

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

WANDA BRANDON

Plaintiff

vs.

**DRURY DISPLAYS INC. D/B/A
DDI MEDIA**

Defendant.

Cause No: _____

Division No. _____

**PETITION IN EQUITY FOR A PERMANENT INJUNCTION TO
REMOVE BILLBOARDS FROM AND STOP DESECRATION OF WASHINGTON
PARK CEMETERY**

For this cause of action, it is alleged as follows:

1. Washington Park Cemetery is a public, historically African American cemetery located at and around 4650 James S. McDonnell Blvd in Berkeley MO. It was originally dedicated as a public cemetery around 1920, as a for-profit burial place. It was at one time the largest and most prominent burial site in the region for African Americans. (See Exhibit 1, Post Dispatch article from 6/6/18, attached for general information only, without verification of all facts).

2. The current owner of the cemetery, Amazing Grace Enterprises, LLC, run by Kevin Bailey, does not properly maintain the cemetery and it has not been properly maintained for decades. Currently, the cemetery is partially maintained by volunteers like Plaintiff Wanda Brandon and others. Parts of the cemetery are overgrown.

3. Hundreds of graves, including the graves of Plaintiff's mother from 1966 and Plaintiff's grandmother from 1944, are in the cemetery. Overgrowth covering

some graves has been cleared, and others, like Plaintiff's grandmother and mother, have not yet been cleared, and remain covered and overgrown.

4. According to historical records from the cemetery, maintained at the Missouri Historical Society, Plaintiff's grandmother is buried in Section 10 of the cemetery and Plaintiff's mother is buried in Section 12. (See Exhibit 2, death certificate and burial records for Plaintiff's grandmother Mary Allen Amey and Exhibit 3, death certificate and burial records for Plaintiff's mother Bobbie Brandon).

5. Plaintiff was first injured in St. Louis County where the cemetery is located and where she was first exposed to the desecration of her ancestors' resting place as alleged below. Venue in St. Louis County is proper under RSMO. §508.010 and §508.030.

6. Plaintiff is the next of kin of relatives buried in the cemetery, including her grandmother Mary Allen Amey and her mother Bobbie Brandon. Plaintiff also has other relatives in the cemetery, including a great aunt, an uncle and a second cousin.

7. Around November 3, 1985, Washington Park Cemetery Inc. transferred to Defendant "all such right and title as the Grantor has in and to" strips of cemetery land within sections 10,12,13 and 14 of the cemetery, that abut highway I-70. (See Exh.4, quit claim deed and map). The deed additionally says that (underlines added):

"The Property and easement are conveyed subject to all easements and restriction of record and:

1. Rights of cemetery lot owners and others in and to the cemetery land conveyed hereby and easements in their favor over the premises for purposes of visitation;

2. Rights of parties and lot owners created by instruments filed or recorded with Grantor, Grantor's predecessors, assigns and legal representatives.
3. Rights of parties entitled thereto to keep therein the bodies and remains of deceased persons now interred;
4. Statutory rights and powers of the State of Missouri and of the City of Berkeley to regulate and control the use of the described parcels as a cemetery.

THE GRANTOR HEREBY RESERVES unto itself, and its distributes, successors, assigns, invitees, agents, customers and legal representatives the following easements appurtenant to the Property:

1. A permanent non-exclusive easement for ingress, egress and entry onto the property;
2. A permanent easement for maintenance of the Property and existing graves therein, and for the operation, maintenance and use of the property as cemetery including but not limited to opening and closing of graves for the interment of remains, erection of grave markers and sale of burial lots within the Property subject to prior use by Grantee, without necessity of release from, compensation to, or consent of Grantee or any of its successors, assigns and legal representatives."

8. At the time of Defendants acquisition of rights in 1985 and through today there are graves and gravestones in the strip of the land deeded to Defendants, as well as the remaining cemetery that abuts the strip.

