

NO. 096-274272-14

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| MICHAEL JONES, LANA ADEWUSI AND CONNIE MABRAY | § | IN THE DISTRICT COURT |
| Plaintiffs, | § | |
| V. | § | |
| | § | _____] JUDICIAL DISTRICT |
| | § | |
| JOHNSON FAMILY MORTUARY LLC, RACHEL HARDY AKA RACHEL JOHNSON, DONDRE JOHNSON AND DERRICK JOHNSON | § | |
| | § | |
| Defendants. | § | OF TARRANT COUNTY, TEXAS |

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Michael Jones, Lana Adewusi and Connie Mabray, hereinafter called Plaintiffs, complaining of and about Johnson Family Mortuary LLC, Rachel Hardy AKA Rachel Johnson, Dondre Johnson and Derrick Johnson, hereinafter called Defendants, and for cause of action show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiffs intend that discovery be conducted under Discovery Level 3.

PARTIES AND SERVICE

2. Plaintiff, Michael Jones, is an Individual whose address is 7816 Regent Dr., Arlington, Texas 76001.
3. The last three numbers of Michael Jones's driver's license number are 025. The last three numbers of Michael Jones's social security number are 433.
4. Plaintiff, Lana Adewusi, is an Individual whose address is 7816 Regent Dr., Arlington, Texas 76001.

5. The last three numbers of Lana Adewusi's driver's license number are 142. The last three numbers of LanaAdewusi's social security number are 378.

6. Plaintiff, Connie Mabray, is an Individual whose address is 7816 Regent Dr., Arlington, Texas 76001.

7. The last three numbers of Connie Mabray's driver's license number are 261. The last three numbers of Connie Mabray's social security number are 205.

8. Defendant Johnson Family Mortuary LLC, a Limited Liability Company based in Texas, may be served with process by serving the registered agent of said company, Rachel Hardy, at 1051 South Handley Drive, Fort Worth, Texas 76112, its registered office, or where she may be found. Service of said Defendant as described above can be effected by personal delivery.

9. Defendant Rachel Hardy AKA Rachel Johnson, an Individual who is a resident of Texas, may be served with process at her home at the following address: 5515 Bradley Court, Arlington, Texas 76107, or where she may be found. Service of said Defendant as described above can be effected by personal delivery.

10. Defendant Dondre Johnson, an Individual who is a resident of Texas, may be served with process at his home at the following address: 5515 Bradley Court, Arlington, Texas 76107, or where he may be found. Service of said Defendant as described above can be effected by personal delivery.

11. Defendant Derrick Johnson, an Individual who is a resident of Texas, may be served with process at his home at the following address: 5515 Bradley Court, Arlington, Texas 76107, or where he may be found. Service of said Defendant as described above can be effected by personal delivery.

JURISDICTION AND VENUE

12. The subject matter in controversy is within the jurisdictional limits of this court.

13. Plaintiffs seek:

a. monetary relief over \$1,000,000.

14. This court has personal jurisdiction herein because Defendants are Texas residents.

15. Venue in Tarrant County is proper in this cause pursuant to Section 17.56 of the Texas Business and Commerce Code and under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

16. In Spring 2014 Karen Jones passed away. Her body was taken into the possession of Johnson Family Mortuary, LLC, (Johnson Mortuary) from the medical examiner's office. Lana Adewusi and Connie Mabray are sisters of Decedent. Michael Jones is one of her sons. It was the Decedent, Karen Jones's, express desire to be cremated as she found the idea of decomposition of the body and all of the things associated with that revolting and repellent. Agents and/or employees of the Johnson Mortuary assured my clients that they would perform the care, viewing, funeral, cremation, and handling, storage, and disposition of the remains of Karen Jones. There was no mention that any of the common standards or practices, and professionalism required in the industry, would be ignored or not met.

17. Because of insurance issues, there were a few days during which donations were accepted to assist the family in gathering funds to pay the Johnson Mortuary fees of \$3,025.00. Johnson Mortuary assured the family that this was not a problem. Ms. Mabray interacted with

the agents and employees of Johnson Mortuary by bringing in payments and communicating the Decedent's and the family's desires for the service. Ms. Adewusi also interacted with the agents and employees of Johnson Mortuary in the same way, as well as paying a lump sum amount to cover all of the expenses and fees that had not been previously raised through donation, or otherwise paid.

