

Stephen M. Axinn (SA 7445)  
Russell M. Steintal (RS 1650)  
AXINN VELTROP & HARKRIDER LLP  
114 West 47th Street  
New York, NY 10036  
(212) 728-2200

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

LYNN COHEN, individually and on  
behalf of all others similarly situated,  
Plaintiff,

-against-

BAYSIDE CEMETERY and  
CONGREGATION SHAARE ZEDEK,  
Defendants.

No. 08 Civ. 3555 (RJD) (JMA)

SHAARE ZEDEK'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS  
AND FIRST SET OF INTERROGATORIES

**PLEASE TAKE NOTICE** that, pursuant to the Court's order of January 12, 2009 authorizing jurisdictional discovery, Defendant Congregation Shaare Zedek hereby requests that Plaintiff produce for discovery the documents specified below and answer the following interrogatories, in writing and under oath, in accordance with Rules 26, 33, and 34 of the Federal Rules of Civil Procedure and Rule 26.3 of the Local Civil Rules of the United States District Court for the Eastern District of New York. The requested documents and answers should be served on undersigned counsel at their offices, 114 West 47<sup>th</sup> Street, 22<sup>nd</sup> Floor, New York, New York 10036, no later than February 12, 2009, or by such other time as the Court may direct.

DEFINITIONS AND INSTRUCTIONS

1. For purposes of this request, all terms defined in Local Civil Rule 26.3 of the United States District Court for the Eastern District of New York shall have the meaning set forth in that rule, and all other terms shall have their ordinary meaning, except that:
  - (a) "You" and "your" shall refer to Lynn Cohen.
  - (b) "Plaintiff's Relative" shall mean any of your living or deceased relatives or family members who was allegedly a party to any contract for the perpetual care of a grave or graves located at Bayside Cemetery, or who allegedly possesses or possessed any rights (including as a third-party beneficiary)

under any such contract, and whose interests (or the interests of whose estate) you purport to represent in this action.

(c) "Proposed Class" shall mean all persons who purchased a contract for the perpetual care of a grave at Bayside Cemetery from either Defendant at any point in time, or over such shorter period as you are prepared to stipulate will include the entire period to be covered in any motion for class certification to be filed in this action. For the avoidance of doubt, the Proposed Class shall include individuals who purchased such a contract by or through an alleged agent for either the purchaser or the seller, and shall include the named Plaintiffs.

2. The past tense shall be construed as the present tense, and vice versa, so as to make these requests inclusive rather than exclusive.
3. Each request herein for the production of a document or documents, including electronically stored information, requires the production of the document or documents in their entirety, without redaction or expurgation.
4. If you object to any portion of a document request or interrogatory, identify the portion(s) to which you object, and respond to all portions of the document request or interrogatory as to which no objection is made.
5. If you object to producing any document, electronically stored information, or tangible thing, or any portion thereof, or to disclosing any information contained therein, or to responding to any interrogatory, or portion thereof, on the basis of a claim of privilege, then with respect to each such document or interrogatory, you must provide separately the information required by Local Civil Rule 26.2 of the United States District Court for the Eastern District of New York, which is incorporated by reference herein. You must also produce any portion of such document as to which no claim of privilege is made.
6. Where the answer to an interrogatory is completely and unambiguously contained within documents that you have produced in this action, or that you produce in response to these interrogatories, the interrogatory may be answered by referring to such documents by the specific Bates numbers attached thereto, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.
7. These document requests and interrogatories shall be deemed continuing in nature, in accordance with the provisions of Rule 26(e)(1) of the Federal Rules of Civil Procedure.
8. The document requests contained herein call for the production of any documents in your possession, custody, or control, or in the possession, custody, or control of your agents, representatives, predecessors-in-interest, or, unless privileged, attorneys.

## DOCUMENT REQUESTS

You are hereby requested to produce:

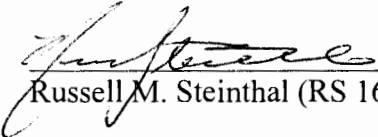
1. Each contract, receipt, letter, or other document evidencing the purchase, by any member of the Proposed Class, from any person or entity, of perpetual care of one or more graves at Bayside Cemetery and containing the name or address of such purchaser, and any other documents that you intend to use to support or establish the citizenship of any member of the Proposed Class.
2. For each Plaintiff's Relative, one copy of each will or power of attorney executed by such Plaintiff's Relative (including all amendments, revisions, and codicils thereto), whether or not superseded, rescinded, expired, or offered for probate.
3. All letters testamentary, letters of administration, powers of attorney, or other documents authorizing you, or any other person, to act as the executor, administrator, personal representative, or other legal representative of any Plaintiff's Relative (including authorization under the law of any state to exercise powers substantially similar to those of a personal representative under New York law).

## INTERROGATORIES

1. Identify each Plaintiff's Relative on behalf of whom any claim is being made in this action, and for each such Plaintiff's Relative (i) provide his or her last known state of citizenship and, if different, residence; (ii) describe his or her familial or legal relationship to each of you; and (iii) describe all facts, circumstances, or legal arrangements that you contend authorize you to represent such Plaintiff's Relative's interests in this action.
2. For each Plaintiff's Relative who is deceased, (i) provide such Plaintiff's Relative's date and place of death; (ii) identify each court which has exercised, or currently exercises, jurisdiction over such Plaintiff's Relative's estate; and (iii) provide the docket numbers for all pending or completed legal proceedings related to such Plaintiff's Relative's estate.

Dated: January 20, 2009  
New York, New York

AXINN, VELTROP & HARKRIDER LLP

By:   
Russell M. Steinthal (RS 1650)

114 West 47<sup>th</sup> Street  
New York, NY 10036  
(212) 728-2200  
*Attorneys for Congregation Shaare Zedek*