

**Disrupting the Death Care Paradigm:  
Challenges to the Regulation of the Funeral Industry and the American Way of Death**

*Wake Forest Journal of Law & Policy*  
Spring 2017 Symposium

Unless otherwise noted, all sessions will in Room 1312, Wake Forest University School of Law/Worrell Professional Center, 1834 Wake Forest Road, Winston-Salem, NC 27109.

**Thursday, February 23, 2017**

*Keynote Address*

6:00 p.m.           **I'm OK. Death's OK.**  
Caitlin Doughty, funeral director at Undertaking LA; founder of The Order of the Good Death

**Friday, February 24, 2017**

*Symposium – 4 CLE Credits*

9:30 a.m.       **Welcome**  
Erica Oates, Symposium Editor

**PART I: CHALLENGES TO THE REGULATION OF THE FUNERAL INDUSTRY**

9:35 a.m.       **Regulated to Death: Re-Imagining the Funeral Services Market**  
Tanya D. Marsh, Professor of Law, Wake Forest University School of Law

9:55 a.m.       **Taking the Pulse of Funeral Markets: The Effects of Government Regulations and Private Agents on Funeral Markets**  
David Harrington, Himmelright Professorship in Economics, Kenyon College

10:15 a.m.      **Economic Liberty: Constitutional Challenges to Funeral Director Licensing Laws**  
Jeff Rowes, Senior Attorney, Institute for Justice

10:35 a.m.      **There is a Funeral Rule for a Reason: Why it Matters and Why it Needs Modernizing**  
Josh Slocum, Executive Director, Funeral Consumers Alliance

10:55 a.m.      **Break**

11:10 a.m.      **Panel Discussion: Challenges to Regulation of the Funeral Industry**  
David Harrington, Tanya Marsh, Jeff Rowes & Josh Slocum

12:10           **Lunch Break**

**PART II: CHALLENGES TO THE AMERICAN WAY OF DEATH**

1:10 p.m.       **Jessica Mitford was Wrong**  
Tanya D. Marsh, Professor of Law, Wake Forest University School of Law

1:30 p.m.       **Why Caring for Our Own Dead is an Act of Social Justice**  
Lee Webster, Director, New Hampshire Funeral Resources, Education & Advocacy; President, National Home Funeral Alliance

1:50 p.m.       **Basic Cremation: White Bones, Black Boxes, and Alkaline Hydrolysis**  
Philip Olson, Assistant Professor, Department of Science and Technology in Society, Virginia Tech

2:10 p.m.       **A Funeral Entrepreneur's Experience: What Needs to Change**  
Amy Cunningham, Fitting Tribute Funeral Services, New York City

2:30             **Break**

2:45 p.m.       **Panel Discussion: Challenges to the American Way of Death**  
Amy Cunningham, Caitlin Doughty, Tanya Marsh, Philip Olson, & Lee Webster

3:45 p.m.       **Closing Thoughts**

## Speaker Biographies

**Amy Cunningham** is a Brooklyn-based funeral director and celebrant with a passion for helping families arrange dignified, distinctive funeral and memorial services. She is the owner of a new funeral establishment called Fitting Tribute Funeral Services, which officially launched in January 2016. In January 2015, Amy was listed as one of the “Nine Most Innovative Funeral Professionals” in the country by FuneralOne, a leading voice for change in the funeral industry. Amy was trained as a funeral celebrant by Glenda Stansbury and Doug Manning, completed all three levels of home vigil training with Jerrigrace Lyons, was exposed to Jewish Tahara ritual through a four-day workshop with Rabbi Regina Sandler-Phillips, and completed an end-of-life doula training with social worker Henry Fersko-Weiss at the Open Center where she is now on the faculty of the Integrative Thanatology certificate program. In her prior life, Amy majored in English Literature at the University of Virginia, and was a magazine writer and blogger with essays and articles published in *More*, *Glamour*, *Redbook*, *McCall’s*, and *Washington Post* magazine. For two years, she wrote a blog on healthy living, holistic spirituality, yoga and meditation for the award-winning website Beliefnet.com. She resumed her blogging not long after mortuary school and now sustains one blog for customers, and “The Inspired Funeral” for her friends and colleagues in the funeral trade. She lectures on funeral planning and the greening of the funeral business at the Park Slope Food Coop every six weeks. Married to journalist Steven Waldman for twenty-four years, she has one son who recently graduated from the University of Wisconsin and another at Emory studying psychology and neuroscience.

**Caitlin Doughty** is a licensed mortician and death acceptance advocate. A graduate of the University of Chicago, she is founder of the nonprofit The Order of the Good Death, author of the bestselling book *Smoke Gets in Your Eyes*, and recently opened her first funeral home, Undertaking LA. Caitlin’s work has been profiled by publications including *The New Yorker*, *The New York Times*, *National Public Radio*, *The Guardian*, *LA Weekly*, and *The Washington Post*.

