

DISTRICT COURT, EL PASO COUNTY, COLORADO
270 S Tejon St, Colorado Springs, CO, 80903

DATE FILED: November 2, 2023 11:33 PM
FILING ID: ACA301C541BC6
CASE NUMBER: 2023CV32110

MAKAYLA PITHAN TRUMBO, HAYLEA HIGENS,
PATTY FADUM, JEMMA FADUM, on behalf of
themselves and all others similarly situated;

Plaintiffs

v.

HALLFORDHOMES LLC d/b/a RETURN TO NATURE –
BURIAL & CREMATION, a Colorado limited liability
company; HALLFORDHOMES LLC d/b/a RETURN TO
NATURE CREMATORY, a Colorado limited liability
company; HALLFORDHOMES LLC d/b/a RETURN TO
NATURE FUNERAL HOME, a Colorado limited liability
company; HALLFORDHOMES LLC d/b/a RETURN TO
NATURE FUNERAL SERVICE, a Colorado limited
liability company;
CARIE HALLFORD, an individual; and
JON HALLFORD, an individual;

Defendants

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Case Number:

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COMPLAINT	

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs Makayla Pithan Trumbo, Haylea Higen, Patty Fadum, and Jemma Fadum (collectively, the “Plaintiffs”), by and through their attorneys, individually and on behalf of all others similarly situated, bring this action against Defendants HALLFORDHOMES, LLC doing business under several trade names, including Return to Nature – Burial & Cremation, Return to Nature Crematory, Return to Nature Funeral Home, and Return to Nature Funeral Service, as well as Carie Hallford, and Jon Hallford (collectively, the “Defendants” or “Return to Nature), and allege the following based on personal knowledge as to their own facts, and upon information and belief and the investigation of counsel as to all other matters.

INTRODUCTION

1. In the middle of October 2023, the Plaintiffs along with their immediate and extended family members were alerted to an international news story describing the discovery of an estimated 115 decomposing corpses inside a building in Penrose, Colorado. According to the reports that building was owned and operated by the Defendant Return to Nature Funeral Home. For these Plaintiffs this was a real-life nightmare because their loved ones; a mother, a father and a stillborn infant had all been entrusted to Return to Nature Funeral Home in order to be cremated.

All of the Plaintiffs had received what they were told were their loved ones' ashes from the funeral home. All now feared the worst. Then after weeks of worry, sleepless nights and gut-wrenching anguish those fears were confirmed. They were among the almost 200 families whose beloved family members had been discarded in an empty building to decompose, the ashes were fake and they now had to start grieving all over again. This lawsuit arises out of the incompetence, negligence and unlawful practices perpetrated by Defendants, all of which were the proximate cause of the emotional injury and ongoing trauma suffered by the Plaintiffs.

2. Plaintiffs seek relief for the harm caused by Defendants' acts specifically, Defendants:

- a. Improperly stored deceased bodies, allowing them to improperly decompose and rot with other deceased bodies;
- b. Misrepresented the true nature of the services performed on decedents; and accepted remains for mortuary care knowing they were incapable of providing such care.
- c. Upon information and belief, passed off crushed concrete, other substances or the remains of strangers as the ashes of the Plaintiffs' loved ones.

PARTIES

A. Plaintiffs Makayla Pithan Trumbo and Haylea Higen

3. Plaintiffs Makayla Pithan Trumbo and Haylea Higen are two of 6 children of Karan Lea Blue.

4. Karan was born in 1957 in Montrose, Colorado. She lived in Colorado for her entire life.

5. Karan was a woman of faith who prioritized family above all else.

6. She raised 6 children as a single working Mom and was a loving grandmother to 20 grandchildren and 6 great-grandchildren.

7. Karan worked hard her whole life to provide for her children including working many hours as a driver for an auto parts supplier.

8. She was the glue that kept the family together, frequently hosting family barbeques and texting each one of her six children every morning and frequently throughout the day.

9. In her leisure time, she enjoyed country dancing and brought happiness and joy to all those around her.

10. In February 2023, Karan passed away at the age of 66 at her home in Monument, Colorado.

11. Her death was heartbreaking for her family and all who knew her.

12. In keeping with her mother's wishes, Makayla, Haylea and their siblings arranged to have their mother's remains cremated.

