

**Ashes to Assets, Grief to Grievance:
Analyzing Consumer Protection Failures
In the Market for Cremation Diamonds**

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Abstract

This Article examines whether prevalent marketing practices within the cremation diamond industry satisfy the elements of actionable deception or unfairness under Section 5 of the Federal Trade Commission Act, the Texas Deceptive Trade Practices Consumer Protection Act, and common law fraud principles. Although companies vary in their representations regarding carbon sourcing and production methods, many employ expressed or implied claims that cremation diamonds are derived from, contain, or uniquely embody the carbon of a specific deceased individual. When evaluated under established deception doctrine, including the “reasonable consumer standard,” materiality, and substantiation principles, these claims raise serious concerns where the percentage of personal carbon is undisclosed, supplemental carbon sources are used without clear disclosure, and no independent method exists to verify the diamond’s carbon origin.

This Article argues that a properly pleaded complaint could survive dismissal under federal and state consumer protection laws, and that the cremation diamond industry reveals a broader regulatory gap where grief-based commerce intersects with technological claims about identity and origin.

Introduction

In recent decades, the American death care industry has undergone significant transformation. Rising cremation rates, declining traditional burial practices, and the growing demand for personalized memorialization have reshaped the commercial landscape of end-of-life services.¹ Within this evolving market, a new product has emerged: the cremation diamond. Marketed as a laboratory-grown diamond created from the carbon of a deceased individual, the cremation diamond is presented not merely as jewelry, but as a tangible continuation of a loved one's physical presence.

The commercial appeal of such products is considerable. Industry reports project continued growth in the global memorial diamond market, driven by increasing cremation rates and consumer demand for individualized memorial options.² Companies prominently advertise that their diamonds are made “from your loved one's ashes,” and they contain the “essence” of the deceased, or that they provide a “unique physical heirloom” unavailable through conventional jewelry.³ In many cases, these representations are used to justify consumer price

¹ See 16 C.F.R. pt.453 (Westlaw 2026)

² See Market Research Future, Memorial Diamonds Market Overview (2024).

³ See, e.g., Heart In Diamond, <http://www.heart-in-diamond.com> (last visited Mar. 5, 2026). Eterneva, <http://www.eterneva.com> (last visited Mar. 5, 2026).

points significantly exceeding those of standard laboratory-grown diamonds of comparable size, color, and clarity.

The scientific premises underlying these claims, however, warrant careful examination. Modern cremation significantly reduces organic carbon through sustained high-temperature combustion.⁴ Although residual carbonates may remain embedded within the calcined bone mineral, the extent to which this carbon is recoverable, isolatable, and exclusively attributable to a specific decedent remains subject to scientific dispute.⁵ Moreover, the laboratory processes used to grow synthetic diamonds, whether through High Pressure High Temperature (“HPHT”) or Chemical Vapor Deposition (“CVD”) methods, often involve additional carbon inputs introduced during crystal formation.⁶ No standardized independent forensic method currently exists to verify the proportion of or the origin of carbon atoms within a finished diamond crystal.⁷

⁴ See Calcined Bone as a Reliable Medium for Radiocarbon Dating: A Test Using Paired North American Samples, Cambridge Univ. Press (2017).

⁵ See Mark van Strydonck, Mathieu Boudin & Guy De Mulder, *The Carbon Origin of Structural Carbonate in Bone Apatite of Cremated Bones* (2025) (ResearchGate); Abraham Levy, *The Deep Science Behind Carbon Extraction for Memorial Diamonds*, Eterneva (2024).

⁶ See James E. Shigley, *HPHT and CVD Diamond Growth Processes: Making Lab-Grown Diamonds*, Gemological Inst. Of Am. (July 25, 2016).

⁷ See Amanda Luke, *Man-Made Diamonds: Questions and Answers*, Gemological Inst. of Am. (Sept. 17, 2017). <https://www.gia.edu/gia-news-research/manmade-diamonds-questions-answers> (last visited Feb. 23, 2026).

These scientific realities do not make cremation diamond production impossible. They do, however, raise important legal questions when companies represent that a finished diamond is derived from, contains, or uniquely embodies the carbon of a particular individual. Consumer protection law does not require proof of scientific impossibility to establish deception. Rather, federal and state statutes prohibit representations or omissions that are likely to mislead reasonable consumers, and that are material to their purchasing decisions.⁸ Where claims concern product origin, composition, or identity, advertisers must possess competent and reliable substantiation when these claims are made.⁹

This Article examines whether common marketing practices in the cremation diamond industry satisfy the elements of actionable deception or unfairness under Section 5 of the Federal Trade Commission Act (“FTC Act”),¹⁰ the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”),¹¹ and common law fraud principles. Although companies differ in how they describe carbon sourcing and production, many employ express or implied claims that cremation diamonds are derived from or uniquely embody the carbon of a specific deceased individual. When evaluated under established deception doctrine, including the reasonable

⁸ FTC Policy Statement of Deception, 103 F.T.C. 174 (1984). (West 2026).

⁹ See *FTC v. Colgate-Palmolive Co.*, 380 U.S. 374 (1965).

¹⁰ 15 U.S.C. § 45(a)(1) (2024). (West 2026).

¹¹ Tex. Bus. & Com. Code Ann. § 17.46 (West 2026).

consumer standard, materiality requirements, omission liability, and substantiation principles, these claims raise substantial concerns where the percentage of personal carbon is undisclosed, supplemental carbon sources are used without clear disclosure, and no independent verification mechanism exists.

This Article evaluates a spectrum of marketing claims, from partial disclosure of supplemental carbon, to guarantees of exclusive origin, under the governing federal and state legal frameworks. The analysis shows that, depending on the specific representations made, a properly pleaded complaint could proceed under Section 5 of the FTC Act, similar state statutes, and the traditional fraud doctrine.

Finally, this Article further argues that the cremation diamond market exposes a broader regulatory blind spot. When a product's value depends largely on claims about personal identity that cannot be independently verified after production, traditional disclosure rules for ordinary goods may not be enough. By analyzing cremation diamonds under existing deception and unfairness law, this Article highlights both the potential for public and private enforcement and the need for clearer regulatory guidance in grief-based commerce.

I. Scientific and Technical Foundations of Cremation Diamond Production

Understanding the legal implications of cremation diamond marketing first requires establishing the relevant scientific background. Cremation diamond companies universally represent that their products are laboratory-grown diamonds created using carbon derived from a specific individual's cremated remains or hair. To evaluate such claims under the consumer protection doctrine, it is necessary to examine three components: (1) the chemistry of cremation; (2) the structure and composition of bone and residual ash; and (3) the laboratory processes used to grow synthetic diamonds.

A. The Chemistry of Cremation

Modern cremation chambers typically operate at temperatures between 1,400 and 1,800 degrees Fahrenheit (760-980°C), sometimes higher depending on the equipment and operating conditions.¹² These temperatures are designed to combust organic tissue and reduce the body to mineralized bone fragments.¹³ During cremation, soft tissue vaporizes or oxidizes, and the remaining skeletal

¹² How Hot Does a Cremation Chamber Get?, *Lowest Cost Cremation*, <http://lowestcostcremation.com/how-hot-does-a-cremation-chamber-get-and-why-does-it-need-to-reach-such-high-temperatures/> (last visited Jan. 29, 2026).

¹³ *Id.*

structure is transformed by heat into a brittle, calcined form commonly processed into “ashes.”¹⁴

Scientific literature examining calcined bone indicates that organic carbon is largely eliminated during combustion.¹⁵ A study published by the Cambridge University Press explains that combustion temperature is the controlling factor in carbon loss and observes that “[a]ll organic carbon has burned away by around 600°C,” at which point bone shifts in color and structure to a calcined state.¹⁶ Cremation ovens routinely exceed this threshold, questioning how much organic carbon remains. Other research analyzing the structural carbonate content of cremated bone suggest that a significant portion of the residual carbon in the calcined remains may come from the combustion atmosphere itself, including the fuel used in the cremation process.¹⁷

At the same time, some industry representatives cite peer-reviewed research suggesting that trace amounts of carbon remain in cremated ashes, particularly in

¹⁴ How Hot Does a Cremation Chamber Get?, *Lowest Cost Cremation*, <http://lowestcostcremation.com/how-hot-does-a-cremation-chamber-get-and-why-does-it-need-to-reach-such-high-temperatures/> (last visited Jan. 29, 2026).

