

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

**LEEANN WOODS, MEGHAN WOODS, and)
ASHLEEN WOODS ARNETT, individually)
and on behalf of all others similarly situated,)**

**Plaintiffs,)
vs.)**

Case # 2023LA000230

**ALBERT AUGUST HEINZ, JON CLAYTON)
HEINZ, HEINZ FUNERAL HOME, LLC,)
and FAMILY CARE CREMATION, LLC,)**

JURY TRIAL DEMANDED

Defendants.)

VERIFIED FIRST AMENDED CLASS ACTION COMPLAINT

NOW COME the Plaintiffs, LEEANN WOODS, MEGHAN WOODS and ASHLEEN WOODS ARNETT, individually and on behalf of all others similarly situated (collectively “Plaintiffs”), by and through their attorneys, SHEEHAN & SHEEHAN, LAWYERS, P.C., CRAVEN & CRAVEN, P.C. and THE CARLSON LAW FIRM, P.C., and file this First Amended Class Action Complaint against Defendants, ALBERT AUGUST HEINZ, JON CLAYTON HEINZ, HEINZ FUNERAL HOME, LLC, and FAMILY CARE CREMATION, LLC (collectively “Defendants”), stating as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff LEEANN WOODS (“Lee”) is now, and at all times mentioned in this Complaint was, domiciled in and a citizen of Springfield, Sangamon County, Illinois. Lee is the surviving spouse of George L. Woods, Jr.

2. Plaintiff MEGHAN WOODS (“Meghan”) is now, and at all times mentioned in this Complaint was, domiciled in and a citizen of Springfield, Sangamon County, Illinois. Meghan is a surviving daughter of George L. Woods, Jr

3. Plaintiff ASHLEEN WOODS ARNETT, individually and on behalf of all others similarly situated, (“Ashleen”), is now, and at all times mentioned in this Complaint was, domiciled in and a citizen of Portland, Multnomah County, Oregon. Ashleen is a surviving daughter of George L. Woods, Jr.

4. Lee, Meghan and Ashleen constitute the heirs-at-law of George L. Woods, Jr., Deceased.

5. Defendant ALBERT AUGUST HEINZ is now, and at all times mentioned in this Complaint was, domiciled in and a citizen of Carlinville, Macoupin County, Illinois.

6. Defendant JON CLAYTON HEINZ is now, and at all times mentioned in this Complaint was, domiciled in and a citizen of Carlinville, Macoupin County, Illinois.

7. Defendant HEINZ FUNERAL HOME, LLC is now, and at all times mentioned in this Complaint was, a limited liability company organized and existing under the laws of the State of Illinois, with its principal office at 212 E. Main St., Carlinville, Macoupin County, Illinois 62626.

8. Defendant HEINZ FUNERAL HOME, LLC does business in Sangamon County, Illinois.

9. Defendant FAMILY CARE CREMATION, LLC is now, and at all times mentioned in this Complaint was, a limited liability company organized and existing under the laws of the State of Illinois, with its principal office at 212 E. Main St., Carlinville, Macoupin County, Illinois 62626.

10. Defendant FAMILY CARE CREMATION, LLC maintains an address at 1760 Wabash Avenue, Springfield, Sangamon County, Illinois 62791 and does business in Sangamon County, Illinois.

11. Jurisdiction is conferred upon this court by 735 ILCS 5/2-209.

12. Venue is proper in Sangamon County, Illinois pursuant to 735 ILCS 5/2-101, in that some parts of the transactions giving rise to the claims in this Complaint occurred in Sangamon County, Illinois and because both Defendant HEINZ FUNERAL HOME, LLC and Defendant FAMILY CARE CREMATION, LLC do business in Sangamon County, Illinois.

13. This is a civil action arising under the common law and statutory laws of Illinois.

ALLEGATIONS COMMON TO ALL COUNTS

14. Plaintiffs, and all putative class members, selected Defendant HEINZ FUNERAL HOME, LLC and Defendant FAMILY CARE CREMATION, LLC to provide final arrangements and cremation services for their respective loved ones.

15. Defendants HEINZ FUNERAL HOME, LLC and FAMILY CARE CREMATION, LLC by and through Defendants ALBERT AUGUST HEINZ and/or JON CLAYTON HEINZ agreed to provide Plaintiffs and all putative class members with final arrangements and cremation services for their deceased loved ones.

