

**A fight to the death: Parque del Recuerdo wins long legal battle for unfair competition**  
(from La Tercera online, March 14, 2018).

The Supreme Court upheld the ruling by the Court of Appeals that dismissed the lawsuit brought forth by Parque Cementerio Quilicura.

After six years of lawsuits in the courts, the Supreme Court decided to dismiss the unfair competition claim against Los Parques S.A., the company that manages Parque del Recuerdo Cemetery, and whose board of directors includes Sergio Cardone Solari, Gonzálo Ibáñez and Leonidas Vial.

This occurred after José and Mario Schachner Roizblatt, through Profactoring, the parent company of Parque Cementerio Quilicura (today called “Valles Unidos”), claimed that a series of unfair competition practices had been committed. In their lawsuit, they claimed that Los Parques spread *“facts and claims that were false, or at the very least incorrect, regarding Profactoring and its project, claims that give an erroneous impression regarding the Parque Cementerio Quilicura’s ability to meet the demand for burials and related services in the area of Quilicura and, more broadly, regarding the advantages that the project offers.”* They also claimed that Los Parques blocked the issuing of permits by making *“frivolous administrative submissions”* and that it conducted business strategies that undermined their reputation, and that all of this was done in order to block competition from a market that has high barriers to entry.

After the 25th Civil Court of Santiago ruled in favor of Profactoring’s claim, and ordered Los Parques to pay over 50,000 Development Units (“Unidades de Fomento”)<sup>1</sup>, the defense team for Los Parques was taken on by the law firm of Jorge Bofill and Ricardo Escobar. The case was reversed by the Santiago Court of Appeals and the Cementerio Quilicura’s parent company appealed to the Supreme Court by filing an appeal for cassation or reversal of decision that was based on both form and substancial defects.

At that point, the defense team for Los Parques, which was led by Jorge Bofill and also included Sebastian Yanine and Vanessa Facuse, successfully convinced the Supreme Court that conduct involving unfair competition had not been proved. It also claimed that the actions taken by Los Parques were justified because the National Comptroller’s Office (la Contraloría General de la República), stated in its ruling N° 40.199 of June 26, 2013, that the authorization to allow the Quilicura Cemetery to be built at the location was improper, given the “unstable” nature of the soil and the area. In fact, in light of the permit being issued, the parent company had an administrative investigation be conducted in order to determine any irregularities that had been committed in the granting of the plaintiffs’ permits.

Parque del Recuerdo appeared to be in agreement with the ruling by the Supreme Court: “*This once again reflects the proper manner in which the Parque del Recuerdo has acted in always abiding by the laws that are in effect,*” it stated. The Parque Cementerio Quilicura, on the other hand, made no comment regarding the ruling.

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<sup>1</sup> Translator’s Note: One Development Unit = CLP\$26.660, which is USD\$45 approximately. Thus, 50,000 development units equals to USD\$2,250,000.00