**David Harrington** holds the Himmelright Professorship in Economics at Kenyon College. He joined the faculty in 1986. His research focuses on the effects of state regulations on labor and consumer markets, especially funeral markets. He finds that stringent funeral regulations increase the cost of funerals, discourage women from entering funeral directing and impede innovations such as cremation and Internet casket sales. He has served as an expert witness in several lawsuits that challenge the constitutionality of state funeral regulations. In 2011, he testified on behalf of the monks of Saint Joseph Abbey who were not allowed to sell their handmade wooden caskets in Louisiana because they were not licensed funeral directors. The monks won. His research has been described in *BusinessWeek*, *The Washington Post*, and *The New York Times*, and he has written op-ed essays for *The Atlanta Journal-Constitution*, *The Washington Post* (website), *The Baltimore Sun*, and *The Columbus Dispatch*.

**Tanya Marsh** is a professor at Wake Forest University School of Law. A graduate of Indiana University and Harvard Law School, she is a licensed attorney in the State of Indiana and a licensed funeral director in the State of California. She created and teaches the only course

on funeral and cemetery law in a U.S. law school. Tanya is the author of *The Law of Human Remains* (2015), the first treatise on the subject in 70 years, and the co-author (with Daniel Gibson) of *Cemetery Law: The Common Law of Burying Grounds in the United States* (2015), the first casebook in the subject. She is the founder and primary author of *The Funeral Law Blog*. Tanya has been quoted in publications including *The New York Times*, *Time* magazine, *The Los Angeles Times*, *The Boston Globe*, *The Atlantic*, *The Nation*, and *Scientific American*.

**Philip Olson** holds a Ph.D. in Philosophy and is an Assistant Professor in the Department of Science & Technology in Society at the Virginia Tech College of Liberal Arts and Human Sciences. His research takes place at the intersections of technology studies, applied ethics, critical medical humanities, women's and gender studies, and social epistemology. The son, grandson, and great-grandson of morticians, it seems fitting that his research has turned toward funeral technologies, and toward relationships between the medicalized body and the funeralized corpse. Olson looks to the dead human body and funeral technologies as research sites for studying technology ethics, the roles of technology in the formation of expertise and authority over the human body, and the ways in which knowledge and value shape one another through the development and use of technological systems. His current writing projects include an extended research project on the U.S. home funeral movement, as well as a funded research project on ethical considerations concerning the anticipated proliferation of UAS (drone) technologies in U.S. civilian airspace.

**Jeff Rowes** serves as a senior attorney at the Institute for Justice. His practice focuses on private property rights, free speech, and economic liberty. Jeff successfully represented the monks of Saint Joseph Abbey in their federal constitutional challenge to Louisiana laws that made it a crime for the monks to sell their handmade wooden caskets to the public. Jeff has published opinion pieces on constitutional law in *The New York Times*, *Wall Street Journal*, *USA Today* and many other outlets. A native of Alberta, Canada, Jeff dropped out of high school at 17, moved to the mountains to teach skiing, backpacked in Asia for six months, and then attended the University of Alberta, after which he lived two years in Japan as a translator. He came to the United States to pursue educational opportunities and fell in love with American principles of liberty. He graduated with honors from Harvard Law School in 2002 where he was extensively involved in law and economics. He also holds a Master's Degree from the University of Chicago in law and philosophy. Before coming to the Institute, Jeff clerked for Judge Will Garwood of the U.S. Court of Appeals for the Fifth Circuit and Chief Judge Patricia Fawsett of the U.S. District Court for the Middle District of Florida. When he's not fighting for his clients' rights, Jeff hangs out with his wife and baby son, rock climbs and competes in ironman-distance triathlons.

**Joshua Slocum** is the Executive Director at the Funeral Consumers Alliance. Joshua Slocum joined the FCA staff in 2002 and became executive director in 2003. He has appeared as an expert commentator on funeral issues in national media such as *60 Minutes* and *The New York Times*. On behalf of FCA's nationwide federation of consumer information groups, Slocum has testified before Congress and helped to draft federal and state statutes protecting funeral consumers. In 2011, he published *Final Rights: Reclaiming the American Way of Death* with co-author Lisa Carlson. *Final Rights* combines a journalistic

investigation of the funeral industry and how consumers navigate it with practical information on how to avoid funeral fraud.

**Lee Webster** is the current President of the National Home Funeral Alliance, Director of New Hampshire Funeral Resources, Education & Advocacy, and a Director on the Board of the Green Burial Council. She is an editor, writer, researcher, hospice volunteer, and frequent speaker on the benefits of home funerals and green burial at state and national funeral industry conventions, at public venues, and at various colleges and universities. Her career and volunteer service spans years in public relations and development for nonprofits, conservation groups, health agencies, private secondary schools, colleges and universities. She is the author of books and articles with a focus on funeral reform that have been published in various print and online publications such as *Natural Transitions*, *American Funeral Director*, *FuneralOne*, *Funeral Business Advisor*, and others. Webster recently compiled and edited a book designed for use in mortuary schools: *Changing Landscapes: Exploring the Growth of Ethical, Compassionate, and Environmentally Sustainable Green Funeral Service* (2017).