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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 99 C 1794
)	
VASQUEZ FUNERAL HOME,)	Judge Gettleman
)	
Defendant.)	

PLAINTIFF UNITED STATES' POST TRIAL BRIEF

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I. Introduction

The United States alleges that the Vasquez Funeral Home discriminated against Mr. Pompello Medina and the Medina family in violation of title III of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12181-12189, by charging an additional fee for conducting funeral services for Mr. Pompello Medina, a person who died of AIDS, that was not charged to persons without disabilities. Trial of these allegations was held on December 30, 1999.

Many of the essential facts of this case are not disputed, including the following: on October 1, 1995, Mr. Medina died of complications from AIDS. See Final Pretrial Order, Appendix A. The next day the Medina family contacted the Vasquez Funeral Home and received a written quote for funeral services. Id. At the time he prepared this quote, Mr. Raymond Vasquez, the owner and sole employee of the Vasquez Funeral Home, did not know the cause of death of Mr. Medina. Id. After learning of the cause of death, Mr. Vasquez prepared a final, written contract that was \$100 more than the original quote and specifically listed an “AIDS kit” as an itemized charge. Id.

While these facts are undisputed, several central facts remain contested, leaving the Court with two vastly different and virtually unreconcilable stories. To resolve this dichotomy, the Court will be required to make credibility determinations as to which witnesses are believable and which are not; which witnesses have motives to misstate the facts; which witnesses have misrepresented facts in the past; and, finally, which story is more internally consistent and credible.

The first story was told by Sandra Medina Izaguirre, daughter of Mr. Pompello Medina,

and Elva Medina, Mr. Medina's wife of 20 years ("the Medinas"). FF 5-6.¹ Both witnesses confirmed that on the day Mr. Medina died, Sandra Medina Izaguirre telephoned Mr. Vasquez, told him that the Medina family wanted Mr. Medina to be buried in Mexico, and requested and received a fixed quote for funeral services which included transport to Mexico. FF 9, 10, 13, 14; GX 7. Mr. Vasquez made this quote before knowing the cause of Mr. Medina's death. FF 27. Sandra Izaguirre and Elva Medina explained that they paid for these services, in cash, the day before the visitation services at the Defendant's business. FF 11, 12. When they arrived at the visitation, however, Mr. Vasquez's attitude had changed -- he now knew the cause of death, and he now publicly and callously demanded an additional \$100 from the Medinas because Mr. Medina had died of AIDS. FF 16, 17, 27. Mr. Vasquez explicitly told the family that the extra charge was because Mr. Medina had AIDS and that Mr. Vasquez had to use an "AIDS kit." FF 18, 21, 27, 35, 36.

Supporting the Medinas' story is documentary evidence. The final contract is \$100 more than the estimate, the exact amount demanded by Mr. Vasquez. GX 8. That same contract differs in another important way from the estimate; it includes an itemized listing of an "AIDS kit." GX 7, GX8. Further, Mr. Vasquez, with advice of counsel, signed a statement admitting this charge, and admitting that the charge was made in violation of the ADA. GX 12; FF 39-44.

While admittedly both the Medinas and Mr. Vasquez have an interest in telling a story

¹References to "FF" are to the United States' Proposed Findings of Fact, filed contemporaneously with this Brief. References to "Trans. pp/l" refer to the Trial transcript of this action, where "pp" is the page number and "l" are the line number. References to "GX" are to Government Exhibits and references to "DX" are to Defendant's exhibits. "Complaint" refers to the United States original complaint, on file with the Court.

that supports their position, the Court also heard from an impartial witness with no interest in the outcome of this matter. To rebut Mr. Vasquez's testimony, the United States offered the testimony of Lenore Bragaw, a public interest attorney. Ms. Bragaw testified clearly and convincingly that Mr. Vasquez admitted to her in a telephone conversation a few weeks after the incident that the \$100 was because Mr. Medina died of AIDS; that he didn't know he couldn't make this charge; and that he would send a check refunding this amount to the family because he now knew it was improper. FF 35, 36. While Mr. Vasquez denied ever even speaking to Ms. Bragaw, her testimony was unimpeached and the questioning from the Defendant made clear that Mr. Vasquez was not being truthful about his contacts with Ms. Bragaw.

The story told by these three witnesses and by the documents was unimpeached, internally consistent, logical, and most of all highly credible. It amply demonstrates that at Mr. Medina's wake on the night of October 3, 1995, Mr. Raymond Vasquez demanded an additional fee of \$100 because Mr. Medina died of AIDS.

The opposing story comes from only one witness: Mr. Raymond Vasquez, the owner and operator of the Vasquez Funeral Home. Mr. Vasquez maintains that the additional fee was not because Mr. Medina died of AIDS, but rather was for a different service: burial in Mexico versus burial in the United States. While he admits the additional fee was charged only after he learned of the cause of death, and further admits listing an AIDS kit on the final bill, Vasquez maintains that AIDS had nothing to do with the additional fee.

As a result, the Court is faced with two stories that are in irreconcilable conflict. Therefore, credibility may be the most important issue before the Court. Emmel v. Coca-Cola Bottling Company of Chicago, 95 F.3d 627, 630 (7th Cir. 1996) (witness credibility in

discrimination cases often crucial). If Mr. Vasquez is to be believed, then all three witnesses offered by the United States -- Sandra Izaguirre, Elva Medina, and Lenore Bragaw-- lied on the stand. On the other hand, if they are credible and believable, then Mr. Vasquez's explanation must be rejected.

However, close examination of all the evidence reveals that Mr. Vasquez's testimony as to numerous matters is also irreconcilable with his own prior sworn statements, both written and oral; it is far more likely that it is Mr. Vasquez's story that should be rejected. Mr. Vasquez's testimony is filled with inconsistencies and conflicts with prior testimony in material respects; fundamentally, it is simply not believable. Further, the only non-testimonial evidence offered in its favor -- limited documentary evidence -- is of little probative value and is itself suspect, given the Defendant's questionable explanation for the recent disappearance of the vast majority of its business records.

Because of the overwhelming credibility of Plaintiff's witnesses and believability of Plaintiff's allegations, the United States respectfully urges that the Court enter a judgment in Plaintiff's favor.

