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7 **Attorneys for Defendant and Cross-Complainant, KURT J. PILGERAM**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SANTA BARBARA**
10 **ANACAPA DIVISION**

11 ALCOR LIFE EXTENSION FOUNDATION,
12 an Arizona nonprofit organization,

13 Plaintiff,

14 vs.

15 KARL E. PILGERAM, an individual; KURT
16 J. PILGERAM, an individual; and DOES 1
17 through 10, inclusive,

18 Defendants.

19 KURT J. PILGERAM,

20 Cross-Complainant,

21 vs.

22 ALCOR LIFE EXTENSION FOUNDATION,
23 an Arizona nonprofit organization,
24 and ROES 1-20, inclusive,

25 Cross-Defendants.

Case No. 17CV05172

**KURT J. PILGERAM'S SECOND
AMENDED CROSS COMPLAINT FOR:**

1. FINANCIAL ELDER ABUSE;
2. NEGLIGENCE;
3. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS;
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
5. INTENTIONAL MISREPRESENTATION;
6. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING;
7. UNFAIR BUSINESS PRACTICES;
8. BREACH OF CONTRACT AND CONTRACT FRAUD; AND
9. DECLARATORY RELIEF.

DEMAND FOR JURY TRIAL

[Assigned for all purposes to:
Hon. Donna D. Geck]

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27 COMES NOW Defendant and Cross-Complainant, KURT J. PILGERAM (herein referred
28 to as "Kurt"), by and through his attorneys, Fell, Marking, Abkin, Montgomery, Granet & Raney,

1 LLP, and for his Second Amended Cross Complaint against Plaintiff and Cross-Defendant,
2 ALCOR LIFE EXTENSION FOUNDATION, an Arizona nonprofit organization (herein referred
3 to as “Alcor”), alleges as follows:

4 **CROSS-DEFENDANTS**

5 1. The Cross-Defendants are ALCOR LIFE EXTENSION FOUNDATION, an Arizona
6 nonprofit organization and Cross-Defendants ROES 1 through 20 (herein, the “Cross-
7 Defendants”), inclusive, who are individuals, corporations, partnerships or other entities whose
8 identity and form is unknown to Kurt, who therefore sues said ROE Cross-Defendants under such
9 fictitious names, pursuant to the provisions of Section 474 of the California Code of Civil
10 Procedure. Kurt will amend this Complaint to allege the true names and capacities of such ROE
11 Cross-Defendants at such time as the same have been ascertained. Kurt is informed and believes,
12 and based thereon alleges, that each of the fictitiously named ROE Cross-Defendants is liable and
13 responsible in some manner for the claims, demands, losses, acts, and damages alleged herein.
14

15 **GENERAL ALLEGATIONS**

16 A. **THE CRYONIC SUSPENSION AGREEMENT**

17 2. Kurt’s father, Laurence O. Pilgeram (herein, “Mr. Pilgeram”) wanted to have
18 “all” of his remains cryogenically preserved upon his death. Mr. Pilgeram made it clear to Alcor,
19 to his sons, Kurt Pilgeram (“Kurt”) and Karl Pilgeram (“Karl”), and other family and friends, that
20 he wanted his whole body to be preserved, not just his head, or “cephalon.”

21 3. Mr. Pilgeram entered into the Cryonic Suspension Agreement (the “Alcor
22 Agreement”) with Alcor on or about October 26, 1990, a true and correct copy of which is attached
23 as **EXHIBIT C** to Alcor’s Complaint and incorporated herein by reference.

24 4. The Alcor Agreement was approved by Alcor on January 23, 1991.

25 5. When Mr. Pilgeram entered into the Alcor Agreement, he wanted to make sure
26 his whole body was preserved. At the time he entered the Alcor Agreement, the cost for whole
27 body preservation was \$100,000. Accordingly, Mr. Pilgeram purchased an insurance policy with
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1 Jackson National Life Insurance Company that was designed to pay the amount needed for whole
2 body preservation upon his death.

3 6. At the time the Alcor Agreement was entered into and accepted by Alcor, Mr.
4 Pilgeram was age 67 and residing in California.

