

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUFFOLK SUPERIOR COURT
CIVIL ACTION NO.

18-3729-E

ALPHA PHI INTERNATIONAL
FRATERNITY, INC.,
ALPHA PHI IOTA TAU, and
DELTA GAMMA FRATERNITY
MANAGEMENT CORPORATION,

Plaintiffs,

v.

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE,

Defendant.

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SUFFOLK SUPERIOR COURT
CIVIL ACTION OFFICE

COMPLAINT AND JURY DEMAND

Introduction

1. Harvard University has implemented a new student-conduct policy that selectively and discriminatorily denies to certain undergraduate students rights, opportunities, and privileges generally available to its undergraduates, intentionally punishing those who join single-sex organizations (the "Sanctions Policy"). As a result of this policy, almost every single-sex organization available to undergraduate women at Harvard closed its doors or reorganized as a co-ed social organization. Most male single-sex organizations, by contrast, remain open, providing men with relationships, opportunities, and experiences to which Harvard undergraduate women now have limited access.

2. Harvard has a special role within the Commonwealth of Massachusetts: Founded by the General Court of the Massachusetts Bay Colony in 1636, Harvard has its rights and status

enshrined in chapter 5 of the Massachusetts Constitution. However, by its recent actions, Harvard has breached the very Constitution under which it purports to operate. The Sanctions Policy violates the fundamental rights of Harvard women and men to associate freely with their peers and to live free of sex discrimination, rights guaranteed by articles 1 and 19 of the Declaration of Rights of the Massachusetts Constitution, as amended, as well as the First and Fourteenth Amendments to the United States Constitution.

3. Although male single-sex organizations of Harvard undergraduates have existed for centuries, all-female final clubs and sororities first formed for undergraduate students at Harvard in 1991 and 1993, respectively. These organizations – all of which are private entities that operate off-campus – have provided Harvard undergraduate women with a range of social opportunities focused on empowering women and building sisterhood. The number of such organizations increased steadily from 1991 through 2017.

4. However, single-sex all-female social organizations were virtually eliminated in 2018 after the University, in an initiative led by Rakesh Khurana as Dean of Harvard College, conducted a multi-year campaign to eliminate single-sex groups from campus life. Dean Khurana tried to force single-sex organizations to disband of their own accord; he held meetings with the groups in which he excoriated them as sexists, compared them to terrorists, and labeled them as traitors to the Harvard tradition. He then began to threaten sanctions – up to and including expulsion – for members of single-sex organizations, and issued ultimatums. Harvard eventually promulgated the Sanctions Policy, barring students (from the Class of 2021 or later) who joined these independent single-sex organizations from holding leadership positions in any recognized campus group or sports team, and from competing for a range of post-graduate scholarships and fellowships

sponsored by Harvard or for which the Dean's endorsement is required (such as the Rhodes, Marshall, Truman, and Fulbright fellowships).

5. As a result of Harvard's campaign of threats, intimidation, and coercion, single-sex women's social organizations have now nearly disappeared. Almost all such organizations have shut down, gone co-ed, merged with men's organizations, and/or reformed as new, co-ed organizations. Several all-male organizations also felt forced to go co-ed as a result of Harvard's conduct, but others continue to try to exist as single-sex entities.

6. Only one single-sex female social organization now remains for Harvard undergraduates. The Iota Tau chapter of Alpha Phi International Fraternity, Inc., initially suspended operations in August 2018 as a result of the Sanctions Policy. However, the chapter requested that its charter be reinstated in November 2018, in order to resume its mission of providing "help, hand in hand, to a community of women so they could achieve success that paralleled the men around them." Now reopened, the chapter is but a shadow of the dynamic organization that once existed, because the Sanctions Policy has deterred Harvard women from joining or rejoining Iota Tau.

7. Plaintiffs bring this action to stop Harvard from violating their fundamental constitutional rights. As the Supreme Court has long recognized, according protection to collective efforts on behalf of shared goals is especially important in preserving political and cultural diversity and in shielding a full range of expression from suppression. *See Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984). Yet in the name of promoting diversity, Harvard has actually eliminated the diversity of groups and opportunities available to Harvard undergraduate students and is doing so in a manner that discriminates against Harvard students on the basis of their sex. Plaintiffs and their members therefore seek a declaratory judgment from this Court that protects their right to join together in single-sex organizations independent of Harvard, an injunction prohibiting Harvard

from continuing to unlawfully punish Harvard undergraduate women and men for associating with members of their own sex, and monetary damages for the harms Plaintiffs have already suffered.

Parties

8. Plaintiffs are entities that have been harmed by the Harvard Sanctions Policy.

9. Plaintiff Alpha Phi International Fraternity, Inc. (ΑΦ) ("Alpha Phi") is a sorority with 171 collegiate chapters and over 250,000 initiated members. A New York not-for-profit corporation, it is headquartered in Evanston, Illinois. Founded in 1872, at Syracuse University, Alpha Phi was created to provide support for women in education at a time when most women did not have access to academic opportunity. Of Alpha Phi's ten founders, three were among the first women to be admitted to honor society Phi Beta Kappa.

10. Countless Alpha Phi members and alumnae are leaders in their schools and professional fields: For example, Janet Murguia was the first female president of the National Council of La Raza. Georgia Neese Gray was the first female treasurer of the United States, appointed by President Harry Truman. Margaret McNamara was the founder of Reading is Fundamental. Stacia Hookom was the first female named to the U.S. National Snowboarding Team. Shirley McLoughlin was the first woman to lead a political party in British Columbia. Claire Waters Ferguson was the first female president of the U.S. Figure Skating Association.

11. Alpha Phi is a sisterhood of "outstanding women supporting one another in lifelong achievement." Alpha Phi members accomplish this mission according to "three ideals": "Sisterhood, Scholarship and Service."

12. Alpha Phi brings this action on its own behalf and on behalf of its members, some of whom are citizens and residents of the Commonwealth of Massachusetts.

13. Plaintiff Alpha Phi Iota Tau (“Iota Tau”) is the local chapter of Alpha Phi for Harvard undergraduates. Iota Tau formed in Cambridge, Massachusetts, in 2013, and focuses its efforts on empowering women to be strong leaders in their community, able to achieve success on par with their male peers.

14. Distinguished Alpha Phis from the Iota Tau chapter include Anne Nonnamaker, the first woman to graduate as a Navy Nuclear Submarine Officer, who was instrumental in the foundation of Iota Tau. Amanda Nguyen founded RISE, an organization that supports sexual assault victims, and was nominated for the 2019 Nobel Peace Prize. Archana Somasegar, who in 2016 was awarded Alpha Phi’s highest collegiate honor, the Martha Foote Crow Award, has a long history of advocating for women’s rights around the world, from her role as Teen Advisor for the United Nations Foundation’s Girl Up Campaign to her service as president of the Seattle chapter of Circle of Women, where she successfully spearheaded a project to build a computer lab and sewing studio for an orphanage in India.

