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The Evergreen Cemetery Association,
6 Buck Kamphausen, and Ron Haulman

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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF ALAMEDA

10 UNLIMITED JURISDICTION

11
12 GUYANA TRIBUTE FOUNDATION, a) CASE NO. RG11575036
13 California non-profit corporation; and)
JYNONA NORWOOD, an individual,)
14) **DEFENDANTS EVERGREEN**
Plaintiffs,) **CEMETERY ASSOCIATION, BUCK**
15 vs.) **KAMPHAUSEN AND RON HAULMAN'S**
16) **NOTICE OF DEMURRER TO**
THE EVERGREEN CEMETERY) **COMPLAINT; DEMURRER;**
17 ASSOCIATION, a California corporation;) **MEMORANDUM OF POINTS AND**
BUCK KAMPHAUSEN, an individual; RON) **AUTHORITIES AND DECLARATION IN**
18 HAULMAN, an individual; and DOES 1-10) **SUPPORT**
19) **(Reservation No. 1188626)**
Defendants.)
20) **Date: October 18, 2011**
21) **Time: 3:00 p.m.**
22) **Dept.: 22**
23) **Hon. Robert McGuiness**
Complaint filed: May 10, 2011

24 **TO PLAINTIFFS GUYANA TRIBUTE FOUNDATION AND JYNONA NORWOOD AND**
25 **TO THEIR ATTORNEY OF RECORD:**

26 PLEASE TAKE NOTICE that on October 18, 2011 at 3:00 p.m., or as soon
27 thereafter as the matter may be heard, in Department 22 of the above-entitled court,

1 located at 1221 Oak Street, Oakland, California, Defendants THE EVERGREEN
2 CEMETERY ASSOCIATION, BUCK KAMPHAUSEN and RON HAULMAN (hereinafter
3 collectively referred to as "Evergreen") will, and hereby do demur to the first, second,
4 third, fourth, fifth, sixth and seventh causes of action of Plaintiffs' Complaint on the
5 grounds set forth more fully in the demurrer attached hereto and filed herewith. This
6 demurrer shall be based on this Notice, the following Demurrer, the memorandum of
7 points of authorities and declaration attached hereto, on all papers, pleadings on file
8 herein including Plaintiffs' verified complaint for damages, and on such oral and
9 documentary evidence as may be presented at the time of the hearing of this matter.

10 DEMURRER

11 Defendants Evergreen do hereby demur to Plaintiffs' Complaint on file herein as
12 follows:

- 13 1. As to the *First Cause of Action* (Breach of Oral Contract), Plaintiffs fail to state
14 facts sufficient to constitute a cause of action against Defendants Evergreen in
15 that Plaintiff Guyana Tribute Foundation lacks standing to sue for breach of
16 contract, the alleged oral contract is barred by the Statute of Frauds, is
17 uncertain and unenforceable as to its terms, duration and lack of consideration.
- 18 2. As to the *Second Cause of Action* (Breach of Covenant of Good Faith and Fair
19 Dealing), Plaintiff Guyana Tribute Foundation lacks standing to sue for breach
20 of the covenant of good faith and fair dealing and Plaintiffs fail to state facts
21 sufficient to constitute a cause of action against Defendants Evergreen as no
22 contract was ever formed so no covenant was created.
- 23 3. As to the *Third Cause of Action* (Intentional Misrepresentation of Fact),
24 Plaintiffs fail to state facts sufficient to constitute a cause of action against
25 Defendants Evergreen as plaintiffs have alleged no representation of fact
26 made to Plaintiff which could be the basis for such cause of action.
- 27 4. As to the *Fourth Cause of Action* (Negligent Misrepresentation of Fact),
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Plaintiffs fail to state facts sufficient to constitute a cause of action against Defendants Evergreen as Plaintiffs have alleged no representation of fact made to Plaintiff which could be the basis for such cause of action.

