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MYEASHA KIMBLE and
10 WILLIAM HILLIARD

11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF RIVERSIDE

13 MYEASHA KIMBLE, an individual and
14 successor in interest to TYLER HILLIARD;
WILLIAM HILLIARD, an individual and
15 successor in interest to TYLER HILLIARD,

16 Plaintiffs,

17 v.

18 ALPHA PHI ALPHA FRATERNITY, INC.,
19 ALPHA PHI ALPHA FRATERNITY- PI
EPSILON CHAPTER at UC RIVERSIDE, an
20 unincorporated Association; and DOES 1
through 100, inclusive,

21 Defendants.
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

DEC 20 2019

A. Hernandez



DEC 20 2019

Case No: **RIC 1906176**

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

1. Wrongful Death
2. Violation of California Penal Code Section 245.6 for Hazing
3. Violation of California Civil Code Section 43
4. Violation of California Civil Code Section 52.1
5. Negligence

[DECLARATIONS OF KIMBLE AND HILLIARD PURSUANT TO CODE CIV. PROC., § 377.32 FILED CONCURRENTLY]

DEMAND FOR A JURY TRIAL



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COMPLAINT BY PLAINTIFFS MYEASHA KIMBLE AND WILLIAM HILLIARD FOR GENERAL DAMAGES

Kimble, et al. v. Alpha Phi Alpha Fraternity, Inc., et al.
Case No.:

V. James DeSimone Law
Toni Jaramilla, APLC

1 Plaintiffs MYEASHA KIMBLE and WILLIAM HILLIARD, allege:

2 **THE PARTIES**

3 1. This is a Complaint by Plaintiffs MYEASHA KIMBLE and WILLIAM
4 HILLIARD, ("Plaintiffs"). KIMBLE and HILLIARD are the parents of TYLER HILLIARD,
5 who suffered a tragic and untimely death at age 20 years old while pledging for Defendant
6 ALPHA PHI ALPHA FRATERNITY, INC. at the ALPHA PHI ALPHA- PI EPSILON
7 CHAPTER at the University of California, Riverside ("UC Riverside") campus.

8 2. TYLER HILLIARD ("TYLER" or "DECEDENT") died on September 16, 2018.

9 3. Plaintiff MYEASHA KIMBLE is TYLER'S mother, lawful heir and successor in
10 interest to TYLER. KIMBLE is a resident of Los Angeles County (Pomona), California.

11 4. Plaintiff WILLIAM HILLIARD is TYLER's father, lawful heir and successor in
12 interest to TYLER. HILLIARD is a resident of Los Angeles County, California.

13 5. Defendant, ALPHA PHI ALPHA FRATERNITY, INC. ("ALPHA") is a Greek
14 lettered fraternity and headquartered in Baltimore, Maryland. ALPHA has numerous fraternity
15 chapters throughout the nation and has regularly transacted business, directly and through its
16 chapters located throughout numerous public and private universities, in the State of California,
17 including defendant, ALPHA PHI ALPHA FRATERNITY- PI EPSILON CHAPTER, and
18 through its active alumni members and associations.

19 6. Defendant, ALPHA PHI ALPHA FRATERNITY- PI EPSILON CHAPTER
20 (CHAPTER) is an association, organization or society based in UC Riverside. TYLER attended
21 UC Riverside as an undergraduate college student. CHAPTER AND ALPHA hold themselves
22 out to the community as providing service, leadership, and advocacy in their communities,
23 stressing academic excellence among its members while helping to correct the educational,
24 economic, political, and social injustices faced by African Americans.

25 7. Plaintiffs do not know the true names and capacities, whether individual, corporate
26 or otherwise, of defendants DOES 1 to 100, inclusive and therefore sues them by such fictitious
27 names. Plaintiffs are informed and believe, and on that basis allege that each of the DOE
28 defendants is in some manner responsible for the damages alleged by them in this Complaint.

1 Plaintiffs will amend this complaint to allege their true names and capacities when identities are
2 ascertained.

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

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

14 10. Venue is proper in this court under California Code of Civil Procedure section
15 395, subdivision (a) as Riverside is the County where the injury to Plaintiffs KIMBLE and
16 HILLIARD occurred.

