

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUFFOLK SUPERIOR COURT
 CIVIL ACTION NO.:

ANNE WEISS, individually and on behalf of
 all others similarly situated,

Plaintiff,

v.

PRESIDENT & FELLOW OF HARVARD
 COLLEGE a/k/a Harvard College, and CARL
 J. SHAPIRO INSTITUTE FOR
 EDUCATION AND RESEARCH AT
 HARVARD MEDICAL SCHOOL AND
 BETH ISRAEL DEACONESS MEDICAL
 CENTER, INC., a/k/a Harvard Medical
 School

Defendants.

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

INTRODUCTION

This lawsuit arises from the Defendant Harvard Medical School's failure to effectively screen, monitor, and supervise their employee to protect the dignity and integrity of donated human remains and ensure those remains were utilized for the exclusive purposes for which they were donated, namely research and medical training.

As a direct result of Harvard's failures, the Plaintiff and many other families have been confronted with the almost incomprehensible prospect that their loved ones' remains were sold as commodities, to be traded, displayed and in some cases converted into jewelry, dolls and other common products.

This ghoulish black market was allowed to flourish in plain sight operated by an HMS morgue employee whose lack of respect for the dead was obvious to anyone who scrutinized his behavior; it is alleged that he drove to work each day and presumably parked in the HMS parking lot with a license plate identifying him as the “Grim-R”—as in, the grim reaper. **See Exhibit “A.”**

The Grim Reaper posted images of himself dressed up in the garb of the undertaker in a Dickens novel with a black top hat and overcoat. **See Exhibit “B.”** His license plate and open association with macabre hobbies revealed his view of his job at the morgue as a backdrop for his fantasies instead of a place of reverence and respect. This “undertaker” invited his cohorts who fetishized human body parts to the morgue to shop. The Grim Reaper publicized his mocking moniker all while treating the morgue as an amusement park attraction for his friends and customers. Despite these tell-tale signs of malfeasance, he continued to have unfettered access to the remains donated to the morgue. A similar scandal occurred almost 20 years earlier at University of California at Los Angeles (“UCLA”) Medical school. The sale of body parts has been well-publicized since the UCLA scandal. Despite actual knowledge of these issues HMS failed to supervise and monitor their employee and failed to establish and or enforce basic precautions that would have prevented the establishment and operation of a body parts bazaar within their facility. The abject failure on the part of HMS to supervise the operation of the morgue has resulted in the harm to the Plaintiff outlined herein.

Class Allegations

1. Plaintiff brings this action on behalf of herself and the following classes:

Nationwide Class: All next of kin of individuals that donated their bodies to Harvard’s Anatomical Gift Program that reside in the United States.

Massachusetts Subclass: All next of kin of individuals that donated their bodies to Harvard’s Anatomical Gift Program that reside in the Commonwealth of Massachusetts.

The foregoing classes are referred to herein, collectively, as the “Class.”

2. Excluded from the Class are: (1) the Judges presiding over the Action, Class Counsel, and members of their families; (2) the Defendants, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or their parents, have a controlling interest, and their current or former officers and directors; (3) Persons who properly opt out; and (4) the successors or assigns of any such excluded Persons.

3. **Numerosity**: The Class is so numerous that joinder of all members is impracticable. Upon information and belief, the Class includes the family members of hundreds of donated cadavers.

4. **Typicality**: All of Plaintiff’s claims are typical of the claims of the Class because the named Plaintiff, like all other members of the Classes, had a family member donated to Harvard’s Anatomical Gift Program, such that all claims arise from the same uniform, core set of facts. Thus, Plaintiff is advancing the same claims and legal theories on behalf of herself and all absent Class Members.

5. **Adequacy**: Plaintiff is an adequate Class representative because her interests do not materially or irreconcilably conflict with the interests of the Class that she seeks to represent, she has retained counsel competent and highly experienced in complex class action litigation, and they intend to prosecute this action vigorously. The interests of the Class will be fairly and adequately protected by Plaintiff and her counsel.

