

WISCONSIN DEPARTMENT OF
FINANCIAL INSTITUTIONS,

Plaintiff,

v.

Case No. 12-CX-44
Case Code: 30109

WISCONSIN FUNERAL DIRECTORS
ASSOCIATION, INC.; and
FIDUCIARY PARTNERS, INC.,
as Trustee for the WISCONSIN FUNERAL TRUST,

Defendants.

**NOTICE TO FUNERAL HOMES OF MOTION
FOR APPROVAL OF PROPOSED SETTLEMENT AGREEMENT
AND GRANT OF FIRST AMENDED INJUNCTION AND ORDER**

**TO: ALL FUNERAL HOMES WITH BURIAL AGREEMENTS UNDER WHICH
FUNDS WERE PLACED IN THE WISCONSIN FUNERAL TRUST.**

**PLEASE READ THIS NOTICE AND THE ATTACHED MOTION, PROPOSED ORDER
AND SETTLEMENT AGREEMENT CAREFULLY AND IN THEIR ENTIRETY. THIS
NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLAIMS BY AND
AGAINST FUNERAL HOMES THAT PLACED FUNDS IN THE WISCONSIN
FUNERAL TRUST OR THAT HAVE RECEIVED PAYMENTS FROM THE TRUST IN
THE PAST.**

THIS NOTICE AFFECTS YOUR RIGHTS.

The purpose of this Notice is to provide a brief summary of a proposed settlement of claims by and against Funeral Homes relating to Burial Agreements (also sometimes referred to as pre-need contracts), funds from Burial Agreements placed in the Wisconsin Funeral Trust (the "Trust") and payments made from the Trust to Funeral Homes, and proposed changes to earlier relief granted by the Court.

On July 8, 2013 at 9:00 a.m., Judge Peter Anderson will hold a hearing in his courtroom at the Dane County Courthouse, Room 6103, 215 South Hamilton Street, Madison, Wisconsin to consider the attached Motion to approve the Settlement Agreement and grant related relief. You are not required to file any papers or appear if you do not object to the Motion and the Settlement Agreement. However, if you disagree with the Motion and/or the Settlement Agreement, or you want the Court to hear and consider your views on the Motion and/or the

Settlement Agreement, then you must file a timely written objection with the Court or appear at the hearing.

Wisconsin law requires that a lawyer must appear on behalf of business entities in non-small claim legal proceedings before Wisconsin courts. If you decide to appear or file papers in this case, you should consult with a lawyer about whether a lawyer must represent you.

If you file an objection to the Motion, your objection must be filed with the Clerk of Court, Dane County Circuit Court, 215 South Hamilton Street, Madison, Wisconsin 53703, on or before July 3, 2013. At the same time, you must serve a copy of your response on each of the following persons:

Stephen E. Kravit Kravit • Hovel & Krawczyk, s.c. 825 N. Jefferson St. Milwaukee, WI 53202-3737 Fax: 414-271-8135	John M. Wirth Mallery & Zimmerman, s.c. 731 N. Jackson St. Suite 900 Milwaukee, WI 53202-4697 Fax: 414-727-6306	Chris Stroebel von Briesen & Roper, s.c. Three S. Pinckney St. Suite 1000 Madison, WI 53703 Fax: 608-316-3196	F. Mark Bromley Lewis W. Beilin Assistant Attorney General Wis. Department of Justice Post Office Box 7857 Madison, WI 53707-7857 Fax: 608-267-2779
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If you do not respond to the Motion in accordance with this notice, the Court may grant the relief requested in the Motion without further notice or a hearing.

BACKGROUND

On September 14, 2012, the Dane County Circuit Court appointed John M. Wirth as receiver for the Trust. The Receiver is investigating claims against the parties who may be responsible for the alleged deficiencies in the Trust.