17 **FIRST CAUSE OF ACTION**

18 **WRONGFUL DEATH**

19 **(Against All Defendants)**

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

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

25 13. ALPHA and CHAPTER subjected TYLER and other student pledges to various
26 forms of torturous initiation rituals and activities. Around September 2018, Defendants continued
27 to subject TYLER to initiation rituals such as requiring him to eat an "Alpha Apple" which is a
28 raw onion soaked in hot sauce. TYLER and the pledges in his group ("Line Brothers") were

1 required to eat the entire raw onion in one sitting. Shortly after, TYLER began feeling sick and
2 needed medical attention. Defendants were aware that TYLER had to be admitted into the
3 hospital emergency room because of cardiac related symptoms.

4 14. Nonetheless, Defendants required TYLER to continue participating in hazing
5 rituals and activities that included physical abuse, and psychological torture causing him to be
6 sleep deprived, as well as mentally and physically exhausted. On or around September 15, 2018,
7 TYLER and other pledges were hiking Mount Rubidoux as part of the hazing and as a requirement
8 to being accepted into the CHAPTER of the ALPHA fraternity.

9 15. While at Mount Rubidoux, Defendants and each of them, coerced, threatened and
10 intimidated TYLER and other pledges to participate in activities meant to mentally, physically,
11 and emotionally break them down, including pushing them to exhaustion, and causing physical
12 harm. Plaintiffs believe that TYLER was kicked in the chest during these unlawful and abusive
13 hazing activities.

14 16. TYLER had been subjected to lengthy hazing rituals that lasted for weeks if not
15 months, terminating in his final death march at Mount Rubidoux. Agents of Defendants
16 CHAPTER AND ALPHA knew, or should have known, that they were subjecting TYLER to
17 harmful, life-threatening conditions in a coercive, abusive fashion, and persisted in doing so
18 despite clear signs of the harm it was causing TYLER.

19 17. On that same day of September 15, 2018, a CHAPTER Pledge Master by the name
20 of "DJ" on the line called KIMBLE from TYLER's phone. DJ informed KIMBLE that an
21 emergency room doctor was on the line and needed to talk to her about TYLER. The doctor
22 informed KIMBLE that she and TYLER's family should rush to the hospital immediately. There,
23 they discovered TYLER on a ventilator in the Intensive Care Unit. TYLER passed away the next
24 day, September 16, 2018.

25 18. At all relevant times, defendant CHAPTER existed as the local chapter of the
26 ALPHA national fraternity at UC Riverside and is chartered and allowed to exist by ALPHA.
27 ALPHA retained significant control over CHAPTER through ALPHA's rules and laws, and the
28 use of alumni and regional advisors who are supposed to regularly check and report on

1 CHAPTER's activities and whether CHAPTER is following ALPHA's mandates.

2 19. Defendants, and each of them, owed statutory, common law and assumed duties
3 to protect TYLER from its officers, members and associate members' violent, coercive, and
4 intimidating actions as well as negligent conduct and activities that posed unreasonable risk of
5 harm to him.

6 20. As a direct and proximate result of the abusive conduct, negligence and
7 carelessness of Defendants, and each of them, TYLER died.

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

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

17 23. As a further direct and proximate result of the negligence and wrongful conduct of
18 Defendants, and each of them, Plaintiffs KIMBLE and HILLIARD have and continue to suffer
19 the loss of TYLER'S love, companionship, comfort, gifts, benefits, society, solace, moral support,
20 physical assistance, assistance, protection, guidance, affection, all of their general damages in an
21 amount to be proven at time of trial.

22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA PENAL CODE SECTION 245.6 (Hazing)**

24 **(Against All Defendants)**

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

27 25. Defendants' "initiation hike" at Mount Rubidoux was the last hazing that TYLER
28 was subjected to as a condition of becoming a full member in the ALPHA fraternity, and was part

1 of a continuous pattern and practice of physical, emotional and mental abuse.

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

7 27. Further, because the wrongful acts against Plaintiffs were carried out or ratified by
8 directors, officers and/or managing agents for Defendants, acting with malice, oppression or fraud,
9 or were deliberate, willful and in conscious disregard of the probability of causing injury to
10 Plaintiffs, as demonstrated by their actions and as described earlier in this Complaint, Plaintiffs
11 seek punitive damages against Defendants, in order to deter them from such and similar conduct
12 in the future.

13 **THIRD CAUSE OF ACTION**
14 **VIOLATION OF CIVIL CODE SECTION 43**
15 **(Against All Defendants.)**

16 28. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
17 and every allegation contained in paragraphs 1 to 27 of this Complaint.

18 29. California Civil Code section 43, provides that "[b]esides the personal rights
19 mentioned or recognized in the Government Code, every person has, subject to the qualifications
20 and restrictions provided by law, the right of protection from bodily restraint or harm, from
21 personal insult, from defamation, and from injury to his personal relations.