¹⁵ *Calcined Bone as a Reliable Medium for Radiocarbon Dating: A Test Using Paired North American Samples* (Cambridge Univ. Press 2017).

¹⁶ *Id.*

¹⁷ Mark van Strydonck, Mathieu Boudin & Guy De Mulder, *The Carbon Origin of Structural Carbonate in Bone Apatite of Cremated Bones* (2025) (ResearchGate). https://www.researchgate.net/publication/305969836_The_Carbon_Origin_of_Structural_Carbonate_in_Bone_Apatite_of_Cremated_Bones.

the form of carbonates associated with bone mineral.¹⁸ For example, carbonate ions may remain embedded within the apatite crystal lattice of calcined bone.¹⁹ The presence of residual carbon does not answer whether that carbon can be recovered in meaningful amounts, purified for diamond synthesis, or verified once incorporated into a finished diamond. Thus, the key scientific question is not whether any carbon remains after cremation, but rather: (1) in what chemical form residual carbon exists; (2) how much of it exists in the ash; (3) whether it comes from the decedent as opposed to the cremation fuel; and (4) whether it can be independently traced to a finished gemstone.

B. The Structure and Composition of Cremated Remains

Human bone is primarily the mineral hydroxyapatite, represented by the formula $\text{Ca}_{10}(\text{PO}_4)_6(\text{OH})_2$, not carbon-based.²⁰ After cremation, the remaining “ashes” are largely comprised of tiny mineral apatite crystals, not the soft-tissue carbon consumers associate with the body.²¹ Thus, carbon in cremated remains is best understood as “trace” inorganic carbon within the bone’s mineral structure

¹⁸ Abraham Levy, *The Deep Science Behind Carbon Extraction for Memorial Diamonds*, *Eterneva*, <https://www.eterneva.com/resources/the-deep-science-behind-carbon-extraction-for-memorial-diamonds> (last visited Jan. 21, 2026.)

¹⁹ Structure and Composition of Bone, DoITPoMS (*Dissemination of IT for the Promotion of Materials Science*), <http://www.doitpoms.ac.uk/tlplib/bones/structure.php> (last visited Jan. 29, 2026).

²⁰ *Id.*

²¹ Structure and Composition of Bone, DoITPoMS (*Dissemination of IT for the Promotion of Materials Science*), <http://www.doitpoms.ac.uk/tlplib/bones/structure.php> (last visited Jan. 29, 2026).

rather than preserved organic carbon, and it cannot be used for direct diamond growth without substantial chemical processing.²² Thus, cremated ashes contain only small amounts of carbon, usually between 0.01% and 1% by weight, with the average around 0.3%.²³ As a result, the amount of carbon available at the outset is already limited, even before purification or processing losses are taken into account.

These technical constraints matter because cremation-diamond marketing often relies on consumer assumptions about quantity, purity, and exclusivity. Most companies state they need at least one pound of ash or five grams of hair to extract the carbon for diamond synthesis.²⁴ Some companies acknowledge online, that when a customer lacks enough hair or ashes, the company may add “additional generic carbon” to complete the piece while still claiming the diamond contains the “essence” of the decedent.²⁵ Other companies like Algordanza take the opposite posture, representing that they guarantee the diamond is produced from “100%” of the loved one’s ashes or hair and expressly criticize competitors for “adding

²² Global Claims Associates, *Consumer’s Guide to Cremation Diamond Science*, (<https://globalclaimsassociates.com/consumers-guide-to-cremation-diamond-science/> (last visited Feb. 23, 2026).

²³ *Id.*

²⁴ Algordanza, <https://www.algordanza.com/en/faq> (Quoting: “When an adult is cremated, up to 4 kg of ashes can be produced. For diamond burial, it is not the volume of the ash that matters, but its carbon content. As a rule, 500 grams /1 lb. of ashes are sufficient to ensure the creation of a memorial diamond. (last visited Mar. 5, 2026).

²⁵ Heart In Diamond, <http://www.heart-in-diamond.com> (last visited Mar. 5, 2026)

generic carbon.”²⁶ Yet this claim appears inconsistent with statements by Algordanza’s North America President, Rene de Diego, (and noted in the fine print on their website) who acknowledged in a phone interview with this author that additional carbon may be used when the available material is insufficient, such as in the case of a small child or infant.²⁷ For doctrinal purposes, the issue is not to resolve which statement is scientifically “true”; rather, it is to show that (1) the underlying material constraints make supplementation foreseeable, and (2) companies appear to compete on a varying claims about carbon sourcing and exclusivity that may influence consumer decisions.²⁸

C. Verifiability and Traceability

Even if trace carbon can be extracted from cremated remains, purified, and used in a laboratory-growth process, a separate question arises: whether the

²⁶ Algordanza, <https://www.algordanza.com/en/>, (quoting “Algordanza is the **only** memorial diamond company who **guarantees** that your personal diamond is made of **100% of your loved one’s ashes or hair. We do not add generic carbon** or artificially color any diamonds.”) But later contradicts this statement in an interview and in their FAQ section, (“In special situations, such as the cremation of small children or cremation with a significant excess of oxygen, there may be insufficient carbon in the cremation ashes to successfully grow one or more memorial diamonds. In these cases, after the carbon analysis, we contact the funeral home or the bereaved and find a mutual solution. In these cases, the “Two Sources” option is a good choice.”) <https://www.algordanza.com/en/faq>. (last visited Mar. 5, 2026).

²⁷ From telephone interview notes with President Rene de Diego, Algordanza on Feb. 3, 2026, with the author of this paper; Algordanza, <https://www.algordanza.com/en/faq>. (last visited Mar. 5, 2026).

²⁸ *Cremation Diamond Facts: An Investigative Report into the Scientific, Commercial, and Ethical Dimensions of the Cremation Diamond Industry* (Robert James FGA, GG, Sept. 9, 2025). <https://cremationdiamondfacts.com/index.php/an-investigative-report-into-the-scientific-commercial-and-ethical-dimensions-of-the-cremation-diamond-industry/> (last visited Feb. 23, 2026).

resulting diamond can be independently verified as containing carbon derived from a specific individual. This issue bears directly on substantiation and materiality under consumer protection law.

The Gemological Institute of America (“GIA”) explains that lab-grown diamonds possess “essentially the same optical, physical and chemical properties as mined diamonds.”²⁹ Similarly, GIA materials explaining HPHT and CVD growth processes note that once carbon atoms crystallize in the diamond lattice, the resulting gemstone is structurally indistinguishable from other diamonds of equivalent composition.³⁰ Only under high magnification, and with specialized expertise, can gemologists distinguish natural diamonds from their synthetic counterparts by examining subtle differences in their crystalline growth structure.³¹ Thus, these descriptions focus on distinguishing laboratory-grown diamonds from mined stones, but they do not suggest that gemological laboratories certify or trace the source of carbon atoms used during synthesis.

Industry-facing materials further acknowledge that independent gemological laboratories may certify a diamond’s lab-grown status and grading characteristics,

²⁹ Amada Luke, *Man-Made Diamonds: Questions and Answers*, Gemological Inst. of Am. (Sept. 22, 2017). <https://www.gia.edu/gia-news-research/manmade-diamonds-questions-answers>, last visited Feb. 23, 2026).

³⁰ James E. Shigley, *HPHT and CVD Diamond Growth Processes: Making Lab-Grown Diamonds*, Gemological Inst. of Am. (July 25, 2016).

