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**IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH**

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JILL McCLUSKEY and MATTHEW  
McCLUSKEY, individually and for and on  
behalf of LAUREN McCLUSKEY, deceased,

Plaintiffs,

v.

STATE OF UTAH (including the University  
of Utah, University Department of Housing  
and Residential Education and University  
Department of Public Safety), DALE  
BROPHY, KORY NEWBOLD, KAYLA  
DALLOF, MIGUEL DERAS, AARON  
NELSON, TODD JUSTENSEN, ABI  
KENNEDY, JENNI SCHREINER,  
HEATHER McCARTHY, EMILY  
THOMPSON and JANE/JOHN DOES 1-10.

Defendants.

**COMPLAINT**

1. Negligence
2. Equal Protection Under Utah  
Constitution (conscious acquiescence/  
treatment based on gender stereotype)
3. Equal Protection Under Utah  
Constitution (training, supervision,  
instruction, discipline)
4. Equal Protection Under Utah  
Constitution (unconstitutional policy/ failure  
to create, implement or enforce policy)
5. Survival
6. Wrongful Death
7. Vicarious Liability

**(Tier 3)  
(Jury Trial Demanded)**

Case No.

Judge:

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Plaintiffs, Jill McCluskey and Matthew McCluskey, by and through their counsel of record, Bradley H. Parker, James W. McConkie and W. Alexander Evans of the law firm of Parker & McConkie, and Christine M. Durham, J. Frederic Voros, Jr. and Dick J. Baldwin of the law firm of Zimmerman Booher, hereby bring this action on their own behalf and on behalf of Plaintiff Lauren McCluskey, deceased, against Defendant State of Utah (including the University of Utah, University Department of Housing and Residential Education and University Department of Public Safety) (collectively the “University”) and against Defendants Dale Brophy, Kory Newbold, Kayla Dallof, Miguel Deras, Aaron Nelson, Todd Justensen, Abi Kennedy, Jenni Schreiner, Heather McCarthy, Emily Thompson and Jane/John Does 1-10 (“Individual Defendants”), alleging their deliberate indifference and failure to intervene and prevent the tragic and untimely death of Lauren McCluskey. The allegations are as follows:

### **INTRODUCTION**

1. The plaintiffs in this case are the parents of Lauren McCluskey. Lauren was a University of Utah student who was brutally murdered on the University’s campus despite her repeated pleas for help and protection from the University. If the University had taken Lauren more seriously, her murder could have been avoided. This case is a vehicle for systemic change. First, the State cannot continue asserting immunity when its actions result in the wrongful death of its citizens. Second, the State must respect the right to gender equality guaranteed by the Utah Constitution.

2. In the weeks leading up to her murder, Lauren was being sexually and physically abused, stalked, and threatened by her eventual killer. Lauren and her friends told University officials and police about the abusive behavior and their fears that it could escalate into greater

violence. Instead of intervening and protecting Lauren from her killer, the University officials and police ignored, dismissed, and avoided her requests for help. They did so based on gender stereotypes and indifference to the risks that women experience when they are suffering from domestic violence. They did not believe Lauren, take her or her friends' complaints seriously, properly investigate their claims, or take readily available actions they were authorized and obligated to take to remove the threat from the campus. Indeed, her killer, Melvin Rowland, was a felon who was on parole after serving a decade in prison for a sex crime and could have been detained immediately based on his possession of a firearm, sexual abuse, stalking, extortion, and impersonating an officer. As a result of the University's negligence and deliberate indifference predicated on gender-based assumptions and biases, Lauren was senselessly murdered by the man from whom she had repeatedly sought protection and about whom she had repeatedly complained to the University.

3. In a separate lawsuit pending in federal court, Lauren's parents assert a variety of violations of federal law. In this lawsuit, they assert violations of state law.

4. First, Lauren's death constituted a wrongful death resulting from Defendants' negligence under Utah's statute and constitution. Notwithstanding case law from the Utah Supreme Court holding that the State is immune for causing wrongful deaths, *Tiede v. State*, 915 P.2d 500 (Utah 1996), plaintiffs are prepared to demonstrate that the case in question must be overturned because it relied on an incorrect assessment of the history of Utah's wrongful death legislation. The Utah Constitution prohibits the legislature from abrogating the right of action for wrongful death. And at the time the Utah Constitution was drafted, that right of action included the right to assert a wrongful death claim against the State. Defendants therefore cannot claim

immunity for their negligence that resulted in Lauren's death. Indeed, the Utah Constitution intended to ensure that no one--including state police--enjoys immunity for negligently causing the death of another.

5. Second, Lauren's parents assert a claim under the Equal Rights Clause of the Utah Constitution, Utah Const. art. IV, § 1, asserting that Lauren was denied the rights guaranteed to her under that clause to enjoy all civil rights and privileges equally and without regard to her sex. Despite that guarantee, Lauren did not enjoy equally her right to—among others—fair treatment by public officials and law enforcement, and to have her complaints taken seriously without being dismissed due to gender stereotypes. She was also deprived of her right to enjoy equally her public education at the State's flagship school. Instead, Lauren's complaints were treated dismissively because of the University's practice and policy of ignoring and disbelieving women, deliberate indifference to domestic violence that disproportionately affects women, its failure to competently investigate her complaints and those of others and its failure to protect her based on outdated, dangerous, and misogynistic attitudes toward women. Plaintiffs allege and will demonstrate that Defendants' conduct deprived Lauren of her safety, her educational opportunities, and ultimately her life and future. Lauren's parents have likewise been deprived of Lauren's companionship, love and affection, and the fulfillment of the hopes that all parents cherish for their children's futures.

#### **PARTIES, JURISDICTION AND VENUE**

6. Plaintiff Lauren McCluskey, now deceased, was at all times pertinent hereto a resident of Salt Lake City, Salt Lake County, State of Utah.

7. Plaintiff Jill McCluskey is and was at all times pertinent hereto a resident of Pullman, Whitman County, Washington and was the natural parent and heir of Plaintiff Lauren McCluskey.

8. Plaintiff Matthew McCluskey is and was at all times pertinent hereto a resident of Pullman, Whitman County, Washington and was the natural parent and heir of Plaintiff Lauren McCluskey.

9. Defendant State of Utah (including the University of Utah, University Department of Housing and Residential Education (“Department of Housing”) and University Department of Public Safety (“UUPS”)) (collectively the “University”) is and was at all times pertinent hereto, a government entity as defined by Utah Code §63G-7-102(4) and a public university with its principal place of business in Salt Lake City, Salt Lake County, State of Utah, where it resides.

10. Defendant Dale Brophy was at all times pertinent hereto, the UUPS Chief of Police and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

11. Defendant Kory Newbold is and was at all times pertinent hereto, a Sergeant with UUPS and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

12. Defendant Kayla Dallof was at all times pertinent hereto, a Detective with UUPS and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

13. Defendant Miguel Deras was at all times pertinent hereto, an Officer with UUPS and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

14. Defendant Aaron Nelson is and was at all times pertinent hereto, an Officer with UUPS and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

15. Defendant Todd Justesen is and was at all times pertinent hereto, the Associate Director Leadership Team (“ADLT”) with the Department of Housing and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

16. Defendant Abi Kennedy is and was at all times pertinent hereto, the Assistant Director for Conduct Management (“ADCM”) with the Department of Housing and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

17. Defendant Jenni Schreiner is and was at all times pertinent hereto, the Assistant Director for Residential Education (“ADRE”) with the Department of Housing and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

18. Defendant Heather McCarthy is and was at all times pertinent hereto, the Area Coordinator (“AC”) with the Department of Housing and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

19. Defendant Emily Thompson is and was at all times pertinent hereto, the Resident Director (“RD”) with the Department of Housing and an employee and/or agent of the University who, upon information and belief, resides in Salt Lake City, Salt Lake County, State of Utah.

20. Upon information and belief, Defendants Jane/John Does are and were at all times pertinent hereto, employees and/or agents of the University who reside in Salt Lake City, Salt Lake County, State of Utah.

21. The injuries giving rise to this Complaint occurred on the University of Utah campus in Salt Lake City, Salt Lake County, State of Utah.

22. This Court has jurisdiction over this matter pursuant to Utah Code § 78A-5-102(1).

23. Venue is appropriate in this Court pursuant to Utah Code § 78B-3-307.

24. Plaintiffs have complied with the requirements of Utah Code § 63G-7-402 *et seq.*

25. Plaintiffs have filed an undertaking in the amount of \$300 as required by Utah Code § 63G-7-601.

26. Plaintiffs represent that they will post a bond in an amount determined by the Court as required by Utah Code § 78B-3-104.

#### **FACTUAL ALLEGATIONS**

27. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

28. In 2018, Plaintiff Lauren McCluskey (“Lauren”) was a 21-year-old senior at the University of Utah where she was a successful student and track athlete.

29. Originally from Pullman, Washington, at all times pertinent hereto, Lauren lived on the University of Utah campus at the Shoreline dormitory, which is supervised and managed by the University of Utah Department of Housing and Residential Education (“Department of Housing”).

*Melvin Rowland’s Escalating Pattern of Dating Violence, Domestic Violence, Stalking, Sexual Harassment and Abuse Against Lauren McCluskey*

30. On or about September 3, 2018, Lauren met Melvin Rowland, a 37 year-old felon, sex offender, con man and master manipulator who was on parole after serving over a decade in prison. He had convinced Lauren and others that he was a 28 year-old student named “Shawn Fields” who was studying computer science at a community college and working part-time in security. Significantly, Melvin Rowland was over six feet tall, weighed approximately 250 pounds and was a large, powerful and intimidating individual who worked as a bouncer at a local night club.

31. On or about September 10, 2018, Lauren began to date Melvin Rowland and concern amongst Lauren’s friends began to develop almost immediately.

