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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

HECTOR MARTINEZ and JOLAYNE HOUTZ,
husband and wife, individually and as Co-Personal
Representatives of the ESTATE OF SAMUEL H.
MARTINEZ,

Plaintiffs,

v.

WASHINGTON STATE UNIVERSITY, a
subdivision of the State of Washington; and
ALPHA TAU OMEGA FRATERNITY, INC., an
Indiana Corporation; GAMMA CHI CHAPTER OF
ALPHA TAU OMEGA FRATERNITY, an
association; RICHMOND PROPERTY GROUP,
LTD., an Indiana Corporation; LUKE
HAWKSFORD, an individual; ANDREW
MISCHKE, an individual; WESLEY OSWALD, an
individual; COLE SOREANO, an individual;
JORDAN JAMESON, an individual; and JOHN
DOES 1-10, individuals; *et al.*,

Defendants.

No.

COMPLAINT FOR
PERSONAL INJURY

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COME NOW Plaintiffs HECTOR MARTINEZ and JOLAYNE HOUTZ, husband
and wife, individually and as Co-Personal Representatives for the Estate of Samuel H.
Martinez, by and through their attorneys of record, Rebecca J. Roe and Sergio A.
Garcidueñas-Sease of Schroeter, Goldmark & Bender and Douglas E. Fierberg and

1 Jonathon N. Fazzola of The Fierberg National Law Group, PLLC, and complain and allege
2 as follows against the above-named Defendants:

3 **I. INTRODUCTION**

4 During the spring of 2019, Newport High School Senior Sam Martinez and his
5 parents attended an orientation weekend for students considering attending Washington
6 State University (“WSU” or “University”). One session focused on the benefits of being
7 part of the Greek Community on campus during which WSU encouraged Sam and other
8 incoming students to join the Greek Community because, in the words of WSU, “[s]ince
9 1906, it has had a rich and rooted role in campus culture and continues to make men better
10 men and women better women.” Sam was recruited by friends in the Bellevue area to join
11 the fraternity Alpha Tau Omega (“ATO”). By the time of his return to WSU for incoming
12 student orientation in July 2019, Sam had decided to “pledge” ATO.
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15 Unknown to Sam and his family, ATO and the Gamma Chi Chapter (“Gamma
16 Chi”), like other fraternities at WSU, had a history of hazing and dangerous excessive
17 alcohol consumption. ATO also has a record of fatal incidents of hazing, injuries, and
18 sexual assaults at its other chapters across the country.

19 Sam would die just a few months later, before completing his first college semester,
20 as a result of a longstanding hazing ritual of the ATO fraternity chapter at WSU known as
21 “family drink night.” This rite on the path to ATO membership involved pledges being
22 paired with a “Big Brother” who then provided a drink to be immediately and excessively
23 consumed by his “family.”
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1 In Sam’s case, his “Big Brother” produced a ½ gallon of rum for his “family” of
2 three. Sam became unconscious within about an hour or two of starting to drink. Though
3 Sam was observed in obvious danger and distress by many other pledges and fraternity
4 members, no one called for help until 8:30 am the morning of November 12, when it was
5 far too late to save his life. Sam’s femoral blood-alcohol content measured 0.372 days later
6 upon autopsy.
7

8 II. PARTIES, JURISDICTION & VENUE

9 2.1 Plaintiffs Hector Martinez and Jolayne Houtz, are married and the surviving
10 parents of Samuel Martinez. They reside in Bellevue, King County, Washington.

11 2.2 Decedent Samuel Martinez was the son of Hector Martinez and Jolayne
12 Houtz and the brother of Ariana Martinez. He was born on October 3, 2000 in Bellevue,
13 Washington and died in Pullman, Whitman County, Washington on or around November
14 12, 2019. At the time of his death, he was a student of Washington State University.
15

16 2.3 On June 22, 2020, under King County Superior Court Cause
17 No. 20-4-03632-1 SEA, the King County Superior Court appointed Plaintiffs Hector
18 Martinez and Jolayne Houtz as Co-Personal Representatives of the Estate of Samuel
19 Martinez (the “Estate”).
20

21 2.4 Pursuant to RCW 4.20, *et seq.*, Plaintiffs Hector Martinez and Jolayne Houtz
22 as Co-Personal Representatives of the Estate of Samuel Martinez, represent the rights and
23 interests of the Estate and all statutory wrongful death beneficiaries pursuant to Washington
24 State law. Hector Martinez, Jolayne Houtz and Ariana Martinez are each statutory
25 wrongful death beneficiaries.
26

1 2.5 Defendant Washington State University (“WSU”) is a land-grant college,
2 established by the State of Washington, with a presence and doing business in many
3 counties of the State, including King County.

4 2.6 ATO, in its operations at WSU, consists of at least three separate entities –
5 ATO, the national fraternity; Gamma Chi, the WSU Chapter of ATO; and the Richmond
6 Property Group, Ltd. (“RPG”), the title holder to the Gamma Chi chapter lodge. Such
7 entities were at all relevant times alter egos, operating as part of a single enterprise to
8 further the stated mission of brotherhood and generate revenue for ATO. Defendants ATO,
9 RPG, and Gamma Chi are hereinafter collectively referred to as the “Fraternity
10 Defendants.”

11 2.7 Defendant Alpha Tau Omega (“ATO”) is a nonprofit corporation organized
12 under the laws of the State of Maryland with headquarters in Indianapolis, Indiana, with a
13 presence and doing business throughout the State of Washington, including King County.
14

15 2.8 Defendant RPG is a corporation organized under the laws of the State of
16 Indiana, headquartered in the offices of ATO in Indianapolis, Indiana, with a presence and
17 doing business in the State of Washington. Defendant RPG is managed exclusively by
18 officers, employees, and/or members of ATO, including Wynn Smiley, Chief Executive
19 Officer of ATO and RPG, and organized by ATO to hold title, manage and operate real
20 estate for the benefit of current and future members of ATO. Defendant RPG holds title to
21 the Gamma Chi chapter lodge located at 710 NE Linden Street in Pullman, Washington,
22 managing the property, and hiring a live-in advisor whose job is to help ensure safety
23 within the lodge. Despite significant financial revenue from students at WSU, and through
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1 property it owns in the State of Washington, Defendant RPG is not registered to do business
2 in Washington, as required by law.