5 7. Mr. Pilgeram checked the box in paragraph 1 of Article V of the Alcor Agreement
6 (p. 10) for “Whole Body Suspension.” It was critical to Mr. Pilgeram that his entire remains be
7 preserved.

8 8. On page 11 of the Alcor Agreement, Mr. Pilgeram stated that it was his wish that “. . .
9 .ALCOR . . . place into suspension any biological remains whatsoever that they may be able to
10 recover, regardless of the severity of the damage to my human remains from such causes as fire,
11 decomposition, autopsy, embalming, or other causes. . . .” (underscoring added).

12 B. DEATH OF MR. PILGERAM

13 9. Mr. Pilgeram died on Friday, April 10, 2015, at age 90, while living in California.

14 10. Mr. Pilgeram died from a heart problem and was found on a public sidewalk. There
15 was no significant damage to his body.

16 11. Mr. Pilgeram’s body was taken by the coroner from the local sheriff’s office and
17 held at the coroner’s over the weekend.

18 12. Kurt tried to contact Alcor over the weekend to let them know about his father’s
19 death and the need for them to come get his father’s body for preservation. No one at Alcor
20 answered the phone over the weekend. There was just an answering service and no one from
21 Alcor returned his call over the weekend.

22 13. On Monday, April 13, 2015, Kurt finally reached Aaron Drake, the Senior Medical
23 Response Consultant at Alcor. Kurt informed Mr. Drake of his father’s death and the need for
24 Alcor to come get his father’s whole body for preservation. During his conversation with Mr.
25 Drake, Mr. Drake promised Kurt that his father’s entire body would be preserved, as that was
26 what the “contract required.”

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1 14. Following that conversation, Kurt heard nothing further from Alcor for approximately
2 two weeks and had no idea what had happened with his father's body during that period. He
3 then contacted Alcor and asked for information and was told that Mr. Drake would return his
4 call. Mr. Drake never returned Kurt's telephone call. Instead, approximately two weeks later,
5 Kurt received a package delivered to his house from a mail carrier which purportedly contained
6 his father's cremated remains, except allegedly for his father's head which Alcor later told him
7 was severed by Alcor and transported in a cooler to Arizona by vehicle for "preservation."

8 15. Kurt was shocked, horrified, and extremely distressed by these events. He knew how
9 important it was to his father to have his whole body preserved and was not expecting to receive
10 his father's cremated remains by mail. Alcor promised that they would preserve Mr. Pilgeram's
11 whole body and Alcor had the obligation under the Alcor Agreement to preserve all of Mr.
12 Pilgeram's remains, no matter how damaged. Mr. Pilgeram's whole body could have been and
13 should have been preserved under the terms of the Alcor Agreement. In addition to the
14 foregoing, Alcor had no right to cremate Mr. Pilgeram's remains, as discussed further below.

15 16. To date, Alcor has provided no explanation as to why they did not preserve Mr.
16 Pilgeram's remains except to state in prior pleadings in this case that his body was "medically
17 unable to be preserved."

18 17. Alcor induced Mr. Pilgeram, an elder, as defined under the California elder abuse
19 statutes, to enter into a contract that they never intended to fulfill.

20 18. Alcor breached the Alcor Agreement in several ways and broke its promise to Mr.
21 Pilgeram and Kurt when it failed to preserve as much of Mr. Pilgeram's biological remains as
22 possible, as contracted for by Mr. Pilgeram under the Alcor Agreement and as Alcor promised
23 Kurt they would do.

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1 C. ALCOR'S WRONGFUL CREMATION OF MR. PILGERAM'S REMAINS

2 19. In addition to failing to preserve Mr. Pilgeram's whole body, Alcor had no right
3 to cremate Mr. Pilgeram's remains. Under paragraph 3 of Article V of the Alcor Agreement, Mr.
4 Pilgeram directed that his next of kin receive any remains of his that were not preserved ("I wish
5 my next of kin to receive possession of the non-suspended portion of my human remains . . .").
6 The other option was to allow Alcor the right to cremate his remains and Mr. Pilgeram
7 purposefully did not select that option. Alcor, ignoring this directive and their promise to Kurt
8 that it would preserve Mr. Pilgeram's entire body, severed Mr. Pilgeram's head and cremated his
9 body without any discussion with Mr. Pilgeram's sons and without any authority whatsoever.
10 Further, upon information and belief, Alcor also carelessly and recklessly had Mr. Pilgeram's
11 remains cremated because initial testing suggests that the cremated remains that were mailed to
12 Kurt may not be entirely those of Mr. Pilgeram. That testing was inconclusive so further testing
13 of the remains will be necessary to determine whose remains are in the container that was
14 shipped to Kurt following his father's death.

