

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

COUNTY OF PICKENS

2015 AUG 3 PM 12 51

CASE NO.: 2015-CP-39-422

Cynthia Tucker Hipps, individually and as the
Personal Representative of the Estate of Tucker
William Hipps and Gary M. Hipps, Jr.,
individually, **CLERK OF COURT**
PICKENS COUNTY
SOUTH CAROLINA

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

MOTION AND ORDER INFORMATION

Thomas Carter King, Campbell T. Starr, Samuel
Quillen Carney, South Carolina Beta Chapter of
Sigma Phi Epsilon, Sigma Phi Epsilon Fraternity,
Inc., and Clemson University,

Plaintiff,)
vs.)
)
Defendant.)

FORM AND COVERSHEET

Plaintiff's Attorney:
Jennifer Spragins Burnett, Bar No. 69617
Address:
PO Box 35
Anderson, SC 29622
Phone: (864) 964-0333 Fax (864) 964-0930
E-mail: _____ Other: _____

Defendant's Attorney:
Sterling Davies
Jim Ewbank
Wilson Sheldon
Troy A Tessier
Alex Timmons
Robert Davis
Carrie O'Brien, Bar No. _____
Address:
Phone: _____ Fax _____
E-mail: _____ Other: _____

MOTION HEARING REQUESTED (attach written motion and complete **SECTIONS I and III**)
 FORM MOTION, NO HEARING REQUESTED (complete **SECTIONS II and III**)
 PROPOSED ORDER/CONSENT ORDER (complete **SECTIONS II and III**)

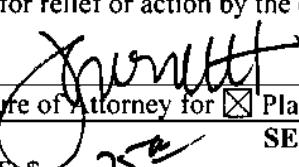
SECTION I: Hearing Information

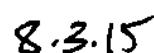
Nature of Motion: Motion to Amend
Estimated Time Needed: 15-20 min Court Reporter Needed: YES NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Plaintiff / Defendant


Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ 25
 EXEMPT:
 (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other:

JUDGE'S SECTION 2015 AUG 3 PM 12 51

Motion Fee to be paid upon filing of the attached JUDGE CODE _____
order.
 Other: CLERK OF COURT
RICK DAVIS COUNTY

CLERK'S VERIFICATION
SOUTH CAROLINA

Collected by: MB Date Filed: _____

MOTION FEE COLLECTED: \$ 25
 CONTESTED - AMOUNT DUE: \$ 30557

SCCA 233 (11/2003)

2015 AUG 3 PM 12 51

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

IN THE COURT OF COMMON PLEAS

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Cynthia Tucker Hipps, Individually and as the Personal Representative of the Estate of Tucker William Hipps, and Gary M. Hipps Jr., Individually

C.A. NO. 2015-CP-39-421 (SA)

C.A. NO. 2015-CP-39-422 (WD)

Plaintiff,

vs.

Thomas Carter King, Campbell T. Starr, Samuel Quillen Carney, South Carolina Beta Chapter of Sigma Phi Epsilon, Sigma Phi Epsilon Fraternity, Inc., and Clemson University

Defendants.

PLAINTIFFS' MOTION TO AMEND THE COMPLAINTS

The Plaintiffs, Cynthia Tucker Hipps and Gary M. Hipps, respectfully request leave of this Court to file Amended Complaints in the above captioned matters. The bases of these Motions are as follows:

- 1) The Plaintiffs filed their Complaints on or about March 30, 2015.
- 2) At the time the Plaintiffs filed their Complaints, certain facts about the circumstances surrounding the death of Tucker Hipps were unknown to the Plaintiffs.
- 3) Since the filing of the Complaints, a witness has been identified who, upon information and belief, observed the incidents on the bridge the morning of September 22, 2014.
- 4) The Plaintiffs desire to amend certain allegations contained in their Complaints regarding the manner in which Tucker Hipps lost his life.
- 5) In response to numerous filings regarding a failure to plead with specificity regarding individual Defendants, Plaintiffs are informed and believe that more specific facts are contained in the Amended Complaints which address the concerns raised in the pending motions.

- 6) In response to motions filed by the Defendants regarding the Plaintiffs' claim for Loss of Consortium, the Plaintiffs desire to amend their previous pleadings to be consistent with the Supreme Court's holding in the case of *Doe v. Greenville Co. School Dist.* 375 S.C. 63 (S.C. 2007). Plaintiffs are informed and believe that the Amended Complaints are consistent with the law of the State of South Carolina.
- 7) The Plaintiffs further desire to correct the misspelling of the names of two brothers of the Defendant fraternity which were spelled incorrectly in the initial pleadings.

The Plaintiffs respectfully request that the Court grant them leave to file and serve the Amended Complaints which are attached as Exhibit A and B respectively.



Jennifer Spragins Burnett, Esq.
Habbin & Burnett, LLP
P.O. Box 35
Anderson, SC 29655
Attorneys for Cynthia Tucker Hipps
Attorneys for Gary M. Hipps, Jr.

July 20, 2015
Anderson, South Carolina

2015 AUG 3 PM 12 51

CLERK OF COURT
RICKENS COUNTY
SOUTH CAROLINA

Exhibit A

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF COMMON PLEAS

C.A. NO. 2015-CP-39-421

Cynthia Tucker Hipps, individually and as the Personal Representative of the Estate of Tucker William Hipps and Gary M. Hipps, Jr., individually,

Plaintiffs,

v.

Thomas Carter King, Campbell T. Starr, Samuel Quillen Carney, South Carolina Beta Chapter of Sigma Phi Epsilon, Sigma Phi Epsilon Fraternity, Inc., and Clemson University,

Defendants.

**AMENDED COMPLAINT
(Survival Action)**

JURY TRIAL DEMANDED

The Plaintiffs, complaining of the Defendants herein, would respectfully show and allege unto the Court as follows:

PARTIES & JURISDICTION

1. The Plaintiff, Cynthia Tucker Hipps, ("Cynthia Hipps"), is the duly appointed, qualified, and acting Personal Representative of the Estate of her son, Tucker William Hipps, as defined by South Carolina Code Ann. § 62-3-203. Cynthia Hipps is a resident of the County of Anderson, State of South Carolina.

