

Are you ready to put the fun back in funerals? Good. Those of you who came here expecting a somber group of people talking euphemistically about "loved ones" who "pass on," and families who "celebrate lives" after their "dearly departed" "go to sleep" are in for a shock - you're going to have a much better time than that. At the national office in Vermont, where I work, we hear from all kinds of people across the country. Some call well before a death in order to make sensible plans when their heads are clear. Others wait until the last minute or beyond, frantically dialing numbers to find someone who can tell them how to save money. People who keep a sense of humor - or at least a little bit of irony - about them fare far better than the families who don't. The hardest people for us to help are those who can't even say the words death or funeral, even when they're calling to talk to me about. . . death and funerals.

Sometimes this reticence sparks mishaps. A nurse once called me and said she needed my help because one of her patients had "expired." When I offered to renew his membership, she got frosty and said, "Sir, he *expired*," as if everyone in the world but me knew that doctors and nurses are constitutionally incapable of saying "he died." I wonder what she'd have said if I suggested she exchange her expired patient for one with a better freshness date.

Our more candid callers have a much easier time navigating the business of death and dying, and they're usually a lot harder to fool. One woman from Texas called for information, and gave me some advice to pass along to the next family that used the funeral home she just got finished with. Exasperated with a funeral director who kept insisting she consider a \$3,000 pecan coffin for her mother's cremation, despite the fact that she asked for a simple cremation, my caller finally lost her temper.

"I picked up my pocketbook and said Mr., we are gonna toast and toss and that's final!" Best of all, she paid only \$800.

I'll be interested to see how all you approach the subject. When I was processing the registration forms I noticed we've got a really mixed group of people this year. Of course, many of you are representing some of our 112 local, volunteer run funeral consumer groups around the country. But we also have folks who want to start a new Funeral Consumers Alliance in their town who took the initiative to come here after reading about the conference in our newsletter. We also have some funeral directors among us, businesspeople interested enough in the consumer perspective to brave a meeting where there's going to be a fair bit of criticism about the mortuary business. But we'll also hear a lot of useful suggestions on how to bring consumer desires and business imperatives closer together, which can only be good for the public and the industry.

So, what is Funeral Consumers Alliance, where did we come from, and what do we do - besides spending more time talking about death than normal people do? I'm going to give you a brief history of the funeral consumer movement, where we've been, what we are today, and where we're going. It's my great privilege to work for the country's oldest and only national nonprofit dedicated to protecting consumers in the funeral transaction. I'm one of two full-time staff, and we have one part time assistant. In an average year, we get 10,000 telephone calls, 3 to 4,000 emails, and hundreds of paper letters. We're lucky enough to be consulted by the New York Times, the Boston Globe, CBS, and other major media for a consumer perspective on funerals. But it wasn't always this way.

The Funeral Consumer Movement started in Seattle. Way back in 1939, a group of citizens got together and said NO to the high cost of funerals. NO to the lavish public displays of beautified corpses, NO to gleaming caskets, NO to the thought of going into hock to get a dead body to the grave. People's Memorial Association was born. What we take for granted today was a radical concept in 1939. The PMA founders had to struggle to find a funeral home willing to bargain with the membership for simple, low-cost funerals. Why, anything less than the very best for Mother was a shameful, selfish elevation of frugality over sentiment. No right-thinking undertaker would be caught dead pounding the nail in his own coffin by agreeing to offer low-priced funerals.

But one local funeral home saw an opportunity, and agreed to serve PMA members, and suffer the slings, arrows from their colleagues. Other societies like PMA popped up over the next few decades, and most plugged away in genteel obscurity, quietly offering members a simpler, cheaper exit. Then came 1963, the funeral industry's *annus horribilis*, but the birth of the modern funeral consumer movement. Jessica Mitford's notorious exposé *The American Way of Death*, unmasked the profiteering behind the funeral industry's faux sentiment, and Americans started to question the prevailing funeral agenda. Is conspicuous material consumption really the only way to show we love our dead? Will the Eterna-Rest casket make a bit of difference to dad's bones? Can't we have a funeral without the formaldehyde?