13. They chose Return to Nature Funeral Home to cremate their mother's remains.

14. A short time after the supposed cremation, the family retrieved what were described as their mother's ashes or cremains in a box.

15. The family also requested and paid for necklace urns, a total of between 30 and 40 necklaces which were supposed to contain small amounts of Karan's ashes.

16. Those necklace urns were picked up from Return to Nature on February 23, 2023 the same month as Karan's death and supposed cremation.

17. Karan's death certificate listed "Wilbert Crematory" in Commerce City, Adams, Colorado as the "PLACE OF DISPOSITION".

18. However, the cremains contained no identification tag or certifying paperwork linking them to a Wilbert Crematory or any other crematorium.

19. Upon information and belief “Wilbert Crematorium” is a reference to Wilbert Funeral Services Incorporated, a company that Return to Nature had previously contracted with for cremation services.

20. In the middle of October of 2023, 8 months after Makayla and her family had grieved the loss of their mother, they learned through the news that approximately 115 corpses had been found decomposing inside the Return to Nature Penrose facility.

21. The stories which ran internationally and nationally and in all the local news outlets described the discovery as being prompted by was variously described as an “odor,” “putrid smell” and “abhorrent smell emanating” from the Return to Nature property in Penrose.

22. Photographs of the property that ran in these stories showed boarded-up windows and overgrown weeds. The county sheriff described the scene as “horrific.”

23. These stories and photographs became part of the 24-hour news cycle that Makayla, Haylea and their entire extended family were exposed to every day.

24. Within two weeks of the initial reports the number of bodies increased from an original estimate of 115 to a total of 189 unattended and unrefrigerated corpses.

25. This news caused days and weeks of intense worry, anxiety, and distress as Makayla, Haylea and their spouses, siblings and Karan’s grandchildren all were haunted by a constant recurring question: Was Karan’s body among the remains that had been allowed to rot in an unrefrigerated dilapidated building for 8 months?

26. Then on October 25, 2023, the family received the news they had been dreading from the federal and state law enforcement officials investigating the funeral home; Karan was in

fact among the remains that had been desecrated by the cruel, incompetent, and unlicensed staff at Return to Nature Funeral Home.

27. They understood then that the ashes they had received and honored were fake and that they would have to start the grieving process all over and experience for a second time under new and atrocious circumstances the passing and desecration of their beloved mother.

28. Haylea was then hit with a second and possibly more incomprehensible realization.

29. Not only had her mother's remains been taken and left to rot by Return to Nature, but her stillborn child, Parker, had also been entrusted to the facility.

30. Parker was stillborn at Memorial North Hospital in Colorado Springs in December of 2020.

31. Following his supposed cremation Haylea was provided by Return to Nature with an urn and two necklace urns.

32. For 3 years she had a shadow box displayed in her living room with Parker's urn, his blanket, and ultrasound photographs.

33. In October she met separately with the FBI and was told that they believe that Parker's remains were among those left to decompose in the Penrose location.

34. The FBI then took the urn and necklace urns as evidence in the criminal investigation.

35. The FBI informed Haylea that because of the delicate nature of stillborn remains it was possible that her child would never be identified and recovered for a proper cremation or burial.

36. This horrific realization was devastating not just to Haylea but to the entire extended family all of whom felt intense guilt and shame for having entrusted beloved family members to this horrific facility.

B. Plaintiffs Patty and Jemma Fadum

37. Morten Fadum was born on November 17, 1946, in the town of Fox River Grove in Illinois.

38. Morten moved to Colorado as an adult after first seeing it as a 13-year-old boy during a Boy Scout jamboree.

39. His family and friends recognized him as an artist, storyteller, and wonderful friend and mentor.

40. Morten was married to his wife Patty for 50 years.

41. He was a devoted husband and father.

42. To his daughter Jemma he was a magical person with a lifetime of adventure he could capture in his stories and a beautiful talent which showed through his art.

