

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

Case No. CACE 01-21376 (08)
GENERAL JURISDICTION DIVISION
JUDGE ROTHSCHILD

JOAN LIGHT, et al,
Plaintiffs,

vs.

SCI FUNERAL SERVICES
OF FLORIDA, a Florida
Corporation d/b/a MENORAH
GARDENS & FUNERAL
CHAPELS, et al,
Defendants.

SPECIAL MASTER SUMMARY OF
INTERIM REPORTS ONE THROUGH FIVE

This Report is submitted to inform the Court and all interested parties concerning both progress and delay related to the extremely complex processes involved in devising an equitable distribution of the limited funds available from the Menorah Gardens Class Action Settlement Fund (Fund).

Achieving the goal of equitable distribution requires extensive investigation of a myriad of facts by your Special Master and the Plaintiffs' team of representatives in order to accumulate, assimilate, and evaluate large amounts of diverse information for both relevancy and applicability.

Many people who levied claims against the Fund were of advanced age and in ill health from the inception of the suit in 2001. Unavoidably, a number of these claimants expired during the time required to resolve pretrial motions, conduct hearings on various motions, take depositions of various class action plaintiffs and corporate representatives of the several defendants, engage in settlement negotiations, mediations, and other activities inherently necessary in litigation involving the unique subject matter of this case.

Accumulation of information necessary to recommend an equitable distribution of the Fund has been hampered by the failure of many sources, corporate and personal, to timely

respond to requests from the office of your Special Master. In many instances, repeated requests – made by electronic mail, postal service, fax, and personal telephone calls - were necessary before even a preliminary evaluation could be assigned to a particular file.¹

Commencing in late 2007, a number of sources and persons engaged in a course of conduct apparently intended to hasten the distribution of the Fund. Some of this pressure has been generated by the aforementioned death of claimants who had hoped to have the benefit of distribution in his or her lifetime. The death of these claimants necessitated additional work by your Special Master. The applicable distribution protocol requires determination of whether a claimant died testate. If testate, distribution is according to the Last Will and Testament of the deceased claimant. If intestacy is applicable, distribution is

¹ The Special Master's Report and Recommendations dated October 29, 2008 contains an error. The last hearing in which testimony was taken occurred on or about *Monday April 28, 2008*, not Saturday, April 28, 2007.

according to Florida's law of descent and distribution. In either event, certificates of death and copies of Wills must be obtained from appropriate sources by your Special Master. Similarly, names and address of legatees, devisees or intestate survivors must be identified and located. All these necessary activities have been, and continue to be, time consuming and, in many instances, extremely difficult.

In other cases, pressure for quick distribution has come from those who, for economic reasons, are in need of their share of the fund. Repeated inquiries of class counsel by members of various forms of mass communication, and resultant publications, have unnecessarily contributed to anxiety amongst the class membership concerning the time when distribution will occur.

On several occasions, in an effort to quell the described anxiety and, simultaneously, reduce the pressure upon class counsel, your Special Master announced target dates for completion of his work. Each time such target date was

promulgated, achievement of the desired goal was frustrated by the failure of numerous sources to timely respond to repeated requests for information. Additional impediments to accomplishing the desired goal of equity were the number of claimants who, for reasons personal to themselves, either failed or declined to take action or make decisions in a timely manner. The missing actions and decisions all involve components necessary for determination of an equitable distribution. Further complicating and delaying the final determination of an equitable distribution plan has been the late discovery of interment problems not originally disclosed to your Special Master.

The pressure exerted upon the team of attorneys, paralegals, support staff and the office of the Special Master, while understandable, has not been, and is not now, justified. We have all worked hard for, and with dedication to, the proposition of equitable treatment for every claimant. Decisions made in haste or for convenience frequently result in remorseful

consequences which cannot be cured. No member of the class action team, regardless of station, desires such an effect.

As your Special Master accumulated and assimilated information concerning events which transpired at Menorah Gardens in Broward and Palm Beach Counties, it became clear the equitable distribution plans previously announced were not adequate. As a result, the classification process has been fluid and subject to modification as work progressed. Based upon this additional information, your Special Master refined and increased the number of categories for classification of the various files.

The current framework for claim classification is listed below.

1. LOST REMAINS
2. OPENING OF CASKET OR EXPOSURE OF REMAINS FOR ANY REASON
3. RELOCATION OF REMAINS WITHOUT OPENING OF CASKET OR EXPOSING REMAINS

4. INTERMENT AT A SITE REMOTE FROM SITE SELECTED IN EXECUTED PRE-NEED CONTRACT
5. INVASION OF THE INTEGRITY OF AN INTERMENT SITE
 - a) SLIDE OVER
 - b) IDENTIFICATION OF VAULT
 - c) MEASUREMENT FOR ADJACENT BURIAL
6. SPECIAL CIRCUMSTANCES
7. NO AWARD JUSTIFIED

In some instances, facts and documents associated with one or more files mandate modification of the category to which the file, or files, has or have been assigned on a preliminary basis. All files for which compensation has not been recommended are under continual review in an effort to achieve substantial equity.

