

Circuit Court of Maryland

[Go Back](#)

Case Information

Court System: Circuit Court for Calvert County - Civil System
Case Number: 04C11000577
Title: Maryland Department Of Labor, Licensing And Regulation Office Of Cemeter
Case Type: Other Civil **Filing Date:** 05/20/2011
Case Status: Reopened/Active

Plaintiff/Petitioner Information

(Each Plaintiff/Petitioner is displayed below)

Party Type: Plaintiff **Party No.:** 1

Business or Organization Name: Maryland Department Of Labor, Licensing And Regulation Office Of Cemetery O

Address: 500 N. Calvert Street
City: Baltimore **State:** MD **Zip Code:** 21202

Attorney(s) for the Plaintiff/Petitioner

Name: King, Esq, Kris Michael

Practice Name: Dept Of Labor Licensing And Regulation

Address: 500 N. Calvert Street
Suite 406
City: Baltimore **State:** MD **Zip Code:** 21202-3651

Name: Wirsching, Paulette

Practice Name:

Address: 500 N Calvert St
Ste 406
City: Baltimore **State:** MD **Zip Code:** 21202-3651

Defendant/Respondent Information

(Each Defendant/Respondent is displayed below)

Party Type: Defendant **Party No.:** 1

Business or Organization Name: Badtec, Inc. Et Al

Address: 10155 Ward Road
City: Dunkirk **State:** MD **Zip Code:** 20754

Aliases Defendant/Respondent

Name: Southern Memorial Gardens

Attorney(s) for the Defendant/Respondent

Name: Wyrrough, Esq, Richard R

Practice Name: Cain & Wyrrough, P. C.

Address: 15051 Marlboro Pike
City: Upper Marlboro **State:** MD **Zip Code:** 20772

Court Scheduling Information

Event Type: Hearing **Notice Date:**

Event Date: 05/26/2011 Event Time: 09:00 AM
Result: Held/Concluded Result Date: 05/26/2011

Event Type: Hearing Notice Date: 08/04/2011
Event Date: 08/10/2011 Event Time: 09:00 AM
Result: Held/Concluded Result Date: 08/10/2011

Related Persons Information

(Each Related person is displayed below)

Party Type: Intervenor Party No.: 2
Name: Graybill, Patricia

Attorney(s) for the Related Persons

Name: Wisneski, Esq, Edward Stephen
Practice Name: Patton Boggs L L P
Address: 2550 M Street N W
Suite 1100
City: Washington State: DC Zip Code: 20037

Party Type: Intervenor Party No.: 1
Name: Wilson, Dorothy

Attorney(s) for the Related Persons

Name: Wisneski, Esq, Edward Stephen
Practice Name: Patton Boggs L L P
Address: 2550 M Street N W
Suite 1100
City: Washington State: DC Zip Code: 20037

Document Tracking

(Each Document listed. Documents are listed in Document No./Sequence No. order)

Doc No./Seq No.: 1/0
File Date: 05/20/2011 Close Date: 05/26/2011 Decision:
Party Type: Plaintiff Party No.: 1
Document Name: Emergency Petition For Temporary Restraining Order & Preliminary Injunction

Doc No./Seq No.: 2/0
File Date: 05/20/2011 Close Date: 05/20/2011 Decision:
Party Type: Plaintiff Party No.: 1
Document Name: Verification Of Notice Of Request For Temporary Restraining Order & Prelimin

Doc No./Seq No.: 3/0
File Date: 05/23/2011 Close Date: 05/20/2011 Decision: Granted
Document Name: Temporary Order Granted

ORDERED, Petition for Temporary Restraining Order is granted and that pending a determination of Plt's Emergency Petition for Preliminary Injunction, Def's, their agents, servants, and employees, and all persons acting in concert with them be, and hereby are, ordered to immediately pay the balance of all funds presently being held by Suntrust Bank in the Southern Memorial Gardens Preened Trust Account, Account No. XXXX5997, and Southern Memorial Gardens Perpetual Care Trust Account, Account No. XXXX5998, and/or any preneed or perpetual care trust funds presently being held by the Def's, into the Court's registry, with the disposition of those funds to be determined by further order of

this Court. It is further ORDERED, that the Def's, their agents, servants, and employees, and all persons acting in concert with them shall immediately cause the maintenance and preservation of the records of Southern Memorial Gardens, including records of preneed and at need sales, records of interments, authorization records, maps, plats of lots, including lots that are occupied, unoccupied and unsold. Copies given in open court to Plt's atty on 5/20/11 and mailed to Richard Wyrough, Esq., Daniel Martin, George Martin and Lineeta Jones on 5/23/11