This came to a head in the fall of '63, where memorial societies across the country convened in Chicago for their first national convention. They decided they needed a national voice to represent their interest, and the Con. Assoc. of Funeral and Memorial Societies was born. Continental became what is today Funeral Consumers Alliance.

Our friends in funeral service were not happy. Nattering to each other in their trade publications about the "anti-funeral tirade" sweeping the nation, undertakers and their sympathizers sought every opportunity to slander and besmirch the radical Unitarians, Quakers, and common-sense types who questioned the American funeral. The most vicious attacks started in Seattle, too. Operating a shadowy private organization called the "American Intelligence Service," the late state senator Albert Canwell turned his red-baiting pen on PMA and its sister groups. In a pamphlet called "Memorial Societies: . . . the sinister aspects of certain funeral associations advocating fast disposal," Canwell's secretary Mary Kineholz wrote:

*Memorial associations were incorporated as early as January 31, 1939. These groups were organized as co-operatives for "educational" purposes. Their stated aim was to change America's funeral customs. Their program would remove sentiment and religious significance and destroy family ties under the pretense of simplifying burial. These changes parallel the changes which have taken place in all Communist countries under state dictatorship...*

She took a similarly dim view of PMA members:

*Society Members - the Forgotten Men*

*Once a member is hooked, he undergoes transformation from a wholesome, mature and rational prospect to expendable and disposable matter. Upon death, depending on the financial soundness of the co-op or private operator who holds the Society contract, he may be picked up, placed in a cardboard carton, carried to the crematorium in the back of a station wagon and forthrightly disposed of without even token participation of his family. Chances are, the family will not even get the ashes, unless by their special request.*

And you thought you were just getting a cheap funeral!

But the movement didn't die. The national organization and the locals took on the project of lobbying the Federal Trade Commission for 10 years to enact what became the first federal regulations to protect funeral consumers, the Funeral Rule. Against unremitting resistance from the National Funeral Directors Association, we finally prevailed and the Rule was enacted in 1984.

The Funeral Rule is really very simple. It gives consumers the right to pick and choose only what they want, the right to printed price lists from funeral homes, and the right to accurate information from mortuaries. The Rule forbids what used to be common funeral practice - forcing families to buy expensive, all-inclusive packages, lying to them about nonexistent laws to make them buy embalming or costly boxes, and refusing to give accurate prices. Unfortunately, we still get complaints from families around the country that such practices are still going on.

The paper trail is pretty damning, too. Every funeral home is required to have what's called a General Price List, an itemized menu of goods and services. I've looked at hundreds of these, and 22 years after the Rule went into effect, I find at least 86 percent of price lists are violating some provision of the Funeral Rule. Maybe the list doesn't offer the required simple options like immediate cremation and burial. Maybe it includes a handling fee to punish families who don't buy the funeral home's casket. Maybe it refers to nonexistent embalming laws that fool consumers into paying for a process they don't want. Whatever the violations, they cost families money and they deny them their legal rights. All of us have to stay vigilant about this to warn consumers - the Federal

Trade Commission is doing nothing to enforce the Rule.

In 1999, the FTC held hearings on whether to expand the Funeral Rule to cover cemeteries, crematories, and third party vendors like casket retailers. FCA President Gere Fulton and former Executive Director Lisa Carlson offered what was truly *tour de force* testimony on the continuing abuses consumers face, backing up our point with five boxes of documentation. In seven years, the FTC has done nothing with the result of these hearings, and my filing cabinets are brimming over with complaints from families around the country. We continue to press the FTC to make good on its regulatory obligation, but it's become clear we have to help consumers fend for themselves. With AARP surveys showing about 90 percent of the public has never heard of their rights under the Funeral Rule, all 112 of our groups have enough work cut out for them just educating the public on the basic shopping techniques that most people would apply to any other major purchase, but which fly out of their minds when it comes to the business of death.