³¹ *Id.*

but they do not verify the human origin of the carbon used.³² Instead, cremation diamond companies may provide their own “internal certificates,” identification numbers, or documented chain-of-custody procedures; however, this documentation is distinct from a third-party’s chemical verification of the carbon’s origin.³³ Investigative reporting on the cremation diamond industry likewise notes that once carbon atoms are incorporated into the diamond lattice, they become chemically identical regardless of origin.³⁴ Because lab-grown diamonds share the same optical, physical, and chemical properties regardless of the carbon source, the source of the carbon atoms within the lattice cannot be distinguished once crystallized.³⁵

These scientific constraints do not prove that cremation diamonds contain no personal carbon, but they do highlight the information imbalance behind origin claims. When a representation claims that a diamond is derived from a specific individual, yet no independent laboratory can confirm or refute that claim after

³²James E. Shigley, *HPHT and CVD Diamond Growth Processes: Making Lab-Grown Diamonds*, Gemological Inst. of Am. (July 25, 2016).

³³ EverDear, Cremation Diamonds from Ashes FAQ, <https://everdear.co> (last visited Mar. 5, 2026).

³⁴ *Cremation Diamond Facts: An Investigative Report into the Scientific, Commercial, and Ethical Dimensions of the Cremation Diamond Industry* (Robert James FGA, GG, Sept. 9, 2025). <https://cremationdiamondfacts.com/index.php/an-investigative-report-into-the-scientific-commercial-and-ethical-dimensions-of-the-cremation-diamond-industry/> (last visited Feb. 23, 2026).

³⁵ Amada Luke, *Man-Made Diamonds: Questions and Answers*, Gemological Inst. of Am. (Sept. 22, 2017). <https://www.gia.edu/gia-news-research/manmade-diamonds-questions-answers>, (last visited Feb. 23, 2026).

production, the adequacy of substantiation and disclosure becomes legally significant. Lack of verifiability is not deception, but it sets up the next question: whether reasonable consumers could be misled about the product's origin and whether advertisers have sufficient evidence to support their claims.

D. Patent Disclosures Concerning Carbon Recovery and Purification

A publicly filed patent application by LifeGem, a major cremation diamond company, describes its method for producing synthetic diamonds from human remains and provides insight into the industrial nature of the process.³⁶ The patent explains that cremation may occur at temperatures between 1000°F to 1800°F, and recovers carbon from cremation through filtration.³⁷ The recovered material then undergoes several purification steps to remove impurities (including halogen purification and high-temperature vacuum induction processing).³⁸ According to the disclosure, the purified carbon is converted into graphite, which is chemically identical to the graphite used in other lab-grown diamond manufacturing processes, and is then introduced into a crystal growth environment suitable for HPHT or CVD-related synthesis.³⁹

³⁶LifeGem Patent, U.S. Patent Application No. 2003/0017932 A1 (published Jan. 23, 2003) (describing cremation temperatures of approximately 1000°F–1800°F).

³⁷ *Id.*

³⁸ LifeGem U.S. Patent Application No. 2003/0017932 A1 (published Jan. 23, 2003).

³⁹ *Id.*

These disclosures do not suggest that carbon from cremated remains cannot be used in a lab-grown diamond. They do, however, confirm that the material used in crystal-growth undergoes substantial chemical processing, purification, and transformation before diamond formation. The resulting carbon feedstock is not preserved biological tissue, but highly refined industrial carbon prepared for synthetic crystal growth.

The distinction is legally relevant. Cremation diamond marketing language often invokes transformation, embodiment, or continuity between the decedent and the finished diamond. The patent disclosures instead describe filtration, purification, and graphitization steps typical of industrial carbon preparation. The contrast between the technical process and the consumer-facing narrative may bear on how reasonable consumers interpret representations concerning the carbon origin and its personal derivation.

II. Regulatory Framework Governing Diamond Composition and Funeral Representations

Cremation diamonds occupy a regulatory space shaped by two existing federal frameworks: the Federal Trade Commission's Guides for the Jewelry, Precious Metals, and Pewter Industries and the Funeral Industry Practices Rule. Although neither was drafted specifically with cremation diamonds in mind, both

provide relevant guidance concerning representations about product composition, origin, and marketing in the context of death-related business.

A. The Jewelry Guides and Representations Concerning Origin and Composition

The FTC’s Jewelry Guides are issued under the Commission’s authority to prevent unfair or deceptive acts or practices under Section 5 of the FTC Act.⁴⁰ A practice is unfair when it causes or is likely to cause substantial consumer injury that cannot reasonably be avoided and is not outweighed by benefits to consumers or competition.⁴¹ The Guides apply to “Gemstones and their laboratory-created and imitation substitutes,” as well as to industry traders at every level offering these products for sale.⁴² Although the Guides do not create private causes of action, they reflect the Commission’s current interpretation of how Section 5 applies to industry product claims.⁴³ While they do not specifically address cremation diamonds, their rules governing origin claims, product descriptions and misleading marketing practices apply when diamonds are marketed and sold as gemstones.

For example, 16 C.F.R. § 23.1 provides a general prohibition against misrepresentation, stating it is “unfair” or “deceptive” to misrepresent the “type,

⁴⁰ 16 C.F.R. pt. 23 (West 2026); *see also* 15 U.S.C. §§45,46.

⁴¹ 15 U.S.C. § 45 (n) (2026).; *see also* 16 C.F.R. §23.0 (West 2026).

⁴² 16 C.F.R. §23.0(a)-(b) (West 2026).

⁴³ 16 C.F.R. §23.0(d) (West 2026).

kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment, substance, durability, serviceability, origin, price, value, preparation, production, manufacture, distribution, or any other material aspect of an industry product.”⁴⁴ This provision is intentionally broad. Here, the claims concerning “origin,” “substance,” and “production” are particularly relevant to cremation diamonds. Furthermore, Section 23.12 defines a “diamond” as a mineral consisting essentially of pure carbon crystallized in the isometric system.⁴⁵ The Guides also address lab-grown diamonds, permitting use of terms such as “laboratory-created” or “laboratory-grown” when accompanied by a clear and obvious disclosure that the products are not mined from the earth.⁴⁶

Although Part 23 primarily addresses the distinction between mined and lab-created stones, its misrepresentation provisions are not limited to that context. Section 23.1 prohibits misleading or deceptive representations about gemstones, including claims relating to its composition, origin, or method of manufacture.⁴⁷ Incorporated into this standard is the principle that statements about how a gemstone was produced or where its materials come from must be accurate and not create a misleading impression. A claim that a gemstone is created from a specific

⁴⁴ Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 C.F.R. §23.1 (West 2026).

⁴⁵ 16 C.F.R. §23.12(a) (West 2026).

⁴⁶ 16 C.F.R. §23.12(c) (West 2026).

⁴⁷ 16 C.F.R. §23.1 (West 2026).

individual's cremated remains goes to the origin of the materials used and production process of the gemstone within the meaning of §23.1.⁴⁸ Accordingly, if a claim gives an inaccurate or materially incomplete impression about carbon sourcing, supplementation, or exclusivity, then it falls within the scope of the Guides.

The FTC Guides also emphasizes that disclosures must be sufficiently clear and prominent to prevent deception.⁴⁹ Here, clarity of language, proximity to the claim being qualified, and the lack of contradictory messaging are identified as relevant factors.⁵⁰ With cremation diamonds, the real question is whether companies are being clear enough about supplemental carbon inputs, processing limitations, or more importantly, the unverifiability of carbon's origin. That question must be answered by looking at the overall "net impression" created by their marketing materials, not just the fine print. Net impression is the overall message conveyed to consumers when an advertisement is viewed in its entirety, rather than through isolated words, phrases or disclaimers.⁵¹

B. The Funeral Rule and Marketing in a Grief-Based Context

⁴⁸ 16 C.F.R. §23.1 (West 2026).

⁴⁹ 16 C.F.R. §23.1 note 2 (West 2026).