16. In the days after, Plaintiffs and putative class members became anxious and suspicious as to why they had not yet received their loved ones' cremains and why death certificates had not been filed.

17. Plaintiffs and the putative class members made numerous calls to Defendants inquiring about when they could obtain cremains and why a death certificate had not been filed.

18. Defendants eventually delivered cremains to Plaintiffs and the putative class members, representing that the cremains delivered were the cremains of their respective deceased loved ones.

19. In reality, Defendants mishandled the cremains of the deceased loved ones, and

failed to deliver to Plaintiffs and the putative class members the complete and actual cremains of their respective deceased loved ones.

20. Plaintiffs and the putative class members now have no idea what happened to the body of their respective deceased loved ones.

21. Plaintiffs and the putative class members do not know the whereabouts of the remains of their respective deceased loved ones.

22. Plaintiffs and the putative class members do not know if their respective deceased loved ones bodies were actually cremated.

23. Plaintiffs and the putative class members are unable to effectuate the wishes of their respective deceased loved ones and are otherwise unable to achieve closure with respect to their loved one's death.

CLASS ACTION ALLEGATIONS

24. This action may be brought and is properly maintained as a class action pursuant to the provisions of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, *et seq.*

25. Plaintiff ASHLEEN WOODS ARNETT brings this action individually and on behalf of all other similarly situated individuals.

26. Plaintiff ASHLEEN WOODS ARNETT seeks to represent the following class:

All persons who were the "authorizing agent" of a cremation, as defined by the Illinois Crematory Regulation Act, 410 ILCS 18/5, and all persons deemed to be the representative of the estate (whether administered formally through probate proceedings or informally without probate proceedings), beneficiaries of any such estate, the next-of-kin, and/or the heirs-at-law, pursuant to the Illinois Probate Act, 755 ILCS 5/2-1, of a decedent whose human remains were entrusted to Defendants for cremation services and whose cremains were mishandled by Defendants, anytime in the seven (7) years prior to the date that this Class Action Complaint was filed.

27. Upon information and belief, the class is so numerous that joinder of all class members is impracticable. The membership in the proposed class exceeds forty (40) in number.

According to various media reports, including in the *Jacksonville Journal-Courier*, the Sangamon County Coroner Jim Allmon opened an investigation into Defendants' mishandling of cremains, starting in late September 2023.¹ According to Mr. Allmon, "authorities have now recovered more than 60 sets of remains which appear to have been given to the wrong families" with "at least three dozen sets of cremains [already returned] to the proper families" which are located in Illinois, California, Oregon, Missouri and Iowa.² Mr. Allmon has indicated that the Sangamon County Coroner's investigation is ongoing, and that the growing number of affected victims "remains ever-changing."³ In addition, a private Facebook group dedicated to offering support for individuals affected by Defendants' mishandling of the cremains of their loved ones contains at least 128 members.⁴ Further, according to *Capitol News Illinois*, authorities are investigating the possibility that the mishandling of cremains by Defendants dates back at least five (5) years and numbers into the hundreds of mishandled bodies.⁵

28. The identities of all members of the class can be easily determined from the records of Defendants herein.

29. Plaintiffs and the class share common questions of fact and law, which predominate over any questions affecting only individual members, including:

- a. Whether Defendants were negligent in failing to cremate the bodies of deceased relatives of Plaintiffs and members of the class, and in failing to provide to

¹ Source: <https://www.myjournalcourier.com/news/article/funeral-home-probe-widens-18472658.php> (last visited December 4, 2023).

² *Id.*

³ *Id.*

⁴ Source: <https://link.edgepilot.com/s/bd0ac6e9/LtEtUHCbz06bJyCfLQ9yVA?u=https://www.facebook.com/groups/163943673375725> (last visited December 4, 2023).

⁵ Source: <https://capitolnewsillinois.com/NEWS/for-at-least-6-months-state-failed-to-act-on-carlinville-funeral-director-that-mishandled-remains> (last visited December 6, 2023).

