

[SPACE BELOW RESERVED FOR FILE STAMP ONLY]

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17 Petitioner Tanya Lenn

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **FOR THE COUNTY OF LOS ANGELES**

20 IN RE GRAND VIEW MEMORIAL  
21 PARK  
22 MARY LOUISE LARGEY, an  
23 individual; SHERRY BOYLES, an  
24 individual; MARY B. GREEN, an  
25 individual; LINDA M. NEAL, an  
26 individual; JOHN MICHAEL  
27 WILLIAMS, an individual; and on behalf  
28 of themselves and all others similarly  
situated and as private attorneys general  
on behalf of the general public,

Plaintiffs,

vs.

GRAND VIEW MEMORIAL PARK,  
INC. a California corporation; et al.,

Defendants.

Case No.: BC342549

Honorable Anthony J. Mohr

**REPORT PURSUANT TO  
PARAGRAPH 5 OF ORDER FOR  
BURIAL OF JOHN LENN;  
DECLARATION OF PAUL AYERS**

**AND RELATED ACTIONS**

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(818) 760-0100

1 Paragraph 5 of the order regarding the interment of John Lenn states in  
2 pertinent part,

3 In the event of a stoppage [of an interment] for a condition that cannot be  
4 corrected within seventy-two (72) hours a report shall be filed by counsel for the  
5 Petitioner within three (3) court days setting forth the conditions encountered.

6 As stated in the declaration of Paul Ayers, *infra*, a condition has been discovered that  
7 cannot be corrected with regard to the interment of John Lenn and accordingly this  
8 report is prepared and filed.

9 **DECLARATION OF PAUL R. AYERS**

10 I, Paul R. Ayers, declare:

11 1. I am an attorney at law duly licensed to practice before all of the courts of  
12 the State of California and I am of counsel to the Law Firm of Monroe & Zinder,  
13 class plaintiffs counsel and counsel for petitioner Tanya Lenn in this matter. I am the  
14 primary attorney handling this file within our office and I am familiar with the facts,  
15 pleadings, evidence and discovery. I make this declaration from my personal  
16 knowledge of the following facts.

17 2. On April 2, 2007, I traveled to Grand View Memorial Park ("Grand View")  
18 to attend the preparation of the grave space for John Lenn pursuant to an order by the  
19 Court signed that morning ("the order"). A true and correct copy of the Court's order  
20 is attached hereto as Exhibit "A". Also attending was Reginald Duran, the funeral  
21 director in charge pursuant to paragraph 3 of the order, Richard Garcia, whose usual  
22 employment is as the attendant at Woodlawn Memorial Park ("Woodlawn") in  
23 Compton, and an unidentified cemetery worker whose usual employment is at  
24 Evergreen Cemetery in East Los Angeles.

25 3. According to the contract provided by the family, on December 22, 1999  
26 John Lenn was sold a right of interment at Grand View in a grave at the following  
27 location: Gr. 68, Tier 4, Section L. (The "Cemetery and Security Agreement"  
28 memorializing the agreement is attached hereto as Exhibit "B".) The signatory for

1 Grand View was Marsha Howard. Using a sectional map drafted by Paul Beltz under  
2 the direction of cemeterians Doran and Mowry in January 2000, and recorded with  
3 the County that year, Mr. Duran located the gravesite by measurement. (Copies of 2  
4 extracts of the Section L sectional created in 2000 are attached hereto collectively as  
5 Exhibit "C"). Just next to the Lenn gravesite to the north, in what was determined to  
6 be by measurement Grave 69, Tier 4, Section L was a double headstone indicating the  
7 interment of Wayne Warrington in 1989 and Patricia Warrington in 2002.

8 4. The primary purpose of the April 2<sup>nd</sup> visit was to locate and soak the grave  
9 site to facilitate hand digging of the grave to begin at 9:30 a.m. the following morning  
10 in anticipation of a 1:30 p.m. interment. Because there is no water service at the  
11 cemetery Mr. Garcia brought with him approximately 100 gallons of water in  
12 containers to pour on the grave. At approximately 3:35 p.m. Mr. Garcia began  
13 clearing the surface of the grave site in order to create a small basin to retain the  
14 water. At that time, Mr. Garcia noticed a standard concrete flower holder embedded  
15 at the center of the Lenn grave site. This caused concern as, for obvious reasons,  
16 flower receptacles are not placed until after a grave site has been employed for an  
17 interment. Based on this finding Mr. Duran decided to have the workers remove the  
18 receptacle and dig down to determine if the grave was empty. The workers did so  
19 and soon discovered an impenetrable barrier at a consistent depth of approximately  
20 17" below the grave's surface.

