

PARTIES

3. Plaintiff THE AMERICAN GI FORUM OF TEXAS, INC. is a community based, non-profit membership organization established in 1948. It serves and advocates on the behalf of Latino military veterans throughout the State of Texas, and has chapters throughout Texas. The American GI Forum of Texas, Inc. has at least one member who is a U.S. citizen, Latino, resides in Normanna, and lacks the option of burial in the San Domingo Cemetery as a result of the challenged rule of Defendant Normanna Cemetery Association.
4. Defendant NORMANNA CEMETERY ASSOCIATION is a cemetery organization located in Normanna, Texas.
5. Defendant JIMMY BRADFORD is the caretaker of the San Domingo Cemetery. In that role, he operates and maintains the cemetery and arranges for the burial of individuals.

FACTUAL ALLEGATIONS

The San Domingo Cemetery of Normanna, Texas

6. Normanna, Texas is a census-designated place located in Bee County, Texas. According to the 2010 U.S. Census, Normanna's population is 113 and close to half of Normanna's residents are Latino.
7. There are two cemeteries in Normanna: the San Domingo Cemetery and the Del Bosque Cemetery.
8. The San Domingo Cemetery is over one hundred years old, and was originally used as a private family cemetery. It was conveyed in 1977 to the trustees of the Normanna Cemetery

Association, for the use of “the people of Normanna.” The Normanna Cemetery Association is a cemetery organization that maintains and operates the San Domingo Cemetery.

The Normanna Cemetery Association's “Whites Only” Rule

9. For decades the Normanna Cemetery Association has implemented a “whites-only” rule for the San Domingo Cemetery, under which it only allows burial in the cemetery for Anglo residents (the “Rule”).
10. The Rule prohibits, on the basis of race and national origin, interment at the San Domingo Cemetery of persons who are not Anglo, including Latinos and African Americans. The Rule further prohibits, on the basis of race and national origin, non-Anglos from engaging in any of the following acts at the San Domingo Cemetery: making and enforcing a contract for burial services, making and enforcing a contract for a burial plot, and purchasing, holding or conveying a burial plot at the San Domingo Cemetery.
11. It is widely known to Normanna residents that the San Domingo Cemetery is “whites-only,” and that the Del Bosque Cemetery is for Latinos and other non-Anglos. No Latinos are buried within the gates of the San Domingo Cemetery, which is enclosed with a chain-link fence. The fence abuts the only headstone with a Spanish surname, dated 1910, such that the Spanish surname headstone is excluded from the cemetery and separated from the Anglo gravesites.

Recent Enforcement of the “Whites Only” Rule

12. The Normanna Cemetery Association applied the Rule as recently as February 2016. Dorothy Barrera, whose husband had recently passed away, approached Defendant Jimmy

Bradford to inquire about burying the ashes of her late husband, Pedro Barrera. Pedro Barrera was a U.S. citizen, Latino, and a resident of Normanna.

13. Mrs. Barrera lived with her husband in Normanna for over a decade, and they were married for over forty years. Mrs. Barrera, who is Anglo and a U.S. citizen, intended that she and her husband be buried together in the San Domingo Cemetery.
14. In response to her request for burial services for her husband, Mr. Bradford told Mrs. Barrera “absolutely not.” Mr. Bradford informed her that he had heard indirectly that she wanted to bury her husband in the San Domingo Cemetery, and that the Normanna Cemetery Association had already voted against allowing her husband’s burial there.
15. When Mrs. Barrera asked why “the board” wanted to exclude her husband’s remains from the San Domingo Cemetery, Mr. Barrera responded “because he’s a Mexican,” and that she could “go up the road and bury him with the niggers and Mexicans.”
16. A few days later, Mr. Bradford responded to questions from a local media outlet about his exchange with Mrs. Barrera, stating in a video-taped interview that Mr. Barrera “wasn't supposed to be buried there, because he's a Mexican, or of Spanish descent, or whatever you want to say. That's what I told [Mrs. Barrera] and that's what we've been doing." He stated that the decision was final, and, when asked by a reporter whether he would reconsider his decision, Bradford said, "[w]ell, I guess if she tells Obama and he comes down here and tells me I guess I'd have to. Otherwise, no.”
17. Following media coverage of Mrs. Barrera’s experience with the Normanna Cemetery Association, on March 4, 2016, Mr. Bradford appeared at Mrs. Barrera’s home with two armed Anglo police officers. Mr. Bradford stated that Mrs. Barrera could bury her husband in

the San Domingo Cemetery, but insisted that Mrs. Barrera leave with him immediately. Mrs. Barrera became frightened and refused to go with Mr. Bradford and the police officers.

18. Upon information and belief, the Normanna Cemetery Association never rescinded its Rule, the Rule remains in effect today and Mrs. Barrera has not buried her husband in the San Domingo Cemetery.

The American GI Forum of Texas, Inc.

19. The American GI Forum of Texas, Inc. has a long history advocating for Latino civil rights in Texas. One of its earliest advocacy efforts centered on the exclusion of a Latino World War II veteran from funeral services because of his race.