32. Among other things, Lauren’s friends noticed that Melvin Rowland was possessive, controlling and manipulative. For instance, Melvin Rowland routinely told Lauren what to wear, he would go through Lauren’s text messages and emails and he would often accuse her of lying and betrayal, which is a common tactic employed by abusers. Furthermore, Melvin Rowland would not allow Lauren to go to social events or associate with her friends without him present because he was jealous and possessive. Melvin Rowland would often start telephone conversations with a hostile quiz demanding that Lauren explain what she was doing, where she was and who she was with.

33. Melvin Rowland also stalked Lauren by observing her from afar when they were not together. In fact, Melvin Rowland told Lauren he was stalking her in order to scare her into thinking that he could be watching her at any given moment. He used this control tactic to ensure that Lauren also would provide honest responses when he quizzed her on her whereabouts and activities. Melvin Rowland often became enraged and would yell at Lauren and accuse her of being unfaithful if she did not answer his calls immediately or if she was late meeting him. This left Lauren frantic when Melvin Rowland would call and in a panic before meeting with him, fearful that she might ignite his anger somehow.

34. Melvin Rowland also demanded that Lauren pick him up at work when his shift ended at 2:00 a.m. and he frequently borrowed Lauren's car while effectively living with Lauren at her dormitory on the University's campus. Melvin Rowland expected Lauren to run his errands, buy him gifts, cook and clean for him. Melvin Rowland demanded sex from Lauren and manipulated her into doing things that were inconsistent with her personality and character. Among other things, Melvin Rowland would get upset when Lauren wanted to attend church on Sundays – something that she had done consistently her whole life.

35. After dating Melvin Rowland for a couple of weeks, Lauren's friends noticed changes in her affect and appearance. Lauren had lost weight, she looked exhausted and stressed out, her eyes were glassy and hollow, she stopped wearing makeup, she was not taking care of herself, she was not paying attention to her studies, she was not eating well, her enthusiastic demeanor disappeared and she seemed depressed and defeated. Most concerning of all, Lauren's friends noticed unexplained marks and bruising on Lauren's body.

36. On or about September 23, 2018, in violation of his parole agreement, and despite the fact that he was a “Category I restricted person” who had been previously convicted of a “violent felony,” Melvin Rowland took Lauren to shoot guns with his friends.

37. On or about September 26, 2018, Lauren called her close friend and fellow student, Alexandria Mumphery, expressing sadness and frustration with Melvin Rowland’s controlling behavior. During that call, Lauren mentioned that Melvin Rowland was getting her a gun sometime in the very near future so that she could protect herself against advances from other men. Already concerned by Melvin Rowland’s behaviors toward Lauren and after noticing striking changes in Lauren’s appearance, demeanor and personality develop over the course of a very short period of time, Alexandria was alarmed when she heard that Melvin Rowland would be getting a gun for Lauren. Accordingly, Alexandria consulted two more of Lauren’s close friends and fellow students, Alejandra Sanchez and her sister, Carmen Sanchez. Alejandra and Carmen had observed the same behavior and had the same concerns as Alexandria, which were significantly enhanced when they too learned about the gun.

*Actual Notice to the University that Melvin Rowland was Committing Dating Violence, Domestic Violence, Stalking, Sexual Harassment, and Other Abuse against Lauren McCluskey*

38. In fact, their concerns were so great that, on September 30, 2018, Lauren’s friends sent Alejandra to seek help from the Graduate Assistant (“GA”) for Shoreline dormitory, Diamond Jackson (“Jackson”). Significantly, GA Jackson, Alejandra and Carmen were close friends and GA Jackson knew both Lauren and Alexandria personally.

39. Alejandra told GA Jackson that she had spoken with Alexandria and what they had spoken about, specifically indicating that they were both very worried about Lauren. Among

other things, Alejandra told GA Jackson that Lauren was in an unhealthy and potentially harmful relationship with an older man who was possessive, controlling and manipulative. She told GA Jackson about Melvin Rowland's delusions of infidelity, his jealous rages and his hostile quizzes, providing specific examples and anecdotes. She told GA Jackson about the changes in Lauren's personality and appearance and how Lauren had stopped taking care of herself. Moreover, Alejandra reported unexplained marks and bruises on Lauren's body, indicating potential physical abuse.

40. Among other things, Alejandra told GA Jackson that Melvin Rowland had been stalking Lauren and that Melvin Rowland made Alejandra feel very uncomfortable. Indeed, Alejandra told GA Jackson she was afraid that Melvin Rowland was stalking her as well by tracking her whereabouts when she was with Lauren.

41. Alejandra also told GA Jackson that Melvin Rowland had access to compromising images of Lauren and that she was concerned that Melvin Rowland might use them to exploit Lauren.

42. Alejandra also told GA Jackson that Melvin Rowland had practically been living on campus at Lauren's dormitory and that he was planning to get Lauren a gun to keep with her. Indeed, Alejandra told GA Jackson that *she feared for Lauren's life* after observing several indicators of an abusive relationship and after learning that Melvin Rowland had access to a gun that could enter the picture sometime in the very near future.

43. Accordingly, on September 30, 2018, GA Jackson called the Resident Director ("RD"), Emily Thompson ("Thompson"), to pass Alejandra's report to the appropriate officials. At that time, GA Jackson assumed the University would remove Melvin Rowland from campus,

as that was within its authority and he was a non-student. However, RD Thompson was new to her position and was not sure what to do about the situation.

44. That same day, GA Jackson also called the Area Coordinator (“AC”), Heather McCarthy (“McCarthy”), to provide the same report. During this call, GA Jackson offered to go directly to Lauren’s dormitory, to immediately investigate the situation and to call UUPS. AC McCarthy prohibited GA Jackson from taking these actions, claiming instead that GA Jackson’s concerns were speculative and that the University needed to respect Lauren’s privacy – thereby perpetuating a dangerous myth about intimate partner violence. Upon GA Jackson’s urging, AC McCarthy agreed to revisit the matter the next day at an area meeting.

45. At the area meeting on October 1, 2018, GA Jackson provided more detail to AC McCarthy and to RD Thompson regarding the report concerning Lauren. Among other things, GA Jackson told AC McCarthy and RD Thompson that Melvin Rowland had isolated Lauren, that Melvin Rowland would aggressively demand to know her whereabouts at all times and that Lauren was terrified of angering him – all classic signs of dating violence and domestic violence readily identifiable by trained officials. GA Jackson also told AC McCarthy and RD Thompson that Lauren was in danger of being sexually exploited and harassed given Melvin Rowland’s possession of compromising images.

46. GA Jackson also told AC McCarthy and RD Thomson that Melvin Rowland had been stalking Lauren, tracking her whereabouts and using this information to manipulate and control Lauren. In fact, GA Jackson told AC McCarthy and RD Thompson that Alejandra also feared that Melvin Rowland was stalking her and keeping tabs on her when she was around Lauren.

47. Additionally, GA Jackson told AC McCarthy and RD Thomson that Lauren was acting out of character, that she was exhausted most of the time, that her demeanor had changed, that she was not taking care of herself or eating right and that she had unexplained marks and bruises on her body, indicating potential physical abuse.

48. Finally, GA Jackson told AC McCarthy and RD Thompson that Melvin Rowland had been living with Lauren at the Shoreline dormitory and that he planned to acquire a gun to keep with her on campus, which indicated an escalating pattern of violence and risk.

49. In response to the information that they had obtained from GA Jackson at the area meeting, AC McCarthy and RD Thompson claimed that there was nothing that the University could do about the situation due to privacy concerns and thus suggested waiting until Lauren reached out for help. GA Jackson objected to waiting, so AC McCarthy and RD Thompson placated her by claiming that they would consider following up with regard to the guest policy and counseling with regard to the implications of possessing a firearm on campus. AC McCarthy and RA Thompson then asked GA Jackson to “keep an eye” on Lauren and to initiate an electronic CARE referral so that the CARE team could discuss Lauren’s situation at the upcoming CARE meeting, which was scheduled for October 8, 2018.

50. This proposed course of action was clearly unreasonable in the light of the known circumstances as it in no way addressed the dating violence, domestic violence, sexual harassment, stalking and other abuses by Melvin Rowland, who was a non-student continuing to freely access campus to commit these crimes and abuse against Lauren without any efforts by the University to stop him.

51. On or about October 2, 2018, during their weekly meeting, AC McCarthy met with Assistant Director for Residential Education (“ADRE”) Jenni Schreiner (“Schreiner”) and told ADRE Schreiner the information that she had learned about Lauren McCluskey. While AC McCarthy and ADRE Schreiner agreed that the situation was concerning, they did not believe that any housing policies were being violated except perhaps the guest policy and they did not want to take action unless Lauren personally sought help. While they discussed the possibility of outreach, ADRE Schreiner declined to take any action and indicated that she wanted to consult Associate Director Leadership Team (“ADLT”) Todd Justesen (“Justesen”).

52. Upon information and belief, technical difficulties prevented GA Jackson from submitting a CARE referral, so she sent AC McCarthy an email instead on October 2, 2018. However, instead of appropriately submitting a CARE referral, on October 3, 2018, AC McCarthy merely forwarded GA Jackson’s email to ADRE Schreiner.

53. On or about October 3, 2018; ADRE Schreiner shared the information that she had learned about Lauren’s situation with ADLT Justensen and the Assistant Director of Conduct Management (“ADCM”) Abi Kennedy (“Kennedy”); however, no action was taken and only empty promises were made indicating that the University would “keep Lauren on their radar.” While ADCM Kennedy ordinarily managed CARE referrals and was responsible for doing so, ADRE Schreiner indicated that she was managing the case with AC McCarthy. Accordingly, ADCM Kennedy declined an active role, ignoring her responsibility. Moreover, ADRE Schreiner was not qualified to handle the matter, did not understand the complexity of the situation and failed to appropriately transfer the case to ADCM Kennedy.