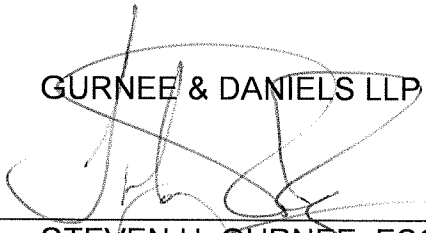
- 5. As to the *Fifth Cause of Action* (Fraud), Plaintiffs fail to state facts sufficient to constitute a cause of action against Defendants Evergreen as Plaintiffs have alleged no actions or representation of fact made to Plaintiff which could be the basis for such cause of action.
- 6. As to the *Sixth Cause of Action* (Injunctive Relief), Plaintiffs fail to state facts sufficient to constitute a cause of action against Defendants Evergreen as the Court has already determined Plaintiffs are not entitled to the injunctive relief sought as the "rival memorial" already is completed.
- 7. As to the *Seventh Cause of Action* (Declaratory Relief), Plaintiffs fail to state facts sufficient to constitute a cause of action against Defendants Evergreen as no contract exists upon which to base such cause of action.

Wherefore, Defendants Evergreen pray that this demurrer be sustained as to each cause of action without leave to amend.

This demurrer is based upon this Notice of Demurrer and Demurrer, the attached Memorandum of Points and Authorities and declaration served and filed herewith, on the Court files and records in this matter, and on such other and further oral or written evidence or argument as may be presented at the hearing on this matter.

Dated: June 24, 2011

GURNEE & DANIELS LLP

By 

STEVEN H. GURNEE, ESQ.
TOBY M. MAGARIAN, ESQ.
Attorneys for Defendants The Evergreen
Cemetery Association, Buck
Kamphausen and Ron Haulman

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

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4 Following the tragic events involving the People's Temple in 1978 in which 918
5 people perished, Defendant Buck Kamphausen, on behalf of Evergreen, offered to
6 accept the remains of hundreds of unidentified decedents from Jonestown that no other
7 cemetery in the country was willing to accept. Evergreen is a private, non-profit cemetery
8 located in Oakland, California. The receiver appointed by the court following the
9 Jonestown incident purchased an appropriate site at Evergreen for the common burial of
10 the remains of 387 unidentified victims. As requested by the receiver, those remains
11 were interred in a single mass grave at Evergreen in 1979. Twenty-two other victims
12 whose remains were identified and claimed by their family members were also buried at
13 Evergreen in the common burial site. As such, there are a total of 409 Jonestown
14 decedents presently interred at the cemetery. The receiver also arranged for the
15 installation a simple monument to mark the common grave which was installed in 1979.

16 Since 1979, there have been various and sundry inquiries and proposals from
17 relatives of the victims about erecting a more elaborate memorial at the site. Mr.
18 Kamphausen has, in the past, offered to donate the cost of a foundation and installation
19 of a memorial but on the condition that its design and specifications first be submitted to
20 and approved by the Evergreen Cemetery Board of Directors as required by its rules and
21 regulations. Mr. Kamphausen's conditional offer is reflected in his letter to Plaintiff
22 Jynona Norwood dated September 24, 2002, attached as Exhibit "A" to Plaintiffs'
23 complaint. (For the Court's convenience, a true and correct copy of Plaintiffs' Complaint
24 is attached as Exhibit "A" to the declaration of Toby M. Magarian). That letter refers to
25 verbal discussions between Mr. Kamphausen and Ms. Norwood that occurred 5 years
26 previously (1997) and makes clear the requirement that the design and specifications for
27 any memorial had to first be approved by Evergreen's Board of Directors. Significantly,
28 as set forth in Plaintiffs' verified complaint, Plaintiff Guyana Tribute Foundation was not

1 even formed until November of 1998, after the alleged verbal contract was made with
2 Jynona Norwood, so Guyana Tribute Foundation as a non-party, lacks standing to
3 enforce the alleged oral contract.

