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22 MYEASHA KIMBLE and WILLIAM HILLIARD

23 SUPERIOR COURT OF CALIFORNIA

24 COUNTY OF RIVERSIDE

25 MYEASHA KIMBLE, an individual and
26 successor in interest to TYLER HILLIARD;
27 WILLIAM HILLIARD, an individual and
28 successor in interest to TYLER HILLIARD,
Plaintiffs,

v.

ALPHA PHI ALPHA FRATERNITY, INC.,
ALPHA PHI ALPHA FRATERNITY- PI
EPSILON CHAPTER at UC RIVERSIDE,
an unincorporated Association; REGENTS OF
THE UNIVERSITY OF CALIFORNIA,
WESTERN REGION- ALPHA PHI ALPHA
FRATERNITY, INC. and DOES 1 through 100,
inclusive,
Defendants.

Case No: RIC 1906176

**THIRD AMENDED COMPLAINT BY
PLAINTIFFS MYEASHA KIMBLE
AND WILLIAM HILLIARD FOR
GENERAL DAMAGES FOR:**

1. Wrongful Death – Negligence,
California Penal Code § 245.6, Civil
Code Sections 43 and 52.1, Assault
and Battery, and Negligent Hiring,
Supervision, and Retention
2. Violation of California Penal Code
§245.6 for Hazing
3. Violation of California Civil Code §43
4. Violation of California Civil Code §

**THIRD AMENDED COMPLAINT BY PLAINTIFFS MYEASHA KIMBLE AND WILLIAM HILLIARD
FOR GENERAL AND PUNITIVE DAMAGES**

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- 52.1
 - 5. Survival/Wrongful Death – Assault and Battery
 - 6. Wrongful Death Negligent Hiring, Supervision and Retention

DEMAND FOR A JURY TRIAL

Complaint Filed: December 20, 2019
Trial Date:

8 Plaintiffs MYEASHA KIMBLE and WILLIAM HILLIARD, allege:

9 **THE PARTIES**

10 1. This is a Complaint by Plaintiffs MYEASHA KIMBLE and WILLIAM
11 HILLIARD, (“Plaintiffs”). KIMBLE and HILLIARD are the parents of TYLER HILLIARD,
12 who suffered a tragic and untimely death at the tender age of 20 while pledging for Defendant
13 ALPHA PHI ALPHA FRATERNITY, INC. at the ALPHA PHI ALPHA - PI EPSILON
14 CHAPTER at the University of California, Riverside (“UC Riverside”) campus.

15 2. TYLER HILLIARD (“TYLER” or “DECEDENT”) died on September 16, 2018.

16 3. Plaintiff MYEASHA KIMBLE (“KIMBLE” or “PLAINTIFF”) is TYLER’S
17 mother, lawful heir and successor in interest to TYLER. KIMBLE is a resident of Los Angeles
18 County (Pomona), California. KIMBLE is the decedent's heir at law and is authorized to bring
19 this action pursuant to subdivisions (a) and (b) of the Code of Civil Procedure section 377.60.

20 4. Plaintiff WILLIAM HILLIARD (“HILLIARD” or “PLAINTIFF”) is TYLER’s
21 father, lawful heir and successor in interest to TYLER. HILLIARD is a resident of Los Angeles
22 County, California. HILLIARD is the decedent's heir at law and is authorized to bring this action
23 pursuant to subdivisions (a) and (b) of the Code of Civil Procedure section 377.60.

24 5. Defendant, ALPHA PHI ALPHA FRATERNITY, INC (“ALPHA”) is a Greek
25 lettered fraternity and headquartered in Baltimore, Maryland. ALPHA has numerous fraternity
26 chapters throughout the nation and has regularly transacted business, directly and through its
27 chapters located throughout numerous public and private universities, in the State of California,
including defendant, ALPHA PHI ALPHA FRATERNITY- PI EPSILON CHAPTER, and

1 through its active alumni members and associations.

2 6. Defendant ALPHA manages and controls the fraternity-related activities of its
3 local chapters, officers, members, and/or ALPHA has the right to exercise control over the
4 fraternity-related activities of its local undergraduate and alumni chapters, officers and members.

5 7. Defendant, ALPHA PHI ALPHA FRATERNITY, INC. - PI EPSILON
6 CHAPTER (CHAPTER) is an association, organization or society based in UC Riverside.
7 TYLER attended UC Riverside as an undergraduate college student. CHAPTER AND ALPHA
8 hold themselves out to the community as providing service, leadership, and advocacy in their
9 communities, stressing academic excellence among its members while helping to correct the
10 educational, economic, political, and social injustices faced by African Americans. At all relevant
11 times, CHAPTER was a registered student organization at the UC Riverside campus of Defendant
12 REGENTS OF THE UNIVERSITY OF CALIFORNIA, and was a recognized fraternity at the
13 UC Riverside campus of Defendant REGENTS OF THE UNIVERSITY OF CALIFORNIA.

14 8. Defendant, WESTERN REGION - ALPHA PHI ALPHA FRATERNITY, INC.
15 (“ALPHA WEST”) is an association, organization that oversees all undergraduate and graduate
16 local chapters throughout the western region, including CHAPTER, and existing under the laws
17 of California. Defendant ALPHA WEST manages and controls the western region fraternity-
18 related activities of its local chapters, officers, members, and/or that ALPHA WEST has the right
19 to exercise control over the fraternity-related activities of its local undergraduate and alumni
20 chapters, officers and members.

21 9. Defendant, REGENTS OF THE UNIVERSITY OF CALIFORNIA (“UC
22 REGENTS”), is and at all times herein mentioned was a public institution existing under the laws
23 of California. UC REGENTS has the right to exercise control over the activities of ALPHA PHI
24 FRATERNITY, INC. - PI EPSILON CHAPTER members.

25 10. Plaintiffs do not know the true names and capacities, whether individual, corporate
26 or otherwise, of defendants DOES 1 to 100, inclusive and therefore sues them by such fictitious
27 names. Plaintiffs are informed and believe, and on that basis allege that each of the DOE

1 defendants is in some manner responsible for the damages alleged by them in this Complaint.
2 Plaintiffs will amend this complaint to allege their true names and capacities when their identities
3 are ascertained.

4 11. Plaintiffs are informed and believe and on that basis allege that at the various times
5 alleged in this Complaint, each of the named and DOE defendants was the agent or employee of
6 each of the remaining co-defendants and, in doing some of the actions alleged in this Complaint,
7 was acting within the course and scope of said agency, employment and service with advance
8 knowledge, consent, in conspiracy with and/or ratification of each of the remaining Defendants.
9 The named and DOE Defendants are hereinafter referred to collectively in this Complaint as
10 “Defendants”.

11 12. Plaintiffs are informed and believe and on that basis allege that at all times herein
12 mentioned each of the defendants was aiding and abetting a fraternity officer, an agent, manager,
13 director, trustee, officer, servant, employee, co-conspirator and/or joint venturer of each
14 remaining Defendant, and was at all times acting within the course and scope of that agency,
15 management, direction, trust, office, servant, employment, co-conspiracy and/or joint venture.

16 13. The acts committed by Defendants and as described in this Complaint were duly
17 authorized and directed by its officers, directors and/or managing agents. In addition, Defendants
18 participated in the acts of its employees and agents as described in this Complaint, and ratified or
19 accepted the benefits of such acts.

20 14. Venue is proper in this court under California Code of Civil Procedure Section
21 395(a) as Los Angeles is the County where the injury to Plaintiffs KIMBLE and HILLIARD
22 occurred.

GENERAL ALLEGATIONS

23 15. Plaintiffs restate and incorporate by this reference as if fully set forth herein
24 each and every allegation contained in paragraphs 1 to 14 of this Complaint.

25 16. This case arises from the tragic death of 20-year-old TYLER HILLIARD.

26 17. In or around spring of 2018, TYLER began showing interest in ALPHA.
27

1 During the school year at UC REGENTS, TYLER attended an informational meeting known
2 as a “smoker” with the ALPHA CHAPTER at UC REGENTS.

3 18. As stated on its website, ALPHA “recognizes two types of membership,
4 College and Alumni. An aspirant (a man seeking membership into ALPHA) may apply for
5 membership in a College Chapter as an undergraduate student in good standing at a fully
6 accredited four-year college or university. College Aspirants can join the Fraternity at a
7 College or University where an active chapter is present.”

8 19. TYLER was informed that to become an ALPHA he needed to endure a
9 pledging process and become a member of the ALPHA CHAPTER at UC REGENTS.

10 20. Pledging at the ALPHA CHAPTER at UC REGENTS consisted of TYLER
11 along with other aspirants coming together to memorize history of the ALPHA and the
12 CHAPTER, getting punched and kicked, slapped in the face, getting paddled on the buttocks,
13 enduring painful calisthenics and exercise, making deference calls to members of the
14 CHAPTER, making wood projects for the CHAPTER, purchasing food and other items for
15 members of the CHAPTER, and other various tasks before one could become a member of
16 ALPHA CHAPTER. A deference call is a telephone call to older members of the CHAPTER
17 that aspirants of the CHAPTER are required to make during the CHAPTER’s pledge process.

18 21. During the pledge process, students interested in ALPHA CHAPTER would
19 go through various pledging stages such as the Sphinxman (AMOT) stage and the Ape stage
20 before becoming a member of ALPHA CHAPTER.

21 22. This illegal pledge process took place on the campus of UC REGENTS and
22 surrounding areas, such as Mount Rubidoux, and was orchestrated by students at UC
23 REGENTS and staff at UC REGENTS, including its Greek Life Advisor and employee/agent,
24 Ekpeju Ed E-Nunu (“Ed”).

25 23. On information and belief, Ed was an undergraduate student at the UC
26 Riverside campus of UC REGENTS from approximately 2002 to 2006. While enrolled as an
27 undergraduate student at the UC Riverside campus of UC REGENTS, Ed was an ALPHA

1 CHAPTER aspirant. In or around the fall of 2005, Ed went through CHAPTER's pledge
2 process at UC Riverside and became a member of CHAPTER. Ed was subjected to hazing
3 activities while participating in CHAPTER's pledge process at UC Riverside. After Ed
4 became a member of CHAPTER, he received deference calls from students who were going
5 through CHAPTER's pledge process, and participated in the hazing of students who were
6 going through CHAPTER's pledge process.

7 24. On information and belief, from approximately November 2015 through the
8 date of TYLER's death, Ed was a Fraternity and Sorority Advisor at the UC Riverside campus
9 of UC REGENTS. From approximately August 2017 through the date of TYLER's death, Ed
10 was the Interim Fraternity and Sorority Coordinator at the UC Riverside campus of UC
11 REGENTS.

