiffs request:

- A. Judgment be entered against defendant for a monetary sum, in an amount to be proven at trial;
- B. Pre-judgment and post-judgment interest;
- C. Costs of litigation, including expert witness fees;
- D. Attorneys' fees and costs as permitted by law; and
- E. Such other and further relief as the court deems just and proper.

DATED this 6th day of September, 2019.

KILLIAN, DAVIS, Richter & Mayle, PC

*Duly authorized original signature on file
at the offices of KILLIAN DAVIS Richter &
Mayle, PC pursuant to C.R.C.P. 121,
section 1-26(7) and (9)*

/s/ J. Keith Killian

J. Keith Killian
Attorney for Plaintiffs

No. 9042

Plaintiffs' Addresses:

Mailing:

Christopher Artrup
11856 Trail View Lane
Parker, CO 80134

Mary Burgner
2038 Otter Pond Circle
Montrose, CO 81401

Edna Benson
3251 E Road, Unit 34
Clifton, CO 81521

Nicole Carter

3148 Brownie Circle #64
Grand Junction, CO 81504

Deborah Chelius
21524 North Road
Eckert, CO 81418

John Cressler
15755 Chantelle Lane
Delta, CO 81416

Joy Cressler
101 Kingspointe Street
Alma, AR 72921

Judy Cressler
1104 Bookcliff Avenue, Unit 24
Grand Junction, CO 81501

Winona Cressler
PO Box 593
Nucla, CO 81424

Gail Erman
3688 G 4/10 Road
Palisade, CO 81526

Helen Gonzales
139 Montrose Drive
Montrose, CO 81401

Stephen Hamblin c/o
Candace Salazar
1372 Firethorn Drive
Rifle, CO 81650

Barbara Hammer
63961 Howdy Court
Montrose, CO 81401

Belinda Hammer
2133 6450 Road
Montrose, CO 81481

Diana Hardin
609 Stone Gate Drive
Grand Junction, CO 81504

Michael Kuchler
PO Box 3091
Montrose, CO 81402

Amanda Miller
308 Haines Street
Sedro-Woolley, WA 98284

Lee Phillips
PO Box 312
Corey, CO 81414

Terri Reid
20013 Kenosha Road
Austin, CO 81410

Michelle Ross
21197 Marion Road
Eckert, CO 81418

Candace Salazar
1372 Firethorn Drive
Rifle, CO 81650

Debra Schum
14084 3100 Road
Hotchkiss, CO 81419

LouAnn Stover
PO Box 1878
Montrose, CO 81402

Rodney Stowe
20112 Austin Road
Austin, CO 81410

Barbara Harshbarger
306 Kellogg Street
Delta, CO 81416

Teri Valentine

59620 Lucres
Montrose, CO 81403

Virginia Watkins
2509 Stonebridge Dr.
Montrose, CO 81401

Jacy West
915 Poplar Street
Truth or Consequence, NM 87901

James Wilson
3304 Winesap Lane
Clifton, CO 81520

Samuel Wilson
2924 Hwy 50, Unit B
Grand Junction, CO 81503