

Texas: Dallas/Fort Worth

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Favorable Verdict for Defense Despite Negative Pre-Trial Publicity

The plaintiff sued a funeral home that is privately held by one of the country's largest providers of funeral services. The remains of the plaintiff's parents were removed from their crypts at the defendant funeral home at the request of the plaintiff's niece and nephew and the remains were moved to another funeral home. While his parents' remains were side-by-side at the defendant's funeral home, they were placed in crypts on either side of the plaintiff's recently deceased brother's body at the other funeral home. Plaintiff claimed that his niece and nephew moved his parents' remains without his consent, and in order to spite him. It was undisputed that plaintiff was his parents next-of-kin.

Texas law states that a "licensed funeral director...requesting a disinterment permit shall be responsible for obtaining a written consent of...the decedent's next-of-kin." Tex. Admin Code, Sec. 181.6. The plaintiff alleged various causes of action based on the defendant funeral home moving his parents' remains without his consent, as the next-of-kin. He claimed that moving their remains caused him extreme emotional distress, and that the disinterment violated religious tenets. The plaintiff's strategy included retaining a publicist who seeded stories with the largest circulation newspaper in Texas and television news stations that provided coverage before and during the trial.

The plaintiff's niece and nephew settled with plaintiff before the lawsuit was filed. The funeral home was the only defendant at trial in District Court, Dallas County, Texas. The plaintiff's demand before trial was never less than \$13 million, based on results of a mock trial conducted by the plaintiff's legal team.

At trial, the jury answered "no" to questions regarding whether the funeral home was grossly negligent or acted with fraud and the jury awarded \$0 for future mental anguish. The jury found that the plaintiff's total damages caused by the funeral home, and the niece and nephew, were \$200,000.00. The application of a credit for the niece and nephew's settlement would have resulted in a judgment that the plaintiff recover nothing from the defendant. The case settled a short time after the trial concluded.

Patrick Madden, of Macdonald, Devin, Ziegler, Madden, Kenefick & Harris, P.C. was lead counsel for the defendant funeral home, with Clayton Devin and Jacob Borchers as additional counsel