Plaintiffs and members of the class the entire cremated remains of their deceased relatives;

- b. Whether Defendants were negligent in failing to maintain custody of and account for all the remains or cremains of the deceased relatives of the Plaintiffs and members of the class;
- c. Whether Defendants were negligent in misinforming the Plaintiffs and members of the class that they had supplied them with all of the cremains of their deceased relatives, when they had not;
- d. Whether Defendants were negligent in failing to supervise the conduct of their employee(s) while the employee(s) performed the cremation of the deceased relatives of the Plaintiffs and members of the class and/or the delivery of the cremains of the deceased relatives of the Plaintiffs and members of the class;
- e. Whether Defendants were negligent in following industry standards and acting in an ethical, dignified, and professional manner with regard to their conduct alleged herein;
- f. Whether Defendants returned to the Plaintiffs and members of the class more or less cremated remains than were removed from the cremation chamber, in violation of the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*; and
- g. Whether as a direct and proximate result of Defendants' conduct alleged herein, the Plaintiffs and the members of the class have suffered, and are suffering, serious and permanent injuries.

30. Plaintiff ASHLEEN WOODS ARNETT will fairly and adequately protect the interests of the class.

31. Plaintiffs' counsel is competent and experienced in prosecuting class action matters and the types of claims alleged herein.

32. A class action is the most appropriate means for the fair and efficient adjudication of the claims herein. Class action treatment will permit a large number of similarly situated individuals to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort and expense that numerous individual actions would require. Alternatively, without waiving the foregoing, certification on common classwide issues and/or liability under the theories advanced in this Complaint may be appropriate.

WHEREFORE, pursuant to 735 ILCS 5/2-801, *et. seq.*, Plaintiffs respectfully request this Court:

- a. Determine by Order that this matter may be maintained as a class action with the class definition provided herein, and with respect to all, or alternatively some, of the issues described herein;
- b. Appointing ASHLEEN WOODS ARNETT as Class Representative;
- c. Appointing the below signed counsel as Class Counsel;
- d. Order Defendants to pay damages, prejudgment interest, and postjudgment interest as plead herein; and
- e. Order Defendants to pay attorneys' fees and costs.

TOLLING OF THE STATUTE OF LIMITATIONS

A. Discovery Rule Tolling

33. Plaintiffs and members of the class could not have discovered through the exercise of reasonable diligence that the cremains that they received from Defendants were not those of their deceased relatives or that the cremains of their deceased relatives had been mishandled by

Defendants, within the time-period of any applicable statutes of limitation.

34. Among other things, neither Plaintiffs nor the other members of the class knew or could have known that the cremains which Defendants delivered to them were not those of their deceased relatives or that the cremains of their deceased relatives had been mishandled by Defendants because Defendants represented to Plaintiffs and members of the class that the cremains that they received were those of their deceased relatives.

35. Further, Plaintiffs and members of the class had no knowledge of Defendants misconduct as alleged herein and had no means of inspecting or otherwise ascertaining whether the cremains they received from Defendants were those of their deceased relatives or that the cremains of their deceased relatives had been mishandled by Defendants. Instead, Plaintiffs and members of the class were forced to rely on Defendants' representations that what they were receiving were in fact the full and true cremains of their deceased relatives.

B. Estoppel

36. Defendants were under a continuous duty to disclose to Plaintiffs and the other members of the class the fact that the cremains which they received from Defendants were not those of their deceased relatives and that Defendants had mishandled the cremains of those deceased relatives.

37. Based on the foregoing, Defendants are estopped from relying on any statutes of limitations in defense of this action.

COUNT I
[Negligence]
vs. Albert August Heinz and Jon Clayton Heinz
(On behalf of Plaintiffs and Members of the Class)

38. All preceding paragraphs are incorporated into this Count by reference.

39. Defendants ALBERT AUGUST HEINZ and JON CLAYTON HEINZ owed

Plaintiffs and members of the class duties and obligations arising from statute, common law, and voluntary undertakings, including:

- a. Duties arising under the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*;
- b. Agreeing to properly cremate the body of George L. Woods, Jr. and of the deceased relatives of members of the class;
- c. Ensuring that the cremains of George L. Woods, Jr. and of the deceased relatives of members of the class were returned to Plaintiffs and members of the class;
- d. Not to interfere with the right of Plaintiffs and members of the class to possess, and the right to make appropriate disposition of, the remains of their deceased relatives; and
- e. Following industry standards and acting in an ethical, dignified, and professional manner.