II. The Evidence at Trial Demonstrates That the United States Has Proven its Factual Allegations and That the Defendant's Story Is Simply Not Credible

A. The United States' Witnesses Are More Credible than Mr. Vasquez and Their Testimony and the Weight of the Evidence Demonstrates That Mr. Vasquez Committed Illegal Discrimination

Through the combination of undisputed facts, testimony of credible witnesses, and even admissions from the Defendant, the United States demonstrated at trial by a preponderance of the evidence that the Vasquez Funeral Home required that the Medina family pay an additional fee

for funeral services because Mr. Medina died of AIDS. None of the three witnesses offered by the Plaintiff were impeached in any way, and the only evidence offered to dispute their testimony came from Raymond Vasquez -- who admitted at least twice on the stand that prior statements made by him were false, and whose testimony was also riddled with inconsistencies and conflicted with other evidence.

The testimony of the United States' first two witnesses, Elva Medina Izaguirre and Sandra Medina Izaguirre, was beyond reproach. Their testimony established that the decision to have Mr. Medina buried in Mexico had been made before the Vasquez Funeral Home was ever contacted, and that in fact Mr. Medina himself had decided he wanted to be buried in Mexico before his death. FF 7. Consistent with that decision, Mrs. Medina asked her daughter Sandra to contact several funeral homes for her, since Mrs. Medina does not speak English, and to obtain prices for funeral services and for shipping her husband's remains to Mexico. FF 9.

Elva Medina and Sandra Medina Izaguirre both testified that on October 2, 1995, the day before the wake -- and before Mr. Vasquez picked up Mr. Medina's remains from the hospital -- Mrs. Medina paid the full price Mr. Vasquez had quoted Sandra Medina Izaguirre over the telephone. FF 11. Both further testified that during the wake on October 3, 1995, Mr. Vasquez demanded an additional \$100 for extra materials he said he was forced to use once he found out Mr. Medina had died from AIDS. FF 16, 17, 27. This is fully consistent with the testimony of Lenore Bragaw (FF 34-37); with GX 9 (the check from the Vasquez Funeral Home to Elva Medina for \$100 dated October 5, 1995); and with Mr. Vasquez's own testimony that he was paid at the wake. This is also consistent with Mr. Vasquez's own admission that he asked the

family why they had not told him that Mr. Medina had died from AIDS.² FF 16. While Elva and Sandra Medina testified that it was during that very conversation in which Mr. Vasquez demanded the additional \$100, Mr. Vasquez tried to minimize the importance of that discussion by denying it was a “conversation”:

Q (by Velarde): Okay. Was anything else discussed at the time?

A: No, no conversation. I did discuss with her because at that time I did come back from the hospital with the remains, and I told her, I says: "You should have told the funeral director he had AIDS." She forgot to tell me that. I didn't have any conversation. She didn't say anything. I didn't say anything. (45/14-20)

Further, while initially denying emphatically that he spoke with Sandra Medina the night of the wake, Mr. Vasquez became less and less certain of that fact under questioning, buttressing the Medinas' version of their conversation with him that night.

Q (by the Court): Okay. On the night of the funeral, do you remember speaking to the daughter?

A: No.

Q: Is it your testimony that you did not speak — that you are sure you did not speak to the daughter?

A: I'm positive I didn't.

Q: So as far as you know, you never spoke to the daughter?

A: It's a good possibility I never did, no.

Q: Well, is it a possibility or is it your best recollection?

A: To my best recollection I never spoke with her and she never called me on the phone. (70/20 - 71/8)³

Not only is the testimony of Elva and Sandra Medina consistent, unimpeached, and

²Vasquez's testimony that the family should have told him the cause of death is confusing, since OSHA regulations and CDC guidelines mandate that funeral homes treat all persons as potentially infected with HIV and/or other blood-borne pathogens and as a result adhere rigorously to the use of universal precautions. See GX 12, ¶¶ 4-6.

³By his own testimony Mr. Vasquez's was similarly confused regarding his memory of conversations with Mrs. Medina. See FF 57.

supported by documentary evidence, but it was supported by a neutral witness, Lenore Bragaw. Ms. Bragaw confirmed that, in conversations with her, the Defendant himself had admitted that he demanded an additional \$100 from the Medinas because Mr. Medina died of AIDS. Ms. Bragaw also established that she asked the Defendant, both in writing and in two telephone calls, to respond to the allegations of discrimination, and that his response was to admit the allegations but to explain that he “didn’t know” it was illegal. FF 36.

While Mr. Vasquez denied ever having a conversation with Ms. Bragaw, it is clear that she had very little, if any, motive to misrepresent, and her cross-examination by the Defendant seemed to confirm that it was Mr. Vasquez that was not being candid. For example, while Mr. Vasquez testified without hesitation that he had no recollection of any conversation with Ms. Bragaw, defense counsel had the following exchanges with Ms. Bragaw:

Q (by Mr. Velarde): Didn’t you subsequently call Mr. Vasquez and he asked you to call his lawyer?

A: Yes. First--he called me first and we had a conversation. (102/25-103/3).

Q (by Mr. Velarde): Didn’t you tell him (Mr. Vasquez) the \$100 wasn’t enough, he should return the full amount of the funeral services?

A: I believe in our second conversation he said something like: “Well, what is it that you want?” And I said: “Well, you know, we could probably settle this if you reimburse the cost of the funeral or we could work, you know, something out.” (105/1-7).

Q (by Mr. Velarde): Did you also send him (Mr. Vasquez) a clipping from the newspaper stating that somebody else had paid money based on the same facts?

A: ...I think the letter was to you, the second letter, stating that these issues -- I’m sorry. The question was why did we think he had done anything wrong and what exactly we were getting at. And I enclosed a newspaper clipping, I believe it was to his attorney, saying this is what I was talking about, this sort of issue had been brought before, had come to the attention of the Justice Department before. Yes, I did send a clipping. (105/15-25).

Thus, Defense counsel asked about and elicited from the witness facts that were not otherwise in

the record and that confirmed that Mr. Vasquez's testimony -- that he had never spoken to Ms. Bragaw -- was untrue.

