

California AG Says Funeral Service Provider Made a Killing – At Consumers’ Expense

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“Everyone dies.” This was the first line in the California Attorney General’s 2021 complaint against the nation’s largest funeral service provider, Service Corporation International (“SCI”). Earlier this month, Attorney General Rob Bonta [announced](#) a proposed settlement with SCI, based in Texas and doing business as the Neptune Society and the Trident Society. California alleged that SCI violated the [Unfair Competition Law](#) and [False Advertising Law](#) by engaging in false advertising in its marketing and sale of pre-need cremation packages.

Pre-need cremation packages allow people to pre-pay for their cremation services while they are still alive. The lawsuit alleged that SCI deceptively marketed its products, including promoting benefits to veterans and telling consumers they had 30 days to cancel their plans, when [California Business and Professions Code §7735](#) (“Short Act”) provides that funds must be kept in a trust and allows for a full refund at **any time** before services are provided. The lawsuit further alleged that SCI’s “Standard Plan,” which includes both cremation services and merchandise (a memento chest with a photo frame lid, an urn, a plaque, thank you cards, planning guide, and access to an online memorial), was marketed and sold as a single plan with a single price and priced to be cheaper than stand-alone cremation services. When customers went to sign, however, SCI allegedly presented them with a heavily marked up contract for merchandise and a deeply discounted contract for cremation services, placing only the discounted cremation services funds in a trust account. When a purchaser requested a refund down the line, SCI supposedly only refunded the portion it had allocated to cremation services, and withheld the money allocated to merchandise.

California described this as a “scheme to underfund the preneed trust,” and explained that back in 2009 Neptune resolved similar allegations with Colorado’s Division of Insurance, and thereafter started its business practices in California. The lawsuit alleged that omitting the information about the fund allocation and refund policy violates the False Advertising Law. California further alleged the design of the business itself violates the Unfair Competition Law through omitting required mandatory disclosures under California’s retail installment contract law ([the Unruh Act](#)), violating the Short Act, and also failing to make proper disclosures as required under [CLRA](#) for veterans benefits.

The proposed settlement includes full restitution to consumers who cancelled their Standard Plans during the applicable period and did not receive a full refund, injunctive relief, and \$23 million in civil penalties.

Federal regulation also covers this space — the [Funeral Rule](#), among other things, gives consumers the right to buy only the funeral arrangements they want and get price information on the telephone. Earlier this year, the FTC [conducted an undercover sweep](#), placing calls to funeral

providers all over the country and discovering that providers violated the Funeral Rule on a substantial number of these undercover calls. The most common violation was providers refusing to answer price questions over the phone.

Funeral providers should remember that many states have their own funeral laws (or even departments, [like California](#)), in addition to the FTC's Funeral Rule. In addition, all businesses should keep in mind that state AGs have broad authority over a variety of unique or even unusual types of businesses and they aren't shy about bringing enforcement actions when they feel consumers are at risk.