2. Cynthia Hipps has the authority to pursue this Action on behalf of the Estate of Tucker William Hipps pursuant to South Carolina Code Ann. § 62-3-203.
3. The Plaintiff, Gary M. Hipps, Jr., ("Mr. Hipps"), is the father of Tucker William Hipps. Mr. Hipps is a resident of the County of Anderson, State of South Carolina.
4. The Decedent, Tucker William Hipps, ("Tucker"), was the only son of Cynthia and Gary Hipps. At the time of his death, Tucker was nineteen years old and a full-time student at Clemson University. Tucker was a pledge of the Clemson University chapter of the fraternity Sigma Phi Epsilon.
5. Upon information and belief, the Defendant Thomas Carter King, ("King"), is citizen and resident of the State of North Carolina. Upon further information and belief, King is a brother in the Defendant South Carolina Beta Chapter of Sigma Phi Epsilon, ("Local Chapter"), and a student at the Defendant Clemson University. Upon information and belief, the Defendant King is an agent of the Defendants Local Chapter and Sigma Phi Epsilon Fraternity, Inc., ("SPE National").
6. Upon information and belief, at the time of the incidents giving rise to the Plaintiffs' Complaints, Defendant King was acting within the scope of his agency authority as a brother of the Local Chapter and SPE National, and engaged in conduct which is alleged to be reckless, willful, and/or grossly negligent within the meaning of South Carolina Code Ann. § 33-56-180.
7. Upon information and belief, the Defendant Samuel Quillen Carney, ("Carney"), is citizen and resident of the State of Delaware. Upon further information and belief, Carney is a brother in the Defendant Local Chapter and a student at the Defendant Clemson

University. Upon information and belief, the Defendant Carney is an agent of the Defendants Local Chapter and SPE National.

8. Upon information and belief, at the time of the incidents giving rise to the Plaintiffs' Complaints, Defendant Carney was acting within the scope of his agency authority as a brother of the Local Chapter and SPE National, and engaged in conduct which is alleged to be reckless, willful, and/or grossly negligent within the meaning of South Carolina Code Ann. § 33-56-180.

9. Upon information and belief, the Defendant Campbell T. Starr, ("Starr"), is citizen and resident of the County of Greenville, State of South Carolina. Upon further information and belief, Starr is a brother in the Defendant Local Chapter and a student at the Defendant Clemson University. Upon information and belief, the Defendant Starr is an agent of the Defendants Local Chapter and SPE National.

10. Upon information and belief, at the time of the incidents giving rise to the Plaintiffs' Complaints, Defendant Starr was acting within the scope of his agency authority as a brother of the Local Chapter and SPE National, and engaged in conduct which is alleged to be reckless, willful, and/or grossly negligent within the meaning of South Carolina Code Ann. § 33-56-180.

11. Upon information and belief, the Defendant Local Chapter is the Clemson University chapter of the Defendant SPE National. Local Chapter is a young men's fraternity which recruits pledges from the students at Clemson University. After a pledge period, some or all of the pledges are initiated as brothers of the Local Chapter. Upon information and belief, the Local Chapter is an agent of the SPE National and acts or omissions of the Local Chapter are binding upon SPE National.

12. At all times relevant, the Local Chapter acted as an agent of the Defendant SPE National.

13. Upon information and belief, the Defendant SPE National is a not for profit organization organized and existing under the laws of the State of Virginia. Upon further information and belief, SPE National is a social college fraternity for male college students in the United States. SPE National operates local chapters at certain colleges and universities, including the Defendant Clemson University.

14. At the time of the incidents giving rise to the Plaintiffs' Complaints, SPE National acted by and through its agents, contractors, and employees for the purpose of carrying on its business as a fraternity and therefore, it is liable for the negligent acts of its agents, contractors, and employees, including, but not limited to, Defendants King, Carney and Starr, under agency theories. SPE National is bound by the acts of the Local Chapter.

15. Upon information and belief, the Defendant Clemson University, is a political subdivision of the State of South Carolina within the meaning of the South Carolina Tort Claims Act codified at South Carolina Code Ann. § 15-78-30(h).

16. At the time of the incidents giving rise to the Plaintiffs' Complaints, Clemson University acted by and through its agents, contractors, and employees for the purpose of carrying on its business as an institution of higher learning and therefore, it is liable for the negligent acts of its agents, contractors, and employees, under the theories of non-delegable duty and *respondeat superior*.

17. The Plaintiffs expressly plead that the limitations of recovery set forth in the South Carolina Tort Claims Act are inapplicable as to Defendants Local Chapter, SPE National, King, Carney, and Starr, with respect to a finding that Defendants King, Carney, and Starr

acted in a reckless, willful, or grossly negligent manner in the acts or omissions giving rise to the Plaintiffs' Complaints.

18. This action is brought for damages and other appropriate relief pursuant to the statutory and common law of the State of South Carolina, and the South Carolina Tort Claims Act codified at § 15-78-10 et seq.

19. Venue is appropriate in this judicial circuit pursuant to South Carolina Code Ann. § 15-7-30 and § 15-78-100(b).

FACTS

20. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

21. Tucker Hipps was the only child of Cynthia and Gary Hipps and the last heir to carry on the Hipps name.

22. Tucker enrolled at Clemson University in the fall of 2014. Tucker was a bright young man, an accomplished high school athlete, an alumnus of Palmetto Boys State, kind and thoughtful with a contagious smile.

23. Tucker was majoring in political science, with plans to attend law school after graduation from Clemson University.

24. Tucker participated in fraternity rush and on September 5, 2014, was asked to join the pledge class of the Local Chapter.

25. Members of the Local Chapter are known as "Brothers" and new members, not yet initiated to membership are known as "Pledges." Pledges undergo a period of evaluation

and service to the Brothers before a decision is made regarding whether to allow them to be initiated as Brothers.

26. Tucker was elected Pledge Class President. In this capacity, the brothers of the Local Chapter contacted Tucker and he acted as the liaison with his pledge class.

27. Brothers of the Local Chapter often contacted Tucker to demand the assistance of Pledges for cleaning, moving furniture, picking up food, mowing grass, driving the Brothers to class, running errands, picking up girls, or anything else the Brothers desired.

28. Pledges were required to complete these tasks for the Brothers.

29. Pledges were also required to keep a “pledge pack” in their cars which included: condoms, cigarettes, and dip.

30. Pledges were consistently required to spend their own money to buy food or run errands for the Brothers.

31. Upon information and belief, the demands by Brothers of the Pledges were not optional and the Pledges could not refuse the requests. It was understood among the Brothers and the Pledges that Pledges were required to follow the instructions of the Brothers and any refusals or failures by the Pledges would result in being removed from the pledge class and the fraternity, also known as “pledge dropping.”

32. Upon information and belief, the Defendant Clemson University had investigated numerous complaints or violations of the student conduct code by the Local Chapter and other fraternities in the first month of fall semester 2014.

33. Upon information and belief, Brothers of the Local Chapter had learned that the Defendant Clemson University may suspend them from campus.

34. Upon information and belief, on or before September 20, 2014, the Defendant Clemson University planned to suspend fraternity activity or otherwise punish fraternities for “unprecedented conduct issues over the course of the first three weeks of school.” The conduct at issue was described as “hazing and sexual misconduct.”

35. Upon further information and belief, the Defendant Clemson University planned to take action at 5:30 PM on Monday September 22, 2014.

36. Upon information and belief, one of the Brothers of the Local Chapter contacted representatives of the Defendant Clemson University, asking for permission to conduct a 5:30 AM run on or about September 22, 2014.