6. **Superiority**: A class action is superior to all other available means of fair and efficient adjudication of the claims of Plaintiff and the Class. The injury suffered by each individual Class Member is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by

Defendants' conduct. It would be virtually impossible for members of the Class individually to effectively redress the wrongs done to them. Even if the members of the Class could afford such individual litigation, the court system could not. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties and to the court system presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court. Members of the Class can be readily identified and notified based on, *inter alia*, Defendants' records and databases.

7. **Commonality and Predominance:** The following questions common to all class members predominate over any potential questions affecting individual class members:

- a. Whether Defendants owed a duty of care Plaintiff and the Class's family members that were donated to Harvard's Anatomical Gift Program;
- b. Whether Defendants had a fiduciary duty to Plaintiffs and the Class's family members that were donated to Harvard's Anatomical Gift Program;
- c. Whether Defendants breached those duties;
- d. Whether Defendants violated the various statutes alleged herein; and
- e. Whether Plaintiff and all other members of the Class are entitled to damages and the measure of such damages and relief.

8. Defendants have acted, and refused to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive and equitable relief with respect to the Class as a whole.

PARTIES

1. Plaintiff Anne Weiss is an adult individual residing at 12A Snowberry Circle, South Deerfield, MA, 01373

2. Harvard Medical School (“HMS”) is owned and operated by Defendant President & Fellows of Harvard College (“Harvard”) at 25 Shattuck Street, Boston, Suffolk County, Massachusetts.

3. Harvard is a Massachusetts corporation with a principal office at Harvard University, Massachusetts Hall, Cambridge, Massachusetts.

4. At all relevant times, Harvard and HMS owned, operated, controlled, managed, and/or supervised the HMS morgue.

5. The Defendant Carl J. Shapiro Institute for Education and Research at Harvard Medical School and Beth Israel Deaconess Medical Center, Inc. a/k/a “Harvard Medical Center” is a Massachusetts nonprofit corporation located at 330 Brookline Ave. Boston, Suffolk County, Massachusetts.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to M.G.L.c. 223A, § 2 and c. 212, § 3.

7. Venue is proper in this Court because the wrongful conduct at issue occurred at the HMS morgue in Suffolk County.

FACTS

8. Anne Weiss is one of three surviving daughters of Dr. William and Mrs. Nancy Buchanan of Greenfield, Massachusetts.

9. Prior to his death at the age of ninety in 2018, Dr. Buchanan arranged to donate his body to Harvard Medical School.

10. Dr. Buchanan's decision to donate his body to cause of science and medical education was consistent with a life dedicated to excellence and the betterment of others.

11. As a young man he attained the rank of Eagle Scout before attending Yale University.

12. Following graduation from Yale with honors he attended Harvard Medical School.

13. After medical school he served as a naval officer and ultimately completed two tours of active duty.

14. He devoted his medical career to children, operating a pediatrics practice for almost forty years in Greenfield.

15. He was deeply committed to education and volunteered his time and energy for the local Free Library.

16. When he suffered a stroke in his eighties, Dr. Greenfield began to make arrangements in preparation for his passing.

17. One such arrangement was his decision to donate his body to HMS.

18. Dr. Buchanan had devoted his professional life to medicine and education and the donation of his remains to HMS was a logical extension of that devotion.

19. When Dr. Buchanan died in 2018 his daughter Anne took on the responsibility of ensuring that his remains were delivered to the care and custody of HMS.

20. Dr. Buchanan had previously executed an “Instrument of Anatomical Gift” entitled “Consent and Authorization, Disposition and Declaration as To Remains for an Anatomical Gift Donation” *See Exhibit “C.”*

21. Prior to her father dying, Anne spoke to a representative of HMS to confirm the steps she would need to take to fulfill her father’s wishes after his death and deliver his remains to the medical school.