15. As of August 2018, Iota Tau had seventy active members, around twenty of whom were members of the Class of 2021. The chapter’s ranks had peaked at 160 members in 2017, but membership fell sharply after Harvard announced and began to implement its Sanctions Policy. Members reflected the diversity of Harvard; they called many different states home, around 25% of them received financial aid from Alpha Phi, and they identified as belonging to diverse racial and ethnic backgrounds.

16. Iota Tau requested that Alpha Phi suspend its charter in August 2018, a decision “made in direct response to the sanctions placed by Harvard University administration on members of single-gender organizations” which, in the words of Renee Zainer, Alpha Phi International President and Chairman of the International Executive Board, “placed members in “an untenable

conflict, forced to choose between the opportunity to have a supportive, empowering women-only space and external scholastic and leadership opportunities." All but one of Iota Tau's seventy members were given alumnae status.

17. In November 2018, Iota Tau requested that Alpha Phi reinstate its charter. Eleven former members, including approximately five who are current sophomores, have rejoined or expressed interest in rejoining. In a letter requesting that their charter be reinstated, Iota Tau members noted that they all "believe[d] in the power of womanhood, the strength of sisterhood, and the ideals of love and charity that [they] committed to as [they] joined Alpha Phi." They emphasized that the "sisterhood ha[d] gifted [them] with a diverse group of strong and supportive women as well as numerous opportunities for leadership, intellectual curiosity, and personal growth that [were] simply unparalleled elsewhere."

18. Iota Tau members have held myriad leadership roles at Harvard. For example, in recent years, members have held leadership positions in The Association of Black Harvard Women, an affinity group supporting black women on campus; Citizenship Tutoring, a program at the Harvard Institute of Politics that helps indigent legal permanent residents prepare for their citizenship exams; the Radcliffe Pitches, Harvard's oldest women's a cappella group, and the Network of Enlightened Women, a group for conservative women on campus. Some current sophomore members and alumnae in the group hold leadership positions in campus groups at this time. Iota Tau members, including current sophomores affiliated with the group, also have a keen interest in pursuing athletic team captaincies and/or post-graduate fellowships.

19. Harvard's Sanctions Policy has harmed Iota Tau's ability to recruit new members and to function as an organization.

20. Iota Tau is located in the Commonwealth of Massachusetts and brings this action on its own behalf and on behalf of its members, some or all of whom are citizens and residents of Massachusetts.

21. Plaintiff Delta Gamma Fraternity Management Corporation ("FMC") is an Ohio not-for-profit corporation formed in 2014 to support chapters of the Delta Gamma Fraternity ($\Delta\Gamma$) ("Delta Gamma," a female Greek-letter organization) that currently do not have Delta Gamma-owned houses or fully-operating volunteer house corporation boards. FMC fulfills the role of a local house corporation, including administering finances and filing reports.

22. Delta Gamma is a sorority with 151 collegiate chapters and more than 253,000 initiated members, headquartered in Columbus, Ohio. Founded in 1873 in Oxford, Mississippi, Delta Gamma was started by three young women wishing to create a club of "mutual helpfulness" that could augment the education provided by the formal academic curriculum. They sought, through their sisterhood, to maintain high ideals and standards of conduct and to encourage intellectual interests in order to exemplify college women at their best. The name of the sorority was chosen to represent the phrase "Do Good," as it was the motto they strove to live by – a motto and purpose that Delta Gamma has continued to uphold for the last 145 years.

23. Delta Gamma's primary purpose is to create an environment for its members in which lasting friendships are established and in which members find the processes, the experiences, and the disciplines which will stimulate clear thought. Its aim is to foster an atmosphere in which women will develop a deeper love and consideration for mankind, a more profound understanding of the purpose of life, and a basic wisdom upon which to build their lives.

24. Numerous Delta Gammas have been lauded as accomplished leaders within their schools, communities, and in their professional fields, and continue to fulfill those roles today. For example,

Ada Comstock was the first full-time president of Radcliffe College. Sarah Tilghman Hughes was the first and only woman thus far to swear in a U.S. President (Lyndon B. Johnson). Channing Dungey is the current president of ABC Entertainment Group; she also happens to be the first African-American and first female president of a major broadcast TV network in the United States.

25. Before August 2, 2018, the Zeta Phi chapter of Delta Gamma (“Zeta Phi”) was the local chapter in Cambridge for Harvard undergraduates. Zeta Phi members were extremely active in their community, contributing to Delta Gamma receiving the Massachusetts Association for the Blind and Visually Impaired Volunteer Community Partner Award in 2016. Many collegiate women held employment and leadership positions on campus.

26. Distinguished Zeta Phi members include Jackie Lender, the first recipient of the Harvard Presidential City of Boston Fellowship, which she received in 2016. Jessica Matthews, a 2010 Harvard alumna, was named to Forbes’ 30 Under 30 List and Fortune’s “10 Most Powerful Women Entrepreneurs” in 2014 for her work on bringing light to those in the world who live without electricity. Stephanie Kaplan Lewis, another 2010 alumna, joined Matthews on the Forbes 30 Under 30 List in 2017 as one of the founders of *Her Campus*, the number one “new-media brand for empowered college women” and aspiring journalists. Kaplan Lewis met her fellow *Her Campus* founders while working on a student publication created specifically for Harvard women – underlining the importance of spaces for women at the University. Tiana Idoni-Matthews, Harvard class of 2008, is a director and producer best known for *Hello, My Name is Doris*, *Happy Birthday, Anna*, and *The Warrior and the Savior*.

27. Defendant President and Fellows of Harvard College (“Harvard” or “the University”) is a body corporate and politic under Massachusetts law, and the governing body of Harvard University in Cambridge, Middlesex County, Massachusetts. Lawrence S. Bacow is the President

of Harvard University and is responsible for implementing the Sanctions Policy. His predecessor, Drew Gilpin Faust was the President of Harvard University until the summer of 2018, and was until that time responsible for approving, instituting, and implementing the Sanctions Policy.

28. Harvard is a corporation with multiple places of business in Suffolk County, Massachusetts, including but not limited to 65 North Harvard Street and 25 Shattuck Street, Boston, Massachusetts. Venue in this Court is therefore appropriate pursuant to G.L. c. 223, § 8.

Background

29. Harvard is the oldest university in the United States. Founded in 1636 with a mission of training young, male ministers in the Puritan tradition, it remained an elite school for the best and brightest men in America for centuries.