37. Upon information and belief, a run of this type and at this time was not permitted under the SPE National Hazing Policy and the Clemson University’s Hazing Policy.

38. Upon information and belief, the Defendants King, Carney, and Starr were the Brothers organizing the run and required the Pledges to participate therein.

39. Upon information and belief, the Defendant Clemson University failed to respond to the email request regarding the September 22, 2014 run. Upon further information and belief, this failure to respond was interpreted by the Brothers as acquiescence of the request to engage in the pre-dawn run.

40. Upon information and belief, the 30 Pledges received group text messages with the following instructions: “530 be in lounge and be fucking quiet says Thomas King” and “Campbell says to wear dark clothes so [we’re] not spotted.”

41. On the evening of September 21, 2014, Tucker attended a chapter meeting until approximately 7:30 PM and then studied in the library until after midnight. During that

time, he received numerous text messages from Defendant King, Brett Fisher, and Teddy Weil regarding the September 22, 2014 run.

42. Tucker also received a text message from another Brother, Bryan Golnak, demanding that Tucker bring 30 McDonalds biscuits, 30 McDonalds hash browns, and 2 gallons of chocolate milk to the fraternity hall in the morning before the run.

43. Tucker sent a text message back indicating that he did not have enough money in his bank account to cover that many biscuits and was instructed to get his pledge brothers to help.

44. Upon information and belief, the Pledges either could not purchase the biscuits or forgot to purchase the biscuits before the run.

45. Upon information and belief, in the few hours that Tucker was able to sleep before the mandatory pre-dawn run, he was awakened by several phone calls from Brothers of the Local Chapter.

46. The Defendants King, Carney, and Starr knew or should have known that Tucker had not had adequate sleep to safely engage in the early morning run.

47. Upon information and belief, the Defendants King, Carney, and Starr gathered with Tucker and 26 Pledges at the Local Chapter dormitory, Donaldson Hall, at or near 5:30 AM on September 22, 2014. Three of the Pledges were not present at the appointed time.

48. The 27 Pledges, including Tucker, and the three Defendant Brothers headed out on a run which took them down to South Carolina Highway 93 towards Lake Hartwell. The group was apparently led by Defendant Starr throughout the run.

49. Tucker may have fallen behind during the run but at all times, Tucker was running in front of Defendant King who ran behind the group of Pledges to ensure that no one fell behind.

50. Upon information and belief, Defendants King and Carney would threaten the Pledges by saying "do not let us pass you."

51. Tucker was not intoxicated or under the influence of any substance on the morning of the run. Tucker was not intoxicated or under the influence the night before the run.

52. Tucker Hipps's toxicology results have been released by the Coroner and have been attached to this Complaint as Exhibit A. For reference, Ethanol, Methanol., Acetone, Isopropanol, Amphetamine, Benzodiazepines, carisoprodol, cocaine, methadone, methamphetamine, opiates, oxycodone, tramadol, zolpidem, and cannabinoids were all negative.

53. Upon information and belief, at or near the bridge which crosses Lake Hartwell, the Defendant King received a phone call from Brian Golnak who was "pissed off" that the Pledges had not brought the breakfast.

54. Upon information and belief, Defendant King confronted Tucker about the Pledges' failure to bring the breakfast which had been demanded of them.

55. Upon information and belief, Defendant King and Tucker had a confrontation over the Pledges' failure to bring the requested McDonalds breakfast.

56. Upon information and belief, Defendants King, Carney and Starr forced Tucker to get onto the narrow railing along the bridge and walk some distance of the bridge on top of the railing.

57. Upon information and belief, Tucker slipped from the railing and caught the railing under his arms.

58. Upon information and belief, Tucker tried to climb back onto the bridge unassisted.

59. Upon information and belief, Tucker lost his grip on the bridge and fell headfirst into the water below, striking his head on the rocks in the shallow water.

60. Upon information and belief, a long tradition existed among the members of the Local Chapter of requiring, pressuring, encouraging, and forcing Pledges to jump off of one or more bridges over Lake Hartwell and swim to shore.

61. Upon information and belief, Defendant King shined the flashlight on his cell phone into the dark waters below looking for Tucker.

62. Defendant Starr later tells police that he "knew about the [p]ledges not getting [biscuits], Tucker would be held responsible."

63. Upon information and belief, the Pledges, along with Defendants Carney and Starr, ran to the opposite side of the bridge, crossed the road, and returned back across the parallel bridge.

64. Upon information and belief, Defendant King never crossed the bridge but remained on the Pickens County side near the beginning of the bridge, shining his flashlight around the area.

65. Upon information and belief, the Defendants gathered the remaining Pledges and ran back to campus.

66. Upon information and belief, despite creating the dangerous situation which resulted in Tucker's fall, Defendants King, Carney, and Starr took no further action to discover the whereabouts of Tucker or of his wellbeing.

67. Upon information and belief, the Defendant King gave the Pledges a lecture about how "disappointed it would be if one person fell behind and they should be one unit," that the Pledges should work together to help the slower members, and reminded the Pledges that the run was "not hazing."

68. Upon information and belief, Defendant King instructed the Pledges to shower and meet at Harcombe Commons for breakfast at 7:00 AM.

69. Tucker did not attend the breakfast and was not in his morning classes.

70. Upon information and belief, Brothers and Pledges began to call around looking for Tucker.

71. Upon information and belief, at or near 11:15 AM, Defendant King wakes Defendant Starr to say that Tucker is missing.

72. Brothers and Pledges begin to drive around looking for Tucker.

73. One Pledge, Tyler Stanley, texted Tucker's girlfriend, Katie, to reassure her that Tucker had been seen in the library. He later sent a text message to the group message indicating that the text to Katie should "help [them] buy time."

74. Another Brother, Connor Sekas, told Katie that Tucker was in the library studying because "she would call his parents if she found out he [was] missing."

75. Upon information and belief, group text messages began to ask questions of Defendant King regarding why he was shining his flashlight in the woods, asking if something more happened, and asking why he waited on one side of the bridge.

76. Defendant Starr does not contact the campus police to report that Tucker is missing until 1:15 PM, over seven hours after the run.

77. Clemson University Police begin searching for Tucker.

78. Tucker's body is found floating under the Highway 93 bridge over Lake Hartwell.

79. Autopsy results later reveal that Tucker's death was a result of blunt force trauma injury. Tucker had multiple abrasions, lacerations, and contusions to his face and body, including his chest wall, palm of the hand, legs, and wrist. The coroner opined that the injuries were consistent with a downward headfirst falling injury.

80. Upon information and belief, some voluntary statements were provided to the police investigating Tucker's death.

81. Upon information and belief, the group text messages on "group me" were deleted by Teddy Wells the day Tucker died.

82. Upon information and belief, Defendant King attempted to delete all phone calls on his cellular phone from September 18 – September 25, 2014.

83. Upon information and belief, Defendant Starr attempted to delete all phone calls on his cellular phone after September 18, 2014 and switched phone numbers during the investigation.

