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August 18, 2009

VIA ELECTRONIC MAIL

Michael M. Buchman, Esq.
Pomerantz Haudek Block Grossman & Gross LLP
100 Park Avenue
26th Floor
New York, NY 10017

Re: *Lucker et al. v. Bayside Cemetery & Congregation Shaare Zedek*,
No. 07 Civ. 3823 (RJD) (JMA)
Cohen v. Bayside Cemetery & Congregation Shaare Zedek,
No. 08 Civ. 3555 (RJD) (JMA)
Goldstein v. Bayside Cemetery & Congregation Shaare Zedek,
No. 08 Civ. 3923 (RJD) (JMA)

Dear Michael:

After considering your request that the Defendants in the above-referenced actions stipulate to certification of a class as to, at minimum, the Plaintiffs' breach of contract claims, we decline. It has been Shaare Zedek's consistent position, from the outset of this litigation, that your clients have failed to allege the type of individual, concrete, and particularized injury-in-fact that would be required to give them standing to pursue the claims asserted in these actions, including for breach of contract. The Defendants cannot, therefore, stipulate to the certification of any class that has as its class representatives individual plaintiffs who lack standing, or that includes plaintiffs who purport to have standing solely based on their status as family members of other individuals who were allegedly injured. Moreover, as we have previously stated, the class you seek to certify — "all persons, or relatives of persons, who purchased a perpetual care or annual care contract from a Defendant or their agents or assigns from January 1, 1970 to the present — is hopelessly vague and indeterminate.

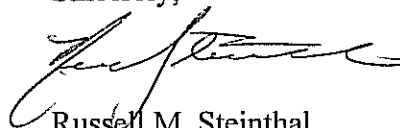
Further, as we argued in support of the Defendants' motion to dismiss, cognizable injury-in-fact is an essential element of the Court's subject matter jurisdiction under Article III of the

Michael M. Buchman, Esq.
August 18, 2009
Page 2

U.S. Constitution, and the Court must therefore resolve that motion prior to taking up any motion for class certification or otherwise proceeding to the merits of the action. That is why, in my e-mail message to you dated June 25th, we were willing to stipulate solely that “*should the Court deny our motion to dismiss*, we would agree to file our opposition to any class certification motion(s) six weeks after we are served with your motion papers.” (Emphasis added.) Since the Court has not yet ruled on the pending motion to dismiss, we suggest that you either withdraw your motions for class certification, without prejudice, or alternatively stipulate to defer further briefing pending a decision from the Court.

Failing that, we will request a stay of briefing from the Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell M. Steinthal", written in a cursive style.

Russell M. Steinthal