Further, the consistency of Ms. Bragaw's testimony supports her credibility. She testified that her office's normal procedure would have been to write Mr. Vasquez and explain the allegations and ask him whether the allegations were true, defeating Mr. Vasquez's allegations that "no one had ever asked" him where the extra \$100 came from and that he never had an opportunity to raise his story before. FF 47, 48. The normal procedure would have been to invite Mr. Vasquez to contact her, buttressing her testimony that they did, in fact talk. Id. Her testimony also explained that in at least two conversations with the Defendant the Defendant never stated that the extra \$100 was for a "different service" but instead explicitly admitted the ADA violation: that the extra charge was for an AIDS kit. FF 35, 36, 46-48. As Ms. Bragaw testified in response to a question from the Court, Mr. Vasquez admitted that the \$100 was for an AIDS kit and that he "didn't know" that he couldn't impose that charge. FF 35, 36.

In addition to admitting the illegal charge to Ms. Bragaw, the Defendant made the same admission to the United States during its investigation of this matter. GX 12; FF 38-44. On May 19, 1998, the Defendant signed a settlement agreement with the United States and the Defendant regarding the allegations raised in the current litigation. Id. Mr. Vasquez signed the agreement voluntarily and with advice of counsel, had read each and every paragraph of the agreement before signing it, and had the opportunity to make any changes that he thought were appropriate prior to signing it. Id.

In the agreement, Mr. Vasquez admitted that during the investigation of these allegations, the Department of Justice established that the Vasquez Funeral Home charged the complainant

more to embalm a person who died from AIDS-related complications than it charged other clients who did not die of AIDS. GX 12, ¶ 3; FF 40, 43. Mr. Vasquez also admits that there is no reasonable basis for charging more to embalm bodies harboring an infectious disease, including AIDS, than those that do not. GX 12, ¶ 7-8; FF 41.

Mr. Vasquez asserts that paragraph 3 of the agreement was not true when he signed it. FF 44. As a result, the Court must determine when Mr. Vasquez lied: either to the United States during its investigation of this matter, or on the stand. Given that Mr. Vasquez's trial testimony was self-serving, and in light of the weight of contradictory evidence, the United States urges that Mr. Vasquez's testimony be rejected and that the Court instead believe the statements made in the Settlement Agreement.

The three witnesses offered by the United States were honest and credible, and they told a consistent story that was buttressed by documentary evidence. The only evidence offered to directly rebut their story came from testimony by Mr. Vasquez. However, that testimony must be rejected since it is filled with inconsistencies, inaccuracies, and is simply not believable.

B. Vasquez's Testimony Is Inconsistent With Prior Statements and Internally Inconsistent

Defendant Vasquez's testimony is riddled with internal inconsistencies, and it conflicts directly with prior sworn testimony, statements, and actions. His testimony is therefore not credible and should be given little, if any, weight. Anderson v. City of Bessemer City, 470 U.S. 564, 575 (1985) (documents may contradict witness's story or the story may be so internally inconsistent or implausible that reasonable factfinder would not credit it); In re Chavin, 150 F.3d 726, 728 (7th Cir. 1998) (whether to believe witness depends on internal consistency of witness's

testimony and consistency with other evidence, common knowledge and the laws of nature). 9A C. Wright & A. Miller, Fed. Prac. & Proc.: Civil 2d § 2586 (1995) (same).

Mr. Vasquez's trial testimony was not only internally inconsistent, but also conflicted with his prior statements. "Prior inconsistent statements can severely undermine the credibility of a witness, by showing either a flimsy recollection of events or worse, a propensity to lie ..."
United States v. Watson, 87 F.3d 927, 931 (7th Cir. 1996), quoting United States v. Lashmett, 965 F.2d 179, 182 (7th Cir. 1992); Fed.R. Evid. 613. His testimony was also so internally inconsistent and implausible as to be incredible. City of Bessemer City, 470 U.S. at 575; Accord In re Chavin, 150 F.3d at 728.

Vasquez testified that he *never* spoke with Sandra Medina Izaguirre. FF 58. However, he later testified that he could not remember if he ever spoke with her. Id. Later still, he testified that he was *positive* he did not speak with her the night of the wake. Id. Finally, Vasquez testified that it was a "good possibility" that he never spoke with her, Id., and it was his "best recollection" that he never spoke with her. Id.

Mr. Vasquez testified that he found out that the body would be sent to Mexico for burial while he was filling out the death certificate with Mrs. Medina, approximately five to ten minutes after he wrote up the estimate. FF 26. Although he testified that shipping the body to Mexico would be an additional charge to the family, and that he "scratches on [the worksheet] all the time," he never adjusted the worksheet for shipping to Mexico nor wrote up a new estimate for Mrs. Medina because "[i]t didn't dawn on [him]". FF 25-26.

Although Elva Medina does not speak English, Vasquez testified that he conversed with her in English the day she came in to make funeral arrangements. FF 62. Further, Vasquez

testified that he conversed with her in English regarding a number of very specific areas, including that she asked about his funeral prices, Trans. 42/7-17; she accepted his price quote, Trans. 43/12-14; he then got additional information from her, such as her husband's date of birth, Social Security number, the name of the hospital, etc., Trans. 43/15-20 ; and she then "inquired" about sending the body to Mexico, Trans. 43/21-23. Mr. Vasquez does not speak Spanish, and he does not have anyone in the funeral home who speaks Spanish. Trans. 70/12-19.

Vasquez testified that he provided Elva Medina with a written estimate for funeral services before he learned the body was to be shipped to Mexico. FF 26. Vasquez testified that when he wrote the estimate he did not know at which cemetery the funeral would take place, but that the funeral would be in Chicago and that he did not need to know where the funeral would take place to write up the estimate. FF 32. However, Vasquez also testified that there are a number of "extra things" that are additional costs to the families that are not included in the basic funeral price. FF 28-30.

Perhaps most troubling, Vasquez's testimony contradicted his own Answer to the United States' Interrogatory #9, GX 3, and indicates that Vasquez either lied on the stand or lied in response to Interrogatories.⁴ "Answers to interrogatories are evidence." Emmel, 95 F.3d at 635. Interrogatory #9 asked the Defendant to "[i]dentify each person for whom Defendant was asked to provide services where Defendant was aware, made aware, or suspected that the person had AIDS or HIV. For each person identified, provide the name, address and telephone number of

⁴This is not the only instance where the Court must decide whether to believe Vasquez's court testimony or prior signed statements. In 1998, Vasquez signed a settlement agreement admitting the allegations of discrimination; in testimony, he tried to disavow that prior statement by saying that it was false. FF 44. In the end, it is Mr. Vasquez's credibility that is diminished.

the person requesting or contracting for services from the Defendant.” Vasquez’s notarized response, and signed by his counsel, states: “I have no recollection of any at this time.”