4 The claimed scope and design of the “memorial wall” has changed and evolved
5 over the years. Significantly, Plaintiffs never submitted a clear and detailed design to
6 Evergreen for evaluation and approval and the scale has increased over time,
7 significantly increasing the cost, engineering and labor that would be entailed even were
8 such a design feasible for the site. None of the writings to which Plaintiffs refer as
9 memorialization of an alleged contract contain the necessary terms or exhibit any
10 consideration to constitute a binding contract. Moreover, Plaintiffs have been attempting
11 to raise funds for a memorial at the site for well more than a decade and have failed to
12 raise most of the funds necessary to complete the memorial itself.

13 Apparently, certain donors and relatives of the decedents have become
14 disenchanted with Plaintiffs and doubt their ability to ever complete a memorial so they
15 pursued construction of a more modest memorial. Plaintiffs were aware of that
16 alternative memorial since at least no later than November 18, 2010 but failed to take any
17 action. That memorial has been completed at Evergreen. Defendants Evergreen demur
18 to Plaintiffs’ complaint and each cause of action therein as each fails to allege facts
19 sufficient to constitute a cause of action as any “contract” was lacking in certainty,
20 consideration, is barred by the Statute of Frauds and is unenforceable. Plaintiffs’ claims
21 of misrepresentation and fraud also lack certainty and fail to constitute a cause of action
22 against Defendants.

23 II. LEGAL ARGUMENT

24 FIRST CAUSE OF ACTION – BREACH OF ORAL CONTRACT

25 A. Plaintiff Guyana Tribute Foundation is not a Party to Any Contract

26 Plaintiffs Guyana Tribute Foundation and Jynona Norwood filed their verified
27 complaint on May 11, 2011. Paragraph 17 of the complaint states: “In or around

1 November 1992, Defendants orally agreed that they would be agreeable to, and willing to
2 assist in, the building of a memorial wall honoring the victims of the Jonestown
3 Massacre-Suicides." Plaintiffs go on to allege that "based on this agreement, in or about
4 1993, Plaintiff Norwood, by and through other local non-profits, began raising funds for
5 the construction of the memorial wall...Later, in or about November 1998, Norwood
6 formed Guyana Tribute Foundation to continue raising funds for the construction of the
7 memorial wall." (Plaintiffs' Complaint at paragraph 18). Paragraph 19 of the complaint
8 alleges that on or about September 24, 2002, Defendant Evergreen sent Norwood a
9 letter stating that in September 1997, Defendants committed to providing the base and
10 setting for a memorial wall. That letter is attached as Exhibit A to Plaintiffs' complaint.

11 As alleged and verified by Plaintiff Norwood, the alleged oral agreement and
12 "commitment" by Defendants was made in 1992 and in September of 1997. However,
13 Plaintiff Guyana Tribute Foundation was not formed until November of 1998 according to
14 the verified allegations of paragraph 18 of Plaintiffs' complaint. Therefore, Plaintiff
15 Guyana Tribute Foundation clearly was not a party to the oral contract Plaintiffs claim
16 was formed in 1992 and 1997 and lacks standing to sue for breach of such oral contract.

17 **B. The Oral Contract Violates the Statute of Frauds**

18 As noted above, Plaintiffs' complaint alleges that an oral contract was made in
19 1992 and again in 1997. California Civil Code §1624(a)(1) makes invalid any contract not
20 in writing "(1) An agreement that by its terms is not to be performed within a year from the
21 making thereof." Plaintiffs seek by their complaint to obtain damages from Defendants
22 for alleged breach of an oral agreement made well more than ten years ago. Plaintiffs
23 claim to have been raising funds for the "memorial wall" for almost two decades with no
24 end in sight. Although the oral contract is undefined as to time for performance, it is clear
25 that Plaintiffs had no ability to perform it within the year the alleged oral agreement was
26 made.

27 Plaintiffs admit in their verified complaint that they only entered into a contract with
28 a monument company to manufacture the "memorial wall" in November of 2007. (See

1 paragraph 23 and Exhibit D to Plaintiffs' Complaint). By Plaintiffs' own admission they
2 failed to make even the initial payment set forth in that contract and never made a further
3 payment beyond the first approximately \$30,000 of the total \$97,800 contract price. (See
4 paragraphs 23-24 of Plaintiffs' Complaint).