43. Throughout his life Morten loved nature. He was an avid fly fisherman with a particular love of the Atlantic Salmon.

44. In July of 2023 Morten suffered a devastating accident which left him in critical condition.

45. Patty and Jemma were devastated by the sudden and tragic end to a loving and vital partner and father.

46. While at the Penrose-St. Francis hospital and still absorbing the tragedy of his sudden death, Jemma and Patty were presented by the hospital with a "Bereavement Support" packet from "Penrose St. Francis Health Services of Centura Health".

47. The packet contained a checklist for actions to take following the death of a loved one.

48. The first item on the checklist referred to “funeral home information included in this packet” and warned the reader that if they did not select a funeral home while at the hospital, they needed to contact the hospital “within 24 hours” with “your mortuary selection”.

49. 13. After the checklist in the packet was a document with bold capital letters at the top: “FUNERAL HOMES” followed by the same warning from the checklist that if you do not select a funeral home while at the hospital then you need to contact the hospital within 24 hours with your “mortuary selection.”

50. The FUNERAL Homes list contained 21 funeral homes in Colorado Springs including Return to Nature.

51. Return to Nature was listed in the packet provided by the Penrose Hospital in July 2023 despite the fact that they been operating with an expired business registration since November of 2022.

52. Patty and Jemma selected Return to Nature from the hospital packet because it was one of the only funeral homes that advertised environmentally friendly procedures and because they promised to plant a tree in honor of the deceased.

53. Because Mort was an organ donor, his remains were delivered to Return to Nature by the Donor Alliance.

54. In early September of 2023 Patty became concerned about the length of time it was taking to receive the cremains and Morten’s death certificate. In response she was given what were claimed to be his ashes at the Return to Nature, Elkton facility on September 8th.

55. They kept the ashes hoping to spread them in his favorite salmon fishing spot in the spring.

56. Then in the middle of October while Patty was home alone and Jemma was in California studying as a post-doctoral fellow at Stanford University, they both learned from the news that approximately 115 bodies had been discovered inside the Return to Nature building in Penrose.

57. The night before the seeing the news, on October 6th, Patty had received a call from the FBI indicating they believed that Morten was among the bodies at the Penrose facility.

58. Jemma immediately interrupted her studies to return home to be with her mother during this horrific time.

59. The news stories that continued to appear almost daily were horrifying, describing putrid smells and abhorrent odors emanating from the Penrose building.

60. The call from the FBI and the publication of the stories began weeks of worry, anxiety and devastation at the thought that Morten's body was among the remains that were allowed to rot in an unrefrigerated dilapidated building.

61. On October 27th Jemma and Patty's worst fears were confirmed when they were notified by the FBI that Morten's body was in fact among the decaying remains at the funeral home.

62. The FBI took the ashes that they had been holding to spread at Morten's favorite fishing spot. They were now evidence in a criminal investigation and likely concrete dust or some other material.

63. Jemma and Patty had to begin the grieving process all over with the horrific knowledge that Morten's remains had been desecrated by being allowed to decompose in an empty unrefrigerated building for over 3 months.

64. The actions of the Defendants have had a devastating and permanent impact on Jemma and Patty's mental health.

65. Morten's fond memory will forever be infected with the memory of the despicable way he was treated after his death.

C. Defendants

66. Defendant HALLFORDHOMES, LLC is a Colorado limited liability company doing business as four distinct entities under the trade name Return to Nature: Burial & Cremation; Crematory; Funeral Home; and Funeral Service.

67. Defendant HALLFORDHOMES, LLC maintains its headquarters and principal office at 815 East Platte Avenue, Colorado Springs, Colorado.

68. Defendants Carie Hallford and Jon Hallford are members of HALLFORDHOMES, LLC. They are individuals domiciled in Colorado.

69. At all relevant times, HALLFORDHOMES, LLC, through its members, owned, operated, controlled, managed, and/or supervised burial and cremation services.

JURISDICTION AND VENUE

70. This Court has jurisdiction over Defendants and the matter because this action arises out of conduct that occurred in Colorado.

71. Venue is proper in this Court because the headquarters and principal office of Defendant HALLFORDHOMES, LLC is located in El Paso County, Colorado and the wrongful conduct at issue occurred, in whole or in part, in El Paso County, Colorado.