3 2.9 Defendant Gamma Chi is, and at all relevant times has been, an
4 unincorporated association which is chartered, governed, managed, the alter ego of, and
5 controlled by its principal member and alter ego, Defendant ATO. Gamma Chi operates
6 out of the RPG-owned lodge at 710 N.E. Linden Street in Pullman, Washington. Although
7 WSU purportedly requires all Greek letter student organizations to incorporate as not-for-
8 profit corporations, upon information and belief, WSU allowed Gamma Chi to operate at all
9 relevant times as an unincorporated association.
10

11 2.10 Defendant Luke Hawksford was at all relevant times a member of ATO and
12 Gamma Chi, and, upon information and belief, is a resident of Bellevue, Washington.
13 Defendant Hawksford was the President of Gamma Chi at the time of Sam's death, and he
14 conspired to engage or participate in, assisted, and/or ratified the hazing and/or the
15 subsequent misconduct involving Sam's incapacity and the failure to act reasonably to
16 prevent his death. Defendant Hawksford was at all relevant times acting as an agent of and
17 within the scope of his agency with and for the Fraternity Defendants.
18

19 2.11 Defendant Andrew Mischke was at all relevant times a member of ATO and
20 Gamma Chi, and, upon information and belief, a resident of Fall City, Washington in King
21 County. Defendant Mischke was the Risk Manager and President-Elect of Gamma Chi at
22 the time of Sam's death, and he conspired to engage or participate in, assisted, and/or
23 ratified the hazing and/or the subsequent misconduct involving Sam's incapacity and the
24 failure to act reasonably to prevent his death. Defendant Mischke was at all relevant times
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1 acting as an agent of and within the scope of his agency with and for the Fraternity
2 Defendants.

3 2.12 Defendant Wesley Oswald was at all relevant times a member of ATO and
4 Gamma Chi, and upon information and belief, a resident of Bellevue, Washington.
5 Defendant Oswald was the Pledge Educator of Gamma Chi and the “Big Brother” of Sam
6 at the time of Sam’s death, and he conspired to engage or participate in, assisted, and/or
7 ratified the hazing and/or the subsequent misconduct involving Sam’s incapacity and the
8 failure to act reasonably to prevent his death. Defendant Oswald was at all relevant times
9 acting as an agent of and within the scope of his agency with and for the Fraternity
10 Defendants.
11

12 2.13 Defendant Cole Soreano was at all relevant times a member of ATO and
13 Gamma Chi, and, upon information and belief, a citizen and resident of Chelan,
14 Washington. Defendant Soreano conspired to engage or participate in, assisted, and/or
15 ratified the hazing and/or the subsequent misconduct involving Sam’s incapacity and the
16 failure to act reasonably to prevent his death. Defendant Soreano was at all relevant times
17 the Social Director of Gamma Chi and acting as an agent of and within the scope of his
18 agency with and for the Fraternity Defendants.
19

20 2.14 Defendant Jordan Jameson was at all times employed by RPG and/or ATO
21 as the House Director for the lodge owned and used by the Fraternity Defendants to
22 conduct business and operations at WSU. Defendant Jameson was also at all relevant times
23 employed by WSU as a Coordinator of Student Support, Events, and Operations. Upon
24 information and belief, Defendant Jameson is a resident of Pullman, Washington.
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1 2.15 The true names and capacities, whether individual, corporate,
2 unincorporated or otherwise, of Defendants John Doe 1 through 10, inclusive, are unknown
3 to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs will
4 amend this Complaint to show these Defendants’ true names and capacities when the same
5 are ascertained, as well as the specific manner in which each fictitious defendant is
6 responsible.
7

8 2.16 Defendants Hawksford, Mischke, Oswald, Soreano, and John Does 1-10 are
9 collectively referred to herein as the “Individual Defendants.”

10 2.17 Plaintiffs filed a Standard Tort Claim Form with the State of Washington
11 Attorney General Risk Management Division, pursuant to Chapter 4.92 RCW. More than
12 sixty (60) days have elapsed since the claim was filed. The notice of claim provisions
13 required by RCW 4.92 *et seq.* have been satisfied.
14

15 2.18 The Superior Court of King County, Washington has jurisdiction over this
16 subject matter pursuant to RCW 2.08.010.

17 2.19 Venue is proper in this Court pursuant to RCW 4.12.020 and RCW 4.12.025
18 as Plaintiffs and multiple Defendants reside in King County and conduct and transact
19 business in King County.
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III. STATEMENT OF FACTS



13 *Sam Martinez and his Family*

14 3.1 Samuel Martinez is the son of Jolayne Houtz and Hector Martinez and
15 younger brother of Ariana Martinez. Sam loved and was loved by a large circle of friends
16 and extended family across Washington, Oregon, Arizona and Mexico.

17 3.2 Sam was raised in the Bellevue area, where he played baseball, soccer, and
18 basketball, volunteered in the community, and worked in addition to being a student at
19 Newport High School. At Newport High School, he was part of the varsity soccer team and
20 the symphonic band. He also played soccer on a year-round premier soccer team. He
21 graduated from the Bellevue School District's Spanish Immersion program, receiving a
22 diploma from the International Spanish Academy and a seal of biliteracy from the Bellevue
23 School District.
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1 3.3 Since childhood, Sam attended church, church camp and volunteered for a
2 philanthropic community development project. Sam was honored at his high school with
3 the Knight Valor Award for his community service work.

4 3.4 Upon graduation from Newport High School in 2019, Sam enrolled at WSU
5 where he was interested in pursuing business and entrepreneurship as his major as he
6 admired his father's success in his catering business, which Sam ultimately wanted to join.
7

8 ***WSU and its Strong Support of Greek Life***

9 3.5 WSU encourages its incoming students to join the Greek Community
10 because, “[s]ince 1906, it has had a rich and rooted role in campus culture and continues to
11 make men better men and women better women.” WSU reports that approximately 25% of
12 its student body belong to Greek organizations operating on its campus.
13

14 3.6 Numerous members of the WSU Foundation – the 501(c)(3) organization
15 whose mission is “to promote, accept, and maximize private support for programs,
16 initiatives, and properties of Washington State University and its regional campuses” – are
17 alumnus of WSU’s Greek community.