⁵⁰ *Id.*

⁵¹ FTC Policy Statement on Deception, 103 F.T.C. 174 (1984). (West 2026).

In addition to the Jewelry Guides, the Federal Trade Commission regulates funeral industry practices through the Funeral Rule, codified at 16 C.F.R. Part 453.⁵² The Rule applies to funeral and cremation providers and was adopted to address deceptive and unfair practices in the sale of funeral goods and services, particularly where consumers may be emotionally vulnerable and operating under time constraints.⁵³ It was designed to ensure price transparency and prevent misrepresentation of funeral services, and prohibits the misrepresentations of material facts concerning funeral goods and services.⁵⁴ It also requires itemized price disclosures and clear, conspicuous presentation of certain information.⁵⁵

Although cremation diamond companies may not fall within the formal definition of “funeral providers,” their services are frequently marketed alongside cremation services, and when families are making emotionally significant end-of-life decisions. The structure of the Funeral Rule reflects the Commission's recognition that these end-of-life transactions present heightened risks of deception, as these consumers are frequently emotionally vulnerable and informationally disadvantaged. The regulatory logic underlining Part 453 is therefore instructive. Where consumers are making decisions shortly after the

⁵² Funeral Industry Practices Rule, 16 C.F.R. pt. 453 (West 2026).

⁵³ *Id.*

⁵⁴ 16 C.F.R. pt. 453.3 (West 2026).

⁵⁵ 16 C.F.R. §§ 453.2-453.4 (West 2026).

death of a loved one, representations concerning identity, disposition, and memorialization are likely to be material.

Clear disclosure requirements and prohibitions on misrepresentation in this setting reinforce the need for accuracy in origin-based claims. Taken together, Parts 23 and 453 establish that (1) representations concerning the origin and production of gemstones are subject to deception analysis under Section 5, and (2) misrepresentations in death-related transactions are a recognized area of federal regulatory concern. Thus, cremation diamonds sit at the intersection of these two areas and the anti-fraud and anti-misrepresentation rules that govern them should also be considered. The next Part applies the Commission’s deception framework directly to the marketing representations described above.

III. Application of Section 5 Deception Doctrine to Cremation Diamond Representations

Section 5 of the Federal Trade Commission Act declares unlawful “unfair or deceptive acts or practices in or affecting commerce.”⁵⁶ Although the statute itself is brief, the Commission’s 1984 Policy Statement on Deception provides the governing framework.⁵⁷ Under that statement, a practice is deceptive if there is: (1)

⁵⁶ 15 U.S.C. §45(a)(1) (2024).

⁵⁷ FTC Policy Statement on Deception, 103 F.T.C. 174 (1984). (West 2026).

a misrepresentation, omission, or practice that is (2) likely to mislead consumers acting reasonably under the circumstances, and (3) the representation or omission is material.⁵⁸ Deception is evaluated based on the “net impression” of the advertisement.⁵⁹ Federal courts and the Commission have consistently applied this framework to objective product characteristics, including representations made in the jewelry industry. This Part applies those principles to cremation diamond marketing.

A. Representations Concerning Origin and Personal Derivation

The threshold requirement under Section 5 is the existence of a representation, omission, or practice.⁶⁰ Advertising claims need not be framed as precise scientific statements to be actionable. The FTC evaluates whether advertising conveys a representation by examining the overall message communicated to consumers, including express statements, imagery and context.⁶¹ In the cremation diamond market, origin-based claims are central to the product’s identity. Marketing materials frequently state diamonds are created “from your

⁵⁸ FTC Policy Statement on Deception, 103 F.T.C. 174 (1984). (West 2026).

⁵⁹ FTC Policy Statement on Deception, 103 F.T.C. 174,178 (1984). (West 2026).

⁶⁰ FTC Policy Statement on Deception, *supra* note 46 (West 2026)

⁶¹ *See FTC v. Colgate-Palmolive Co.*, 380 U.S. 374, 386-87 (1965) (holding that advertising may be deceptive based on the overall impression conveyed to consumers); *In re Thompson Med. Co.*, 104 F.T.C. 648, 789 (1984) (explaining that both express and implied claims can form the basis of deceptive advertising liability); FTC Policy Statement on Deception, 103 F.T.C. 174, 178 (1984) (stating that deception is evaluated on the net impression conveyed to reasonable consumers).

loved one's ashes," contain the "essence" of the deceased, or transform a person "into a diamond."⁶² Some companies like Algodanza claim to guarantee "100% production" from a loved one's ashes or hair.⁶³ Others acknowledge that supplemental carbon may be added "if necessary" to complete the diamond synthesis process, yet none clearly disclose the amount or significance to that supplementation.⁶⁴

The FTC's Jewelry Guides prohibit misrepresenting the "origin," "substance," "production," or "any other material aspect" of an industry product.⁶⁵ A statement that a diamond is created from the remains of a specific individual directly concerns both origin and production under §23.1, which covers representations about a product's source, composition, or method of manufacture.⁶⁶ The Guides are not limited to mineral classification; they include materially inaccurate or incomplete claims about how a product is made.⁶⁷

Courts have recognized that misrepresentations about objective gem characteristics are actionable because consumers lack the expertise to

⁶² See, e.g., Heart in Diamond, <https://www.heart-in-diamond.com> (last visited Mar.5, 2026); Eterneva, <https://www.eterneva.com> (last visited Mar. 5, 2026).

⁶³ Algodanza, <https://www.algodanza.com/en/> (last visited Mar.5, 2026).

⁶⁴ Heart In Diamond, Cremation Diamonds FAQ; <https://www.heart-in-diamond.com/cremation-diamonds.html> (last visited March 5, 2026).

⁶⁵ 16 C.F.R. §23.1 (West 2026).

⁶⁶ *Id.*

⁶⁷ *Id.*

independently verify them. In *United States v. Hasson*, the court upheld fraud convictions where a jeweler misrepresented carat weight, color, clarity, treatment status, and provenance of diamonds.⁶⁸ The court emphasized that such characteristics were material because they concerned objective attributes central to consumer valuation.⁶⁹ Similarly, claims about carbon origin create a comparable information imbalance between seller and consumer because the company knows far more about the process and the carbon sources used.

Comparably, in *In re Thomas L. Baker, Inc.*, the FTC required respondents to stop misrepresenting the grading and certification of diamonds where marketing materials created inflated impressions of the stone's value and quality.⁷⁰ The Commission concluded that representations tied to grading reports and certifications could mislead consumers when they suggested objective verification or quality assurances that were not supported by reliable standards.⁷¹ This case illustrates that even technical claims conveyed through documentation or certification must not create a misleading overall impression. A similar concern arises in the cremation diamond context, where origin claims may suggest a level

⁶⁸ *United States v. Hasson*, 333 F.3d 1264 (11th Cir. 2003).

⁶⁹ *Id.*

⁷⁰ *In re Thomas L. Baker, Inc.*, 100 F.T.C. 461 (1982).

⁷¹ *Id.*

of biological derivation or exclusivity that consumers cannot be independently verified.

Under Section 5's net impression standard, the inquiry is not limited to whether companies disclose that a diamond is lab-grown.⁷² The question is whether the overall presentation conveys that the diamond is derived exclusively or predominantly from a particular individual's remains. Explicit guarantees such as "100%" sourcing are direct representations. In other cases, emotionally charged language suggesting transformation or embodiment, without clearly disclosing whether additional carbon is used or in what quantity, may create an implied claim based on the advertisement's overall net impression. Although often implied rather than stated outright, the marketing message consistently emphasizes a biological connection that scientific evidence suggests does not survive cremation. In either case, the companies are still making an origin-based representation.

B. Likelihood to Mislead a Reasonable Consumer

The second question is whether the representation is likely to mislead consumers acting reasonably under the circumstances.⁷³ The reasonable consumer standard does not require proof that all consumers would be deceived.⁷⁴ It is

⁷² FTC Policy Statement on Deception, 103 F.T.C. 174 (1984). (West 2026).