5 C. The Alleged Contract is Unenforceable

6 Plaintiffs claim the oral contract is enforceable based on the "oral agreements"
7 made in 1992 and 1997 and the letter of September 24, 2002 from Buck Kamphausen
8 attached as Exhibit A to Plaintiffs' Complaint. However, it is clear that any alleged
9 memorialization of such agreement was so vague and uncertain as to be unenforceable
10 and that it contains a condition precedent which was never satisfied. As alleged in
11 Plaintiffs' Complaint at paragraph 34 of the First Cause of Action: "In or about 1992, and
12 again in January 1997 and September 2002, Defendants promised to assist Plaintiffs in
13 erecting a wall to honor the victims of the Jonestown Massacre-Suicides, including but
14 not limited to providing the base and setting for the memorial wall." Even as alleged in
15 Plaintiffs' Complaint, the alleged contract has none of the terms necessary to make it
16 enforceable.

17 Judicial Council of California, Civil Jury Instructions, CACI 302 provides the
18 essential factual elements to establish formation of a contract:

19 "...To prove that a contract was created, [name of plaintiff] must prove all of the
20 following:

- 21 1. That the contract terms were clear enough that the parties could understand
22 what each was required to do:
- 23 2. That the parties agreed to give each other something of value....;and
- 24 3. That the parties agreed to the terms of the contract."

25 Plaintiffs' complaint fails to satisfy **any** of the three elements. Even as alleged by
26 Plaintiffs, the terms are so vague as to exactly what Defendants are to perform that the
27 contract cannot be enforced. As noted above, Plaintiffs claim the contract includes "but
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1 not limited to providing the base and setting for the memorial wall.” Without any
2 parameters for what the foundation entails or the time, expense and extent of the setting
3 of the memorial wall, there can be no enforceable agreement. As noted above, Plaintiffs
4 changed the concept and design of the “memorial wall” and in March of 2007 wanted a
5 “simple seating garden area as part of the Memorial...” (See Exhibit C to Plaintiffs’
6 Complaint).

7 Even if the agreement as set forth in the letter of September 24, 2002 were
8 enforceable, the agreement by its terms contains a clear condition precedent to
9 performance by Defendants Evergreen: “This [providing the base and setting for a
10 monument memorial] is subject to approval by the Evergreen Cemetery Association
11 Board of Directors as to the design, size, style, and height of the memorial.” (See Exhibit
12 A to Plaintiffs’ Complaint). Plaintiffs do not allege that they ever satisfied this condition
13 precedent or that the Board of Directors ever approved the design, size, style and height.
14 In fact, although Plaintiff’s letter of March 22, 2007 (Exhibit C to Plaintiffs’ complaint)
15 contains a brief description of the memorial, it does not specify the size or weight of the
16 wall or even how many panels it comprises. While it states the wall will be “7 feet above
17 ground”, it is unclear if the base is to be seven feet high so the panels will be seven feet
18 above ground or does that the wall itself is seven feet tall. The answer to these
19 questions will drastically change the engineering, expense and labor the foundation and
20 installation for such a memorial wall would require.

21 Equally significant is any allegation satisfying the element that the parties to the
22 contract “agreed to give each other something of value” as required under CACI 302.
23 While it is clear that Plaintiffs have alleged Defendants were to incur the expense of
24 locating and installing the memorial, completely absent is anything of value Guyana
25 Tribute Foundation or Jynona Norwood agreed to give to Defendants. In simple terms,
26 there is absolutely no consideration given by Plaintiffs in this alleged contract to render it
27 binding or enforceable.

1 Lastly, there are no facts alleged that the parties ever agreed to any certain
2 contractual terms. Plaintiffs' Complaint and the attached exhibits show that no "meeting
3 of the minds" was ever achieved.