12 25. On information and belief,

13 26. On information and belief, at all times relevant to the acts and omissions
14 alleged in this Complaint, Ed was a member of ALPHA CHAPTER. As a member of
15 CHAPTER who went through CHAPTER's pledge process as an undergraduate student at the
16 UC Riverside campus of UC REGENTS, was subjected to hazing during CHAPTER's pledge
17 process, and participated in the hazing of students who went through CHAPTER's pledge
18 process after he became a member of CHAPTER, Ed knew CHAPTER was subjecting pledges
19 to hazing during the pledge process, and was aware that CHAPTER had a history of hazing
20 its pledges. harmful hazing rituals conducted over a period of time, including but not limited
21 to rigorous and/or daily tasks that require physical and/or mental work that caused the pledges
22 to be deprived of sleep and exhausted over time, ingest foods that are likely to cause pain or
23 harm to their body, in addition to Ed acting in the scope of his employment, and using his
24 position at the UC Regents, encouraged, failed to prevent, and/or hid the unlawful conduct so
25 that it continued, resulting in the demise of TYLER.

26 27. On information and belief, Ed knew ALPHA CHAPTER was pledging
27 students during the time of his employment by UC REGENTS. As a member of CHAPTER,

1 Ed received daily deference calls from the pledges, required the pledges to conduct errands
2 for him, and was present during and participated in the beatings the pledges were subjected to
3 during CHAPTER's pledge process on at least one occasion, and on information and belief,
4 multiple other occasions. Ed was fully cognizant of CHAPTER's illegal hazing, and failed to
5 protect the pledges from the illegal hazing or stop the illegal hazing of the pledges.

6 28. UC REGENTS was aware that the CHAPTER at its campus was involved in
7 illegal hazing.

8 29. UC REGENTS was aware that CHAPTER was involved in illegal hazing
9 through its employee/agent Ed, the Fraternity and Sorority Advisor and Interim Fraternity and
10 Sorority Coordinator at its UC Riverside campus. On information and belief, at all times
11 relevant to the acts and omissions alleged in this Complaint, Ed was a member of CHAPTER
12 who went through CHAPTER's pledge process in or around the fall of 2005, was subjected
13 to hazing activities when he was going through CHAPTER's pledge process, participated in
14 the hazing of students who were going through CHAPTER's pledge process after he became
15 a member of CHAPTER, and was fully cognizant of CHAPTER's illegal hazing.

16 30. UC REGENTS was also aware that CHAPTER was involved in illegal hazing
17 through the suspension and revocation of the charter of the previous chapter of ALPHA at UC
18 Riverside. Prior to PI EPSILON CHAPTER receiving its charter in 2003, a previous ALPHA
19 chapter existed at UC REGENTS called Iota Chi. Iota Chi was chartered at UC Riverside in
20 1983, and was later suspended and had its charter taken away for illegal hazing in the 90's.

21 31. UC REGENTS was also aware that CHAPTER was involved in illegal hazing
22 through prior complaints of CHAPTER and fraternities similar to CHAPTER being involved
23 in illegal hazing. Based on information and belief, there have been complaints of CHAPTER
24 being involved in illegal hazing from 2003 until present. Additionally, based upon information
25 and belief there have been complaints of fraternities similar to CHAPTER being involved in
26 illegal hazing.

27 32. On information and belief, ALPHA had a long history of hazing ALPHA

1 pledges that was or should have been readily apparent to UC REGENTS, as demonstrated by
2 the following publicly available information concerning ALPHA's hazing activities:

- 3 a. In or around 1989, Joel Harris, a Morehouse College student who was pledging
4 ALPHA, collapsed and died after he was punched in the chest and slapped in
5 the face multiple times during an ALPHA hazing ritual;
- 6 b. In or around 1992, Gregory Batipps, a University of Virginia student who was
7 pledging ALPHA and was allegedly suffering from sleep deprivation due to
8 the hazing activities he was being subjected to, died after he fell asleep behind
9 the wheel of his car;
- 10 c. In or around 1994, Lincoln University suspended an ALPHA chapter after a
11 student was beaten by members of the chapter;
- 12 d. In or around 1995, Sylvester Lloyd, an ALPHA pledge at Cornell University,
13 was hospitalized with a life-threatening infection in his buttocks that resulted
14 from hazing activities during ALPHA's pledge process;
- 15 e. In or around 1999, an ALPHA pledge at Lincoln University was hospitalized
16 following a hazing incident in which ALPHA pledges were beaten and verbally
17 abused by ALPHA members in the presence of one of the university's
18 administrators, who was an ALPHA alumnus;
- 19 f. In or around 2001 or 2002, Ohio State University suspended an ALPHA
20 chapter for hazing incidents that involved physical abuse resulting in injuries
21 serious enough to require medical attention;
- 22 g. In or around 2003, Alcorn State University suspended an ALPHA chapter for
23 alleged hazing activities;
- 24 h. In or around 2004, Southern Methodist University banned ALPHA from its
25 campus after Braylon Curry, who was pledging ALPHA, went into a coma
26 following a hazing incident in which pledges were forced to drink gallons of
27 water and hot sauce and were struck with wooden paddles;

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- i. In or around 2007, Oklahoma State University suspended an ALPHA chapter after its pledges were injured seriously enough to require medical attention;
- j. In or around 2008, McAndy Douarin, a student at the University of Central Florida who was pledging ALPHA, died from heart-related failure less than 12 hours after he was punched in the chest during a hazing incident;
- k. In or around 2009, Fort Valley State University suspended an ALPHA chapter as a result of hazing activities which resulted in injuries to a pledge that required hospitalization, and led to the filing of a felony aggravated battery charge against an ALPHA member;
- l. In or around 2010, Mercer University suspended an ALPHA chapter as a result of allegations concerning pledges being subjected to sleep deprivation, paddling, and a strict diet;
- m. In or around 2010, ALPHA halted new membership processes nationwide as a result of hazing incidents;
- n. In or around 2011, Emory University suspended an ALPHA chapter due to several hazing violations;
- o. In or around 2012, the University of Florida issued an interim suspension to an ALPHA chapter due to a serious physical hazing incident that resulted in visible injuries to a pledge;
- p. In or around 2012, Jacksonville State University suspended an ALPHA chapter after Jason Horton, a student who was pledging the chapter, was subjected to hazing activities that included consuming large quantities of alcohol, being struck by eggs, and being beaten for long periods with fists and paddles;
- q. In or around 2013, three ALPHA members who were students at Virginia State University were arrested following an alleged hazing incident;
- r. In or around 2014, the University of Tennessee suspended its ALPHA chapter following allegations of hazing that included paddling and applying hot sauce

THIRD AMENDED COMPLAINT BY PLAINTIFFS MYEASHA KIMBLE AND WILLIAM HILLIARD FOR GENERAL AND PUNITIVE DAMAGES

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to pledges' genitals;

- s. In or around 2014, ALPHA suspended its chapter at Bowie State University following allegations that chapter leaders punched, hit, slapped, and paddled pledges;
- t. In or around 2014, arrest warrants were issued for six members of an ALPHA chapter at the University of Akron who allegedly beat and paddled a pledge over a period of three weeks;
- u. In or around 2016, Virginia Tech withdrew its recognition of an ALPHA chapter following a hazing incident that involved physical attacks on pledges who made mistakes in responding to questions about fraternity history and other topics;
- v. In or around 2016, Bradley Doyley, an ALPHA pledge at Buffalo State College, died after allegedly being given some type of toxic concoction to drink during the pledging process;
- w. In or around 2017, Florida State University suspended an ALPHA chapter following allegations of physical and mental abuse of pledges;
- x. In 2018, the University of Mississippi suspended and disbanded its ALPHA chapter as a result of disappointing and troubling activities that were revealed through a hazing investigation and significant concerns for student health and safety;
- y. In 2018, an ALPHA chapter at Colorado State University lost university recognition due to sanctions from a disciplinary hearing connected to hazing behavior.

33. Accordingly, UC REGENTS was on notice that ALPHA and the ALPHA CHAPTER on its campus had a history of illegal hazing.

34. UC REGENTS, through its employees, including Ed, were aware that after the ALPHA CHAPTER completed its illegal pledge process, the newly initiated members would

1 conduct a probate show on its UC Riverside campus. During the probate show, the newly
2 initiated ALPHA CHAPTER members would march out to conduct a show in front of other
3 members of the National Pan-Hellenic Council from UC REGENTS, students of UC
4 REGENTS, and students from other schools. Ed would be in attendance during these probate
5 shows.

6 35. Typically, probate shows would provide the ALPHA CHAPTER the
7 opportunity to broadcast the information the pledges learned during the pledge process, and
8 for the pledges to unitedly recite information learned during the pledge process, including
9 greetings for members of the ALPHA CHAPTER, skits and other forms of history.

10 36. TYLER began pre-pledging on or about the month of August 2018 with other
11 UC REGENTS students who were not yet members of ALPHA CHAPTER. On information
12 and belief, TYLER formally began the pledging process before his untimely death.

13 37. During pre-pledging TYLER and the other aspirants were hazed; such hazing
14 included, but was not limited to, being punched and slapped. During the formal pledge
15 process, in addition to being punched and slapped, TYLER and the other aspirants were
16 paddled on the buttocks. Paddles are large pieces of wood, typically pine, which are swung
17 like a baseball bat to cause severe pain to pledges' buttocks. During both the pre-pledging
18 and formal pledging phase, TYLER and the other aspirants conducted errands for members
19 of the CHAPTER at UC REGENTS.

20 38. On or about September 2018, TYLER started the official illegal hazing pledge
21 process.

22 39. During the official hazing pledge process, TYLER was joined by other students
23 called his "Line Brothers."

24 40. On or about September 4, 2018, TYLER complained that the persistent and
25 painful paddling of his buttocks by members of the CHAPTER caused his buttocks to turn
26 blue and purple.

27 41. On or about September 8, 2018, TYLER was hospitalized with chest pain

1 resulting from pledging. Specifically, in addition to repeatedly being punched in his gut and
2 paddled, TYLER was forced to consume raw onions covered in hot sauce on a daily basis.
3 These onions are referred to as “Alpha Apples.”

4 42. During this time, the Dean of Pledges for the CHAPTER line constantly and
5 forcibly harassed the pledges to complete different tasks. These tasks consisted of, but were
6 not limited to, the pledges purchasing matching clothes from the surplus store, purchasing
7 water hose(s), black electrical tape, square blocks, bricks, zip ties, gorilla wood glue, and 7
8 marbles, jewels and dollars to represent the 7 founders of ALPHA.