18 3.7 WSU utilizes, among other things, its mascot, school colors, housing
19 policies, extensive promotional information on the University website, and numerous staff
20 to encourage students to “Go Greek.”
21

22 3.8 WSU promotes its students to consider Greek Life stating:

23 **Forget the stereotypes.** Living on Greek Row is fun, for sure, but
24 you'll also be giving back to the community, gaining new leadership
25 skills, and meeting new friends. You'll strive for academic
26 excellence as well. In fact, WSU research shows that fraternity and
sorority members are three times more likely than other students to
graduate on time.

1 3.9 WSU provides resources instructing students on how to join fraternities and
2 encourages them to do so with the following statement about the community:

3 Fraternity men and sorority women at WSU strive to be responsible
4 leaders in our community who desire excellence in all areas.
5 Students in the community are held to higher standards than other
6 groups on college campuses, and individual behavior can reflect a
7 positive or negative image of the fraternity/sorority community,
8 regardless of the chapter. If you are serious about becoming Greek
9 at WSU, consider what we have to offer!

10 3.10 WSU's website was developed, and is continually updated, to promote the
11 Greek community, and contains direct links to self-reported information by fraternities, and
12 information regarding fraternity housing, services, activities, and regulations. Members of
13 the public desiring to learn about fraternities' compliance with WSU's Standards of
14 Conduct, dangerous violations, risks, and the public reporting thereof, are limited to relying
15 upon a "scorecard" developed by fraternities. If a fraternity has engaged in dangerous
16 misconduct resulting in injury, including hazing, sexual violence, and abuse of alcohol, the
17 details of such incidents are not reported on the "scorecard."

18 ***WSU's Relationship to Fraternity Housing***

19 3.11 WSU's housing policy requires all incoming freshmen to live on campus for
20 one school year, with one exception. Privately owned Greek Chapter houses qualify to
21 house freshmen if they go through WSU's-Approved housing process. That process is
22 directed by WSU's Center for Fraternity and Sorority Life ("CFSL"), and claims to check to
23 "see that chapters have passed health and fire inspections, have liability and property
24 insurance and have met many other requirements." ATO housing at WSU was University-
25 Approved.
26

1 3.12 Greek housing is not under the oversight of WSU’s Department of Housing
2 & Residential Life (“DHRL”).

3 3.13 The Center for Fraternity and Sorority Life (“CFSL”) has a small staff of
4 three persons, all of whom are active alumni of Greek organizations, have actively
5 promoted Greek organizations since their undergraduate studies, and, upon information and
6 belief, possess little, if any, material training, experience, or expertise in the safe
7 management of student housing.
8

9 3.14 WSU’s student housing facilities are also within the supervision of WSU’s
10 Cougar Security and University Police Department. These trained security personnel “work
11 closely” with DHRL and other WSU safety officials to protect the safety of students living
12 in residence halls. Among other security measures, they perform regular and nightly
13 rounds in and through WSU residence halls and have trained staff on-call. Upon
14 information and belief, University-Approved fraternity housing is exempt from general
15 oversight and patrols by WSU’s Cougar Security and University Police Department.
16

17 3.15 Upon information and belief, WSU requires University-Approved fraternity
18 housing to provide for and compensate a live-in House Director. Upon information and
19 belief, the House Director is not under the supervision of WSU, and is not required to have
20 a background or significant training in student safety and housing management. In the fall
21 of 2019, Defendant Jameson was employed by RPG and/or ATO as ATO’s House Director
22 at WSU in order to meet this requirement. Defendant Jameson publicly describes his
23 responsibilities as ATO’s House Director as living on-site to “effectively respond to crisis-
24 related emergencies” and “preemptively assess and avoid risk-management issues and serve
25 as the first responder to emergency situations that arise.”
26

1 *Misconduct in WSU's Greek Community*

2 3.16 WSU permits Greeks to purportedly “safely” manage their own Greek
3 Approved Housing. The University entrusts essentially untrained, full-time, undergraduate
4 students who are members of the Greek community to self-govern and account for each
5 other and their respective fraternities through the WSU Interfraternity Community (“IFC”).
6

7 3.17 These student members of the IFC also administer the Greek Standards
8 Board, which further implements WSU's fraternity self-governance model by expressing its
9 purpose as follows:

10 The Greek Standards Board at Washington State University is
11 intended to assist students and chapters who experience difficulty,
12 to take responsibility for their own behavior, develop a respect for
13 the rights of others, and move toward expected standards within the
14 Greek and University communities. The intent is not to punish, but
15 rather to facilitate student and chapter growth while maintaining the
16 behavioral standards necessary to ensure campus wide safety,
17 academic integrity, compliance with federal, state, local,
18 Panhellenic, and Interfraternity Council policies and procedures,
19 and value congruence.

20 3.18 Upon information and belief, from 2012 to the date of Sam's death, there
21 have been numerous incidents at or by WSU-recognized fraternities that caused or
22 threatened to cause injury. Incidents included alcohol fueled fights, falls, including one
23 death, and sexual assaults.

24 3.19 In the fall of 2016, the student-run IFC imposed a temporary moratorium on
25 all Greek social events because there was a “concerning rise in the number of assaults,
26 rapes, falls and hospitalizations due to the overuse of alcohol and/or drugs by Greek
members in the community.” A Moratorium Action Planning Committee (“MAPC”),

1 comprised of the IFC, the Panhellenic Council, and a representative of each Greek chapter,
2 was tasked with proposing reforms.

3 3.20 MAPC expressly admitted its inexperience, failures to act prior to 2016, and
4 lack of meaningful expertise to be entrusted by WSU with risk management issues
5 involving life and death, stating in the Plan’s introduction:
6

7 The need for this plan has come to fruition from numerous incidents
8 of the nature listed above [sexual violence, mental health, drug and
9 alcohol abuse and falls, and serious incidents] over the past calendar
10 year. It is time for the Greek Community at WSU to draw the line
11 and become involved in the culture-changing conversation needed to
prevent these incidents on the Pullman campus. We have failed to
look after our fellow Cougs. It is a failure that we, as a community,
cannot tolerate any longer.