40. Defendants ALBERT AUGUST HEINZ and JON CLAYTON HEINZ breached their duties to Plaintiffs and members of the class by committing one or more of the following acts and/or omissions:

- a. Negligently failed to cremate George L. Woods, Jr. and the deceased relatives of members of the class and failed to provide to Plaintiffs and members of the class the entire cremated remains of their deceased relatives;
- b. Negligently failed to maintain custody of and account for all the remains or cremains of George L. Woods, Jr. and of the deceased relatives of members of the class;

- c. Negligently informed Plaintiffs and members of the class that they supplied Plaintiffs and members of the class with all of the cremains of their deceased relatives, when they had not;
- d. Negligently failed to supervise the conduct of their employee(s) while the employee(s) performed the cremation of George L. Woods, Jr. and of the deceased relatives of the members of the class and/or the delivery of the cremains of George L. Woods, Jr. and of the deceased relatives of the members of the class.

41. The course of conduct set forth herein by Defendants ALBERT AUGUST HEINZ and JON CLAYTON HEINZ was negligent.

42. As a direct and proximate result of the foregoing, Plaintiffs and the members of the class have suffered, and are suffering, serious and permanent injuries, and, therefore, damages as follows:

- a. Extreme emotional distress;
- b. Mental anguish and suffering;
- c. Embarrassment and humiliation; and
- d. An inability to achieve closure with respect to the death of George L. Woods, Jr. and of the deceased relatives of members of the class.

WHEREFORE, Plaintiffs and the class members request judgment on Count I of this Complaint against Defendants, jointly and severally, as follows:

- A. Compensatory damages exceeding Fifty Thousand Dollars (\$50,000.00) for all damages suffered by Plaintiffs and each member of the class;
- B. Attorneys Fees and Costs of this action;

- C. Pre- and post-judgment interest; and
- D. Such other and further relief as the court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY OF TWELVE.

COUNT II

**[Violations of the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*]
vs. Albert August Heinz and Jon Clayton Heinz
(On Behalf of Plaintiffs and Members of the Class)**

- 43. All preceding paragraphs are incorporated into this Count by reference.
- 44. There exists a statute known as Illinois Crematory Regulation Act (“Crematory Act”), 410 ILCS 18/5, a criminal statute which when violated, is a class four felony.
- 45. There also exists an implied private right of action under the Crematory Act pursuant to numerous courts’ determinations that implied rights of private action exist in criminal or constitutional statutory provisions even when such statutes are silent as to civil remedies. See: *Rekosh v. Parks*, 316 Ill. App. 3d 58, 735 N.E.2d 765 (2000), abrogated on other grounds by *Cochran v. Securitas Sec. Servs. USA, Inc.*, 2017 IL 121200, 93 N.E.3d 493.
- 46. Section 35(m) of the Crematory Act states as follows:

A crematory authority shall not knowingly represent to an authorizing agent or the agent’s designee that a temporary urn contains the cremated remains of a specific decedent when it does not.

410 ILCS 18/35(m).
- 47. Defendants Albert August Heinz and Jon Clayton Heinz violated 410 ILCS 18/35(m) of the Crematory Act in that they represented to Plaintiffs and members of the class that what they provided to Plaintiffs and members of the class contained the cremated remains of their deceased relative, when, in fact, it did not.
- 48. Additionally, 410 ILCS 18/35(l) of the Crematory Act provides that:

The crematory authority shall not return to the authorizing agent or the agent's designee more or less cremated remains than were removed from the cremation chamber.

410 ILCS 18/35(1).

49. Defendants Albert August Heinz and Jon Clayton Heinz violated 410 ILCS 18/35(1) of the Crematory Act in that Plaintiffs and members of the class were the authorizing agents and Plaintiffs and members of the class did not receive the true or complete cremated remains of their deceased relatives.

WHEREFORE, Plaintiffs request judgment on Count II of the Complaint against Defendants as follows:

- A. Compensatory damages exceeding Fifty Thousand Dollars (\$50,000.00) for all damages suffered by Plaintiffs and each member of the class;
- B. Attorneys Fees and Costs of this action;
- C. Pre- and post-judgment interest; and
- D. Such other and further relief as the court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY OF TWELVE.