15 20. Kurt and Karl are clearly third-party beneficiaries as to Mr. Pilgeram's
16 unpreserved remains under the Alcor Agreement because Mr. Pilgeram directed Alcor to provide
17 any remains of his that could not be preserved to his next of kin, i.e., his two sons (Paragraph 3
18 of Article V of the Alcor Agreement, p. 10).

19 21. Alcor was required to deliver Mr. Pilgeram's unpreserved remains to Mr.
20 Pilgeram's children. It was their right to decide how such remains would be handled. Instead,
21 Alcor unilaterally decided to cremate Mr. Pilgeram's remains, even after they had spoken with
22 Kurt and promised that they would preserve all of Mr. Pilgeram's remains. Even if Alcor had
23 the right to cremate Mr. Pilgeram's remains (which they did not), they had a duty to ensure that
24 Kurt's father's remains were handled properly and apparently failed to do so.

25 22. Shockingly, in addition to cremating Mr. Pilgeram's remains without any
26 authority, Alcor did not even have the courtesy to notify Kurt that his father's remains had been
27 cremated or that they were being shipped to his house.
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1 23. Alcor intentionally failed to follow the directives set forth in the Alcor
2 Agreement. Kurt’s receipt of his father’s remains under these circumstances has caused him
3 severe emotional distress. In addition, Kurt continues to suffer emotional distress as Alcor
4 continues to refuse to return the rest of Mr. Pilgeram’s remains to Kurt despite his requests.

5 D. THE FEDERAL ACTION AND THE 2015 AGREEMENT

6 24. Following Mr. Pilgeram’s death, Jackson National Life Insurance Company
7 (“Jackson”) elected to file a federal interpleader action in the United States District Court for the
8 Central District, Case No. 2:15-ev-4975 (the “Federal Action”), naming Kurt and his brother
9 Karl, in their individual capacities, as defendants, as there was a dispute over the insurance
10 proceeds that were available under the life insurance policy that had been taken out by Mr.
11 Pilgeram for the expenses associated with his whole body preservation.

12 25. In order to have the Federal Action dismissed, Kurt (and his brother Karl) entered
13 into the 2015 settlement agreement (the “2015 Agreement”) with Alcor which is attached as
14 Exhibit “A” to Alcor’s Complaint (incorporated herein by reference), and the Federal Action was
15 subsequently dismissed by stipulation.

16 26. The 2015 Agreement provides that the parties would stipulate to the dismissal of
17 the Federal Action and that the parties would place the “. . . remaining . . . funds . . . into an
18 escrow account held by Granite Escrow, which was to be released per the terms of the
19 Agreement.”

20 27. Alcor, in its complaint, alleges in paragraph 45 that Kurt had an obligation to
21 allow the escrowed funds to be released to Alcor after Alcor took certain actions, such as
22 providing proof that they had preserved Mr. Pilgeram’s head. This is not true. Nowhere in the
23 2015 Agreement does it state or imply that Kurt had such an obligation. In fact, since the funds
24 were placed into the escrow account, not once has Alcor made a demand for release of the funds
25 before electing to file their complaint in this matter alleging that Kurt breached the 2015
26 Agreement by not allowing the escrowed funds to be released to Alcor.

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1 28. When Kurt asked Alcor for the return of his father’s remains that had been
2 “preserved” by Alcor, rather than discuss a possible resolution of the issues with Kurt, and after
3 having made no demand for the release of the escrowed funds, Alcor filed its complaint.

4 29. Alcor induced Mr. Pilgeram to enter into the Alcor Agreement based on his belief
5 and their representation that his remains would be preserved yet Alcor arbitrarily, fraudulently,
6 and in bad faith elected to sever Mr. Pilgeram’s head from his body. But for Alcor’s promise to
7 Mr. Pilgeram that they would preserve his whole body (which promise was also made to Kurt),
8 Mr. Pilgeram would not have entered into the Alcor Agreement.