20. In 1948, Private Felix Longoria was killed during a volunteer mission in the Philippines. His widow tried to make arrangements for his wake at the funeral home in their hometown of Three Rivers, Texas, thirty miles from Normanna. The director of the funeral home would not allow Pvt. Longoria's remains to lie in the chapel because he was "Mexican" and "the whites would not like it."

21. Pvt. Longoria's remains were buried in the Mexican-American cemetery, which was separated from the "White" cemetery by a fence. With the help of the newly-formed American GI Forum, Pvt. Longoria's widow was able to re-inter his remains in the Arlington National Cemetery with full military honors.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of Civil Rights Act of 1866, 42 U.S.C. § 1981

22. Plaintiff incorporates by reference all foregoing paragraphs as if set forth fully herein.

23. The Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981, guarantees: “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.” 42 U.S.C. § 1981(b) provides: “For purposes of this section, the term ‘make and enforce contracts’ includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.”
24. By the actions described above, Defendants intentionally deprive Latinos and other non-Anglo residents of Normanna, including such residents who are members of Plaintiff American GI Forum of Texas, Inc., on the basis of race, of the same rights as are enjoyed by white citizens to make and enforce contracts for burial services and burial plots in violation of 42 U.S.C. § 1981.
25. Defendants have acted with malice or reckless disregard of the rights of Latinos and other non-Anglo residents of Normanna, including such residents who are members of Plaintiff American GI Forum of Texas, Inc., thereby entitling Plaintiff to an award of punitive damages.

SECOND CAUSE OF ACTION

Violation of Civil Rights Act of 1866, 42 U.S.C. § 1982

26. Plaintiff incorporates by reference all foregoing paragraphs as if set forth fully herein.

27. The Civil Rights Act of 1866, as amended, 42 U.S.C. § 1982, guarantees: “All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.”
28. By the actions described above, Defendants intentionally deprive Latinos and other non-Anglo citizens, on the basis of race, including such citizens and residents who are members of Plaintiff American GI Forum of Texas, Inc., of the same rights as are enjoyed by white citizens to purchase, hold, and convey burial plots in violation of 42 U.S.C. § 1982.
29. Defendants have acted with malice or reckless disregard of the rights of Latinos and other non-Anglo citizens and residents of Normanna, including such citizens and residents who are members of Plaintiff American GI Forum of Texas, Inc., thereby entitling Plaintiff to an award of punitive damages.

THIRD CAUSE OF ACTION

Violation of Tex. Health & Safety Code § 711.032

30. Plaintiff incorporates by reference all foregoing paragraphs as if set forth fully herein.
31. Texas Health & Safety Code § 711.032 provides: “(a) A cemetery organization may not adopt or enforce a rule that prohibits interment because of the race, color, or national origin of a decedent. (b) A provision of a contract entered into by a cemetery organization or of a certificate of ownership or other instrument of conveyance issued by a cemetery organization that prohibits interment in a cemetery because of the race, color, or national origin of a decedent is void.”
32. By the actions described above, Defendants have adopted and enforce a rule that prohibits interment of Latinos and other non-Anglo residents of Normanna, including such residents

who are members of Plaintiff American GI Forum of Texas, Inc., because of their race, color, or natural origin in violation of Texas Health & Safety Code § 711.032. Defendants' Rule is void and any provisions of any contracts adopting the Rule are likewise void.

ATTORNEYS' FEES AND COSTS

Plaintiff is entitled to an award of reasonable attorneys' fees and costs under 42 U.S.C. § 1988.

PRAYER FOR RELIEF

Because of the actions alleged above, Plaintiff seeks judgment against Defendants as follows:

- a) A declaratory judgment that Defendants' refusal to bury Normanna's Latino residents in the San Domingo Cemetery is discriminatory and violates the rights of Latinos and other non-Anglo residents of Normanna under 42 U.S.C. § 1981;
- b) A declaratory judgment that Defendants' refusal to bury Normanna's Latino residents in the San Domingo Cemetery is discriminatory and violates the rights of Latinos and other non-Anglo residents of Normanna under 42 U.S.C. § 1982;
- c) A declaratory judgment that Defendants' refusal to bury Normanna's Latino residents in the San Domingo Cemetery is discriminatory and violates the rights of Latinos and other non-Anglo residents of Normanna under Texas Health & Safety Code § 711.032;
- d) A declaratory judgment that Defendants' Rule of discriminating based on race or national origin is void;

- e) A permanent injunction pursuant to Fed. R. Civ. P. 65 prohibiting Defendants from refusing to bury an individual in the San Domingo Cemetery on the basis of race or national origin;
- f) A permanent injunction pursuant to Fed. R. Civ. P. 65 prohibiting Defendants from interfering with or hindering use of the San Domingo Cemetery for burial purposes, on the basis of race or national origin.
- g) A permanent injunction pursuant to Fed. R. Civ. P. 65 prohibiting Defendants from, on the basis of race or national origin, withholding from Latinos and any other non-Anglo residents of Normanna, any of the benefits, privileges, terms and conditions as are enjoyed by Anglo residents of Normanna.
- h) An award to Plaintiff of punitive damages and attorneys' fees.
- i) Any other such other relief as the Court may deem appropriate, including injunctive and declaratory relief as may be required in the interest of justice.

Dated: April 29, 2016

Respectfully Submitted,

/s/ Marisa Bono

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