However, at trial Vasquez testified that he has provided services for approximately 10 people who died from AIDS or HIV, FF 54, Trans. 73/18-22, including four or five prior to Mr. Medina. Trans. 46/22-25; 75/1-4. Vasquez was aware that his answers to the United States’ interrogatories were under oath but “[i]t didn’t even dawn on [him]” to go through his records when he answered the interrogatories. Trans. 96/9-22.

Vasquez is an experienced businessman who has owned and operated his own funeral home for 27 years. Trans. 72/7-13. His explanation for the discrepancy between his sworn answer to Interrogatory # 9 and his testimony at trial is simply not plausible. See In re Chavin, 150 F.3d at 729 (experienced businessman’s explanation for failure to answer questions correctly ridiculous).

C. Vasquez’s Eleventh-hour Explanation Is Pretextual and an After-the-Fact Rationalization

Prior to his deposition on October 18, 1999, Vasquez had never explained the \$100 discrepancy between his worksheet estimate and the final contract. FF 45-50. Vasquez had numerous opportunities to give an explanation for the difference in price, including at the start of the Department of Justice’s investigation when he received a letter from the Department which asked for Vasquez’s response to the allegations. See GX 13. Vasquez testified that he did not provide an explanation because he “did not know where they were coming from,” Trans. 65/18-21, although he also admitted that the Department of Justice’s letter, GX 13, stated that the allegation that was being investigated was that he imposed an additional fee for burial

arrangements for persons with AIDS . Trans. 65/10-17. Yet in addition to the allegation spelled out in the Department's letter, Vasquez admitted to conversations with "someone" who told him he had hurt the Medina family by writing "AIDS kit" on the bill. Trans. 59/23 - 60/4. It strains credulity to be expected to believe that a businessman would risk the expense and uncertainty of litigation without first offering an explanation of his actions.

Vasquez's eleventh-hour explanation is a "pretextual after-the-fact justification." Perfetti v. First National Bank of Chicago, 950 F.2d 449, 456 (7th Cir. 1991). See, Emmel, 95 F.3d at 634 (failure to express non-discriminatory explanation earlier despite several opportunities to do so gives rise to inference that later expressed reason pretextual); Mid-American Waste Systems, Inc. v. City of Gary, 49 F.3d 286, 288 (7th Cir. 1995) (noting district court's finding that reason for terminating contract for operating landfill was "concocted" after the fact and is pretextual). Vasquez's last-minute explanation of the \$100 difference between the worksheet estimate, GX 7, and the final contract, GX 8, supports a finding that this explanation is a mere pretext. Perfetti, 950 F.2d at 456 (finding of pretext supported where testimony internally inconsistent or contradicts other aspects of [defendant's] case). See also United States v. Scott, 660 F.2d 1145, 1168 (7th Cir. 1981), cert. denied, 455 U.S. 907 (1982).

D. Even If The Court Believes Vasquez's Story That The \$100 Was For a Different Service, it Is Clear That Vasquez Demanded Payment of The \$100 Because He Learned That Mr. Medina Died of AIDS

Even if the Court believes that \$100 difference between the estimate and the final contract would normally be paid for funeral services of the type requested by the Medina family, it is clear from the evidence that the only reason Mr. Medina demanded this additional payment was because Mr. Medina died of AIDS. Mr. Vasquez admitted that when he provided the family

with a quote for services, he did not know the cause of Mr. Medina's death. FF 27. He also maintains that as he was preparing the estimate -- before Mrs. Medina left -- he learned that the funeral would take place in Mexico. FF 26. Even if the Court believes his testimony, it is clear that at that moment Mr. Vasquez could have changed the estimate or written a new estimate to indicate to the Medinas that the funeral would cost an additional \$100. On the contrary, Mr. Vasquez did nothing, demonstrating that he did not demand or even expect that the \$100 would be paid. FF 26. It was only after Vasquez learned that Mr. Medina had AIDS that he confronted the family, demanded to know why they had not told him of Mr. Medina's HIV status, and sought the additional \$100. FF 16, 17. Thus, even if the Court believes Vasquez's testimony that his "usual prices" support the additional fee, it is factually proven that the only reason he really demanded this fee was a discriminatory one.

E. Defendant's Exhibits Do Not Support His Story and Should Be Given Little Weight

In an effort to support Vasquez's new found explanation that the \$100 extra charge was for a different service, Mr. Vasquez offered selected invoices from his business records. These invoices purport to show that the Defendant charges only two prices for funeral services that differ by \$100, and that that difference, and not an AIDS kit, is the source of the \$100 Mr. Vasquez sought from the family.

First, the Court should give these invoices little weight, if any. The records the Defendant produced at trial are only a tiny fraction of the Defendant's business records that should have been maintained. The Defendant offered numerous invoices as exhibits from its records. See DX 2 and DX 3. These documents fall into two categories: a small, select group of

invoices from 1995 and invoices after October 1996. While the Defendant testified that he does “about 55 funerals a year” (p. 73, lines 7-17), he offered only a handful of invoices from 1995, the year Mr. Medina died, and no invoices between January and October 1996, the period immediately after Mr. Medina’s death. The remaining files -- obviously crucial to test the Defendant’s story -- were not offered at trial (or produced in discovery) because the Defendant asserts that they were “lost in a flood.” FF 61; 58/6-15. Not surprisingly, the only records which survived this calamity mildly support Defendant’s story.⁵ Even these records were not produced until after the close of discovery and many were not produced until after the Defendant’s deposition, even though some of them were in possession of defense counsel. See GX 11, ¶ 2; FF 31; Defendant’s Response to Plaintiff’s Motion in Limine ¶¶ 4-7. Given this background, along with the Defendant’s other lapses in credibility, questions remain about whether the “lost” records were indeed destroyed in a flood; such questions should be resolved against Mr. Vasquez, since he was the custodian of the records and it is their absence which helps his story.

More fundamentally, many of Defendant’s records are simply lacking in probative value. The Defendant was unable to produce the price list that was in effect at the time of Mr. Medina’s funeral, (see Parties’ Joint Stipulation Regarding Documents and Defendant’s Answers to Interrogatories and Request to Admit ¶ 3; FF 60), nor did it ever produce the underlying files of which these invoices were only a small part. As a result, it is impossible to tell if these invoices match Mr. Medina’s price list (which itself might have told us whether Mr. Medina’s story is true). Further, the United States believes that these missing documents could have yielded

⁵While some of these records tend to support Defendant’s story, they are not dispositive and often conflict with his testimony. See FF 28-31.

important other information to rebut Defendant's last-minute explanation.