9 43. During the illegal pledging of these young men by members of the CHAPTER
10 and other ALPHA chapters at various other schools, the young men were taken to Mount
11 Rubidoux to be hazed in the covering of the mountains and at dusk without fear that illicit
12 hazing would be discovered.

13 44. As a result of pledging on Mount Rubidoux, the pledges suffered various
14 injuries including, but not limited to, cuts, scrapes, and bruises on their bodies from being
15 repeatedly assaulted, battered, and thrown into cacti filled bushes.

16 45. Further, if the pledges did not recite information in unison and correctly, the
17 members of CHAPTER beat, slapped, body slammed and paddled the young men pledging
18 without abatement.

19 46. On September 16, 2018, TYLER died as a result of pledging CHAPTER of
20 ALPHA.

21 47. ALPHA has been aware of deaths as a result of pledging in undergraduate
22 chapters. Unfortunately, TYLER now joins a list of other young students who have died as a
23 result of pledging ALPHA such as Joel Harris and Gregory Batipps. Mr. Joel Harris also
24 collapsed during the illegal pledging process.

25 48. At all relevant times, Ed knew that CHAPTER was pledging students during
26 the time he was employed by UC REGENTS. Indeed, as a member of CHAPTER, Ed
27 received daily deference calls from the pledges and was fully cognizant of the CHAPTER’s

1 illegal hazing. On information and belief, Ed was present during and participated in the
2 beatings the pledges were subjected to during CHAPTER's pledge process on at least one
3 occasion, and on information and belief, multiple other occasions.

4 49. ALPHA WEST, through its District Director for Southern California for
5 ALPHA, Frederik Jackson ("Jackson") and ALPHA WEST'S Western Region Vice President,
6 Dondrell Swanson ("Swanson") were aware or should have been aware that CHAPTER had
7 aspirants that on information and belief had paperwork of the CHAPTER aspirants submitted
8 to each of them.

9 50. ALPHA WEST, through Jackson and Swanson oversaw the CHAPTER and
10 alumni chapter responsible for the undergraduates at CHAPTER.

11 51. On information and belief, at all times relevant to the acts and omissions
12 alleged in this Complaint, UC REGENTS had an Office of Student Life on its UC Riverside
13 campus. Student organizations at UC Riverside, including CHAPTER, received advising
14 services and oversight from the Office of Student Life and had Student Life Advisors.

15 52. On information and belief, at all times relevant to the acts and omissions
16 alleged in this Complaint, UC REGENTS had a Fraternity and Sorority Involvement Center
17 ("FSIC") on its UC Riverside campus. Fraternities and sororities recognized at UC Riverside,
18 including CHAPTER, received advising services and oversight from the FSIC and had
19 Fraternity and Sorority Advisors.

20 53. On information and belief, at all times relevant to the acts and omissions
21 alleged in this Complaint, UC REGENTS exercised a substantial amount of control and
22 oversight over the fraternities and sororities at UC Riverside, including CHAPTER, through
23 a multitude of policies, regulations, and requirements that applied to student organizations at
24 UC Riverside generally, and to fraternities and sororities at UC Riverside specifically,
including CHAPTER.

25 54. On information and belief, at all times relevant to the acts and omissions
26 alleged in this Complaint, UC REGENTS had a Policy on Registered Campus Organizations.
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1 UC REGENTS' Policy on Registered Campus Organizations defines a "Registered Campus
2 Organization" as an "organization whose membership predominantly comprises students,
3 faculty, and/or staff of a particular University campus, and that attains recognition as a
4 Registered Campus Organization by complying with the requirements and procedures set
5 forth in campus implementing regulations." At all relevant times, CHAPTER was a Registered
6 Campus Organization within the meaning of UC REGENTS' Policy on Registered Campus
7 Organizations. UC REGENTS' Policy on Registered Campus Organizations required
8 Registered Campus Organizations, including CHAPTER, to comply with university policies
9 and campus regulations as well as applicable laws. UC REGENTS' Policy on Registered
10 Campus Organizations provided that a Registered Campus Organization's failure to comply
11 with university policies, campus regulations, and/or applicable laws would subject it to
12 revocation of registration, loss of privileges, or other sanctions.

13 55. On information and belief, at all times relevant to the acts and omissions
14 alleged in this Complaint, UC REGENTS had Policies Applying to Campus Activities,
15 Organizations and Students. UC REGENTS' Policies Applying to Campus Activities,
16 Organizations and Students applied to student organizations on its UC Riverside campus,
17 including CHAPTER. UC REGENTS' Policies Applying to Campus Activities,
18 Organizations and Students provide that "Students are expected to comply with all laws and
19 with University policies and campus regulations."

20 56. On information and belief, at all times relevant to the acts and omissions
21 alleged in this Complaint, UC REGENTS' Policies Applying to Campus Activities,
22 Organizations and Students prescribed Standards of Conduct. The Standards of Conduct in
23 UC REGENTS' Policies Applying to Campus Activities, Organizations and Students
24 prohibited the commission, attempted commission, and aiding or abetting in the commission
25 or attempted commission of physical abuse, including but not limited to physical assault,
26 threats of violence, or other conduct that threatens the health or safety of any person. The
27 Standards of Conduct in UC REGENTS' Policies Applying to Campus Activities,

1 Organizations and Students further prohibited the commission, attempted commission, and
2 aiding or abetting in the commission or attempted commission of harassment, which the
3 Standards of Conduct define as conduct that is so severe and/or pervasive, and objectively
4 offensive, and that so substantially impairs a person’s access to university programs or
5 activities that the person is effectively denied equal access to the university’s resources and
6 opportunities. The Standards of Conduct in UC REGENTS’ Policies Applying to Campus
7 Activities, Organizations and Students further prohibited the commission, attempted
8 commission, and aiding or abetting in the commission or attempted commission of
9 participation in hazing or any method of initiation or pre-initiation into a campus organization
10 or other activity engaged in by the organization or members of the organization at any time
11 that causes, or is likely to cause, physical injury or personal degradation or disgrace resulting
12 in psychological harm to any student or other person.

13 57. On information and belief, at all times relevant to the acts and omissions
14 alleged in this Complaint, UC REGENTS’ Policies Applying to Campus Activities,
15 Organizations and Students set forth discipline procedures and provided for a variety of
16 disciplinary actions for violations of the Standards of Conduct prescribed therein, including
17 but not limited to warning/censure, disciplinary probation, loss of privileges and exclusion
18 from activities, suspension, dismissal, exclusion from areas of the campus or from official
19 university functions, and interim suspension.

20 58. On information and belief, at all times relevant to the acts and omissions
21 alleged in this Complaint, UC REGENTS’ Policies Applying to Campus Activities,
22 Organizations and Students provided that if specified in implementing campus regulations,
23 the Standards of Conduct prescribed therein “may apply to conduct that occurs off campus
24 and that would violate student conduct and discipline policies or regulations if the conduct
25 occurred on campus.”

26 59. On information and belief, at all times relevant to the acts and omissions
27 alleged in this Complaint, the UC Riverside campus of UC REGENTS had a policy regarding

1 the Administration of Standards of Conduct prescribed in UC REGENTS' Policies Applying
2 to Campus Activities, Organizations and Students. UC Riverside's policy regarding the
3 Administration of Standards of Conduct provided that the Standards of Conduct governed the
4 conduct of all University of California students, and applied to students as individuals, as
5 members of organizations, and to the student organizations themselves, where appropriate.

6 60. On information and belief, at all times relevant to the acts and omissions
7 alleged in this Complaint, UC Riverside's policy regarding the Administration of Standards
8 of Conduct empowered UC Riverside to exercise on-campus and off-campus jurisdiction over
9 the conduct of students and student organizations, including CHAPTER and student members
10 of CHAPTER. Pursuant to Section 3.20 of UC Riverside's policy regarding the
11 Administration of Standards of Conduct, titled "On-Campus Jurisdiction", the Standards of
12 Conduct govern student conduct on or in relation to university property, at official university
13 functions, and at university-sponsored programs conducted away from the campus. Pursuant
14 to Section 3.30 of UC Riverside's policy regarding the Administration of Standards of
15 Conduct, titled "Off Campus Jurisdiction", student conduct that occurs off university property
16 is subject to the Standards of Conduct where it adversely affects the health, safety, or security
17 of any member of the university community or the mission of the university.

18 61. On information and belief, UC REGENTS' website for UC Riverside confirms
19 that UC Riverside has jurisdiction over off-campus incidents involving students and student
20 organizations, including incidents of hazing. The "UC Riverside Authority" subsection of the
21 "Hazing" subsection of the "Policies and Procedures" section of the Dean of Students page
22 on the UC Riverside website states: "The University has jurisdiction over on-and-off campus
23 incidents involving students or student organizations." The "UC Policy 102.12" subsection of
24 the "Hazing" subsection of the of the "Policies and Procedures" section of the Dean of
25 Students page on the UC Riverside website states: "The discretion for the university to
26 exercise off-campus jurisdiction includes but is not limited to the following behavior:
27 Participation in hazing or any method of initiation or pre-initiation into a campus organization

1 or other activity engaged in by the organization or members of the organization at any time
2 that causes, or is likely to cause, physical injury or personal degradation or disgrace resulting
3 in psychological harm to any student or other person.”