54. On or about October 4, 2018, ADRE Schreiner met with AC McCarthy to discuss the meeting with ADLT Justesen and ADCM Kennedy. ADRE Schreiner told AC McCarthy about the plan to keep Lauren on the Department of Housing's radar, told AC McCarthy to direct GA Jackson to make contact with Lauren and told AC McCarthy that they would follow up with a CARE conversation.

55. However, the Department of Housing did not keep Lauren on its radar. Moreover, neither GA Jackson, AC McCarthy, RD Thompson, ADRE Schreiner, ADCM Kennedy nor ADLT Justesen followed up with Lauren regarding the guest policy or the implications associated with possessing a firearm on campus. Indeed, no University officials followed up with Lauren in any regard.

56. In fact, ADRE Schreiner failed to provide any instruction about how to pass information obtained by GA Jackson up the chain of command and then left town for several weeks without attempting to follow up. Moreover, AC McCarthy failed to make contact with GA Jackson before GA Jackson left town for fall break. Indeed, AC McCarthy never made contact with GA Jackson or made any attempt to follow up even after GA Jackson returned to campus.

57. ADLT Justesen, ADCM Kennedy, ADRE Schreiner, AC McCarthy and RA Thompson understood the reasons why the others refused to respond to the report of sexual harassment and they ratified the reasoning when they refused to respond after learning about Lauren's situation.

*Melvin Rowland Escalates his Dating Violence, Domestic Violence, Stalking, Sexual Harassment and Abuse of Lauren McCluskey*

58. Sometime between October 3 and October 4, 2018, Lauren discovered that Melvin Rowland had been using a fake name and that he had lied about his age. Lauren confronted Melvin Rowland with the information that she had discovered and learned that Melvin Rowland had many identities. Upset and afraid, Lauren immediately left the campus for Washington State on October 5, 2018 to visit her family during fall break.

59. On October 8, 2018, AC McCarthy forwarded the email that she had received on October 2, 2018, and which outlined the concerns about Lauren, to ADCM Kennedy. Despite the fact that she had not yet made contact with GA Jackson or made any attempt to follow up or otherwise direct GA Jackson to make contact with Lauren, AC McCarthy left town.

60. Additionally, on October 8, 2018, the Department of Housing, by and through ADLT Justensen, ADCM Kennedy, ADRE Schreiner, AC McCarthy, RD Thompson, and/or Jane/John Doe, cancelled a previously scheduled CARE meeting intended to address Lauren's situation and to develop a follow-up plan. Accordingly, the University and its officials failed to develop any follow-up plan and no further action was taken despite the ongoing risk to Lauren's safety.

61. In fact, ADRE Schreiner directed AC McCarthy to follow up with GA Jackson and then left town for several weeks without handing the case off to a superior, without checking to see whether AC McCarthy had in fact followed up with GA Jackson and without following up to see if GA Jackson had obtained any information. GA Jackson left town before AC McCarthy could direct her to contact Lauren and then AC McCarthy left town without attempting to follow up with GA Jackson and without ever checking to see whether GA Jackson had obtained additional information even after GA Jackson returned from her trip.

62. No University official or representative kept an eye on Lauren or successfully reached out to Lauren to see if she needed help, nobody confronted Lauren about the guest policy so that Melvin Rowland could be removed from the dormitory and from campus, nobody counseled Lauren with respect to the implications of having a gun on campus so that Melvin Rowland would not have easy access to a gun on campus and nobody otherwise investigated the reports of stalking, harassment or other potential acts of domestic violence and dating violence, which were strongly indicated by the multitude of common warning signs, to ensure Lauren's safety and well-being. Finally, nobody from the Department of Housing ever contacted the University's Department of Public Safety ("UUPS") to report that Melvin Rowland was stalking, sexually harassing and possibly also physically abusing Lauren as part of an escalating pattern of dating violence and domestic violence and that he intended to bring a gun on campus.

63. Upon information and belief, the Department of Housing had a policy of calling UUPS only as an absolute last resort, even in a dangerous situation, because UUPS had a reputation for rarely responding to calls for assistance and, even when officers did respond, they were often unhelpful and their tactics were routinely counterproductive.

64. Understandably suspicious after discovering that Melvin Rowland had lied about his name and age, Lauren and her friend, Regina Snyder, investigated the matter while in Washington State on fall break. After performing a cursory search for Melvin Rowland's name on the internet, Lauren and Regina were horrified to discover that Melvin Rowland was a violent felon and convicted sex offender. Realizing that she needed to end her relationship with Melvin Rowland immediately, but afraid that he would react violently, Lauren consulted Alexandria,

who advised her to break off the relationship in a public place for safety purposes. Alexandria updated Alejandra and Carmen, who were also away on fall break.

65. Lauren returned to campus on October 9, 2018, with a plan to break off the relationship with Melvin Rowland in a public place. While waiting for him to arrive, Lauren was talking to Alexandria on the telephone and she became both startled and frightened when she observed Melvin Rowland peering through her window. Accordingly, Lauren opened the door and confronted Melvin Rowland, intending to end the relationship then and there. However, Melvin Rowland entered Lauren's room without permission and demanded to know who Lauren had been speaking with on the telephone. He effectively held Lauren hostage in her dorm room by refusing to leave and aggressively choosing to stay through the night. During that time, Melvin Rowland tried to manipulate Lauren by claiming he had not committed the crime for which he was convicted and that he had been set up. He continued to insist that he had not lied about his age.

66. Fearing for Lauren's safety, Alexandria tried to stay in contact with Lauren by telephone through the night. According to Alexandria, Lauren sounded scared and could not speak openly because Melvin Rowland would only allow her to use the telephone when he was present to control her. In an attempt to get Melvin Rowland to leave peacefully the next day, Lauren lied, told Melvin Rowland that she needed to go to track practice and offered him her car to run some errands.

67. Later that evening, Lauren received text messages, purportedly from Melvin Rowland's friends (which she suspected were most likely from Melvin Rowland himself), telling Lauren that she had broken Melvin Rowland's heart, indicating that Melvin Rowland knew she

had lied about going to track practice and offering to return Lauren's car on Melvin Rowland's behalf. Among other things, the text messages were harassing, threatening and abusive, saying: "Hey Bitch your car is @ Stadium Key in passenger seat on floor. This was only a favor for Sean. He never told you he is in the Military reserves like us. Good luck idiot!" and "Go kill yourself."

68. Through information and belief, Melvin Rowland's electronic communications with Lauren originated on or within the immediate vicinity of the University of Utah campus, concerned events occurring on campus and specifically targeted a student living on campus.

69. Through information and belief, Melvin Rowland used the University of Utah's wireless network in communicating electronically with Lauren.

70. On October 10, 2018, Melvin Rowland called Lauren offering to return her car in person. Afraid that Melvin Rowland was trying to lure her to an isolated area and fearing for her safety, Lauren called her mother, Jill McCluskey ("Mrs. McCluskey") who in turn called UUPS. Mrs. McCluskey, who was very upset and worried, explained the circumstances, told UUPS that Melvin Rowland was a sex offender and requested a police escort to help Lauren safely recover her car from Melvin Rowland. UUPS transferred Mrs. McCluskey to campus security, who arranged and provided a security escort, and Lauren retrieved her car without incident, but neither UUPS nor any other official from the University provided any follow-up to address the pattern of stalking, harassment, domestic violence, dating violence or the ongoing and escalating risk to Lauren.

71. On October 11, 2018, Lauren received more text messages, purportedly from Melvin Rowland's friends (which she suspected were most likely from Melvin Rowland

himself), indicating that Melvin Rowland was suicidal, that he had been in an accident, that it was Lauren's fault and that Lauren consequently needed to visit Melvin Rowland in the hospital. Later, Lauren received more text messages indicating that Melvin Rowland had died and that Lauren needed to go to the funeral. In response, Lauren stated that the police were involved and to stop contacting her.

72. On October 12, 2018, Lauren received more harassing text messages, purportedly from Melvin Rowland's friends (which she suspected were most likely from Melvin Rowland himself), indicating that "Shawn is gone because of you! Don't come to his funeral. We had his phone texting you. Cold Bitch." Again, Lauren responded by saying "Please don't contact this number. I got police involved." Lauren then received a response saying: "So do we."

*UUPS Continued to Act with Deliberate Indifference when Melvin Rowland Escalated his Criminal Conduct to Murder Lauren*

73. Suspicious that the text messages that she received on October 11 and 12, 2018 were another attempt to lure her away from campus into a trap, Lauren called UUPS and reported her concerns regarding the harassing text messages on October 12, 2018.

74. In response, UUPS acted with deliberate indifference by claiming there was nothing that they could do to help and advising her to contact UUPS only if the situation escalated, thereby ignoring Lauren's report of stalking, dating violence, domestic violence, sexual harassment, and ongoing efforts to potentially lure her into a harmful situation.

75. On October 13, 2018, Lauren contacted UUPS by telephone again to speak to an officer with regard to the report that she had filed on October 12, 2018. On information and belief, Lauren spoke to Officer Deras. Lauren explained that the text messages that she had received on October 11 and October 12, 2018 were in fact sent by Melvin Rowland rather than

by Melvin Rowland's friends, thereby indicating that Melvin Rowland was stalking her, harassing her and attempting to lure and potentially hurt her. Lauren also reported that Melvin Rowland had extorted her and that she had paid Melvin \$1,000 that same morning after he had threatened to publish and distribute compromising images of Lauren, some of which he had obtained without her permission during the course of their relationship and which he used to control her as part of his pattern of dating violence, domestic violence, sexual harassment, and stalking. Lauren also told UUPS that Melvin Rowland was demanding another \$1,000 to refrain from distributing embarrassing and exploitative videos that he claimed to have.