FACTUAL ALLEGATIONS

A. The Cremation Process

72. The cremation process is a multi-step process that requires great preparation. One important aspect of the process is how the crematory identifies the bodies to ensure families receive the correct cremains. This is done with a document or a tag that accompanies the body from the time the crematory obtains the body and then delivers the ashes to the family.¹

73. Ashes take the form of a coarse, sand-like matter. The amount of ashes families receive depends on the size and bone density of the deceased.²

74. Unfortunately, dry concrete has been used before by funeral homes to mimic human remains, including a Colorado funeral home accused of selling body parts.³

75. Defendants Carie Hallford and Jon Hallford established HALLFORDHOMES, LLC in 2016. Return to Nature purportedly specialized in natural burial, cremation, and funeral services. Defendants operate in several locations, including in Colorado Springs and Penrose, Colorado.

76. Defendants are subject to regulation by the Division of Professional and Occupations, Department of Regulatory Agencies, specifically by the Office of Funeral Home and Crematory Registration for the State of Colorado.

77. On or about October 3, 2023, there was a report of an abhorrent odor emanating from one of Return to Nature's establishments, in Penrose, Colorado.⁴

¹ <https://cremationinstitute.com/cremation-process/> (last accessed October 31, 2023).

² *Id.*

³ <https://apnews.com/article/57b15c1443a24f4cb6eb1ee9464fc5d6> (last accessed November 1, 2023).

⁴ https://www.dora.state.co.us/pls/real/!DDMS_Search_GUI.Process_DPO_Search_Form.

78. On October 4, 2023, law enforcement began investigating Return to Home.⁵

79. On October 4, 2023, Zen Mayhugh, Program Director of the Office of Funeral Home and Crematory Registration, spoke on the telephone with Defendant Jon Hallford, who (1) admitted to owning the Penrose property; (2) acknowledged that he has a “problem” at the Penrose property; and (3) claimed that he practices taxidermy at the Penrose property. That day, law enforcement executed a search warrant at the Penrose establishment and determine that human remains were improperly stored inside.⁶

80. According to a report by the Office of Funeral Home and Crematory Registration, Mr. Hallford attempted to conceal the improper storage of human remains.⁷

81. On October 5, 2023, the Office of Funeral Home and Crematory Registration suspended Return to Nature’s registration to practice as a funeral establishment.⁸

82. Also on October 5, 2023, the Office of Funeral Home and Crematory Registration sent a cease and desist order to HALLFORDHOMES, LLC d/b/a Return to Nature Funeral Home. The Office found Return to Nature was operating without a required registration. Indeed, Return to Nature’s registration expired on November 30, 2022. Thus, the Office demanded Return to Nature cease any and all business activities immediately.⁹

83. Further, on or around October 19, 2023, the Office of Funeral Home and Crematory Registration investigated Defendants’ Colorado Springs establishment and found it was operating

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

without a required registration. The Office sent a cease a desist order to Return to Nature on October 26, 2023.¹⁰

84. The Office of Funeral Home and Crematory Registration found Defendants “guilty of deliberate and willful violations of the Mortuary Science Code”, which regulates the conduct of crematories and mortuaries.

B. Families are Forever Scarred and Traumatized

85. The investigation into Return to Home found that Defendants improperly stored more than 189 human bodies at its Penrose establishment.¹¹

86. As detailed above, since this horrific revelation, families of loved ones they took to Return to Nature, including Plaintiffs, have been and continue to be traumatized by the concept that their loved ones were grossly mishandled and exploited for profit.

87. Defendants gave death and/or cremation certificates to families of the deceased stating that their loved ones’ remains had been handled by one of two crematories. However, upon information and belief those businesses were not performing cremations for Defendants on the dates indicated on the certificates.¹²

88. Several families, including Plaintiffs, have spoken out about Return to Nature’s gross misconduct. Below are customer complaints publicly available:

- a. Jesse E. hired Defendants after the passing of his mother. He noted that he “immediately had suspicions. The owners, Jon and Carie Hallford, would never let [him] stop by the funeral home. When they dropped off [his] mother’s ashes, they felt far too heavy to be [his] 92-pound mom.” Further, Elliot noted that the Hallfords became defensive following inquiries into the cremation process. He noted that the envelope and box holding the cremains did not contain a metal tag normally used to track the deceased. Further, the

¹⁰ *Id.*

¹¹ <https://apnews.com/article/colorado-funeral-home-fake-ashes-29d6bc5531097b2c2e2c6d29077b4278> (last accessed October 31, 2023).

