

MAY 26 2011

CLERK OF THE SUPERIOR COURT  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
~~BORN KATHLEEN MCKEAN~~  
IN AND FOR THE COUNTY OF ALAMEDA

Deputy

Guyana Tribute Foundation

Plaintiff

Case No: RG11-575036

vs.

The Evergreen Cemetery Assn, et al  
Defendant

This Court wishes to comment at the outset that he regrets the "pinpoint" nature of the decision making process here being necessarily limited only to specific facts and specific legal conclusions between these two parties while otherwise indirectly dealing with the interests of hundreds of others not before the Court whose lives were forever changed on that fateful and tragic day more than thirty two years ago.

The Court also wishes to acknowledge what he perceives to be the sincerity, legitimate concern about and dedication to the cause of establishing a tangible, symbolic memorial to the hundreds of victims involved, demonstrated by each party here, notwithstanding their disagreements about the effect of the path to, the style and content of and what to do with the now completed Jonestown Memorial at Evergreen Cemetery.

As related in open court, this Court was impressed both with Dr. Norwood's passionate and tireless efforts on behalf of the victims of Jonestown and Evergreen Cemetery's decades

1 long willingness to consider a memorial on its property in memory of them.

2       The fundamental problem here is that plaintiff presents this court with the Hobson's  
3 choice of further delaying any symbolic memorial dedicated to these victims or preventing the  
4 public from gathering to view the now completed Jonestown Memorial monument. Either result  
5 would continue to expose the victims and families of Jonestown to a continuing paralytic state of  
6 inaction. The Court notes that it has taken more than thirty two years to produce the memorial  
7 now under consideration and for which an unveiling is scheduled this upcoming weekend.

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9       In deciding whether to issue injunctive relief, a Court necessarily weighs two interrelated  
10 factors: (1) the likelihood that the moving party will ultimately prevail on the merits and (2) the  
11 relative harm to the parties from the issuance or non issuance of the injunction requested.

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13       Based upon the factual record here, there are significant questions as to whether there was  
14 a meeting of the minds here as to the formation of a contract between these parties; whether there  
15 could be any detrimental reliance by Dr. Norwood based upon the lack of success of her  
16 fundraising efforts largely occasioned by the nature of our national economy (from 2007 forward)  
17 and as a matter of equitable principles, the extended period of time and delay in bringing forth  
18 her vision of an appropriate memorial while others pursued and perfected their vision of the  
19 same.  
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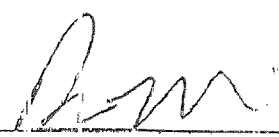
21       The Court also believes that in weighing the effects of the injunctive relief requested at  
22 this time substantial harm would inure to the defendant and others relative to the cost of the  
23 memorial already constructed and more importantly, to the sacrifice of the rights of those who  
24 would gather to remember and honor the victims of Jonestown this Memorial Day weekend and  
25 other days, pending completion of this litigation.  
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The Motion of plaintiff for Injunctive Relief is denied.

A Settlement Conference in this matter will be set at 4p.m. in May 31, 2011. Counsel are to contact the Court by telephone at that time.

Dated: 5/26/11

  
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Robert D. McGuinness  
Judge of the Superior Court