84. Upon information and belief, Defendants King, Carney, and Starr have been deceptive and failed to be forthcoming with police regarding their knowledge of Tucker's death.

85. Upon information and belief, Defendant Clemson University publicly denied that the Local Chapter had committed any violation of hazing policy related to the pre-dawn run.

86. Upon information and belief, Defendant Clemson University terminated abruptly Gail DiSabatino, the Vice President of Student Affairs. Gail DiSabatino was responsible for the fraternities, including Local Chapter, at Clemson University.

87. Defendant Clemson University has denied that Tucker Hipps's death had anything to do with Ms. DiSabatino's termination.

88. Defendant Clemson University later suspended the Local Chapter from campus for a five year period.

89. Although the police investigation continues, the Plaintiffs continue to search for answers and mourn the loss of their son.

FIRST CAUSE OF ACTION
(NEGLIGENCE - AS TO DEFENDANTS KING, CARNEY, STARR,
LOCAL CHAPTER & SPE NATIONAL)

90. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

91. The Defendants King, Carney, Starr, Local Chapter and SPE National owed a duty of care to Tucker.

92. The Defendants knew or should have known that the acts or omissions of the Local Chapter were dangerous, negligent, grossly negligent, or in contravention of the policies and expectations of the Defendants.

93. Tucker's fall, injuries and death were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants, in the following particulars, to-wit:

- a. In requiring the Pledges to engage in a pre-dawn run;
- b. In requiring the Pledges to act in a covert fashion on the pre-dawn run, including wearing dark clothing so that they would not be seen;

- c. In requiring the Pledges, including Tucker, to engage in a pre-dawn run with inadequate rest, nutrition, and hydration;
- d. In requiring the Pledges to engage in a pre-dawn run along a major highway and across a bridge over shallow water;
- e. In failing to protect Tucker from injuries and death which were reasonably foreseeable in light of the circumstances;
- f. In continuing to engage in traditions and practices which were dangerous and put the lives of the Pledges at risk;
- g. In failing to render aid to Tucker when it became apparent that his conditions reasonably required such aid;
- h. In failing to adhere to the policies of the Local Chapter, SPE National, and Clemson University in the treatment and supervision of Pledges, including Tucker Hipps;
- i. In failing to provide education and training about the expectations and policies of SPE National;
- j. In failing to provide adequate supervision that the expectations and policies of SPE National were being followed at all times by the Local Chapter;
- k. In failing to intervene when traditions, behaviors, or activities by the Brothers of the Local Chapter provided notice that intervention was necessary;
- l. In failing to adhere to the expectations and policies of SPE National;
- m. By other negligent or grossly negligent acts and/or omissions yet to be determined or defined; and
- n. In such other particulars as may be ascertained through discovery procedures undertaken pursuant to the South Carolina Rules of Civil Procedure.

94. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina.

95. The acts and/or omissions of these Defendants as described above were negligent, grossly negligent, willful, wanton, and reckless.

96. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Tucker Hipps suffered and died, and Plaintiffs Cynthia and Gary Hipps have suffered damages as more fully set forth in the following Paragraphs of this Complaint.

SECOND CAUSE OF ACTION
**(GROSS NEGLIGENCE - AS TO DEFENDANTS KING, CARNEY, STARR,
LOCAL CHAPTER & SPE NATIONAL)**

97. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

98. During all times material to the claims herein, these Defendants' acts and omissions amounted to gross negligence, recklessness, and a willful and wanton disregard for the safety and wellbeing of Tucker Hipps. The reckless, willful and wanton acts of these Defendants include, but are not limited to, those set forth in the foregoing Paragraphs.

99. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence of the Defendants, Tucker Hipps sustained severe injuries and damages which caused his death.

100. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Tucker Hipps suffered and died, and Plaintiffs Cynthia and Gary Hipps have suffered damages as more fully set forth in the

following Paragraphs of this Complaint.

THIRD CAUSE OF ACTION
(NEGLIGENCE - AS TO DEFENDANT CLEMSON UNIVERSITY)

101. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.
102. The Defendant Clemson University owed a duty of care to Tucker.
103. The Defendant Clemson University knew or should have known that the acts or omissions of the Local Chapter were dangerous, negligent, grossly negligent, or in contravention of the policies and expectations of the Defendant.
104. Tucker's fall, injuries and death were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendant, in the following particulars, to-wit:
 - a. In failing to communicate with the Local Chapter and prohibit them from engaging in a pre-dawn run;
 - b. In failing to provide education and training about the expectations and policies of Clemson University to the Brothers of Local Chapter;
 - c. In failing to suspend immediately the activities of the Local Chapter when the Defendant knew or should have known that the Local Chapter was engaging in conduct violative of the expectations and policies of Clemson University;
 - d. In failing to take action to protect Pledges, including Tucker Hipps, from injuries and death which were reasonable foreseeable in light of the circumstances;
 - e. In failing to provide adequate supervision that the Local Chapter was adhering to the expectations and policies of the Defendant;
 - f. In failing to intervene when traditions, behaviors, or activities by the Brothers of the Local Chapter provided notice that intervention was necessary;

- g. In failing to enforce the policies of the Defendant with the Local Chapter in the treatment and supervision of Pledges, including Tucker Hipps;
- h. By other negligent or grossly negligent acts and/or omissions yet to be determined or defined; and
- i. In such other particulars as may be ascertained through discovery procedures undertaken pursuant to the South Carolina Rules of Civil Procedure.

105. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina.

106. The acts and/or omissions of this Defendant as described above were negligent, grossly negligent, willful, wanton, and reckless.

107. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of this Defendant herein, Tucker Hipps suffered and died, and Plaintiffs Cynthia and Gary Hipps have suffered damages as more fully set forth in the following Paragraphs of this Complaint.

FOURTH CAUSE OF ACTION
(NEGLIGENCE PER SE – AS TO DEFENDANTS
KING, CARNEY, AND STARR)

108. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

109. In addition to the aforementioned negligent and grossly negligent acts, these Defendants violated the South Carolina Code Ann. § 59-101-200.

110. These legislative and administrative regulations are designed to prevent injury to a class of persons to which Tucker Hipps belonged.

111. These violations by Defendants were the proximate cause of Tucker Hipps's injuries, damages, and death.

112. These Defendants were agents of the Defendants Local Chapter and SPE National and therefore, Defendants Local Chapter and SPE National are bound by the negligence *per se* of the Defendants King, Carney and Starr.

FIFTH CAUSE OF ACTION
(LOSS OF FILIAL SERVICES – AS TO ALL DEFENDANTS)

113. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

114. The Plaintiffs, Cynthia and Gary Hipps are the surviving parents of Tucker Hipps. Tucker was an only child. At the time of his death, Tucker was a full-time student and a dependent of the Plaintiffs.