30. Women gained limited formal access after a group of prominent Boston and Cambridge women banded together in 1872 to form the Women's Education Association ("WEA"), a group that allowed them to find common cause and to amplify their individual voices. While Harvard remained steadfastly opposed to the admission of women, a compromise with the WEA led to the 1879 opening of "the Annex," which allowed young women to be taught by Harvard professors in separate classes.

31. As the Annex grew and as a result of efforts to further integrate women into Harvard life, Radcliffe College was opened in 1894 without its own faculty; Radcliffe students were taught – albeit in women-only classes – by Harvard faculty. When the Harvard faculty and student bodies shrank as a result of World War II, Harvard and Radcliffe began co-education, bringing men and women together in most classes.

32. Increasing consolidation led to the “nonmerger merger” of Harvard and Radcliffe in 1971, and the recognition that there needed to be “full and equal participation in the intellectual and social life of the University by women in roles other than as students.”

33. A final merger of the two institutions occurred only in 1999; full gender parity in the undergraduate body was not attained until 2007, decades after the quotas that limited women’s admission to Harvard were lifted in the 1970s.

34. As women fought for equality at Harvard during the second half of the 20th century, many of Radcliffe’s women’s organizations floundered. Faust has noted that “as women joined *The Crimson*” – Harvard College’s campus newspaper – “and Harvard yearbook staff, Radcliffe’s publications weakened or disappeared.” The gap left behind remains today: In November 2018, *The Crimson* elected its first African-American female editor in chief and she commented to *The Boston Globe* that “Harvard is a very white, very male space,” explaining that it can be hard for students who are not male or white to “navigate their way through . . . institutional spaces.”

Single-Gender Unrecognized Social Organizations for Women

35. Throughout Harvard’s history, students have formed organizations to fill gaps in student life on campus. If students could not find certain experiences on campus, they would create those opportunities elsewhere. Today, the Harvard community includes hundreds of student-led groups with myriad missions: There are singing groups and comedy groups. There are groups for religious students and for atheists. There is even a group devoted to 18th century Irish dance.

36. Harvard has sought to eliminate only one category of student groups, what it calls the “Unrecognized Single-Gender Social Organizations” (“USGSOs”). Such organizations fall into two principal categories: final clubs and Greek organizations. The groups have no formal affiliation with Harvard – final clubs severed any ties with Harvard in 1984 when the University

gave them the choice between going co-ed or losing recognition from the University – and modern Greek organizations have always remained outside Harvard’s ambit. These groups meet off campus and are private associations that operate wholly independently of the University. They do not use Harvard resources: They do not, for example, send out emails on Harvard email lists, nor post announcements on campus billboards. The groups are open only to Harvard undergraduate students, so they have a connection to the Harvard community, but that link is a product of tradition and culture, not of any formal arrangement.

37. Harvard’s final clubs formed as single-sex social organizations for undergraduate upperclassmen – “final” referring originally to the fact that the clubs were the last social organizations students would join after first joining freshmen and sophomore clubs. The first all-male final club, the Porcellian, was founded in 1791. The Fox, founded in 1898, is the newest of the traditionally all-male final clubs. Cambridge real estate was substantially more affordable in the nineteenth century, and the clubs were able to buy property near Harvard Square in which to commune. They continue to use their private, off-campus property for this purpose. Some of the all-male final clubs serve meals to their members, but no members reside at the clubs.

38. Women’s final clubs arrived at Harvard nearly a century after the Fox was formed. The Bee Club – with a name that pays homage to a Civil War sewing bee – was formed in 1991. As an early member of the Bee explained to *The Crimson*, the club was not intended to replicate or compete with the male final clubs, but instead was about “making our own community for people who identify as women.”

39. The Bee Club was followed by Isis (2000) (now “the IC”), the Pleiades (2002), the Sablière Society (2002) (now “the Sab”), La Vie Club (2008), and the Exister Society (the “X”) (2017).

40. By the time women formed clubs, Harvard Square real estate prices had soared. Struggling to find spaces in which to meet, clubs eventually took on expensive leases. At the time Harvard announced its Sanctions Policy, none of the female clubs owned their meeting space.

41. Women's final clubs had a stated mission of creating a support network for women during their undergraduate years at Harvard. The clubs formed communities of strong, intelligent women that focused on nurturing leadership potential in each of their members. Members gathered at formal club events several times a semester and socialized informally more frequently. With the advent of email and smartphones, club members were in constant contact. Email lists sent a steady stream of email to members' inboxes. Group texts passed along a continuous volley of updates and queries. Topics were wide-ranging, but often touched upon issues uniquely related to members' womanhood, such as how to navigate gendered classroom dynamics, prepare for job interviews, and balance personal lives with the demands of school.

42. Women's final clubs, though strictly non-residential, typically had physical spaces that each club called home. Only members could enter those spaces, and they served as oases where members could come together to support and challenge one another. Members, for example, watched presidential debates in their clubs' spaces or simply met there to study or to catch up. They celebrated holidays as a group in their spaces.

43. The clubs provided a forum for women to forge deep friendships, debate public and personal issues from female perspectives, and to help each other grow into mature, successful women. Members have also highlighted the special role all-female environments played in addressing mental health issues, including, for instance, the trauma of sexual assault. Indeed, some clubs held formal gatherings for women to discuss with each other their identities and struggles as women.

44. Women ran their final clubs, developing leadership and management skills for the future. The clubs gave women an opportunity to feel ownership of a piece of their Harvard experience by creating something that was built by women for women. Bonds persisted well after college: Members remained connected throughout their lives through alumnae networks that provided mentorship and support after graduation.

45. Fraternities, in their modern incarnations, first opened at Harvard in 1989, but sororities did not appear on the scene until 1993, when the Kappa Alpha Theta chapter for Harvard students opened. Delta Gamma opened its chapter one year later, while Kappa Kappa Gamma arrived in 2003. After a record-setting 2011 recruitment season, where 268 undergraduate women sought admission (exceeding the capacity of the existing groups), these three sorority chapters undertook a year-long search for a fourth chapter and, as a result, the Iota Tau chapter of Alpha Phi opened in 2013. From a founding group of thirty-nine members, Iota Tau grew rapidly to a membership of 160 by 2017.

46. Sororities play a similar role to final clubs in undergraduate Harvard women's lives. Members share a common mission and sense of purpose. Sororities like Iota Tau empower women to grow as leaders. They provide women with a community that differs from the male-dominated Harvard culture that permeates other parts of their lives on campus; women can explore their identities as emerging female leaders without worrying about how they may be perceived by men in the room.

47. Upon induction, members of Iota Tau pledge loyalty to one another, and to the three pillars of Alpha Phi: sisterhood, scholarship, and service. Members take these principles to heart and hold each other accountable for respecting them.