I want to tell you how I got involved with Funeral Consumers Alliance, because I think it illustrates how desperately the public needs this organization, and would happen to consumer interests if we weren't here. In 2001, I was a newspaper reporter for a small daily in Virginia. Somebody slipped a copy of Jessica Mitford's *The American Way of Death* onto my desk, and I was fascinated. When I discovered that Service Corporation International, the largest Wall Street funeral chain in the world, had bought up three prominent funeral homes in my city, I wondered what had happened to funeral prices. Knowing that few people in this conservative Southern town had any idea that Wall Street, not the Whitten family, was caring for their dead, I started an investigation. This was my first confrontation with the fact that government and big business are too often intertwined. I wanted to create a graph showing the change in funeral prices locally, pre and post-Wall Street. So I sent a Freedom of Information Act Request to the Virginia Board of Embalmers and Funeral Directors. I asked for copies of the local funeral home price lists for 10 years so I could chart prices. To my surprise, the Board denied my request. Why? Well, those are confidential, they said. No, they're not, the FTC requires funeral homes to give them out to anyone on the street, I replied. Well, said the Board, they're stapled to

confidential files. Then unstaple them as the open government laws require, I said. This charade went on for a few weeks until the Board sent my request all the way to the Attorney General's office. Imagine that - a simple request for business price lists was apparently so sensitive, so controversial, the AG had to get involved. I never go the documents, and just a few weeks later, the regional sales manager for SCI, who worked for the mortuaries I was investigating, became President of the Virginia Board of Embalmers. I leave you to draw your own conclusions.

I was livid. If a reporter who knows open government laws can't get copies of an FTC-required public price list, what chance does Mrs. Smith have when she walks into a funeral home after her husband dies? I struck up a relationship with the national office of FCA, volunteering to do some research, and learning what I could long distance. In the fall of 2002, former Executive Director Lisa Carlson hired me. I was lucky to learn a great deal from her before she left the organization in 2003. Lisa's legal research and advocacy did more to put this organization on the map, and more to bolster our status than anything since our work on the Funeral Rule. Her 650-page book of funeral and burial law for the consumer is the only book of its kind, and it made it possible for FCA to answer questions for the public that no one else can. Sadly, we usually find FCA staff know more about funeral law and consumer rights in any given state than state employees who work for the funeral regulatory agencies.

When I became Executive Director in mid-2003, FCA was about to enter another very active period. Over these past three years, we've tackled a number of projects, and we're still right in the thick of several:

- In 2003, we petitioned a national body of policy experts to reopen the Uniform Anatomical Gift Act in order to prohibit the obscene profiteering in donated body parts and tissue. Since then, President Gere Fulton has contributed to several drafts of the new act. Unfortunately, we're not entirely satisfied it will clean up the illicit trade. But the good news is Senators Schumer and Leahy have introduced the Safe Tissue Act, If it becomes law, the Act will go a long way toward fixing a broken system.

- FCA Board member Ken Stoner has worked closely with the Consumer Federation of America to pass policy resolutions favorable to funeral consumers and body donors. The Federation recently adopted two of his proposals, one that endorses fair business regulations that will lower consumer prices, and one that endorses expansion of the Funeral Rule to cover cemeteries and others.
- Most importantly, we filed a class action lawsuit last year against the three largest Wall Street funeral chains and the largest casketmaker to stop a long-running conspiracy to shut out competition in the coffin trade and boost casket prices to outrageous amounts. This "unwritten tradition" of violating antitrust laws has cost American families millions - maybe billions of dollars in overcharges for caskets. One of our attorneys, Kerin Coughlin, will bring you up to date on the suit later today.

