

IN THE CHANCERY COURT OF \_\_\_\_\_ COUNTY, \_\_\_\_\_

_____, FORMERLY KNOWN AS	)	
_____	)	
_____	)	
	)	
V.	)	NO. _____
	)	
THE ESTATES OF _____, _____	)	
AND _____	)	
	)	
	)	

COMPLAINT FOR DECLARATORY JUDGMENT AND INTERPLEADER ACTION

COMES NOW the Plaintiff, \_\_\_\_\_, pursuant to Rules \_\_\_\_ and \_\_\_\_ of the \_\_\_\_\_ Rules of Civil Procedure, and files this, its Complaint for Declaratory Judgment and Interpleader Action against the Defendants, the Estate of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (collectively referred to as the "\_\_\_\_\_") and in support hereof would show as follows:

1. \_\_\_\_\_ ("\_\_\_\_\_") is a \_\_\_\_\_ corporation, formerly known as \_\_\_\_\_ ("\_\_\_\_\_") whose principal office is located at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_.
2. The \_\_\_\_\_ are residents of \_\_\_\_\_ County, \_\_\_\_\_ whose address is \_\_\_\_\_. Process may be served on these Defendants at such residence address.
3. Jurisdiction and venue are proper in \_\_\_\_\_ County pursuant to \_\_\_\_ Code Ann. Sec. \_\_\_\_ and \_\_\_\_\_ as the county of \_\_\_\_\_'s principal office and the county where the cause of action occurred or accrued.
4. On or about \_\_\_\_\_, \_\_\_\_\_, Mr. \_\_\_\_\_ purchased \_\_\_\_\_ industrial life insurance Policy No. \_\_\_\_\_ in the face value of \$00.00. Attached as Exhibit "A" is a copy of Mr. \_\_\_\_\_'s insurance policy application. Attached as Exhibit "B" is a copy of \_\_\_\_\_ insurance Policy No. \_\_\_\_\_. Attached as Exhibit "C" is a copy of \_\_\_\_\_ Plan 920 brochure. Attached as Exhibit "D" is a copy of funeral home merchandise and service letter dated \_\_\_\_\_, \_\_\_\_\_. Attached as Exhibit "E" is a copy of Paid-Up Policy Certificate No. \_\_\_\_\_ showing that the premiums on Policy No. \_\_\_\_\_ were paid up in full on \_\_\_\_/\_\_\_\_/\_\_\_\_.
5. On or about \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, wife of Defendant Mr. \_\_\_\_\_, purchased \_\_\_\_\_ industrial life insurance Policy No. \_\_\_\_\_ in the face value of \$00.00. Attached as Exhibit "F" is a copy of Mrs. \_\_\_\_\_'s insurance policy application. A copy of the life insurance policy, Plan 920 brochure, funeral home merchandise and service

letter and Paid-Up Policy Certificate have not been provided by Defendants, although Plaintiff believes the documents are similar to those of Exhibits "B" through "E" for Mr. \_\_\_\_\_.

6. On or about \_\_\_\_\_, \_\_\_\_\_, daughter of Defendants Mr. \_\_\_\_\_ and Mrs. \_\_\_\_\_, purchased \_\_\_\_\_ industrial life insurance Policy No. \_\_\_\_\_ in the face value of \$00.00. A copy of \_\_\_\_\_'s insurance policy application form is attached as Exhibit "G". A copy of the life insurance policy, Plan 920 brochure, funeral home merchandise and service letter, and Paid-Up Policy Certificate have not been provided by the Defendants, although Plaintiff believes that the documents are similar to those of Exhibits "B" through "E" for Mr. \_\_\_\_\_.

7. On information and belief, Mr. \_\_\_\_\_ died on \_\_\_\_\_, \_\_\_\_\_. Proof of death has not been provided to Plaintiff.

### REQUEST FOR DECLARATORY RELIEF

8. Issues have arisen between the Plaintiff and Defendants concerning the rights, duties and obligations of the respective parties pursuant to the insurance policies and documentation attached as exhibits to this Complaint. The Court is requested to declare the rights, status or other legal relations under such documents.