**COUNT III
[Negligence]**

**vs. Heinz Funeral Home, LLC
(On Behalf of Plaintiffs and Members of the Class)**

50. All preceding paragraphs are incorporated into this Count by reference.

51. At all times mentioned herein, Albert August Heinz and Jon Clayton Heinz were employees acting in the course and scope of their employment with Defendant HEINZ FUNERAL HOME, LLC and/or as an agent, apparent agent, representative, or contractor acting within the course and scope of their agency or representative capacity.

52. Defendant HEINZ FUNERAL HOME, LLC owed Plaintiffs and members of the

class duties and obligations arising from statute, common law, and voluntary undertakings, including:

- a. Duties arising under the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*;
- b. Agreeing to properly cremate the body of George L. Woods, Jr. and the deceased relatives of members of the class;
- c. Ensuring that the cremains of George L. Woods, Jr. and of the deceased relatives of members of the class were returned to Plaintiffs and to the members of the class;
- d. Not to interfere with the right of Plaintiffs and members of the class to possess, and the right to make appropriate disposition of, the remains of their deceased relatives.; and
- e. Following industry standards and acting in an ethical, dignified, and professional manner.

53. Defendant HEINZ FUNERAL HOME, LLC breached duties to Plaintiffs and members of the class by committing one or more of the following acts and/or omissions:

- a. Negligently failed to cremate George L. Woods, Jr. and the deceased relatives of members of the class and failed to provide to Plaintiffs and members of the class the entire cremated remains of their deceased relatives;
- b. Negligently failed to maintain custody of and account for all the remains or cremains of George L. Woods, Jr. and of the deceased relatives of members of the class;
- c. Negligently informed Plaintiffs and members of the class that they supplied

Plaintiffs and members of the class with all of the cremains of their deceased relatives, when they had not;

- d. Negligently failed to supervise the conduct of their employee(s) while the employee(s) performed the cremation of George L. Woods, Jr. and of the deceased relatives of the members of the class and/or the delivery of the cremains of George L. Woods, Jr. and of the deceased relatives of the members of the class.

54. The course of conduct set forth herein by Defendant HEINZ FUNERAL HOME, LLC was negligent.

55. As a direct and proximate result of the foregoing, Plaintiffs and members of the class have suffered, and are suffering, serious and permanent injuries, and, therefore, damages as follows:

- a. Extreme emotional distress;
- b. Mental anguish and suffering;
- c. Embarrassment and humiliation; and
- d. An inability to achieve closure with respect to the death of their deceased relatives.

WHEREFORE, Plaintiffs request judgment on Count III of this Complaint against Defendants, jointly and severally, as follows:

- A. Compensatory damages exceeding Fifty Thousand Dollars (\$50,000.00) for all damages suffered by Plaintiffs and each member of the class;
- B. Attorneys Fees and Costs of this action;
- C. Pre- and post-judgment interest; and

D. Such other and further relief as the court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY OF TWELVE.

COUNT IV

[Violations of the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*]

vs. Heinz Funeral Home, LLC

(On behalf of Plaintiffs and Members of the Class)

56. All preceding paragraphs are incorporated into this Count by reference.

57. At all times mentioned herein, Albert August Heinz and Jon Clayton Heinz were employees acting in the course and scope of their employment with Defendant HEINZ FUNERAL HOME, LLC and/or as an agent, apparent agent, representative, or contractor acting within the course and scope of their agency or representative capacity.

58. There exists a statute known as Illinois Crematory Regulation Act (“Crematory Act”), 410 ILCS 18/5, a criminal statute which when violated, is a class four felony.

59. There also exists an implied private right of action under the Crematory Act pursuant to numerous courts’ determinations that implied rights of private action exist in criminal or constitutional statutory provisions even when such statutes are silent as to civil remedies. See: *Rekosh v. Parks*, 316 Ill. App. 3d 58, 735 N.E.2d 765 (2000), abrogated on other grounds by *Cochran v. Securitas Sec. Servs. USA, Inc.*, 2017 IL 121200, 93 N.E.3d 493.

60. Section 35(m) of the Crematory Act states as follows:

A crematory authority shall not knowingly represent to an authorizing agent or the agent’s designee that a temporary urn contains the cremated remains of a specific decedent when it does not.