12 3.21 The IFC made clear that the social moratorium would not be lifted until all
13 fraternities agreed to similar reforms, thereby lumping offending fraternities with non-
14 offending fraternities and ensuring that no single fraternity was forced to make more
15 reforms than another. This also ensured that no fraternity would be at a competitive
16 disadvantage to another fraternity by virtue of having more stringent, costly risk
17 management policies, even if circumstances, injuries, and risk management violations
18 warranted such individual reforms.
19

20 3.22 A Community Action Plan was voted on, approved and purportedly
21 implemented by the fraternities to lift the moratorium. The Community Action Plan
22 (“Plan”) and reforms as noted above were immaterial and ineffective, reflecting the obvious
23 inexperience and lack of expertise and qualifications of the IFC and its student members to
24 be entrusted by WSU to manage Greek activities for the safety of students. For example,
25 the “reform” to address the sexual assaults in fraternity houses largely amounted to creating
26

1 and posting a statement opposing sexual violence and having visible materials on the
2 resources available to survivors of sexual violence. Upon information and belief, WSU
3 took no action of its own to address the issues of student health and safety in its Greek
4 community. The Plan was approved, and the moratorium was lifted in January 2017.

5 3.23 In 2018, WSU again specifically entrusted fraternities to develop,
6 implement, and supervise reforms for the protection of WSU students. In this
7 circumstance, the North American Interfraternity Conference, a trade organization
8 comprised of approximately 64 national fraternities who collaborate to advance fraternities,
9 requested the opportunity to implement a risk management Pilot Program involving the use
10 and provision of alcohol in WSU fraternity houses and at fraternity events.

11 3.24 Again, WSU did not take any action of its own to address these risk
12 management issues, improve or amend the Pilot Program, and, with its knowledge and
13 consent, the Conference's Pilot Program would only be implemented if all fraternities
14 agreed to adopt the Program. Again, a condition to implementation of the Pilot Program
15 was that all fraternities agree to the same reforms, ensuring that no fraternity would be at a
16 competitive disadvantage with another fraternity. The Pilot Program was approved and
17 implemented. The Pilot Program also made no material changes in the way WSU or the
18 WSU-recognized fraternities manage these or any other policies.

19 3.25 WSU's protocol of entrusting fraternities to develop, implement, and
20 monitor their own reforms remained unchanged. No additional live-in or independent
21 management was proposed. The central presumption underlying the Pilot Program, like
22 MAPC's Plan, is that this trade association, and WSU's fraternities, will invariably more
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1 effectively develop and implement the “new” policies than they did the litany of other
2 policies entrusted to their oversight over the preceding decades.

3 ***ATO, Gamma Chi and RPG***

4 3.26 ATO, directly and as a controlling member of the unincorporated chapters it
5 establishes, including Gamma Chi, refuses to institute meaningful reforms despite having
6 the power and authority to do so, and it authorized Gamma Chi to recruit new members,
7 such as Sam, to produce new members and revenue for ATO in this flawed and dangerous
8 system.

9
10 3.27 ATO recruits new members and derives its principal revenues through
11 chapters it establishes, authorizes, and controls in all material respects. This is the principal
12 means by which ATO develops new revenue and grows the organization, which has
13 approximately 8,500 undergraduate members, more than 229,000 college alumni members,
14 and 141 college chapters.

15
16 3.28 ATO chapters, such as Gamma Chi, offer and convey ATO membership
17 upon undergraduates. ATO chapters, such as Gamma Chi, teach and follow the prescribed
18 rituals of ATO to potential new members, such as Sam. The process and requirements for
19 becoming a member of ATO are developed entirely and exclusively by ATO.

20 3.29 ATO also determines whether and how new chapters will be opened at
21 college campuses. ATO’s staff work directly with universities to obtain and retain
22 recognition for their chapters.

23
24 3.30 ATO determines and fully controls the legal form of chapters. The form
25 mandated by ATO is an unincorporated association. ATO sets the dues structure for
26 chapters, prepares draft bylaws for its chapters, requires such bylaws to conform with and

1 be subservient to the powers of ATO and ATO's Constitution, and mandates that chapters
2 govern themselves by such bylaws and ATO's Constitution or face revocation of the
3 chapter by ATO.

4 3.31 Statistics, insurance claims analyses, studies, and reports available to ATO,
5 and incidents of catastrophic injury and death widely known in the fraternity industry, have
6 for decades demonstrated the foreseeable risk of dangerous injury and death from the
7 excessive consumption of alcohol during fraternity sponsored initiation events.
8

9 3.32 Upon information and belief, ATO's and RPG's CEO, Wynn Smiley, is
10 directly aware of the dangers, risks, studies, and related materials reported throughout and
11 available to the fraternity industry.

12 3.33 ATO has a history throughout its national chapters of its members and
13 invitees suffering severe injury or death due to hazing and the misuse and mismanagement
14 of alcohol in and outside its chapter housing, including at Georgia Tech University, Old
15 Dominion University, University of Delaware, University of Georgia and University of
16 Kentucky.
17

18 3.34 Defendant RPG's stated purposes in its Articles of Incorporation are "to
19 provide housing resources, and social, educational, and fraternal programming to and for
20 chapters and house corporations" of ATO; "[t]o make loans and advances" for those
21 purposes; and "[t]o create resources and procedures to improve housing and house safety
22 for chapters of the Fraternity."
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1 3.35 If a lodge is going to be purchased for the benefit and use by ATO and a
2 chapter, ATO determines the terms of the purchase and the identity of the legal entity
3 holding title to the property, which most often, if not always, is a nonprofit corporation
4 controlled by ATO and alumni members of ATO, such as Defendant RPG.

5 3.36 ATO was directly involved in the formation and incorporation of RPG, is its
6 sole and only voting member, and ATO's CEO, Wynn Smiley, is and has always been on
7 RPG's Board of Directors along with other officers, employees and members of ATO.
8 RPG's Articles of Incorporation provide that upon its dissolution, all of its net property will
9 be transferred to ATO.
10

11 3.37 ATO has long been a member of the Fraternity Executives Association
12 (“FEA”). Wynn Smiley has served on the Board of Directors for FEA and was its President
13 in 2015. FEA's stated purpose as an organization is to provide a vehicle for member
14 organizations to learn and discuss different factors in the fraternal movement such as risk
15 management, recruitment, expansion, staff management and avoidance of liability.
16

17 ***The History of Gamma Chi and ATO at WSU***

18 3.38 Sam and his parents attended an orientation on March 30, 2019 at WSU.
19 One of the presentations they attended was about fraternity and sorority life at WSU. The
20 brochure described fraternities as “a home away from home” and represented membership
21 as a factor in “the retention and success of students.”
22

23 3.39 During the spring and summer, friends of Sam in the Bellevue area were
24 being recruited by members of ATO at WSU, and they talked to Sam about pledging ATO
25 and introduced him to their ATO recruiters.
26

1 3.40 During the orientation held at WSU in July 2019, Sam expressed an interest
2 in joining ATO through its Gamma Chi chapter. Sam received his bid to join ATO in
3 August 2019 before he took his first class at WSU.