9. Shortly after Defendant's acquisition of rights in the strips of land from the cemetery, Defendant erected within the strip that included parts of cemetery section 10,

three huge metal columns holding six huge lighted billboards. The billboards are in the cemetery and face Interstate 70. They are in sight of and loom over many of the graves. In the last year, the billboards have advertised such thing as Bunny Bread, entertainment events, radio stations, window sellers, jewelry stores, Birthright, and the D.A.V. (See Exh. 5, photos of advertiser).

10. The presence of these billboards in the cemetery is offensive and disrespectful to those buried there, as well as their families, including Plaintiff and her ancestors. The billboards disrupt the peace, beauty, serenity and noncommercial nature of the cemetery. They defile and divest the cemetery of its sacred nature. The presence of the billboards serve no public interest and have no relation to, and are in conflict of, the purpose and use of the land as a cemetery. They defy the sacred and pious nature of the cemetery. Paint from the billboards has been recently found on gravestones, and gravestones in the strip to which Defendant was granted rights, as well as abutting sections, have been broken. (See Exh. 6, photos of broken and paint stained headstones). Defendants or their agents drive and walk over the graves in the strip to which they have rights and the abutting cemetery section. (See Exh. 6, photos of broken and paint stained headstones). All of this amounts to a desecration of Washington Park Cemetery. See eg *Barry v. Calvary Cemetery Ass'n*, 106 Mo. App. 358, 80 S.W. 709, 710 (1904) (roaming over lots where bodies are buried is a species of desecration); *Union Cemetery Ass'n v. Kansas City*, 161 S.W. 261, 273 (1913) (Ordinance prohibiting more graves in cemetery passed to benefit financial interests of adjacent landowners held unenforceable as unreasonable interference with rights of buried persons and their families).

11. Plaintiff has suffered and continues to suffer irreparable harm in the continuing unnecessary disturbance and desecration of the cemetery that contains her ancestors' graves, which cannot be remedied by damages. The desecration occurs daily by the presence of the billboards themselves in the cemetery, and the additional desecrations caused by the Defendant's activities on the land in connection with the billboards, like painting and the use of heavy equipment.

12. "An injunction is the proper remedy to enjoin and restrain the owner or agent of a burial ground from desecrating a graveyard dedicated to public use; and ... plaintiffs, who have near relatives buried therein, have a perfect right to maintain such suit. *Polhemus v. Daly*, 296 S.W. 442, 444 (Mo. App. 1927); see also *Wooldridge v. Smith*, 147 S.W. 1019, 1021 (Mo. 1912).

13. That the cemetery owner in 1985 quit claimed whatever rights it had to the strips of land containing the billboards, does not, under the deed or the common law, extinguish Plaintiff's rights to protect the cemetery from desecration. As quoted above, the quitclaim deed by which Defendants purchased the land was subject to the rights of cemetery lot owners and others to use the strip that contains the billboards and the surrounding areas as a cemetery. The billboards are detrimental to the use of the property as a cemetery. Further, even without such provisions in the deed, a purchaser buys a cemetery subject to the rights of owners of burial lots, friends and relatives of the buried dead. *Abrams v. Scott*, 211 S.W.2d 718 (Mo. 1948).

14. Even if the City of Berkeley or St. Louis County or the State of Missouri have granted permits for the billboards, this does not allow the Defendant or its agents to desecrate the cemetery. *Union Cemetery Ass's vs. Kansas City et al*, 161 SW 261,

273 (Mo. 1913) (ordinance prohibiting further burials in cemetery held invalid due to evidence that ordinance passed to benefit private business interests, unconnected to public health and welfare, which interests could not override the interests of the persons buried there and their families).

Wherefore, plaintiff Wanda Brandon seeks a permanent injunction requiring Defendant to remove the billboards and stop the desecration of the cemetery.

**COFFEY & NICHOLS
ATTORNEYS AT LAW**

/s/ Mary Coffey _____
 MARY COFFEY, #30919
 GENEVIEVE NICHOLS, #48730
 Attorneys for plaintiff
 6202 Columbia Ave.
 St. Louis, MO 63139
 Phone: 314-647-0033
 Fax: 314-647-8231
 E-mail: mc@coffeynichols.com
 gn@coffeynichols.com