¹² *Id.*

certificate of cremation was also missing. Finally, when Elliot spread his mother's ashes, a member of the family noted at the time that "[the ashes] don't look like human remains." Elliot and his family are now forced to grapple with the nightmare that the ashes Defendants gave them were not their loved one's.¹³

- b. "My mom's last wish was for her remains to be scattered in a place she loved, not rotting away in a building," Tanya W., the daughter of a decedent Defendants' handled. "Any peace that we had, thinking that we honored her wishes... was just completely ripped away from us."¹⁴
- c. Megan M. hired Defendants to cremate her sister. In a Yelp review, she wrote "We had my sister cremated there in May and now we find out there was 115 corpses thrown in the Penrose location. We have been through so much with my sisters death now we have to worry that our ashes were some blshit from a fireplace."¹⁵
- d. Another customer, Cheryl R., wrote on October 7, 2020: "The worst place I've ever had to deal with. Don't use them for your loved one. They only want your money. They have no empath, the don't care about you & your loved one. It's all about the money & what they're getting out of it. Horrible place!!!!"¹⁶
- e. Sandra G. wrote on October 28, 2019: "I would not trust this place with a pet much less a family member. They refused to call me back when I was trying to find out about my brother's ashes. Instead they gave his ashes to his girlfriend who refused to share them. All I wanted was a pendant made for my daughter who was very close to her uncle. Also, my mom is still alive so legally she should have had rights to his ashes. I called multiple times and was always told they would call me back and never did. The location listed is an empty house so you can't even reach anyone by going to the location. The place seems extremely sketchy and the sign out front is falling apart. Do not trust these people. They do not care about your loved ones."¹⁷
- f. Stephanie F. hired Defendants to handle her husband's remains. Following the grim discovery at Defendants' Penrose establishment, she had the

¹³ <https://www.denverpost.com/2023/10/11/return-to-nature-funeral-home-victims/> (last accessed November 1, 2023).

¹⁴ <https://apnews.com/article/colorado-funeral-home-fake-ashes-29d6bc5531097b2c2e2c6d29077b4278> (last accessed November 1, 2023).

¹⁵ <https://www.yelp.com/biz/return-to-nature-funeral-home-colorado-springs?rr=1> (last accessed November 1, 2023).

¹⁶ *Id.*

¹⁷ *Id.*

remains examined by a physician. It was determined that the ashes she believed to be her husband's were not. She noted, "I know logically it's not my fault...there's a little bit of guilt on my part that I let him down."¹⁸

- g. Michelle J. noted skepticism whether the ashes Defendants gave her were those of her husband. "I don't know where my husband is."¹⁹
- h. Abby S. hired Defendants to handle her mother's remains. She contacted the funeral home listed on the death certificate and learned that they had long stopped doing business with Defendants. She noted, "It completely has undone any healing that was taking place."²⁰
- i. Angelika S. hired Defendants to handle her daughter's remains after she suddenly passed. She stated she hired Defendants to plant a tree in her daughter's honor, but that Defendants never got back to her. She further stated, "It's really hard to think that you don't even know where your child's ashes are, if what they gave you are your child's ashes."²¹
- j. Crystina P. hired Defendants to cremate her son's body in 2019. She received a call from the FBI informing her that her son is among the bodies found at Defendants' Penrose establishment. She stated, "I'm absolutely appalled... this feels like he was killed again. For four years my son was stolen from us, and this man literally stole my son."²²

89. Defendants were fully aware that they were not properly maintaining their business.

Defendants were fully aware that their conduct was did not meet basic standards and was harming the families of those cremated at Return to Nature, yet Defendants continued to disregard their duty of care and took advantage of families' vulnerability for profit.

¹⁸ <https://apnews.com/article/colorado-funeral-home-fake-ashes-29d6bc5531097b2c2e2c6d29077b4278> (last accessed November 1, 2023).