4 3.41 ATO is viewed as a fraternity having preeminent status at WSU, where it has
5 been recruiting members and operating on WSU's campus since 1911. ATO boasts stately
6 lodge housing, including a recent \$3 million renovation, and has numerous alumni touted as
7 being on WSU's Foundation Board of Trustees (critical to the fundraising efforts of WSU),
8 in the WSU Athletics Hall of Fame, and scattered throughout public and private
9 institutions.

10 3.42 Sam's parents visited the ATO webpage and believed the recent renovation,
11 the long-established nature of the National ATO organization, and the promises of structure
12 for studying made joining a good option for Sam.

13 3.43 Unknown to Sam and his family, ATO and Gamma Chi, like other
14 fraternities at WSU, had its own record and history of hazing, dangerous mismanagement,
15 and abuse of alcohol. As a result of hazing by ATO members in 2013, WSU's Conduct
16 Board noted the following:
17

18 Notwithstanding your National President's persistent attempts to label this
19 incident of hazing as only a "technical" violation, the Conduct Board finds
20 any hazing to be a serious infraction. We found that the Chapter leadership
21 were reckless in their failure to inform members and pledges of the rules
22 outlined in the relationship agreement. We were appalled as well by the
23 theme running through your defense that hazing only occurs when a new
24 member is "forced" to do something. Surely, the president of a fraternity
25 and his adult advisors should have a better understanding of what sorts of
26 activities constitute hazing and why "force" has little to nothing to do with
it.

1 WSU's Conduct Board also found Gamma Chi responsible for violating WAC 504-26-212
2 (Alcohol), WAC 504-26-206 (Hazing) and WAC 504-26-210 (Violation of Law). WSU did
3 not, however, revoke its official recognition of Gamma Chi as a result of these findings, as
4 required by RCW 28B.10.902. Under RCW 28B.10.902, which at all relevant times WSU
5 was required to adopt rules to implement, “[a]ny organization, association, or student living
6 group that knowingly permits hazing to be conducted by its members or by others subject to
7 its direction and control shall be deprived of any official recognition or approval granted by
8 a public institution of higher education.”

10 3.44 At all relevant times, the purpose of RCW 28B.10.902 and WAC 504-26-
11 206 was to protect students at public or private institutions of higher education in the State
12 of Washington from hazing. Sam, as a student at WSU and pledge of ATO and Gamma
13 Chi, was within the class of persons intended to be protected by RCW 28B.10.902 and
14 WAC 504-26-206.

16 3.45 As a direct result of WSU’s failure to enforce RCW 28B.10.902 and WAC
17 504-26-206, Gamma Chi was permitted to continue to operate at WSU, and to continue to
18 haze its pledges, like and including Sam.

19 3.46 Upon information and belief, WSU had specific knowledge of serious past
20 misconduct, risk management violations, and disciplinary proceedings involving ATO and
21 hazing. ATO was on probation when Sam was hazed and killed.

23 3.47 ATO and RPG had specialized knowledge of such information, as well as
24 the history of problems and risks of joining ATO at WSU. Gamma Chi's website
25 specifically notes that ATO, Wynn Smiley, and its alumni Board of Trustees were all
26 involved in purportedly “turning Gamma Chi around” in the years preceding Sam's death.

1 3.48 ATO also has policies prohibiting hazing and the misuse and provision of
2 alcohol at membership rituals. ATO created these, and other policies, and imposes them on
3 Gamma Chi. ATO, by virtue of the powers granted to it by its Constitution, mandates that
4 such policies are implemented by chapter officers and members, including the Individual
5 Defendants, who, like other ATO undergraduate members over the past many decades, are
6 poorly trained, unaware of the risks, intoxicated, distracted by college work and
7 requirements, impeded by loyalties to fraternity brothers, and otherwise ill-equipped to
8 safely handle responsibilities that include dangerous rituals and life and death
9 circumstances.
10

11 3.49 ATO knows, from having seen such circumstances time and again, that the
12 chapter self-management structure it established, controls, and permits, is flawed and
13 unsafe, resulting in violations of state laws, university regulations, and fraternity risk
14 management standards that cause serious injuries and death.
15

16 ***Washington State's Laws and WSU's Safety Regulations Prohibiting Hazing***

17 3.50 It is widely known in the fraternity industry and among institutions of higher
18 education that young people seeking the benefits of joining a group are susceptible to
19 hazing. What may start out as a harmless prank can quickly disintegrate into pressured
20 situations where young people become emotionally and physically harmed. Excessive
21 alcohol consumption greatly exacerbates the situation. Because of the growing
22 acknowledgement of the dangers of hazing, the State of Washington has made hazing
23 illegal in schools. Washington state law and WSU's Administrative Regulations ("Safety
24 Regulations") make it illegal and wrongful for fraternities to haze.
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1 3.51 Washington’s anti-hazing law, RCW 28B.10.901, prohibits hazing and
2 provides, in relevant part:

3 (1) No student, or other person in attendance at any public or private
4 institution of higher education, or any other postsecondary educational
5 institution, may conspire to engage in hazing or participate in hazing of
another.

6 (3) Any organization, association, or student living group that knowingly
7 permits hazing is strictly liable for harm caused to persons or property
8 resulting from hazing. If the organization, association, or student living
9 group is a corporation whether for profit or nonprofit, the individual
directors of the corporation may be held individually liable for damages.

10 Washington’s anti-hazing law defines hazing as follows:

11 [A]ny method of initiation into a student organization or living group, or any
12 pastime or amusement engaged in with respect to such an organization or
13 living group that causes, or is likely to cause, bodily danger or physical
14 harm, or serious mental or emotional harm, to any student or other person
attending a public or private institution of higher education or other
postsecondary educational institution in this state. “Hazing” does not
include customary athletic events or other similar contests or competitions.

15 Washington’s anti-hazing law requires institutions such as WSU to adopt rules and
16 sanctions against student organizations and living groups that permit or engage in hazing.

