

Death Care

We represent the owners and operators involved in the various components of the death care industry, understand the challenges of competing in a rapidly-changing industry, and guide clients through the broad array of federal, state, and local regulations they face.

Overview

From the rise in cremation and preneed arrangements to green burials and personalized life celebrations, the death care industry is highly-regulated and undergoing significant transformation.

Post & Schell's attorneys have extensive experience representing the owners and operators involved in the various components of the death care industry. We understand the challenges of competing in a rapidly-changing industry and guide clients through the broad array of federal, state, and local regulations they face.

Post & Schell represents death care clients before licensing boards, administrative agencies, and the legislature, and, when necessary, challenges governmental authorities in court. The Firm's attorneys routinely litigate commercial and contract disputes, trade secret and non-compete claims, consumer protection matters, and fraud, defamation, and other business torts. They also provide counsel on transactions, contracts, and the impact of regulations.

Post & Schell's death care clients include:

- Funeral homes
- Cemeteries
- Crematories
- Merchandise companies
- Preneed sellers
- Insurance agents
- Memorialization professionals

Post & Schell's attorneys have lectured nationally on death care topics, and our work has been recognized by commentators and publications across the country. With our in-depth understanding of the business, the law, and the regulators, we help the death care industry compete in the present and plan for the future.

Representative Matters:

- Represented funeral homes, cemeteries, and preneed merchandise sellers in a successful challenge to the constitutionality of the Pennsylvania Funeral Director Law. *Heffner v. Murphy*, 866 F. Supp. 2d 358 (M.D. Pa. 2012).
- Brought a successful First Amendment commercial speech challenge to a state regulation prohibiting salespeople from communicating with funeral home customers. *Walker v. Flitton*, 364 F. Supp. 2d 503 (M.D. Pa. 2005).
- Secured a court order reversing the State Board of Funeral Director's ruling that a client's irrevocable preneed contracts could be rescinded and transferred to another funeral home. *Bean v. Department of State, State Board of Funeral Directors*, 855 A.2d 148 (Pa. Commw Ct. 2005) (en banc).
- Obtained nearly \$1 million in settlement for preneed insurance agent as a result of defamation and tortious interference with contract claims brought against a trade association and licensing board member.
- Enforced covenant not to compete for funeral home chain and collected \$500,000 judgment in client's favor.
- Advised statewide association and individual firms on the impact of proposed preneed regulations, and successfully defeated their promulgation.
- Drafted trust agreements, preneed contracts, and related documents for use in multiple states by funeral homes and insurance agency.