

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 01-21376 CA 08

JOAN LIGHT, SHIRLEY EISENBERG,  
CAROL PRISCO and GLORIA ZIMMER,

Plaintiffs,

vs

SCI FUNERAL SERVICES OF FLORIDA,  
INC., a Florida corporation d/b/a MENORAH  
GARDENS & FUNERAL CHAPELS, SERVICE  
CORPORATION INTERNATIONAL, a Texas  
Corporation, MENORAH PARTNERSHIP, a  
Florida General Partnership, and SHARON  
GARDENS LIMITED PARTNERSHIP, a Florida  
Limited Partnership,

Defendants.

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**ORDER APPROVING CLASS ACTION SETTLEMENT  
AND FINAL JUDGMENT**

This cause has come before the Court on September 20 and 21, 2004, for final approval of the class action settlement of this case. The Court has heard testimony from numerous witnesses, including experts, the proffers of counsel, and statements by class members. After consideration of the record before it, as well as consideration of this Court's extensive knowledge of this case and its prior proceedings, the Court finds and concludes as follows:

1. This action was originally filed on December 19, 2001. The Fourth Amended Class Action Complaint ("Class Complaint") asserts seven causes of action, namely for: (1) tortious interference with dead bodies; (2) intentional or reckless infliction of emotional distress; (3) equitable and injunctive relief; (4) unfair or deceptive acts in violation of Fla. Stat. § 497.445 ("Florida Cemetery Act"); (5) violations of Fla. Stat. § 497.103 and Fla. Admin. Code R. 3F-6.002; (6) deceptive and unfair trade practices in violation of Fla. Stat. § 501.201-213 ("FDUTPA"); (7) negligence; and (8) punitive damages.

2. On August 19, 2003, this Court entered an order certifying the class ("Class Certification Order"). The court defined the class as:

All persons with burial plots or family members buried at Menorah Gardens and Funeral Chapels located at 21100 West Griffin Road, Ft. Lauderdale, Florida, 33322 and 9321 Memorial Park Road, West Palm Beach, Florida 33412, excluding all persons whose claims have been reduced to judgment or settled as of the date the class is certified, and Defendants' officers, directors, subsidiaries or any other person related to, affiliated with, or employed by Defendants.

3. On December 2, 2003, Plaintiffs and Defendants SCI Funeral Services of Florida, Inc. and Service Corporation International entered into an Agreement of Settlement.

4. On March 3, 2004, Plaintiffs filed their Motion for Preliminary Approval of Class Settlement and Class Notice and to Schedule a Fairness Hearing.

5. On March 17, 2004, the Court entered an Order Granting Plaintiffs' Motion for Preliminary Approval of Class Settlement and Class Notice. In addition, the Court scheduled a Fairness Hearing for September 20-21, 2004.

6. On May 24, 2004, pursuant to this Court order, Plaintiffs mailed the Court approved

Notice to class members and had it published in various newspapers in compliance with the Court's order.

7. Fla.R.Civ.P. 1.220(e) provides that a class action may not be settled without court approval. Court approval is appropriate if the court determines that the settlement is "fair, adequate and reasonable." *Ramos v. Philip Morris Co.*, 743 So.2d 24 (Fla. 3d DCA 1999).

8. Based on the testimony from numerous witnesses, including experts, the proffers of counsel, statements by class members and the Court's extensive knowledge of this case, the Court concludes that this settlement is fair, adequate and reasonable.

9. The Settlement Agreement entered into by class counsel establishes a common fund of \$65 million consisting of \$40 million in compensatory damages and \$25 million in punitive damages, to compensate class members with cognizable injuries which entitle them to monetary compensation under Florida law. As reflected in the report of amicus counsel, Laurie Ross, all class members may not be entitled to such compensation. To the contrary, the types of injuries which may be entitled to monetary compensation under Florida law is extremely limited. Based on the testimony and proffers heard by the Court, the number of families who may be entitled to such compensation is probably less than 1,000, and may be substantially less than 1,000. Under these circumstances, the monetary fund of \$65 million is fair, adequate and reasonable. This is further supported by the fact that, in addition to the \$65 million fund, the Defendants have agreed to pay the substantial cost of disinterment and new plots when it is determined that there is insufficient room to bury a class member adjacent to an already-buried family member.

10. Moreover, the settlement agreement has significant and substantial value even for

those class members who may not be entitled under Florida to direct monetary compensation. The Settlement Agreement requires the equitable relief of remediation and resanctification of the cemeteries which benefits the entire class. The remediation and resanctification will be overseen by a Blue Ribbon panel already established by this Court. The equitable relief achieves the goal of the class: that Menorah Gardens becomes a sanctified place for memorializing and burying the deceased, where family members can go to mourn their loved ones with the assurance that they are properly interred. Indeed, as to those class members who may not be entitled to monetary damages under Florida law, the Settlement Agreement provides most, if not all, of the equitable relief to which they may have been entitled.

11. The equitable portion of the Settlement Agreement has been valued at over \$11 million. The Court agrees with that assessment. Thus, the classwide benefits of this Settlement Agreement exceed \$76 million.

12. The Court finds it significant that, after appropriate notice of the terms of the Settlement Agreement, objections have been lodged by only a handful of the more than 30,000 class members.

13. In sum, the Court finds that the Settlement Agreement is fair, adequate and reasonable and in the best interests of the class. It is therefore approved by the Court.

Based on these findings and conclusions, it is

ORDERED AND ADJUDGED as follows:

1. The Class Action Settlement Agreement, including its identification, notification and claims procedures, is approved as fair, reasonable and adequate and in the best interests of the class.

2. A final judgment is entered dismissing this action with prejudice as to the Class Members, as set forth in the Class Certification Order.

3. The Court reserves jurisdiction to address all issues relating to distribution of the settlement funds, all issues of equitable relief reserved to the Court in the Class Action Settlement Agreement, all issues of Class Counsel's attorneys fees and costs, and all matters relating to the enforcement, administration, management and handling of the settlement pursuant to the terms of the Class Action Settlement Agreement.

DONE AND ORDERED in Chambers at Ft. Lauderdale, Broward County, Florida on this \_\_\_\_ day of October, 2004.

**J. LEONARD FLEET** **OCT 28 2004**  
~~HONORABLE COPY~~  
Honorable J. Leonard Fleet  
Circuit Court Judge

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