Doc No./Seq No.: 4/0

File Date: 05/24/2011 Close Date: 05/24/2011 Decision:

Document Name: Return of Service - Served

Subpoena Duces Tecum served on Jennifer Culver, COR/Associate Branch Manager on 5/24/11

Doc No./Seq No.: 5/0

File Date: 05/26/2011 Close Date: 05/26/2011 Decision:

Document Name: Open Court Proceedings/Hearing Held

Attorneys present: Richard Wyrough, Kris King and Paulette Winsching. Consent Order submitted and signed by the Court. (GSM)

Doc No./Seq No.: 6/0

File Date: 05/26/2011 Close Date: 05/26/2011 Decision: Granted

Document Name: Consent Order of Court

1. Defendants, Badtec, Inc., Daniel Martin and George Martin, hereby consent to an Order of this Court requiring that all Badtec, Inc. d/b/a Southern Memorial Gardens pre-need trust funds presently being held in this Court's Registry in this Case #C11-577, shall remain in Court's registry pending further Order of this Court.

2. Defendants, Badtec, Inc., Daniel Martin and George Martin, hereby consent to an Order of this Court requiring that all Badtec, Inc. d/b/a Southern Memorial Gardens perpetual care trust funds presently being held in this Court's Registry in this Case #C11-577 shall remain in the Court's registry pending further Order of this Court.

3. The Defendants hereby consent to the transfer of all funds presently being held in Sun Trust Court's registry pending further Order of this Court.

4. The Defendants, Badtec, Inc., d/b/a Southern Memorial Gardens, Daniel Martin and George Martin hereby consent to an Order of this Court requiring that the Defendants, their agents, servants and employees and all persons acting in concert with them shall immediately cause the maintenance and preservation of the records of Badtec, Inc., d/b/a Southern Memorial Gardens including records of pre-need and at-need sales, records of interments, authorization records, maps, plats of lots including lots that are occupied, unoccupied and unsold.

5. The Defendants shall be permitted for the period of May 26, 2011 through and including June 15, 2011 to request an Order of Court allowing them to:

- a. Honor existing pre-need contracts; or
- b. Enter into contracts for at-need sales to the extent that there is a "heritage" relationship between the deceased and the cemetery.

The Defendants shall provide a copy of all existing pre-need contracts honored and all new at-need sales contracts for the above-stated time frame to the Office of Cemetery Oversight at the time of the filing of a request for an Order of Court. With regard to "Lee Group" contracts, the Defendants will provide a copy of the contract, if available, however, if the contract is not available, the Defendants will provide other documentation supportive of their request for withdrawal of pre-need trust funds from the Court Registry.

6. A heritage relationship shall be defined as:

- a. A person who has ownership of a burial lot in the cemetery;
- b. A person who has beneficial ownership of a burial lot in the cemetery (i.e. membership in a church which owns a burial lot in the cemetery); or
- c. A person who does not own a lot in the cemetery but has a relative buried in the cemetery.

7. In conjunction with any request for a Court Order pursuant to Paragraph 4 of this Consent Order, the Defendants shall file notice with the Court in this Case No. C11-577 for all existing pre-need contracts honored or for any new at-need sales contracts. The Defendants shall describe the "heritage" relationship for all contacts in the Notice to the Court. The Office of Cemetery Oversight will have one business day after receipt of the Notice to file an objection based upon the claimed heritage relationship.

8. The Defendants shall specify in a separate request for an Order of Court the sum requested from the Court's registry for any pre-need burial contract

honored. The Office of Cemetery Oversight shall have five business days from the date of receipt to object to the amount requested.

9. Defendants shall immediately provide notice of the filing of any Request for an Order of Court pursuant to Paragraph 4 to the office of Cemetery Oversight. The Defendants shall promptly notify the Office of Cemetery Oversight by telephone to confirm receipt of a copy of the Notice of Court for each filing.