48. Iota Tau is especially committed to its service mission. Its members champion women's heart health by holding events to shine light on the alarming rise of heart disease in women. Members also provide support to children recovering from heart surgery at Boston Children's Hospital.

49. Over the course of their time in Iota Tau, members develop life-long friendships based on "mutual support and unconditional love." They socialize, they learn together, and they lead together, setting priorities and planning their own activities.

50. Members also explore what it means to reach the "highest ideal of womanhood" by sharing every aspect of their academic and personal lives. Together, they seek to ensure that each member of Iota Tau can reach her full potential and achieve success at the same level as her male peers. "Womanhood" is a central theme of conversation. Through daily texts, emails, and conversations, the sisters of Iota Tau explore what it means to be a Harvard woman. They debate how to deal with personal demands at a school defined by its rigor and intensity and they support each other. Iota Tau's many ceremonies and rituals focus on womanhood: Members pledge loyalty to the sisterhood and reflect on their own experience of womanhood.

51. The women of Iota Tau nurture leadership skills in one another. Iota Tau can serve as a "farm team" for women to grow as leaders before they assume management roles in other student organizations. Members learn how to be managers – by forging compromise, negotiating conflict, and inspiring respect. Within Iota Tau, they do not have to worry about men talking over them, judging the way they look, or discounting their perspective because of their sex.

52. Research over the past 50 years suggests that single-sex settings can greatly benefit women, contributing to higher performance, higher interest in fields traditionally dominated by men, and increased levels of educational attainment, in particular in the natural sciences or medicine.

Moreover, researchers have concluded that the positive effects continue even after women leave single-sex environments. It is unsurprising, then, that many female Harvard undergraduates have sought out memberships in sororities and female final clubs and that the number of such organizations had – until recently – continued to grow.

53. Both final clubs and sororities have a rigorous selection process.

54. All-female final clubs, like their male peers, “punched” (i.e., selected) potential members in the fall of their sophomore year. Punches were chosen based on their accomplishments, their fit with club values, and the unique perspectives they might bring to bear. Not everyone who was “punched” became a member: Potential members attended social gatherings and were invited to meals and asked to participate in other activities in smaller groups, enabling current members to get to know them in more informal settings. Current members then voted on applicants and selected between twelve and twenty new members every year, a fraction of the original number of “punches.” Upon induction into a final club, new members pledged to uphold the particular values of the group.

55. Sororities, including Iota Tau, used a recruitment process to select new members as early as the spring of their first undergraduate year. When there were four sororities, recruitment consisted of three rounds. First, all potential new members visited all four sororities and met with chapter members. Second, potential new members ranked their preferences and were invited back to up to three sororities. Last, sororities ranked pledges, prioritizing women who embodied the ideals of the sorority, and who best matched the spirit of the group. At the end of that final round, potential new members signed bids for sororities to which they wished to belong, and on bid day, new members received their invitations to join their new chapters.

56. Upon selection, members of Iota Tau go through a six-week education program that teaches them about the history of the organization and the values it espouses. Members review the organization's policies and procedures in detail. They are taught how to look out for one another, and about the principles that will support them in sustaining a lifetime of leadership and achievement.

Harvard Sanctions Unrecognized Single-Gender Social Organizations

57. Rakesh Khurana has been the Danoff Dean of Harvard College since the fall of 2014. As Dean, he oversees undergraduate student life at Harvard, guiding decisions over both academic and social issues.

58. Khurana has long disdained single-sex organizations. As early as 2011, he told *The Crimson* that he was "suspicious" of single-sex organizations, suggesting that they were unnecessary. Upon his ascendance to the deanship, he set out to eliminate them from campus life altogether.

59. In October 2014, Khurana met with the student and graduate leaders of 30-40 unrecognized social organizations for a routine discussion about Harvard policies. Khurana immediately shifted the tone of the meeting, questioning the groups' "values," and expressing skepticism about whether single-sex groups "align" "with the mission of the College."

60. Khurana's message was both unprecedented and clear: He intended to eliminate single-sex organizations. His opening salvo in the campaign to do so was to stigmatize members of single-sex organizations as immoral; without taking the time to get to know each organization's mission and members, he chastised all single-sex organizations for defying the basic tenets that, according to him, defined what it meant to be a good Harvard citizen. He ended the meeting by exhorting the groups to "do better," by which he meant that they should accept members of the opposite sex.

61. Prior to the October 2014 meeting, Harvard learned that a group of Harvard students had filed a complaint against the University with the U.S. Department of Education's Office for Civil Rights (OCR), and that, as a result, OCR was investigating Harvard for possible noncompliance with Title IX, which bans sex discrimination in educational institutions receiving federal funds. The OCR complaint singled out all-male final clubs, alleged that they were "major site[s] of sexual violence," and demanded that Harvard take action against them.

62. On information and belief, Khurana's initiative to force final clubs to go co-ed was motivated at least in part by a desire to satisfy OCR and to avoid potential liability by punishing and destroying all-male final clubs.

63. In May 2015, Khurana called a meeting with graduate leaders of Harvard's all-male final clubs. He said that he was determined to close the clubs if they did not open themselves to women. He told clubs they had an opportunity to make that choice on their own, but that if they did not, he would soon make it for them.

64. At that meeting, Khurana cited the pending release of a report by the Harvard Task Force on the Prevention of Sexual Assault as his reason for seeking to eliminate single-sex groups, even though he had exerted pressure on single-sex organizations months before he knew the Task Force's conclusions. Khurana implicitly threatened to publicize embarrassing information he claimed to have about the all-male final clubs, including purported allegations of sexual assaults, if they did not become co-ed.

65. When asked at that meeting why women's clubs had not been invited to attend, Khurana claimed that women had been invited but had declined because they were too intimidated by the men.

66. The following academic year, in September 2015, President Faust said in an interview with *The Crimson* that she and Khurana were weighing options for regulating final clubs. Faust said in the interview that she worried final clubs had become a hotbed of sexual assault fueled by alcohol. She also said in that interview that a major reason that the clubs needed to go co-ed was because the clubs “dispense privilege and advantage.”

67. Throughout the fall of 2015, Khurana met again with graduate leadership from the all-male final clubs and reiterated that the question was not whether the clubs would be going co-ed, but when. Upon information and belief, Khurana warned them of a storm of possible sanctions should the clubs not comply; he suggested, for example, that Harvard had the power to bar students from belonging to single-gender social organizations, including to the point of expelling undergraduates who did so.

68. Based on their statements, Faust and Khurana were relying on stereotypes of males, and particularly of members of all-male groups, as sexually aggressive and hostile towards women.

69. When asked why representatives of the all-female clubs had not been invited to participate in all these meetings, Khurana said the women had said they did not want to meet with the men. On information and belief, this statement was false.