¹⁹ *Id.*

²⁰ *Id.*

²¹ <https://www.kktv.com/video/2023/10/23/mother-speaks-about-her-experience-with-return-nature-funeral-home-penrose/> (last accessed November 1, 2023).

²² <https://www.kktv.com/2023/10/27/this-feels-like-he-was-killed-again-mother-speaks-after-she-was-contacted-by-fbi-about-her-sons-remains-during-funeral-home-investigation/> (last accessed November 1, 2023).

90. Defendants were motivated to conceal their unlawful practices complained of herein because Defendants knew or should've known that their unlawful activities constituted violations of Colorado law.

91. Despite Defendants' knowledge of multiple serious problems with their burial and/or cremation practices and record-keeping, Defendants intentionally omitted any disclosures to their potential or existing customers regarding these substantial problems and also failed to implement any policy that would correct these problems and/or prevent similar problems from occurring in the future.

92. Upon information and belief, Defendants neglected their record-keeping duties and/or disregarded or failed to consult records kept by Defendants that reflect the true location of bodies in its possession.

93. Instead, Defendants misrepresented where bodies were cremated and/or moved or otherwise improperly disposed of human remains without required consents and/or approvals, and without providing any notice whatsoever to the decedents' families.

94. Defendants have engaged in a pattern of negligent conduct in the death care services industry. The negligent practices included, but were not limited to the following all of which occurred before this lawsuit:

- a. Defendants purporting to perform cremations to families, all the while knowing that the Defendants intended to violate these agreements in order to enrich the Defendants at the expense of their clients;
- b. Defendants improperly storing bodies that were supposed to be cremated; and
- c. Defendants failing to keep accurate records regarding particular cremations.

- d. Accepting bodies for cremation when they knew or should have known they were incapable of performing the promised services.

95. Despite Defendants' actual knowledge of this pattern and practice of routinely violating contracts for mortuary services, Defendants failed to disclose these issues to Plaintiffs, and misled the families and buyers, and recklessly failed to implement any policy or practice which would eliminate this conduct to avoid continuing harm to their clients.

96. In order to continue their efforts to sell burial and/or cremation services and otherwise to generate more profits from their death care services, Defendants failed to disclose their true intentions in that they failed to have any policy in place to accurately keep records and conduct proper.

97. Moreover, despite their actual knowledge of faulty and inaccurate records, Defendants recklessly and/or knowingly failed to pursue a solution to known issues at Return to Nature.

98. Upon information and belief, Defendants continue to sell cremation services with knowledge or with reckless disregard for the truth of the representations made with respect to the maintenance of human remains.

99. Plaintiffs in this case have been harmed by Defendants' unlawful conduct at Return to Nature and seek relief from the Defendants for their failure to correct their practices and pattern of engaging in fraudulent sales of death care services under circumstances which mislead the purchasers, and for Defendants' failure to disclose their known problems and improprieties

CLASS ALLEGATIONS

100. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

101. Plaintiffs bring this action on behalf of themselves and the following class:

All family members of those decedents who were not timely buried and/or cremated at Return to Nature.

102. Certification of the Class is proper under Colo. R. Civ. P. 23.

103. Excluded from the Class are: (1) the Judges presiding over the Action, Class Counsel, and members of their families; (2) the Defendants, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or their parents, have a controlling interest, and their current or former officers and directors; (3) Persons who properly opt out; and (4) the successors or assigns of any such excluded Persons.

104. **Numerosity:** The Class is so numerous that joinder of all members is impracticable. Upon information and belief, the Class includes the family members of hundreds of decedents.

105. **Typicality:** All of Plaintiffs' claims are typical of the claims of the Class because the named Plaintiffs, like all other members of the Class, had a family member handled by Defendants, such that all claims arise from the same uniform, core set of facts. Thus, Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class Members.

106. **Adequacy:** Plaintiffs are adequate Class representatives because their interests do not materially or irreconcilably conflict with the interests of the Class that they seek to represent, they have retained counsel competent and highly experienced in complex class action litigation, and they intend to prosecute this action vigorously. The interests of the Class will be fairly and adequately protected by Plaintiffs and their counsel.

