

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Hannah Elkins,

Plaintiff(s)

vs.

Alpha Epsilon Pi Fraternity, Alpha Epsilon Pi Fraternity-Chi Omicron Chapter, College of Charleston, and College of Charleston Board of Trustees,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016-CP-10-6736

Submitted By: D. Nathan Hughey
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NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), General (130), Breach of Contract (140), Fraud/Bad Faith (150), Failure to Deliver/Warranty (160), Employment Discrim (170), Employment (180), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI- -, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Assault/Battery (370), Slander/Label (380), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Sexual Predator (510), Permanent Restraining Order (680), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Pre-Suit Discovery (670)

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CLERK OF COURT

Submitting Party Signature:
SCCA / 234 (03/2016)

Date: 12/16/2016

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Hannah Elkins,

) Case No. 2016-CP-10- 6736

) Plaintiff,

) Versus

) SUMMONS
) (Jury Trial Requested)

) Alpha Epsilon Pi Fraternity, Alpha Epsilon Pi
) Fraternity-Chi Omicron Chapter, College of
) Charleston, and College of Charleston Board of
) Trustees,

) Defendants)

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JULIE J. ARMSTRONG
CLERK OF COURT

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is hereby served upon you, and to serve a copy of your Answer to the said Complaint to said Plaintiff's attorneys D. Nathan Hughey, A. Stuart Hudson and Bradley H. Banyas, at their office located at 1311 Chuck Dawley Blvd, Suite 201, Post Office Box 348, Mt. Pleasant, South Carolina 29465-0348, within thirty (30) days after the service hereof; exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

BD R

D. Nathan Hughey (SC #68409)
A. Stuart Hudson (SC #71691)
Bradley H. Banyas (SC #101668)
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Attorneys for the Plaintiff

12/16, 2016
Mount Pleasant, South Carolina

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Hannah Elkins,

) Case No. 2016-CP-10-6736

) Plaintiff,

) Versus

) COMPLAINT
(Jury Trial Requested)

) Alpha Epsilon Pi Fraternity, Alpha Epsilon Pi
) Fraternity-Chi Omicron Chapter, College of
) Charleston, and College of Charleston Board of
) Trustees,

) Defendants

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CLERK OF COURT
BY _____

The Plaintiff, Hannah Elkins ("Plaintiff"), complaining of the Defendants, Alpha Epsilon Pi, Alpha Epsilon Pi Chi Omicron Chapter, College of Charleston, and College of Charleston Board of Trustees, ("Defendants"), alleges as follows:

1. That the Plaintiff is a citizen and resident of the State of California.
2. Upon information and belief, the Defendant Alpha Epsilon Pi Fraternity ("AEP National") is an organization organized and existing under the laws of the State of Indiana. Upon further information and belief, AEP National is a social college fraternity for male college students in the United States. AEP National operates local chapters at certain colleges and universities, including the Defendant College of Charleston.
3. At the times of the incidents giving rise to the Plaintiff's Complaint, AEP 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. AEP National is bound by the acts of the Local Chapter.
4. Upon information and belief, the Defendant Alpha Epsilon Pi Fraternity-Chi Omicron Chapter ("Local Chapter") is the College of Charleston chapter of the Defendant AEP National. Local Chapter is a young men's fraternity which recruits pledges from the students at College of Charleston. Upon information and belief, the Local Chapter is an agent of the AEP National and acts or omissions of the Local Chapter are binding upon AEP National.

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

6. Upon information and belief, the Defendants College of Charleston and College of Charleston Board of Trustees are political subdivisions of the State of South Carolina—a public university and its Board of Trustees—both of which are situated in Charleston County, and both of whom own property in Charleston County and/or conduct the majority of their operations in Charleston County.

7. At the time of the incidents giving rise to the Plaintiff's Complaint, Defendants College of Charleston and College of Charleston Board of Trustees acted by and through their agents, contractors, and employees for the purpose of carrying on its business as an institution of higher learning and therefore, are liable for the negligent acts of its agents, contractors, and employees, under the theories of non-delegable duty and *respondeat superior*.

8. Venue is proper in this court, and the court has both subject matter and personal jurisdiction over all claims and parties.

FACTS

9. Upon information and belief, on or about August 27, 2016, the Plaintiff, then a minor under the age of eighteen (18) years old, and also a freshman enrolled at Defendant College of Charleston, was invited to a "Bid Day" party hosted by the Defendant Local Chapter.

