

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN R. LUCKER, ELIZABETH A. :
LUCKER, NANCY L. ROUSSEAU, :
Individually and On Behalf of All Others :
Similarly Situated, :

Plaintiffs, :

-against- :

No. 07 Civ. 3823 (RJD) (JMA)

BAYSIDE CEMETERY and :
CONGREGATION SHAARE ZEDEK, :

Defendants. :

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LYNN COHEN Individually and On :
Behalf of All Others Similarly Situated, :

Plaintiff, :

-against- :

No. 08 Civ. 3555 (RJD) (JMA)

BAYSIDE CEMETERY and :
CONGREGATION SHAARE ZEDEK, :

Defendants. :

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FRAN GOLDSTEIN, Individually and On :
Behalf of All Others Similarly Situated, :

Plaintiff, :

-against- :

No. 08 Civ. 3923 (RJD) (JMA)

BAYSIDE CEMETERY and :
CONGREGATION SHAARE ZEDEK, :

Defendants. :
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DECLARATION OF BOB ROBERTS

I, Bob Roberts, hereby declare as follows:

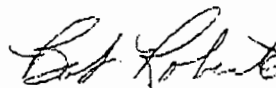
1. I am the principal of Cemetery Operations Solutions (“Cem Ops”) which was founded on the principles of excellence in operations, maintenance and customer service in the funeral, crematory, and cemetery industry. CemOps offers decades of experience in the cemetery industry. I was retained by Plaintiffs’ counsel to provide an expert opinion in connection with this case. I have significant experience in the area of cemetery operations. I have previously provided expert testimony in cemetery related matters. More information can be obtained on our website at www.cemops.com. I submit this report in further support of Plaintiffs’ contention that subject matter jurisdiction does indeed exist under 28 U.S.C. §1332 since the composition of the class members in this case involves a significantly large number of persons who were citizens of a state other than New York at the time that they either entered into a perpetual care or annual care contract and/or departed to the afterlife.
2. I have reviewed publicly available documents and information concerning this case including a number of news articles contained on the www.Baysidecemeterylitigation.com website.
3. Based upon my extensive experience in the funeral and cemetery industry, it is my opinion and belief that more than half of the proposed class members in this case were citizens of a state other than New York at the time that they either entered into a perpetual care and/or annual care contract or joined the afterlife.

4. Bayside Cemetery, located in Queens, New York, is a religious cemetery of the Jewish faith proximately located in New York City. Bayside Cemetery not only draws Jews from New York City to its facility, but also Jews from the greater New York metropolitan area including Connecticut and New Jersey. Indeed, it is my understanding that Ruth Lucker, the grandmother of the Lucker Plaintiffs, initially lived in New York City and retired to Connecticut where she passed away.
5. Ms. Lucker is not unlike thousands of New York City Jews who leave the greater New York metropolitan area to retire elsewhere. Most retirees retreat to warmer, less expensive and potentially more tax friendly climates such as Florida, Arizona, New Mexico, North Carolina and other states. Of these states, Florida was and remains a popular destination for retirees given its highly favorable income tax laws. While residing in these other states class members in this case likely purchased lots, annual care or perpetual care and upon their passing had their remains shipped back to Bayside Cemetery for interment.
6. To the extent that the Court has jurisdictional doubts about the composition of the class in this case and demands strict proof, Defendants should have maintained purchase records containing information concerning the residence of the purchaser as well as records concerning individuals buried at the cemetery.
7. To the extent that these records have been lost or destroyed as alleged in the complaints, another highly reliable source of information would be the records

of local Jewish funeral homes who coordinate the burial of individuals at Bayside Cemetery as well as accept the shipment of remains from outside the State of New York for interment at Bayside Cemetery.

8. This third-party discovery on the funeral homes will likely be burdensome and costly, but the information should exist and shed light on the composition of the class members in this case.

This declaration has been executed this 20th day of December, 2008 under penalties of perjury pursuant to the laws of the United States.



Bob Roberts