107. **Superiority:** A class action is superior to all other available means of fair and efficient adjudication of the claims of Plaintiffs and the Class. The injury suffered by each Class Member is relatively small in comparison to the burden and expense of individual prosecution of

the complex and extensive litigation necessitated by Defendants' conduct. It would be virtually impossible for members of the Class individually to effectively redress the wrongs done to them. Even if the members of the Class could afford such individual litigation, the court system could not. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties and to the court system presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court. Members of the Class can be readily identified and notified based on, *inter alia*, Defendants' records and databases.

108. **Commonality and Predominance:** The following questions common to all class members predominate over any potential questions affecting individual class members:

- a. Whether Defendants owed a duty of care to Plaintiffs and the Class's family members that were handled at Return to Nature;
- b. Whether Defendants breached those duties;
- c. Whether Defendants violated the laws alleged herein; and
- d. Whether Plaintiffs and all other members of the Class are entitled to damages and the measure of such damages and relief.

109. Defendants have acted, and refused to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive and equitable relief with respect to the Class as a whole.

COUNT I
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

110. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

111. Defendants knew or should have known that their conduct as described above would cause severe emotional distress to Plaintiffs or any reasonable individual.

112. Defendants knew or should have known that they were engaging in the heinous behavior described herein.

113. As a direct and proximate result of this outrageous conduct, Plaintiffs and the putative class experienced severe emotional distress.

114. Defendants' actions were outrageous in character, go beyond all possible bounds of decency, and are to be regarded as atrocious and utterly intolerable in a civilized community.

COUNT II
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

115. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

116. Defendants owed a duty to Plaintiffs and the Class to treat the decedents' bodies with dignity and respect.

117. Defendants breached their duty by, *inter alia*, allowing nearly 200 human beings to decompose at the Penrose location.

118. Defendants' conduct was extreme and outrageous and goes beyond all possible bounds of decency.

119. As a direct and proximate result of Defendants' outrageous actions, Plaintiffs and the Class have and continue to suffer severe emotional distress.

120. Plaintiffs and the Class have suffered damages as a result of Defendants' extreme and outrageous conduct.

COUNT III
NEGLIGENCE

121. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

122. Defendants had a duty to Plaintiffs to treat the remains of their loved ones in accordance with their expectations and wishes and their direction, and certainly a duty to ensure the dignified disposal of their remains.

123. Defendants breached this duty by failing to take reasonable steps to ensure that the remains of their loved ones were properly handled and/or maintained for their intended purpose, and otherwise dignified disposal.

124. Defendants' breach of this duty caused, both directly and proximately, severe emotional distress to Plaintiffs and the putative class.

COUNT IV
GROSS NEGLIGENCE

125. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

126. By contracting with Plaintiffs and Plaintiffs, and accepting the care, custody and control over the remains of their loved ones, Defendants assumed a duty of care to Plaintiffs and the Class. Defendants' duties included, among other things:

- a. To maintain accurate records;
- b. To handle human remains with utmost dignity and respect;
- c. To employ policies and practices for mortuary services that avoid mishandling bodies;
- d. To ensure that the remains given to families are those of their loved ones;
and
- e. To otherwise use reasonable care in the operation of their business.

127. Defendants breached their duties to Plaintiffs and the Class as set forth herein, and failed to act with reasonable care in the operation of their business.

128. Defendants' breaches of their duties include, but are not limited to:

- a. Failing to maintain accurate burial and/or cremation records;
- b. Improperly storing bodies which were contracted to be cremated;
- c. Failing to handle human remains with reasonable dignity and respect; and
- d. Recklessly and/or knowingly failing to pursue a company-wide remedy, after being put on notice of similar incidents, to prevent future similar incidents and similar harm from occurring

129. Defendants' breaches of their duties to Plaintiffs and the Class were intentional, careless, and/or reckless.

130. As a direct and proximate and foreseeable result of Defendants' breaches of their duties, Plaintiffs and the Class suffered economic and non-economic damages, including physical injury due to the severe emotional distress described above.

131. Defendants knew or should have known that their intentional, careless, and/or reckless actions would cause damages to Plaintiffs and the Class because of their practices.