70. During the course of Khurana’s meetings and discussions with all-male final clubs, representatives of those clubs maintained regular contact with representatives of female and co-ed final clubs and discussed Khurana’s statements and approaches.

71. In an interview with *The Crimson* around that time, Khurana acknowledged that he was crafting a set of recommendations for unrecognized social groups, saying that while the College is not “driven by notions of sanctions,” “there is nothing off the table.”

72. The female final clubs first heard directly from the administration about the threat of sanctions in a meeting on September 30, 2015. Undergraduate leadership was present at the meeting, but graduate leadership was not. When the undergraduate women asked why the female graduate boards had not been contacted – although Harvard had been meeting with representatives of the male graduate boards – the undergraduates were informed that Khurana did not have contact information for the female graduate leadership.

73. The administration finally met directly with the graduate leadership of the female final clubs on October 19, 2015. The graduate women were told that they had not been included in earlier meetings because the Office of Student Life did not have their contact information. However, the women were also told that Harvard had chosen not to have them present at meetings with the men, because the administration did not want the women to be intimidated by the men.

74. In March 2016, soon after a Harvard alumna brought a Title IX sex discrimination lawsuit against Harvard, the University's Task Force on the Prevention of Sexual Assault released its long-awaited report on sexual assault. This was the report that Khurana had cited a year earlier as motivating, in part, his campaign to eliminate single-sex organizations from Harvard's social life. Faust had created the Task Force in April 2014, days after students filed a complaint with OCR, and in the context of ongoing anti-sexual assault initiatives by the Obama White House and the recent passage of the Violence Against Women Reauthorization Act of 2013. The Task Force report did in fact blame single-sex male final clubs for sexual assaults at Harvard and recommended that the university act to quell the clubs' supposed harmful impact on campus social life. But review of the supporting statistics revealed that the vast majority of reported assaults occurred on campus, in university-operated, co-ed dormitories, with no demonstrated connection to a final club or other single-sex organization. Indeed, when a final club asked a respected

statistician, Jora Stixrud, to examine the report, she concluded that the surveys relied upon by the Task Force “do[] not contain any data that would allow an analyst to support the recommendations of the Task Force that pertain to Final Clubs.”

75. Although Stixrud’s analysis was provided to Khurana, he ignored it; however, he soon shifted his attacks on the final clubs away from the misleading statistics in the Task Force report.

76. In the wake of the report, Khurana wrote to *The Crimson*, explaining that he intended to do whatever was in his power to eliminate single-sex organizations. He cast his objections in moral terms: “The College has for many months made it clear that the behaviors and attitudes espoused by unrecognized single gender social organizations at Harvard College remain at odds with the aspirations of the 21st century society to which the College hopes and expects our students will contribute.”

77. Despite Khurana’s stated concern with sexual assault, when all-male final clubs repeatedly asked for information on allegations of sexual assault so that any issues could be addressed, Khurana and other deans did not respond.

78. On March 29, 2016, Khurana held a meeting with the undergraduate leadership of the male and female final clubs; a Harvard administrator asked that before the meeting, participants read both the Task Force report and an *Inside Higher Ed* article titled “A Rare Focus on All-Male Groups.” At this meeting, Khurana ordered all final clubs to go co-ed by April 15, 2016. He also bizarrely equated a failure to do so with terrorism: In response to a question about why going co-ed would necessarily lead to greater equality on campus, Khurana explained that closed cultures tend to foster violence and closed-minded thinking, which, he suggested, inexorably leads to “terrorism.”

79. Following the meeting with the final clubs, Khurana met with the leadership of Harvard's Greek organizations and, for the first time, discussed the proposed sanctions with these organizations. Khurana told the Greek organizations that he would be presenting a recommendation to the administration by the end of May. He did not issue an ultimatum to the sororities and fraternities or demand that they go co-ed.

80. Sorority and fraternity leadership met again with Khurana and other administrators on April 6, 2016. Leaders of those organizations followed this meeting by sending Khurana a proposal called "Building a Better Harvard" that sought to address the administration's concerns. The Greek organizations received no response to this proposal.

81. On April 13, 2016, Khurana held another meeting with the leadership of the final clubs. At this meeting, Khurana suggested, for the first time, that he might bar undergraduate club members from leadership positions and repeated his ultimatum, demanding that the clubs go co-ed by April 15.

82. On April 15, 2016, several final club leaders "complied" with Khurana's deadline by submitting non-committal responses to administrators on whether they planned to go co-ed.

83. On May 4, 2016, leaders of one of Harvard's all-female clubs wrote in an op-ed in *The Crimson* that Harvard had brought women into the sanctions discussion only belatedly and was ignoring the risk that women would become "collateral damage in the transition." Speaking to *The Crimson* the following day, one of the op-ed's authors noted that even when Harvard had included women, administrators failed to listen to them: "[W]e feel that we have not been listened to despite the pretense of, 'Oh, we're having a meeting and would love your input.'" In response, Faust indicated her disappointment: Her concern was not that women were excluded from the process, but only that women "felt they haven't been sufficiently consulted."

The Sanctions

84. On May 6, 2016, Khurana sent Faust his recommendations for USGSOs. He recommended, starting with the class matriculating in fall 2017, that any undergraduate student who chose to join a USGSO should be thereby rendered ineligible to hold leadership positions in recognized student groups or athletic teams, and ineligible to receive the Dean's endorsement for fellowships that require such endorsements. His aim was clear: He sought to punish anyone who joined a single-sex organization, and by doing so, to eliminate single-sex organizations from Harvard's social and academic life. Faust accepted these recommendations in full the same day.

85. In response to this announcement, on May 10, 2016, during the "reading period" that precedes exams, hundreds of Harvard women, including members of Iota Tau, organized and participated in a protest rally in Harvard Yard, adopting the slogan "Hear Her, Harvard."

86. A female undergraduate leader spoke at the rally and gave voice to what much of what the crowd was feeling: "Women organizations are vibrant precisely because women have recognized the need to come together," she explained. She described "female spaces [as] crucial sources of empowerment." She celebrated the fact that she would "leave Harvard with female mentors, a professional female network and best female friends because I have been lucky to have these spaces." Another student told *The Crimson* that "it would be a scary place if there were no social outlets on campus where women did not have to at least partially prove themselves to men."

87. On or about May 26, 2016, twelve members of the Harvard Faculty of Arts and Sciences, including Professor Harry Lewis, introduced a motion to oppose the sanctions and to bar action punishing students for "joining, or affiliating with, any lawful organization...." Over the fall of

2016, the faculty debated this motion at multiple meetings and it had substantial support. After a few postponements, a vote was scheduled for February 2017.