10. The Defendants will deposit all statutorily required trust amounts for perpetual care stemming from new contracts into the Court's Registry. (Copies to Plaintiff's attorney & Defendants' attorney)

Doc No./Seq No.: 7/0

File Date: 05/26/2011 Close Date: Decision:

Party Type: Plaintiff Party No.: 1

Document Name: Line

Plt hereby dismisses Suntrust Bank as a Def in this action without prejudice

Doc No./Seq No.: 8/0

File Date: 06/01/2011 Close Date: 06/01/2011 Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial

Doc No./Seq No.: 9/0

File Date: 06/13/2011 Close Date: 06/13/2011 Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial

Doc No./Seq No.: 10/0

File Date: 06/16/2011 Close Date: 06/15/2011 Decision: Granted

Document Name: Order of Court

ORDERED, by the Circuit Court for Calvert County, Maryland that the relief requested is hereby, GRANTED, for the limited purposes set forth in the petition and that it is hereby further ORDERED, by the Circuit Court for Calvert County, Maryland that the suspension of Daniel Martin as a registered cemetarian and the cease and desist order issued to BADTEC, Inc., t/a Southern Memorial Gardens directing BADTEC, Inc. to immediately cease operations as Southern Memorial Gardens shall remain in full force and effect pending further order from this court. Copies mailed to Plt's atty, Def's atty and DLLR (Paulette Wirsching) on 6/16/11

Doc No./Seq No.: 11/0

File Date: 06/16/2011 Close Date: 06/16/2011 Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial

Doc No./Seq No.: 12/0

File Date: 06/16/2011 Close Date: 06/16/2011 Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial (Withdraw)

Doc No./Seq No.: 13/0

File Date: 06/16/2011 Close Date: 06/24/2011 Decision: Granted

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial

Doc No./Seq No.: 14/0

File Date: 06/24/2011 Close Date: 06/24/2011 Decision: Granted
Document Name: Order of Court

ORDERED, by the Circuit Court for Calvert County, Maryland that the relief requested is hereby GRANTED, for the limited purposes set forth in the petition. ORDERED, by the Circuit Court for Calvert County, Maryland that the suspension of Daniel Martin as a registered cemeterian and the cease and desist order issued to BADTEC, Inc., t/a Southern Memorial Gardens directing BADTEC, Inc., to immediately cease operations as Southern Memorial Gardens shall remain in full force and effect pending further order from this court. Copies mailed to Plt's atty, Def's atty and Paulette Wirsching on 6/24/11

Doc No./Seq No.: 15/0

File Date: 06/30/2011 Close Date: 06/30/2011 Decision:
Party Type: Plaintiff Party No.: 1
Document Name: Attorney Appearance Terminated
Kris M King

Doc No./Seq No.: 16/0

File Date: 06/30/2011 Close Date: 06/30/2011 Decision:
Party Type: Defendant Party No.: 1
Document Name: Attorney Appearance Terminated
Richard R Wyrrough

Doc No./Seq No.: 17/0

File Date: 06/30/2011 Close Date: 06/30/2011 Decision:
Party Type: Defendant Party No.: 1
Document Name: Notice & Emergency Petition for Order Of Burial

Doc No./Seq No.: 18/0

File Date: 07/05/2011 Close Date: Decision:
Party Type: Plaintiff Party No.: 1
Document Name: Response to Emergency Petition For Order Of Burial

Doc No./Seq No.: 19/0

File Date: 07/06/2011 Close Date: 07/06/2011 Decision: Denied
Document Name: Memorandum
The request of Notice and Emergency Petition for Order of Burial filed with the clerk's office June 30, 2011, is hereby DENIED. The request was made beyond the time limits of the consent order allowing burials between May 26, 2011 through June 15, 2011. Copies mailed to Paulette Wirsching, Kris King, Richard Wyrrough, Daniel Martin and Douglas Lodge on 7/6/11

Doc No./Seq No.: 20/0

File Date: 07/12/2011 Close Date: 07/14/2011 Decision: Granted
Party Type: Defendant Party No.: 1
Document Name: Notice & Emergency Petition For Order Of Burial
Burial Services to the following individual: Doris Ball

Doc No./Seq No.: 21/0

File Date: 07/12/2011 Close Date: 07/15/2011 Decision: Denied
Party Type: Defendant Party No.: 1
Document Name: Notice & Emergency Petition For Order Of Burial
Burial services to the following individual: Debra Ann Lancaster

Doc No./Seq No.: 22/0

File Date: 07/13/2011 Close Date: Decision:
Document Name: Docket entry: Per Alexa case is being hand carried to Judge Tillerson-Adams in

Prince George's County by Judge Platt.

