

PERPETUA, INC.;)
 PERPETUA-BURR OAK HOLDINGS OF)
 ILLINOIS, LLC.;)
 PERPETUA HOLDINGS OF ILLINOIS, INC.;)
 PACESETTER CAPITAL GROUP, a partnership;)
 PACESETTER CAPITAL CORP t/n)
 PACESETTER CAPITAL GROUP;)
 BURR OAK CEMETERY, LLC.;)
 PACESETTER GROWTH FUND, LP.,)
 a Delaware Limited Partnership;)
 PACESETTER SBIC FUND, INC.;)
 POWER EQUITIES, INC.;)
 PERPETUA BURR OAK HOLDING)
 COMPANY, LLC.;)
 RICHARD VENEGAR; W. RICHARD JAMES;)
 SLIVY EDMONDS COTTON;)
 ANITA P. STEPHENS; JUDY ROMLIN;)
 FELIX VILLALBA; MELVIN Z. BRYANT;)
 DIVAKAR KAMATH; CAROLYN TOWNS;)
 KEITH NICKS; TERRENCE NICKS;)
 MAURICE DAILEY; ROMAN SZABELSKI;)
 and HOWARD KORENTHAL;)
)
 Defendants.)

COMPLAINT AT LAW

COMMON ALLEGATIONS

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, state as follows:

1. On or about July 7, 2009, and at all times materials, that Burr Oak Cemetery is a cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

2. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PERPETUA, INC., owned, operated, managed, controlled, maintained, and/or

possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

3. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PERPETUA-BURR OAK HOLDINGS OF ILLINOIS, LLC., owned, operated, managed, controlled, maintained, and/or possessed a certain premises located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

4. On or about July 7, 2009, and at all times relevant prior to that date, the defendant PERPETUA-BURR OAK HOLDINGS OF ILLINOIS, LLC., was a corporation in good standing in the State of Illinois.

5. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PERPETUA HOLDINGS OF ILLINOIS, INC., owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

6. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PERPETUA HOLDINGS OF ILLINOIS, INC., was a corporation in good standing in the State of Illinois.

7. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PACESETTER CAPITAL GROUP, a partnership, owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

8. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP, owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr

Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

9. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, BURR OAK CEMETERY, LLC., a partnership, owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

10. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership, a partnership, owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

11. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PACESETTER SBIC FUND, INC., a partnership, owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

12. On or about July 7, 2009, and at all times relevant prior to that date the defendant, POWER EQUITIES, INC., a partnership, owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

13. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, PERPETUA BURR OAK HOLDING COMPANY, LLC., owned, operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of

Illinois.

14. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, RICHARD VENEGAR, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

15. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, W. RICHARD JAMES, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

16. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, SLIVY EDMONDS COTTON, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOTS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, LP., a Delaware Limited Partnership;

PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

17. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, ANITA P. STEPHENS, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

18. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, JUDY ROMLIN, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

19. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, FELIX VILLALBA, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.;

PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

20. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, MELVIN Z. BRYANT, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

21. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, DIVAKAR KAMATH, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

22. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, CAROLYN TOWNS, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership;

PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

23. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, KEITH NICKS, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, LP., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

24. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, TERRENCE NICKS, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership; PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK HOLDING COMPANY, LLC.

25. On or about July 7, 2009, and at all times relevant prior to that date, the defendant, MAURICE DAILEY, was an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA

HOLDINGS OF ILLINOIS, INC.; PACESETTER CAPITAL GROUP, a partnership;
PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; BURR OAK
CEMETERY, LLC.; PACESETTER GROWTH FUND, L.P., a Delaware Limited Partnership;
PACESETTER SBIC FUND, INC.; POWER EQUITIES and PERPETUA-BURR OAK
HOLDING COMPANY, LLC.

26. That ROMAN SZABELSKI had been appointed receiver to control, manage, operate, maintain Burr Oak Cemetery by the Circuit Court of Cook County, Illinois and remains appointed as a consultant.

27. That HOWARD KORENTHAL has been appointed receiver to control, manage, operate, maintain Burr Oak Cemetery by the Circuit Court of Cook County, Illinois.