88. On August 30, 2016, Harvard administrators met with undergraduate and national sorority representatives to discuss the place of sororities at Harvard. As Kappa Kappa Gamma President Beth Uphoff Black reported, "It was made clear during the meeting that Harvard never wanted sororities on campus and saw no value in what we offer collegiate women."

89. On September 21, 2016, Faust wrote an op-ed in *The Crimson*, in which she suggested that the existence of single-sex social organizations relegates women to "second class citizenship." In November, she told *The Crimson* that "all-male organizations restrict women's liberties."

90. On January 25, 2017, before the faculty were due to vote on the Lewis motion, Khurana announced the establishment of a faculty committee to "further inform," and potentially revise or replace, the USGSO policy. In response, Lewis withdrew his motion with an option to renew it later.

91. On or about March 29, 2017, Khurana and other Harvard administrators announced that the Sanctions Policy would be implemented for all-male groups, but that all-female final clubs and sororities would not initially be subject to the penalties. Under a "bridge program," women's groups would be allowed to maintain their "gender focus" for at least three to five years.

92. On July 5, 2017, the faculty committee appointed in January issued a preliminary report recommending that Harvard undergraduates be penalized, including by suspension or expulsion, if they joined final clubs, fraternities, sororities, or similar organizations. However, according to *The Crimson*, only seven out of twenty-seven committee members in fact supported this recommendation.

93. In August 2017, Khurana sent a letter to the Harvard Class of 2021, including a note that made clear he and other administrators intended to penalize anyone who joined a single-sex organization, even though the faculty had not approved or enacted any formal policy regarding sanctions.

94. On or about September 30, 2017, the faculty committee revised its preliminary report, proposing the following options: maintaining sanctions as proposed by Khurana, banning membership in USGSOs entirely, or enacting "some other possible solutions."

95. At the first faculty meeting of the year on October 3, 2017, Harry Lewis presented his renewed motion, which was signed by twenty-one professors.

96. On November 7, 2017, the faculty voted down Lewis's motion, 130-90. On information and belief, several key faculty opponents of the Sanctions Policy were unable to attend the vote because of when the meeting was scheduled.

97. On December 5, 2017, Khurana announced that by a vote of its Corporation, Harvard had officially adopted a policy of sanctioning members of USGSOs.

98. In the 2017-2018 academic year, induction of members into sororities dropped sharply. Although total numbers were not released publicly, *The Crimson* reported that interest in sororities was down 60% in the spring of 2018. Between spring 2017 and spring 2018, membership in Iota Tau declined by 35%.

99. The "bridge program" that would have permitted all-female organizations to retain their female focus for a few years was not included in the Sanctions Policy as it was implemented in March 2018; instead, all final clubs and Greek organizations were affected.

100. Today, the Harvard College Handbook for Students makes clear that undergraduates will be punished if they choose to associate with members of their own sex in an organization that

meets off-campus. The Handbook states that any student “matriculating in the fall of 2017 and thereafter” (in other words, current sophomores) who “become[s] a member of [an] unrecognized single-gender social organization[]” will be barred from “leadership positions in recognized student organizations or athletic teams,” and prohibited from winning “College-Administered fellowships.”

101. Under Harvard’s “Implementation Policy” for sanctions, the administration has recommended that students, starting with the class of 2021, who seek leadership positions, captaincies, or fellowships, be required to sign a written statement affirming their commitment to “nondiscrimination on the basis of characteristics of ‘intrinsic identity,’ including gender.” Students will also have to affirm that they do not currently belong to any single-gender final club or Greek organization, did not belong to one in the past year, and will not belong to one the year after their tenure in a leadership position or athletic captaincy ends. The Implementation Committee for the Policy on Membership in Single Gender Social Organizations recommended that the Honor Council investigate students who violate the policy by “falsely affirming compliance.” Violations of the Sanctions Policy may thus be punished by Harvard’s Honor Council and/or Administrative Board, each of which is a group comprised of dozens of faculty and administrators (the former of which also includes students). Any student charged in an Honor Council proceeding is put before a subcommittee of the Council, at a hearing where that student is interrogated without the help of a lawyer; a student referred to the Board typically provides a statement and information to a Resident Dean or faculty member, who presents the case to the rest of the Board on the student’s behalf. The student’s fate is then decided by the Council or Board, whose jurisdiction extends over both the question of guilt, and the question of penalty, which can

include a mandatory separation from Harvard. The Honor Council and the Administrative Board can also recommend that the Faculty Council dismiss or expel a student.

102. An organization can avoid sanctions on its members by gaining recognition through Harvard. To do so, an organization must not only commit to gender-neutral membership criteria, but must also adopt certain financial practices, disaffiliate from or limit the role of external bodies such as national organizations and alumni boards, and follow policies against several other types of discrimination. Each organization must submit its governing documents for Harvard's approval to confirm its local autonomy. An organization must also disclose the gender breakdown of its membership, though not the identities of its members. Although an organization may gain "Interim Recognition" for one or two years without fully adopting a gender-neutral membership recruitment, after the interim stage an organization must become gender-neutral in order to retain recognition.

103. Even those organizations that have been pressured by Harvard into becoming gender-neutral social organizations in order to become "recognized" by Harvard continue to experience threats, intimidation, and coercion. It has been reported that they are expected to meet periodically with Alexander Miller, the Associate Dean of Student Engagement, who – although he displays mementoes of his own fraternity membership in his office – continues to coerce and threaten social organizations when, in his view, they have failed to comply with an ever-evolving set of recognition requirements. Dean Miller has made veiled threats about the consequences of failing to comply with Harvard's changing demands (such as "you know what the alternative is" or "we might have to go there") and has, on at least one reported instance, screamed at a student regarding an aspect of a social organization's transition.

104. The Sanctions Policy is pockmarked with carve-outs and inconsistencies. Harvard made a special exemption for the leadership of *The Crimson*, many of whose members belonged to single-sex organizations, and all of whom shape press coverage of the administration's choices. Student government leaders were similarly excluded, again protecting Harvard from complaints by a vocal and highly-visible group of students. In barring sanctioned individuals from obtaining team captaincies, the policy recognizes the value and prestige associated with the opportunity to lead a single-sex entity (i.e., a sports team), while simultaneously attempting to foreclose opportunities to lead or even be a member of other single-sex entities (i.e., sororities and final clubs). And the policy blessed on-campus single-sex organizations that accepted members of the opposite sex in name only, but remained highly segregated in reality. As Professor Lewis described in a letter to administrators, Harvard "congratulat[ed] itself that (in theory) its own organizations are all nondiscriminatory: that the Kroks are not really a men's group, the Pitches are not really a women's group" even though they were in fact highly segregated by sex. A policy that purported to stamp out sex discrimination, then, did so in a manner that overlooked some of the most prominent examples of separate spaces for men and women on campus.

