

CEMETERY MATTERS

Cemetery law involves family and burial society disputes. Cemeteries make complex business decisions and are supposed to follow regulations. Unfortunately, these regulations are not always monitored. Funeral Home malpractice occurs when a funeral home, crematory, or cemetery commits any of the following:

- a) Improper burial
- b) Theft
- c) Abuse to the decedents body
- d) Improper storage
- e) Misplacement of decedents personal property
- f) Comingled ashes
- g) Misplacement of decedents body
- h) Fraud (plot sold to more than one family etc)
- i) Bodies being sold for organs

Under Massachusetts state law a person who serves as a director/officer who is not compensated for those services shall not be liable for an act/omission resulting in damage if the person was acting in good faith and within the scope of his official duties unless the act/omission was grossly negligent which results in harm to a person. **M.G.L. Title XVI c. 114**

Why does this occur?

- Use funds for personal expenses
- Not enough money in funds provided for maintenance
- Cemetery business is largely unregulated
- Grieving family members pressured to spend a lot of money on goods they don't deliver

Case law examples:

Jury could find that "plaintiffs suffered injury due to mental distress occasioned by the defendant's handling of the remains of the plaintiffs' mother...even where the jury found that the plaintiffs did not suffer sufficient physical manifestation or objective symptoms to recover for negligently inflicted emotional distress." **Brown v. Bayview Crematory, LLC 79 Mass. App. Ct. 337 (2011)**

Where there was understandable confusion about whether a body released to parents was the correct body, but in fact there was no error, the Office of the Chief Medical Examiner had no



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obligation to tell the family that the autopsy report had been corrected and that the body was, in fact, that of their son. **LeBlanc v. Commonwealth, 457 Mass. 94 (2010)**