22. Immediately after her father died Anne called the number provided by HMS to notify them of his death and the pending delivery of his remains.

23. As per the HMS instructions Anne coordinated with a local funeral home to ensure that his body was transported to and received by HMS immediately.

24. As per the HMS requirements, Dr. Buchanan’s remains were delivered to HMS within 24 hours of his death.

25. The family had a funeral without a body where they celebrated his life and memory.

26. In the years since Dr. Buchanan’s death his daughter, Anne has been comforted by the fond memories of her father.

27. These fond memories became infected with severe distress when the family learned of the abhorrent mistreatment of donated remains at HMS.

28. Anne first learned of the sale and conversion of human remains at HMS from *The New York Times* on June 14, 2023.

29. The Times article indicated that the HMS morgue manager had sold parts of cadavers including “heads, brains, skin, bones” and that some of these body parts were converted into dolls, bone art and other products purchased by collectors of human remains. *See “Exhibit “D.”*

30. The Federal Indictment referenced in the *Times* article placed the time frame for the conspiracy to sell human body parts from “...in or about 2018, the exact date being unknown to the Grand Jury, and continuing thereafter until on or about March 7, 2023...” **See Exhibit “E.”**

31. This time frame was particularly devastating to Anne and her family; Dr. Buchanan’s remains were delivered to HMS on March 22, 2018, the day after his death, meaning that his remains were in the care and custody of HMS during the time when body parts were being sold.

32. Within days of reading about the sale of human remains at HMS in the news, Anne received a letter, dated June 14, 2023, Dr. George Q. Daley, the Dean of the Faculty of Medicine at HMS. **See Exhibit “F.”**

33. Dr. Daley’s letter indicated in part that “At this time, we cannot rule out the potential that William Buchanan’s remains may have been impacted.” **See Exhibit “F.”**

34. Based on the facts presented in the press and detailed in the Federal indictment it is apparent that this “potential” will never be ruled out.

35. The illicit sale of body parts is an inherent risk of any entity or institution that houses human remains.

36. In the 20 years leading up to the arrest of Cedric Lodge there have been dozens of well publicized prosecutions and lawsuits related to the illicit sale of human remains throughout the United States.

37. The following is a small sampling of publicly available information on the sale of body parts:

38. The Philadelphia Inquirer published an article in 2007 explaining that “Three funeral directors held in selling body parts . . . They took remains without permission from 244

cadavers, an indictment says.” This article can be found at:

https://www.inquirer.com/philly/news/homepage/20071005_Three_funeral_directors_held_in_selling_body_parts.html

39. A 2009 article in the LA times, entitled “Businessman found guilty in UCLA’s willed body-parts program scandal,” explained a similar situation. This article can be found at: <https://www.latimes.com/archives/la-xpm-2009-may-15-me-willedbody15-story.html#:~:text=Los%20Angeles%20County%20prosecutors%20said,million%20between%201999%20and%202003>.

40. Likewise, the New York Post published an article in 2009 entitled “NJ funeral director sentenced in case of selling body parts,” which can be found at: <https://nypost.com/2009/12/07/nj-funeral-director-sentenced-in-case-of-selling-body-parts/>.

41. The UCLA case is particularly instructive. In fact, the current director of anatomical services at UCLA, Brandi Schmitt, is a member of the investigative committee created by HMS to in response to recent scandal.

42. Schmitt was hired by UCLA in part to implement reforms to prevent a recurrence of criminal conduct of morgue employees.

43. That case, also involved a medical school morgue and highlighted the risks involved in managing maintenance and storage of donated human remains.

44. Some of the standardized systems for tracking bodies in use at HMS likely derived from the lessons learned at UCLA in the wake of that scandal.

45. Among those lessons learned at UCLA were steps needed to close gaps in the monitoring of security, staffing and personnel.

46. In response to these gaps UCLA created and adhered to written guidelines for auditing security, personnel, and staffing.

