



## AlaFile E-Notice

52-CV-2020-900158.00

Judge: STEPHEN F. BROWN

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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

SCI SVCS.LLC DBA ROSELAWN FUNERAL HOME & CEMETERY V. N/A N/A  
52-CV-2020-900158.00

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IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

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In Re: SCI SERVICES (ALABAMA), LLC	)	CIVIL ACTION NO. 2020-CV-900158
D/B/A ROSELAWN FUNERAL HOME AND	)	
CEMETERY,	)	
	)	
Petitioner,	)	
	)	
	)	
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**ORDER**  
**ON THE VERIFIED PETITION FOR COURT ORDER**  
**TO DISINTER AND TRANSFER CERTAIN REMAINS IN THE**  
**MAUSOLEUM LOCATED AT ROSELAWN FUNERAL HOME AND CEMETERY**

This matter is before the Court on the Verified Petition to Disinter and Reinter Certain Remains in the Mausoleum Located at Roselawn Funeral Home and Cemetery (“the Petition”) filed by SCI Services (Alabama), LLC d/b/a Roselawn Funeral Home and Cemetery (“SCI”).

The Court, having read the Petition filed by SCI and considered the relevant law, makes the following findings of fact and conclusions of law.

1. SCI Services (Alabama), LLC (“SCI”) is an Alabama limited liability company which owns Roselawn cemetery, which is in Morgan County, Alabama, in addition to other funeral homes, including a crematory, in the State of Alabama.
2. SCI acquired Roselawn in November 2006.
3. Prior to SCI’s acquisition of Roselawn in 2006, the Mausoleum (“the Mausoleum”) was constructed in the cemetery.

4. The Mausoleum has 160 crypt spaces. For decades, going back to at least the 1960s, if not before, the predecessor owners of Roselawn sold crypt spaces and interred casketed remains in the Mausoleum.

5. The Mausoleum had approximately 60 occupied crypt spaces. At present, there are only 24 occupied crypt spaces remaining.

6. The Mausoleum is very old, and as a result, is in decline.

7. Over the years, SCI employees have talked with family members who have come to visit their loved ones interred in the Mausoleum to obtain their consent to disinter the remains of their loved ones and reinter them in a newer, more structurally sound mausoleum located in the same cemetery at Roselawn (“the New Mausoleum”).

8. However, SCI has been unable to locate some of the family members for the remaining occupied crypt spaces due to the old paperwork maintained by Roselawn’s predecessors, the passage of time, and because some of the occupied crypt spaces are no longer visited by family members.

9. As a result, SCI has exhausted its abilities to contact family members in order to obtain permission to disinter the remains from the Mausoleum and to reinter them in the New Mausoleum.

10. SCI has observed cracks in the concrete of the Mausoleum and it is clear that the structural integrity of the Mausoleum is no longer sound.

11. SCI has made temporary fixes to the Mausoleum to add supports, but the Mausoleum is beyond repair. Therefore, SCI has determined that all remains in the Mausoleum must be permanently moved to the New Mausoleum to safeguard and improve the conditions for occupancy and for visitation.

12. The Code of Alabama does not specifically provide a remedy for the situation where a cemetery owner cannot locate a deceased's family members yet needs to disinter and reinter the deceased's remains in order to better preserve and protect them in the same cemetery.<sup>1</sup> However, the Supreme Court of Alabama has recognized the broad powers in equity of the circuit courts of this state to do equity and fashion remedies to achieve good and just results.<sup>2</sup>

13. The facts justify, and indeed necessitate, the disinterment and reinterment described herein.

14. When removing the caskets and casings from the Mausoleum, SCI will inspect the caskets before reintering them into the New Mausoleum and if a casket needs to be replaced prior to reintering the remains in the New Mausoleum, then SCI will do so.

15. The New Mausoleum is located a short distance from the Mausoleum.

16. All remains will be treated with dignity, care, and respect, and SCI will have appropriate personnel on site to ensure that the process is conducted in a dignified manner.

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<sup>1</sup> Ala. Code § 11-47-60 *et seq.*, addresses the notice requirements concerning the abandonment of a cemetery or a portion of a cemetery, but SCI is not abandoning Roselawn Funeral Home and Cemetery, or a portion of it, as it is very much an ongoing concern. Rather, SCI seeks only to transfer the remains from the old mausoleum to the new mausoleum. Nevertheless, it is the intent of this Court to require SCI to follow a substantially similar notice process as set forth in this order.

<sup>2</sup> *See Robbins v. Bell*, 29 So. 2d 511, 514 (Ala. 1969) ("A court of equity has full power to condition any relief upon the willingness to do equity, where both parties are subject to equities and the court has full power to prescribe the conditions to be complied with by either or both.) (citing *English v. Huckaba*, 219 Ala. 526, 122 So. 841; *Federal Land Bank of New Orleans v. Davis*, 228 Ala. 85, 152 So. 226). *See also BBC Inv. Co. v. Ginsberg*, 190 So. 2d 702, 705-06 (Ala. 1966). ("A court of equity has the power under due pleading to consider the evidence and to mold its decree so that justice will be done in the premises between the parties touching the common subject matter. Or stated differently, it is of the nature of equity proceedings that the court may mold its decrees so as to adjust the equities of all parties [] and will not, in the name of equity, grant relief which is inequitable and unwise. The courts of equity under a prayer for general relief have power to mold their decrees to meet the equities developed at the trial.") (internal citations omitted).

17. SCI will bear all costs associated with the disinterment and reinterment, and with placing any remains in new caskets and casings, if needed.

18. SCI will publish a notice of its intent to transfer the remains currently in the Mausoleum into the New Mausoleum in *the Hartselle Enquirer* once every week for two months. Thereafter, any objections to the orders entered herein must be filed with this Court within thirty days. Upon the expiration of the thirty day period, SCI may transfer the remains from the Mausoleum and reinter them into the New Mausoleum as described herein.

19. Known next of kin will be advised of this Court order, as well as the specific location of the reinterment. That information also will be available at Roselawn and on its website. SCI will keep a permanent record of the location of all reinterred remains.

20. In an attempt to notify the next of kin for whom SCI does not have contact information, SCI will publish notice of this Court order, as well as information on the disinterment and reinterment, on Roselawn's website. SCI also will have copies of that notice available at Roselawn.

21. Due to the condition of the Mausoleum, SCI has no choice but to relocate the remains.

22. Upon due consideration of the facts and law, the Court finds: (i) the Mausoleum has certain structural integrity issues; (ii) repair of the Mausoleum is not feasible; (iii) all remains in the Mausoleum must be removed. Therefore, the Court concludes that it is necessary, just, and appropriate that SCI disinter and reinter the remains as described herein.

Accordingly, it is ADJUDGED, ORDERED, AND DECREED that (1) the Verified Petition is GRANTED; (2) SCI is authorized to disinter all remains in the Mausoleum and reinter them in the New Mausoleum at Roselawn after the publication requirement in Paragraph 18 has

been met; (3) SCI has notified the known next of kin to advise them of this Court order, as well as the specific location of the reinterment; (4) SCI has also published notice of the disinterment and reinterment on the Roselawn website to notify unknown next of kin and shall have copies of that notice available at Roselawn; (5) SCI shall keep a permanent record of the location of all reinterred remains; and (6) all costs associated with the disinterment and reinterment, including any costs associated with placing any remains in new caskets and casings, shall be paid by SCI.

ENTERED this 16<sup>th</sup> day of September, 2020.

  
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CIRCUIT JUDGE