9. In \_\_\_\_\_ (insert date), Mr. \_\_\_\_\_ got into the funeral home business by purchasing several funeral homes from the \_\_\_\_\_ family. All of the funeral homes included \_\_\_\_\_ in the various funeral home names. Several years later, Mr. \_\_\_\_\_ organized \_\_\_\_\_, which provided industrial life insurance policies. In the early \_\_\_\_\_'s, Mr. \_\_\_\_\_ concentrated his efforts on \_\_\_\_\_ and sold his funeral home companies. Most of the funeral homes, either immediately or over time, have dropped the name \_\_\_\_\_. All of the funeral homes are presently operating.

10. Funeral homes often provide pre-need arrangements to its customers. There are various forms of pre-need funeral planning. Some plans include life insurance to fund a portion of the funeral home obligation.

11. The \_\_\_\_\_'s pre-need funeral arrangements involved funeral home merchandise and service agreement funded in part by life insurance. The \_\_\_\_\_ each purchased a life insurance policy and the funeral home group guaranteed that it would provide certain merchandise and services in exchange for an assignment of the proceeds of the life insurance policy. In such an arrangement, \_\_\_\_\_ provides a life insurance policy and the funeral home provides certain funeral merchandise and services set forth in the Plan brochure and letter. Under the arrangement, \_\_\_\_\_ is obligated to pay the face value of the life insurance policy. The funeral home is obligated to provide certain merchandise and services in exchange for an assignment of the life insurance proceeds.

12. The \_\_\_\_\_ life insurance policy attached as Exhibit "B" is an industrial life insurance policy with an insured sum of \$00.00. The policy provisions clearly set forth the conditions under which the policy proceeds are payable. There are no provisions in the policy concerning the payment of funeral merchandise or services. The only obligation of \_\_\_\_\_ under the insurance policy is to pay the sum insured.

13. The funeral home merchandise and service letter attached as Exhibit "D" informs Mr. \_\_\_\_\_ that \_\_\_\_\_ Funeral Homes, or any Funeral Director under contract with \_\_\_\_\_, will furnish a 20 gauge steel casket and service and a burial vault either metal or concrete upon surrender (assignment) of Policy \_\_\_\_\_ proceeds to the funeral home. The letter informs Mr. \_\_\_\_\_ that he has a choice of specific funeral homes that will provide the specified merchandise and services in exchange for the policy proceeds. There is no language in the letter that provides that the \_\_\_\_\_ insurance policy is for the full value of any funeral or for the merchandise or services identified in the letter. There is no language in the letter indicating that the specified funeral merchandise and services are available at any funeral home other than the specified funeral homes.

14. The \_\_\_\_\_ brochure attached as Exhibit "C" further discusses the Plan 920, which identifies the burial plan as a combination of a life insurance policy and funeral home agreement to provide the policyholder with certain funeral merchandise and services at specified funeral homes. The brochure lists the \_\_\_\_\_ Funeral Homes and the Funeral Directors under contract with \_\_\_\_\_ on the date the policy was issued. The brochure identifies funeral homes in \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ ( \_\_\_\_\_ Protective Service). There is no language in the brochure that indicates that the insured is entitled to the specified funeral merchandise and services at any other funeral home.

15. On \_\_\_\_\_, \_\_\_\_\_, Defendants' counsel informed the \_\_\_\_\_, \_\_\_\_\_, office of \_\_\_\_\_ that Mr. \_\_\_\_\_ died that morning. Mr. \_\_\_\_\_'s counsel was informed that Mr. \_\_\_\_\_ had a \$00.00 \_\_\_\_\_ insurance policy which would be paid as directed by the beneficiary. Defendants' counsel was further informed that the funeral home merchandise and service letter was an obligation of a funeral home committed to provide the services. Names and addresses of funeral homes in \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, who would honor the merchandise and services letters in exchange for an assignment of the life insurance policy proceeds, were identified by name and address. Attached as Exhibit "H" is a copy of a \_\_\_\_\_, \_\_\_\_\_, letter from the \_\_\_\_\_'s counsel verifying that the \_\_\_\_\_ were informed of funeral homes that would honor the merchandise and service letter in exchange for an assignment of the life insurance policy proceeds.