28. That upon information and belief, prior to and as of July 7, 2009, all Plaintiffs have relatives and/or next of kin who were buried at Burr Oak Cemetery.

29. That upon information and belief, the graves of the relatives and/or next of kin of the Plaintiffs were distributed, desecrated, removed and/or not maintained properly.

30. For purposes of their complaint, an employee, director, officer, and/or agent of PERPETUA, INC.; PERPETUA-BURR OAK HOLDINGS COMPANY, LLC.; PERPETUA HOLDINGS OF ILLINOIS, INC.; PERPETUA-BURR OAK HOLDINGS OF ILLINOIS, LLC.; PACESETTER CAPITAL GROUP; PACESETTER CAPITAL CORP t/n PACESETTER CAPITAL GROUP; PERPETUA-BURR OAK HOLDING COMPANY, LLC.; RICHARD VENEGARD; W. RICHARD JAMES; SLIVY EDMONDS COTTON; ANITA P. STEPHENS; JUDY ROMLIN; FELIX VILLALBA; MELVIN Z. BRYANT; DIVAKARA KAMATH; CAROLYN TOWNS; KEITH NICKS; TERRENCE NICKS; and MAURICE DAILEY will be collectively referred to as the PERPETUA DEFENDANTS because they collectively owned,

operated, managed, controlled, maintained, and/or possessed a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois and acted as the agent in hiring CAROLYN TOWNS; KEITH NICKS; TERRENCE NICKS; and MAURICE DAILEY to assist in the provision of operating, managing, controlling, and/or maintaining, a certain premises known as Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

COUNT I

NEGLIGENCE—ALL DEFENDANTS

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, state as follows:

1-30. Plaintiffs repeat and reallege the Common Allegations listed as and for paragraphs 1-30 of Count 1.

31. On and prior to July 7, 2009, and commencing at a time prior thereto, Defendant, PERPETUA DEFENDANTS, undertook to provide funeral, burial, cemetery, and/or dispositional services for Plaintiffs to benefit, and to accomplish and maintain the burial of Plaintiffs' decedents' remains, in what was to be their final resting place.

32. In connection therewith, the PERPETUA DEFENDANTS owed a duty to Plaintiffs to act with ordinary care of reasonable persons with respect to all aspects of funeral, burial, and cemetery related-services to be performed, including but not limited to: the hiring, retention, training, and supervision of all agents, employees, personnel, and representatives of the PERPETUA DEFENDANTS acting in connection with such services and transactions; the management and administration of said services and transactions; and the association with other persons and entities to accomplish the performance of such duties.

33. The PERPETUA DEFENDANTS knew or should have known, in the exercise of reasonable care, that Plaintiffs were the intended beneficiary of their services. As a result, PERPETUA DEFENDANTS owed a duty of care to the Plaintiffs who were the intended beneficiary of their services. As a result, the PERPETUA DEFENDANTS owed a duty of care to Plaintiffs to ensure that the services were rendered in a dignified and respectful manner.

34. On and before July 7, 2009, PERPETUA DEFENDANTS breached their duty of

care to Plaintiffs upon information and belief, in one or more of the following acts and/or omissions:

- a. Mutilated, stockpiled, “double stacked,” and illegally and/or improperly disposed of human remains in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1 and other applicable statutes, laws, and regulations;
- b. Illegally and/or improperly disinterred or removed human remains in violation of 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;
- c. Resold, desecrated and occupied gravesites to unsuspecting family members and consumers;
- d. Removed, moved, and/or desecrated headstones marking and memorializing specific decedents’ final resting place in violation of 765 ILCS 835/1 and other applicable statutes, laws, and regulations;
- e. Interfered with Plaintiffs’ rights to dispose properly of the remains of their beloved decedents;
- f. Improperly disposed of disinterred remains in violation of 410 ILCS 5/2, Ill. Admin. Code tit. 77, § 500.50, and other applicable statutes, laws, and regulations;
- g. Disturbed previously interred remains and failed to re-inter all of the remains in violation of 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;
- h. Failed to conduct burials and re-interments in compliance with industry and legal standards, in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations.