18. In early April, the Decedent, Ms. Jones, was the subject of a viewing, and a funeral the next day. Attendees noticed odd and curious details regarding their loved one's body. It appeared to be discharging fluids from pores on her skin and through her mouth. Also, the body was not as cold as expected. These issues were called to the attention of a Johnson Mortuary employee/agent, Willie. Willie's only explanation besides discouraging any physical contact by grieving family and friends with the Decedent's body, was that the embalming was done off site and too much fluid was used. Willie's solution was to blot the Decedent's skin several times with paper towels. Shortly after the viewing and the funeral, a black box was given to the Decedent's daughter, Michelle Jones-McElhanon. The black box was represented to the family as the cremains of their loved one.

19. In July 2014, in response to the Johnson Mortuary not paying their rent, the owner of the building that the Johnson Mortuary was located in, entered the premises. They made a horrific discovery. The decomposing and unrefrigerated corpses of eight persons were discovered. Within days, the Tarrant County Medical Examiner's Office confirmed my clients' fears - one of the bodies was the corpse of my clients' mother and sister. Authorities have requested that the family return the black box with what was purported to be the cremains of Karen Jones.

DECEPTIVE TRADE PRACTICES

20. Plaintiffs would show that Defendants engaged in certain false, misleading and deceptive acts, practices and/or omissions actionable under the Texas Deceptive Trade Practices - Consumer Protection Act (Texas Business and Commerce Code, Chapter 17.41, et seq.), as alleged herein below.

21. Unconscionable Action or Course of Action. Defendants engaged in an "unconscionable action or course of action" to the detriment of Plaintiffs as that term is defined by Section 17.45(5) of the Texas Business and Commerce Code, by taking advantage of the lack of knowledge, ability, experience, or capacity of Plaintiffs to a grossly unfair degree.

22. Violations of Section 17.46(b). Defendants violated Section 17.46(b) of the Texas Business and Commerce Code, in that Defendants:

- (a) caused confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (b) represented that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not;
- (c) represented that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (d) advertised goods or services with intent not to sell them as advertised;
- (e) misrepresented the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;
- (f) represented that work or services have been performed on, or parts replaced in, goods when the work or services were not performed or the parts replaced;

(g) failed to disclose information concerning goods or services which was known at the time of the transaction with the intention to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;

(h) passed off goods or services as those of another;

(i) disparaged the goods, services, or business of another by false or misleading representation of facts; and

(j) made false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions.

23. Breach of Warranty. Plaintiffs would show that the following warranty was breached and therefore actionable under Section 17.50(a)(2) of the Texas Business and Commerce Code:

(a) the implied warranty of good and workmanlike performance.

24. Producing Cause. Plaintiffs would show that the acts, practices and/or omissions complained of were the producing cause of Plaintiffs' damages more fully described hereinbelow.

25. Reliance. Plaintiffs would further show the acts, practices and/or omissions complained of under Section 17.46(b) of the Texas Business and Commerce Code were relied upon by Plaintiffs to Plaintiffs' detriment.

26. Written Notice Given. Plaintiffs have timely notified Defendants of such complaint pursuant to Section 17.505(a) of the Texas Business and Commerce Code by letter dated July 21, 2014, and would show compliance with all conditions precedent to the filing of this suit and recovery of additional damages and attorney's fees.

COMMON LAW FRAUD

27. Plaintiffs further show that Defendants made material false representations to Plaintiffs with the knowledge of their falsity or with reckless disregard of the truth with the intention that such representations be acted upon by Plaintiffs, and that Plaintiffs relied on these representations to their detriment.

28. Plaintiffs would further show that Defendants concealed or failed to disclose material facts within the knowledge of Defendants, that Defendants knew that Plaintiffs did not have knowledge of the same and did not have equal opportunity to discover the truth, and that Defendants intended to induce Plaintiffs to enter into the transaction made the basis of this suit by such concealment or failure to disclose.

29. As a proximate result of such fraud, Plaintiffs sustained the damages described more fully hereinbelow.

NEGLIGENCE

30. In the course of the transactions between Plaintiffs and Defendants, Defendants owed Plaintiffs a duty to treat, care and handle the remains of their loved one with the care and professionalism in the industry. Defendants' acts and omissions described *supra* fell well below that standard and constitute negligence for which Plaintiffs now sue.

31. Plaintiffs would show that Defendants failed to exercise ordinary care in performing such duty. The acts and/or omissions of Defendants described hereinabove by which Defendants breached such duty constitute a proximate cause of the damages of Plaintiffs described more fully hereinbelow, for which Defendants are liable to Plaintiffs.

BREACH OF CONTRACT

32. Plaintiffs would further show that the actions and/or omissions of Defendants

described hereinabove constitute breach of contract, which proximately caused the direct and consequential damages of Plaintiffs described hereinbelow, and for which Plaintiffs hereby sue.