Doc No./Seq No.: 23/0

File Date: 07/15/2011 Close Date: 07/13/2011 Decision: Granted

Document Name: Order of Court

ORDERED, that the Petition for Order of Burial be and hereby GRANTED for the limited purposes of the contract with Doris Ball. Copies mailed to Plt's atty, Def's atty, Richard Wyrough, Daniel Martin, Kris King, Douglas Lodge and Paulette Wirsching on 7/15/11

Doc No./Seq No.: 24/0

File Date: 07/15/2011 Close Date: 07/13/2011 Decision: Denied

Document Name: Order of Court

ORDERED, that the Petition for Order of Burial be and hereby DENIED as to the contract with Debra Ann Lancaster as it was entered into on July 11, 2011 and is a blatant violation of the cease and desist order. Copies mailed to Plt's atty, Def's atty, Kris King, Richard Wyrough, Daniel Martin, Douglas Lodge and Paulette Wirsching on 7/15/11

Doc No./Seq No.: 25/0

File Date: 07/15/2011 Close Date: 07/15/2011 Decision: Denied

Party Type: Defendant Party No.: 1

Document Name: Notice & Motion To Reconsider Order Denying Emergency Petition For Order Of Bu

Doc No./Seq No.: 26/0

File Date: 07/15/2011 Close Date: 07/15/2011 Decision:

Document Name: Affidavit

Doc No./Seq No.: 27/0

File Date: 07/15/2011 Close Date: 07/15/2011 Decision: Denied

Document Name: Order of Court

Notice & Motion To Reconsider Order Denying Emergency Petition For Order Of Burial. DENIED

Doc No./Seq No.: 28/0

File Date: 07/15/2011 Close Date: 07/15/2011 Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial
Burial services to the following individual: Robert Catterton

Doc No./Seq No.: 29/0

File Date: 07/20/2011 Close Date: Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Motion To Reconsider Order Denying Emergency Petition For Order Of To allow the burial of Debra Ann Lancaster

Doc No./Seq No.: 29/1

File Date: 07/21/2011 Close Date: Decision:

Party Type: Plaintiff Party No.: 1

Document Name: Answer

Doc No./Seq No.: 30/0

File Date: 07/20/2011 Close Date: 07/21/2011 Decision:

Document Name: Affidavit

Doc No./Seq No.: 31/0

File Date: 07/20/2011 Close Date: 07/21/2011 Decision:

Party Type: Defendant Party No.: 1

Document Name: Notice & Emergency Petition For Order Of Burial
Burial services for the follingw individual: John D. Joyce

Doc No./Seq No.: 32/0

File Date: 07/21/2011 Close Date: Decision:

Party Type: Plaintiff Party No.: 1

Document Name: Response to Motion to Reconsider Denying Emergency Petition for Order of Burial

Doc No./Seq No.: 33/0

File Date: 07/21/2011 Close Date: Decision:

Party Type: Plaintiff Party No.: 1

Document Name: Response to Emergency Petition for Order of Burial

Doc No./Seq No.: 34/0

File Date: 07/21/2011 Close Date: 07/18/2011 Decision: Granted

Document Name: Order of Court

ORDERED, that the Request for Relief is GRANTED for the limited purposes of the contract with Robert Catterton as it was entered into in 1965;
ORDERED, that the suspension of Daniel Martin as a registered cemeterian and the cease and desist order issued to BADTEC, Inc. t/a Southern Memorial Gardens directing BADTEC, Inc. to immediate cease operations as Southern Memorial Gardens shall remain in full force and effect pending further order from this court.
(Copies to Kris King, Esq., Paulette Wirsching, Esq., Richard Wyrrough, Esq., Douglas Lodge and Daniel Martin)

Doc No./Seq No.: 35/0

File Date: 07/22/2011 Close Date: 07/21/2011 Decision: Granted

Document Name: Order of Court

ORDERED, that the Request for Relief is DENIED pending hearing as set forth in the Order of Court dated July 18, 2011.
(Copies to K. King, Esq., P. Wirshing, Esq., R. Wyrrough, Esq., Douglas Lodge and Daniel Martin)

Doc No./Seq No.: 36/0

File Date: 07/25/2011 Close Date: 07/25/2011 Decision:

Document Name: Correspondence (2)

Ref: This letter is to inform you that SunTrust Bank hereby resigns as trustee of the above referenced Perpetual Care Trust effective 30 days from delivery of this letter to you.