35. As a direct and proximate result of one or more of the aforementioned negligent acts and/or omissions of PERPETUA DEFENDANTS, the Plaintiffs suffered and will continue to suffer injuries of a personal and pecuniary nature, and further have in fact suffered severe and extreme emotional distress.

WHEREFORE, Plaintiffs demand judgment against all Defendants, in an amount in excess of \$50,000.00, the jurisdictional limit, and well into the MILLIONS OF DOLLARS for the loss sustained to the Plaintiffs.

COUNT II

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, pleading hypothetically and in the alternative, state as follows:

1-30. Plaintiffs repeat and reallege the Common Allegations listed as and for paragraphs 1-30 of Count II.

31. At the time and place aforesaid, PERPETUA DEFENDANTS knew or should have known that its failure to ensure that the services it had a duty to provide to Plaintiffs were carried out in a dignified and respectful manner and in compliance with all applicable laws and industry standards had a significant probability of causing the Plaintiffs emotional distress.

32. On and before July 7, 2009, Defendant, PERPETUA DEFENDANTS, intentionally or with reckless disregard of the likely probability of causing Plaintiffs to suffer severe emotional distress, upon information and belief, committed one or more of the following acts and/or omissions:

- a. Mutilated, stockpiled, "double stacked," and illegally and/or improperly disposed of human remains in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1 and other applicable statutes, laws, and regulations;
- b. Illegally and/or improperly disinterred or removed human remains in violation of 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;
- c. Resold, desecrated and occupied gravesites to unsuspecting family members and consumers;
- d. Removed, moved, and/or desecrated headstones marking and memorializing specific decedents' final resting place in violation of 765 ILCS 835/1 and other applicable statutes, laws, and regulations;
- e. Interfered with Plaintiffs' rights to dispose properly of the remains of their beloved decedents;

f. Improperly disposed of disinterred remains in violation of 410 ILCS 5/2, Ill. Admin. Code tit. 77, § 500.50, and other applicable statutes, laws, and regulations;

g. Disturbed previously interred remains and failed to re-inter all of the remains in violation of 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;

h. Failed to conduct burials and re-interments in compliance with industry and legal standards, in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations.

33. As a proximate result of one or more of these intentional acts and/or omissions of PERPETUA DEPENDANTS, Plaintiffs sustained severe and extreme emotional distress.

WHEREFORE, Plaintiffs demand judgment against All Defendants in an amount in excess of \$50,000.00, the jurisdictional limit, and well into the MILLIONS OF DOLLARS for the loss sustained to the Plaintiffs.

COUNT III

COMMON LAW FRAUD

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, state as follows:

1-30. Plaintiffs repeat and reallege the Common Allegations listed as and for paragraphs 1-30 of Count III.

31. On and prior to July 7, 2009, and commencing at a time prior to July 7, 2009, PERPETUA DEFENDANTS undertook to provide funeral, burial, cemetery, and/or dispositional services for Plaintiffs' benefit, and to accomplish and maintain the burial of Plaintiffs' decedents' remains, in what was to be their final resting place.

32. At various times on or before July 7, 2009, PERPETUA DEFENDANTS represented and stated to Plaintiffs that the burials and/or disposals of the remains of the Plaintiffs' beloved decedents would be carried out in the manner the Plaintiffs' directed and in compliance with industry and legal standards.

33. PERPETUA DEFENDANTS' statements were false and untrue. In truth and in fact, PERPETUA DEFENDANTS omitted their true intentions with the intent to deceive Plaintiffs, and PERPETUA DEFENDANTS did not carry out the burials and/or disposals of Plaintiffs' decedents and/or other cemetery related services in the manner directed by Plaintiffs or in compliance with industry and legal standards, and instead PERPETUA DEFENDANTS engaged or acquiesced in a number of repugnant practices including, but not limited to, interring certain decedents' remains in grave sites already previously occupied by other decedents' remains, *i.e.* "double stacking"; disrupting or removing the contents of grave sites; improperly disposing of disinterred remains; selling cemetery plots that were already occupied; disturbing

headstones; and disturbing previously interred remains and failed to, or improperly, reinter all of the remains.

34. The statements were known by the PERPETUA DEFENDANTS, and/or their employees, directors, officers and/or agents, to be false when they made them.