AGENCY

33. At and during the time of the acts and/or omissions complained of herein, any acts and/or omissions committed by an agent, representative or employee of Johnson Family Mortuary LLC, Rachel Hardy AKA Rachel Johnson, Dondre Johnson and Derrick Johnson, Defendants, occurred within the scope of the actual or apparent authority of such person on behalf of said Defendants.

34. Said Defendants are therefore liable to Plaintiffs for the acts and/or omissions of any such agent, representative or employee complained of herein by virtue of such agency relationship.

RESPONDEAT SUPERIOR

35. At and during the time of the acts and/or omissions complained of herein, said acts and/or omissions of any employee of Johnson Family Mortuary LLC, Rachel Hardy AKA Rachel Johnson, Dondre Johnson and Derrick Johnson, Defendants, occurred within the scope of the general authority and for the accomplishment of the objectives for which such employee was employed.

36. Defendants Johnson Family Mortuary LLC, Rachel Hardy AKA Rachel Johnson, Dondre Johnson and Derrick Johnson are therefore liable to Plaintiffs for the acts and/or omissions of any such employee complained of herein under the doctrine of respondeat superior.

ECONOMIC AND ACTUAL DAMAGES

37. Plaintiffs sustained the following economic and actual damages as a result of the actions and/or omissions of Defendants described hereinabove:

- (a) Out-of-pocket expenses, including all sums paid by or on behalf of Plaintiffs to Defendants.
- (b) Expenses for psychiatric care and monitoring.
- (c) Expenses for psychological care and counseling.

DAMAGES FOR MENTAL ANGUISH

38. Plaintiffs would further show that the false, misleading and deceptive acts, practices and/or omissions described hereinabove were committed "knowingly," as provided by Section 17.45(9) of the Texas Business and Commerce Code, in that Defendants had actual awareness of the falsity, deception, or unfairness of such acts, practices, and/or omissions.

39. As a result of such acts, practices and/or omissions, Plaintiffs sustained a high degree of mental pain and distress of such nature, duration and severity that would permit the recovery of damages for mental anguish pursuant to Section 17.50(b) of the Texas Business and Commerce Code, and for which Plaintiffs hereby sue in an amount in excess of the minimum jurisdictional limits of this Court. Such damages are also recoverable under the Defendants' negligent conduct.

MULTIPLE DAMAGES

40. As alleged hereinabove, Plaintiffs would show that the false, misleading and deceptive acts, practices and/or omissions complained of herein were committed "knowingly" in that Defendants had actual awareness of the falsity, deception, or unfairness of such acts, practices, and/or omissions.

41. Plaintiffs further aver that such acts, practices, and/or omissions were committed "intentionally" in that Defendants specifically intended that Plaintiffs act in detrimental reliance on the falsity or deception or in detrimental ignorance of the unfairness.

42. Therefore, Plaintiffs are entitled to recover multiple damages as provided by

17.50(b)(1) of the Texas Business and Commerce Code.

EXEMPLARY DAMAGES

43. Plaintiffs would further show that the acts and omissions of Defendants complained of herein were committed knowingly, willfully, intentionally, with actual awareness, and with the specific and predetermined intention of enriching said Defendants at the expense of Plaintiffs. In order to punish said Defendants for such unconscionable overreaching and to deter such actions and/or omissions in the future, Plaintiffs also seek recovery from Defendants for exemplary damages as provided by Section 41.003(a)(1) of the Texas Civil Practice and Remedies Code.

ATTORNEY'S FEES

44. Request is made for all costs and reasonable and necessary attorney's fees incurred by or on behalf of Plaintiffs herein, including all fees necessary in the event of an appeal of this cause to the Court of Appeals and the Supreme Court of Texas, as the Court deems equitable and just, as provided by: (a) Section 17.50(d) of the Texas Business and Commerce Code; (b) Chapter 38 of the Texas Civil Practice and Remedies Code; and, (c) common law.

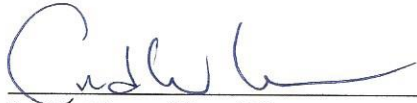
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Michael Jones, Lana Adewusi and Connie Mabray, respectfully pray that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendants, jointly and severally, for the economic and actual damages requested hereinabove in an amount in excess of the minimum jurisdictional limits of the Court, together with prejudgment and postjudgment interest at the maximum rate allowed by law, attorney's fees, costs of court, and such other and further relief to which the Plaintiffs may be entitled at law or

in equity, whether pled or unpled.

Respectfully submitted,

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PLAINTIFFS HEREBY DEMAND TRIAL BY JURY