9 30. Alcor has refused to return Mr. Pilgeram’s “preserved” remains to Kurt so that he
10 can handle such remains as he deems appropriate.

11 31. Alcor has intentionally caused severe emotional distress to Kurt as Alcor
12 intentionally disregarded the directives of the Alcor Agreement, intentionally lied to Kurt when
13 they assured him that they would preserve his father’s whole body, and then proceeded to
14 cremate his father’s remains without any authority to do so.

15 32. Alcor has engaged and continues to engage in unfair business practices by
16 inducing elderly people to sign up for cryonic preservation under the terms of an agreement
17 which are largely illusory. Alcor has demonstrated that it has no regard for the requests that are
18 made by their clients. Alcor takes money from its elderly clients and then ignores its obligations
19 under their own agreements. The Alcor Agreement with Mr. Pilgeram unequivocally requires
20 Alcor to preserve all remains “regardless of the severity of damage” and Alcor failed to do that.
21 It also requires Alcor to return any unpreserved remains to his children. Alcor also failed to do
22 that.

23 33. Alcor took advantage of Mr. Pilgeram when he was an elder by inducing him to
24 enter into a contract that they had no intention to fulfill.

25 34. Alcor further abused Mr. Pilgeram when they unilaterally, arbitrarily, and without
26 any authority or good cause whatsoever, elected to sever Mr. Pilgeram’s head from his body,
27 despite his clear directives to the contrary.

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1 35. Alcor intentionally caused severe emotional distress to Kurt by cremating his
2 father's remains (without any right to do so) and then having such remains shipped to Kurt's
3 house in a box without any notice whatsoever. Furthermore, Alcor committed fraud against Kurt
4 when it promised him that his father's whole body would be preserved and then proceeded to cut
5 off Mr. Pilgeram's head and cremated his body without the right to do so.

6 36. Further, upon information and belief, Alcor further breached its duties to Kurt
7 when they handled Mr. Pilgeram's remains as it is possible that the remains delivered to Kurt are
8 not those of his father or not entirely those of his father.

9 37. Alcor has caused continuing emotional distress to Kurt by continuing to retain his
10 father's head, despite Kurt's demand for such remains to be returned.

11 38. Alcor has breached the covenant of good faith and fair dealing in the Alcor
12 Agreement by acting acing arbitrarily, in bad faith, and contrary to Mr. Pilgeram's wishes.

13 **FIRST CAUSE OF ACTION FOR FINANCIAL ELDER ABUSE**

14 **ALL CROSS-DEFENDANTS**

15 39. Kurt incorporates by this reference each and every allegation contained in
16 Paragraphs 1 through 38 of this Second Amended Cross Complaint, as fully as set forth at length
17 herein.

18 40. Alcor committed contract fraud when it entered into the Alcor Agreement with
19 Mr. Pilgeram so that they could take his money without having any intention to fulfill the clearly
20 stated directives of Mr. Pilgeram in the Alcor Agreement to preserve his entire remains, no
21 matter the severity of the damage, and to deliver any remains that could not otherwise be
22 preserved to his children.

23 41. Mr. Pilgeram was a resident of California and over age 65 (an "elder") at the time
24 the Alcor Agreement was entered.

25 42. The Alcor Agreement is unfair, deceptive, fraudulent and illusory as Alcor does
26 whatever it wants to do even despite clear instructions from its clients to the contrary. Alcor had
27 the duty to preserve Mr. Pilgeram's entire remains, no matter how damaged, and failed to do so.

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1 Alcor had the duty to deliver any remains of Mr. Pilgeram that could not otherwise be preserved
2 to his children, and failed to so.

3 43. These types of agreements are predominantly entered into with elders, giving
4 them false hopes of being resurrected when, in fact, there exists no reasonable possibility that
5 such resurrection can occur, especially under the circumstances here where Mr. Pilgeram's body
6 was not "preserved" until days after he died. Alcor intentionally and fraudulently misrepresented
7 their duties to Mr. Pilgeram and their obligations under the Alcor Agreement.