Defendant's other exhibits, those dated from October 1996 forward, are simply not relevant to this case. Defendant has admitted that it raised its prices in January 1996. See GX 10. Therefore, those documents cannot prove what Defendant's pricing practices were in October, 1995.

Finally, some of Mr. Vasquez's exhibits actually conflict with his story. Mr. Vasquez's testimony is that there are only two prices: one for a local funeral that costs \$1650, and one for a funeral out of the country which cost \$1750 in 1995 (and was later raised to \$1850). FF 25; Trans. 78/13-14. However, some of the invoices don't support this testimony. FF 28, 30. Further, as noted earlier, Vasquez admitted that there are many items that can make a price vary, such as a limousine or other items.⁶ Thus, his own testimony both undermines his explanation and demonstrates that these limited invoices cannot be relied upon for demonstrating any consistent business conduct.

III. The Vasquez Funeral Home Committed Illegal Discrimination Against Elva Medina and Sandra Medina Because They Associated with a Person with a Disability

The Americans with Disabilities Act forbids a public accommodation from excluding or otherwise denying goods, services, or other opportunities to people who have an association or relationship with an individual with a disability. 42 U.S.C. § 12182(b)(1)(E); Accord Cloutier v. Prudential Ins. Co. of America, 964 F.Supp. 299, 301 (N.D. Cal. 1997). Family members have been recognized as being included in the relationship or association cause of action. Kotev v.

⁶Vasquez admitted that the price can vary, stating that: "Those are extra things." FF 28. He mentioned that if a person doesn't need crucifixes, for example, then you would deduct that cost from the bill. Id. These admissions undermine his entire explanation.

First Colony Life Ins. Co., 927 F.Supp. 1316 (C.D. Cal. 1996) (spouse of HIV positive person has association claim under 42 U.S.C. § 12182(b)(1)(E)); Johanson v. Huizenga Holdings, Inc., 963 F.Supp. 1175 (S.D. Fla. 1997) (father of a disabled minor has association claim under 42 U.S.C. § 12182(b)(1)(E) by virtue of his relationship with his son).

In order to establish that the Defendant illegally discriminated against the Medinas because of their relationship with Mr. Medina, the United States must show that Vasquez is a public accommodation and that it discriminated against the Medinas because of their relationship with a person with a disability. Special Educ. Services v. RREEF Performance Partnership-LLP., No. 95 C 6468, 1995 WL 745964 *2 (N.D. Ill. Dec 11, 1995). The evidence presented at trial shows that the United States has proven each of these elements.

A. The Vasquez Funeral Home Is a Public Accommodation under the ADA

The first element of the United States' association or relationship discrimination claim is that the Vasquez Funeral Home is a public accommodation under the ADA. The definition of public accommodation is as follows:

The following private entities are considered public accommodations for purposes of this subchapter, if the operations of such entities affect commerce --

...
(F) a...funeral parlor...or other service establishment.

42 U.S.C. § 12181(7). "Private entity" is, in turn, defined as "any entity other than a public entity..." 42 U.S.C. § 12181(6).

It cannot credibly be contested that the Vasquez Funeral Home is a public accommodation. Mr. Vasquez himself admitted that he operates a business that is open to the public; that he advertises that business to the public, and that he purchases and sells products

both intra- and inter-state. Trans. 48/19--49/9. It is also beyond dispute that he operates a funeral parlor -- which is specifically listed as an example of a public accommodation under the statute. Trans. 41/16--24. Consequently, the Vasquez Funeral Home is a public accommodation as defined by the ADA. 42 U.S.C. § 12181(7).

B. The Vasquez Funeral Home Discriminated Against the Medinas Because of Their Association with a Person with a Known Disability

Evidence presented at trial demonstrates that Vasquez committed illegal discriminated against the Medinas because of their association with a person with a disability. First, it is clear that Mr. Medina was an individual with a disability. It is undisputed that Mr. Medina was infected with the AIDS virus at the time of his death and that AIDS was the cause of his death. FF 4. It also cannot be disputed that, prior to his death, Mr. Medina was a person with a disability because of the AIDS infection. Bragdon v. Abbott, 524 U.S. 624, 631 (1998) (holding that at every stage of the disease, including the asymptomatic stage, persons with HIV or AIDS are individuals with disabilities under the ADA). Defendant argues, however, that Mr. Medina lost his status as an individual with a disability at the moment of his death.

The goal and purpose of the ADA instructs that the Defendant's proposed limitation of the ADA's coverage should be rejected, since it would frustrate the remedial purpose of the Act. The Act covers virtually every activity of the average American: their education, employment, public and private commercial activity, housing, health care, retirement care, and other areas. See, e.g., 42 U.S.C. § 12101 (findings by Congress that persons with disabilities suffer discrimination in virtually every daily activity that must be addressed by a clear and comprehensive national action addressing these activities.). As one court has stated:

It is important to keep in mind that lawmakers made clear that the ADA was norm-changing legislation, akin to the legislative turning points in this country's struggle to overcome racial discrimination. President Bush referred to the Act as a "historic new civil rights Act." Senator Tom Harkin, the champion of the Act, announced it to be the "20th century Emancipation Proclamation for all persons with disabilities," while Senator Dole called it "the most comprehensive civil rights legislation our Nation has ever seen." Unlike other legislation designed to settle narrow issues of law, the ADA has a comprehensive reach and should be interpreted with this goal in mind.

Anderson v. Gus Mayer Boston Store of Delaware, 924 F. Supp. 763, 771 (E.D. Tex. 1996)

(citations omitted). The Act's stated purpose was "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals." Not only does the ADA prohibit direct discrimination against people with disabilities, the Act also prohibits discrimination against people with a record of disability (but no actual disability); people who are wrongly perceived as having a disability; and people who associate with persons with disabilities. 42 U.S.C. §§ 12102(2)(A); 12102(2)(B); 12182(b)(1)(E).