21 5. Private cemeteries are governed by Health & Safety Code Section 8100, et.  
22 seq. and the cemetery's own internal rules which are promulgated pursuant to Section  
23 8300. On information and belief, Grand View's rules, like most private cemeteries,  
24 requires that the decedent be placed in a casket and that the casket be interred in a  
25 vault. The primary purpose of a vault is to protect the integrity of the grave space and  
26 casket. A very common type of vault employed is the concrete sectional vault,  
27 which, as the name implies, is made up of concrete sections which are fitted together  
28 on-site to create a rectangular vault for receipt of the casket. Pursuant to Health &

1 Safety Code Section 8113.1(a), a grave containing a single interment requires the top  
2 of the completed interment, which in Grand View's case would mean the top of the  
3 vault, to be 18" below the surface of the grave.

4 6. In order to determine if the obstacle discovered at 17" was a rock or a  
5 broken piece of concrete, both common materials found in the ground in cemeteries,  
6 the workers cleared an approximate 18" x 30" area at the level of the obstacle. What  
7 was revealed appears to be the top of a concrete sectional box. I took a Polaroid of the  
8 object revealed. A true and correct copy of the Polaroid is attached as Exhibit "D".  
9 All present were of the opinion that the concrete did not have the discoloration  
10 associated with a long-term burial. After a full photographic record was made, the  
11 grave was closed.

12 7. Based on the discovery of an apparent earlier interment in Grave 68, Mr.  
13 Duran, pursuant to paragraph 5 of the Court's order, declared that the interment could  
14 not go forward. Also pursuant to paragraph 5 of the order, Mr. Duran called Dan  
15 Redmond, investigator for the Cemetery and Funeral Bureau and informed him of the  
16 discovery. Mr. Redmond, in turn, contacted Deputy Attorney General Joseph  
17 Zimring and informed him of the situation. They concurred with Mr. Duran's  
18 conclusion that the interment could not go forward.

19 8. After the grave was closed, I drove directly from the cemetery to Scovern  
20 Mortuary in Glendale where the visitation was taking place and informed the family  
21 of the situation. As of the time of the making of this declaration, the family is  
22 attempting to find grave space at another area cemetery.

23 9. On April 2, 2007 at approximately 5:15 p.m., pursuant to paragraph 5 of the  
24 order, I posted notice to the case website of the cancellation of the interment.

25 10. Based on my knowledge of the operations of Grand View during Ms.  
26 Howard's ownership I can offer the following possible explanation for the situation  
27 found. In 1989 Wayne Warrington was buried in Grave 69. In 1999, Ms. Howard  
28 sold Mr. Lenn, then empty Grave 68, but did not update her records to memorialize

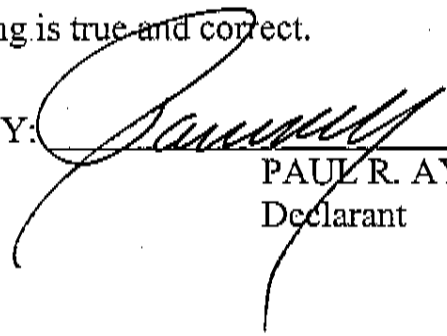
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the sale. In 2002 when Patricia Warrington died Ms. Howard sold the family what she thought was an available grave next to Wayne Warrington. In my opinion the most likely decedent now in Grave 68 is Patricia Warrington.

I declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct.

DATED: April 4, 2007

BY:



PAUL R. AYERS, ESQ.  
Declarant

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North Hollywood, CA 91602-1872  
(818) 760-0100

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**ORIGINAL FILED**

APR 4 2007

LOS ANGELES  
SUPERIOR COURT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

IN RE GRAND VIEW MEMORIAL  
PARK  
MARY LOUISE LARGEY, an  
individual; SHERRY BOYLES, an  
individual; MARY B. GREEN, an  
individual; LINDA M. NEAL, an  
individual; JOHN MICHAEL  
WILLIAMS, an individual; and on  
behalf of themselves and all others  
similarly situated and as private attorneys  
general on behalf of the general public,

Plaintiffs,

vs.