76. Fearing that her reports were not being taken seriously, Lauren then went with Alexandria to the UUPS building in person on the morning of October 13, 2018 where they spoke with, among others, Officer Deras and Officer Nelson. Despite the fact that UUPS has several private rooms where they can discuss sensitive matters, the officers, including Officer Deras and Officer Nelson, stood in front of Lauren and Alexandria and interviewed them as they sat in the lobby of the station, demonstrating a complete lack of sensitivity and disregard for the seriousness of the situation. During the interview, both Lauren and Alexandria described the circumstances in some detail, telling UUPS how Melvin Rowland had lied about his name and age, how they had discovered that Melvin Rowland was a felon and convicted sex offender, how Melvin Rowland had scared Lauren by peeping through her window, how Lauren had ended her relationship with Melvin Rowland, how Melvin Rowland had been stalking and harassing Lauren since the breakup, how Melvin Rowland had access to a gun, how Melvin Rowland had successfully extorted Lauren by causing her to pay him \$1000 not to distribute a compromising image and how he was currently attempting to extort Lauren again by seeking an additional

\$1000 not to distribute a compromising video. Lauren also provided evidence in the form of text messages and receipts indicating that she had in fact been extorted and she insisted that Melvin Rowland was the culprit. In fact, Lauren produced text messages from Melvin Rowland's telephone that demonstrated that Rowland had participated and was personally involved in the extortion.

77. Throughout their conversation with Lauren and Alexandria, Officer Deras and Officer Nelson contacted the on call detective, Kayla Dallof, to update her with the information that they had received.

78. UUPS officers, specifically including Officer Deras, Officer Nelson and Detective Dallof ignored Lauren's report of stalking and sexual harassment and ignored the warning signs and patterns of domestic violence and dating violence by dismissing evidence that Melvin Rowland had extorted Lauren with no investigation into the matter and suggesting instead that Lauren was the victim of an online scam. UUPS also ignored the information indicating that Melvin Rowland was a "Category I restricted person" who was prohibited from possessing a gun or from even making arrangements to have a gun under his custody or control.

79. Despite the fact that Melvin Rowland was not a student at the University of Utah, Officer Deras ran a check on Melvin Rowland's name in the University student database, incorrectly obtaining a report on a student with a similar name and wrongly concluding that Melvin Rowland "seems like a good guy." Again fearing that their reports were not being taken seriously, Alexandria did a Google search, which immediately provided information to UUPS, specifically including Officer Deras, Officer Nelson and Detective Dallof, indicating that Melvin Rowland was a convicted felon and sex offender.

80. Accordingly, UUPS ran a criminal history check for Melvin Rowland and discovered his history of felony convictions, but failed to notice and/or obtain information regarding his supervisory status or information that would have otherwise indicated whether Melvin Rowland was currently on parole. This information would have allowed UUPS to take action by reporting parole violations and provided additional reasons to detain Melvin Rowland and arrest him.

81. Despite the fact that Lauren was the victim of the crime rather than a witness to the crime, the officers, specifically including Officer Deras, Officer Nelson and Detective Dallof, asked Lauren to complete a witness statement. As she was completing the witness statement and attempting to provide thorough and complete information, the officers, specifically including Officer Deras and Officer Nelson, rushed Lauren to finish up, telling her that they were only concerned about the extortion and that she could just leave everything else about the stalking, harassment, domestic violence and dating violence out of the statement. As Lauren and Alexandria were leaving, the officers told them that they would follow up by October 16, 2018.

82. The officers then contacted Detective Dallof, who asked the officers to forward the file and to obtain more information about the concerns. Lauren provided additional information about the extortion to UUPS later that afternoon, along with a message indicating that she was being threatened and blackmailed. Detective Dallof notified Sergeant Kory Newbold of the investigation. Through information and belief, as the Chief of Police, Dale Brophy was also aware of the investigation.

83. Based on the reports alleging stalking, harassment and other crimes that qualified as domestic violence and dating violence, UUPS was required by law to, among other things,

“use all reasonable means to protect the victim and prevent further violence” and to “arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence,” including but not limited to information sufficient to obtain an order of protection or a stalking injunction from the courts. Utah Code § 77-36-2.1; *see also* Utah Code § 76-5-106.5(17); 78B-7-408. However, UUPS did nothing to protect Lauren or to prevent further violence. Moreover, UUPS failed to arrange, facilitate or provide any notice to Lauren of her rights as a victim or of the remedies and services that were available to her.

84. Still concerned that UUPS was not taking her reports seriously, Lauren called the Salt Lake City Police Department (“SLCPD”) later in the evening on October 13, 2018 to report her concerns regarding Melvin Rowland and her concern that UUPS had taken no action in response to her criminal complaints, but SLCPD merely transferred Lauren back to UUPS, who told her that her assigned officer would follow up.

85. However, instead of following up on Lauren’s report, Officer Deras directly victimized Lauren by distributing the explicit images that she had provided to him in confidence for evidentiary and investigatory purposes to one or more individuals who were not involved with the investigation.

86. Moreover, Officer Deras kept the explicit images on his personal cell phone and otherwise used the images for inappropriate personal purposes.

87. On October 15, 2018, Lauren tried to contact UUPS, but no one at UUPS expressed any familiarity with her case.

88. That same day, GA Jackson received an update from Alejandra and Carmen, who had just returned from fall break. Alejandra and Carmen told GA Jackson that Melvin Rowland had lied about his name and his age, that he was a convicted felon and sex offender, they told her about the break-up, about the incident where Lauren needed a security escort to recover her car, and about the harassing text messages. Alejandra and Carmen continued to give GA Jackson frequent updates in the days that followed and during a subsequent conversation, they told GA Jackson that Melvin Rowland had extorted Lauren.

89. Despite instructing GA Jackson to “keep an eye” on Lauren, nobody from the Department of Housing ever followed up with GA Jackson or with anyone else to get an update. Furthermore, GA Jackson did not share any of the updated information that she had received with the Department of Housing or its officials because she mistakenly believed that there was nothing that the University could do about the situation based on the Department of Housing’s initial dismissive response. Moreover, GA Jackson’s direct superiors were out of town, had not followed up with her and had not left her with instructions for how to pass information up the chain of command in their absence.

90. On October 16, 2018, Lauren expected UUPS to follow up and provide an update as promised, but nobody contacted Lauren. Indeed, from October 16 through October 19, 2018, UUPS did nothing to investigate and took no action with regard to Lauren’s case even though Lauren continued to send information to UUPS about her concerns during that period of time.

91. In fact, Detective Dallof failed to investigate or take any action with regard to Lauren’s reports of sexual harassment because UUPS had assigned and instructed Detective Dallof to immediately investigate a series of bicycle thefts instead.

92. On October 19, 2018, Lauren started receiving text messages indicating that Melvin Rowland knew about her contact with the police and Lauren feared that an insider at UUPS had been secretly leaking information to him. Among other things, the text messages said: “What did you tell the cops?” “We know everything!” and “Setting up people wasn’t enough. Your Sex Offender ex-boyfriend. It will go viral today!”

93. Accordingly, on October 19, 2018, Lauren called SLCPD again concerned that UUPS had not followed up regarding her case. Lauren also expressed concern that a potential insider at UUPS had been providing information to Melvin Rowland. SLCPD then told Lauren to contact UUPS and to speak with the detective in charge of her case.

94. Accordingly, Lauren contacted UUPS as SLCPD had advised her to do on October 19, 2018. She told UUPS, specifically including Officer Deras and Officer Dallof, that Melvin Rowland knew about her contact with the police – clearly indicating that Melvin Rowland had been monitoring Lauren and her communications and continuing to stalk her. Lauren also told UUPS that her parents were worried about her, hoping that the information would cause them to take her case more seriously. In response, Detective Dallof finally contacted Lauren for the first time and informed her that she was out of the office on vacation, but would be back to follow-up on October 23, 2018. In fact, Detective Dallof had returned from her scheduled time off on October 16, 2018. Detective Dallof also told Lauren to forward all communications from Melvin Rowland in the meantime and to contact UUPS if she received any communications that appeared to be an attempt to lure her somewhere. Among other things, Lauren sent Detective Dallof an email with a screen shot indicating that Melvin Rowland was aware of her attempt to involve the police.

95. On October 20, 2018, Lauren sent Detective Dallof more information regarding Melvin Rowland's criminal history and offender details, including information indicating that Melvin Rowland was on parole, but Detective Dallof failed to review the information that Lauren sent until after Lauren was murdered.

96. On October 22, 2018, Lauren received a text message, purportedly from the deputy chief of UUPS, which said: "Good Morning Lauren this is Deputy Chief Mclenon with the University Police. I plan on calling you but I'm in a meeting at the moment. Can you come to the station as soon as possible [sic] there is something you need to see. I will go over the detail when we you [sic] get here. Thanks." Recognizing the text message as a potential attempt by Melvin Rowland to lure her away from her dormitory, Lauren called UUPS to speak with Officer Deras. She left messages three times over a two-hour period until he finally called her back and she forwarded a screen shot of the text message via email to Detective Dallof. Officer Deras identified the text message as a fake and told Lauren not to respond, but UUPS otherwise did not investigate the matter and took no action in response to this violent felon and sex offender's attempts to lure Lauren away from her dormitory by impersonating a police officer.

97. Indeed, despite instructing Lauren to send information to her email, Detective Dallof failed to check her email and did not receive Lauren's report indicating that Melvin Rowland had attempted to lure her away from her dormitory by impersonating a police officer and thus UUPS took no meaningful action despite this serious situation.

98. Chief Brophy and Sergeant Newbold understood the reasons why Officer Deras, Officer Nelson, Detective Dallof and other UUPS officers refused to respond to the reports of

sexual harassment and they ratified that reasoning when they refused to respond after learning of the investigation.

99. On October 22, 2018, the Department of Housing finally held a CARE meeting to discuss Lauren's situation, but nobody at the meeting had investigated the matter, therefore nobody had any additional information about recent events and, as a result, no action was taken by the University or its officials. Indeed, AC McCarthy and ADRE Schreiner did not attend the meeting because they were out of town and the Department of Housing had not invited GA Jackson to participate in the CARE meeting. Moreover, despite asking GA Jackson to "keep an eye" on Lauren, nobody from the Department of Housing contacted GA Jackson to see what she had learned or to see whether GA Jackson had acquired additional information about the situation.