4 62. On information and belief, at all times relevant to the acts and omissions
5 alleged in this Complaint, UC REGENTS had policies, regulations, and requirements that
6 specifically applied to CHAPTER and other fraternities and sororities at UC Riverside. These
7 policies, regulations, and requirements address nearly all aspects of the conduct of fraternities
8 and sororities at UC Riverside, and include, but are not limited to, all of the following:

- 9 a. Recognition of fraternities/sororities is solely at the discretion of UC Riverside;
- 10 b. Fraternities/sororities are required to hold membership in one of four specified
11 governing councils at UC Riverside;
- 12 c. Fraternities/sororities are required to abide by all federal, state, and local laws,
13 the same university regulations and policies that apply to all students registered
14 student organizations, follow fraternity/sorority governing council policies,
15 and follow national/international fraternity/sorority policies;
- 16 d. Fraternities/sororities found to be in violation of policies are subject to
17 discipline through UC Riverside, the fraternity/sorority governing councils at
18 UC Riverside, and national fraternity/sorority organizations, and
19 fraternities/sororities and their individual members are subject to the full range
20 of sanctions articulated in UC REGENTS’ Policies Applying to Campus
21 Activities, Organizations and Students;
- 22 e. Fraternities/sororities are prohibited from supporting, tolerating, or
23 participating in any form of hazing described in the laws of California and in
24 the Standards of Conduct prescribed in UC REGENTS’ Policies Applying to
25 Campus Activities, Organizations, and Students, and each president of a
26 fraternity/sorority chapter is required to complete the UC Riverside Zero
27 Tolerance for Hazing Compliance Form at the beginning of every academic

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year;

- f. Members of the university community and national/international fraternities/sororities are prohibited from soliciting or recruiting UC Riverside students to establish new fraternity/sorority organizations without the consent of UC Riverside;
- g. Expansion of the membership numbers of a fraternity/sorority requires approval by UC Riverside – students and/or national/international organizations must contact the Dean of Students for UC Riverside to determine the current status and when expansion will be allowed before initiating any expansion efforts. The proposed new membership number is reviewed by UC Riverside and subject to UC Riverside’s agreement. The fraternity/sorority governing councils are required to maintain guidelines for expansion that comply with and augment a list of specific UC Riverside expectations, including but not limited to the submission of a request to initiate expansion to the Vice Chancellor for Student Affairs through the Fraternity/Sorority Advisor at UC Riverside, the submission of an Expansion Interest letter and form to UC Riverside, and recommendation of an organization to be considered at UC Riverside to the Vice Chancellor for Student Affairs for final approval;
- h. Fraternities/sororities are required to maintain and submit local chapter by-laws, national/international constitutions, and articles of incorporation to the Fraternity/Sorority Advisor at UC Riverside on an annual basis;
- i. Fraternities/sororities are required to maintain and submit updated rosters of membership, including leadership designations, to the Fraternity/Sorority Advisor at UC Riverside on an annual basis. Fraternities/sororities are also required to submit the names and contact information of all chapter members, advisors, and national/international headquarter contacts to the FSIC at UC

THIRD AMENDED COMPLAINT BY PLAINTIFFS MYEASHA KIMBLE AND WILLIAM HILLIARD FOR GENERAL AND PUNITIVE DAMAGES

1 Riverside at the beginning of each quarter. Forms must also be completed for
2 new fraternity/sorority officers any time elections are held, within one week of
3 the elections;

4 j. Fraternities/sororities are required to submit evidence that active members
5 meet the grade point average requirement set by their national organizations to
6 the Fraternity/Sorority Advisor at UC Riverside on an annual basis;

7 k. Fraternity/sorority organizations are required to provide evidence of general
8 liability insurance with limits of \$1,000,000 whenever they utilize campus
9 facilities for events, and this insurance policy must name the University of
10 California as an additional insured to the activities of the fraternity/sorority;

11 l. Fraternities/sororities are required to maintain and submit documentation to the
12 Fraternity/Sorority Advisor at UC Riverside on an annual basis regarding an
13 alumni chapter advisor, who is approved by the national fraternity/sorority, to
14 assist with chapter management and serve as a liaison to UC Riverside and
15 national/international fraternity/sorority headquarters. Fraternities/sororities
16 are also required to submit any contact information changes for the chapter
17 advisor to the FSIC, and submit written notification to the FSIC when a chapter
18 advisor changes;

19 m. Fraternities/sororities are required to maintain and submit contact information
20 for a national or regional fraternity/sorority liaison to UC Riverside to the
21 Fraternity/Sorority Advisor at UC Riverside on an annual basis;

22 n. Fraternities/sororities are required to establish a working relationship with the
23 FSIC;

24 o. Presidents of fraternity/sorority chapters are required to meet with the Office
25 of Student Life/FSIC at UC Riverside on a quarterly basis, and are also
26 required to attend an annual Fraternity and Sorority Leadership Retreat;

27 p. Fraternity/sorority council leadership are required to meet with Office of
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1 Student Life/FSIC staff at UC Riverside on a monthly basis, and are also
2 required to attend Council Transition Retreats;

3 q. The fraternity/sorority member selection process is not permitted to interfere
4 with the academic or residential life of UC Riverside, and the involvement of
5 alcohol, formally or informally, is prohibited during recruitment activities or
6 efforts and during the new member education periods;

7 r. Fraternity/sorority chapters are required to create recruitment plans that are
8 consistent with the policies set forth by UC Riverside and the
9 fraternity/sorority governing councils;

10 s. The FSIC at UC Riverside requires fraternity/sorority chapters affiliated with
11 two of the four fraternity/sorority governing councils to adhere to detailed
12 intake procedures for new members, including, but not limited to, keeping the
13 FSIC informed of all membership recruitment or intake activities each quarter,
14 meeting with a FSIC Advisor and chapter or graduate advisor prior to engaging
15 in any intake activities, and submitting a New Member Education Form, and
16 Verification of Potential Members Form to the FSIC;

17 t. Membership in a fraternity/sorority is conditioned upon a student being a
18 regularly enrolled, full-time student in good standing with UC Riverside;

19 a. New fraternity/sorority chapter members are required to participate in
20 minimum mandatory workshops and/or a New Member Summit offered
21 through the Office of Student Life/FSIC at UC Riverside during the quarter
22 they join;

23 u. Fraternity/sorority chapters are required to create new member plans that are
24 consistent with the policies set forth by the national organizations and their
25 governing councils;

26 v. Fraternity/sorority chapters are required to attend mandated programs and
27 trainings sponsored by the Office of Student Life/FSIC at UC Riverside and

1 mandated programs and trainings sponsored by their governing councils.
2 Fraternity/sorority chapters are also required to participate in their
3 corresponding governing bodies by attending meetings and holding officer
4 positions;

5 w. UC Riverside establishes academic performance standards for all
6 fraternities/sororities. Fraternities/sororities are required to have a cumulative
7 grade point average of at least 2.50. Fraternities/sororities that have a
8 cumulative grade point average below 2.50 are required to work with UC
9 Riverside to develop and actively engage in an academic improvement plan.
10 As a condition of membership, members of fraternities/sororities are required
11 to sign a Grade Release Form authorizing the release of grades to the FSIC.
12 The FSIC prepares grade reports for fraternity/sorority chapters and calculates
13 the cumulative and term grade point average for overall female/male members,
14 chapters, and councils at the end of the fall, winter, and spring terms;

15 x. Students holding leadership positions within fraternity/sorority chapters and
16 councils are required to be in good social and academic standing. Members
17 holding elected positions in fraternity/sorority governing councils must also
18 possess at the time of election and maintain a minimum grade point average;

19 y. Fraternities/sororities that lose the recognition of UC Riverside are required to
20 cease all activities and abide by all terms and conditions formally
21 communicated to them by UC Riverside. Reinstatement of
22 fraternities/sororities that have been dismissed or lost their recognition may
23 only occur through the submission of a petition for reinstatement containing
24 specifically described information after all members who were active with the
25 fraternity/sorority during the incident that led to dismissal, loss of recognition,
26 or the revocation of the fraternity/sorority's charter have graduated.

27 63. On information and belief, at all times relevant to the acts and omissions

1 alleged in this Complaint, UC REGENTS had additional policies, regulations, and
2 requirements that applied to all student organizations at UC Riverside, including CHAPTER.
3 These policies, regulations, and requirements include, but are not limited to, all of the
4 following:

- 5 b. Student organizations are required to comply with university policies, campus
6 regulations, and applicable laws, and noncompliance with those policies,
7 regulations, and laws will subject an organization to revocation of registration,
8 loss of privileges, or other sanctions;
- 9 c. Student organizations are required to sign a Policy Compliance Form, which
10 includes a section in which the organizations agree to not violate any state,
11 federal, or local laws or university policies, a statement on UC Riverside’s Zero
12 Tolerance Policy for Hazing, a section on fiscal accountability, a section on the
13 use of the UC Riverside name, a section on membership, and a Hold Harmless
14 Agreement;
- 15 d. Prospective student organizations are required to meet specific registration
16 criteria in order to register as a new organization at UC Riverside. Prospective
17 student organizations must meet with a Student Organization Advisor during a
18 specified timeframe, participate in a New Organization Workshop and
19 complete an assessment to demonstrate comprehension of registration
20 requirements, campus policies, and other applicable information discussed at
21 the workshop, provide an organization membership roster by an announced
22 deadline, sign an agreement to the policies outlined in UC Riverside’s Student
23 Organization Policies and Handbook, upload a copy of the organization’s
24 constitution and/or by-laws that meets minimum requirements set by the Office
25 of Student Life at UC Riverside for approval by the Office of Student Life, and
26 provide copies of guidelines and regulations of local, regional, state, national,
27 or international organizations the organization has an off-campus affiliation

1 with;

- 2 e. Student organizations registered with UC Riverside are required to meet
3 specific, on-going registration criteria to maintain their registration. Student
4 organizations are required to re-register with the Office of Student Life at UC
5 Riverside on an annual basis, watch videos created by UC Riverside and
6 complete a quiz during the re-registration process, maintain a minimum
7 number of active members, a set percentage of whom must be currently
8 enrolled, full-time UC Riverside students, update organization membership
9 rosters by the registration deadlines, update student organization database
10 rosters with new officers within ten business days of a change being made,
11 have an approved constitution on file with the Office of Student Life, complete
12 an annual check-in meeting with their assigned Student Life Organization
13 Advisor, attend the Student Organization Leadership Seminars offered
14 annually during the fall quarter, and comply with all policies outlined in UC
15 Riverside's Student Organization Policies and Handbook. Fraternities/sororities are further required to participate in a scholarship
16 reporting system;
- 17 f. Student organizations are required to comply with university regulations on
18 fiscal accountability;
- 19 g. The formal document each student organization is required to have on file with
20 the Office of Student Life at UC Riverside must outline the organization's
21 mission, structure, and processes, outline voting/election or appointment
22 processes in detail, and outline any dues the organization enforces for joining
23 by stating the amount(s) of the dues and timeframe for payment in order to join
24 or retain membership in the organization;
- 25 h. A student organization's constitution is required to contain statements on non-
26 discrimination and fiscal accountability that are mandated by the Office of the
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1 President of the University of California.