17 RCW 28B.10.903. Gamma Chi is an organization, association or living group within the
18 meaning of RCW 28B.10.903.
19

20 3.52 WSU’s Safety Regulation WAC 504-26-206 defines and prohibits hazing as
21 follows, in relevant part:

22 (1) No student or recognized or registered student organization at
23 Washington State University may conspire to engage in hazing or participate
in hazing of another.

24 (a) Hazing includes any activity expected of someone joining a group
25 (or maintaining full status in a group) that causes or is likely to cause a risk
26 of mental, emotional and/or physical harm, regardless of the person’s
willingness to participate.

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(b) Hazing activities may include, but are not limited to, the following: Abuse of alcohol during new member activities; striking another person whether by use of any object or one's body; creation of excessive fatigue; physical and/or psychological shock; morally degrading or humiliating games or activities that create a risk of bodily, emotional, or mental harm.

3.53 WSU's Safety Regulation WAC 504-26-015 holds recognized or registered student organizations accountable for the behavior of their officers and members if the "organization or its officers should have foreseen that behavior constituting a violation was likely to occur, yet failed to take reasonable precautions against such behavior;" if a "policy or practice of the organization was responsible for a violation;" or the "behavior constituting a violation was committed by, condoned by, or involved a significant number of organization officers, members or guests."

Sam's Experience at WSU

3.54 From the outset of his freshman year, Sam experienced and witnessed a pattern of hazing while seeking to join ATO. ATO's pledges were regularly made by ATO members to clean "the annex" house: ATO's go-to location near the chapter lodge used for hosting parties with alcohol that ATO hoped would deflect detection and blame on the fraternity. Examples of hazing by Gamma Chi included fraternity members quizzing pledges about ATO history and forcing pledges to eat raw onions if they answered incorrectly, a camping trip where pledges were tackled or beat up as part of "a game," and numerous episodes of excessive alcohol or drug abuse activities or "games".

3.55 The week prior to Sam's death, each ATO pledge was handcuffed to a sorority pledge and locked in a room during a ritual titled "Blackout Date Dash." The key to the handcuffs was at the bottom of a fifth of hard alcohol, and the pledges were released

1 from their handcuffs and the room only after consuming the entire bottle of vodka with
2 their date. Upon information and belief, numerous pledges and their sorority dates blacked
3 out from intoxication as a result of the “Blackout Date Dash.”

4 ***The Tragic Night of Sam's Death***

5 3.56 On November 11, 2019, Sam and the other pledges were together at their
6 study table in the library when they were summoned to the fraternity's annex house at
7 around 9:00 p.m. Once at the fraternity's annex house, they were introduced to their “big
8 brothers,” other members of their individual family lines, and instructed to consume the
9 family's alcoholic “drink” before the end of the evening, just as their families of brothers
10 standing before them had done. Sam’s “family” consisted of “Big Brother” Wes Oswald,
11 Sam, and another little brother.
12

13 3.57 Sam was given his family's drink, a ½ gallon bottle of hard alcohol, and,
14 upon information and belief, he and Defendant Oswald’s other little brother consumed the
15 bulk of it. The group of fraternity brothers cheered as pledges took pulls of alcohol.
16

17 3.58 Recreational drugs, such as marijuana and cocaine, were provided and
18 consumed by pledges and the group of Gamma Chi fraternity brothers. Pledges and
19 fraternity brothers returned to the ATO chapter lodge, and by 10:30 p.m., Sam had lost
20 consciousness and was unable to care for or protect himself. At some point, Sam was taken
21 to a bathroom where ATO members tried to force him to vomit. At approximately
22 11:30 p.m., numerous ATO members carried Sam downstairs to the basement where they
23 positioned him lying on his side.
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1 3.59 That same evening, several other ATO pledges were passed out in the ATO
2 chapter lodge. One ATO fraternity member was found severely intoxicated by local law
3 enforcement down the street from the chapter lodge, collapsed on the sidewalk.

4 3.60 At about 8:00 a.m., other pledges noticed Sam was turning blue and, despite
5 their own intoxication, brought this to the attention of ATO members. Sam was visibly in a
6 position of peril caused by the actions of ATO and its members. Despite Sam's imperiled
7 state, and the obvious, immediate, and foreseeable danger Sam was in, ATO members told
8 the pledges not to worry. Emergency personnel were not summoned and Sam was not
9 taken to the hospital for the treatment he desperately needed in order to survive.

10 3.61 After hours of having been left unprotected and unwatched, Sam's body was
11 turned over at approximately 8:30 a.m. on the morning of November 12, 2019. Emergency
12 personnel were finally summoned but were unable to revive Sam as a result of the delay.
13 Sam was pronounced dead at the scene. Sam's blood alcohol content was measured at
14 autopsy as being 0.372.

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17 ***The Events After Sam's Death***

18 3.62 Within a day or two of Sam's death, ATO's Chief Executive Officer, Wynn
19 Smiley, and a fraternity risk management executive arrived at WSU to investigate the
20 chapter's and ATO members' actions. Mr. Smiley met at WSU's campus with Sam's
21 parents, Hector Martinez and Jolayne Houtz, where he tried to convince them that ATO's
22 "family" drink ritual was not hazing because each of the families purportedly "willingly"
23 took part, employing the same "appalling logic" WSU's Conduct Board criticized ATO's
24 National President for six years prior. He also claimed the event was too short in duration
25
26

1 to be “hazing.” Mr. Smiley's excuses defy the hazing laws of Washington State and WSU's
2 Standards of Conduct.

3 3.63 On May 18, 2020, the Gamma Chi Chapter of ATO entered into a “Conduct
4 Resolution Agreement” admitting violations of Standards of Conduct of Hazing, Abuse of
5 Others or Disruption or Interference with the University Community, Reckless
6 Endangerment, Alcohol Violations, and Violations of University Policy, Rule, or
7 Regulation “[t]hroughout Fall 2019,” with the “[p]rimary incident on 11/11/2019.” As part
8 of the “Conduct Resolution Agreement,” the Gamma Chi Chapter agreed to a loss of
9 recognition through May 15, 2026.
10

11 Investigation and discovery is ongoing but, as described above, Defendants more
12 specifically violated their duties as follows:

13 3.64 WSU:

14 3.64.1 Defendants Gamma Chi and ATO operated under the sanction
15 of WSU, were recognized as organizations by WSU, and were
16 conveyed substantial benefits as a result of WSU’s actions and
17 policies promoting fraternities.