In keeping with the work model of this entire process, your Special Master remains open to the receipt of additional information from the concerned parties. If such information discloses new relevant facts, as opposed to opinions, your Special

Master will carefully consider the information and make any adjustment required in order to achieve the best possible degree of equity.

Because assigning a specific claimant to a specific category is still a work in process, caution should be used when attempting to determine an applicable category prior to Court ordered distribution. It should be obvious, however, if the facts of a particular timely filed claim matches the features specified in categories 1 through 7, and the claimant qualifies under the terms set forth in the October 20, 2005 Order, compensation from the Fund will ultimately be forthcoming.² Premature distribution of the fund (to claimants other than those assigned to Category 1) will, more likely than not, result in a significant degree of inequity. Your Special Master and his staff continue to exert every effort to maintain consistency and equity within each

² Only a single award is made for each qualified claimant and such award is for the highest category to which a specific claim has been assigned.

category; nonetheless, compensation recommendations vary according to the nature and degree of egregious conduct on the part of Menorah Gardens. As is true in any litigation, the final decision always lies with the Court.

The portion of the fund subject to the control of Class Counsel will be reduced by administrative costs and Special Master fees as they are incurred. It is recommended the funds held by the State of Florida be kept in reserve to defray future administrative fees and costs as well as any justifiable and timely filed claims which might be discovered later. As previously noted by your Special Master, there exists a large number of potential interment problems for which a Proof of Claim was not timely filed. A few of these "problem interments" have been brought to the attention of your special Master. With great reluctance, each claim not timely filed, absent extraordinary circumstances, will probably receive a recommendation of no compensation.

In a concerted effort to reach as many potential claimants as possible, the time for filing a claim has been extended several times. Upon information and belief, there are a large number of potential interment problems which have not been addressed primarily because potential claimants did not respond to national advertising or could not be located for personal notification. Remedial action for the issues surrounding these unfiled claims cannot be addressed in the absence of legally acceptable authorization of the concerned parties. Devising a solution to these potential problems is beyond the scope of authority delegated to your Special Master but the existence thereof should be noted by the appropriate administrative and judicial authorities.

At various times during the classification process, in response to repeated requests by concerned parties, some claimants were informed by your Special Master a specific claim had been tentatively assigned to a specific category. In the final

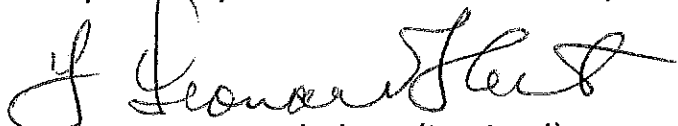
analysis, recommendation for the classification of any claim is not fixed until a report is submitted to, and approved by, the Court.

The primary mission of Menorah Gardens, as represented to the general public, is to provide a permanent resting place for members of the Jewish faith. Failure to carry out this mission was, and still is, one of the core issues of the litigation in this case. Without exception, assurances Menorah Gardens would be brought into full compliance with Jewish law and traditions, and the cemetery would continue to adhere to the principles of the Jewish faith, have been of paramount concern to all persons with whom your Special Master has had contact in this case.

In the early stages of the litigation which brought about the settlement of this case, Richard Baldwin was appointed by one of the judges of the Fifteenth Judicial Circuit to oversee the daily activity and rehabilitation of Menorah Gardens in Broward and Palm Beach Counties. In Broward County, Arlene Vendetti, Assistant Court Appointed Examiner, has served as the on-site

observer for Mr. Baldwin. Mrs. Vendetti has been the primary source to whom your Special Master has turned for both current and historical information relevant to the many decedents whose survivors form the nucleus of the claimants. In the absence of the dedication of Mrs. Vendetti, combined with the insight and supervision of Mr. Baldwin, it is doubtful the rehabilitative process of Menorah Gardens would have advanced to its present level. There is much to be done before Menorah Gardens in Broward County will be eligible for rededication by appropriate members of the Jewish Rabbinate. The ever-attendant eyes and observations of Mr. Baldwin and Mrs. Vendetti are, in the opinion of your Special Master, absolutely essential in order to achieve, in the near future, the ultimate goal of rededication and termination of judicial supervision.

Respectfully submitted this 7th day of August 2009.

A handwritten signature in cursive script, appearing to read "J. Leonard Fleet".

Judge J. Leonard Fleet (Retired)
Special Master