Doc No./Seq No.: 37/0

File Date: 08/04/2011 Close Date: 08/04/2011 Decision:

Party Type: Plaintiff Party No.: 1

Document Name: Hearing Notice

Event: HEAR Block Date: 08/10/11 Facility: CR4

PARTIES :

Wyrrough, Richard 15051 Marlboro Pike , Upper Marlboro, MD, 20772
Wirsching, Paulette 500 N Calvert St Ste 406, Baltimore, MD, 212023651

Doc No./Seq No.: 38/0

File Date: 08/04/2011 Close Date: Decision:

Party Type: Defendant Party No.: 1
Document Name: Request for Hearing on Motion

Doc No./Seq No.: 39/0
File Date: 08/05/2011 Close Date: 08/10/2011 Decision: Granted
Document Name: Emergency Motion to Intervene As A Def
Dorothy Wilson and Patricia Graybill

Doc No./Seq No.: 40/0
File Date: 08/05/2011 Close Date: 08/08/2011 Decision:
Document Name: Memorandum In Support Of Emergency Motion To Intervene

Doc No./Seq No.: 41/0
File Date: 08/10/2011 Close Date: Decision:
Party Type: Plaintiff Party No.: 1
Document Name: Response to Emergency Motion To Lift The Court's July 21, 2011 Order For The

Doc No./Seq No.: 42/0
File Date: 08/10/2011 Close Date: Decision:
Document Name: Open Court Proceedings/Hearing Held
Re: Counsel Wirsching and King present for plt; Counsel Wyrough present for def; hearing on def's request for hearing; arguments heard; court grants the right for pre-existing plot owners to be granted the right for burial from now up until foreclosure and title transfer, however, the def cannot provide any services; all services to be provided by vendors; plt's attorney to submit order; order to be submitted within 30 days; case closed for statistical purposes subject for further order of court. Copies sent to parties' attorneys on 8/10/11.

(Judge McKee, CR #4, CS, Nelson)

Doc No./Seq No.: 43/0
File Date: 08/10/2011 Close Date: 08/10/2011 Decision:
Document Name: Reopen Case
Reopen to conclude 8/10/11 hearing

Doc No./Seq No.: 44/0
File Date: 08/10/2011 Close Date: 08/10/2011 Decision: Granted
Document Name: Order of Court
ORDERED, The Intervenor's Emergency Motion to Intervene as Party Def is hereby GRANTED; and Intervenors shall be entitled to file in the above-captioned matter a motion seeking the burial of their father, Chester M. Kosheba. Copies mailed to all parties on Certificate of Service on 8/10/11

Doc No./Seq No.: 45/0
File Date: 08/10/2011 Close Date: 08/10/2011 Decision: Granted
Party Type: Intervenor Party No.: 2
Document Name: Emergency Motion To Lift The Court's July 21, 2011 Order For The Limited Filed by INT002-Graybill, INT001-Wilson

Doc No./Seq No.: 46/0
File Date: 08/10/2011 Close Date: Decision:
Party Type: Intervenor Party No.: 1
Document Name: Memorandum in Support of Emergency Motion To Lift The Court's July 21, 2011
Filed by INT001-Wilson, INT002-Graybill

Doc No./Seq No.: 47/0

File Date: 08/10/2011 Close Date: Decision:

Document Name: Attorney Certification under Rule 1-313

Doc No./Seq No.: 48/0

File Date: 08/10/2011 Close Date: 08/10/2011 Decision: Granted

Document Name: Order of Court

Having considered Petitioner's emergency petition requesting that the Court temporarily lift of the Court's July 21, 2011 Cease and Desist order issued to Badtec, Inc., t/a Southern Memorial Gardens the motion is GRANTED. This Court's July 21, 2011 Cease and Desist Order is lifted solely for the limited purpose of allowing Def to immediately commence burial of the body of Chester M. Kosheba. With the sole exception set forth in Paragraph 1, this Court's July 21, 2011 Cease and Desist Order shall remain in full force and effect pending further order from this court. Copies mailed to all parties listed in Certificate of Service on 8/10/11

Doc No./Seq No.: 49/0

File Date: 08/10/2011 Close Date: Decision:

Party Type: Plaintiff Party No.: 1

Document Name: Petition for Contempt

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