18 3.64.2 WSU retained significant authority and control over the
19 Fraternity Defendants, up to, and including but not limited to,
20 the ability to suspend, prohibit all of their operations and
21 activities, and require safe and responsible management and
22 supervision over their activities and housing.

23 3.64.3 WSU knew, or should have known, that members of Gamma
24 Chi would engage and did engage in excessive alcohol
25 consumption and hazing, and that year after year, its
26 entrustment of the principal supervision over fraternities and
fraternity lodges to the IFC, NPC, and other persons and
university departments ill-equipped to address and resolve such
issues safely, had failed, were unsafe, and posed an
unreasonable risk of harm to students pledging fraternities,
including Plaintiff Sam Martinez.

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3.64.4 WSU knew, or should have known, that directing University freshmen into University-Approved fraternity housing, that lacked the same level of reasonable security and oversight for other University housing, was unsafe and likely to result in injuries, as it had in the past.

3.64.5 WSU knew, or should have known, that the IFC was ill-equipped and unqualified to oversee fraternity activities, generally, and in University-Approved fraternity housing, because, *inter alia*, the IFC's proposal for lifting the 2016 moratorium was insubstantial and unsafe, and had failed to curtail the injuries and misconduct that preceded the moratorium.

3.64.6 WSU failed to properly implement and enforce RCW 28B.10.902 and WAC 504-26-206 with respect to Gamma Chi, thereby permitting Gamma Chi to continue to operate at WSU, and to continue to haze its pledges, like and including Sam.

3.65 Defendants ATO, Gamma Chi, RPG and Jameson:

3.65.1 The Fraternity Defendants, including ATO as controlling member of its alter egos, Gamma Chi and RPG, and Defendant Jameson owed duties to Sam Martinez to manage and oversee membership operations and activities, and the Gamma Chi chapter lodge, in a reasonably prudent manner, and/or assumed such duties.

3.65.2 The Fraternity Defendants, including ATO as controlling member of its alter egos, Gamma Chi and RPG, and Defendant Jameson also owed duties to Sam Martinez to manage the provision and use of alcohol in connection with recruitment, pledge, and the Big Brother-Little Brother membership ritual, and the Gamma Chi chapter lodge, in a reasonably prudent manner, and/or assumed such duties.

3.65.3 The Fraternity Defendants and Defendant Jameson also undertook to abide by Washington law, WSU's Regulations, and ATO's risk-management policies, including, *inter alia*, those prohibiting hazing and the misuse and provision of alcohol, third-party bystander regulations, and the policies and practices required to become and operate Authorized housing.

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3.65.4 Gamma Chi, by and through and in concert with its officers and members, also engaged in misconduct that placed Sam Martinez in a position of peril, thus causing a duty to act with reasonable care to protect and prevent further harm to Sam, who was rendered incapacitated and unable to protect himself. Gamma Chi and its officers and members failed to reasonably perform such duty of care resulting in harm to and the death of Sam.

3.65.5 Appointing and relying on underage, untrained, and intoxicated members, who had themselves participated in hazing, the Big Brother-Little Brother ritual and other membership rituals involving alcohol to manage Gamma Chi, its activities, and the lodge and to enforce risk management policies;

3.65.6 Failing to implement reasonable measures to enforce the WSU's Regulations, Washington's Anti-Hazing Laws, and ATO's own policies prohibiting underage drinking, hazing, and the provision of alcohol during membership rituals and activities;

3.66 Individual fraternity members Hawksford, Mischke, Oswald and John Does 1-10:

3.66.1 The Individual Defendants and Gamma Chi consented to, knew or had reason to know that they, or others acting on behalf of Gamma Chi with their knowledge and consent, had engaged in conduct that placed Sam Martinez in a position of peril, and they, therefore, owed duties to Sam Martinez to exercise reasonable care to protect Sam Martinez and prevent further harm.

3.66.2 The Individual Defendants and Gamma Chi breached this duty and were thus negligent by failing to protect or procure professional, medical, or other qualified help for Sam Martinez after it became clear he was grossly intoxicated, unstable, unable to walk on his own and protect himself, and was otherwise in obvious danger requiring prompt medical care and attention.

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IV. CLAIMS

**FIRST CAUSE OF ACTION
WRONGFUL DEATH AND SURVIVAL – NEGLIGENCE
(WSU)**

4.1 Plaintiffs re-allege and incorporate by reference all preceding paragraphs herein.

4.2 Defendant WSU had a duty to protect its students from foreseeable harm and to properly implement and enforce RCW 28B.10.902 and WAC 504-26-206. WSU continuously promoted, sanctioned and recognized ATO and Gamma Chi despite being aware of continuing violations of alcohol, hazing, and other student conduct code rules. WSU continued to entrust supervision to ill-equipped, untrained, and ineffective university departments. WSU breached their duty to their students when it failed to curtail ongoing dangerous activities, including but not limited to excessive alcohol consumption and hazing, and said negligence was a proximate cause of Sam Martinez’s pain, suffering and wrongful death per RCW 4.20, *et seq.*

SECOND CAUSE OF ACTION

**WRONGFUL DEATH AND SURVIVAL – NEGLIGENCE
(ATO, GAMMA CHI, RPG and JAMESON)**

4.3 Plaintiffs re-allege and incorporate by reference all preceding paragraphs herein.

4.4 Defendants ATO, Gamma Chi, RPG and Jameson had a duty to protect the Gamma Chi pledges and members. Having control over operations and activities at the Gamma Chi Lodge, Defendants failed to take reasonable steps to provide competent supervision of the activities, to curtail dangerous activities, including but not limited to,

1 excessive alcohol consumption and hazing, and said negligence was a proximate cause of
2 Sam Martinez’s pain, suffering and wrongful death pursuant to RCW 4.20, *et seq.*
3

4 4.5 ATO is liable for its individual negligence and liable for the negligence of its
5 agents, employees, and members, including Defendant Jameson and the Individual
6 Defendants, pursuant to the doctrine of *respondeat superior*, controlling member, alter ego,
7 and/or piercing the corporate veil.