16.

\_\_\_\_\_

17.

\_\_\_\_\_

18.

\_\_\_\_\_

19. A bona fide justiciable issue exists between the parties.

20. Based on the foregoing, it is requested that this Court declare the following matters:

A. Whether or not the only obligation of \_\_\_\_\_ is to pay the insured sum under the insurance policy.

B. Whether or not the Plan 920 brochure creates an obligation for \_\_\_\_\_ to guarantee/insure that each of the funeral homes identified in the brochure will provide the specified merchandise and services for no further charge to the policyholder or policy beneficiary.

C. Whether or not the Plan 920 brochure creates an obligation for \_\_\_\_\_ to provide reimbursement/insurance for the entire cost of the specified merchandise and services provided by a funeral home not identified in the brochure.

D. Whether or not \_\_\_\_\_ satisfies any obligation it may have pursuant to the Plan 920 brochure by informing the policyholder or policy beneficiary of the funeral homes that it is aware of at the time of inquiry or death that will provide the specified funeral merchandise and services in exchange for an assignment of the life insurance policy.

E. Whether or not the \_\_\_\_\_, \_\_\_\_\_, funeral merchandise and services letter creates an obligation for \_\_\_\_\_ to guarantee/insure that each of the funeral homes identified in the letter will provide the specified funeral merchandise and services for no further charge to the policyholder or policy beneficiary.

F. Whether or not the \_\_\_\_\_, \_\_\_\_\_, funeral merchandise and services letter creates an obligation for \_\_\_\_\_ to provide reimbursement/insurance for the entire cost of the specified funeral merchandise and services provided by a funeral home not identified in the letter.

G. Whether or not \_\_\_\_\_ satisfies any obligation it may have pursuant to the \_\_\_\_\_ 16, \_\_\_\_\_, funeral merchandise and services letter by informing the policyholder or policy beneficiary of the funeral homes that it is aware of at the time of inquiry or death that will provide the specified funeral merchandise and services in exchange for an assignment of the life insurance policy.

H. Whether or not the Defendants waived their rights under the Plan 920 and funeral home merchandise and services letter by choosing a non-participating funeral home. This issue is directed solely to the funeral merchandise and services. Plaintiff does not contest, and has not contested, that the \$00.00 insured sum under the policy is payable as directed by the policy beneficiary.

I. Whether or not the Defendants waived their rights under the Plan 920 and funeral home merchandise and services letter by procuring merchandise and/or services different from that provided in the Plan and letter. (This issue is directed solely to the funeral merchandise and services. Plaintiff does not contest, and has not contested, that the \$00.00 insured sum under the policy is payable as directed by the policy beneficiary.)

#### INTERPLEADER ACTION

21. The Plaintiff does not contest, and has not contested, that the \$00.00 insured sum provided under life insurance Policy No. \_\_\_\_\_ is payable as directed by the beneficiary, Mrs. \_\_\_\_\_.

22. To date, Mrs. \_\_\_\_\_, as beneficiary of Mr. \_\_\_\_\_'s policy, has not requested policy payment, provided a copy of the Death Certificate or other information necessary to process and pay a claim. Such proof of death is required by the insurance policy and recommended by the \_\_\_\_\_ Insurance Department.

23. Subject only to Defendants providing satisfactory proof of death, Plaintiff interpleads into the Registry of the Court the sum of 00.00 as payment of the policy proceeds for \_\_\_\_\_ insurance Policy No. \_\_\_\_\_.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that this Court declare the items specified in section 20 of this Complaint and that the Court disburse the interpled funds in accordance to the policy provisions and applicable law. The Plaintiff requests further, other and different relief as is reasonable and proper in the premises.

Respectfully submitted,

\_\_\_\_\_