GRAND VIEW MEMORIAL PARK,  
INC. a California corporation; et al.,

Defendants.

Case No.: BC342549

Honorable Anthony J. Mohr

**[PROPOSED] ORDER GRANTING  
PETITION TO ESTABLISH PRE-  
NEED BURIAL RIGHTS AND  
ALLOW FOR IMMEDIATE  
INTERMENT**

TO THE PETITIONER AND ALL INTERESTED PARTIES HEREIN:

*Exhibit "A"*

1 After a review of the petition of Tanya Lenn and noting no opposition, the court  
2 makes the following orders:

3 IT IS HEREBY ORDERED:

4 1. The petition filed by Tanya Lenn to allow for the burial of John Lenn is  
5 granted.

6 2. Petitioner has acknowledged and agreed to be responsible for the costs  
7 associated with the opening and closing, and any other associated costs involved in  
8 the interment contemplated by this order.

9 3. The gravesite will be prepared under the supervision of Reginald Duran, a  
10 licensed Funeral Director ("Mr. Duran"). Grand View Memorial Park, Inc. ("Grand  
11 View") will provide access to the cemetery to allow for the preparation of the grave  
12 as necessary. The extra soil removed from the grave may be removed from the  
13 cemetery and discarded or otherwise used at the cemetery.

14 4. The burial will take place no later than two weeks after the preparation of  
15 the grave as described in paragraph 3. Grand View will provide access to the  
16 cemetery to allow for the interment as necessary. The Petitioner shall arrange a  
17 specific date and time for the procedure by having her counsel contact the counsel for

18 Grand View; Petitioner will also provide a list of proposed attendees at the interment.  
19 The date, time and list of proposed attendees shall be then posted to the *In Re Grand*  
20 *View Memorial Park* website by her counsel no later then 72 hours in advance of the  
21 date and time set. All counsel who intend to attend the procedure shall post notice of  
22 their intent and if they are to be accompanied by others they should identify the names  
23 and purpose of the others attending the procedure. Photographing and videotaping of  
24 the procedure shall be allowed for the purpose of litigation, but such photographs and/or  
25 videotape shall be deemed as confidential material and may not be made available to the  
26 public or the media.

27 5. Mr. Duran shall have the power to stop all operations if during the procedure  
28 any condition of the gravesite is encountered which appears to reflect that it contains

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1 materials other than that expected to be encountered. In case of the stopping of the  
2 procedure by Mr. Duran, counsel for the Petitioner shall post to the Website a notice of  
3 the stopping within 12 hours, and Mr. Duran shall notify a representative of the  
4 Department of Consumer Affairs, Cemetery and Funeral Bureau, if not present, by  
5 telephone within an hour of the stopping and the reason for the stopping. In the event of  
6 a stoppage for a condition that cannot be corrected within seventy-two (72) hours a  
7 report shall be filed by counsel for the Petitioner within three (3) court days setting forth  
8 the conditions encountered.

9 6. All those attending the procedure must conduct themselves in a dignified and  
10 respectful manner. The Court orders pertaining to preservation of evidence continue  
11 except as is necessary to carry out the procedures covered by this order. That nothing in  
12 this order in any way affects, abrogates, abridges, or otherwise amends the statutory  
13 authority of the Cemetery and Funeral Bureau of the Department of Consumer Affairs.

14 7. The Petitioner shall within five (5) days of the signing of this order serve a  
15 conformed copy thereof upon all those individuals and entities described in paragraph  
16 11 of the petition.  
17

18 IT IS SO ORDERED.

19  
20 DATED: 4-2-07

BY: ANTHONY J. MOHR

21 ANTHONY J. MOHR  
22 JUDGE OF THE SUPERIOR COURT  
23  
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Tel: (323) 245-1582  
Tel: (818) 242-2897  
Fax: (818) 242-9438



1341 Glenwood Road  
Glendale, CA 91201  
Visiting Hours Daily  
7:00AM-5:00PM  
006181

### CEMETERY AND SECURITY AGREEMENT

Provides for Endowment Care

Subject to the conditions stated herein, this Agreement made on the 22ND day of DECEMBER, 99 is between Grand View Memorial Park, a California corporation, hereinafter called the "Seller," and \_\_\_\_\_, hereinafter called the "Buyer."