2 64. On information and belief, at all times relevant to the acts and omissions
3 alleged in this Complaint, UC REGENTS promoted, encouraged, and supported student
4 involvement and membership in fraternities at UC Riverside. UC REGENTS' Policies
5 Governing Fraternities and Sororities at UC Riverside state UC Riverside "recognizes that
6 fraternities and sororities can be a valuable component of the undergraduate experience." UC
7 REGENTS' Policies Governing Fraternities and Sororities at UC Riverside further state that
8 as their "primary purpose, fraternal organizations maintain the enhancement of student
9 learning through activities encouraging leadership development, organizational management,
10 interpersonal and group dynamics, social development, philanthropic spirit, career
11 development, academic achievement, and loyalty to the university." UC REGENTS' website
12 for UC Riverside has a section dedicated to fraternities/sororities that extols the benefits of
13 joining a fraternity/sorority at UC Riverside, as demonstrated by the following statements on
14 the website:

- 15 a. "Joining the UCR fraternity and sorority community will provide you with the
16 opportunity to meet many wonderful people and become involved on campus
17 and throughout the community."
- 18 b. The FSIC at UC Riverside "seeks to improve the campus climate through
19 education and civic engagement while creating strong friendships that will last
20 a lifetime."
- 21 c. "The fraternity and sorority community at UCR is dedicated to helping
22 students have the best experience inside and outside of the classroom,"
- 23 d. "UCR students dedicate countless hours to community service, donate
24 thousands of dollars to charitable organizations, and are involved in many
25 different areas on campus."
- 26 e. "At the most basic level, fraternities and sororities offer your student a small
27 group of friends amid a larger university environment – fellow students that

1 your student can bond with and share experiences with. But the benefits of
2 fraternity and sorority life are quite far-reaching. Fraternities and sororities
3 provide students with opportunities for personal and professional growth. They
4 promote enhanced academic achievement, leadership development, and
5 increased participation in community service through philanthropic activities.
6 Fraternities and sororities instill values of cooperation, mutual respect, and
7 selflessness that will help to establish a pattern of lifelong service and
8 continued success.”

9 f. “The fraternity and sorority community offers a variety of leadership
10 opportunities to prepare students for future careers.”

11 g. “Academic achievement is a value of the campus fraternity and sorority
12 community. Members are encouraged to strive for scholarly excellence
13 through incentive programs, study partners, workshops, study hours and
14 national recognition. Members are rewarded for their academic achievements
15 through chapter events and by membership in the Order of Omega Greek
16 Honor Society.”

17 h. “The fraternity and sorority community is committed to participating in
18 community service and philanthropic efforts. Many organizations have a
19 specific service or philanthropy, such as domestic violence prevention,
20 Elizabeth Glaser Pediatric AIDS Foundation, Big Brothers Big Sisters of
21 America, the American Cancer Society, Habitat for Humanity, the American
22 Red Cross and Adopt-a-Highway. As a fraternity or sorority member, students
23 have the opportunity to support the local and campus community by being
24 involved in volunteer activities such as reading to children, volunteering at a
25 local senior care facility, serving in a soup kitchen, sponsoring a blood drive
or doing a clean-up at a local park.”

26 i. “The result of fraternity and sorority membership is a bond that transcends time
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1 and space – a friendship that lasts a life time. A fundamental principle of every
2 fraternity and sorority chapter is friendship: a brotherhood or sisterhood that
3 one shares through the good times and provides support during the difficult
4 challenges that come with being a college student. Each fraternity and sorority
5 provides opportunities for members to periodically assemble and renew those
6 bonds of friendship: Homecoming, alumni weekends, newsletters, a chapter
7 web page and athletic events. Many national chapters have alumni chapters in
8 major urban areas, where alumni/ae from various chapters can continue to
9 create new bonds of friendship.”

10 j. “It is important to find a network of friends and allies to provide the support
11 needed to be successful. As an undergraduate, the fraternity/sorority
12 experience provides opportunities to meet other students. . . . Chapters also
13 provide opportunities for members to meet brothers and sisters from chapters
14 at other campuses, usually through a regional or national leadership
15 conference. The fraternity and sorority experience is not limited to the college
16 years, as it continues through adulthood. Alumni/ae associations are available
17 across the country and the potential for career connections are endless.
18 Alumni/ae and national volunteers provide advice and guidance for chapters
19 and their members as well as serve on house and alumni/ae corporations.”

20 k. “Fraternity and sorority members may be found in all parts of campus life:
21 Student Government Association, intramural sports, resident assistants, honor
22 societies, student businesses, as student staff in many offices and departments,
23 varsity sports and throughout the students organizations found on campus.
24 Fraternity and sorority members play an important role in many of the events
25 and initiatives on the campus, either through their chapter or through
26 involvement with other associations.”

27 l. “Joining a fraternity or sorority is a lifelong dedication to the ideals and
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1 principals of fraternity/sorority life. Fraternity men and sorority women are
2 successful in life because they continue to utilize and live the values learned
3 during the undergraduate years of affiliation.”

4 m. “Coming to college is one of the major life changes that your student will go
5 through. Joining a fraternity or sorority can help make the transition easier.
6 Developing lifelong friendships with the members in their chapter helps make
7 the campus smaller. For many members, these chapters become a home away
8 from home. In addition to the friendship, every chapter promotes the values of
9 enhancing leadership, scholarship, philanthropy/service and financial
10 responsibility in their members. Additionally, national research has shown that
11 involvement in fraternities and sororities increases a student's chances of
12 graduating from college. As a lifelong member of a fraternity or sorority,
13 students are offered the opportunity to develop as leaders, serve the local
14 community and focus on academics, as well as their careers, by connecting
15 with local alumni members of their organizations.”

16 n. “There is a social aspect to the fraternity and sorority community and these
17 social events include educational programming/workshops, community
18 service events, intramural sports, scholarship dinners and Homecoming, in
19 addition to events and socials. Today’s fraternity and sorority communities
20 across the nation have adopted a stringent approach to socializing thereby
21 creating a safer, more beneficial learning environment for members.”

22 o. “Academics are a priority in the fraternity/sorority community. When students
23 join, they become part of a larger group of students who value their academic
24 goals. This group understands what the new member is facing and can provide
25 support in many areas. Many chapters enforce minimum grade point average
26 requirements and offer academic support, such as study sessions, tutoring and
27 other workshops to assist members.”

1 p. "The time commitment varies from chapter to chapter but the first quarter is
2 often the most time intensive as the new member goes through the chapter's
3 education program. The time spent in this program will give students the
4 opportunity to develop their leadership and time management skills, learn
5 about the history of the organization, develop friendships and allow them to
6 become involved with other organizations."

7 65. On information and belief, UC REGENTS' website for UC Riverside has a
8 page that includes a section for the National Pan-Hellenic Council ("NPHC"), which
9 CHAPTER was affiliated with and which ALPHA is and was affiliated with at all relevant
10 times. The section for the NPHC states: "Join a historically African-American fraternity or
11 sorority at UCR!" The section for the NPHC further states that "NPHC groups have a strong
12 tradition of serving the community and an international scope that reaches beyond college,"
13 and indicates that students who join a NPHC fraternity or sorority will "Give back to the
14 community," "Enjoy lifelong friendships," "Network and grow as a professional," and
15 "Attend annual events such as Midnight Breakfast, Yardshow, NPHC Week, Stroll Off
16 Competition, Unity Day, and Black Graduation".

17 66. On information and belief, at all times relevant to the acts and omissions
18 alleged in this Complaint, UC REGENTS considered student involvement and membership
19 in student organizations at UC Riverside, including student involvement and membership in
20 CHAPTER and other fraternities and sororities recognized at UC Riverside, to be a co-
21 curricular activity. The UC Riverside campus of UC REGENTS offered its students an
22 opportunity to create a "Co-Curricular Transcript", which UC Riverside defined as "an official
23 record of leadership accomplishments and involvement in student organizations, community
24 service activities, and professional / educational development programs." The organizations a
25 student is involved in appear on the student's "Co-Curricular Transcript". A video detailing
26 the process for creating a "Co-Curricular Transcript" was posted on YouTube by the Office
27 of Student Life at UC Riverside on or around August 28, 2017 and is still accessible on

1 YouTube. This video is also available on UC REGENTS' website for UC Riverside. This
2 video states that the "Co-Curricular Transcript" tracks a student's involvement in "outside the
3 classroom experiences." The video notes that viewers may be familiar with the term "extra-
4 curricular," which the video states "used to mean things beyond the classroom, sports, clubs,
5 activities." The video then states "in recent times, we've adopted and coined the term co-
6 curricular because it's not in addition to the classroom experience, it's alongside, and could
7 possibly be just as important as what you're learning in the classroom." The first photograph
8 displayed on the video depicts students at a table promoting the National Pan-Hellenic
9 Council, which is one of the four governing councils fraternities and sororities at UC Riverside
10 are required to hold membership in, and is the governing council that CHAPTER was
11 affiliated with and that ALPHA is and at all relevant times was affiliated with. A later
12 photograph depicts students at a table promoting one of the fraternities at UC Riverside.

13 67. On information and belief, at all times relevant to the acts and omissions
14 alleged in this Complaint, the Office of Student of Life at the UC Riverside campus of UC
15 REGENTS' provided significant support to student organizations at UC Riverside, including
16 CHAPTER. The Office of Student Life provides advising services to student organizations,
17 provides assistance with starting new student organizations, assists student organizations with
18 the registration process, helps student organizations plan events, organizes leadership retreats
19 for student organizations, provides workshops on topics relevant to student organizations, and
20 works with students to develop workshops.

21 68. On information and belief, at all times relevant to the acts and omissions
22 alleged in this Complaint, the FSIC at the UC Riverside campus of UC REGENTS provided
23 significant support to fraternities at UC Riverside, including CHAPTER. The FSIC provides
24 advising services to fraternities and sororities at UC Riverside. The FSIC sponsors major
25 campus fraternity/sorority traditions, including Pillars Week, which UC REGENTS' website
26 for UC Riverside describes as an "annual spring quarter tradition that unites all fraternities
27 and sororities to promote community pride while engaging in meaningful community service

1 and fun team-building events”. The FSIC recognizes the achievements of individual
2 fraternities/sororities and their members through its Pillars Banquet Awards program, and
3 hosts educational and leadership workshops, presentations, and trainings to build skills for
4 students’ success. At the beginning of winter quarter, the FSIC hosts a Fraternity and Sorority
5 Leadership Retreat, which UC REGENTS’ website for UC Riverside describes as an event
6 that emphasizes team building, leadership development, values-based decision making,
7 effective communication, and community development. Every quarter, the FSIC also hosts a
8 New Member Summit, which UC REGENTS’ website for UC Riverside describes as a series
9 of educational workshops for students who join a fraternity or sorority in that quarter that
10 provides the opportunity to meet fellow new members, understand shared values, and learn
11 what to expect as a new member. UC REGENTS’ website for UC Riverside further states that
12 “Conferences are hosted on campus, regionally and nationally to provide members with
13 further opportunities to explore the realm of leadership”.

14 69. Upon information and belief, student organizations at the UC Riverside
15 campus of UC REGENTS, including CHAPTER and other fraternities and sororities at UC
16 Riverside, receive a number of benefits, including access to a Student Organization Workroom
17 and other rooms on campus, access to a bank account and mailbox, access to materials for
18 flyers, posters, and banners, and graphic design services, funding through student government,
19 coverage by the university insurance program, and the ability to participate in campus events
20 like tabling at large events. Student organizations at UC Riverside, have dedicated Student
21 Life Advisors that meet with the organizations when they have questions, and assist with
22 fundraising, event planning, and management of intergroup problems. The Office of Student
23 Life also provides a template for a student organization’s constitution and bylaws.