115. As a direct and proximate result of the acts of negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants described herein, Plaintiffs Cynthia and Gary Hipps have suffered the loss of Tucker Hipps's services and earning capacity, consistent with the Supreme Court's holding in the case of *Doe v. Greenville Co. School Dist.* 375 S.C. 63 (S.C. 2007).

116. All of which injuries and loss caused damage to the Plaintiffs in an amount to be determined by this Court.

DAMAGES

117. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

118. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Tucker Hipps suffered numerous painful, severe, and grievous injuries to his body which caused his death.

119. In accordance with South Carolina Code Ann. § 15-5-90, and as a direct result of the Defendants' negligence and gross negligence, Cynthia Hipps, individually and as Personal Representative of the Estate of her son, and Gary Hipps, individually, have incurred the following:

- a) Conscious pain, suffering, and mental distress experienced by Tucker Hipps;
- b) Loss of enjoyment of life;
- c) Deprivation of the use and comfort of Tucker Hipps's society;
- d) Loss of Tucker Hipps's experience, knowledge, and judgment in managing his affairs;
- e) Funeral and burial expenses;
- f) Punitive damages; and
- g) Other damages yet to be determined.

120. Cynthia Hipps, individually and as Personal Representative of the Estate of her son, and Gary Hipps, individually, are entitled to recover actual and punitive damages from the Defendants in an amount as to be determined by this Court.

PUNITIVE DAMAGES

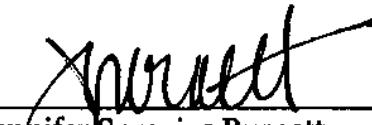
121. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

122. The acts and/or omissions of the Defendants, as stated above, were willful, wanton, and/or in reckless disregard for the safety, wellbeing, and life of Tucker Hipps.

123. As a direct and proximate result of the willful, wanton, and/or reckless acts and omissions of the Defendants, Tucker Hipps lost his life.

124. The conduct of the Defendants as set forth above justifies an award of punitive damages for each and every claim of the Plaintiffs as set forth herein.

WHEREFORE, the Plaintiffs demand a trial by jury pursuant to Rule 38(b) of the South Carolina Rules of Civil Procedure (SCRCP), and Plaintiffs pray for judgment against Defendants, for actual and punitive damages in an amount to be determined by the jury which Plaintiffs allege to be in **excess** of Twenty Five Million (\$25,000,000.00) Dollars actual damages, plus punitive damages, such allegation being made for the purpose set forth in Rule 30(h) of the SCRCP, for the costs of this action, and for such other and further relief as this Court may deem just and proper.



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Exhibit B

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF COMMON PLEAS

C.A. NO. 2015-CP-39- 422

Cynthia Tucker Hipps, individually and as the Personal Representative of the Estate of Tucker William Hipps and Gary M. Hipps, Jr., individually,

Plaintiffs,

v.

Thomas Carter King, Campbell T. Starr, Samuel Quillen Carney, South Carolina Beta Chapter of Sigma Phi Epsilon, Sigma Phi Epsilon Fraternity, Inc., and Clemson University,

Defendants.

**AMENDED COMPLAINT
(Wrongful Death Action)**

JURY TRIAL DEMANDED

The Plaintiffs, complaining of the Defendants herein, would respectfully show and allege unto the Court as follows:

PARTIES & JURISDICTION

1. The Plaintiff, Cynthia Tucker Hipps, ("Cynthia Hipps"), is the duly appointed, qualified, and acting Personal Representative of the Estate of her son, Tucker William Hipps, as defined by South Carolina Code Ann. § 62-3-203. Cynthia Hipps is a resident of the County of Anderson, State of South Carolina.

2. Cynthia Hipps has the authority to pursue this Action on behalf of the wrongful death beneficiaries pursuant to South Carolina Code Ann. § 15-51-20.

3. The Plaintiff, Gary M. Hipps, Jr., ("Mr. Hipps"), is the father of Tucker William Hipps. Mr. Hipps is a resident of the County of Anderson, State of South Carolina.

4. The Decedent, Tucker William Hipps, ("Tucker"), was the only son of Cynthia and Gary Hipps. At the time of his death, Tucker was nineteen years old and a full-time student at Clemson University. Tucker was a pledge of the Clemson University chapter of the fraternity Sigma Phi Epsilon.

5. Upon information and belief, the Defendant Thomas Carter King, ("King"), is citizen and resident of the State of North Carolina. Upon further information and belief, King is a brother in the Defendant South Carolina Beta Chapter of Sigma Phi Epsilon, ("Local Chapter"), and a student at the Defendant Clemson University. Upon information and belief, the Defendant King is an agent of the Defendants Local Chapter and Sigma Phi Epsilon Fraternity, Inc., ("SPE National").

6. Upon information and belief, at the time of the incidents giving rise to the Plaintiffs' Complaints, Defendant King was acting within the scope of his agency authority as a brother of the Local Chapter and SPE National, and engaged in conduct which is alleged to be reckless, willful, and/or grossly negligent within the meaning of South Carolina Code Ann. § 33-56-180.

7. Upon information and belief, the Defendant Samuel Quillen Carney, ("Carney"), is citizen and resident of the State of Delaware. Upon further information and belief, Carney is a brother in the Defendant Local Chapter and a student at the Defendant Clemson

University. Upon information and belief, the Defendant Carney is an agent of the Defendants Local Chapter and SPE National.

8. Upon information and belief, at the time of the incidents giving rise to the Plaintiffs' Complaints, Defendant Carney was acting within the scope of his agency authority as a brother of the Local Chapter and SPE National, and engaged in conduct which is alleged to be reckless, willful, and/or grossly negligent within the meaning of South Carolina Code Ann. § 33-56-180.

9. Upon information and belief, the Defendant Campbell T. Starr, ("Starr"), is citizen and resident of the County of Greenville, State of South Carolina. Upon further information and belief, Starr is a brother in the Defendant Local Chapter and a student at the Defendant Clemson University. Upon information and belief, the Defendant Starr is an agent of the Defendants Local Chapter and SPE National.

10. Upon information and belief, at the time of the incidents giving rise to the Plaintiffs' Complaints, Defendant Starr was acting within the scope of his agency authority as a brother of the Local Chapter and SPE National, and engaged in conduct which is alleged to be reckless, willful, and/or grossly negligent within the meaning of South Carolina Code Ann. § 33-56-180.

11. Upon information and belief, the Defendant Local Chapter is the Clemson University chapter of the Defendant SPE National. The Local Chapter is a young men's fraternity which recruits pledges from the students at Clemson University. After a pledge period, some or all of the pledges are initiated as brothers of the Local Chapter. Upon information and belief, the Local Chapter is an agent of the SPE National and acts or omissions of the Local Chapter are binding upon SPE National.

12. At all times relevant, the Local Chapter acted as an agent of the Defendant SPE National.

13. Upon information and belief, the Defendant SPE National is a not for profit organization organized and existing under the laws of the State of Virginia. Upon further information and belief, SPE National is a social college fraternity for male college students in the United States. SPE National operates local chapters at certain colleges and universities, including the Defendant Clemson University.