47. Managers at Harvard Medical School—which solicits and accepts donated human remains—would have been aware of the risks revealed by the UCLA case and the necessity for strict auditing practices related to security, personnel and staffing.

48. Here, HMS either did not have strict auditing practices which would have detected Lodge's malfeasance before it was allowed to persist for a period of years, or if they did have such guidelines, they failed to follow them—otherwise the Grim Reaper would have been exposed before he was able to act to the devastating detriment of hundreds of families.

49. To ensure that the human remains donated to HMS did not fall prey to this well-known black-market HMS leaders should have also taken other basic precautions in the management of their Anatomical Gifts program. These basic reasonable steps include:

- a. Implementing and enforcing a written standard operating procedure.
- b. Maintaining strict control on access to the morgue.
- c. Ensuring that morgue offices and areas for the storage of human remains are separate and that the remains are kept locked up with limited access.
- d. Ensuring that individual employees are not permitted to access remains alone without a second employee being present.
- e. Ensuring that all morgue visitors have an official purpose and approval from multiple levels of management to enter the facility.
- f. Ensuring that all visitors be accompanied by a member of security.
- g. Emplacing cameras throughout the facility to monitor employees and prevent theft.
- h. Auditing and conducting periodic background checks and interviews with employees to ensure they have had no changes in behavior or financial or other practices that make them a risk for misconduct.

50. HMS either failed to implement these basic precautions or failed to enforce them resulting in Lodge having unfettered access to human remains, inviting “customers” to shop and purchase body parts and remove remains from the facility undetected.

NEGLIGENT SUPERVISION AND RETENTION

51. Cedric Lodge was an employee of Harvard and HMS with access to human remains.

52. Despite this highly sensitive access, it is apparent that his day-to-day activities were not scrutinized by his supervisors at HMS.

53. He came to work each day in a car with the flippant vanity plate “Grim-R”.

54. Instead of harvesting souls as the Grim Reaper does, Lodge and his wife (her plates say “DARKSHOWS”) were reaping body parts for sale.

55. A basic routine interview with Lodge about his vanity plate may have led to the revelation that he and his wife frequented social media sites focused on macabre hobbies associated with the occult, including the collection and trading of human remains.

56. His wife’s public Facebook page included pictures of Lodge dressed up as a fictional undertaker (“Ex. B”)

57. It is apparent that no such background interview ever happened.

58. But even assuming the Grim-R license plate did not raise any alarms, under no circumstances should Lodge have been able to access remains unsupervised.

59. Nor should he have been able to bring customers not affiliated with HMS or the morgue in to view and have access to donated cadavers.

60. Lodge is not a medical doctor, not a medical student and does not appear to have any direct role in the embalming or other methods of preserving bodies.

61. He is described in the Federal indictment as The Morgue Manager.

62. The HMS Frequently Asked Question page devoted to the body parts scandal describes his duties as “preparing for and intaking anatomical donors’ bodies, coordinating embalming, overseeing the storage and movement of cadavers to and from teaching labs, and, when studies were complete, preparing remains to be transported to and from the external crematorium and, when appropriate, for burial.”

63. Lodge was able to use his position—and exploit his lack of proper supervision—to market, steal and sell donated remains all while under the direct supervision of the Defendants’ multiple levels of management.

64. These multiple levels of management included a Morgue Director, who presumably worked in the same physical space as Lodge and had daily contact with him.

65. Because of the total absence of measures to prevent Lodge from stealing body parts or inviting third parties in to select and buy said body parts, the University’s imputed knowledge of the common nature of theft and sale of body parts and the foreseeability that an employee with unregulated, unsupervised and unchecked access to human remains the events that lead to the harm suffered by the Plaintiff’s and was totally foreseeable.

COUNT I
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(PLAINTIFF v. ALL DEFENDANTS)

66. Plaintiff incorporates all preceding paragraphs as if set forth fully herein.

67. Defendants knew or should have known that their conduct as described above would cause severe emotional distress to Plaintiff or any reasonable individual.

