

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JOHN R. LUCKER, ELIZABETH A. LUCKER, :
NANCY L. ROUSSEAU, LYNN COHEN and :
FRAN GOLDSTEIN as representatives of a class :
consisting of themselves and all others similarly :
situated, :

Index No. 114818/2009-E
Part 59
Justice Debra A. James

Plaintiffs,

- against -

**AFFIRMATION OF
DOUGLAS A. SMITH**

BAYSIDE CEMETERY, CONGREGATION :
SHAARE ZEDEK, and COMMUNITY :
ASSOCIATION FOR JEWISH AT-RISK :
CEMETERIES, INC., :

Defendants.

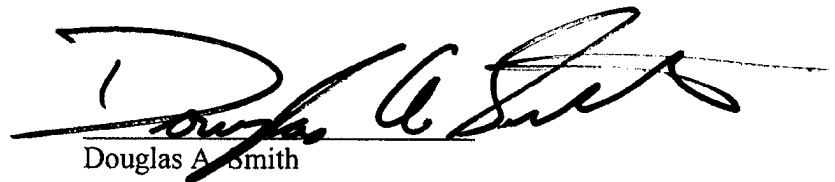
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DOUGLAS A. SMITH, an attorney duly admitted to practice before this Court,
hereby affirms under penalty of perjury pursuant to CPLR 2106 as follows:

1. I am a member of the bar of the State of New York and represent the Community Association for Jewish At-Risk Cemeteries, Inc. ("CAJAC"). I am personally familiar with the pleadings and proceedings in this case and the matters set forth herein.
2. I respectfully submit this affirmation in support of CAJAC's Motion to Dismiss the Action in its Entirety Pursuant to CPLR 3211(a).
3. Attached hereto as exhibits to this affirmation are true and correct copies of the following:
 - a. The Class Action Complaint in the above-referenced case, dated October 21, 2009. (Ex. 1.)
 - b. Opinion in *Capricorn Investors III, L.P. v. Coolbrands Int'l, Inc.*, No. 603795/06 (Sup. Ct. New York County Sept. 19, 2008) (J. Fried) (Ex. 2.)

- c. Stipulated Order of Administratively Closing the Action and Tolling Agreement, *Lucker v. Bayside Cemetery*, No. 07 Civ. 3823 (RJD) (JMA) (E.D.N.Y. May 5, 2008) (Ex. 3.)

New York, New York
December 18, 2009



Douglas A. Smith