Legislative history indicates that Congress intended to prevent this exact type of discrimination from occurring against the families of deceased persons who had disabilities, including after the person with a disability has died. Committee testimony and statements of Senators indicate that Congress was concerned about discrimination against family members of persons that had died of HIV and AIDS by funeral homes that refused to provide funeral services to the persons with HIV and AIDS. Americans With Disabilities Act, Hearings Before the Senate Committee on Labor and Human Resources and the Subcommittee On the Handicapped 101st Cong., 1st Sess. (May 9, 1989). One witness testified that she was a foster parent to babies who were HIV-positive, and that when one of the babies died, the family "had considerable difficulty finding funeral homes that would provide a decent service and burial" including

demands from at least one funeral home for additional fees to bury the baby. Id. (Testimony of Betty Corey). Key Senators explained that the proposed legislation would prevent this exact type of discrimination. For example, Senator Kennedy stated: “I think the one thing we can do is to try and meet the particular challenge which you have put to us so that it doesn't happen to other families, and that is what we are going to do.” Id. (Senator Kennedy) (emphasis added).⁷

Moreover, the Department of Justice has consistently construed Title III to prohibit the exact type of discrimination here alleged by funeral homes against the families of deceased persons who died of HIV or AIDS. The Department issued technical assistance, in the form of a letter dated May 23, 1994 and appended hereto as Exhibit A, regarding the question of whether funeral homes could impose increased fees in cases involving bodies harboring infectious diseases. As that letter makes clear:

Since the OSHA regulation and CDC guidelines require that all bodies be treated as if harboring an infectious disease, the imposition of an additional embalming fee only in cases where a body is known to be harboring such a disease would violate the ADA. Imposition of such an additional fee impermissibly treats persons with disabilities and/or persons known to have a relationship or association with persons with disabilities differently from others who seek the services of a funeral home.

Exhibit A at 2. The letter makes clear that the Department of Justice has construed consistently since at least 1994 that the death of a person with a disability does not dissolve the family

⁷Regulatory language also supports this analysis. The Preamble to the regulation implementing Title III of the ADA states: “ The individuals covered under this section include any individuals who are discriminated against because of their known association with an individual with a disability. For example, it would be a violation of this part for a day care center to refuse admission to a child because his or her brother has HIV disease.” 28 C.F.R. § 36, App. B, at 598 (1994). The actual presence or absence of the brother is unimportant, as is whether the brother is alive or dead. Instead, the focus of this regulatory language is on the person being discriminated against (the family member) and the perceptions or misperceptions of the defendant (the day care center).

members' association claim of discrimination. Id.

As the Supreme Court has emphasized, the Department of Justice's interpretations of Title III are "entitled to deference," because the Department is "the agency directed by Congress to issue implementing regulations, see 42 U.S.C. § 12186(b), to render technical assistance explaining the responsibilities of covered individuals and institutions, § 12206(c), and to enforce Title III in court, § 12188(b)." Bragdon v. Abbott, 524 U.S. 624, 646 (1998). See also Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 843 & n.11 (1984). The Department's Technical Assistance materials, such as the attached letter, are also entitled to deference. See Bragdon, 524 U.S. at 646; Paralyzed Veterans of Am. v. D.C. Arena L.P., 117 F.3d 579, 584-585 (D.C. Cir. 1997), cert. denied, 523 U.S. 1003 (1998); Innovative Health Sys., Inc. v. City of White Plains, 117 F.3d 37, 45 & n.8 (2d Cir. 1997). Thus, this Court should defer to the Attorney General's interpretation and reject the limitation sought by the Defendant.

This legislative and regulatory history indicate that the focus of the association claim is not on the person with the disability, but rather on the Defendant's perceptions or misperceptions of that person and on the way the Defendant treated the individuals who associated with that person. For example, if a child is denied access to a day care center because her parent is or was HIV positive, that exclusion is discriminatory, regardless of whether the parent is still living. If the parent was not present at the time of the discrimination, or lived in another state (or even another country), the act of exclusion would still be discriminatory. Similarly, if that parent had once been infected with a contagious disease that was a disability and was then cured, the subsequent exclusion of that same child from the day care center because the parent at one time had a contagious disease would be illegal discrimination against the child because of her

relationship with a person with a disability. In these examples, the day care center would not escape liability by arguing that the parent lived out of state, was out of the country, or was no longer infected with the disease. Neither should the day care center be allowed to escape liability because the parent has died.

It is clear that, under Bragdon, if the Medinas had visited the Defendant in the moments before Mr. Medina died and been forced to pay an additional fee because of Mr. Medina's disability, then the Defendant would have violated the ADA. Bragdon, 524 U.S. at 631; 42 U.S.C. § 12182(b)(1)(E). It is equally clear that since the Defendant's motives and the discriminatory effect of its actions do not change because of the person's death, neither should the prohibitions against discrimination. Instead, it is enough to show that the Medinas were discriminated against because of their association with Mr. Medina, a person infected with the AIDS virus.

Further support for this argument comes from the statutory and regulatory coverage of funeral homes. The ADA prohibits discrimination by public accommodations. 42 U.S.C. § 12182. Funeral homes are listed specifically as a type of public accommodation both in the statute itself and in the regulation implementing Title III. See 42 U.S.C. § 12181(7)(F) (specifically listing "funeral parlors" as public accommodation); 28 C.F.R. § 36.104 (defining "Place of Public Accommodation" as "a facility, operated by a private entity whose, operations affect commerce and fall within at least one of the following categories...(6) A..funeral parlor...or other service establishment."). The specific listing of funeral homes demonstrates a congressional and regulatory intent to prevent funeral homes engaging in the type of association discrimination alleged in the present case.

The United States has demonstrated by a preponderance of the evidence that the Medinas were forced to pay an additional fee for funeral services because of the HIV status of their family member. FF 4-21, 27, 34-37. Consequently, the United States respectfully requests that the Court enter judgment on its behalf on the association claim.

IV. The Vasquez Funeral Home Committed Illegal Discrimination Against Mr. Pompello Medina in Violation of the ADA

In order to prevail on its claim of illegal discrimination under the ADA, the United States must prove by a preponderance of the evidence the following: that the Vasquez Funeral Home is a place of public accommodation; that Mr. Pompello Medina was an individual with a disability; and that the Defendant discriminated against Mr. Medina in violation of the ADA. 42 U.S.C. § 12182. Evidence produced at trial demonstrates that the United States has carried its burden on each of these elements.