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FIRST CAUSE OF ACTION
WRONGFUL DEATH – NEGLIGENCE, VIOLATIONS OF PENAL CODE § 245.6,
CIVIL CODE §§ 43 and 52.1, ASSAULT AND BATTERY, NEGLIGENT HIRING,
SUPERVISION AND RETENTION
(Against All Defendants)

70. Plaintiffs restate and incorporate by this reference as if fully set forth herein each and every allegation contained in every paragraph of this Complaint.

71. All claims asserted herein against UC REGENTS are presented pursuant to UC REGENTS’ vicarious liability for acts and omissions of public employees undertaken in the course and scope of their employment pursuant to California Government Code §§ 815.2(a) and 820. All claims asserted herein against UC REGENTS are further presented pursuant to the special relationship between UC REGENTS and TYLER established in *Regents of the University of California v. Superior Court* (2018) 4 Cal.4th 607.

72. In 2018, TYLER was entering his junior year and pursuing a major in Business. Based on its reputation of service to the community, he sought to join the ALPHA fraternity and began pledging with defendant CHAPTER at UC Riverside.

73. ALPHA, CHAPTER, and ALPHA WEST, and UC REGENTS, through its students and its employee/agent Ed, subjected TYLER and other student pledges to various forms of torturous initiation rituals and activities. TYLER was punched, slapped, and paddled daily. Compounding this beating, around September 2018, Defendants continued to subject TYLER to initiation rituals such as requiring him and his Line Brothers to eat an “Alpha Apple” in one sitting. Shortly after, TYLER began feeling sick and needed medical attention. Defendants were aware that TYLER had to be admitted into the hospital emergency room because of cardiac related symptoms.

74. Nonetheless, Defendants required TYLER to continue participating in hazing rituals and activities that included physical abuse, and psychological torture such as sleep deprivation, as well as other forms of mental and physical exhaustion. On or around September

1 15, 2018, TYLER and other pledges were forced to hike Mount Rubidoux as part of the hazing
2 requirements necessary for being accepted into the CHAPTER of the ALPHA fraternity.

3 75. While at Mount Rubidoux, Defendants and each of them, coerced, threatened and
4 intimidated TYLER and other pledges to participate in activities meant to mentally, physically,
5 and emotionally break them down, including pushing them to exhaustion, and causing physical
6 harm. Additionally, on information and belief, TYLER was kicked in the chest during these
7 unlawful and abusive hazing activities.

8 76. TYLER was subjected to lengthy hazing rituals that lasted for several weeks, if
9 not months, culminating in his final death march at Mount Rubidoux on September 15, 2018 and
10 his death on September 16, 2018. Agents of Defendants CHAPTER, ALPHA, ALPHA WEST,
11 and UC REGENTS knew, or should have known, that they were subjecting TYLER to harmful,
12 life-threatening conditions in a coercive, abusive fashion, and persisted in doing so despite clear
13 signs of the harm it was causing TYLER and the dangers such actions presented.

14 77. On September 15, 2018, after TYLER's death march, a CHAPTER Pledge Master
15 named Dijon Gatewood or "DJ" called KIMBLE from TYLER's phone. DJ informed KIMBLE
16 that an emergency room doctor was on the line and needed to talk to her about TYLER. The
17 emergency room doctor informed KIMBLE that she and TYLER's family should rush to the
18 hospital immediately. When KIMBLE and TYLER's family arrived at the hospital, they
19 discovered TYLER on a ventilator in the Intensive Care Unit. TYLER passed away the next day,
20 September 16, 2018.

21 78. On information and belief, at all times relevant to the acts and omissions alleged
22 in this Complaint, UC REGENTS' employee/agent Ed was the Fraternity and Sorority Advisor
23 and Interim Fraternity and Sorority Coordinator at the UC Riverside campus of UC REGENTS,
24 was an active alumnus member of ALPHA and CHAPTER, was aware that CHAPTER had a
25 history of hazing its pledges, knew that CHAPTER was pledging students during the time of his
26 employment by UC REGENTS, and knew that CHAPTER was subjecting pledges to hazing
27 during the pledge process. Ed was fully cognizant of CHAPTER's illegal hazing, and failed to

1 protect TYLER and the other students who were pledging CHAPTER from the illegal hazing or
2 stop the illegal hazing.

3 79. On information and belief, Ed received daily deference calls from the pledges of
4 CHAPTER, required the pledges of CHAPTER to conduct errands for him, and was present
5 during and participated in the beatings the pledges of CHAPTER were subjected to during
6 CHAPTER's pledge process on at least one occasion, and on information and belief, multiple
7 other occasions. In receiving deference calls from the pledges, requiring the pledges to conduct
8 errands for him, and being present during and participating in at least one of the beatings the
9 pledges were subjected to during CHAPTER's pledge process, Ed authorized, permitted,
10 approved of, and/or participated in the illegal hazing of the pledges, aided, abetted, and/or
11 encouraged the illegal hazing of the pledges by other members of CHAPTER, and used the
12 authority of his role and position as the Fraternity and Sorority Advisor and Interim Fraternity
13 and Sorority Coordinator at UC Riverside to facilitate the illegal hazing of the pledges and protect
14 CHAPTER from the consequences of its illegal hazing activities.

15 80. At all relevant times, defendant CHAPTER existed as the local chapter of the
16 ALPHA national fraternity at UC REGENTS and was chartered and allowed to exist by ALPHA.
17 ALPHA, CHAPTER, and ALPHA WEST retained significant control over CHAPTER through
18 ALPHA's rules and laws, and the use of alumni and regional advisors who are supposed to
19 regularly check and report on CHAPTER's activities and whether CHAPTER followed ALPHA's
20 mandates. UC REGENTS exercised significant control over the activities and conduct of
21 CHAPTER and its members through a multitude of policies, regulations, and requirements that
22 applied to student organizations at UC Riverside generally, and to fraternities and sororities at
23 UC Riverside specifically, including CHAPTER, as described in the foregoing paragraphs of this
24 Complaint. UC REGENTS also exercised significant control over CHAPTER through the Office
25 of Student Life and the Fraternity and Sorority Involvement Center on its UC Riverside campus.

26 81. Defendants, and each of them, owed statutory, common law and assumed duties
27 to protect TYLER from its officers, members and associate members' violent, coercive, and

1 intimidating actions as well as negligent conduct and activities that posed an unreasonable risk of
2 harm to him. Defendants, and each of them, breached their duty of care by negligently allowing
3 their employees and agents to engage in abusive and/or negligent conduct and activities while
4 acting as employees, agents, and/or representatives of CHAPTER, ALPHA, ALPHA WEST, and
5 UC REGENTS.

6 82. UC REGENTS owed a duty to protect TYLER from foreseeable acts of violence
7 pursuant to the special relationship between UC REGENTS and TYLER established in *Regents*
8 *of the University of California v. Superior Court* (2018) 4 Cal.4th 607. At all times relevant to the
9 acts and omissions alleged in this Complaint, UC REGENTS owed a duty to protect TYLER from
10 foreseeable acts of violence while TYLER was engaged in activities that were part of UC
11 REGENTS' and/or UC Riverside's curriculum, activities that were tied to UC REGENTS' and/or
12 UC Riverside's curriculum, activities that were closely related to UC REGENTS' and/or UC
13 Riverside's delivery of educational services, activities sponsored by UC REGENTS and/or UC
14 Riverside over which UC REGENTS and/or UC Riverside had some measure of control, and
15 other activities involving student behavior over which UC REGENTS and/or UC Riverside had
16 a significant degree of control.

17 83. As set forth in the foregoing paragraphs of this Complaint, at all relevant times,
18 UC REGENTS considered student involvement and membership in student organizations at UC
19 Riverside, including student involvement and membership in CHAPTER and other fraternities
20 recognized by UC Riverside, to be a co-curricular activity. UC REGENTS promoted, encouraged,
21 and supported student involvement and membership in fraternities and sororities recognized by
22 UC Riverside, including CHAPTER, in a manner sufficient to render fraternity/sorority
23 involvement and membership a school-sponsored activity, and establish a close relationship
24 between fraternity/sorority involvement and membership and UC REGENTS' delivery of
25 educational services. UC REGENTS exercised a significant amount of control and oversight over
26 the activities and conduct of CHAPTER and members of CHAPTER, including the activities and
27 conduct of CHAPTER and members of CHAPTER during the new member recruitment, intake,

1 and pledge processes. Accordingly, UC REGENTS owed a duty to protect TYLER from
2 foreseeable acts of violence during CHAPTER's recruitment, intake, and pledge process and
3 other activities. UC REGENTS breached the duty it owed to TYLER by failing to protect TYLER
4 from the foreseeable acts of violence he was subjected to during CHAPTER's recruitment, intake,
5 and pledge process and other activities.

6 84. As a direct and proximate result of the abusive conduct, negligence and
7 carelessness of Defendants, and each of them, TYLER died. The conduct of Defendants also
8 constitutes violations of Penal Code § 245.6 for hazing and Civil Code §§ 43 and 52.1 and
9 Defendants are also liable for assault and battery and negligent hiring, supervision, and retention
10 as alleged below.

11 85. As a direct and proximate result of the abusive conduct, negligence, carelessness,
12 recklessness, wantonness, and unlawfulness of Defendants, and each of them, and the resulting
13 incident, Plaintiffs sustained injuries and damages, including general damages in a sum within
14 the jurisdiction of this court and to be shown according to proof.

15 86. As a further direct and proximate result of Defendants' negligence and wrongful
16 conduct, Plaintiffs KIMBLE and HILLIARD were required to incur medical care and burial costs
17 for TYLER and have suffered a loss of TYLER'S future financial support, economic support,
18 financial contributions, personal services and professional services, all of their economic and
19 special damage in an amount to be proven at time of trial.

20 87. As a further direct and proximate result of the negligence and wrongful conduct of
21 Defendants, and each of them, Plaintiffs KIMBLE and HILLIARD have and continue to suffer
22 the loss of TYLER'S love, companionship, comfort, gifts, benefits, society, solace, moral support,
23 physical assistance, assistance, protection, guidance, affection, all of their general damages in an
24 amount to be proven at time of trial. Plaintiffs KIMBLE and HILLIARD have also suffered and
25 will continue to suffer, severe emotional distress, economic losses and related damages.

26 88. Plaintiffs are informed and believe and thereby allege that DOES 1-100,
27 Defendants' employees, staff, agents, members, and/or administrators, were at all times relevant

1 acting within the course and scope of their employment and agency with CHAPTER and ALPHA,
2 UC REGENTS, and ALPHA WEST.