⁷³ FTC Policy Statement on Deception, *supra* note 46. (West 2026).

⁷⁴ FTC Policy Statement on Deception, *supra* note 46. (West 2026).

enough if the representation is likely to mislead a significant portion of reasonable consumers, meaning a substantial minority or meaningful segment of the audience to whom the advertisement was directed.⁷⁵ Context here is legally relevant. The Funeral Rule reflects the Commission’s recognition that consumers making funeral or cremation decisions often do so under emotional strain and time pressure.⁷⁶ In that setting, an average consumer presented with statements that a diamond is made “from your loved one” could reasonably understand the claim to mean it was made directly from that person’s remains. If supplemental carbon is used but disclosed only in the technical FAQs or secondary materials, if at all, the overall message may differ from the actual production process.

Federal courts have treated failure to disclose material characteristics of jewelry as actionable. In *Ferreira v. Sterling Jewelers, Inc.*, the court allowed claims to proceed where plaintiffs alleged that the defendant failed to disclose gemstone treatments affecting value and consumer perception, citing the FTC’s Jewelry Guides as relevant authority.⁷⁷ The case illustrates that omissions about production or treatment processes can mislead consumers even when the product itself is authentic.

⁷⁵ FTC Policy Statement on Deception, *supra* note 46. (West 2026)..

⁷⁶ 16 C.F.R. pt. 453 (West 2026).

⁷⁷ *Ferreira v. Sterling Jewelers, Inc.*, 130 F. Supp. 3d 471 (D. Mass. 2015).

Moreover, as discussed in Part I, lab-grown diamonds have the same chemical structure regardless of the carbon source once crystallized.⁷⁸ If no independent laboratory verifies the human origin of the carbon used, consumers must rely entirely on the seller's representations. The absence of external independent verifiability heightens the importance of clear and accurate disclosure to the consumer. Thus, when the marketing emphasizes personal embodiment while minimizing or failing to clearly disclose carbon supplementation type and quantity, it is likely to mislead consumers about how much of the diamond, if any, comes from their loved one's remains.

C. Materiality and Substantiation

The final element of deception is materiality. A representation is material if it is likely to affect a consumer's choice of or conduct regarding a product.⁷⁹ Express claims about a product's defining characteristics are presumed material.⁸⁰ In the cremation diamond market, derivation from a specific individual is the product's defining value feature. Consumers do not purchase these cremation diamonds primarily for mineral classification or grading characteristics; they buy them for the claimed personal connection to their loved one. If the marketing implies an

⁷⁸ Amanda Luke, *Man-Made Diamonds: Questions and Answers*, Gemological Inst. of Am. (Sept. 17, 2017). <https://www.gia.edu/gia-news-research/manmade-diamonds-questions-answers>, last visited Feb. 23, 2026).

⁷⁹ FTC Policy Statement on Deception, *supra* note 48. (West 2026).

⁸⁰ *Id.*

exclusive transformation but the actual amount of personal carbon is minimal, supplemented, or unverifiable, that discrepancy bears directly on the consumer's willingness to pay a huge premium price for the product.

The Commission also requires that advertisers possess a reasonable basis for objective product claims at the time they are made.⁸¹ In *FTC v. Colgate-Palmolive Co.*, the Supreme Court held that advertisers may not make objective claims without adequate substantiation, particularly where consumers cannot independently verify the representation.⁸² Here, a claim that a diamond is created from a specific person's carbon is an objective assertion about production inputs, not merely a symbolic statement. Where supplementation practices vary and independent verification is unavailable, the adequacy of substantiation becomes central. Depending on the wording of the claims and the disclosures used, a properly pleaded complaint alleging misleading origin representations could plausibly satisfy the elements of deception under Section 5 of the FTC Act.

IV. Texas Common Law Fraud

Independent of remedies under the FTC Act or Texas's DTPA, a plaintiff may pursue relief under traditional common law fraud principles. Common law fraud requires proof that: (1) the defendant made a material misrepresentation; (2)

⁸¹ *FTC v. Colgate-Palmolive Co.*, 380 U.S. 374 (1965).

⁸² *Id.*

the representation was false; (3) the defendant knew it was false or made it recklessly without knowledge of its truth; (4) the defendant intended the plaintiff to act upon the representation; (5) the plaintiff actually and justifiably relied on the representation; and (6) the plaintiff suffered injury as a result.⁸³

Unlike statutory deception claims, Texas common law fraud requires proof that the defendant acted knowingly or recklessly and that the plaintiff actually relied on the statement.⁸⁴ That higher bar does not eliminate potential liability in the cremation diamond context; it simply shifts the focus of the analysis to what the company knew about its carbon sourcing practices and how the practices were represented to consumers.⁸⁵

A. Material Misrepresentation

A misrepresentation is material if a reasonable person would attach importance to it in determining whether to enter into a transaction.⁸⁶ As discussed in Part III, claims that a diamond is created from a specific person's remains go to the core identity of the product. Personal derivation is the defining feature

⁸³ See, e.g., *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).

⁸⁴ *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).; see also *Formosa Plastics Corp. USA v. Presidio Eng'rs & Contractors, Inc.*, 960 S.W.2d 41,47 (Tex. 1998).

⁸⁵ *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).

⁸⁶ *Id.*

distinguishing a cremation diamond from an ordinary laboratory-grown diamond, which costs far less per carat.

When a company expressly guarantees that a diamond is produced from “100%” of a loved one’s ashes or hair, the representation is factual and specific. If carbon is being added despite those assurances, then the question of whether the claim is false may not be complicated at all. More difficult cases arise where marketing relies on suggestive language of “transformation” or “embodiment” without clear quantitative disclosure. In those instances, the plaintiff would need to demonstrate that the overall representation conveyed a false factual implication regarding its origin.

Courts have recognized that fraud may arise not only from affirmative misstatements but also from partial disclosures that create a misleading impression.⁸⁷ Where a seller discloses that carbon is extracted from ashes but omits that additional generic carbon is routinely added, a factfinder could evaluate whether the partial disclosure rendered the overall statement misleading.

B. Knowledge or Reckless Disregard

⁸⁷ *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).

Common law fraud requires proof that the defendant knew the representation was false or made it recklessly without knowledge of its truth.⁸⁸ Texas courts generally treat this scienter requirement satisfied when the defendant either knew the representation was false or asserted it as fact without a reasonable basis for believing it was true.⁸⁹ In the cremation diamond context, fraudulent intent would likely depend on what the company knew internally about its carbon sourcing practices and how it described or disclosed those practices in its marketing. For instance, if a company advertises that a diamond is derived exclusively from the deceased's hair or ashes, while maintaining internal policies permitting supplementation, that discrepancy could support an inference of knowledge. Alternatively, if the company lacks reliable verification procedures but presents specific origin claims as factual, a plaintiff could argue that it acted recklessly or with willful disregard for the truth.

Because laboratory-grown diamonds are chemically indistinguishable regardless of carbon source once crystallized, consumers cannot independently verify their carbon origin after production. At present, there is no widely available or standard laboratory method that can verify the carbon source once crystallized.⁹⁰

⁸⁸ *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).

⁸⁹ *Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co.*, 51 S.W.3d 573 (Tex. 2001).

⁹⁰ Jonathan Jarry M.Sc. *These Diamonds Are Made from the Deceased. The memorial diamond industry claims to transform cremation ashes into diamonds. Some say it's impossible. Who's right?* December 23, 2022. <https://www.mcgill.ca/oss/article/critical-thinking/these-diamonds->

When sellers know that origin claims cannot be independently verified but present them as objective facts rather than symbolic statements, the knowledge element becomes a factual question rather than an implausible one.