4 "[T]here is no contract until there has been a meeting of the
5 minds on *all* material points." (*Banner Entertainment, Inc. v.*
6 *Superior Court* (1998) 62 Cal.App.4th 348, 358, 72
7 Cal.Rptr.2d 598.) "Mutual intent is determinative of contract
8 formation because there is no contract unless the parties
9 thereto assent, and they must assent to the same thing, in
10 the same sense.... Thus, the failure to reach a meeting of
11 the minds on all material points prevents the formation of a
contract *even though the parties have orally agreed upon
some of the terms, or have taken some action related to the
contract.*" (*Id.* at pp. 358-359, 72 Cal.Rptr.2d 598.)
*American Employers Group, Inc. v. Employment
Development Department* (2007) 154 Cal.App.4th 836, 846-
847. (emphasis in original)

12 For these reasons, Defendants' demurrer to Plaintiffs' First Cause of Action should be
13 sustained without leave to amend. Leave to amend should be denied as plaintiffs'
14 complaint is verified and absent a re-invention of the facts, the defects in that cause of
15 action cannot be corrected.

16 **SECOND CAUSE OF ACTION – BREACH OF COVENANT OF
17 GOOD FAITH AND FAIR DEALING**

18 Plaintiffs' second cause of action for breach of the covenant of good faith and fair
19 dealing fails as the first requirement necessary to establish this cause of action is that the
20 parties entered into a contract. (CACI 325; *Racine & Laramie, Ltd. v. Department of
21 Parks & Recreation* (1992) 11 Cal.App.4th 1026, 1031-1032) As set forth above, no
22 contract was ever created as there was no consideration given and no meeting of the
23 minds. Further, it is an essential element of this cause of action that plaintiffs perform all
24 or substantially all of the significant things that the contract required it to do and all
conditions required for defendant's performance had occurred. (CACI 325)

25 As admitted by the verified allegations of Plaintiffs' Complaint, Plaintiffs failed to ever
26 perform their contract with Amador Memorial Company by having the memorial
27 completed for installation and never raised sufficient funds to pay for its completion.

1 (Plaintiffs' complaint at paragraphs 23-24). It was never possible for Defendants to
2 "assist Plaintiffs in erecting a wall," provide "the base and setting for the memorial wall" or
3 "do whatever was necessary to help install the memorial wall" as there has never been a
4 finished product to erect or install. (Plaintiffs' Complaint at paragraph 41). In addition,
5 Plaintiffs never submitted the design or received approval by the Evergreen Cemetery
6 Association Board of Directors. Therefore, Defendants were never required to perform.

7 **THIRD CAUSE OF ACTION – INTENTIONAL MISREPRESENTATION OF FACT**

8 Plaintiffs' third cause of action for intentional misrepresentation of fact claims that
9 Defendants on or about January 29, 1997 "committed to providing the base and setting
10 for a memorial to be placed at the mass grave site of the victims of the Jonestown
11 Massacre-Suicides." Despite being a verified complaint, Plaintiffs also allege on
12 information and belief (See paragraph 26) that in April of 2008:

13 Kamphausen, on behalf of Evergreen, went personally to
14 Amador Memorial Company, observed the size and weight
15 of the granite panels that had been ordered by Amador
16 Memorial Company for the memorial wall, and not only did
not object to the size of the panels, but stated that he would
do whatever was necessary to help install the memorial
wall." (Plaintiffs' Complaint at paragraphs 26, 47-48,
emphasis in original).

17 Plaintiffs' third cause of action alleges these statements were false and misleading.
18 Firstly, the commitment to provide a base and setting for a memorial was neither false
19 nor misleading. In fact, Defendants have actually provided a base and setting for a
20 memorial which was placed at the mass gravesite, thereby fulfilling that commitment.
21 (See Plaintiffs' Complaint at paragraph 68).

22 Secondly, Plaintiffs allege that Defendant Kamphausen "did not object to the size
23 and weight of the panels," and stated that he would do whatever was necessary to help
24 install the memorial wall. Accepting for purposes of this demurrer that these allegations
25 are true, not objecting to the size of the panels does not constitute a "misrepresentation
26 of fact" but rather no representation at all. Further, the first essential element to
27 establishing a cause of action for intentional misrepresentation is "1. That [name of

1 defendant] represented to [name of plaintiff] that an important fact was true;”. (CACI
2 1900)

3 It is clear due to the fact that Plaintiffs’ allegation that the statement of defendant
4 Kamphausen is based on information and belief, that the claimed statement was made to
5 someone at Amador Memorial Company and that Plaintiffs were not present in or about
6 April 2008. Therefore, even if Kamphausen made this statement, it was not to Plaintiffs
7 so no claim for intentional misrepresentation can be made based on this hearsay
8 statement to a third person.