100. Later in the evening on October 22, 2018, Melvin Rowland stalked Lauren, hunted her down on the University campus and attacked her as she was returning from class and talking to her mother, Jill McCluskey, on the telephone. Both Mrs. McCluskey and Mr. McCluskey heard Lauren shout "No! No! No! No!" as a struggle ensued. Terrified, Mr. McCluskey called 911 to express his fear that Melvin Rowland had kidnapped Lauren. Rather than offering any assistance, the operator transferred Mr. McCluskey to UUPS. In fact, Melvin Rowland had grabbed Lauren, forced her into a car that he had borrowed from a friend, shot her seven times and left her to die. Melvin Rowland then called another woman who came to pick him up, took him out to dinner and took him back to her home where he took a shower and laundered his clothes.

101. That night, UUPS finally investigated Melvin Rowland and discovered that he was on parole, that he had multiple telephone numbers, that his telephone numbers had been used to harass and extort Lauren, that he had borrowed a gun and a car and that he was expecting the police to arrest him for extorting Lauren. When UUPS located Melvin Rowland using his telephone, he ran and they pursued him into a church near the University where he committed suicide by shooting himself in the head.

102. Based on the explicit and detailed reports that it had received from Lauren and her friends, the University had actual knowledge that Melvin Rowland was a substantial risk to Lauren and other students on campus.

103. The University also had general knowledge of a serious and obvious risk of sexual harassment and domestic violence on its campus, but was deliberately indifferent to the need to address the risk by implementing and enforcing policies and programs and providing training, supervision, instruction, control and discipline.

*The University's Known Policy, Custom and Practice of Sex Discrimination*

104. The University, by and through Chief Brophy and John/Jane Doe, had an unconstitutional custom and policy of deliberate indifference to reports of sexual harassment, an unconstitutional custom and policy of treating women based on gender stereotypes and were deliberately indifferent to other customs and policies that caused subordinates to violate Lauren's constitutional rights.

105. Among other things, UUPS responded with hostility toward women who reported sexual harassment, treating them with disdain, minimizing their reports, expressing disinterest in their reports, accusing them of fabricating their reports, blaming them for the harassment and

otherwise discouraging women from reporting the harassment or from taking action against their harassers. In fact, a lieutenant at UUPS was well known for proclaiming, and would often so proclaim, that women only reported sexual assault in situations where they “had a bad time losing their virginity.”

106. When UUPS assigned officers to investigate reports of sexual harassment, the officers often waited weeks before contacting the victim or initiating any investigation. Moreover, the untimely investigations were often cursory and conducted with disdain. Officers routinely failed to conduct personal face-to-face interviews with women who reported concerns about interpersonal violence. Sometimes officers would not even take notes. In fact, sometimes officers completely ignored investigatory assignments when those assignments would require them to investigate an allegation of domestic violence.

107. Instead of investigating the harassers, UUPS routinely focused the investigations on the victimized women, questioning the decisions that they had made prior to the harassment with probing inquiries that reflected the skeptical nature with which they approached reports of sexual harassment. For example, on one occasion, officers quizzed a rape victim for hours, asking her about the color of the dress and the style of underwear she had been wearing, asking her if she shared underwear with her roommates, asking her what brand of vodka she had been drinking, how much she had drunk, who had purchased it and whether she had been a virgin prior to the rape. Discouraged by the hostile treatment that she had received, the woman decided not to pursue any charges against her harasser. UUPS treated other women who reported sexual harassment in a similar manner.

108. Indeed, on another occasion, a woman reported being brutally raped in her dorm room. Traumatized and uncomfortable being alone with male officers, the victim requested an advocate or the presence of at least one female staff member for her interview. UUPS denied the request and interrogated the victim for six to eight hours, asking condescending and irrelevant questions such as whether she was a virgin and whether she was in love with her rapist. UUPS suggested that she had not really been raped, but instead had engaged in “rough sex” that she now regretted. When the victim asked officers whether rape included nonconsensual sex, officers responded by saying “we can debate all day about the definition nowadays, but apparently now you need to have your mom’s permission slip to have sex.” UUPS also denied the victim’s request to have forensic evidence recovered and preserved with a rape kit. Moreover, University administration refused to provide accommodations after telling the victim that she didn’t want to be seen as a “problem child” in the eyes of her professors.

109. Despite the hostile manner in which UUPS investigated women who reported sexual harassment, UUPS routinely failed to contact or otherwise investigate the alleged harasser and routinely failed to check for warrants or determine whether the alleged harasser was on parole. For example, over the course of approximately six months, three separate women reported that they had been sexually assaulted by the same man on campus. Despite interviewing the victims, UUPS made no attempt to contact the alleged harasser or otherwise investigate the incidents until the harasser sexually assaulted a fourth woman. The belated investigation resulted in an arrest and the harasser ultimately pled guilty to three counts of forcible sexual abuse. The failure to investigate the harasser in connection with the first three assaults was not an isolated incident.

110. Indeed, on another occasion, UUPS failed to investigate or respond in an appropriate manner after receiving reports of a peeping tom on campus. The peeping tom sexually assaulted another woman on campus three hours after the initial reports, but again the university failed to investigate or respond in an appropriate manner. When the peeping tom sexually assaulted a third woman shortly thereafter, UUPS failed to respond for twenty minutes despite having the ability to respond within 90 seconds, demonstrating its utter disregard for the seriousness of gender violence.

111. Indeed, on another occasion, a woman reported that her former boyfriend had been stalking her for months, that he was controlling and abusive, that he hacked her social media accounts and that he had sabotaged her vehicle causing the wheel to fall off while she was driving on two separate occasions. Instead of investigating the harasser or taking any action to prevent further harassment, UUPS told the victim that the harassment would eventually stop when her harasser got bored and moved on. Despite contacting UUPS several more times over the next few months to report additional incidents of stalking and sexual harassment, UUPS refused to investigate and closed the case. Desperate for help, the victim turned to the dean of students, who eventually helped her obtain a no contact order.

112. On another occasion, a woman reported that she had been raped in her dorm room by a man that she had just met. UUPS officers were disinterested in her report and did not believe that she had been raped. They refused to contact the suspect, failed to perform any investigation aside from interviewing the victim and closed the case a month later after telling the victim that she should just get over it and move on.

113. In fact, UUPS routinely expressed disbelief in reports of sexual harassment based solely on the interview with the victim and despite failing to otherwise perform any investigation to determine whether the reports could be verified. For example, on one occasion, UUPS responded to a female employee at the University who reported that her boss had raped her on two occasions. Despite conducting no investigation into the matter, the male police officer directly told the woman “Well I don’t believe you.” On another occasion, federal investigators were investigating UUPS for mishandling a rape report. In response, Chief Brophy sent out a campus-wide email openly questioning whether the woman was telling the truth.

114. Despite its obligation to investigate sexual harassment occurring on campus, UUPS routinely referred women who reported sexual harassment to SLCPD after falsely indicating that UUPS had no jurisdiction and could do nothing to help. Indeed, on one occasion, a female student reported that a male student had threatened to kill her and told her that he was planning to stab her over fall break. UUPS refused to respond because the threat had been sent by text message and instructed the student to call SLCPD. SLCPD’s report expressed frustration with UUPS, described a custom of improperly passing sexual harassment cases to SLCPD and of failing to take such reports seriously. After SLCPD called and told UUPS officers that they were obligated to investigate the report, UUPS treated the victim with disdain, failed to properly respond or investigate her case and closed the case after falsely indicating that the victim did not want to press charges. The victim was forced to withdraw from her classes out of a concern for her safety.

115. On another occasion, a female student reported that a suicidal friend had disappeared. Worried, the student contacted UUPS, but officers merely responded by saying

“she’s probably in the stairwell making out with some boy, go back to your dorm.” The officer dismissed the female student’s concerns and then made her walk back to her dorm room alone at 3:00 a.m. The female student reported the incident to University administration, but the administration failed to take any action.

116. Observing the custom of deliberate indifference to reports of sexual harassment and the custom of treatment based on gender stereotypes, including the failure to believe reports of sexual harassment provided by women or to investigate such reports and take them seriously, and recognizing that these customs put women at risk, some officers reported their concerns to UUPS, but their reported concerns were ignored.

117. Additionally, UUPS underreported the number of rapes that occurred on campus and routinely failed to obtain forensic evidence in connection with rape investigations. Indeed, despite reporting twelve on-campus rapes to the federal government in 2018, UUPS only reported four rapes to the Utah Department of Public Safety and only submitted rape kits in three of those four cases.

118. UUPS was understaffed both generally with respect to the need for more patrol officers and specifically with respect to officers that were trained to investigate domestic violence cases, including reports of sexual harassment, stalking and other forms of interpersonal violence.

119. Moreover, UUPS routinely trained and/or instructed officers to take no action and to make no record with regard to incoming calls that involved reports of sexual harassment. When responding in person, officers were trained and/or instructed to take no action and to make no note of domestic violence cases where a husband or male partner was present and indicated

that the situation had been resolved, even if the officers could see the woman cowering behind the door. Officers were also trained and/or instructed to “adjust” paperwork regarding reports of sexual harassment to exclude information regarding the severity of the allegations and to reclassify the reports as “suspicious circumstances” in their police dispatch log entries in order to make the number of sexual harassment reports seem lower than the actual number. UUPS only trained and/or instructed the officers to alter paperwork and police dispatch log entries with respect to reports of sexual harassment.

120. In addition to affirmatively training and/or instructing officers to ignore reports of sexual harassment and to respond with deliberate indifference, UUPS failed to provide training necessary to provide an appropriate and timely response to reports of sexual harassment and to avoid choosing a course of action on the basis of stereotypes. Among other deficits, officers were not trained: to recognize reports of sexual harassment or the warning signs of sexual harassment; to assess the risk associated with reports of sexual harassment; to respond to reports of sexual harassment in a timely and appropriate manner; to know when a response or lack thereof violated equal protection rights under the Utah Constitution; to understand the rights, remedies, requirements and obligations under these provisions of the Utah Constitution; or to understand the consequences associated with violating these provisions of the Utah Constitution.