410 ILCS 18/35(m).

61. Defendant HEINZ FUNERAL HOME, LLC, by and through its agent(s), employee(s), and/or representative(s), violated 410 ILCS 18/35(m) of the Crematory Act in that it represented to Plaintiffs and members of the class that what it provided to Plaintiffs and members

of the class contained the cremated remains of their deceased relative, when, in fact, it did not.

62. Additionally, 410 ILCS 18/35(l) of the Crematory Act provides that:

The crematory authority shall not return to the authorizing agent or the agent's designee more or less cremated remains than were removed from the cremation chamber.

410 ILCS 18/35(l).

63. Defendant HEINZ FUNERAL HOME, LLC, by and through its agent(s), employee(s), and/or representative(s), violated 410 ILCS 18/35(l) of the Crematory Act in that Plaintiffs and members of the class were the authorizing agents and Plaintiffs and members of the class did not receive the true or complete cremated remains of their deceased relative.

WHEREFORE, Plaintiffs request judgment on Count IV of the Complaint against Defendant as follows:

- A. Compensatory damages exceeding Fifty Thousand Dollars (\$50,000.00) for all damages suffered by Plaintiffs and each of the members of the class;
- B. Attorneys Fees and Costs of this action;
- C. Pre- and post-judgment interest; and
- D. Such other and further relief as the court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY OF TWELVE.

COUNT V
[Negligence]
vs. Family Care Cremation, LLC
(On Behalf of Plaintiffs and Members of the Class)

64. All preceding paragraphs are incorporated into this Count by reference.

65. At all times mentioned herein, Albert August Heinz and Jon Clayton Heinz were employees acting in the course and scope of their employment with Defendant FAMILY CARE CREMATION, LLC and/or as an agent, apparent agent, representative, or contractor acting within

the course and scope of their agency or representative capacity.

66. Defendant FAMILY CARE CREMATION, LLC owed Plaintiffs and members of the class duties and obligations arising from statute, common law, and voluntary undertakings, including:

- a. Duties arising under the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*;
- b. Agreeing to properly cremate the body of George L. Woods, Jr. and of the deceased relatives of members of the class;
- c. Ensuring that the cremains of George L. Woods, Jr. and of the deceased relatives of members of the class were returned to Plaintiffs and to the members of the class;
- d. Not to interfere with the right of Plaintiffs and members of the class to possess, and the right to make appropriate disposition of, the remains of their deceased relatives; and
- e. Following industry standards and acting in an ethical, dignified, and professional manner.

67. Defendant FAMILY CARE CREMATION, LLC breached duties to Plaintiffs and members of the class by committing one or more of the following acts and/or omissions:

- a. Negligently failed to cremate George L. Woods, Jr. and the deceased relatives of members of the class and failed to provide to Plaintiffs and members of the class the entire cremated remains of their deceased relatives;
- b. Negligently failed to maintain custody of and account for all the remains or cremains of George L. Woods, Jr. and of the deceased relatives of members of

the class;

- c. Negligently informed Plaintiffs and members of the class that they supplied Plaintiffs and members of the class with all of the cremains of their deceased relatives, when they had not;
- d. Negligently failed to supervise the conduct of their employee(s) while the employee(s) performed the cremation of George L. Woods, Jr. and of the deceased relatives of the members of the class and/or the delivery of the cremains of George L. Woods, Jr. and of the deceased relatives of the members of the class.

68. The course of conduct set forth herein by Defendant FAMILY CARE CREMATION, LLC was negligent.

69. As a direct and proximate result of the foregoing, Plaintiffs and members of the class have suffered, and are suffering, serious and permanent injuries, and, therefore, damages as follows:

- a. Extreme emotional distress;
- b. Mental anguish and suffering;
- c. Embarrassment and humiliation; and
- d. An inability to achieve closure with respect to the death of their deceased relatives.

WHEREFORE, Plaintiffs request judgment on Count V of this Complaint against Defendants, jointly and severally, as follows:

- A. Compensatory damages exceeding Fifty Thousand Dollars (\$50,000.00) for all damages suffered by Plaintiffs and each member of the class;

- B. Attorneys Fees and Costs of this action;
- C. Pre- and post-judgment interest; and
- D. Such other and further relief as the court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY OF TWELVE.