COUNT V
NEGLIGENCE *PER SE*

132. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

133. Return to Nature is a "funeral establishment" within the meaning of Colo. Rev. Stat. § 12-135-103(16)(a)-(d), and as and is thus subject to the requirements contained therein.

134. Under Colo. Rev. Stat. § 12-135-106, a funeral establishment “shall embalm, refrigerate, cremate, bury, or entomb human remains within twenty-four hours after taking custody of the remains”.

135. This statute was intended to prevent the type of harm that Plaintiffs and the Class suffered.

136. Plaintiff and the Class are within the class of persons the statute was intended to protect.

137. Defendants’ violations of the statute, including, *inter alia*, failing to embalm, refrigerate, cremate, bury, or entomb human remains within 24 hours after taking possession constitutes negligence *per se*.

138. Plaintiffs and the Class have and continue to suffer damages as a direct and proximate result of Defendants’ negligence *per se*.

COUNT VI
NEGLIGENCE PER SE

139. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

140. Return to Nature is a “funeral establishment” within the meaning of Colo. Rev. Stat. § 12-135-103(16)(a)-(d), and as and is thus subject to the requirements contained therein.

141. Under Colo. Rev. Stat. § 12-135-110, a funeral establishment shall register with the state of Colorado’s Office of Funeral Home and Crematory Registration.

142. The statute was intended to prevent the type of harm Plaintiffs and the Class suffered.

143. Plaintiff and the Class are within the class of persons the statute was intended to protect.

144. Defendants' violations of the statute, specifically, by operating Return to Home without a license since November 2022, constitutes negligence *per se*.

145. Plaintiffs and the Class have suffered damages as a direct and proximate result of Defendants' negligence *per se*.

COUNT VII
SILENT FRAUD

146. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

147. Defendants had a duty to not only be truthful, but also to disclose material facts known to them. Yet, the Defendants, with malice and in bad faith, failed to so disclose.

148. Defendants falsely represented material facts regarding the true location of the remains of Plaintiffs' family members, including whether, when, and where remains were cremated, or otherwise disposed of.

149. Defendants had actual knowledge of these facts as Defendants were personally responsible for properly administering and maintaining Return to Home.

150. Defendants' failure to disclose these facts caused Plaintiff to have a false impression that the remains of their deceased loved ones were properly cremated and delivered to them.

151. When Defendants failed to disclose these facts, Defendants knew the failure would create a false impression.

152. When Defendants failed to disclose these facts and their improper practices, Defendants intended that Plaintiffs and the Class rely on the resulting false impression.

153. Plaintiffs and the Class reasonably relied upon the false impression, thereby causing Plaintiffs and the Class to incur substantial damages as a proximate result thereof.

COUNT VIII
INTERFERENCE WITH A CORPSE

154. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

155. While Plaintiffs and the Class's loved ones were taken to Defendants, their authorization was premised on the purpose for mortuary services.

156. They were clearly not for the purpose of allowing nearly 200 bodies to decompose in an unrefrigerated facility.

157. Accordingly, Defendants did not possess an absolute right to the disposition of Plaintiffs and the Class's loved ones' remains—Defendants had only the right to dispose of the remains in accordance with proper mortuary services protocols.

158. Defendants' failure to do so resulted in harm to Plaintiffs and the Class's possessory interest in their loved ones' remains.

159. Defendants' wrongful and unauthorized interference with remains had a detrimental effect on the psychological well-being of Plaintiffs and the Class.

160. As a direct and proximate result of Defendants' conduct as described more fully above, Plaintiffs and the putative class suffered the harm described herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the putative class, request the following relief:

- a. Certification of this action as a class action and appointing of Plaintiffs to serve as class representatives and undersigned as class counsel;

- b. An award of compensatory damages in an amount deemed appropriate by the trier of fact, along with prejudgment and post-judgment interest;
- c. An award of attorney's fees and costs as permitted by law; and
- d. Any other relief which this Court deems just and proper or to which Plaintiff and the putative class may be entitled as a matter of law.

Respectfully Submitted,

The Plaintiffs,

By their attorneys,

/s/ Rick D. Bailey

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