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6  
 7 UNITED STATES DISTRICT COURT  
 8 NORTHERN DISTRICT OF CALIFORNIA  
 9

10 FUNERAL CONSUMERS ALLIANCE INC., et  
 al.,  
 11  
 Plaintiffs  
 12  
 v.  
 13 SERVICE CORPORATION  
 14 INTERNATIONAL, et al.  
 15  
 Defendants  
 16

**Case No. 3:05-cv-01804-WHA**

**MOTION TO CONSIDER WHETHER  
 CASES SHOULD BE RELATED**

**[CIVIL L.R. 3-12]**

17 This Document Relates to:  
 18 MARSHA BERGER v. SERVICE  
 19 CORPORATION INTERNATIONAL, et al.  
 20

**Case No. 3:05-cv-02502-JL**

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**INTRODUCTION**

This motion is filed by plaintiff Marsha Berger seeking an order relating the action Berger v. Service Corporation International, et al., No. 3:05-cv-02502-JL to the captioned case Funeral Consumers Alliance, Inc. v. Service Corporation International, et al., No. 3:05-cv-01804-WHA. These cases are related because they both allege violations of the antitrust laws against certain funeral home service providers and funeral casket manufacturers in connection with the market for funeral caskets. For the reasons set forth below, this motion should be granted.

**PROCEDURAL HISTORY**

Funeral Alliance was filed on May 2, 2005 and names as defendants Service Corporation International, Alderwoods Group, Inc., Stewart Enterprises, Inc., Hillenbrand Industries, Inc. and Batesville Casket Company. Berger was filed on June 20, 2005 and names the same five defendants. A copy of the complaint in Berger is attached as Exhibit A to the Declaration of Willem F. Jonckheer In Support of Motion to Consider Whether Cases Should Be Related (“the Jonckheer Declaration”), filed herewith. Plaintiff is aware of a third action alleging substantially similar claims pending in this court captioned Rocha v. Service Corporation International, et al., No. 3:05-cv-02501-SC. Plaintiff in that case has also filed a motion to relate her case to Funeral Alliance.

**ARGUMENT**

Under Civil Local Rule 3-12, an action is related to another when (1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges. Funeral Alliance and Berger meet these standards.

First, the complaints in both actions contain essentially the same allegations of antitrust law violations against the same defendants. Specifically, each complaint alleges that certain funeral home service providers and funeral casket manufacturers conspired to unlawfully manipulate the market for

1 funeral caskets. Second, each complaint names the same five defendants. Third, each action asserts the  
2 same or substantially similar claims on behalf of consumers who purchased funeral caskets from the  
3 alleged co-conspirators. Finally, plaintiffs in both actions seek to represent comparable nationwide  
4 classes of direct purchasers of funeral caskets.

5 Based upon these many similarities, it appears likely that there will be an unduly burdensome  
6 duplication of labor and expense or conflicting results if the cases proceed before different judges.  
7 An order relating the cases under Civil Local Rule 3-12 is therefore appropriate.

8  
9 **CONCLUSION**

10 For the reasons set forth herein, plaintiff's motion should be granted.

11  
12 July 7, 2005

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