C. Intent and Justifiable Reliance

Fraud further requires that the defendant intended the plaintiff to act upon the misrepresentation and that the plaintiff actually and justifiably relied on it.⁹¹ In commercial advertising, intent to induce reliance is usually inferred when a representation is made to promote sales.⁹² In the cremation diamond context, reliance would likely focus on the consumer's decision to purchase the diamond at a premium price based on its claimed personal origin. Courts have recognized that reliance may be established where the representation was a substantial factor in the transaction.⁹³ Here, a grieving consumer who purchases a cremation diamond specifically because it is represented as containing the remains of their loved one could likely demonstrate reliance on that representation.

A consumer is not required to investigate complex technical production processes to rely on a company's claims, especially when the relevant information

are-made-deceased#:~:text=You%20may%20be%20wondering%20if,...%20or%208%25. (last visited Feb. 19, 2026).

⁹¹ *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).

⁹² *Id* at 337.

⁹³ *Italian Cowboy Partners, Ltd. V. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex 2011).

is entirely within the seller's control.⁹⁴ Because consumers lack access to information about how the carbon is sourced or supplemented, their reliance on a company's express origin claims may be reasonable.

D. Damages and the Measurable Price Premium

To recover under common law fraud, a plaintiff must also show injury resulting from the misrepresentation. In the cremation diamond context, the most plausible damages theory is a price-premium theory. Under premium pricing strategy, a company sets a product's price above market average to signal higher quality and reinforce a luxury brand's image.⁹⁵ Under this approach, the injury arises when consumers pay more for a product because of a misleading claim.

In this market, consumers pay up to 9000% more for a diamond marketed as "uniquely" containing the carbon of a specific loved one than for a comparable lab-grown diamond without that origin representation.⁹⁶ This price difference is difficult to explain based solely on production costs, which are likely similar to those used by other lab-grown diamond manufacturers. Instead, the premium appears to reflect the product's perceived sentimental value, which depends largely on claims about personal origin that consumers cannot independently verify.

⁹⁴ See *Formosa Plastics Corp. USA v. Presidio Eng'rs & Contractors, Inc.*, 960 S.W.2d 41 (Tex. 1998).

⁹⁵ See Jordie Black, *Premium Pricing: Definition, Pros & Cons, Examples*, March 13, 2024. <https://prisync.com/blog/premium-pricing/> (last visited Feb. 17, 2026).

⁹⁶ See Tables on p. 35

Companies may also attribute higher prices to individualized handling, chain-of-custody procedures, or specialized carbon purification techniques, but the core value proposition still centers on the claimed connection to the deceased.

The market for lab-grown diamonds has exploded in recent years, leading to a rapid and well-publicized decline in price per carat.⁹⁷ Ordinary lab-grown diamonds are widely available in standardized sizes and qualities, and their pricing is largely determined by the traditional “Four Cs”: carat weight, color, clarity, and cut.⁹⁸ Wholesale pricing references used by professionals, like the *GemGuide*, reflect prevailing wholesale market values for round brilliant lab-grown diamonds. There are no known professional pricing guides for cremation diamonds beyond the retail prices set by the companies themselves. Nor is there public information about their operating costs, which companies like Algordanza claim warrant their high prices.

Cremation diamond companies charge prices 1,800-9,000% higher than prevailing wholesale market prices for comparable lab-grown diamonds with similar grading characteristics, often exceeding the value of natural mined

⁹⁷ See Paul Zimnisky, *The State of the 2022 Global Diamond Market*, Paul Zimnisky Diamond Analytics 1,5 (2022). <https://www.paulzimnisky.com/state-of-the-diamond-market-past-issue-index>. (last visited Feb. 17, 2026).

⁹⁸ Al Gilbertson, October 27, 2016, *Diamond Quality: A short History of the 4Cs*, <https://www.gia.edu/gia-news-research/diamond-quality-short-history-4cs>. (last visited Feb. 17, 2026).

diamonds.⁹⁹ The price difference is not explained by mineral rarity or gem quality. Cremation diamonds are produced using established HPHT or CVD processes and are chemically indistinguishable from other lab-grown diamonds. The premium price therefore appears to be based largely on the claim that the diamond contains carbon from a specific individual and the symbolic meaning attached to that claim.

Under Texas fraud law, benefit-of-the-bargain damages allow recovery of the difference between the value of the product as represented and the value actually received.¹⁰⁰ Because courts measure this difference using objective market value, they do not attempt to qualify subjective emotional benefits. Instead, the price premium tied to the challenged representation may serve as evidence of the difference in value.¹⁰¹ If a cremation diamond is marketed as unique and made from a particular individual's remains, but the amount of the personal carbon differs materially from what is represented, a consumer could argue that they paid more than the product was worth. The injury lies not in the diamond's physical quality, but in the gap between the promised origin and the premium charged for that claim.

The pricing disparity, therefore, becomes relevant to materiality, reliance,

⁹⁹ See Table on p. 36

¹⁰⁰ <https://chavana.lawyer/mental-anguish-damages-for-property-loss-in-texas>; quoting (*Formosa Plastics Corp. USA v. Presidio Eng'rs & Contractors, Inc.*, 960 S.W.2d 41, 49 (Tex.1998)).

¹⁰¹ *Plastics Corp. USA v. Presidio Eng'rs & Contractors, Inc.*, 960 S.W.2d 41, 49 (Tex.1998).

and damages. If evidence shows that consumers routinely pay far more than the market rate for comparable lab-grown diamonds based on origin claims, that premium may serve as a measurable component of recoverable damages. For example, current pricing table below shows the following approximate wholesale values of ordinary round brilliant lab-grown diamonds (in USD per stone equivalent, depending on color and clarity range): ¹⁰²

Carat Size	Color	Clarity	Per Carat Price
0.50	D-F	VS	\$190
1.0	D-F	VS	\$210
3.0	D-F	VS	\$270

¹⁰²See *GemGuide* <https://app.gemguide.com/pricing> (last visited Feb. 23, 2026)

By contrast, publicly advertised retail cremation diamond prices reflect dramatically higher prices. These figures are based on the companies' own published pricing:¹⁰³

Carat Weight	Heart in Diamond	EverDear	Life Gem	Eterneva
0.50	\$2,970	\$2,800	\$5,599	\$7,699
1.0	\$5,600	\$6,000	\$12,999	\$15,000
3.0	\$24,000	\$23,000	\$32,299	\$42,000

Finally, the table below shows the average percentage price premium between the wholesale midpoint compared to cremation diamonds (on D-F color and Flawless-Slightly Included clarity cost per carat for ordinary lab-grown).

Carat Weight	Wholesale Midpoint	Cremation Diamond Average	% higher
0.50	\$250	\$4767	1,807
1.0	\$305	\$9,900	3,146
3.0	\$335	\$30,325	8,952

¹⁰³Compare Eterneva Pricing, <http://eterneva.com/pricing> (last visited Mar. 5, 2026) with Heart in Diamond, <http://www.heart-in-diamond.com>, (last visited Mar. 5, 2026) with LifeGem, <https://www.lifegem.com/#LGPRICES>, (last visited Mar. 6, 2026) with EverDear, <https://www.everdear.co/cremation-diamonds-from-ashes/turning-ashes-into-diamonds-cost> (last visited Feb. 3, 2026).

In sum, the pricing disparity between standard lab-grown diamonds and cremation diamonds is not incidental. It reflects a premium tied directly to claims that the diamond is derived from a specific loved one. The gap is not explained by its intrinsic value (such as measurable quality or grading characteristics) but by representation about origin, personal connection, and exclusivity. When those representations are challenged as misleading, particularly in a market involving grieving consumers, the premium becomes the measure of harm.

The measurable premium tied to origin claims does more than establish injury; it also defines the scope of available remedies. When a consumer shows that a material misrepresentation caused them to pay a substantial price premium, the law provides multiple avenues for recovery. The next Part examines the remedial mechanisms available under the FTC Act, the Texas DTPA, and common law fraud principles.

V. Remedies and Enforcement Mechanisms

Existing federal and state laws prohibiting fraud and misrepresentation or protecting consumers from false statements provide ample protection when those established principles are extended to this new type of product. The cremation diamond market does not require new legal theories, only the application of established ones.