8 44. Financial abuse of an elder occurs when a person takes, secretes, appropriates,
9 obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or
10 with intent to defraud. This is exactly what Alcor has done here, by taking Mr. Pilgeram's
11 money for a wrongful use with the intent to defraud him. Alcor knows that it is extremely
12 unlikely that Mr. Pilgeram's "remains" can be resurrected, especially due to the delay in
13 preserving his remains.

14 45. As to Mr. Pilgeram, they promised to preserve his entire remains yet failed to do
15 so without justification. Mr. Pilgeram would not have agreed to pay Alcor any money had he
16 known that Alcor was not going to preserve his entire remains, as he instructed in the Alcor
17 Agreement. Nor would he have wanted Alcor to cremate his non-preserved remains as he
18 directed that any such remains be returned to his children and for them to decide how to treat his
19 unpreserved remains.

20 46. The actions taken by Alcor, as alleged herein are fraudulent and wrongful and
21 constitute financial elder abuse under §15610.30 of the Welfare & Institutions Code.

22 47. Kurt is the successor-in-interest to Mr. Pilgeram. Mr. Pilgeram suffered financial
23 harm by paying life insurance premiums for a contract that was entirely fraudulent and Kurt, as
24 his father's successor-in-interest, has suffered and continues to suffer financial harm as a result
25 of Alcor's fraudulent and wrongful acts. Accordingly, Kurt is entitled to damages and an award
26 of attorneys' fees and costs against Alcor under Welfare & Institutions Code §15657.5(a), in such
27 amount as proved at trial.

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1 56. In addition to the foregoing, based on initial testing of the cremated remains that
2 were sent to Kurt at Alcor's instructions to the mortuary, Alcor and its agents may have
3 negligently handled Mr. Pilgeram's remains because the cremated remains may contain the
4 remains of other persons, a matter which is still being investigated.

5 57. Alcor is responsible for the actions of its agents. If it turns out that the remains
6 shipped to Kurt are not those of his father or are intermixed with the remains of others, such
7 actions are negligent and have caused Kurt damages. Kurt intends to have further testing done
8 on the remains to determine whether his father's remains were handled in a negligent manner.

9 58. Kurt is a third-party beneficiary under the Alcor Agreement because Alcor knew
10 that Mr. Pilgeram had designated his sons to receive his remains if preservation was not
11 otherwise possible yet they cremated Mr. Pilgeram's remains without authority.

12 59. Alcor had a duty to Kurt to ensure proper handling of Mr. Pilgeram's remains and
13 failed to do so, which actions are the substantial and proximate cause of the damages sustained
14 by Kurt.

15 60. As a direct and proximate result of these breaches of duty by Alcor, Kurt has
16 sustained general and special damage in amounts to be determined at trial.

17 **THIRD CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF**

18 **EMOTIONAL DISTRESS**

19 **ALL CROSS-DEFENDANTS**

20 61. Kurt incorporates by this reference each and every allegation contained in
21 Paragraphs 1 through 60 of this Second Amended Cross Complaint, as fully as set forth at length
22 herein.

23 62. Alcor's conduct in not preserving Mr. Pilgeram's remains was not only negligent;
24 it was outrageous. Alcor knew, or should have known, that its conduct would cause emotional
25 distress, and they acted in negligent disregard of the probability of causing emotional distress.

26 63. Alcor's conduct in promising Kurt that they would make sure to preserve his
27 father's whole body after Mr. Pilgeram's death and then failing to do so, is equally outrageous.
28 On top of that, Alcor cremated Mr. Pilgeram's remains without any authority.

1 64. Furthermore, upon information and belief, Alcor and its agents may have
2 mishandled Mr. Pilgeram's remains as such remains may not be Mr. Pilgeram's in their entirety
3 and/or may be mixed with remains of other individuals.

4 65. Alcor had a duty to Kurt as the named recipient of such remains under the Alcor
5 Agreement and related documents.

6 66. Kurt suffered severe and extreme emotional distress as the actual and proximate
7 result of Alcor's outrageous conduct in failing to preserve his father's remains as instructed by
8 Mr. Pilgeram and as Alcor promised Kurt they would do after his father's death, in negligently
9 handling Mr. Pilgeram's remains as described herein, and in continuing to retain his father's
10 remains despite repeated demands by Kurt to release the remains to him so that he can preserve
11 them as he deems appropriate.