COUNT VI

[Violations of the Illinois Crematory Regulation Act, 410 ILCS 18/1 *et seq.*]

vs. Family Care Cremation, LLC

(On Behalf of Plaintiffs and Members of the Class)

70. All preceding paragraphs are incorporated into this Count by reference.

71. At all times mentioned herein, Albert August Heinz and Jon Clayton Heinz were employees acting in the course and scope of their employment with Defendant FAMILY CARE CREMATION, LLC and/or as an agent, apparent agent, representative, or contractor acting within the course and scope of his agency or representative capacity.

72. There exists a statute known as Illinois Crematory Regulation Act (“Crematory Act”), 410 ILCS 18/5, a criminal statute which when violated, is a class four felony.

73. There also exists an implied private right of action under the Crematory Act pursuant to numerous courts’ determinations that implied rights of private action exist in criminal or constitutional statutory provisions even when such statutes are silent as to civil remedies. See: *Rekosh v. Parks*, 316 Ill. App. 3d 58, 735 N.E.2d 765 (2000), abrogated on other grounds by *Cochran v. Securitas Sec. Servs. USA, Inc.*, 2017 IL 121200, 93 N.E.3d 493.

74. Section 35(m) of the Crematory Act states as follows:

A crematory authority shall not knowingly represent to an authorizing agent or the agent’s designee that a temporary urn contains the cremated remains of a specific decedent when it does not.

410 ILCS 18/35(m).

75. Defendant FAMILY CARE CREMATION, LLC, by and through its agent(s),

employee(s), and/or representative(s), violated 410 ILCS 18/35(m) of the Crematory Act in that it represented to Plaintiffs and members of the class that what it provided to Plaintiffs and members of the class contained the cremated remains of their deceased relative when, in fact, it did not.

76. Additionally, 410 ILCS 18/35(l) of the Crematory Act provides that:

The crematory authority shall not return to the authorizing agent or the agent's designee more or less cremated remains than were removed from the cremation chamber.

410 ILCS 18/35(l).

77. Defendant FAMILY CARE CREMATION, LLC, by and through its agent(s), employee(s), and/or representative(s), violated 410 ILCS 18/35(l) of the Crematory Act in that Plaintiffs and members of the class were the authorizing agent and Plaintiffs and members of the class did not receive the true or correct cremated remains of their deceased relatives.

WHEREFORE, Plaintiffs request judgment on Count VI of the Complaint against Defendant as follows:

- A. Compensatory damages exceeding Fifty Thousand Dollars (\$50,000.00) for all damages suffered by Plaintiffs and each member of the class;
- B. Attorneys Fees and Costs of this action;
- C. Pre- and post-judgment interest; and
- D. Such other and further relief as the court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY OF TWELVE.

Respectfully submitted,

LEEANN WOODS, Plaintiff
MEGHAN WOODS, Plaintiff
ASHLEEN WOODS ARNETT, Plaintiff

By: /s/ Patrick J. Sheehan, III
One of Their Attorneys

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THE CARLSON LAW FIRM, P.C.

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(512) 671-7277

VERIFICATION

I, the undersigned, on oath state that I am a Plaintiff in this action; that under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct, except to matters therein stated to be on information and belief and as to such matters, I certify that I believe the same to be true.

/s/ LEEANN WOODS _____

/s/ MEGHAN WOODS _____

/s/ ASHLEEN WOODS ARNETT _____

AFFIDAVIT

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

I, Patrick J. Sheehan, III, being first duly sworn upon my oath, state:

1. I am filing this Affidavit pursuant to Illinois Supreme Court Rule 222.

2. I am one of the attorneys retained by Plaintiffs, LEEANN WOODS, MEGHAN WOODS, and ASHLEEN WOODS ARNETT, individually and on behalf of all others similarly situated, to pursue causes of action on their behalf, as well as on behalf of a class of similarly situated individuals, as a result of damages sustained against Albert August Heinz, Jon Clayton Heinz, Heinz Funeral Home, LLC, and Family Care Cremation, LLC with respect to the cremation of George L. Woods, Jr. and of the deceased relatives of members of the class.

3. The total amount of money damages we seek in this cause exceeds \$50,000.00.

FURTHER AFFIANT SAYETH NOT.

/s/ Patrick J. Sheehan, III
One of Plaintiffs' Attorneys