121. UUPS also negligently failed to provide training necessary to recognize common gender stereotypes; to set aside personal bias and avoid treatment based on gender stereotypes while acting under color of state law; to understand that treatment based on gender stereotypes violates the Utah Constitution; or to understand the risks and consequences associated with treatment based on gender stereotypes.

122. In fact, recognizing that their training was deficient, UUPS officers specifically requested training with regard to these issues, but their requests were denied. Moreover, the Utah Domestic Violence Coalition offered to provide training on issues regarding, among other things, interpersonal violence and lethality assessments, but UUPS, through Chief Brophy, refused the offer indicating that such training was not appropriate in a campus setting. When the Utah Domestic Violence Coalition offered to provide training again after Lauren was murdered, UUPS, through Chief Brophy, responded with hostility and refused the offer again.

123. Furthermore, UUPS routinely neglected to discipline officers who failed to respond to reports of sexual harassment in a timely and appropriate manner or who treated women based on gender stereotypes. When UUPS did discipline officers, it was only after several similar incidents had occurred and the disciplinary measures imposed were often insufficient. Indeed, on one occasion, UUPS promoted a male officer to a detective position within months of a reprimand for neglect of duty on a domestic violence case that was issued following several other similar incidents.

124. UUPS's customs and policies were so heavily entrenched in the culture at UUPS that the customs continued even after Lauren was murdered as a result of the customs and policies.

125. In fact, approximately four months after Lauren's murder, Officer Deras responded to a domestic violence call from a woman who was seeking information about how to report an assault by her boyfriend. When Officer Deras arrived to speak to the woman, the suspect was present. Contrary to UUPS policy, Officer Deras let the man stay while he interviewed the concerned woman, failed to call for backup, did not include the man's criminal

history in his report and did not check to see if the man was on parole even though the man had attempted to call his parole officer in Deras' presence. Officer Deras was disciplined for putting the woman in danger and shortly thereafter resigned from UUPS.

126. Moreover, approximately four months after Lauren's murder, Detective Dallof was assigned to investigate a domestic violence case involving a seventeen year-old girl who had been trying to break up with a University student. The student had trapped the teenage girl in his dorm room and left her a voicemail in which he screamed and threatened to kill her. Detective Dallof left work for the weekend without investigating or taking immediate action on the case and failed to check crucial voicemails. Detective Dallof was fired after being told that "Leaving without taking immediate action on this matter is a complete dereliction of duty" and that "The totality of what was known by you as an investigator of this situation should have signaled an alarm or given you notice that you needed to handle the incident immediately without hesitation and taken the initiative to find the male student and place him under arrest."

127. UUPS's general attitude of disdain for women is reflected not only in its custom of discriminating against women who report sexual harassment to the police, but is also reflected in its custom of discriminating against women who work at UUPS. In fact, male officers sexually harassed female co-workers at UUPS on a regular basis. Accordingly, in addition to treating *women who report sexual harassment* based on gender stereotypes and consciously acquiescing in the sexual harassment they report, UUPS also treats *women employees* based on gender stereotypes and sexually harasses them directly.

128. Among other things, male officers talked about the appearance of female co-workers in a manner that made them feel uncomfortable, amused themselves by telling

demeaning and sexist jokes at work, referred to women with derogatory gender based language and strictly adhered to beliefs that were based on gender stereotypes. For instance, male officers routinely commented on one female co-worker's breasts. After she had breast reduction surgery, they commented "What a waste." One male Sergeant was known for praising female dispatch officers for the "decision not to wear a bra today." Moreover, male officers referred to a group of female police officers as the "pussy posse" and often asked members of the group whether they were "on their period." In fact, on one occasion, a female officer who was interested in obtaining a promotion sought advice from a supervisor asking him how she could attain her goal. After scanning her body, the supervisor responded: "Grow your hair out. You'd look nicer that way."

129. Among other things, male officers hazed female officers mercilessly and sabotaged their ability to perform their jobs effectively. For instance, male officers urinated in a female officer's locker and in her patrol bag, altered the sights on her rifle, hid the keys to her patrol car and cut her zip ties so that she could not use them to secure a suspect during an arrest.

130. Among other things, UUPS disciplined female officers more frequently and more severely than male officers who had engaged in more egregious conduct. For example, women officers were generally disciplined for being tardy or for other minor violations while male officers were only disciplined for serious violations and only after several similar incidents had already occurred. Indeed, while Officer Deras and Detective Dallof were both disciplined for deliberate indifference to reports of sexual harassment after Lauren was murdered, Officer Deras, a man, was not fired while Detective Dallof, a woman, was fired.

131. Among other things, male officers often touched female co-workers in a manner that was inappropriate and unwelcome. Moreover, supervisors routinely asked female co-workers to sit on their laps. On one occasion, a male security guard stalked a female co-worker for months, continually asked her to go on dates and eventually pushed her against a wall and kissed her without her consent. After the assault, the security guard was allowed to resign without receiving a reprimand in his file.

132. Indeed, despite multiple and repeated internal complaints of sexual harassment directed toward female employees, including but not limited to those set forth above, UUPS refused to respond. On some occasions, the harassers were promoted rather than disciplined. In fact, Chief Brophy himself has twice been disciplined for inappropriately touching a female co-worker in a sexual manner. On one occasion, Chief Brophy grabbed the back of a secretary's bra as she walked past him. On another occasion, Chief Brophy rubbed a female co-worker's back without her consent. Accordingly, those who were in charge actively participated in the sexual harassment of female employees at UUPS. Indeed, Chief Brophy had a reputation for belittling women, treating them with disrespect, causing some to quit as a result, and has been disciplined for yelling at a woman on the telephone in an angry and profane manner.

133. Defendants' acts or omissions were the result of willful and malicious conduct or conduct that manifested a knowing and reckless indifference toward, and a disregard of, Lauren's rights and were a cause of the injuries suffered and damages incurred by the Plaintiffs.

**FIRST CAUSE OF ACTION**  
**( NEGLIGENCE )**

134. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

135. Defendants had a duty to exercise reasonable care and to respond in a timely and appropriate manner to reports that Melvin Rowland was sexually harassing Lauren McCluskey.

136. Defendants also had a duty to exercise reasonable care and to provide appropriate training, supervision, instruction, discipline and control over subordinates.

137. Defendants also had a duty to exercise reasonable care and to promulgate, create, implement, maintain and enforce appropriate policies regarding responses to reports of sexual harassment.

138. Defendants breached their duty by failing to exercise reasonable care and were negligent when, among other things, they failed to:

- a. respond in a timely or appropriate manner;
- b. enforce University policies and procedures;
- c. investigate the allegations against Melvin Rowland;
- d. check Melvin Rowland's parole status;
- e. report Melvin Rowland's activity to Adult Probation and Parole;
- f. ban Melvin Rowland from campus;
- g. detain and/or arrest Melvin Rowland for suspected criminal activity;
- h. arrange, facilitate or provide immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking and/or domestic violence, including but not limited to information sufficient to obtain an order of protection or a stalking injunction from the courts;
- i. pass information up the chain of command;

j. contact and coordinate with other University departments, organizations or teams, including but not limited to the CARE team and the Behavior Intervention Team (“BIT”);

k. provide referrals to victim advocacy and/or counseling services;

l. provide housing adjustments;

m. provide academic adjustments;

n. impose no-contact directives;

o. provide security escorts;

p. provide other safety and protective measures;

q. provide educational training;

r. review or revise University policies, procedures or practices;

s. consider broader remedial action;

t. provide appropriate training, supervision, instruction, discipline and control over subordinates; and/or

u. create, implement and enforce appropriate policies regarding responses to reports of sexual harassment.

139. Despite having the ability and authority to take action to end the sexual harassment, Defendants failed to take any reasonable action to end the sexual harassment, thereby exposing Lauren to further sexual harassment and leaving her to be kidnapped and murdered on the University’s campus.

140. Defendants' negligence was a proximate cause of Lauren McCluskey's injuries and damages, which include but are not limited to further incidents of sexual harassment, culminating in a brutal attack that resulted in Lauren's murder.

141. Lauren McCluskey otherwise suffered additional harm and incurred damages as a result of Defendants' negligence.

142. Defendants' conduct was the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifested a knowing and reckless indifference toward, and a disregard of the rights of Lauren McCluskey.

143. Defendants are independently liable for action that they took or failed to take in light of the knowledge that was imputed to them through their employees, staff and/or agents.

144. Plaintiffs have a good faith argument that any case law purporting to foreclose their negligence claim was incorrectly decided where such negligence caused Lauren's death.

**SECOND CAUSE OF ACTION**  
**(EQUAL PROTECTION OF RIGHTS AND PRIVILEGES UNDER THE UTAH CONSTITUTION)**

145. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

146. The provisions of the Utah Constitution are mandatory and prohibitory.

147. Gender equality is a fundamental right under the Utah Constitution that is essential to the security of individual rights and the perpetuity of free government.

148. Discrimination on the basis of sex inherently interferes with the ability of male and female citizens to enjoy equally all civil, political and religious rights and privileges.

149. The Utah Constitution prohibits discrimination on the basis of sex.

150. Defendants violated the Utah Constitution when they discriminated against Lauren on the basis of her sex.

151. Defendants discriminated against Lauren McCluskey on the basis of her sex by treating dismissively her complaints about sexual harassment—a criminal activity that disproportionately affects women.

152. Defendants discriminated against Lauren McCluskey on the basis of her sex when they failed to respond to reports of sexual harassment in a timely and appropriate manner, thereby subjecting Lauren to further sexual harassment.