GRAVE 68 TIER 4 SECTION L

INTERMITTENT RIGHTS, SERVICES AND MERCHANDISE	
Interment Rights	\$ <u>795.00</u>
Endowment Care Fund	<u>110.00</u>
Double Interment Privilege	/
Memorial Install/Insp. Fee	/
Interment Recording Fee	/
Processing Fee	/
Pre-Payment	/
Memorial Type	/
Size _____ Design _____	/
Burial Container	/
Vase	/
Other	/
Sales Tax	/

INTERMITTENT RIGHTS, SERVICES AND MERCHANDISE	
Cremation	\$ /
Witness Cremation	/
Burial At Sea	/
Shipment	/
Other	/
Cremation Container	/
Cremation Vault	/
Urn	/
Other	/
Sales Tax	/
Total Sale Price	\$ <u>905.00</u>
Check # <u>0286</u>	<u>905.00</u>
Credit Card # _____	

TITLE: Seller will retain title to said Intermittent Rights and Merchandise until Total Sale Price has been paid by Purchaser. Upon payment of the Total Sale Price by the purchaser, the Seller agrees to convey the above Intermittent Rights by issuance of a Certificate of Interment Rights to the person designated below.

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY/STATE: \_\_\_\_\_  
 PHONE: \_\_\_\_\_

Cardholder: John Tol App# \_\_\_\_\_  
BALANCE DUE John Tol 0

You, the purchaser may cancel this transaction at any time prior to midnight of the fifth calendar day after the date of this transaction, provided no interment or substantial service or merchandise has been provided hereunder. To cancel, deliver or mail written notice of your intent to Grand View Memorial Park. State law gives you the right to know about the future plans to use this cemetery for any other purpose. If you want to receive information about about a future change, you must contact the local planning office and pay a small fee.

NOTICE TO BUYER: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completed filled-in copy of this Agreement. (3) You can pre-pay the full amount due under this Agreement at any time. (4) If you desire to pay off in advance the entire amount due, the amount which is outstanding will be furnished upon your request. It is further agreed and stipulated that the Buyer has carefully read this Sales Agreement and understands fully its requirements and conditions as contained on the face hereof.

12/22/99  
Michael [Signature]  
DATE  
REPRESENTATIVE

John Tol  
BUYER'S SIGNATURE  
1215 JUSTIN AVE  
ADDRESS  
Glendale CA 91201  
CITY/STATE/ZIP  
818-247-8504  
PHONE NUMBER

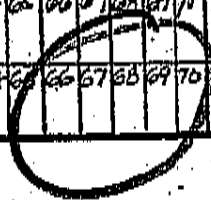
EXHIBIT "B"