68. Defendant Harvard knew or should have known that Defendant Lodge was engaging in the heinous behavior described herein.

69. Defendant Harvard is also responsible for the conduct of Defendant Lodge under the doctrine of *respondeat superior*.

70. As a direct and proximate result of this outrageous conduct, Plaintiff and the putative class experienced severe emotional distress.

71. Defendants' actions were outrageous in character, go beyond all possible bounds of decency, and are to be regarded as atrocious and utterly intolerable in a civilized community.

COUNT II
NEGLIGENCE
(PLAINTIFF V. ALL DEFENDANTS)

72. Plaintiff incorporates all preceding paragraphs as if set forth fully herein.

73. Defendant had a duty to Plaintiff to treat the remains of her father in accordance with his expectations and wishes and her direction, and certainly a duty to ensure the dignified disposal of his remains.

74. Further, Defendants' conduct violated a Massachusetts law imposing a statutory duty to preserve the rights and dignity of a decedent's remains when a medical school takes custody of the remains for scientific and/or academic purposes. See M.G.L. c. §§1–5.

75. Defendant breached this duty by failing to take reasonable steps to ensure that the remains of her father were properly handled and/or maintained for their intended purpose of scientific study, and otherwise dignified disposal, and were not sold to the highest bidder for household decoration and other nefarious purposes.

76. Defendant's breach of this duty caused, both directly and proximately, severe emotional distress to Plaintiff and the putative class.

COUNT III
NEGLIGENT HIRING, SUPERVISION, AND/OR RETENTION
(PLAINTIFF V. DEFENDANT HARVARD)

77. Plaintiff incorporates all preceding paragraphs as if set forth fully herein.

78. During the course of Lodge's employment, Defendant Harvard became aware or should have become aware of problems with Lodge indicating his unfitness to serve in his position—such as, but not limited to, his flippant and public declaration that he was the “grim reaper,” which was displayed on his vehicle and observed by his employer and his regular conduct in allowing unauthorized third-parties into the morgue (for their selection of body parts to purchase).

79. Despite this awareness, Defendant Harvard failed to take any further action such as investigating, discharging, or reassigning Lodge.

80. As a direct and proximate result of Defendants' conduct as described more fully above, the Plaintiff and the putative class suffered the harm described herein.

COUNT IV
INTERFERENCE WITH A CORPSE
(PLAINTIFF v. ALL DEFENDANTS)

81. Plaintiff incorporates all preceding paragraphs as if set forth fully herein.

82. While Plaintiff's father donated his remains to HMS by choice, his authorization was premised on the purpose of the donation—to advance scientific and academic knowledge.

83. His donation was, clearly, not for the purpose of mutilation to satisfy the twisted desires of the black-market corpse trade.

84. Accordingly, Defendants did not possess an absolute right to the disposition of Plaintiff's fathers' remains—Defendants had only the right to dispose of the remains in accordance with the stated purpose. **See Exhibit “C.”**

85. Defendants' failure to do so resulted in harm to Plaintiffs' possessory interest in her father's remains.

86. Defendants' wrongful and unauthorized interference with Plaintiff's father's remains had a detrimental effect on the psychological well-being of Plaintiff.

87. As a direct and proximate result of Defendants' conduct as described more fully above, the Plaintiff and the putative class suffered the harm described herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the putative class, requests the following relief:

- (a) Certification of this action as a class action and appointing of Plaintiff to serve as class representative and undersigned as class counsel;
- (b) An award of compensatory damages in an amount deemed appropriate by the trier of fact, along with prejudgment and post-judgment interest;
- (c) An award of attorney's fees and costs as permitted by law; and
- (d) Any other relief which this Court deems just and proper or to which Plaintiff and the putative class may be entitled as a matter of law.

Respectfully Submitted,

The Plaintiff,

By her attorneys,

/s/ Edward A. Bopp

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