10. Upon information and belief, while at the party, the Plaintiff was provided drugs and alcohol by various upperclassmen members of Defendant Local Chapter, who were also enrolled at Defendant College of Charleston.

11. Upon information and belief, while at the "Bid Day" party, two members of the Local Chapter, who would later be identified as Timothy Seppi ("Seppi"), and James West ("West") forcibly led the Plaintiff into a bedroom.

12. Upon information and belief, Seppi and West locked the bedroom door, removed the Plaintiff's clothes, and forced the Plaintiff to take illegal drugs and perform sexual acts on West.

13. Upon information and belief, while the Plaintiff was being sexually assaulted, Seppi began taking photos and videos of the Plaintiff's rape on his cellular telephone.

14. Upon information and belief, the Plaintiff continued to try and get away from Seppi and West, who eventually became annoyed with the Plaintiff and left the Plaintiff alone and crying on the bedroom floor with no clothes.

15. The Plaintiff was taken back to her dormitory at Defendant College of Charleston, and subsequently taken to the Medical University of South Carolina.

16. Defendant College of Charleston later suspended the Local Chapter from campus for an indefinite period.

FOR A FIRST CAUSE OF ACTION

(Negligence/Gross Negligence – As to Alpha Epsilon Pi Fraternity, Alpha Epsilon Pi Fraternity-Chi Omicron Chapter)

17. The Plaintiff repeats and realleges all claims as fully as if they were set forth in their entirety in this Paragraph.

18. The Defendants owed a duty of care to the Plaintiff.

19. 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.

20. The Defendants failed to take proper precautions in implementing this event as well as involving the students in this event and as a result the Plaintiff was significantly injured.

21. Prior to August 27, 2016, the Defendants were on notice that they needed to develop written policies and procedures, training methods, codes of conduct, and other methods of operation to ensure that their employees and members were properly trained and capable of providing a safe and secure environment for the Plaintiff.

22. The Plaintiff's injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness and wantonness, including but not limited to in the following particulars:

- a. Failing to exercise due care;

- b. Failing to do what a reasonable person or entity would have done under the circumstances;
- c. Failing to warn the Plaintiff;
- d. In failing to adequately and properly train and/or supervise personnel;
- e. In failing to hire sufficient personnel or have sufficient personnel to provide proper supervision;
- f. Failing to adequately manage personnel;
- g. Failing to develop adequate policies and procedures;
- h. In failing to adopt proper procedures and protocols, and if so adopting, in failing to enforce the same;
- i. Failing to take actions to correct known problems;
- j. In failing to ensure that Defendants' personnel had sufficient, adequate and current training, credentials and skills to properly prevent the Plaintiff from suffering from injury, pain and sexual assault;
- k. In failing to properly and adequately assess, monitor and update policies, procedures, protocols, rules and regulations in response to knowledge garnered from published guidelines and case reviews relating to proper care;
- l. In failing to ensure that manuals, instructions and warnings relating to appropriate care were available to agents, servants and employees of Defendants;
- m. In failing to properly train and educate their employees or, if properly trained and educated, in failing to allow its employees to exercise independent skill and judgment;
- n. In such particulars as may be found through discovery or trial.

23. The Defendants' negligence, gross negligence, recklessness, willfulness, and wantonness created a hazard and danger which proximately caused the Plaintiff to sustain serious personal injuries; her injuries were of such a nature as to require her and will in the future require her to expend monies for hospitalization, doctor's care, and other medical necessities; she has suffered permanent impairment of health and bodily efficiency; that at all times since the accident, the Plaintiff has suffered and will continue to suffer great pain; and such other and further particulars as may be found through discovery or trial.

24. The Plaintiff had no knowledge or reason to suspect danger with regard to the concealed and latent hazards and dangers created. In addition, the Plaintiff exercised ordinary and reasonable care at all times on her own behalf.

25. The Defendants are liable to the Plaintiff, and the Plaintiff is entitled to and prays for an award of damages for the period of conscious pain and suffering experienced by the Plaintiff, both actual, in an amount deemed sufficient by a jury to have compensated the Plaintiff fully for her excruciating pain, fear, emotional trauma and punitive, in an amount sufficient to impress upon the Defendants the seriousness of its conduct and to deter such similar conduct in the future.

FOR A SECOND CAUSE OF ACTION
(Negligence – As to Defendants College of Charleston, and College of Charleston Board of Trustees)

26. The Plaintiff realleges and reiterates all previous paragraphs as fully as if set forth in this paragraph in its entirety.