During the course of Receiver's investigation, it has become clear that funeral homes that placed funds in the Trust may be exposed to possible litigation and claims by various parties, including but not limited to claims by the Trust or by customers with Burial Agreements. **Even if you are in no way responsible for the alleged deficiencies in the Trust, as a funeral home that entered into one or more Burial Agreement and placed funds in the Trust, you may nevertheless face claims and may have liability relating to any shortfall in the Trust.**

Over the past several months, the Receiver and the Wisconsin Funeral Directors Association ("WFDA") have negotiated an agreement that will provide a safe harbor for funeral homes from further claims relating to the Trust. **Under the Settlement Agreement, funeral homes (including the funeral home's owners, officers, directors, shareholders, members, employees) that fully comply with the terms of the Settlement Agreement, including providing substantially all of the benefits that were promised to customers when they entered into the Burial Contracts, will receive substantial protection from any further litigation relating to the Trust, including a covenant not to sue from the Receiver and a court-ordered injunction against third-party claims.**

The Receiver and the WFDA will be presenting the Settlement Agreement to the Court for approval. The Wisconsin Department of Financial Institutions, represented by the Wisconsin

Department of Justice, approves of the Settlement Agreement and will be joining the Receiver and the WFDA in requesting the Court's approval. **The Settlement Agreement will have no effect unless the Court approves it.**

THE SETTLEMENT AGREEMENT

If the Court approves the Settlement Agreement, each funeral home will have the option to enter into the Settlement Agreement on or before **September 30, 2013**. After September 30, 2013, the ability to enter into the Settlement Agreement will end. **No funeral home is required to enter into the Settlement Agreement. However, if a funeral home decides not to enter into the Settlement Agreement, it will lose protections against being sued.**

Under the Settlement Agreement, the Trust will continue to reimburse funeral homes for goods, services and disbursements provided to a customer under a Burial Agreement, and pursuant to terms approved from time to time by the Court. Currently, the Trust is paying an initial reimbursement of 60% of the stated balance of the customer's account, with the Funeral Home retaining a claim against the Trust for the balance. The Settlement Agreement ensures that, if the amount reimbursed to funeral home increases as the result of recoveries by the Trust and/or growth, funeral homes that previously received a smaller reimbursement will receive an additional, equalizing reimbursement. The amount ultimately distributed to a funeral home for its claims under the Settlement Agreement may not fully reimburse the funeral home for the payments made, and the goods and services provided, to customers.

Prior to the Settlement Agreement, since the beginning of this receivership, some rights of customers, such as the right to transfer burial contracts to other funeral homes, and the right to withdraw funds, have been restricted. The Settlement Agreement restores these rights, as follows:

- A customer will, under certain circumstances, be able to transfer the Burial Contract to another funeral home.
- A customer will, under certain circumstances, be able to withdraw the original principal amount placed in the account (but not including any irrevocable funds). Any irrevocable principal and all interest will remain in the account to be applied to future funeral costs.
- A funeral home and a customer can agree to amend the Burial Agreement to reduce the amount of goods and services provided, and the cost of the funeral, with the funeral home paying the difference between the account balance and the new funeral price to the customer in cash

In each of the three circumstances outlined above, payments will be made to or for the benefit of the customer. Under the Settlement Agreement, the Trust will make a part of the payment equal to the reimbursement amount (currently 60%) and the funeral home will be responsible for making the remainder of the payment (currently 40%), with the Funeral Home retaining a claim against the Trust for the amount paid.

The Settlement Agreement allows a funeral home to elect to have the Trust cover the amount to be paid in the event of Burial Agreement revocations and transfers, in which case the funeral home will reimburse the Trust, plus interest, by twelve monthly payments for the amount that the funeral home would otherwise be required to pay. The Settlement Agreement also allows the Trust, and in limited circumstances, the funeral home, to suspend payments in certain circumstances.

Because the Settlement Agreement provides protection to funeral homes from Trust-related litigation, funeral homes that enter into the Settlement Agreement assign to the Receiver any claims they may have relating to any shortfalls in the Trust (other than claims for reimbursement for goods, services and payments to customers).

ADDITIONAL INFORMATION

The above is a summary of some of the basic terms of the settlement. For the precise terms and conditions of the settlement, you are referred to the attached Settlement Agreement. You should also read the attached Motion and the proposed First Amended Injunction and Order carefully, since they affect your rights. A copy of the initial Injunction and Order granted by the Court can be viewed at www.wisconsinfuneraltrust.org/funeralhomesettlement.

You should read the attached papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you should consult one.)

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