35. The statements were made by the PERPETUA DEFENDANTS, and/or their employees, directors, officers and/or agents, for the purpose and with the intent of deceiving and defrauding Plaintiffs, and to induce Plaintiffs, in reliance on them, to procure burial of Plaintiffs' decedents' remains, in what was to be their final resting place, at Burr Oak Cemetery located at 4400 West 127th Street, in the City of Alsip, County of Cook, State of Illinois.

36. Plaintiffs justifiably believed the statements so made by PERPETUA DEFENDANTS to be true and relied on them. As a result, Plaintiffs were induced to select or maintain Burr Oak Cemetery as the final resting place of their beloved decedents' remains.

37. That the PERPETUA DEFENDANTS fraudulently, and with the intention of deceiving the Plaintiffs, committed the following acts and/or failed to inform Plaintiffs of the following acts and/or omissions:

a. Mutilated, stockpiled, "double stacked," and illegally and/or improperly disposed of human remains in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1 and other applicable statutes, laws, and regulations;

b. Illegally and/or improperly disinterred or removed human remains in violation of 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;

c. Resold, desecrated and occupied gravesites to unsuspecting family members and consumers;

d. Removed, moved, and/or desecrated headstones marking and memorializing specific decedents' final resting place in violation of 765 ILCS 835/1 and other applicable statutes, laws, and regulations;

e. Interfered with Plaintiffs' rights to dispose properly of the remains of their beloved decedents;

f. Improperly disposed of disinterred remains in violation of 410 ILCS 5/2, Ill. Admin. Code tit. 77, § 500.50, and other applicable statutes, laws, and regulations;

g. Disturbed previously interred remains and failed to re-inter all of the remains in violation of 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;

h. Failed to conduct burials and re-interments in compliance with industry and legal standards, in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations.

38. As a proximate result of one or more of these fraudulent acts and/or omissions of PERPETUA DEFENDANTS, Plaintiffs suffered and will continue to suffer injuries of a personal and pecuniary nature including sustained severe and extreme emotional distress.

WHEREFORE, Plaintiffs demand judgment against All Defendants in an amount in excess of \$50,000.00, the jurisdictional limit, and well into the MILLIONS OF DOLLARS for the loss sustained to the Plaintiffs.

COUNT IV

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, state as follows:

1-30. Plaintiffs repeat and reallege the Common Allegations listed as and for paragraphs 1-25 of Count IV.

31. On and prior to July 7, 2009, and commencing at a time prior to July 7, 2009, PERPETUA DEFENDANTS undertook to provide funeral, burial, cemetery, and/or dispositional services for Plaintiffs' benefits, and to accomplish and maintain the burial of Plaintiffs' decedents' remains, in what was to be their final resting place.

32. At various times on or before July 7, 2009, PERPETUA DEFENDANTS represented and stated to Plaintiffs, that the burials and/or disposals of the remains of the Plaintiffs' beloved decedents would be carried out in the manner the Plaintiffs' directed and in compliance with industry and legal standards.

33. PERPETUA DEFENDANTS' statements were false and untrue. In truth and in fact, PERPETUA DEFENDANTS omitted their true intentions with the intent to deceive Plaintiffs, and PERPETUA DEFENDANTS did not carry out the burials and/or disposals of Plaintiffs' decedents and/or other cemetery related-services in the manners directed by Plaintiffs or in compliance with industry and legal standards, and instead PERPETUA DEFENDANTS engaged or acquiesced in a number of repugnant practices including, but not limited to, interring certain decedents' remains in grave sites already previously occupied by other decedents' remains, *i.e.* "double stacking"; disrupting or removing the contents of grave sites; improperly disposing of disinterred remains; selling cemetery plots that were already occupied; disturbing headstones;

and disturbing previously interred remains and failed to, or improperly, re-inter all of the remains.

34. The statements were known by the PERPETUA DEFENDANTS, and/or their employees, directors, officers and/or agents, to be false when they made them.

35. The statements were made by the PERPETUA DEFENDANTS, and/or their employees, directors, officers and/or agents, for the purpose and with the intent of deceiving and defrauding Plaintiffs, and to induce Plaintiffs, in reliance on them, to procure burial of Plaintiffs' decedents' remains, in what was to be their final resting place, at Burr Oak Cemetery.

