

# CALIFORNIA CASKET RETAILERS ASSOCIATION

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ORIGINAL

August 10, 1999



Ms. Mercedes Kelly  
Federal Trade Commission  
Washington, D.C.

Re: Review of The Funeral Rule

Dear Madam:

Please accept this letter on behalf of all members of the The California Casket Retailers Association, comprised of owner-operators of retail sellers of funeral goods, unaffiliated with licensed funeral directors or cemeteries. We are approximately 25 independent entrepreneurs, small business people, many family owned and operated, trying to survive as competitors to established, often conglomerate-sized funeral homes. **WE REPRESENT A CHOICE FOR THE CONSUMER AND COMPETITION TO THE ESTABLISHED FUNERAL INDUSTRY, AND OUR ABILITY TO SURVIVE IS DEPENDENT ON THE FTC ACTING TO PRESERVE THE ORIGINAL INTENT OF THE FUNERAL RULE, PARTICULARLY ALLOWING FAMILIES TO PURCHASE A CASKET FROM SOMEWHERE OTHER THAN THE FUNERAL HOME, AND NOT HAVING TO PAY ANY MORE TO THE FUNERAL HOME!** All we ask for is a level playing field, so that families pay the same amount for funeral services, irrespective of where they obtain the casket.

The unfair, anticompetitive practice, that is spreading rapidly among funeral homes, goes like this:

Families are quoted reduced service fees by funeral homes that are contingent upon the purchase of a casket from the funeral home, the "reduction" sometimes disclosed to the families over the phone, often not, as is the case with Inglewood Cemetery Mortuary in Inglewood, California. Inglewood Cemetery Mortuary and Rose Hills Cemetery Mortuary (the largest cemetery in the U.S., owned by Leowen Group and an investment banker) openly advertise significant discounts, (30%) to their service fees, only if families buy one of **their** caskets, usually hundreds of dollars more from them than from a casket retailer. So, the "savings" is no savings at all. The real intent here is for the funeral home to realize the profit from the sale of the casket, whether they provide the casket or not. It is a reverse "handling fee", carefully crafted in it's semantics to suggest a "discount", rather than the penalty it is for those that dare to stand up to them. The corollary to this contingent discount is that if you do NOT buy their casket, you have to pay more. In other words, those that do not pay their inflated prices are required to subsidize those that do. This practice is clearly not consistent with the intent of the "Funeral Rule", to protect the vulnerable family enabling them to exercise their right to buy a casket from an alternative source and not suffer monetarily or to be put under any duress for doing so.

The other insidious intent of this practice is to eliminate casket retailers altogether, allowing funeral homes to revert to their predatory practice of gouging the consumer for an item for which the consumer has no alternative source. The casket retailer has no effective way to combat this marketing strategy, since the retailer is not able to provide the services requiring a license. If funeral homes really want to compete, why don't they simply lower their casket prices?

Casket retailers are not at all opposed to becoming subject to the Funeral Rule. Most already are in compliance. Disclosure to the consumer of material, pricing, and the efficacy of sealing devices are properly

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protective of the consumer and we wholeheartedly endorse them. We believe that disclosure should go even further to inform the consumer: 1) That they have the right to purchase goods and services from casket retailers or others; 2) Whether the funeral home prepares the deceased body at the location of the funeral home or at another location, and 3) Whether the funeral home is family owned or owned by one of the conglomerates.

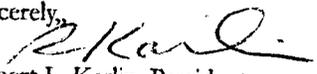
We also feel that cemeteries, monument dealers and all other suppliers of funeral goods OR services should comply with the Funeral Rule.

While we continue to strive at local levels for remedies to this unfair practice of bundling discounts contingent with the purchase of caskets, such as with the L.A. County D.A.'s office, the San Diego City Attorney's Office and at State levels, at the Department Of Consumer Affairs in Sacramento, we are getting no response, or "*This is not in our jurisdiction. It needs to be addressed by the FTC.*"

Please address this issue and please protect the consumer from an unfair practice, and at the same time remove this serious impediment to our survival. While we know this appears self-serving, we sincerely believe that it is in the best interests of the consumer to have alternative sources of goods and services. There are several families in California who would be willing to testify at the upcoming hearings in D.C. regarding their experiences at funeral homes, where bundling cost them significantly, both in terms of dollars and emotional anguish, at the most inappropriate time. We are talking about real people and real consequences if the FTC does not act now.

We most expectantly await the hearings and the beneficial changes we hope will be forthcoming.

Sincerely,

  
Robert L. Karlin, President

California Casket Retailers Association

Board Member, National Casket Retailers Association

President, California Casket Company