153. Defendants discriminated against Lauren McCluskey on the basis of her sex when they responded or failed to respond or otherwise treated Lauren based on gender stereotypes.

154. Defendants caused Lauren McCluskey’s death when they discriminated against her on the basis of her sex, thereby permanently depriving her of the ability to enjoy any right or privilege equally with males.

155. Defendants otherwise caused Plaintiffs’ harm and related damages when they violated the Utah Constitution by discriminating against Lauren on the basis of her sex.

156. Defendants otherwise interfered with Lauren McCluskey’s ability to enjoy equally all civil, political and religious rights and privileges when they discriminated against her on the basis of her sex, including but not limited to:

- a. the civil right to be free from discrimination on the basis of sex;
- b. the civil right to be free from sexual harassment;
- c. the civil right to be free from treatment based on gender stereotypes;
- d. the civil right to life, liberty and the pursuit of happiness;
- e. the civil right to bodily integrity;
- f. the civil right to privacy;

- g. the civil right to be free from conduct that involves “violence or physical harm;”
- h. the civil rights protected under the United States Constitution and under federal law;
- i. the privilege or right to receive a timely and appropriate response to reports of sexual harassment;
- j. the privilege of police protection or other police services;
- k. the privilege of receiving protection and/or services otherwise offered to students at the University of Utah and/or to residents of the Shoreline Dormitory;
- l. the privilege of receiving the benefit of the University’s purported policies or procedures relating to sexual harassment; and
- m. the privilege of obtaining an education at a public university;

157. Defendants violated the Utah Constitution when they otherwise interfered with Lauren McCluskey’s ability to enjoy equally all civil, political and religious rights and privileges.

158. Defendants caused Lauren McCluskey’s death when they otherwise interfered with Lauren McCluskey’s ability to enjoy equally all civil, political and religious rights and privileges, thereby permanently depriving her of the ability to enjoy any right or privilege equally with males.

159. Defendants otherwise caused Plaintiffs harm and related damages when they violated the Utah Constitution by interfering with Lauren McCluskey’s ability to enjoy equally all civil, political and religious rights and privileges.

160. Defendants' conduct was the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifested a knowing and reckless indifference toward, and a disregard of the rights of Lauren McCluskey.

161. Defendants are independently liable for action that they took or failed to take in light of the knowledge that was imputed to them through their employees, staff and/or agents.

**THIRD CAUSE OF ACTION**  
**(EQUAL PROTECTION OF RIGHTS AND PRIVILEGES UNDER THE UTAH STATE CONSTITUTION)**  
**(FAILURE TO TRAIN, SUPERVISE, CONTROL, INSTRUCT, OR DISCIPLINE)**

162. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

163. At all times relevant hereto, the University, Chief Brophy, and John/Jane Doe were engaged in policy making to supervise and control all policies, practices, rules, guidelines, customs and regulations regarding interactions with students.

164. At all times relevant hereto, the University, Chief Brophy and John/Jane Doe had duties to train, supervise, control, instruct and discipline subordinates with regard to, among other things, issues regarding gender based discrimination, treatment based on gender stereotypes and responses to reports of sexual harassment, including but not limited to reports of stalking, abuse, intimidation, domestic violence, dating violence, interpersonal violence, sexual misconduct and sexual assault.

165. More specifically, the University, Chief Brophy and John/Jane Doe had a duty to provide training that was necessary to ensure that subordinates would: recognize reports of sexual harassment and the common warning signs associated with sexual harassment; assess the degree of risk associated with such reports; respond to reports of sexual harassment in a timely

and appropriate manner; know when a response or the lack thereof amounted to negligence under the common law or violated the Utah Constitution; understand the rights, remedies, requirements and obligations under these provisions of law; and understand the risks and consequences associated with violating these provisions of law.

166. Likewise, the University, Chief Brophy and John/Jane Doe had a duty to provide training that was necessary to ensure that subordinates would: recognize common gender stereotypes; learn to set aside personal bias; understand that treatment based on gender stereotypes violates the constitution; and understand the risks and consequences associated with treatment based on gender stereotypes.

167. Moreover, the University, Chief Brophy and John/Jane Doe also had a duty to supervise, control and instruct subordinates to ensure that they were not deliberately indifference to reports of sexual harassment, that they were not treating women based on gender stereotypes, that they were not discriminating on the basis of sex and that they were otherwise conducting themselves in accordance with their training and with University policies and procedures.

168. Finally, the University, Chief Brophy and John/Jane Doe had a duty to provide timely and appropriate discipline when subordinates acted with deliberate indifference to reports of sexual harassment, when they treated women based on gender stereotypes, when they discriminated on the basis of sex and when they otherwise failed to conduct themselves in accordance with their training and/or when they violated University policies and procedures.

169. The University, Chief Brophy and John/Jane Doe subjected Lauren McCluskey to sexual harassment, subjected her to treatment based on gender stereotypes, discriminated against her on the basis of her sex and otherwise interfered with Lauren's ability to enjoy equally all

civil, political and religious rights and privileges when they failed to train, supervise, control, instruct, or discipline subordinates despite knowing that subordinates had an unconstitutional custom or policy of subjecting women to sexual harassment, treating women based on gender stereotypes and/or discriminating against women on the basis of sex.

170. In fact, the University, Chief Brophy and John/Jane Doe actively trained subordinates to respond to reports of sexual harassment with deliberate indifference and to treat women based on gender stereotypes.

171. Subordinates treated Lauren McCluskey in accordance with the unconstitutional policy or custom of subjecting women to sexual harassment, treating women based on gender stereotypes and/or discriminating against women on the basis of sex.

172. Likewise, the University, Chief Brophy and John/Jane Doe subjected Lauren McCluskey to sexual harassment, subjected her to treatment based on gender stereotypes, discriminated against her on the basis of her sex and otherwise interfered with Lauren's ability to enjoy equally all civil, political and religious rights and privileges when they failed to train, supervise, control, instruct, or discipline subordinates despite the fact that they should have known that the failure to train, supervise, instruct, or control subordinates was likely to result in discrimination on the basis of sex.

173. Among other things, numerous authorities, including the U.S. Supreme Court and U.S. Department of Education, made clear and gave notice to the University, Chief Brophy and John/Jane Doe that subordinates will confront sexual harassment and abuse directed toward students with regularity, given the high predictability, recurrence and prevalence of sexual harassment, assault and abuse on university campuses and on the University's campus. Thus, it

was foreseen and inevitable that subordinates would encounter recurrent situations involving sexual harassment that implicated students' constitutional rights, and it did, in fact, encounter those recurring situations.

174. The failure to train, supervise, control, instruct, or discipline subordinates caused subordinates to violate Lauren McCluskey's constitutional rights, resulting in harm and related damages, including but not limited to Lauren's death.

175. The University, Chief Brophy and John/Jane Doe's failure to train, supervise, control, instruct, or discipline subordinates effectively deprived Lauren of her constitutional rights and was deliberate, reckless and in callous indifference to such rights.

176. To the extent that subordinates obtained knowledge in the course and scope of their employment, such knowledge is imputed to the University, Chief Brophy and to John/Jane Doe.

177. The University, Chief Brophy and John/Jane Doe are independently liable for action that they took or failed to take in light of the knowledge that was imputed to them through their subordinates.

**FOURTH CAUSE OF ACTION**  
**(EQUAL PROTECTION OF RIGHTS AND PRIVILEGES UNDER THE UTAH STATE CONSTITUTION)**  
**(UNCONSTITUTIONAL POLICY OR CUSTOM)**  
**(POLICY OR CUSTOM LIKELY TO RESULT IN CONSTITUTIONAL VIOLATIONS)**  
**(FAILURE TO IMPLEMENT OR ENFORCE POLICY)**

178. Plaintiffs incorporate by this reference all previous paragraphs above as though fully set forth below.

*Unconstitutional Policy or Custom*

179. The University, Chief Brophy and John/Jane Doe discriminated against Lauren McCluskey on the basis of her sex, and otherwise interfered with Lauren's ability to enjoy

equally all civil, political and religious rights and privileges when they promulgated, created, implemented, maintained, enforced or were otherwise responsible for unconstitutional policies or customs involving discrimination on the basis of sex that required or encouraged subordinates to, among other things, respond to reports of sexual harassment with deliberate indifference, subject women to further sexual harassment and/or to treat women based on gender stereotypes.

180. Subordinates treated Lauren McCluskey in accordance with these unconstitutional policies or customs, resulting in harm and related damages, including but not limited to Lauren's death.

*Other Policies or Customs Likely to Cause Constitutional Violations*

181. Moreover, the University, Chief Brophy and John/Jane Doe discriminated against Lauren McCluskey on the basis of her sex and otherwise interfered with Lauren's ability to enjoy equally all civil, political, and religious rights and privileges when they promulgated, created, implemented, maintained, enforced, or were otherwise responsible for other policies or customs that were likely to result in deliberate indifference to sexual harassment, treatment based on gender stereotypes and/or discrimination on the basis of sex.

182. Indeed, among other things, the University, Chief Brophy and John/Jane Doe promulgated, created, implemented, maintained, and/or were responsible for policies or customs that required or encouraged subordinates to, among other things: ignore reports of sexual harassment; ignore assignments to investigate reports of sexual harassment; respond to reports of sexual harassment in an untimely manner; investigate reports of sexual harassment in an untimely manner; investigate victims, but not their harassers; ignore information that could be obtained by checking a harasser's parole status; intimidate victims of sexual harassment; treat

victims of sexual harassment with hostility and disdain; minimize reports of sexual harassment; respond to sexual harassment in a flippant manner; express disinterest in the harassment; blame victims for the harassment; accuse victims of lying about the harassment; otherwise discourage women from reporting harassment or from taking action against their harassers; refuse requests to obtain or preserve forensic evidence; divert victims of sexual harassment to SLCPD; and ignore laws that require law enforcement to provide victims of sexual harassment with information about their rights and the resources available to them.