12 67. Kurt has suffered extreme emotional distress as a result of Alcor's actions and has
13 been injured as alleged in an amount in excess of \$1,000,000.

14 **FOURTH CAUSE OF ACTION FOR INTENTIONAL INFLICTION OF**
15 **EMOTIONAL DISTRESS**
16 **ALL CROSS-DEFENDANTS**

17 68. Kurt incorporates by this reference each and every allegation contained in
18 Paragraphs 1 through 67 of this Second Amended Cross Complaint, as fully as set forth at length
19 herein.

20 69. Alcor's conduct in not preserving Mr. Pilgeram's remains was outrageous, and
21 Alcor knew of Kurt's emotional, mental and physical frailty and that their conduct would cause
22 emotional distress, or they acted in negligent disregard of the probability of causing emotional
23 distress.

24 70. Alcor's conduct in promising Kurt that they would make sure to preserve his
25 father's whole body after Mr. Pilgeram's death and then failing to do so was and is fraudulent
26 and outrageous. On top of that, Alcor cremated Mr. Pilgeram's remains without any authority to
27 do so.

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1 71. Furthermore, in addition to the fact that Alcor had no right to cremate Mr.
2 Pilgeram's remains, upon information and belief, Alcor and its agents may have mishandled Mr.
3 Pilgeram's remains as such remains may not be Mr. Pilgeram's in their entirety or may be mixed
4 with the remains of others.

5 72. Alcor had a duty to Kurt as the named recipient of such remains under the Alcor
6 Agreement and related documents.

7 73. Kurt suffered severe and extreme emotional distress as the actual and proximate
8 result of Alcor's outrageous conduct in failing to preserve his father's remains as instructed by
9 Mr. Pilgeram and as Alcor promised Kurt they would do after his father's death, in mishandling
10 Mr. Pilgeram's remains as described herein, and in continuing to retain his father's remains
11 despite repeated demands by Kurt to release the remains to him so that he can preserve them as
12 he deems appropriate

13 74. Kurt has suffered extreme emotional distress as a result of Alcor's actions and has
14 been injured as alleged in an amount in excess of \$1,000,000.

15 75. Alcor undertook such actions maliciously and oppressively, and with the intent to
16 cause injury, such that Kurt is entitled to an award of punitive damages, in addition to general
17 and special damages, of no less than \$1,000,000.

18 **FIFTH CAUSE OF ACTION FOR INTENTIONAL MISREPRESENTATION**

19 **ALL CROSS-DEFENDANTS**

20 76. Kurt incorporates by this reference each and every allegation contained in
21 Paragraphs 1 through 75 of this Second Amended Cross Complaint, as fully as set forth at length
22 herein.

23 77. Alcor has intentionally misrepresented facts; it misrepresented to Mr. Pilgeram
24 that it would preserve all of his remains with no intention of doing so; it misrepresented to Kurt
25 that they would ensure his father's whole-body preservation with no intention of doing so; it
26 misrepresented that it would return Mr. Pilgeram's non-preserved remains to his children and
27 failed to do so; and it misrepresented to Mr. Pilgeram and Kurt (as a third-party beneficiary) that
28 it would properly handle Mr. Pilgeram's remains, with no intention of doing so.

1 78. Alcor failed to preserve Mr. Pilgeram’s whole body, as promised, and failed to
2 properly handle Mr. Pilgeram’s remains.

3 79. Alcor intended that Mr. Pilgeram and Kurt rely on its representations.

4 80. Mr. Pilgeram and Kurt reasonably relied on the representations made by Alcor.

5 81. As a result of the misrepresentations by Alcor, Kurt, individually and as the
6 successor-in-interest to his father, has been harmed.

7 82. Mr. Pilgeram’s and Kurt’s reliance on the misrepresentations of Alcor was a
8 substantial factor in causing Kurt damages in an amount in excess of \$1,000,000

9 83. Alcor’s conduct is malicious, oppressive, extreme, and outrageous, subjecting
10 Alcor to an award of punitive damages, in addition to general and special damages, of no less
11 than \$1,000,000.