105. Meanwhile, the Sanctions Policy directly discriminates against both male and female students on the basis of sex. A woman is denied the right to join an all-women's organization such as Iota Tau just because she is a woman; her male peer would be welcome to seek membership in that same group.

The Sanctions Policy Has Devastated Women's Single-Sex Social Organizations

106. The sanctions carry – in the words of *The Crimson's* editorial board – "severe consequences." That was certainly the fear felt by sorority and all-female final club members, including leaders of Iota Tau, as they contemplated recruiting new classes of women for their

groups. Female undergraduates who otherwise would have sought to become members of these groups were also intimidated by these consequences and deterred from seeking membership.

107. New members of USGSOs would not be able to assume leadership positions in on-campus organizations recognized by Harvard. They could never, for example, rise to the top of the Harvard College Democrats or Republicans, which could lead to important connections and job prospects in government; they could never captain a sports team, an experience that makes young leaders desirable candidates for jobs and professional schools; they could never manage the *Harvard Lampoon*, a publication whose alumni helm dozens of Emmy-winning television programs; and they could never participate in the governance of the Phillips Brooks House Association, or any of its dozens of member organizations, all of which can open doors in the world of philanthropy. Leadership positions in hundreds of unique Harvard organizations would be closed to those who joined USGSOs like Iota Tau.

108. New members could likewise never compete for scholarships to support post-graduate education. They could never, for example, win the Rhodes or Marshall Scholarship, both of which cover the cost of earning an advanced degree at a British university. They could never win any of the myriad Harvard-based fellowships that subsidize post-graduate studies, like the Michael C. Rockefeller Memorial Fellowship, a scholarship that supports students interested in the wonder and challenge of living and participating in communities very different from those they have known, or the Laura Houghteling Memorial Fellowship, a scholarship that supports young teachers planning a career in elementary or secondary education. Many of these scholarships and fellowships are only available to those graduating from Harvard, or from college in general. As such, Harvard's Sanctions Policy takes once-in-a-lifetime opportunities away from undergraduates.

109. Sororities struggled to respond to the announced Sanctions Policy. Allowing men to join would have disrupted the missions and expressive characteristics of the groups, which were founded on the basis of sisterhood and designed to create environments in which women could support and empower one another without the intrusion of men.

110. Harvard's requirements for recognition were also inconsistent with remaining part of a national sorority, both because Harvard mandated that groups be governed locally and sever ties with national organizations, and because Harvard's demand for gender neutrality violated the membership requirements of national or international sororities.

111. Membership in a broader national or international organization is an integral component of the sorority experience and allows members to make connections – and seek advice, guidance, and support – from alumnae and sisters at other institutions. This broad community is valuable not only during undergraduate years, but after individual members leave Cambridge and return to their home communities or move to other parts of the country.

112. Faced with the weight of the Sanctions Policy and its effect on member recruitment, Iota Tau felt it had no choice but to close its doors. On August 19, 2018, Iota Tau requested that Alpha Phi suspend its charter, and Iota Tau members announced a plan to form an unaffiliated, co-ed group called "The Ivy." Alpha Phi explained at the time that Iota Tau was suspending its charter because of the Sanctions Policy.

113. Iota Tau was one of the last holdouts. Other women's organizations began responding to Harvard's threats, intimidation, and coercion earlier.

114. In August 2016, the Seneca Club announced it would no longer consider gender in admissions.

115. Although the Sablière Society's leaders had criticized the administration for endangering "female leadership and networks," in September 2016, *The Crimson* reported that the Sablière Society would become the co-ed Sab Club.

116. In August 2017, *The Crimson* reported that the Bee merged with the all-male Delphic Club and formed a co-ed final club, the Delphic-Bee.

117. In January 2018, the Kappa Kappa Gamma chapter for Harvard undergraduates separated from its national organization and formed a co-ed social club called the Fleur-de-Lis.

118. On July 23, 2018, the Kappa Alpha Theta chapter for Harvard undergraduates announced that it would disaffiliate from its national organization in the fall of 2018 and become the co-ed group "Theta Zeta Xi." The group explained that it felt compelled to do so in order to allow members to "take full advantage of the academic and leadership opportunities available to them as Harvard students."

119. On August 2, 2018, the Delta Gamma Fraternity announced that it had accepted the Harvard undergraduates' vote to relinquish their chapter's charter. Former members of Delta Gamma then announced the formation of the gender-neutral club "Kali Praxi."

120. That same month, the Pleiades, the IC (formerly Isis), and La Vie Clubs also disbanded and reconstituted as co-ed clubs.

121. And with that, as *The Crimson* reported, Harvard undergraduate women – unlike their male peers – no longer had the opportunity to be members of any unrecognized single-sex social groups.

122. On November 9, 2018, recognizing that the elimination of all-female single-sex social organizations was part of the "unjust destruction of women's spaces and women's rights," Iota Tau asked Alpha Phi to reinstate its charter. On November 19, 2018, Alpha Phi notified Iota Tau

that it could resume chapter operations. Iota Tau is now the only all-women social organization open to Harvard undergraduates.

123. Plaintiffs have suffered and continue to suffer substantial damages, some of which can only be fully remedied by injunctive relief. For instance, Alpha Phi and Iota Tau have lost members and prospective members, and their members have lost economic and social opportunities, have been damaged by unlawful sex discrimination, and have been deterred from exercising their rights to free association.

COUNT I
Interference with Freedom of Association
(Massachusetts Civil Rights Act – G.L. c. 12, § 11D)
(Plaintiffs Alpha Phi and Iota Tau)

124. Plaintiffs incorporate and reassert the allegations stated in the previous paragraphs as if fully stated herein.

125. Plaintiffs have exercised, enjoyed, and attempted to exercise and enjoy, rights protected under article 19 of the Massachusetts Declaration of Rights, among other laws and constitutional provisions, including but not limited to the following:

- a. The right to enjoy intimate association with other people who identify as women;
- b. The right to associate with other individuals in a private organization without interference in the inner workings of that private organization; and/or
- c. The right to express a common interest and message of sisterhood by associating together with other people who identify as women.

126. Harvard has interfered with, or attempted to interfere with, Plaintiffs' enjoyment and exercise of protected rights.