9 Lastly, Plaintiffs must show some reliance on that statement that caused harm.
10 Plaintiffs claim that “In reliance on the promises and misrepresentations of Defendants,
11 Plaintiffs paid \$30,371 to commence construction on the memorial wall, Marin Memorial
12 Company ordered all of the granite panels and completed two of the panels, all because
13 of Defendants’ misrepresentations.” (Plaintiffs’ Complaint at paragraph 51). However,
14 Plaintiffs’ verified allegations state that they paid the \$30,371 on November 18, 2007 and
15 January of 2008 but Kamphausen did not see the panels and allegedly state that “he
16 would do whatever was necessary to help install the memorial wall” until April of 2008.
17 Clearly no reliance can be established when the claimed misrepresentation occurs after
18 the alleged harm. The demurrer to the third cause of action should be sustained without
19 leave to amend.

20 **FOURTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION OF FACT**

21 Plaintiffs’ fourth cause of action for negligent misrepresentation is based on the
22 same alleged representations as those in the third cause of action for intentional
23 misrepresentation and for the same reasons this cause of action is deficient and the
24 demurrer as to it should be sustained without leave to amend.

25 **FIFTH CAUSE OF ACTION - FRAUD**

26 Plaintiffs’ fifth cause of action for fraud contains no specific allegations as to any
27 specific promises and representations this cause of action is based on but is pled as a
28 “catch-all.” As noted above, the representations Plaintiffs have alleged do not support a

1 cause of action for fraud and none of the claimed agreements meet the criteria for being
2 a binding contract upon which Plaintiffs' fraud claims can rest. It is clear that Plaintiffs
3 are trying to force Defendants to pay some unknown and ever increasing amount to
4 install a memorial wall that has never been adequately defined, designed or approved to
5 make the commitment of Evergreen binding. It would be fundamentally inequitable and
6 unfair to require Defendants to be perpetually bound to incur whatever the expense may
7 be and obligated to install whatever size memorial wall Plaintiffs eventually create
8 regardless of its practicability or feasibility. Yet that is exactly what Plaintiffs expect and
9 now accuse Defendants of fraud and seek punitive damages.

10 As noted in Plaintiffs' verified allegations, Plaintiff Jynona Norwood began
11 fundraising for the construction of the memorial in 1993 and has continued to fundraise
12 ever since. (Plaintiffs' Complaint at paragraph 18) Despite almost two decades of
13 fundraising, Plaintiffs have not accumulated even one third of the cost of the manufacture
14 of the "memorial wall" as contracted in 2007 and as Marin Monument Company which
15 was manufacturing the panels is out of business, it is questionable if the cost to complete
16 the panels has not increased since that time. Defendants' obligation to perform their
17 alleged promises has never occurred as Plaintiffs have never had a completed memorial
18 even if it had been approved as required as a condition precedent.

18 **SIXTH CAUSE OF ACTION – INJUNCTIVE RELIEF**

19 Plaintiffs' sixth cause of action for injunctive relief is moot as this Court has already
20 determined that the injunctive relief requested is not appropriate for a number of reasons
21 which need not be repeated here. (See Court's Order of May 26, 2011 attached as
22 Exhibit "B" to the declaration of Toby M. Magarian) Therefore, the demurrer to this cause
23 of action should be sustained without leave to amend.

24 **SEVENTH CAUSE OF ACTION – DECLARATORY RELIEF**

25 For the reasons set forth above, there is no binding agreement between the
26 parties for which declaratory relief is necessary and this cause of action fails to allege
27 sufficient facts to support this cause of action. (CCP §1060). On that basis, Defendants
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1 request that the Court sustain the demurrer to this cause of action without leave to
2 amend.