14. At the time of the incidents giving rise to the Plaintiffs' Complaints, SPE National acted by and through its agents, contractors, and employees for the purpose of carrying on its business as a fraternity and therefore, it is liable for the negligent acts of its agents, contractors, and employees, including Defendants King, Carney and Starr, under agency theories. SPE National is bound by the acts of the Local Chapter.

15. Upon information and belief, the Defendant Clemson University, is a political subdivision of the State of South Carolina within the meaning of the South Carolina Tort Claims Act codified at South Carolina Code Ann. § 15-78-30(h).

16. At the time of the incidents giving rise to the Plaintiffs' Complaints, Clemson University acted by and through its agents, contractors, and employees for the purpose of carrying on its business as an institution of higher learning and therefore, it is liable for the negligent acts of its agents, contractors, and employees, under the theories of non-delegable duty and *respondeat superior*.

17. The Plaintiffs expressly plead that the limitations of recovery set forth in the South Carolina Tort Claims Act are inapplicable as to Defendants Local Chapter, SPE National, King, Carney, and Starr, with respect to a finding that Defendants King, Carney, and Starr

acted in a reckless, willful, or grossly negligent manner in the acts or omissions giving rise to the Plaintiffs' Complaints.

18. This action is brought for damages and other appropriate relief pursuant to the statutory and common law of the State of South Carolina, and the South Carolina Tort Claims Act codified at § 15-78-10 et seq.

19. Venue is appropriate in this judicial circuit pursuant to South Carolina Code Ann. § 15-7-30 and § 15-78-100(b).

FACTS

20. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

21. Tucker Hipps was the only child of Cynthia and Gary Hipps and the last heir to carry on the Hipps name.

22. Tucker enrolled at Clemson University in the fall of 2014. Tucker was a bright young man, an accomplished high school athlete, an alumnus of Palmetto Boys State, kind and thoughtful with a contagious smile.

23. Tucker was majoring in political science, with plans to attend law school after graduation from Clemson University.

24. Tucker participated in fraternity rush and on September 5, 2014, was asked to join the pledge class of the Local Chapter.

25. Members of the Local Chapter are known as "Brothers" and new members, not yet initiated to membership are known as "Pledges." Pledges undergo a period of evaluation

and service to the Brothers before a decision is made regarding whether to allow them to be initiated as Brothers.

26. Tucker was elected Pledge Class President. In this capacity, the brothers of the Local Chapter contacted Tucker and he acted as the liaison with his pledge class.

27. Brothers of the Local Chapter often contacted Tucker to demand the assistance of Pledges for cleaning, moving furniture, picking up food, mowing grass, driving the Brothers to class, running errands, picking up girls, or anything else the Brothers desired.

28. Pledges were required to complete these tasks for the Brothers.

29. Pledges were also required to keep a “pledge pack” in their cars which included: condoms, cigarettes, and dip.

30. Pledges were consistently required to spend their own money to buy food or run errands for the Brothers.

31. Upon information and belief, the demands by Brothers of the Pledges were not optional and the Pledges could not refuse the requests. It was understood among the Brothers and the Pledges that Pledges were required to follow the instructions of the Brothers and any refusals or failures by the Pledges would result in being removed from the pledge class and the fraternity, also known as “pledge dropping.”

32. Upon information and belief, the Defendant Clemson University had investigated numerous complaints or violations of the student conduct code by the Local Chapter and other fraternities in the first month of fall semester 2014.

33. Upon information and belief, Brothers of the Local Chapter had learned that the Defendant Clemson University may suspend them from campus.

34. Upon information and belief, on or before September 20, 2014, the Defendant Clemson University planned to suspend fraternity activity or otherwise punish fraternities for “unprecedented conduct issues over the course of the first three weeks of school.” The conduct at issue was described as “hazing and sexual misconduct.”

35. Upon further information and belief, the Defendant Clemson University planned to take action at 5:30 PM on Monday September 22, 2014.

36. Upon information and belief, one of the Brothers of the Local Chapter contacted representatives of the Defendant Clemson University, asking for permission to conduct a 5:30 AM run on or about September 22, 2014.

37. Upon information and belief, a run of this type and at this time was not permitted under the SPE National Hazing Policy and the Clemson University’s Hazing Policy.

38. Upon information and belief, the Defendants King, Carney, and Starr were the Brothers organizing the run and required the Pledges to participate therein.

39. Upon information and belief, the Defendant Clemson University failed to respond to the email request regarding the September 22, 2014 run. Upon further information and belief, this failure to respond was interpreted by the Brothers as acquiescence of the request to engage in the pre-dawn run.

40. Upon information and belief, the 30 Pledges received group text messages with the following instructions: “530 be in lounge and be fucking quiet says Thomas King” and “Campbell says to wear dark clothes so [we’re] not spotted.”

41. On the evening of September 21, 2014, Tucker attended a chapter meeting until approximately 7:30 PM and then studied in the library until after midnight. During that

time, he received numerous text messages from Defendant King, Brett Fisher, and Teddy Weil regarding the September 22, 2014 run.

42. Tucker also received a text message from another Brother, Bryan Golnak, demanding that Tucker bring 30 McDonalds biscuits, 30 McDonalds hash browns, and 2 gallons of chocolate milk to the fraternity hall in the morning before the run.

43. Tucker sent a text message back indicating that he did not have enough money in his bank account to cover that many biscuits and was instructed to get his pledge brothers to help.

44. Upon information and belief, the Pledges either could not purchase the biscuits or forgot to purchase the biscuits before the run.

45. Upon information and belief, in the few hours that Tucker was able to sleep before the mandatory pre-dawn run, he was awakened by several phone calls from Brothers of the Local Chapter.

46. The Defendants King, Carney, and Starr knew or should have known that Tucker had not had adequate sleep to safely engage in the early morning run.

47. Upon information and belief, the Defendants King, Carney, and Starr gathered with Tucker and 26 Pledges at the Local Chapter dormitory, Donaldson Hall, at or near 5:30 AM on September 22, 2014. Three of the Pledges were not present at the appointed time.

48. The 27 Pledges, including Tucker, and the three Defendant Brothers headed out on a run which took them down to South Carolina Highway 93 towards Lake Hartwell. The group was apparently led by Defendant Starr throughout the run.

49. Tucker may have fallen behind during the run but at all times, Tucker was running in front of Defendant King who ran behind the group of Pledges to ensure that no one fell behind.

50. Upon information and belief, Defendants King and Carney would threaten the Pledges by saying "do not let us pass you."

51. Tucker was not intoxicated or under the influence of any substance on the morning of the run. Tucker was not intoxicated or under the influence the night before the run.