183. The University and Chief Brophy and John/Jane Doe also had a policy or custom of: ignoring serious concerns reported by subordinates; denying requests for training from subordinates who felt unequipped to perform their duties; rejecting offers to provide training that subordinates requested and needed; failing to provide enough qualified staff to adequately respond to reports of sexual harassment; manipulating and altering police records in sexual harassment cases; personally participating in the sexual harassment of employees; consciously acquiescing in sexual harassment directed toward employees; and otherwise discriminating against employees and others on the basis of their sex.

184. The policies or customs that the University, Chief Brophy and John/Jane Doe promulgated, created, implemented, maintained, enforced and were responsible for caused subordinates to violate Lauren McCluskey's constitutional rights, resulting in harm and related damages, including but not limited to Lauren's death.

185. Indeed, among other things, the policies or customs caused subordinates to ignore third party reports of sexual harassment; ignore the duty to investigate third party reports of sexual harassment; ignore employee concerns regarding students; otherwise respond to third

party reports of sexual harassment in an untimely manner; otherwise discourage women from reporting harassment or from taking action against their harassers; call law enforcement only as a last resort; ignore guest policy violations; threaten punishment against victims of sexual harassment; reject requests for reasonable accommodations; reject requests to enforce no-contact orders; and ignore laws that required subordinates to provide information to victims of sexual harassment.

*Failure to Promulgate, Create, Implement, Maintain or Enforce Policies*

186. The University, Chief Brophy and John/Jane Doe discriminated against Lauren McCluskey on the basis of her sex and otherwise interfered with Lauren's ability to enjoy equally all civil, political, and religious rights and privileges when they failed to promulgate, create, implement, maintain, or enforce policies despite knowing that subordinates had an unconstitutional custom of deliberate indifference to sexual harassment, treatment based on gender stereotypes and/or discrimination on the basis of sex.

187. Furthermore, the University, Chief Brophy and John/Jane Doe discriminated against Lauren McCluskey on the basis of her sex and otherwise interfered with Lauren's ability to enjoy equally all civil, political, and religious rights and privileges when they failed to promulgate, create, implement, maintain, or enforce policies despite the fact that they should have known that subordinates had other customs that were likely to result in deliberate indifference to sexual harassment, treatment based on gender stereotypes and/or discrimination on the basis of sex.

188. Finally, the University, Chief Brophy and John/Jane Doe discriminated against Lauren McCluskey on the basis of her sex and otherwise interfered with Lauren's ability to enjoy

equally all civil, political, and religious rights and privileges when they failed to promulgate, create, implement, maintain, or enforce policies despite the fact that they knew or should have known that the failure to do so was likely to result in deliberate indifference to sexual harassment, treatment based on gender stereotypes and/or discrimination on the basis of sex by subordinates.

189. The failure to promulgate, create, implement, maintain, or enforce policies caused subordinates to violate Lauren McCluskey's constitutional rights, resulting in harm and related damages, including but not limited to Lauren's death.

190. The University, Chief Brophy and John/Jane Doe's conduct was the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifested a knowing and reckless indifference toward, and a disregard of the rights of Lauren McCluskey.

191. To the extent that subordinates obtained knowledge in the course and scope of their employment, such knowledge is imputed to the University, Chief Brophy and to John/Jane Doe.

192. The University, Chief Brophy and John/Jane Doe are independently liable for action that they took or failed to take in light of the knowledge that was imputed to them through their subordinates.

**FIFTH CAUSE OF ACTION**  
**(SURVIVAL)**

193. Plaintiffs re-allege and incorporate herein the previous allegations of this complaint.

194. Pursuant to Utah Code § 78B-3-107, Lauren McCluskey's claims did not abate upon her death and Plaintiffs have a cause of action against Defendants for special and general damages associated with such claims.

195. Plaintiffs have a good faith argument that any case law purporting to foreclose such a claim was incorrectly decided.

**SIXTH CAUSE OF ACTION**  
**(WRONGFUL DEATH)**

196. Plaintiffs re-allege and incorporate herein the previous allegations of this complaint.

197. Pursuant to Utah Code § 78B-3-106, Lauren's McCluskey's heirs have a cause of action against Defendants for wrongful death associated with Lauren's underlying claims for negligence and deprivation of her equal protection of rights and privileges under the Utah Constitution and they are entitled to general and special damages for, among other things, costs associated with Lauren's death, the value of services Lauren would have provided, loss of Lauren's society, comfort, association, love, counsel, care, consortium and protection, loss of the reasonable expectation to associate with Lauren for the rest of her natural life, and for any and all other damages as may be just under the circumstances of the case.

198. Plaintiffs have a good faith argument that any case law purporting to foreclose such a claim was incorrectly decided.

**SEVENTH CAUSE OF ACTION**  
**(VICARIOUS LIABILITY)**

199. Plaintiffs re-allege and incorporate herein the previous allegations of this complaint.

200. Defendants' employees, agents and/or staff were at all times pertinent to the claims and matters addressed herein acting within the course and scope of their respective employment and/or agency.

201. Knowledge obtained within the course and scope of the employment or agency is imputed to Defendants.

202. Defendants are vicariously liable for the harm caused by their respective employees, agents, and/or staff.

203. Defendants ratified the conduct of their respective employees, agents, and/or staff.

**RELIEF REQUESTED**

**WHEREFORE**, Plaintiffs request the following relief:

1. For their First Cause of Action, Plaintiffs seek judgment on Lauren McCluskey's behalf against Defendants for \$56,000,000, an amount in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, loss of access to educational opportunities and benefits, tuition and related expenses, dormitory housing and related expenses, personal injuries, pain and suffering, loss of chance, mental anguish, medical expenses, impaired earning capacity, lost wages, and other special and general damages; for punitive damages; for permission to amend this Complaint and to add parties and causes of action at a later date consistent with evidence adduced through discovery; for prejudgment interest, for post judgment interest, for the costs of this suit, including attorney's fees and for such further relief as the Court deems proper.

2. For their Second Cause of Action, Plaintiffs seek judgment on Lauren McCluskey's behalf against Defendants for \$56,000,000, an amount in excess of the minimum

jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, loss of access to educational opportunities and benefits, tuition and related expenses, dormitory housing and related expenses, personal injuries, pain and suffering, loss of chance, mental anguish, medical expenses, impaired earning capacity, lost wages, and other special and general damages; for punitive damages; for permission to amend this Complaint and to add parties and causes of action at a later date consistent with evidence adduced through discovery; for prejudgment interest, for post judgment interest, for the costs of this suit, including attorney's fees and for such further relief as the Court deems proper.

3. For their Third Cause of Action, Plaintiffs seek judgment on Lauren McCluskey's behalf against the University, against Chief Dale Brophy and against John/Jane Doe for \$56,000,000 an amount in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, loss of access to educational opportunities and benefits, tuition and related expenses, dormitory housing and related expenses, personal injuries, pain and suffering, loss of chance, mental anguish, medical expenses, impaired earning capacity, lost wages, and other special and general damages; for punitive damages; for permission to amend this Complaint and to add parties and causes of action at a later date consistent with evidence adduced through discovery; for prejudgment interest, for post judgment interest, for the costs of this suit, including attorney's fees and for such further relief as the Court deems proper.

4. For their Fourth Cause of Action, Plaintiffs seek judgment on Lauren McCluskey's behalf against the University, against Chief Dale Brophy and against John/Jane Doe for \$56,000,000, an amount in excess of the minimum jurisdictional amount and sufficient

to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, loss of access to educational opportunities and benefits, tuition and related expenses, dormitory housing and related expenses, personal injuries, pain and suffering, loss of chance, mental anguish, medical expenses, impaired earning capacity, lost wages, and other special and general damages; for punitive damages; for permission to amend this Complaint and to add parties and causes of action at a later date consistent with evidence adduced through discovery; for prejudgment interest, for post judgment interest, for the costs of this suit, including attorney's fees and for such further relief as the Court deems proper.

5. For their Fifth Cause of Action, Plaintiffs seek judgment on Lauren McCluskey's behalf against Defendants for \$56,000,000, an amount in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, loss of access to educational opportunities and benefits, tuition and related expenses, dormitory housing and related expenses, personal injuries, pain and suffering, loss of chance, mental anguish, medical expenses, impaired earning capacity, lost wages, and other special and general damages; for punitive damages; for permission to amend this Complaint and to add parties and causes of action at a later date consistent with evidence adduced through discovery; for prejudgment interest, for post judgment interest, for the costs of this suit, including attorney's fees and for such further relief as the Court deems proper.

6. For their Sixth Cause of Action, Plaintiffs seek judgment on Jill McCluskey and Matthew McCluskey's behalf against Defendants for \$56,000,000, an amount in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, cost associated with Lauren's

death, funeral expenses, pain and suffering, loss of chance, mental anguish, the value of services Lauren would have provided, loss of society, comfort, association, love, counsel, care, consortium and protection, loss of the reasonable expectation of Mr. and Mrs. McCluskey to associate with Lauren, and other special and general damages; for punitive damages; for permission to amend this Complaint and to add parties and causes of action at a later date consistent with evidence adduced through discovery; for prejudgment interest, for post judgment interest, for the costs of this suit, including attorney's fees and for such further relief as the Court deems proper.

7. For their Seventh Cause of Action, Plaintiffs seek judgment Defendants for \$56,000,000, an amount in excess of the minimum jurisdictional amount and sufficient to qualify for Tier 3, as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure for, among other things, all of the relief requested in Paragraphs 1, 2, 3, 4, 5 and 6 of the Prayer for Relief.

### **JURY DEMAND**

Pursuant to Rule 38 of the Utah Rules of Civil Procedure, Plaintiffs have tendered the statutory jury fee and demand a trial by jury for all of the issues that can be tried by a jury.

DATED this 8th day of June, 2020.

PARKER & MCCONKIE

/s/ James W. McConkie

James W. McConkie

Bradley H. Parker

W. Alexander Evans

ZIMMERMAN BOOHER

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