12 **SIXTH CAUSE OF ACTION FOR BREACH OF THE COVENANT OF GOOD**

13 **FAITH AND FAIR DEALING**

14 **ALL CROSS-DEFENDANTS**

15 84. Kurt incorporates by this reference each and every allegation contained in
16 Paragraphs 1 through 83 of this Second Amended Cross Complaint, as fully as set forth at length
17 herein.

18 85. California law implies a covenant of good faith and fair dealing in all contracts
19 between parties entered into in the State of California.

20 86. As a result of the actions of Alcor, as set forth hereinabove, Alcor violated the
21 implied covenant of good faith and fair dealing contained in the Alcor Agreement and in the
22 2015 Agreement they made with Kurt following Mr. Pilgeram’s death. Alcor’s breach is
23 continuing as it continues to retain Mr. Pilgeram’s head despite Kurt’s repeated requests for its
24 release.

25 87. In addition to the foregoing, Alcor violated the promises it made to Kurt when
26 they promised to preserve his father’s whole body as that was what the “contract required” and
27 then failed to do so.

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88. As a result of such breaches, Kurt is entitled to damages as proved at trial.

SEVENTH CAUSE OF ACTION FOR UNFAIR BUSINESS PRACTICES

ALL CROSS-DEFENDANTS

89. Kurt incorporates by this reference each and every allegation contained in Paragraphs 1 through 88 of this Second Amended Cross Complaint, as fully as set forth at length herein.

90. By reason of Alcor’s fraudulent, deceptive, unfair, and wrongful conduct, as alleged herein, Alcor has violated California Business & Professions Code §17200, et seq., by engaging in the unlawful, unfair and deceptive business practices designed to injure individuals in California, including Mr. Pilgeram and Kurt.

91. By reason of the foregoing, Kurt has suffered and continues to suffer damages in an amount which is currently unknown but which will be proved at trial.

EIGHTH CAUSE OF ACTION FOR BREACH OF CONTRACT AND

CONTRACT FRAUD

ALL CROSS-DEFENDANTS

92. Kurt incorporates by this reference each and every allegation contained in Paragraphs 1 through 91 of this Second Amended Cross Complaint, as fully as set forth at length herein.

93. The Alcor Agreement was not just breached by Alcor. It is a fraudulent contract and Alcor’s actions have been fraudulent, malicious, in bad faith, and oppressive.

94. As his father’s successor in interest, Kurt is entitled to recover not only consequential damages but also special damages as result of the fraud committed by Alcor in this matter.

95. Kurt’s general and special damages are no less than \$1,000,000.

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1 (f) Declaratory relief in the form of a judicial determination that Alcor has
2 breached the Alcor Agreement;

3 (g) Declaratory relief in the form of a judicial determination that Alcor
4 breached its obligations to Kurt;

5 (h) Declaratory relief in the form of a judicial determination that Alcor has
6 engaged in conduct which is fraudulent, deceptive, and wrongful and has engaged in unfair
7 business practices in the State of California;

8 (i) For attorneys' fees for the financial elder abuse and interest and costs; and

9 (j) Such other and further relief as the Court may deem proper.

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13 Dated: March 27, 2018

FELL, MARKING, ABKIN, MONTGOMERY,
GRANET & RANEY, LLP

14 By: 

David J. Tappener,
Attorneys for KURT PILGERAM

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed by the law firm of Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP, in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 222 East Carrillo Street, Fourth Floor, Santa Barbara, California 93101-2142.

On March 27, 2018, I served the document described as **KURT PILGERAM'S SECOND AMENDED CROSS COMPLAINT** on the interested parties in this action by delivering the the original a true copy thereof as follows:

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BY MAIL

I deposited such envelopes in the firm's mailing system. I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice, in the ordinary course of business it would be deposited with the U.S. Postal Service in Santa Barbara, California, on that same day, with first class delivery postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSONAL SERVICE) by delivery of such envelope by hand to the offices of the addressee.

(BY EMAIL-PDF TRANSMISSION) I transmitted the document to the email address as indicated above. This transmission included a PDF attachment of the foregoing document(s).

(STATE) I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Executed on March 27, 2018, at Santa Barbara, California.

Ashley Franco


Signature