52. Tucker Hipps's toxicology results have been released by the Coroner and have been attached to this Complaint as Exhibit A. For reference, Ethanol, Methanol., Acetone, Isopropanol, Amphetamine, Benzodiazepines, carisoprodol, cocaine, methadone, methamphetamine, opiates, oxycodone, tramadol, zolpidem, and cannabinoids were all negative.

53. Upon information and belief, at or near the bridge which crosses Lake Hartwell, the Defendant King received a phone call from Brian Golnak who was "pissed off" that the Pledges had not brought the breakfast.

54. Upon information and belief, Defendant King confronted Tucker about the Pledges' failure to bring the breakfast which had been demanded of them.

55. Upon information and belief, Defendant King and Tucker had a confrontation over the Pledges' failure to bring the requested McDonalds breakfast.

56. Upon information and belief, Defendants King, Carney and Starr forced Tucker to get onto the narrow railing along the bridge and walk some distance of the bridge on top of the railing.

57. Upon information and belief, Tucker slipped from the railing and caught the railing under his arms.

58. Upon information and belief, Tucker tried to climb back onto the bridge unassisted.

59. Upon information and belief, Tucker lost his grip on the bridge and fell headfirst into the water below, striking his head on the rocks in the shallow water.

60. Upon information and belief, a long tradition existed among the members of the Local Chapter of requiring, pressuring, encouraging, and forcing Pledges to jump off of one or more bridges over Lake Hartwell and swim to shore.

61. Upon information and belief, Defendant King shined the flashlight on his cell phone into the dark waters below looking for Tucker.

62. Defendant Starr later tells police that he "knew about the [p]ledges not getting [biscuits], Tucker would be held responsible."

63. Upon information and belief, the Pledges, along with Defendants Carney and Starr, ran to the opposite side of the bridge, crossed the road, and returned back across the parallel bridge.

64. Upon information and belief, Defendant King never crossed the bridge but remained on the Pickens County side near the beginning of the bridge, shining his flashlight around the area.

65. Upon information and belief, the Defendants gathered the remaining Pledges and ran back to campus.

66. Upon information and belief, despite creating the dangerous situation which resulted in Tucker's fall, Defendants King, Carney, and Starr took no further action to discover the whereabouts of Tucker or of his wellbeing.

67. Upon information and belief, the Defendant King gave the Pledges a lecture about how "disappointed it would be if one person fell behind and they should be one unit," that the Pledges should work together to help the slower members, and reminded the Pledges that the run was "not hazing."

68. Upon information and belief, Defendant King instructed the Pledges to shower and meet at Harcombe Commons for breakfast at 7:00 AM.

69. Tucker did not attend the breakfast and was not in his morning classes.

70. Upon information and belief, Brothers and Pledges began to call around looking for Tucker.

71. Upon information and belief, at or near 11:15 AM, Defendant King wakes Defendant Starr to say that Tucker is missing.

72. Brothers and Pledges begin to drive around looking for Tucker.

73. One Pledge, Tyler Stanley, texted Tucker's girlfriend, Katie, to reassure her that Tucker had been seen in the library. He later sent a text message to the group message indicating that the text to Katie should "help [them] buy time."

74. Another Brother, Connor Sekas, told Katie that Tucker was in the library studying because "she would call his parents if she found out he [was] missing."

75. Upon information and belief, group text messages began to ask questions of Defendant King regarding why he was shining his flashlight in the woods, asking if something more happened, and asking why he waited on one side of the bridge.

76. Defendant Starr does not contact the campus police to report that Tucker is missing until 1:15 PM, over seven hours after the run.

77. Clemson University Police begin searching for Tucker.

78. Tucker's body is found floating under the Highway 93 bridge over Lake Hartwell.

79. Autopsy results later reveal that Tucker's death was a result of blunt force trauma injury. Tucker had multiple abrasions, lacerations, and contusions to his face and body, including his chest wall, palm of the hand, legs, and wrist. The coroner opined that the injuries were consistent with a downward headfirst falling injury.

80. Upon information and belief, some voluntary statements were provided to the police investigating Tucker's death.

81. Upon information and belief, the group text messages on "group me" were deleted by Teddy Wells the day Tucker died.

82. Upon information and belief, Defendant King attempted to delete all phone calls on his cellular phone from September 18 – September 25, 2014.

83. Upon information and belief, Defendant Starr attempted to delete all phone calls on his cellular phone after September 18, 2014 and switched phone numbers during the investigation.

84. Upon information and belief, Defendants King, Carney, and Starr have been deceptive and failed to be forthcoming with police regarding their knowledge of Tucker's death.

85. Upon information and belief, Defendant Clemson University publicly denied that the Local Chapter had committed any violation of hazing policy related to the pre-dawn run.

86. Upon information and belief, Defendant Clemson University terminated abruptly Gail DiSabatino, the Vice President of Student Affairs. Gail DiSabatino was responsible for the fraternities, including Local Chapter, at Clemson University.

87. Defendant Clemson University has denied that Tucker Hipps's death had anything to do with Ms. DiSabatino's termination.

88. Defendant Clemson University later suspended the Local Chapter from campus for a five year period.

89. Although the police investigation continues, the Plaintiffs continue to search for answers and mourn the loss of their son.

FIRST CAUSE OF ACTION
(NEGLIGENCE - AS TO DEFENDANTS KING, CARNEY, STARR,
LOCAL CHAPTER & SPE NATIONAL)

90. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

91. The Defendants King, Carney, Starr, Local Chapter and SPE National owed a duty of care to Tucker.

92. The Defendants knew or should have known that the acts or omissions of the Local Chapter were dangerous, negligent, grossly negligent, or in contravention of the policies and expectations of the Defendants.

93. Tucker's fall, injuries and death were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants, in the following particulars, to-wit:

- a. In requiring the Pledges to engage in a pre-dawn run;
- b. In requiring the Pledges to act in a covert fashion on the pre-dawn run, including wearing dark clothing so that they would not be seen;
- c. In requiring the Pledges, including Tucker, to engage in a pre-dawn run with inadequate rest, nutrition, and hydration;

- d. In requiring the Pledges to engage in a pre-dawn run along a major highway and across a bridge over shallow water;
- e. In failing to protect Tucker from injuries and death which were reasonably foreseeable in light of the circumstances;
- f. In continuing to engage in traditions and practices which were dangerous and put the lives of the Pledges at risk;
- g. In failing to render aid to Tucker when it became apparent that his conditions reasonably required such aid;
- h. In failing to adhere to the policies of the Local Chapter, SPE National, and Clemson University in the treatment and supervision of Pledges, including Tucker Hipps;
- i. In failing to provide education and training about the expectations and policies of SPE National;
- j. In failing to provide adequate supervision that the expectations and policies of SPE National were being followed at all times by the Local Chapter;
- k. In failing to intervene when traditions, behaviors, or activities by the Brothers of the Local Chapter provided notice that intervention was necessary;
- l. In failing to adhere to the expectations and policies of SPE National;
- m. By other negligent or grossly negligent acts and/or omissions yet to be determined or defined; and
- n. In such other particulars as may be ascertained through discovery procedures undertaken pursuant to the South Carolina Rules of Civil Procedure.

94. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina.

95. The acts and/or omissions of these Defendants as described above were negligent, grossly negligent, willful, wanton, and reckless.

96. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Tucker Hipps suffered and died, and Plaintiffs Cynthia and Gary Hipps have suffered damages as more fully set forth in the following Paragraphs of this Complaint.

SECOND CAUSE OF ACTION
**(GROSS NEGLIGENCE - AS TO DEFENDANTS KING, CARNEY, STARR,
LOCAL CHAPTER & SPE NATIONAL)**

97. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

98. During all times material to the claims herein, these Defendants' acts and omissions amounted to gross negligence, recklessness, and a willful and wanton disregard for the safety and wellbeing of Tucker Hipps. The reckless, willful and wanton acts of these Defendants include, but are not limited to, those set forth in the foregoing Paragraphs.

99. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence of the Defendants, Tucker Hipps sustained severe injuries and damages which caused his death.

100. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Tucker Hipps suffered and died, and Plaintiffs Cynthia and Gary Hipps have suffered damages as more fully set forth in the following Paragraphs of this Complaint.

THIRD CAUSE OF ACTION
(NEGLIGENCE - AS TO DEFENDANT CLEMSON UNIVERSITY)

101. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.
102. The Defendant Clemson University owed a duty of care to Tucker.
103. The Defendant Clemson University knew or should have known that the acts or omissions of the Local Chapter were dangerous, negligent, grossly negligent, or in contravention of the policies and expectations of the Defendant.
104. Tucker's fall, injuries and death were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendant, in the following particulars, to-wit:
 - a. In failing to communicate with the Local Chapter and prohibit them from engaging in a pre-dawn run;
 - b. In failing to provide education and training about the expectations and policies of Clemson University to the brothers of Local Chapter;
 - c. In failing to suspend immediately the activities of the Local Chapter when the Defendant knew or should have known that the Local Chapter was engaging in conduct violative of the expectations and policies of Clemson University;
 - d. In failing to take action to protect Pledges, including Tucker Hipps, from injuries and death which were reasonable foreseeable in light of the circumstances;
 - e. In failing to provide adequate supervision that the Local Chapter was adhering to the expectations and policies of the Defendant;
 - f. In failing to intervene when traditions, behaviors, or activities by the Brothers of the Local Chapter provided notice that intervention was necessary;
 - g. In failing to enforce the policies of the Defendant with the Local Chapter in the treatment and supervision of pledge brothers, including Tucker Hipps;

- h. By other negligent or grossly negligent acts and/or omissions yet to be determined or defined; and
- i. In such other particulars as may be ascertained through discovery procedures undertaken pursuant to the South Carolina Rules of Civil Procedure.

105. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina.

106. The acts and/or omissions of this Defendant as described above were negligent, grossly negligent, willful, wanton, and reckless.

107. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of this Defendant herein, Tucker Hipps suffered and died, and Plaintiffs Cynthia and Gary Hipps have suffered damages as more fully set forth in the following Paragraphs of this Complaint.

FOURTH CAUSE OF ACTION
(NEGLIGENCE PER SE – AS TO DEFENDANTS
KING, CARNEY, AND STARR)

108. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

109. In addition to the aforementioned negligent and grossly negligent acts, these Defendants violated the South Carolina Code Ann. § 59-101-200.

110. These legislative and administrative regulations are designed to prevent injury to a class of persons to which Tucker Hipps belonged.

111. These violations by Defendants were the proximate cause of Tucker Hipps's injuries, damages, and death.

112. These Defendants were agents of the Defendants Local Chapter and SPE National and therefore, Defendants Local Chapter and SPE National are bound by the negligence *per se* of the Defendants King, Carney and Starr.

**FIFTH CAUSE OF ACTION
(LOSS OF FILIAL SERVICES – AS TO ALL DEFENDANTS)**

113. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

114. The Plaintiffs, Cynthia and Gary Hipps are the surviving parents of Tucker Hipps. Tucker was an only child. At the time of his death, Tucker was a full-time student and a dependent of the Plaintiffs.

115. As a direct and proximate result of the acts of negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants described herein, Plaintiffs Cynthia and Gary Hipps have suffered the loss of Tucker Hipps's services and earning capacity, consistent with the Supreme Court's holding in the case of *Doe v. Greenville Co. School Dist.* 375 S.C. 63 (S.C. 2007).

116. All of which injuries and loss caused damage to the Plaintiffs in an amount to be determined by this Court.

DAMAGES

117. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

118. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Tucker Hipps suffered numerous painful, severe, and grievous injuries to his body which caused his death.

119. In accordance with South Carolina Code Ann. § 15-5-90, and as a direct result of the Defendants' negligence and gross negligence, Cynthia Hipps, individually and as Personal Representative of the Estate of her son, and Gary Hipps, individually, have incurred the following:

- a) Grief and sorrow;
- b) Loss of companionship;
- c) Mental shock and suffering;
- d) Deprivation of the use and comfort of Tucker Hipps's society;
- e) Loss of Tucker Hipps's experience, knowledge, and judgment in managing his affairs;
- f) Loss of earnings;
- g) Loss of Tucker Hipps's economic services
- h) Funeral and burial expenses; and
- i) Punitive damages; and
- j) Other damages yet to be determined.

120. Cynthia Hipps, individually and as Personal Representative of the Estate of her son, and Gary Hipps, individually, are entitled to recover actual and punitive damages from the Defendants in an amount as to be determined by this Court.

PUNITIVE DAMAGES

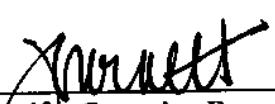
121. The Plaintiffs reallege and incorporate herein all of the relevant and consistent allegations in the foregoing Paragraphs as fully as if repeated herein.

122. The acts and/or omissions of the Defendants, as stated above, were willful, wanton, and/or in reckless disregard for the safety, wellbeing, and life of Tucker Hipps.

123. As a direct and proximate result of the willful, wanton, and/or reckless acts and omissions of the Defendants, Tucker Hipps lost his life.

124. The conduct of the Defendants as set forth above justifies an award of punitive damages for each and every claim of the Plaintiffs as set forth herein.

WHEREFORE, the Plaintiffs demand a trial by jury pursuant to Rule 38(b) of the South Carolina Rules of Civil Procedure (SCRCP), and Plaintiffs pray for judgment against Defendants, for actual and punitive damages in an amount to be determined by the jury which Plaintiffs allege to be in **excess** of Twenty Five Million (\$25,000,000.00) Dollars actual damages, plus punitive damages, such allegation being made for the purpose set forth in Rule 30(h) of the SCRCP, for the costs of this action, and for such other and further relief as this Court may deem just and proper.



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