27. The Defendants College of Charleston and College of Charleston Board of Trustees own and operate a school and have a duty to abide by certain federal and state regulations in the care and treatment of children.

28. The federal and state regulations combine to form minimum standards of care which the Defendants College of Charleston, and College of Charleston Board of Trustees must exceed in order to ensure proper treatment of students, including, specifically, the Plaintiff.

29. The Defendants College of Charleston, and College of Charleston Board of Trustees owed a duty to Elkins.

30. The Defendants failed to abide by the standards, rule and regulations promulgated by the United States Government and the State of South Carolina in their treatment and care of the Plaintiff.

31. The standards, rules and regulations promulgated by the United States Government and the State of South Carolina were specifically enacted for the benefit of the class of persons for which the Plaintiff was a member.

32. 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.

33. As a direct and proximate result of the Defendants' negligence, recklessness, willfulness and wantonness in failing to abide by the standards of care, rules and regulations standards, rule and regulations promulgated by the United States Government and the State of South Carolina, the Plaintiff suffered severe injuries as described above, constituting negligence per se.

34. The Plaintiff's injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness and wantonness, including but not limited to in the following particulars:

- a. Failing to exercise due care.
- b. Failing to do what a reasonable person or entity would have done under the circumstances;
- c. Failing to warn the Plaintiff;
- d. In failing to adequately and properly hire, train and/or supervise staff and/or personnel;
- e. In failing to hire sufficient staff and/or personnel to provide proper supervision;
- f. Failing to adequately manage staff and/or personnel;
- g. Failing to develop adequate policies and procedures;
- h. In failing to adopt proper procedures and protocols, and if so adopting, in failing to enforce the same;
- i. Failing to take actions to correct known problems;
- j. In violating state and/or federal regulations requiring actions to protect the safety and health of children, so as to constitute negligence per se;
- k. In failing to ensure that Defendants' personnel and employees had sufficient, adequate and current training, credentials and skills to properly prevent the Plaintiff from suffering from injury, pain and sexual assault;
- l. In failing to properly and adequately assess, monitor and update policies, procedures, protocols, rules and regulations in response to knowledge garnered from published guidelines and case reviews relating to proper care;

- m. In failing to ensure that manuals, instructions and warnings relating to appropriate care were available to agents, servants and employees of Defendants;
- n. In failing to properly train and educate their employees or, if properly trained and educated, in failing to allow its employees to exercise independent skill and judgment;
- o. In failing to provide education and training about the expectations and policies of College of Charleston to the Brothers of Local Chapter;
- p. In failing to suspend immediately the activities of the Local Chapter when the Defendants knew or should have known that the Local Chapter was engaging in conduct violative of the expectations and policies of College of Charleston;
- q. In failing to provide adequate supervision that the Local Chapter was adhering to the expectations and policies of the Defendants;
- r. By other negligent or grossly negligent acts and/or omissions yet to be determined or defined; and
- s. In such particulars as may be found through discovery or trial.

WHEREFORE, the Plaintiff prays as follows: (a) that the Plaintiff recover a judgment against the Defendants in an amount sufficient to compensate her for her injuries and damages as described above; (b) that the Plaintiff recover a judgment for an amount of punitive damages as authorized by law and; (c) that the Plaintiff recover all costs associated with this action and the Plaintiff recover such other relief as the court may deem just and proper.

13

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12/16, 2016
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Reply to: D. Nathan Hughey
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December 16, 2016

Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Hannah Elkins v. Alpha Epsilon Pi Fraternity, Alpha Epsilon Pi Fraternity-Chi
Omicron Chapter, College of Charleston, and College of Charleston Board of Trustees
Case No.: 2016-CP- -

Dear Mrs. Armstrong:

Enclosed please find for filing a Civil Cover Sheet, Summons and Complaint in regards to the above referenced matter along with appropriate copies. I have also enclosed this firm's check in the amount of \$150.00 for the filing fee. If you could be so kind as to file the originals and return a filed stamped copy back to me in the self-addressed stamped envelope it would be greatly appreciated. If you have any questions or concerns, do not hesitate to contact me.

If you have any questions, please let me know.

With kind regards,

Yours truly,

A handwritten signature in black ink, appearing to be 'DNH', with a long, sweeping horizontal line extending to the right.

D. Nathan Hughey

DNH/jw
Enclosures
CC: Joseph W. Campbell, Esquire (via electronic mail)