127. Harvard has interfered or attempted to interfere with such rights by employing threats, intimidation, and/or coercion, including but not limited to the following:

- a. Coercing USGSOs to go co-ed by punishing their undergraduate members, including but not limited to applying moral pressure on organizations to disband, making threatening and intimidating statements, and depriving students of meaningful economic benefits and future career opportunities that are available to their peers who are not members of USGSOs;
- b. Threatening to suspend or expel Harvard undergraduates who join these lawful organizations;

- c. Threatening to take all measures necessary to compel these lawful organizations to go co-ed or disband, including by stating that “nothing [was] off the table”;
- d. Stating that Harvard possessed negative information about USGSOs and threatening to make such information public if they did not go co-ed;
- e. Intimidating clubs by publicly and unfairly blaming them for a high reported incidence of sexual assault; and/or
- f. Casting single-sex organizations and their members as morally suspect members of the Harvard community whose views are outdated and do not have a legitimate place in campus life.

128. As a result of Defendant’s actions, Plaintiffs have suffered non-monetary harms and monetary damages to be proven at trial.

COUNT II
Sex Discrimination
(Massachusetts Civil Rights Act – G.L. c. 12, § 11D)
 (Plaintiffs Alpha Phi and Iota Tau)

129. Plaintiffs incorporate and reassert the allegations stated in the previous paragraphs as if fully stated herein.

130. Plaintiffs have exercised, enjoyed, and attempted to exercise and enjoy, rights protected under article 1 of the Massachusetts Declaration of Rights, as amended, among other laws and constitutional provisions, including but not limited to the following:

- a. The right to be “free and equal” in asserting the “essential and unalienable” right to “seek[] and obtain[] their safety and happiness”; and/or
- b. The right to equality based on sex.

131. Harvard has interfered with or attempted to interfere with such rights by imposing a Sanctions Policy that discriminates on the basis of sex, that punishes students because they

associate with individuals of a particular sex, that is based on stereotypes about male and female behavior, and/or that has had a disparate impact on women.

132. Harvard has interfered or attempted to interfere with such rights by employing threats, intimidation, and/or coercion, including but not limited to the following:

- a. Coercing USGSOs to go co-ed by punishing their undergraduate members, including but not limited to applying moral pressure on organizations to disband, making threatening and intimidating statements, and depriving students of meaningful economic benefits and future career opportunities that are available to their peers who are not members of USGSOs;
- b. Threatening to suspend or expel Harvard undergraduates who join these lawful organizations;
- c. Threatening to take all measures necessary to compel these lawful organizations to go co-ed or disband, including by stating that "nothing [was] off the table";
- d. Stating that Harvard possessed negative information about USGSOs and threatening to make such information public if they did not go co-ed;
- e. Intimidating clubs by publicly and unfairly blaming them for a high reported incidence of sexual assault; and/or
- f. Casting single-sex organizations and their members as morally suspect members of the Harvard community whose views are outdated and do not have a legitimate place in campus life.

133. As a result of Defendant's actions, Plaintiffs have suffered non-monetary harms and monetary damages to be proven at trial.

COUNT III
Tortious Interference with Advantageous Relations
(Plaintiff FMC)

134. Plaintiffs incorporate and reassert the allegations stated in the previous paragraphs as if fully stated herein.

135. FMC leases and manages the space known as "the Cove" on Mount Auburn Street in Cambridge, Massachusetts.

136. Zeta Phi, the chapter of Delta Gamma for Harvard undergraduates until it relinquished its charter, used the Cove to gather and develop as students, leaders, professionals, and women. The Cove allowed the women of Zeta Phi to hold programs that provided intellectual motivation, opportunities to develop their goals and aspirations, and tangible ideas to help them fulfill their social responsibilities to their College, their community, and to all those with whom they interacted. Zeta Phi sisters used the Cove for social events, chapter functions, and as a private space for honest discussions among close friends and sisters.

137. In August 2016, FMC entered into a lease extension for the Cove on behalf of Zeta Phi. Under this lease extension, FMC was obligated to pay for the Cove from February 1, 2017, to January 31, 2020.

138. The rent for the Cove is \$3,837.50 per month from February 1, 2018, to January 31, 2019, and \$4,200.00 per month from February 1, 2019, to January 31, 2020, subject to possible increases based on property taxes and operating expenses.

139. Since Zeta Phi disbanded on or about August 2, 2018, the Cove has sat vacant.

140. FMC has been unable to sublet the Cove to any other tenant and has made rent payments despite the lack of corresponding revenue.

141. FMC is currently responsible for over \$60,000 in rent payments over approximately 15 months for a property that, as a result of Harvard's actions, it can no longer use.

142. FMC had contractual relationships with Zeta Phi in the 2017-2018 academic year and in prior years by which Zeta Phi and its members would compensate FMC for the use of the Cove. In 2017-2018, Zeta Phi agreed to pay FMC well over \$25,000. In addition, each new member of Zeta Phi was required to pay a fee to FMC upon initiation, and existing Zeta Phi members were required to pay fees to FMC annually.

143. FMC had a reasonable expectation that Zeta Phi and its members would continue to enter into these contracts annually and would compensate FMC for the use of the Cove. However, as a result of Harvard's actions, Zeta Phi disbanded and did not execute an agreement for the 2018-2019 academic year, which also would have required Zeta Phi to pay FMC well over \$25,000.

144. In implementing the Sanctions Policy, Harvard knowingly and intentionally induced Zeta Phi and its members to break existing contractual relationships and to decline to renew them; it also knowingly and intentionally deterred potential members from joining Zeta Phi and directly or indirectly entering into contractual or business relations with FMC.

145. Harvard's conduct in interfering with the business relationships was improper in motive or means for, among other things, the following reasons:

- a. The Sanctions Policy violated the rights of Harvard students, including members of Delta Gamma, to freedom of association;
- b. The Sanctions Policy violated the rights of Harvard students, including members of Delta Gamma, to be free from discrimination on the basis of sex; and/or
- c. The Sanctions Policy was motivated by a sexist campaign to destroy all-male final clubs, which had the collateral effect of causing Zeta Phi to disband.

146. FMC was harmed by Harvard's actions when Zeta Phi closed and it and its members stopped making payments to FMC. The loss of revenue is reasonably expected to exceed \$25,000.

147. In addition, FMC has been harmed by Harvard's actions because it continues to be obligated to make payments of over \$25,000 for real estate that it is unable to use.

WHEREFORE, Plaintiffs request that the Court:

1. Enter judgment for Plaintiffs and against Defendant, including a declaration of the rights of the parties pursuant to G.L. c. 231A, §§ 1 and 6;
2. Enjoin Defendant from violating Plaintiffs' rights, including by enjoining Defendant from enforcing the Sanctions Policy;
3. Award damages to Plaintiffs in amounts to be determined by the Court;
4. Award attorneys' fees, costs, and interest to Plaintiffs; and
5. Order such other relief as this Court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE

Respectfully submitted,
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Alpha Phi Iota Tau; and
Delta Gamma Fraternity Management Corp.,
By Their Attorneys,



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