36. Plaintiffs justifiably believed the statements so made by PERPETUA DEFENDANTS to be true and relied on them. As a result, Plaintiffs were induced to select or maintain Burr Oak Cemetery as the final resting place of their beloved decedents' remains.

37. That the PERPETUA DEFENDANTS, fraudulently and with the intention of deceiving the Plaintiffs, committed the following acts and/or failed to inform Plaintiffs of the following acts and/or omissions:

a. Mutilated, stockpiled, "double stacked," and illegally and/or improperly disposed of human remains in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1 and other applicable statutes, laws, and regulations;

b. Illegally and/or improperly disinterred or removed human remains in violation of 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;

c. Resold, desecrated and occupied gravesites to unsuspecting family members and consumers;

d. Removed, moved, and/or desecrated headstones marking and memorializing specific decedents' final resting place in violation of 765 ILCS 835/1 and other applicable statutes, laws, and regulations;

e. Interfered with Plaintiffs' rights to dispose properly of the remains of their beloved decedents;

f. Improperly disposed of disinterred remains in violation of 410 ILCS 5/2, Ill. Admin. Code tit. 77, § 500.50, and other applicable statutes, laws, and regulations;

g. Disturbed previously interred remains and failed to re-inter all of the remains in violation of 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;

h. Failed to conduct burials and re-interments in compliance with industry and legal standards, in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations.

38. As a proximate result of one or more of these fraudulent acts and/or omissions of PERPETUA DEFENDANTS, Plaintiffs suffered and will continue to suffer injuries of a personal and pecuniary nature including sustained severe and extreme emotional distress.

WHEREFORE, Plaintiffs demand judgment against All Defendants in an amount in excess of \$50,000.00, the jurisdictional limit, and well into the MILLIONS OF DOLLARS for the loss sustained to the Plaintiffs, including attorneys' fees and costs.

COUNT V

**INTERFERENCE WITH THE RIGHTS OF THE NEXT OF KIN TO POSSESS
PRESERVE AND MAKE APPROPRIATE DISPOSITION OF
THEIR DECEDENTS' REMAINS**

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, state as follows:

1-30. Plaintiffs repeat and re-allege the Common Allegations listed as and for paragraphs 1-30 of Count V.

31. At all relevant times, PERPETUA DEFENDANTS owed a duty to Plaintiffs to respect and not interfere with their rights to possess, preserve and make appropriate disposition of the remains of their decedents.

32. On or about July 7, 2009, Plaintiffs learned that PERPETUA DEFENDANTS had for a continuous period of time leading up to July 7, 2009, desecrated the cemetery grounds at and around the location of Plaintiffs' decedents' burial plots in one or more of the following acts and/or omissions:

- a. Mutilated, stockpiled, "double stacked," and illegally and/or improperly disposed of human remains in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1 and other applicable statutes, laws, and regulations;
- b. Illegally and/or improperly disinterred or removed human remains in violation of 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;
- c. Resold, desecrated and occupied gravesites to unsuspecting family members and consumers;
- d. Removed, moved, and/or desecrated headstones marking and memorializing specific decedents' final resting place in violation of 765 ILCS 835/1 and other applicable statutes, laws, and regulations;
- e. Interfered with Plaintiffs' rights to dispose properly of the remains of their beloved decedents;

f. Improperly disposed of disinterred remains in violation of 410 ILCS 5/2, Ill. Admin. Code tit. 77, § 500.50, and other applicable statutes, laws, and regulations;

g. Disturbed previously interred remains and failed to re-inter all of the remains in violation of 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations;

h. Failed to conduct burials and re-interments in compliance with industry and legal standards, in violation of 720 ILCS 5/12-20.5, 410 ILCS 5/2, 760 ILCS 90/1, 765 ILCS 835/1, Ill. Admin. Code tit. 77, § 500.50 and other applicable statutes, laws, and regulations.

