



# Grave Danger

A south Florida attorney specializes in cases involving funeral negligence.

In 2002, David Charlip was enjoying a Friday night cocktail with friends when a newly minted lawyer asked him for some advice about a potential case. It involved a woman who had died of cancer and was supposed to be cremated, but there had been an unexplained, 14-day delay in transporting her body to the crematorium. It turned out that the deceased woman's corpse had been diverted to Lynn University and embalmed by students in the school's mortuary program.

There were more mishandled corpses. The transport service, which worked for several south Florida funeral homes and handled unclaimed bodies for Miami-Dade County, was regularly providing cadavers without relatives' consent to the school as its mortuary students could practice embalming. The company, Professional Transport Systems, collected \$100 for each body it delivered to the university.

While the novice attorney wasn't sure he even had a case, Charlip was certain he

did — and that it was a doozy. "Not only was this a case, but this was a mass action," says Charlip, who took over as lead counsel and ended up winning an \$800,000 verdict on behalf of the cancer victim's husband and daughter.

The case also marked Charlip's entree into the unusual legal specialty of mortuary malpractice. Since then, the North Miami trial lawyer has handled cases across the country involving everything from illegally harvested body parts to desecrated graves to commingled ashes.

He is currently leading a class-action suit against the DFG Group, owner of the Gardens of Boca Raton, alleging that the company used unfair and deceptive practices in selling crypts and niches.

"Most people are totally unaware that this kind of law, or cases, exist — and that would include a lot of attorneys," says Charlip, whose firm also handles foreclosure defense, personal injury, business litigation and consumer law cases.

Other types of incidents commonly litigated in the realm of funeral negligence include misplaced bodies, bodies buried in the wrong place, husbands and wives separated, oversold plots, improperly exhumed bodies, stacking bodies, abuse of corpses and improper storage and refrigeration.

The cases are often challenging to pursue, and outcomes are unpredictable. The "cause of action" in most mortuary malpractice cases is for emotional distress, says Charlip, and that can sometimes be difficult to prove. Simply feeling upset or anxious isn't enough, he says. "Whether it's being placed on high blood pressure meds or seeing a doctor and taking Xanax or an anti-depressant, you have to

document the claim in some fashion medically."

While many of the cases settle, some go to trial. Verdicts and jury awards "are all over the place," says Charlip. "The sky's the limit in terms of what they're going to award because there's really no gauge to determine the damages. It's not like a broken arm or something you can see and feel — it's really how the plaintiff can communicate their emotional distress and how it's changed their life." Punitive damages can push the award tallies even higher.

All too often, unscrupulous operators have little or no insurance and there is no way to adequately compensate victims. In Chicago, two brothers who worked at a suburban cemetery were convicted of digging up graves, dumping the remains in unmarked mass graves in a remote corner of the property and reselling the plots. After the grave reselling scandal went public, the Burr Oak Cemetery declared bankruptcy. In the end, family members received settlement checks of between \$50 and \$100.

"People doing these things have no insurance, have no money and weak havoc on the poor survivors ... and there is no way to effectively compensate them," says Charlip, who represented a number of the victims in the Chicago case.

Charlip advises consumers to get "very involved" when hiring a funeral service or crematorium. Make sure the company is licensed and insured and "get everything in writing," he says. "Usually the businesses out there that are insured are the ones that do things, for the most part, properly. It's the fly-by-night operations that offer discounts and cheaper costs where you run into problems sometimes."

Verdicts and jury awards "are all over the place," says attorney David Charlip.



## Digital Remains

As an experienced elder law and probate attorney, Dave Slonim has spent much of his career helping clients and their families get their financial and personal affairs in order. But a couple of years ago, Slonim realized there was an important area people weren't addressing in their estate plans — their online presence.



Dave Slonim

While the average internet user today has 5.5 social media accounts, few consider what will happen to those accounts when they die. "My question to most people is, 'Do you want to live forever? Do you want your data to live forever, too?'" Most often, the answer is "no," says Slonim.

To help people manage their digital legacy, the Melbourne attorney created a service called Estate Pass that provides a way to retire the social media and other online accounts of an individual who dies. Family members can go onto Estate Pass' website, select the accounts they want closed and submit a copy of the decedent's death certificate and a form of government ID. Estate Pass does the rest of the work.

Costs range from \$50 to close two online accounts to \$100, for up to eight. Additional account closures cost \$15 each.

Slonim says customers have various reasons for wanting such accounts closed. Some, he says, are emotionally distressed by continuing streams of email reminders on social media about their loved ones. A forgotten Facebook page or abandoned e-mail account is also vulnerable to hacking, identity theft and other types of fraud.

Slonim says Estate Pass, which works with an array of digital service providers ranging from SnapChat to Ancestry.com to Ashley Madison, is also in the process of launching a service that will allow individuals to specify what happens to particular online accounts when they die — so that family members never have to get involved. "Certain people might want certain accounts not to be shared. Nobody wants to have family clean out certain closets," he says. ■