A. The Vasquez Funeral Home Is a Public Accommodation under the ADA

The first element of the United States' direct discrimination claim is that the Vasquez Funeral Home is a public accommodation under the ADA. As noted earlier, it is beyond dispute that the Vasquez Funeral Home is a public accommodation as defined by the ADA. 42 U.S.C. § 12181(7). See *infra* at Section III A.

B. At All Times Relevant to The Complaint, Pompello Medina Was a Person With a Disability as Defined by The ADA

The second element of the United States' claim is that Mr. Medina was, at the time of the alleged discrimination, an individual with a disability as defined by the ADA. A preponderance of the evidence establishes this fact. As discussed earlier, Mr. Medina's status as a person with AIDS means that he was an individual with a disability under the Supreme Court's Bragdon

decision. Bragdon v. Abbott, 524 U.S. 624, 631 (1998). That status should not stop, where, as here, the Defendant continued to act on that basis.

To draw an analogy, if an African American individual dies and is denied funeral services by a funeral home because that funeral home refuses to provide services to anyone who is not white, the funeral home could not defend a race discrimination case brought by the family by arguing that, since the person has died, he is no longer an African-American, and therefore no discrimination occurred. Indeed, at least one court has already recognized that claims for this exact kind of discrimination are valid, even where the person has died. In Scott v. Eversole Mortuary, 522 F.2d 1110, 1111-13 (9th Cir. 1975), the plaintiffs, family members of Native Americans, brought a race discrimination case against the defendant after the defendant refused to provide funeral services for Native American members of their families because of the race of both the claimants and the decedents. Clearly, the discrimination occurred after the Native American had died, and the reason for the discrimination was the race of the dead person. Id. The court held that allegations⁸ that the defendant refused to provide funeral services to the deceased were sufficient to make out federal claims of race discrimination. Id. at 1113. The fact that the allegations were that it was the deceased's race that was the reason for the discrimination did not have any effect on the court's decision; in the same way, the fact that it in the present case it is the deceased's disability that led to the discriminatory action should not allow the

⁸The complaint alleged that the mortuary refused to conduct funeral services "solely and only because of the racial derivation of the deceased. If this is true, the appellees' motive was evil beyond description, inspired by nothing more than their belief that their mortuary would in some way be contaminated if they performed funeral services for the lifeless bodies of three human beings, albeit of the Indian race." 522 F.2d at 1117 (Ely, J., concurring).

Defendant to escape liability.

Further justification for rejecting the limitations sought by the Defendant come from the clear congressional and regulatory intent to impose broad and comprehensive prohibitions against discrimination against persons with disabilities, up to and even after their death. First, the Supreme Court's analysis in Bragdon is contrary to the limitation sought by Defendant. In Bragdon, the Court made clear that because of its pervasive nature and severity, HIV infection is an impairment during every stage of the disease. "HIV infection must be regarded as a physiological disorder with a constant and detrimental effect on the infected person's hemic and lymphatic systems from the moment of infection. HIV infection satisfies the statutory and regulatory definition of a physical impairment during every stage of the disease." Id. at 637; see also Kotev v. First Colony Life Ins. Co., 927 F.Supp. 1316, 1320 (C.D. Cal. 1996) (holding explicitly: "A person who is HIV positive or has AIDS is considered disabled under the ADA."). Admittedly, the Bragdon Court was more concerned with the time at which a person becomes disabled (the beginning of the disability) rather than the question of when a person ceases to be disabled. Nonetheless, the Court did acknowledge that "the disease follows a predictable and, as of today, unalterable course." Id. at 633. Implicitly, the Court's analysis included the period after a person's death. "Given the pervasive, and invariably fatal, course of the disease, its effect on major life activities of many sorts might have been relevant to our inquiry." 524 U.S. at 637. Despite the fact that the Court knew that death was inevitable, it did not see fit to limit ADA protection only to those infected individuals still alive. Instead, the Court chose to base its decision on the life of the disease, not the life of the individual carrier. This Court should adopt that same approach. Further, there is no indication in the Supreme Court's opinion that any

limitation based on the life of the individual carrier was appropriate. Therefore, this Court should not adopt the limitation sought by the Defendant.

Given the overall breadth of the ADA and its coverage, together with the broad protections for persons with AIDS enunciated by the Supreme Court in Bragdon, it defies logic to assert that the prohibition against discrimination against an individual with AIDS stops at the moment of death; instead, those protections must extend during the life of the disease (which includes the period when transmission to another person is possible). Congress could not have intended to prohibit discrimination by funeral homes up to the point of a person's death, and then suddenly end that prohibition and allow discrimination in the provision of funeral services after an individual's death. If it is illegal for a medical provider to impose discriminatory burdens on a person with AIDS before that person dies (524 U.S. at 629, 637), it must be equally illegal for a funeral home operator to impose similar burdens after death. The prohibition against discrimination against such an individual must also continue, or the promise of the ADA will be partly defeated.⁹

Even if the Court decides that a deceased person can never be an "individual with a disability" under the first prong of the statute's definition of disability, it is clear that the Defendant has regarded Mr. Medina as having a disability. 42 U.S.C. § 12102(2)(C). The

⁹One final argument bolstering the United States' contention that the term "individual with a disability" can include deceased persons is the dictionary definition of "individual." Webster's defines individual as: "A particular being or thing as distinguished from a class, species, or collection: as (1) a single human being as contrasted with a social group or institution..." Webster's Ninth New Collegiate Dictionary 615 (1990). Nowhere does this definition distinguish between the life or death of a person. Thus, the plain meaning of the word defeats the limitation sought by the Defendant.

“regarded as” prong of the definition of disability “reflected Congress' concern with protecting the handicapped against discrimination stemming not only from simple prejudice, but also from ‘archaic attitudes and laws’ and from ‘the fact that the American people are simply unfamiliar with and insensitive to the difficulties confront[ing] individuals with handicaps.’” School Bd. of Nassau County, Fla. v. Arline, 480 U.S. 273, 279 (1987) (quoting S.Rep. No. 93-1297, p. 50 (1974), U.S.Code Cong. & Admin. News 1974, p. 6400). Under that prong, an individual has a disability if he can demonstrate that the entity treated him as if he had a substantial impairment of a major life activity. Riemer v. Illinois Dept. of Transp., 148 F.3d 800 (7th Cir. 1998).