33. At all relevant times, PERPETUA DEFENDANTS knew of Plaintiffs' aforementioned rights with respect to the remains of Plaintiffs' decedents and of the injuries that were likely to result from PERPETUA DEFENDANTS' interference with those rights, and in conscious disregard thereof, for a continuous period of time leading up to July 7, 2009, willfully and wantonly allowed the desecration of the cemetery grounds at and around the locations of Plaintiffs' decedents burial plots, as described in paragraph 32, above, in one or more of the following ways:

a. Disregarded the need to train cemetery employees regarding grounds maintenance, record keeping and financial matters;

b. Disregarding the need to supervise cemetery employees such that criminal acts of grave site desecration, theft and fraud were committed routinely upon the cemetery premises;

c. Disregarded the need to inspect the cemetery premises and ignored the shocking conditions of the cemetery premises;

d. Disregarded the need to audit and/or review cemetery and/or internment records;

e. Disregarded the need to audit and/or review financial records;

f. Hired and retained employees who were not fit for duty;

g. Otherwise recklessly interfered with Plaintiffs' rights to possess, preserve and make appropriate disposition of their decedents' remains.

34. As a direct result of PERPETUA DEFENDANTS' willful and wanton conduct, Plaintiffs suffered and continue to suffer personal and pecuniary injuries including, but not limited to, severe emotional distress.

WHEREFORE, Plaintiffs demand judgment against All Defendants in an amount in excess of \$50,000.00, the jurisdictional limit, and well into the MILLIONS OF DOLLARS for the loss sustained to the Plaintiffs.

COUNT VI
CONVERSION

NOW COME Plaintiffs by and through their attorneys, hereby complaining of All Defendants, state as follows:

1-30. Plaintiffs repeat and re-allege the Common Allegations listed as and for paragraphs 1-30 of Count VI.

31. On and before July 7, 2009, Plaintiffs were the owners and had the right of possession to certain personal property located at the Burr Oak Cemetery in Alsip, Illinois, described as follows: Plaintiffs' decedents' remains, caskets, headstones, burial markers, burial containers and/or funds for maintenance.

32. Upon information and belief, prior to July 7, 2009, PERPETUA DEFENDANTS took and unlawfully converted the remains of Plaintiffs' decedents for their own use and benefit by relocating Plaintiffs' decedents' remains to a mass grave containing remains of approximately 300 individuals, making identification and the return of Plaintiffs' decedents' remains to Plaintiffs nearly impossible.

33. Upon information and belief, prior to July 7, 2009, PERPETUA DEFENDANTS took and unlawfully converted Plaintiffs' caskets, headstones, burial markers and/or burial containers for their own use and benefit by relocating the caskets, headstones, burial markers and/or burial containers to an unknown location and destroying them and/or selling the property.

34. Upon information and belief, prior to July 7, 2009, PERPETUA DEFENDANTS took and unlawfully converted Plaintiffs' funds for maintenance of gravesites for their own use and benefit by using the funds for uses other than that which the funds were intended for, the caring and maintaining of Plaintiffs' decedents' gravesites.

35. PERPETUA DEFENDANTS failure to return the property to Plaintiffs is vexatious.

36. At the time and place of the conversion alleged above, the market value of the property exceeded an amount greater than fifty thousand dollars (\$50,000), for which Plaintiffs are entitled to recover, as well as statutory legal interest on the value of the property from the date of the conversion up to the date of judgment.

37. The taking and conversion of the property by PERPETUA DEFENDANTS was done willfully and maliciously with a wanton disregard for Plaintiffs' rights in that PERPETUA DEFENDANTS knew at all times relevant herein that Plaintiffs were the lawful title owners of the above described property. PERPETUA DEFENDANTS willfully and maliciously sold, destroyed and/or discarded Plaintiffs' property, not allowing for recovery of the property by Plaintiffs. PERPETUA DEFENDANTS' conduct has caused Plaintiffs great emotional distress. Such conduct on the part of PERPETUA DEFENDANTS is sufficient to justify an award for exemplary damages, and Plaintiffs seek an amount greater than fifty thousand dollars (\$50,000), as exemplary damages in addition to their actual damages.

WHEREFORE, Plaintiffs demand judgment against All Defendants in an amount in excess of \$50,000.00, the jurisdictional limit, and well into the MILLIONS OF DOLLARS for the loss sustained to the Plaintiffs.

Respectfully submitted,
LEVIN & PERCONTI

By: _____
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