A. Federal Trade Commission Enforcement

Under Section 5 of the Federal Trade Commission Act, unfair or deceptive acts or practices in commerce are prohibited.¹⁰⁴ For those that violate the statute, the FTC may initiate administrative proceedings and issue cease-and-desist orders.¹⁰⁵ If a company violates a final order, civil penalties may follow.¹⁰⁶ The Commission may also seek injunctive relief against these companies in federal court under §13(b).¹⁰⁷ Although the Supreme Court has limited the FTC's ability to obtain monetary restitution under that provision, its injunctive authority remains significant.¹⁰⁸ In the cremation diamond context, federal enforcement would most likely focus on requiring clearer disclosures about carbon supplementation, limiting unsubstantiated "DNA" or exclusivity claims, and ensuring compliance with the FTC's Jewelry Guides.¹⁰⁹

Bringing an enforcement action against a cremation diamond company over claims of a "unique connection" or biological derivation would not require a new legal theory. It would simply involve applying established deception principles to a new product category. If the conduct also violates a trade regulation rule, civil

¹⁰⁴ 15 U.S.C. § 45(a). (West 2026).

¹⁰⁵ 15 U.S.C. § 45(b). (West 2026).

¹⁰⁶ 15 U.S.C. § 45(l). (West 2026).

¹⁰⁷ 15 U.S.C. § 53(b). (West 2026).

¹⁰⁸ *AMG Capital Mgmt., LLC v. FTC*, 593 U.S.67 (2021).

¹⁰⁹ 16 C.F.R. pt. 23 (West 2026).

penalties may be available, and administrative orders can require clearer disclosures or limit certain marketing claims.¹¹⁰ Even without monetary restitution, such orders can meaningfully influence marketing practices across the industry.

Furthermore, the FTC’s Funeral Rule requires price transparency and prohibits misrepresentation by funeral providers.¹¹¹ As alternative memorial products become more common, regulators may consider whether these products should fall within existing transparency frameworks, but the basic regulatory structure is already in place.

B. Texas DTPA Remedies

The Texas Deceptive Trade Practices Consumer Protection Act prohibits false, misleading, or deceptive acts in trade or commerce.¹¹² It provides a detailed, though nonexclusive, list of prohibited practices, including misrepresenting the characteristics of goods or failing to disclose material information intended to induce a transaction.¹¹³ Under this Act, only a “consumer,” one who seeks to acquire goods or services by purchase or lease, may bring a private cause of action.¹¹⁴ To prevail, a consumer must show that (1) the defendant engaged in a

¹¹⁰ 15 U.S.C. §45(m). (West 2026).

¹¹¹ 16 C.F.R. pt. 453 (West 2026).

¹¹² Tex. Bus. & Com. Code §17.46(a). (West 2026).

¹¹³ Tex. Bus. & Com. Code §17.46(b). (West 2026).

¹¹⁴ Tex. Bus. & Com. Code §17.45(4). (West 2026).

prohibited act, that (2) the consumer relied on it, and (3) the act was a producing cause of economic damages or mental anguish.¹¹⁵

A prevailing consumer may recover economic damages.¹¹⁶ If the defendant acted knowingly, the statute permits up to three times those damages.¹¹⁷ Texas law also allows recovery for mental anguish in appropriate cases.¹¹⁸ Given the emotional context in which cremation diamonds are purchased, mental anguish claims may arise when a plaintiff can show more than mere disappointment. For instance, if a plaintiff relied on representations about a unique biological connection and later discovered that those representations were materially misleading, the resulting distress may extend beyond economic loss and rise to the level of legally cognizable mental anguish.

If future scientific methods were able to test carbon origin and reveal that a memorial diamond does not materially contain the loved one's carbon as represented, the injury would arise when the consumer learns that the symbolic meaning of the object was materially false. It is foreseeable that a grieving person who purchased the diamond based on a promised biological connection would suffer real emotional harm upon learning that the representation was misleading.

¹¹⁵ Tex. Bus. & Com. Code §17.50(a)(1). (West 2026).

¹¹⁶ Tex. Bus. & Com. Code §17.50(b)(1). (West 2026)

¹¹⁷ *Id.*

¹¹⁸ *Id.*

Texas courts recognize that legally cognizable mental anguish involves a high degree of mental pain and distress that is more than mere disappointment or regret.¹¹⁹ The anguish would be directly tied to the deception: but for the claim that the diamond uniquely embodied the loved one's carbon, the consumer would not have made the purchase, and but for the later scientific confirmation that the claim was false, the emotional injury would not have occurred.

This is not simply regret over overpaying for a mislabeled product. The harm may include renewed grief, feelings of betrayal, humiliation at having displayed the diamond publicly, depression, or other serious emotional effects. With testimony describing the nature, duration, and severity of the distress, along with evidence that it disrupted daily life, such claim can meet Texas's standard for legally cognizable mental anguish. At the same time, the economic damages remain straightforward. If consumers paid substantially more for a cremation diamond based on materially misleading origin claims, that price differential represents a measurable economic loss.

Courts may also issue injunctions preventing continued deceptive conduct.¹²⁰ The DTPA further provides for recovery of reasonable and necessary

¹¹⁹ *Parkway Co. v. Woodruff*, 901 S.W.2d 434,444 (Tex. 1995) (holding that mental anguish damages require evidence of a "high degree of mental pain and distress" beyond mere disappointment, anger, resentment or embarrassment).

¹²⁰ Tex. Bus. & Com. Code §17.50(b). (West 2026).

attorney's fees to a prevailing consumer.¹²¹ By allowing recovery of attorneys' fees, the statute makes it easier for consumers to pursue claims that might otherwise be too costly to litigate.

State attorneys general also possess independent authority to enforce consumer protection laws, often modeled on the FTC Act. Acting under *parens patriae* authority, attorneys general may: investigate, seek injunctions, pursue civil penalties, and obtain restitution on behalf of state residents.¹²² Because cremation diamond companies operate worldwide, and advertise primarily through the internet, coordinated multi-state enforcement is a realistic possibility.

Similar coordinated enforcement actions have occurred in other consumer markets involving allegedly misleading marketing practices. For example, a coalition of state attorney's general brought multi-state actions against JUUL Labs for allegedly deceptive marketing practices directed at young consumers, resulting in a nationwide settlement exceeding \$400 million and injunctive restrictions on their advertising practices.¹²³ Multi-state actions have also been used to address

¹²¹ Tex. Bus. & Com. Code §17.50(d). (West 2026).

¹²² See generally National Association of Attorneys General, Consumer Protection 101, <https://www.naag.org/issues/consumer-protection/consumer-protection-101/> (last visited Feb. 10, 2026).

¹²³ *Matter of People v. Juul Labs, Inc.*, 212 A.D.3d 414 (2023), *State ex rel. Stein v. Bowen*, 2022 NCBC 64 (2022), *State ex rel. Weiser v. Juul Lab, Inc. (In re Plaintiff)*, 2022 CO 46, (2022); see also Press Release, Tex. Att'y Gen., *Attorney General Paxton Announces \$438.5 Million Multistate Settlement with Juul Labs for Marketing to Youth* (Sept. 6, 2022),

deceptive online marketing and consumer fraud where companies operate across jurisdictions.¹²⁴ These enforcement models show how state regulators could similarly coordinate investigations where cremation diamond companies market origin-based claims to consumers nationwide.