3 **III. CONCLUSION**

4 Based on the foregoing, each of Plaintiffs' causes of action in their verified
5 complaint is defective as a matter of law and demurrer to each should be sustained
6 without leave to amend as only through pleading around the verified facts set forth in the
7 complaint can Plaintiffs seek to avoid the defects in their claims. Defendants Evergreen
8 Cemetery Association, Buck Kamphausen and Ron Haulman respectfully request that
9 the Court sustain their demurrers to each of Plaintiffs' causes of action and render
10 judgment for Defendants in this matter.

11 Dated: June 24, 2011

Respectfully submitted,

GURNEE & DANIELS LLP

12
13
14 By _____

STEVEN H. GURNEE, ESQ.

TOBY M. MAGARIAN, ESQ.

Attorneys for Defendants The Evergreen
Cemetery Association, Buck
Kamphausen and Ron Haulman

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DECLARATION OF TOBY M. MAGARIAN

I, Toby M. Magarian declare as follows:

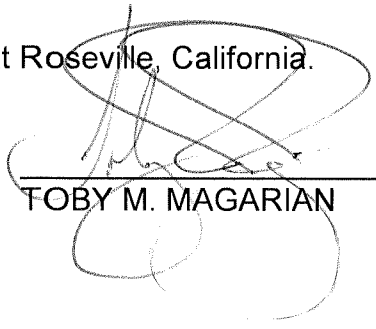
1. I am an attorney duly licensed to practice law and am an associate in the law firm of Gurnee & Daniels LLP, attorneys of record for Defendants. This declaration is submitted in support of Defendants' demurrer to Plaintiffs' Complaint.

2. Attached hereto as **Exhibit "A"** is a true and correct copy of Plaintiffs Guyana Tribute Foundation and Jynona Norwood's Verified Complaint for Damages, Declaratory Relief, and Injunctive Relief filed in this matter.

3. Attached hereto as **Exhibit "B"** is a true and correct copy of the Court's Order denying injunctive relief dated May 26, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 23rd day of June 2011, at Roseville, California.



TOBY M. MAGARIAN

EXHIBIT A

Goins & Associates PLC
1330 Broadway, Suite 1530, Oakland, California 94612
Tel. (510) 663-3700; Fax (510) 663-3710

1 VERNON C. GOINS II (SBN 195461)
2 YASMIN GILANI (SBN 240830)
3 GOINS & ASSOCIATES
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5 1330 Broadway, Suite 1530
6 Oakland, CA 94612
7 Telephone: (510) 663-3700
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9 Attorneys for Plaintiffs
10 GUYANA TRIBUTE FOUNDATION
11 and JYNONA NORWOOD

ENDORSED
FILED
ALAMEDA COUNTY
MAY 10 2011
CLERK OF THE SUPERIOR COURT
By S. McMurphy

12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF ALAMEDA
14 UNLIMITED CIVIL JURISDICTION

15 GUYANA TRIBUTE FOUNDATION, a) No. **RG 11575036**
16 California non-profit corporation; and)
17 JYNONA NORWOOD, an individual;) **COMPLAINT FOR DAMAGES,**
18) **DECLARATORY RELIEF, AND**
19 Plaintiffs,) **INJUNCTIVE RELIEF**
20)
21 vs.)
22)
23 THE EVERGREEN CEMETERY)
24 ASSOCIATION, a California corporation;)
25 BUCK KAMPHAUSEN, an individual; RON)
26 HAULMAN, an individual; and DOES 1-50,)
27 inclusive,)
28 Defendants.)

29 COME NOW Plaintiffs GUYANA TRIBUTE FOUNDATION, a California non-profit
30 corporation and JYNONA NORWOOD, an individual (hereinafter collectively referred to as
31 "Plaintiffs"), and complain and allege against THE EVERGREEN CEMETERY
32 ASSOCIATION, a California corporation; BUCK KAMPHAUSEN, an individual; RON

