

# LEGAL REALITY CHECK ✓

## Legal Case Study #8

**Scenario:** Robin John Blake and his wife, Barbara, own and operate Rio Grande Funeral Home & Crematory in Laredo, Texas. For the past 17 years, they have grown their business by serving the community with an excellent reputation. In 2024, Rio Grande served over 350 cases two years in a row for the first time. Laredo, as a funeral service market, is unique in that the city and its surrounding areas still have a relatively low cremation rate, especially when compared to other border Texas towns like El Paso as well as the Rio Grande Valley further south toward Brownsville.

Robin was born in Laredo, and after traveling the world having worked in hotel and restaurant management, he came back to his home state and met his wife, Barbara, in Austin years ago. While Barbara's background was in event planning and interior design, her family owned a multi-generational funeral business in San Antonio. During their engagement, Robin took a keen interest in what Barbara's family business was about, and after a few years of marriage, Robin pursued and obtained his dual license to become a funeral director

and embalmer in the state of Texas. After a few years working for Barbara's family, the couple decided to start their own funeral and crematory business in Robin's hometown, with full support from Barbara's family.

Robin and Barbara both truly felt as though cremation was just a method of disposition that could be done in lieu of or after embalming. They felt very strongly that service was the main component and that it did not matter whether a family selected burial or cremation. Even though the cremation mix in Laredo was relative-

ly low, Robin and Barbara felt as though they could emphasize service above and beyond all else, while supplementing their business's income with keepsake jewelry, namely in the form of fingerprint jewelry. So, for the past 17 years, from the very beginning, their business took fingerprints of every case they served – partially for identification purposes but also for potential fingerprint jewelry sales. They even built fingerprinting into their business's policies and procedures. By 2024, Rio Grande were able to sell fingerprint jewelry to over 30% of all their families –

regardless of burial or cremation.

About a week ago however, a man named Evan Dean had angrily called the funeral home demanding to speak with the owner. Barbara took the call since Robin was already on the phone. When

Barbara picked up the call, Evan began screaming at her, "How dare you share my mother's fingerprints with some electronic marketer?" He proceeded to spurt out statements at a high volume, yelling at Barbara that his mother, Elia,

was a very private person, that this was an invasion of privacy, and that the funeral home did not have his or any of his family members' permission. Barbara deftly let him rant on, only inserting that she was listening intently during certain pauses. Finally, near the end, when Evan's volume had dropped significantly, Barbara assured Evan that they would get to the bottom of all this, and she promised that she had taken notes while he was speaking and that she would be calling him back within the next 24 hours.

After hanging up the phone, Barbara marched right into her husband's office and explained everything that just happened. While not entirely certain, Robin was fairly confident that it was not illegal for the funeral home to have taken Elia's fingerprints. What he could not assure his wife, however, was whether it was an invasion of privacy. After some discussion between them, they decided to call their attorney as well as refund Evan and his family the \$500 for the urn the family had purchased for their moth-



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er in hopes that Evan would not pursue legal action.

## SO, WHAT IS THE RULE OF LAW?

There is actually no law requiring nor prohibiting funeral homes from taking fingerprints of a deceased.

Unlike the scenario above, there are many, many more families who later wished that they had requested or opted for having their loved ones fingerprinted, especially after their loved ones had been cremated.

## WHAT WENT RIGHT IN THIS SCENARIO? WHAT COULD HAVE BEEN BETTER?

There were things that Robin and Barbara did well in this scenario. Among them were:

- Rio Grande consistently made fingerprinting a part of their process for identifying every case they served. The wrong thing to do would be for a funeral home to haphazardly take fingerprints, for instance, of only cases where a funeral home believes that a family would want fingerprint keepsake jewelry.

- Robin and Barbara solidly took their consistent fingerprinting process a step further by documenting the process into their policies and procedures. By doing so, Rio Grande has codified this practice as being a normal process for their business. This is one-hundred percent legal.

## WHAT WERE SOME THINGS RIO GRANDE COULD HAVE DONE BETTER?

- Robin and Barbara (and their licensed staff) could have been more

transparent about their fingerprinting process as being what they are allowed to do for identification purposes with their families – namely the Dean family in this instance. By not more transparently discussing and educating the Dean family, Evan might not have felt so taken aback.

- Rio Grande should have a consent form that families can sign, acknowledging that their loved ones' fingerprints were being taken for identification purposes, but that also, the fingerprints might be used for keepsake merchandise. Having a dual form would allow for a family to consent to both the identification process as well as possibly being marketed to for fingerprint keepsake jewelry. Likewise, a dual form would also allow for families not wishing to be marketed to, to acknowledge fingerprints being taken for identification purposes by the funeral home but still waive fingerprint usage for keepsake jewelry or any other related merchandise.



Finally, it is worth pointing out two other things that Robin and Barbara did well. First, calling their attorney for counsel and advice immediately was a good decision. Also, their decision to try and assuage Evan by offering to refund the amount for the urn that the Dean family purchased for their mother was a wise attempt because any time you can practically and proactively keep situations from entering the legal stage, the better.

In the litigious world we live in, there will always be plaintiff's attorneys looking for civil cases to bring suit. •



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