C. Common Law Fraud Remedies

Common law fraud permits recovery under both benefit-of-the-bargain and out-of-pocket measures of damages.¹²⁵ In this market, the benefit-of-the-bargain model most closely aligns with the theory developed in Part IV. If a cremation diamond was represented as uniquely and exclusively derived from a particular individual's remains, yet the production process materially differed from that representation, the difference between represented value and actual value constitutes compensable harm. Finally, exemplary damages may be available upon proof of fraud by clear and convincing evidence.¹²⁶ Although such awards are

<https://www.texasattorneygeneral.gov/news/releases/paxton-announces-439-million-multistate-settlement-juul-deceptive-marketing-and-sales-practices#>:

¹²⁴ *Alfred L. Snapp & Son v. Puerto Rico*, 458 U.S. 592 (1982) (recognizing states' authority to bring *parens patriae* actions to protect quasi-sovereign interests of their citizens). *See also* Nat'l Ass'n of Att'ys Gen., *Multistate Investigations and Settlements*, <https://www.naag.org/issues/antitrust/multistate-litigation-and-settlements/> (last visited March 23, 2026).

¹²⁵ *Formosa Plastics Corp. USA v. Presidio Eng'rs & Contractors, Inc.*, 960 S.W.2d41 (Tex. 1998).

¹²⁶ Tex. Civ. Prac. & Rem. Code 41.003. (West 2026).

reserved for intentional misconduct, their availability underscores the seriousness of deliberate misrepresentation in emotionally sensitive transactions like these.

D. Insurance Valuation and Replaceability

Cremation diamonds also present unusual issues in the context of jewelry insurance. Most jewelry policies insure items on a replacement-cost basis, meaning the insurer promises to replace the item with property of “like kind and quality.”¹²⁷ In ordinary jewelry transactions, this standard functions effectively because gemstones are commodities whose value depends on measurable characteristics such as carat weight, color, clarity and cut. When a conventional diamond is lost or stolen, insurers can replace it with another diamond possessing similar grading characteristics and market value.¹²⁸

Cremation diamonds, however, are marketed on a fundamentally different premise. Their asserted value derives not from mineral rarity or gemological quality, but from the claim that the diamond contains carbon derived from a specific individual’s remains. That feature is inherently non-replicable. As a result, if such a stone is lost or stolen, an insurer could replace it with a lab-grown diamond of similar grading characteristics, but it could not replace the alleged

¹²⁷ *Bekins Van Lines, Inc. v. Kahn*, 717 S.W.3d 86 (Tex. 2025). (saying the measure of damages should align with specific characteristics of the insured item, but disputes may arise when replacement does not fully replicate the unique attributes of the original item.)

¹²⁸ *Id.*

personal derivation that forms the basis of the product's marketed value. The insured would therefore receive a substitute that matches the diamond's physical attributes but not the claimed identity-based characteristic for which the premium price was paid.

This mismatch highlights the tension between grief-based memorial products and traditional insurance valuation models. Texas insurance law generally compensates for objective market value rather than sentimental attachment.¹²⁹ Yet cremation diamond pricing appears to come largely from emotional and symbolic representations rather than measurable gemological attributes. If appraisals rely on those representations to justify valuations that exceed comparable lab-grown diamond prices by several thousand percent, insurers may question whether the valuation reflects an objectively verifiable market value or merely a narrative premium tied to unverifiable origin claims.

Texas law also prohibits misrepresentations in connection with insurance transactions. The Texas Insurance Code makes it unlawful to misrepresent material facts relating to insurance coverage or policy benefits.¹³⁰ Texas courts have also

¹²⁹ *Bekins Van Lines, Inc. v. Kahn*, 717 S.W.3d 86 (Tex. 2025); (analogous to dispute between replacement and unique attributes of original item, where cremation diamonds cannot be replicated, creating a potential mismatch between the insurer's expectations and the insurer's obligations under a replacement cost policy). See also *Allstate Ins. Co. v. Chance*, 590 S.W.2d 703 (Tex. 1979).

¹³⁰ Tex. Ins. Code § 541.061 (FindLaw 2026).

recognized that misrepresentations in insurance transactions may create liability under the Insurance Code and related consumer protection statutes when they affect underwriting decisions or claims handling.¹³¹ Although a high appraisal alone does not establish wrongdoing, knowingly presenting materially unsupported valuation statements to obtain or maintain insurance coverage may raise issues under these misrepresentation principles.¹³²

At the same time, Texas courts recognize that some types of personal property, like household goods and personal effects, lack a clear market value. In those circumstances, courts may measure damages based on the item's actual value to the owner at the time of loss, while excluding purely sentimental value.¹³³ When an appraisal assigns an unusually high value based largely on claims that a diamond contains the remains of a specific individual, and those claims cannot be independently verified, insurers may question whether the valuation reflects a genuine market price or simply a narrative driven premium. This uncertainty underscores the importance of accurate origin representations, because the claimed

¹³¹ *Vause v. Liberty Ins. Corp.*, 456 S.W.3d 222 (Tex. 2014). (knowingly making materially unsupported statements could violate the Insurance Code particularly where those statements could influence underwriting or claims decisions).

¹³² Tex. Ins. Code §701.15; *See also* Tex. Ins. Code § 541.061 (FindLaw 2026).
<https://codes.findlaw.com/tx/insurance-code/ins-sect-541-061/>.

¹³³ *American Transfer & Storage Co. v. Reichley*, 560 S.W.2d 196, 199 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); *see also Mew v. J&C Galleries, Inc.*, 554 S.W.2d 249, 252 (Tex. Civ. App.-Dallas 1977, writ ref'd n.r.e.).

personal connection often becomes the primary source of the product's value. Cremation diamonds therefore illustrate the difficulty of applying conventional replacement-cost insurance frameworks to products whose value depends on claims of personal origin that cannot be verified after production.

E. Practical Litigation Considerations

Because origin representations are often standardized across marketing materials, class-wide litigation may be possible. If a class is certified, plaintiffs could allege violations of consumer protection statutes, unjust enrichment, or other related claims. Price-premium models may support proof of economic impact across a class. At the same time, arbitration clauses, individualized reliance questions, and jurisdictional issues, particularly where companies operate internationally, may complicate certification.

Individual suits may also be viable in high-value cases, especially where plaintiffs can identify specific misrepresentations or where disputes arise following an insurance loss. As with many technically complex consumer cases, expert testimony by gemologists and/or appraisers would likely be required, as courts regularly evaluate scientific, chemical, and pricing evidence. Cremation diamonds present technical issues, but courts routinely evaluate complex scientific and pricing evidence in consumer protection cases.

Taken together, these enforcement mechanisms show that cremation diamond marketing is not beyond the reach existing law. Federal regulators may pursue injunctive relief, state attorneys may seek civil penalties and restitution, and private plaintiffs may recover economic damages and, in appropriate cases, enhanced damages. The legal frameworks discussed in this Article are not new nor untested. They are established doctrines capable of addressing technical representations, informal imbalances, and price premiums tied to unverifiable claims. The remaining question is not whether the law can respond, but whether it will.

V. Conclusion

The cremation diamond industry sits at the intersection of emerging technology, end-of-life commerce, and high-value consumer transactions. Companies market lab-grown diamonds as uniquely created from a loved one's remains while charging prices far above the market rate for comparable lab-grown stones. As this Article has shown, the science behind cremation and carbon processing is far more complex than the simple story of "transformation" often presented to consumers.

Existing law can address these practices. Federal deception doctrine, the Texas DTPA, and traditional common law fraud principles all provide clear

standards for evaluating misrepresentations, omissions concerning carbon supplementation, and unsubstantiated claims. The absence of published cases addressing cremation diamonds likely reflects the industry's relative novelty rather than a gap in the existing legal doctrine. The significant pricing disparities between ordinary lab-grown diamonds and cremation diamonds demonstrate that origin claims are not incidental; they are the economic foundation of the transaction. When consumers pay thousands or even tens of thousands of dollars, based on representations about personal derivation, those claims carry legal significance under consumer protection law.

Innovation in memorialization is not inherently problematic. What matters is transparency and trust. When a product's value depends on claims that consumers cannot independently verify, the law requires clarity, accuracy, and substantiation. Existing legal frameworks are fully equipped to provide that protection. Applying established deception and fraud principles to this market is not a stretch. It is simply the application of a long-standing consumer protection doctrine to a new form of commerce.