22 30. As alleged herein, and in violation of California Civil Code section 43, Defendants
23 ALPHA and CHAPTER, and Does 1-100 and each of them, failed to protect TYLER from violence
24 and bodily harm by failing to act on TYLER's apparent need for medical attention until it was too late
25 and/or continuing to subjecting TYLER to continued torture, physical exertion, assault, attacks,
26 pressure, humiliation, and harm.

27 31. Plaintiffs are informed and believe, thereby allege that ALPHA's and CHAPTER's
28 requirement that TYLER participate in their well known, but secretive initiation rituals that are tortuous,

1 humiliating, painful, and dangerous, violate section 43 of the California Civil Code.

2 32. Defendants' conduct towards TYLER caused physical pain and suffering leading
3 to his death and caused Plaintiffs harm and to suffer and continue to suffer severe emotional and
4 mental distress, anguish, fright, shock, pain, discomfort and anxiety.

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

10 34. Further, because the wrongful acts against Plaintiff were carried out or ratified by
11 directors, officers and/or managing agents for Defendants, acting with malice, oppression or fraud,
12 or were deliberate, willful and in conscious disregard of the probability of causing injury to
13 Plaintiff, as demonstrated by their actions and as described earlier in this Complaint, Plaintiff
14 seeks punitive damages against Defendants, in order to deter them from such and similar conduct
15 in the future.

16 **FOURTH CAUSE OF ACTION**

17 **VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

18 **(Against All Defendants)**

19 35. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
20 and every allegation contained in paragraphs 1 to 34 of this Complaint.

21 36. As alleged above, Defendants engaged in threats, intimidation, coercion and
22 violence violating Plaintiffs' civil rights, guaranteed by the Bane Civil Rights Act, the California
23 Constitution and the laws of the State of California, including Civil Code section 43 and Penal
24 Code section 245.6

25 37. Defendants knew or should have known, that the hazing conduct to which TYLER
26 was subjected, has been done in the past to other ALPHA and CHAPTER pledges, have
27 historically been done for decades, and are dangerous, causing injuries, sickness, and fatalities in
28 the past.

1 38. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered
2 damages in a sum according to proof, and are entitled to damages, statutory damages, treble
3 damages, attorneys' fees and costs provided for by Civil Code sections 52 and 52.1.

4 **FIFTH CAUSE OF ACTION**

5 **NEGLIGENCE**

6 **(Against All Defendants)**

7 39. Plaintiffs restate and incorporate by this reference as if fully set forth herein each
8 and every allegation contained in paragraphs 1 to 38 of this Complaint.

9 40. Defendants CHAPTER and ALPHA and Does 1-100 owed a duty of care to
10 TYLER.

11 41. Defendants CHAPTER AND ALPHA breached their duty of care by negligently
12 allowing its agents to engage in abusive conduct while acting as a representative of CHAPTER
13 and ALPHA.

14 42. Plaintiffs are informed and believes and thereby alleges that DOES 1-100,
15 Defendants employees, staff, agents, members, and/or administrators, were at all times relevant
16 acting within the course and scope of their employment and agency with CHAPTER and ALPHA.

17 43. As a direct and proximate result of the conduct, negligence and carelessness of
18 Defendants, and each of them, TYLER suffered and ultimately died.

19 44. As a direct and proximate result of the negligence, carelessness, recklessness,
20 wantonness, and unlawfulness of Defendants, and each of them, and the resulting incident,
21 Plaintiffs sustained injuries and damages, including general damages in a sum within the
22 jurisdiction of this court and to be show\n according to proof.

23 45. As a further direct and proximate result of Defendants' negligence and each of
24 them, Plaintiffs KIMBLE and HILLIARD were required to incur medical care and burial costs
25 for TYLER and have suffered a loss of TYLER'S future financial support, economic support,
26 financial contributions, personal services and professional services, all of their special damage in
27 an amount to be proven at time of trial.

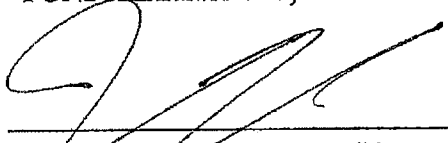
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DEMAND FOR JURY TRIAL

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

**V. JAMES DESIMONE LAW
TONI JARAMILLA, APLC**



Date: December 19, 2019

By: _____

V. JAMES DESIMONE, ESQ.
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MAY MALLARI, ESQ.

Attorneys for Plaintiffs