The evidence amply demonstrates that the Defendant treated Mr. Medina as if he had a disability. It is clear that the Defendant was focusing on Mr. Medina’s illness and not his life status; put another way, by using an AIDS kit,¹⁰ the Defendant was treating Mr. Medina as if he were alive and carrying a contagious disease. Further, the United States has demonstrated factually that the Vasquez Funeral Home charged an additional fee for this AIDS kit that was not charged to others. Facts, ¶¶ 4-24, 34-36. It is equally clear that it was Mr. Medina’s infection with the AIDS virus that was the reason for this disparate treatment. Id. By using universal precautions, and explicitly demonstrating his belief that such precautions were necessary, the Defendant demonstrated his belief that Mr. Medina was an individual with AIDS (and therefore, an individual with a disability) even after his death.

Vasquez’s treatment of Mr. Medina was no different than the defendant’s treatment of the

¹⁰As noted earlier, federal regulations and guidelines mandate that funeral homes treat all persons as potentially infected with HIV and/or other blood-borne pathogens and as a result adhere rigorously to the use of universal precautions. See GX 12, ¶¶ 4-6.

plaintiff in Bragdon v. Abbott. In Bragdon, the defendant refused to provide the plaintiff Abbott with dental services that were equivalent to those provided to the general public, and instead required that the work be done in a hospital, and that the plaintiff bear the additional costs of using the hospital's facilities. 524 U.S. at 629. In the present case, Vasquez likewise required that the Medinas pay an additional price for the same services because of Mr. Medina's HIV status. In other words, Vasquez "regarded" Mr. Medina the same as the defendant Dr. Bragdon treated the plaintiff Abbott. It is therefore clear that the Defendant has regarded Mr. Medina as a person with a disability, satisfying the third prong of the definition of disability. 42 U.S.C. § 12102(2)(C).

C. The Vasquez Funeral Home Discriminated Against Mr. Medina in Violation of the ADA

The United States has alleged in its Complaint that the Defendant committed discrimination on the basis of disability in violation of section 302(a) of the ADA, 42 U.S.C. § 12182(a), and its implementing regulation, 28 C.F.R. § 36.201(a), because the Defendant failed to provide its services in an equal manner. Complaint, ¶ 15. As noted earlier, four witnesses have testified to the following: that the Vasquez Funeral Home, before knowing the cause of death, quoted one price for the provision of funeral services for Mr. Medina. After learning that Mr. Medina was an individual with AIDS, the Defendant demanded an additional \$100.00 be paid. The facts also demonstrate that this additional fee was demanded because Mr. Medina died of AIDS. Such actions are illegal and constitute violations of the ADA. 42 U.S.C. §§ 12182(b)(1)(A)(ii), 12182(b)(2)(A)(i), 12182(b)(2)(A)(ii) .

Thus, the United States has established that: Mr. Medina was a person with a disability

and that the Defendant violated the ADA by discriminating against Mr. Medina because of his disability. Because Mr. Medina was discriminated against by the Defendant, his wife Elva Medina, as his heir and/or successor in interest, should properly receive any compensation for the damages suffered by Mr. Medina.

V. Damages and Penalties

Under the ADA, in an action brought by the United States, the Court may award monetary damages to aggrieved persons. 42 U.S.C. § 12188(b)(2)(B). In the present case, it is clear that the Medinas have suffered damages as a result of the Defendant's actions. Both Sandra Medina Izaguirre and Mrs. Median obviously loved and cared for their father very much. His death was a time of pain and mourning, and during this difficult time, the Defendant confronted them and made them feel as if Mr. Medina was untouchable. Sandra testified that, on the night of her father's wake, Vasquez made her feel as if her father was an outcast and couldn't be treated like anyone else because he had AIDS. The Defendant did this publicly -- at the wake, in front of other mourners, when the family was already in deep pain from the loss of Mr. Medina. FF 65.

Sandra was only 19 years old at the time, was pregnant, and had just lost her father. FF 64. Mrs. Medina had lost the father of her children and the man she was married to 20 years. FF 65. The Defendant's words and actions caused them deep pain, and as a result, the Defendant should pay compensatory damages.

The United States requests that this Court award Elva and Sandra Median \$10,000 each as a compensatory damage award. This amount is a reasonable award, based on the facts of the case. Cf. D.B. v. Bloom, 896 F. Supp. 166, 172 (D.N.J. 1995) (awarding \$25,000 in compensation for HIV-positive plaintiff's pain, humiliation, and emotional distress, caused by

dentist office's refusal of treatment); Doe v. D.C., 796 F. Supp. 559, 573 (D.D.C. 1992) (awarding \$25,000 in compensation for HIV-positive firefighter's emotional suffering, caused by District's withdrawal of job offer) (Rehabilitation Act); Howe v. Hull, 873 F. Supp. 72, 74 (N.D. Ohio 1994) (jury award of \$62,000 in compensatory damages to HIV-positive plaintiff, caused by hospital's refusal of admission); Cain v. Hyatt, 734 F. Supp. 671, 686 (awarding \$65,000 in compensation for mental anguish and humiliation suffered by HIV-positive attorney, caused by his termination from employment).

In addition, the ADA gives the Court the power to assess a civil penalty against an entity found in violation of Title III in an amount not to exceed \$50,000 for a first violation. 42 U.S.C. § 12188(b)(2)(B). Here, a civil penalty would be wholly appropriate, given Defendant's actions as a whole. The United States requests that the Court order that the Defendant pay a civil penalty not to exceed the \$50,000 statutory maximum.

Finally, the Defendant should be enjoined from engaging in any action that has the purpose or effect of unlawfully discriminating against any individual on the basis of disability or association with a person with a disability. To ensure nondiscrimination, United States requests that the Court order that the Defendant maintain copies of all records indicating funeral services provided to the public and provide these documents to the United States on a quarterly basis for at least three (3) years from the date of the Court's order. See United States v. Gregory, 871 F.2d 1239, 1246 (4th Cir. 1989), cert. denied, 493 U.S. 1020 (1990) ("[d]istrict courts clearly have the authority and should exercise the power to grant injunctive relief, even after apparent discontinuance of unlawful practices.").

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that today I served a copy of Plaintiff United States' Post Trial Brief upon Defendant Vasquez Funeral Home in United States v. Vasquez Funeral Home, Civil Action No. 93-C-7741 (N.D. Ill.), by mailing it via first class, return receipt requested to Defendant's counsel at the following address: Cesar A. Velarde, Esq., 1624 West 18th Street, Chicago, Illinois 60608.

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