3 89. As a direct and proximate result of the conduct, negligence and carelessness of
4 Defendants, and each of them, TYLER suffered and ultimately died.

5 90. Plaintiffs are seeking wrongful death damages under this claim in the amount to
6 be proven at trial.

7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF CALIFORNIA PENAL CODE 245.6 (Hazing)**

9 **(Against All Defendants)**

10 91. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
11 and every allegation contained in paragraphs 1 to 88 of this Complaint.

12 92. Section 245.6 makes it unlawful to haze, which is defined as “any method of
13 initiation into a student organization or student body, whether or not the organization is officially
14 recognized by an educational institution, which is likely to cause serious bodily injury to any
15 former, current, or prospective student of any school, community college, college, university, or
16 other educational institution in this state.” It also provides a private right of action against any
17 organization to which a student is seeking membership “whose agents, directors, trustees,
18 managers, or officers authorized, requested, commanded, participated in, or ratified the hazing.”

19 93. Defendants’ “initiation hike” at Mount Rubidoux constituted hazing, and was one
20 of the many hazing rituals that CHAPTER subjected TYLER to as a condition precedent of
21 becoming a full member in the ALPHA fraternity. The “initiation hike” was part of a continuous
22 pattern and practice of physical, emotional and mental abuse.

23 94. On information and belief, UC REGENTS’ employee/agent Ed, who at all relevant
24 times was the Fraternity and Sorority Advisor and Interim Fraternity and Sorority Coordinator at
25 the UC Riverside campus of UC REGENTS, received daily deference calls from the pledges of
26 CHAPTER, required the pledges of CHAPTER to conduct errands for him, and was present
27 during and participated in the beatings the pledges of CHAPTER were subjected to during

1 CHAPTER's pledge process on at least one occasion and, on information and belief, multiple
2 other occasions. In receiving deference calls from the pledges, requiring the pledges to conduct
3 errands for him, and being present during and participating in at least one of the beatings the
4 pledges were subjected to during CHAPTER's pledge process, Ed authorized, participated in, and
5 ratified the illegal hazing of the pledges, and aided, abetted, and encouraged the illegal hazing of
6 the pledges by other members of CHAPTER.

7 95. As a direct and proximate result of the conduct of Defendants, and each of them,
8 Plaintiffs KIMBLE and HILLIARD suffered significant and profound damages, including the
9 loss of TYLER'S love, companionship, comfort, gifts, benefits, society, solace, moral support,
10 physical assistance, assistance, protection, guidance, affection, all of their general damages in an
11 amount to be proven at time of trial.

12 96. Further, because the wrongful acts against Plaintiffs were carried out or ratified by
13 directors, officers and/or managing agents for Defendants, acting with malice, oppression or
14 fraud, or were deliberate, willful and in conscious disregard of the probability of causing injury
15 to Plaintiffs, as demonstrated by their actions and as described earlier in this Complaint, Plaintiffs
16 seek punitive damages against (non-public entity) Defendants, ALPHA, ALPHA WEST, and
17 CHAPTER in order to deter them from such and similar conduct in the future.

18 **THIRD CAUSE OF ACTION**
19 **VIOLATION OF CIVIL CODE § 43**
20 **(Against All Defendants)**

21 97. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
22 and every allegation contained in paragraphs 1 to 95 of this Complaint.

23 98. All claims asserted herein against UC REGENTS are presented pursuant to UC
24 REGENTS' vicarious liability for acts and omissions of public employees undertaken in the
25 course and scope of their employment pursuant to California Government Code §§ 815.2(a) and
26 820. All claims asserted herein against UC REGENTS are further presented pursuant to the
27 special relationship between UC REGENTS and TYLER established in *Regents of the University*

1 *of California v. Superior Court* (2018) 4 Cal.4th 607.

2 99. California Civil Code § 43, provides that “[b]esides the personal rights mentioned
3 or recognized in the Government Code, every person has, subject to the qualifications and
4 restrictions provided by law, the right of protection from bodily restraint or harm, from personal
5 insult, from defamation, and from injury to his personal relations.”

6 100. As alleged herein, and in violation of California Civil Code § 43, Defendants UC
7 REGENTS, ALPHA, CHAPTER and ALPHA WEST, and Does 1-100 and each of them, failed
8 to protect TYLER from violence and bodily harm during CHAPTER’s pledge process, including
9 by failing to act on TYLER’s apparent need for medical attention until it was too late and/or
10 continuing to subject TYLER to continued torture, physical exertion, assault, attacks, pressure,
11 humiliation, and harm.

12 101. Plaintiffs are informed and believe, thereby allege that ALPHA’s and
13 CHAPTER’s requirement that TYLER participate in their well known, but secretive initiation
14 rituals that are tortuous, humiliating, painful, and dangerous, violate § 43 of the California Civil
15 Code.

16 102. Defendants’ conduct towards TYLER caused physical pain and suffering leading
17 to his death and caused Plaintiffs harm and to suffer and continue to suffer severe emotional and
18 mental distress, anguish, fright, shock, pain, discomfort and anxiety.

19 103. As a direct and proximate cause of the aforementioned acts of Defendants,
20 KIMBLE and HILLIARD were injured as set forth above and are entitled to damages, including
21 the loss of TYLER’S love, companionship, comfort, gifts, benefits, society, solace, moral support,
22 physical assistance, assistance, protection, guidance, affection, all of their general damages in an
amount to be proven at time of trial.

23 104. Further, because the wrongful acts against Plaintiffs were carried out or ratified by
24 directors, officers and/or managing agents for Defendants, acting with malice, oppression or fraud,
25 or were deliberate, willful and in conscious disregard of the probability of causing injury to
26 Plaintiffs, as demonstrated by their actions and as described earlier in this Complaint, Plaintiffs
27

1 seek punitive damages against (non-public entity) Defendants, ALPHA, ALPHA WEST, and
2 CHAPTER in order to deter them from such and similar conduct in the future.

3 **FOURTH CAUSE OF ACTION**

4 **VIOLATION OF CALIFORNIA CIVIL CODE § 52.1**

5 **(Against All Defendants)**

6 105. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
7 and every allegation contained in paragraphs 1 to 103 of this Complaint.

8 106. All claims asserted herein against UC REGENTS are presented pursuant to UC
9 REGENTS' vicarious liability for acts and omissions of public employees undertaken in the
10 course and scope of their employment pursuant to California Government Code §§ 815.2(a) and
11 820.

12 107. As alleged above, Defendants' employees, agents, representatives, and/or members
13 engaged in threats, intimidation, coercion and violence violating TYLER's civil rights, guaranteed
14 by the Bane Civil Rights Act, the California Constitution and the laws of the State of California,
15 including Civil Code § 43 and Penal Code § 245.6.

16 108. Prior to the death of TYLER, the employees, agents, representatives, and/or
17 members of defendants, and each of them, made threats of and engaged in violence against
18 TYLER thereby causing a reasonable belief that the defendants would commit further violence
19 against TYLER if he exercised his constitutionally protected rights, including his First
20 Amendment right to free speech, and his other rights, including his right of protection from bodily
21 restraint or harm, from personal insult, from defamation, and from injury to his personal relations
22 under Civil Code § 43 and his right to not be subjected any method of initiation into a student
23 organization or student body which is likely to cause serious bodily injury under Penal Code §
24 245.6.

25 109. At all times herein mentioned, the employees, agents, representatives, and/or
26 members of Defendants, and each of them, had the apparent ability to carry out threats of violence
27 against TYLER.

1 110. At all times herein mentioned, the employees, agents, representatives, and/or
2 members of defendants acted violently against TYLER to prevent him from exercising his
3 Constitutionally protected rights including his First Amendment right to free speech, and also
4 violated Civil Code § 43 and Penal Code § 245.6 in doing so, and more specifically the employees,
5 agents, representatives, and/or members of defendants acted violently toward TYLER, and the
6 other pledges of CHAPTER, to prevent them from speaking about the pledging and initiation
7 activities of CHAPTER and ALPHA.

8 111. Further, because the wrongful acts against TYLER were carried out or ratified by
9 directors, officers and/or managing agents for Defendants, acting with malice, oppression or fraud,
10 or were deliberate, willful and in conscious disregard of the probability of causing injury to
11 TYLER, as demonstrated by their actions and as described earlier in this Complaint, Plaintiffs
12 seeks punitive damages against (non-public entity) Defendants, ALPHA, ALPHA WEST, and
13 CHAPTER in order to deter them from such and similar conduct in the future.

14 112. Defendants knew or should have known, that the hazing conduct to which TYLER
15 was subjected, has been done in the past to other ALPHA and CHAPTER pledges, has historically
16 been done for decades, and is dangerous, causing injuries, sickness, and fatalities in the past.

17 113. As a direct and proximate result of the conduct of Defendants' employees, agents,
18 representatives, and members, Plaintiffs suffered damages in a sum according to proof, and are
19 entitled to damages, statutory damages, treble damages, attorneys' fees and costs provided for by
20 Civil Code §§52 and 52.1.

21 **FIFTH CAUSE OF ACTION**
22 **SURVIVAL/WRONGFUL DEATH – ASSAULT AND BATTERY**
23 **(Against All Defendants)**

24 114. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
25 and every allegation contained in paragraphs 1 to 112 of this Complaint.

26 115. All claims asserted herein against UC REGENTS are presented pursuant to UC
27 REGENTS' vicarious liability for acts and omissions of public employees undertaken in the

1 course and scope of their employment pursuant to California Government Code §§ 815.2(a) and
2 820.

3 116. Employees, agents, representatives, and/or members of Defendants ALPHA,
4 CHAPTER, and ALPHA WEST, while acting within the course and scope of their duties,
5 intentionally battered and assaulted TYLER to death. As a result of the actions by the employees,
6 agents, representatives, and/or members of Defendants, TYLER ultimately died from his injuries.

7 117. On information and belief, UC REGENTS' employee/agent Ed, who at all relevant
8 times was the Fraternity and Sorority Advisor and Interim Fraternity and Sorority Coordinator at
9 the UC Riverside campus of UC REGENTS, was present during and participated in the beatings
10 the pledges of CHAPTER were subjected to during CHAPTER's pledge process on at least one
11 occasion, and on information and belief, multiple other occasions. In being present during and
12 participating in at least one of the beatings the pledges were subjected to during CHAPTER's
13 pledge process, Ed aided, abetted, and encouraged the assault and battery of the pledges by other
14 members of CHAPTER.