Our affiliates have been busy, too. As the cremation rate rises, as fewer consumers are willing to pay highway robbery prices for the industry's preferred final farewells, funeral directors have been trying to use the law to protect themselves from the free market, at the expense of grieving families.

- The FCA of Milwaukee worked with national last year to stop a bill that would have outlawed lower-cost funeral homes in the Dairy State. A bill pushed by two funeral directors' associations tried to stop storefront funeral homes from opening. The rationale? Protecting consumers from "fly by night funeral homes" opening up next to Dunkin Donuts or Hooters. I kid you not. . .the sponsoring lawmaker actually said this on public radio. Thanks to a good old fashioned public shaming in the media, we were able to expose this for what it really was. Ray Gurney, Legislative Liaison for the FCA of Milwaukee, will tell you how you can do the same in your state during his workshop.
- Elvira Hoffman of the FCA of Long Island and New York City convinced a state lawmaker to sponsor a bill requiring cemeteries to give customers price lists and copies of cemetery rules before the purchase. We thought the state's cemetery board would have jumped at the chance to adopt such a common sense protection for the public, but they brushed our group off at every turn. Thanks to Elvira's persistence, state lawmakers might do what the bureaucrats won't.

- If all goes well, the FCA of Maine will be the first funeral consumer group to open a green cemetery, a spot where families can bury their dead without embalming, costly caskets, and unnecessary vaults. A couple who belong to the Maine organization have donated the land, and former FCA President Ernie Marriner is working with the folks in Maine to open the cemetery by 2007.

We've had some defeats, too. What didn't pass in Wisconsin is now the law in Kentucky. In a shameless bit of protectionism, the Kentucky legislature unanimously passed a law this year requiring all funeral homes that serve the public to operate as full service funeral homes, with the costly embalming rooms, on-site for-profit chapels, and other facilities that help keep funeral costs high. Despite a letter-writing campaign from the FCA of Louisville and testimony from me, the lawmakers decided to protect old-timey funeral homes from the free market by selling families up the river under the guise of "consumer protection."

There's much more going on around the country, but I hope that's enough to whet your whistle. We've got a great program for you this year, and I suspect you're going to leave energized and ready to fight the good fight. Funeral director Robert Falcon is here to tell us about a newly emerging funeral business model we can get behind — lower-overhead, lower-cost funeral homes that give families what they want without bankrupting them. For all that's wrong with the industry, there are some promising developments from honest businesspeople who know that what's good for consumers is good for business.

Billy Campbell and Joe Sehee are here to talk about green burial - the revolutionary idea that we can bury our dead without formaldehyde, steel and concrete. Steve Wolens, a prominent lawyer from Dallas, has been fighting Service Corporation's consumer abuses in the courts, and I guarantee you he'll put fire in your belly. Kerin Coughlin, who represents FCA in our class action lawsuit, will get you up to speed on our fight against high casket costs. Jerri Lyons, nationally recognized for helping families care for their own dead, will demystify the process and show you how to take complete control over a death in the family. We've got presenters here from FCA groups to show you how to put together a dynamic committee to spread our message in your own

community, and how to make sure your legislators make laws that protect families, not funeral home profits.

Whoever you are, whatever attracted you to this conference, I want you take away one message. You are the funeral consumer movement. There is no school of "funeral advocacy" that any of our volunteers attended. Our boards of directors aren't made up of policy wonks, or necessarily out of "experts" of any stripe — they're made up of concerned people (YOU) who want to make a difference. We become experts at this by our work in conducting price surveys, talking to families about their experiences, and staying in touch with our sister groups. I often get calls at the national office from folks in areas where we don't have an affiliated office. "When will you have one," they ask. I always reply "When you step forward and volunteer." This takes a lot of people aback, because they're used to thinking of themselves as helpless consumers, rather than powerful citizens. Many of us feel so distanced from government, so separated from positions of power, that we forget how to help ourselves. There is no great abstract "they" who will take care of these problems for us. . .we have to help ourselves. And we have to help the public help themselves.