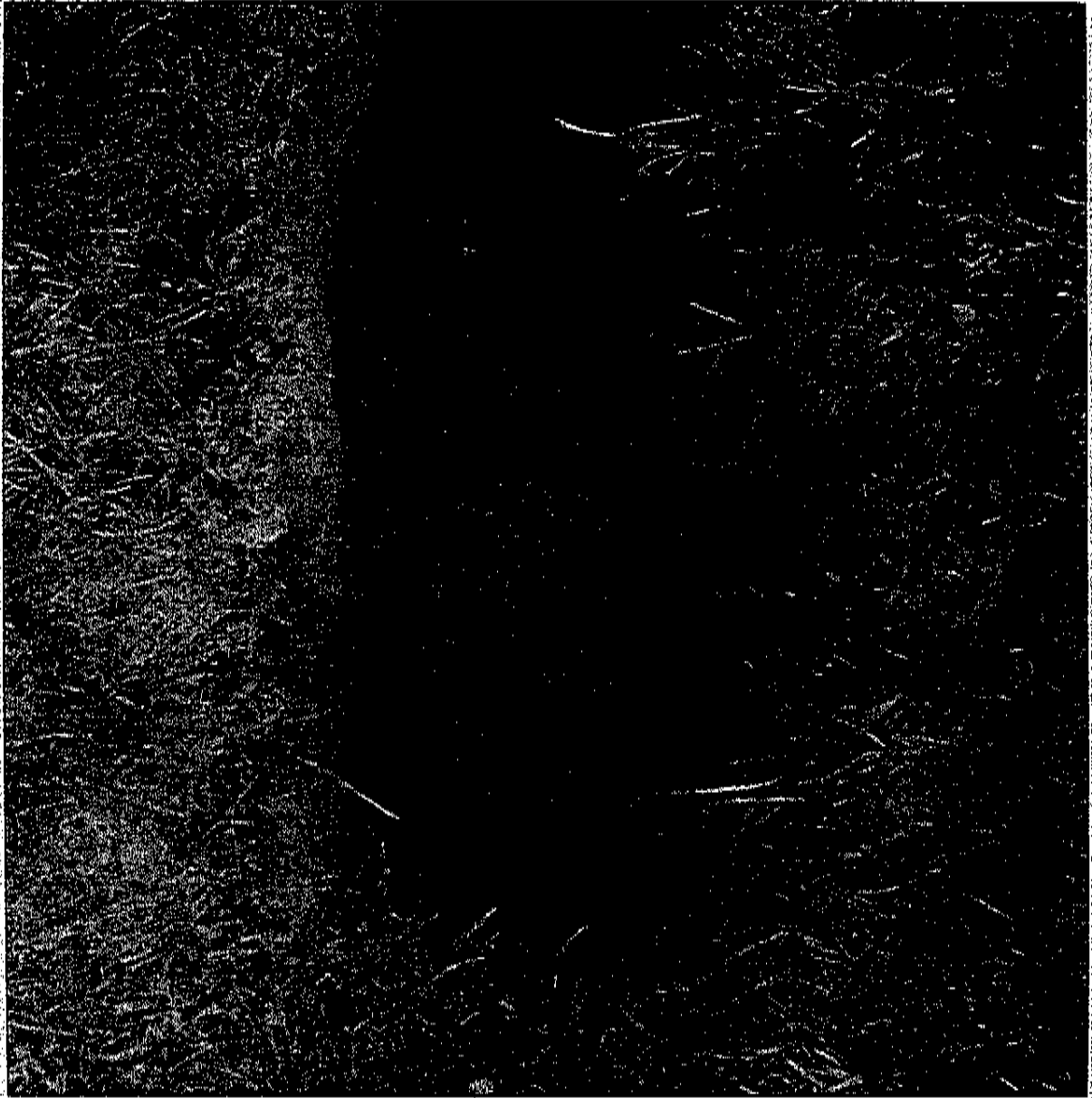
TIER 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73
TIER 2	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73
TIER 3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73
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Section L

Exhibit "C"

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LENN GRAVE - GR. 68, Tier 4, Section K  
CVMP - 4/2/07, ~ 3:45 p.m.

EXHIBIT "D"

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**PROOF OF SERVICE**

(Pursuant to ECMO)

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 4605 Lankershim Blvd., Suite 300, North Hollywood, California 91602-0100.

On April 4, 2007, I served the foregoing document described as REPORT PURSUANT TO PARAGRAPH 5 OF ORDER FOR BURIAL OF JOHN LENN on all interested parties in this action

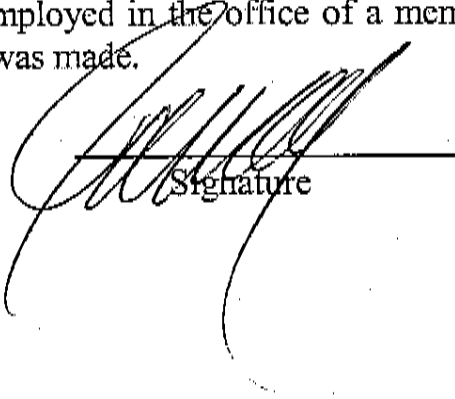
X By posting the above-named document to the case website.

Executed on April 4, 2007, at North Hollywood, California.

(State) I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

Paul Ayers  
Type or Print Name

  
Signature

MONROE & ZINDER  
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North Hollywood, CA 91602-1872  
(818) 760-0100