15 118. As a direct and proximate result of conduct of Defendants' employees, agents,
16 representatives, and/or members, as alleged above, Plaintiffs have been deprived of the life-long
17 love, companionship, comfort, support, society, care and sustenance of TYLER, and will continue
18 to be so deprived for the remainder of their natural lives. Plaintiffs also are claiming funeral and
19 burial expenses, loss of gifts and benefits and loss of financial support.

20 119. UC REGENTS is vicariously liable for the wrongful acts of its employees and
21 agents, including its Fraternity and Sorority Advisor and Interim Fraternity and Sorority
22 Coordinator Ed, pursuant to section 815.2(a) of the California Government Code, which provides
23 that a public entity is liable for injuries caused by its employees within the scope of the
24 employment if the employee's act would subject him or her to liability.

25 120. The conduct of Defendants' employees, agents, representatives, and/or members
26 was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of
27 TYLER, entitling Plaintiffs to an award of exemplary and punitive damages against the (non-

1 public entity) Defendants, ALPHA, ALPHA WEST, and CHAPTER.

2 121. TYLER survived for a period of time and, therefore, suffered extreme and physical
3 and mental pain prior to his horrible death.

4 122. Plaintiffs are seeking exemplary and punitive damages from the (non-public
5 entity) Defendants, ALPHA, ALPHA WEST, and CHAPTER in an amount according to proof at
6 trial in excess of the jurisdictional minimum of this Court.

7 **SIXTH CAUSE OF ACTION**
8 **WRONGFUL DEATH – NEGLIGENT HIRING, SUPERVISION AND RETENTION**
9 **(Against All Defendants)**

10 123. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
11 and every allegation contained in paragraphs 1 to 120 of this Complaint.

12 124. All claims asserted herein against UC REGENTS are presented pursuant to UC
13 REGENTS’ vicarious liability for acts and omissions of public employees undertaken in the
14 course and scope of their employment pursuant to California Government Code §§ 815.2(a) and
15 820.

16 125. Defendants ALPHA, CHAPTER, ALPHA WEST, and the individual employees
17 and agents of Defendant UC REGENTS, owed a duty to hire train, and supervise chapter officers
18 and/or employees such that they were competent and capable of performing the job to which they
19 were employed. Plaintiffs are informed and believe and thereon allege that, in doing the acts as
20 heretofore alleged, Defendants ALPHA, CHAPTER, ALPHA WEST, and the individual
21 employees and agents of Defendant UC REGENTS who hired, trained, and supervised Ed, knew
22 or in the exercise of reasonable diligence should have known that the agents and/or employees
23 were incompetent, poorly trained, poorly supervised, and unfit to perform the duties for which
24 they were employed. Additionally, Defendants ALPHA, CHAPTER, ALPHA WEST, and the
25 individual employees and agents of Defendant UC REGENTS who hired, trained, and supervised
26 Ed, knew or in the exercise of reasonable diligence should have known that their agents and/or
27 employees did not have the sufficient skill or training to properly supervise the new member

1 recruitment, intake, and pledge processes of the CHAPTER of ALPHA at UC Riverside to ensure
2 that unlawful hazing did not happen at the UC Riverside campus of UC REGENTS.

3 126. Despite this advance warning of the lack of skill and training of their agents and/or
4 employees, Defendants ALPHA, CHAPTER, ALPHA WEST, and the individual employees and
5 agents of Defendant UC REGENTS who hired, trained, and supervised Ed, breached their duty
6 of care by hiring deficient employees and failing to adequately train and test them on their
7 knowledge and ability to make decisions regarding unlawful hazing. Indeed, individual
8 employees and agents of UC REGENTS hired Ed, who was a member of the CHAPTER and a
9 product of the CHAPTER's illicit hazing, to supervise or otherwise oversee the CHAPTER and
10 other fraternities at UC REGENTS. In doing so, Defendants and DOES 1-100 acted without
11 reasonable regard of the rights and safety of TYLER.

12 127. Defendants ALPHA, CHAPTER, ALPHA WEST, and the individual employees
13 and agents of Defendant UC REGENTS who hired, trained, and supervised Ed, owed a duty to
14 hire train, and supervise employees such that they were competent and capable of performing the
15 job to which they were employed. Plaintiffs are informed and believe and thereon allege that, in
16 doing the acts as heretofore alleged, Defendants ALPHA, CHAPTER, ALPHA WEST, and the
17 individual employees and agents of Defendant UC REGENTS who hired, trained, and supervised
18 Ed, knew or in the exercise of reasonable diligence should have known that CHAPTER has a
19 history of unlawful hazing at UC REGENTS and their agents and/or employees were
20 incompetent, poorly trained, poorly supervised, and unfit to perform the duties for which they
21 were employed, and subjected TYLER and the other pledges to undue risk because of their
22 employment/agency. Additionally, Defendants UC REGENTS, ALPHA, CHAPTER, ALPHA
23 WEST knew or in the exercise of reasonable diligence should have known, that CHAPTER,
24 through Ed, Jackson, and Swanson, did not have the sufficient skill or training to properly
25 supervise the CHAPTER to ensure no hazing occurred within the CHAPTER.

26 128. Despite this advance warning of the lack of skill and training, ALPHA,
27 CHAPTER, ALPHA WEST, and the individual employees and agents of Defendant UC

1 REGENTS who hired, trained, and supervised Ed, breached their duty of care by approving the
2 hiring of deficient vendors, agents, and/or employees and failing to adequately train and test them
3 on their knowledge and ability to make decisions regarding the approval of and supervision of
4 CHAPTER. In doing so, Defendants and DOES 1-100 acted without reasonable regard of the
5 rights and safety of TYLER.

6 129. As a direct and proximate result of the herein-described negligence of Defendants
7 ALPHA, CHAPTER, ALPHA WEST, and the individual employees and agents of Defendant UC
8 REGENTS who hired, trained, and supervised Ed, TYLER was unlawfully hazed to the point of
9 extreme sleep deprivation, pain, exhaustion, dehydration, and, as a result, foreseeably died on
10 September 16, 2018. These actions by Defendants ALPHA, CHAPTER, ALPHA WEST and the
11 individual employees and agents of Defendant UC REGENTS who hired, trained, and supervised
12 Ed constituted a breach of their duty to TYLER and Plaintiffs.

13 130. Defendants' breach of duty as alleged herein is a substantial factor in causing the
14 injuries and damages suffered by TYLER and Plaintiffs herein. Prior to TYLER's wrongful death,
15 he was a source of love, companionship, comfort, care, assistance, protection, affection, society,
16 moral support, financial support, gifts and benefits, training and guidance to Plaintiffs.

17 131. As a direct and proximate result of the Defendants' and DOES 1-100's negligence,
18 Plaintiffs have been deprived of the love, companionship, comfort, care, assistance, protection,
19 affection, society, moral support, financial support, gifts and benefits, training and guidance of
20 TYLER; and are therefore entitled to said damages pursuant to Code of Civil Procedure § 377.61
21 in an amount to be proven at trial.

22 132. Defendants UC REGENTS, ALPHA, CHAPTER, ALPHA WEST are jointly and
23 severally liable for their negligence and the negligence of their individual employees, agents, and
24 representatives that proximately caused TYLER's death.

PRAYER FOR RELIEF

25 WHEREFORE, PLAINTIFFS KIMBLE AND HILLIARD PRAY FOR JUDGMENT
26 AGAINST DEFENDANTS, AND EACH OF THEM, AS FOLLOWS:

- 1 A. For economic damages according to proof;
- 2 B. For general, special and incidental damages and amounts for emotional distress
- 3 according to proof;
- 4 C. For punitive damages in an amount appropriate to punish Defendants, except UC
- 5 REGENTS, for their wrongful conduct and set an example for others;
- 6 D. For funeral and burial expenses;
- 7 E. For hospital, medical, professional and incident expenses;
- 8 F. For prejudgment interest and interest on the sum of damages awarded to the
- 9 maximum extent permitted by law;
- 10 G. For an injunction against hazing, initiation rituals in the future;
- 11 H. Attorneys' fees;
- 12 I. Statutory damages, including damages pursuant to Civil Code §§52(b)(2),
- 13 52(b)(3) and 52.1(b);
- 14 J. For costs of suit herein incurred; and
- 15 K. For such other and further relief as the Court deems proper.

16 **V. JAMES DESIMONE LAW**

17 **TONI JARAMILLA, APLC**

18 **IVIE McNEILL WYATT PURELL & DIGGS**

19 Date: October 19, 2021

By: /s/ Rodney S. Diggs

20 V. JAMES DESIMONE, ESQ.

21 CARMEN D. SABATER, ESQ.

22 TONI J. JARAMILLA, ESQ.

23 MAY MALLARI, ESQ.

24 RODNEY S. DIGGS, ESQ.

25 Attorneys for Plaintiffs

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DEMAND FOR JURY TRIAL

Plaintiffs MYEASHA KIMBLE and WILLIAM HILLIARD hereby demand a trial by jury on all claims.

**V. JAMES DESIMONE LAW
TONI JARAMILLA, APLC
IVIE McNEILL WYATT PURELL & DIGGS**

Date: October 19, 2021

By: /s/ Rodney S. Diggs
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 444 South Flower Street, Suite 1800, Los Angeles, California, 90071.

On **October 19, 2021** I served the foregoing document described as **THIRD AMENDED COMPLAINT BY PLAINTIFFS MYEASHA KIMBLE AND WILLIAM HILLIARD FOR GENERAL DAMAGES** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes as addressed on the attached mailing list:

SEE ATTACHED SERVICE LIST

- ONLY BY ELECTRONIC SERVICE:** By e-mailing the document(s) to the persons at the e-mail address(es). Pursuant to California Code of Civil Procedure 1010.6 (a) (2) & (e).
- BY FACSIMILE TRANSMISSION AND ELECTRONIC SERVICE:** I caused such documents to be transmitted to the offices of the addressee via facsimile machine, on the date specified above. The facsimile machine telephone number I used, (213) 489-0028, was in compliance with Rule 2003(3) and the transmission was reported as complete without error. Pursuant to Rule 2008(e), I caused a copy of the transmission report to be properly issued by the transmitting facsimile machine.
- BY FEDERAL EXPRESS/OR OTHER OVERNIGHT DELIVERY:** I am “readily familiar” with the firm’s practice of collection and processing correspondence for Federal Express or other overnight delivery service. Under that practice, it would be picked up by a representative on that same day, in the ordinary course of business and would be delivered the next business day.

[✓] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **October 19, 2021**, Los Angeles, California.

/s/ Le Chaune Metoyer
Le Chaune Metoyer

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(ERRONEOUSLY SUED AS REGENTS OF THE UNIVERSITY OF CALIFORNIA)