8 4.6 Gamma Chi is liable for its individual negligence and liable for the
9 negligence of its agents, employees, and members, including the Individual Defendants,
10 pursuant to the doctrine of *respondeat superior*, controlling member, alter ego, and/or
11 piercing the corporate veil.
12

13 4.7 RPG is liable for its individual negligence and liable for the negligence of its
14 agents, employees, and members, including Defendant Jameson and the Individual
15 Defendants, pursuant to the doctrine of *respondeat superior*, controlling member, alter ego,
16 and/or piercing the corporate veil.
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18 **THIRD CAUSE OF ACTION**

19 **STRICT LIABILITY**

20 **(ATO, GAMMA CHI, RPG AND JAMESON, and JOHN DOES 1-10)**

21 4.8 Plaintiffs re-allege and incorporate by reference all preceding paragraphs
22 herein.

23 4.9 Pursuant to RCW 28B.10.901(3) any organization, association, or student
24 living group that knowingly permits hazing is strictly liable for harm caused to persons or
25 property resulting from hazing. Defendants are strictly liable for the pain and suffering and
26 wrongful death of Sam Martinez because they knowingly permitted, participated in,

1 practiced and condoned hazing – an abnormally dangerous and/or ultrahazardous activity –
2 in violation of Washington State Law, WSU regulations, and ATO’s written policies, and
3 the active promotion of hazing during membership rituals was a proximate cause of Sam
4 Martinez’s death.
5

6 4.10 ATO, Gamma Chi and RPG act through their agents and members including,
7 but not limited to, Defendant Jameson, the Individual Defendants, and John Does 1-10.
8

9 4.11 ATO is strictly liable in its individual capacity and strictly liable for the
10 actions of Gamma Chi and RPG, as its agents and alter ego.

11 **FOURTH CAUSE OF ACTION**

12 **PREMISES LIABILITY** 13 **(ATO, GAMMA CHI, RPG, JAMESON and JOHN DOES 1-10)**

14 4.12 Plaintiffs re-allege and incorporate by reference all preceding paragraphs
15 herein.

16 4.13 Defendants ATO, Gamma Chi, RPG, Jameson and John Does 1-10 owe a
17 duty to provide reasonably safe premises for Gamma Chi’s pledges and members. As
18 owners, operators, and possessors of the premises at the Gamma Chi Lodge where Sam
19 Martinez died, Defendants ATO, Gamma Chi, RPG, Jameson and John Does 1-10 are liable
20 for the pain, suffering and wrongful death of Sam Martinez because they knowingly
21 permitted dangerous activities, including, but not limited to, excessive alcohol consumption
22 and hazing activities, to occur on the premises.
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1 4.14 ATO is liable for its individual negligence and liable for the negligence of its
2 agents, employees, and members, specifically including, but not limited to, Defendant
3 Jameson and the Individual Defendants, pursuant to the doctrine of *respondeat superior*,
4 controlling member, alter ego, and/or piercing the corporate veil.

5 4.15 Gamma Chi is liable for its individual negligence and liable for the
6 negligence of its agents, employees, and members, specifically including, but not limited to,
7 the Individual Defendants, pursuant to the doctrine of *respondeat superior*, controlling
8 member, alter ego, and/or piercing the corporate veil.

9 4.16 RPG is liable for its individual negligence and liable for the negligence of its
10 agents, employees, and members, specifically including, but not limited to, Defendant
11 Jameson and the Individual Defendants, pursuant to the doctrine of *respondeat superior*,
12 controlling member, alter ego, and/or piercing the corporate veil.
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15 **FIFTH CAUSE OF ACTION**

16 **WRONGFUL DEATH AND SURVIVAL – NEGLIGENCE**
17 **(HAWKSFORD, MISCHKE, OSWALD, SOREANO,**
18 **and JOHN DOES 1-10)**

19 4.17 Plaintiffs re-allege and incorporate by reference all preceding paragraphs
20 herein.

21 4.18 Defendants Hawksford, Mischke, Oswald, Soreano, and John Does 1-10
22 failed to use reasonable care in that they organized, directed and promoted events of
23 excessive alcohol consumption and hazing activities at Gamma Chi and their conduct was a
24 proximate cause of Sam Martinez’s pain, suffering, and wrongful death.

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SIXTH CAUSE OF ACTION
NEGLIGENT FAILURE TO AID
(HAWKSFORD, MISCHKE, OSWALD, SOREANO,
and JOHN DOES 1-10)

4.19 Plaintiffs re-allege and incorporate by reference all preceding paragraphs herein.

4.20 Defendants Hawksford, Mischke, Oswald, Soreano, and John Does 1-10 knew or should have known that on the evening of November 11, 2019, and into the hours of November 12, 2019, Hawksford, Mischke, Oswald, and John Does 1-10 placed Sam Martinez in peril by conducting the “Family Night” ritual of excessive alcohol consumption, and failed to call for medical assistance when it was obviously necessary, thereby causing the pain, suffering, and wrongful death of Sam Martinez.

SEVENTH CAUSE OF ACTION
OUTRAGE – FRATERNITY DEFENDANTS

4.21 Plaintiffs re-allege and incorporate by reference all preceding paragraphs herein.

4.22 The Fraternity Defendants engaged in extreme and outrageous conduct by continually organizing or permitting hazing activities involving excessive alcohol consumption as part of the fraternity culture when the dangers were widely known. This intentional and reckless conduct by each of the Fraternity Defendants was a proximate cause of Sam Martinez’s wrongful death on November 12, 2019.

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EIGHTH CAUSE OF ACTION
NEGLIGENT MISREPRESENTATION
(WSU and ATO)

4.23 Plaintiffs re-allege and incorporate by reference all preceding paragraphs herein.

4.24 Defendants WSU and ATO provided information they knew or should have known was false or misleading to guide Sam Martinez’s business transactions and decisions. Sam reasonably relied on the representations, and Sam’s reliance on the false or misleading information was a proximate cause of his death.

AS TO EACH OF THE ABOVE CLAIMS:

4.25 Plaintiffs re-allege and incorporate by reference all preceding paragraphs herein.

4.26 The Fraternity, Defendants, Individual Defendants, and John Does 1-10, and each of them acted in concert to engage in the above described conduct of hazing and excessive alcohol consumption that caused Sam Martinez’s pain, suffering, and wrongful death.

4.27 The Individual Defendants and John Does 1-10 were at all relevant times acting as agents of and within the scope of their agency with and for the Fraternity Defendants.

4.28 The Defendants and each of them are jointly and severally liable for Sam Martinez’s pain, suffering, and wrongful death.

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V. RELIEF SOUGHT

WHEREFORE, Plaintiffs pray for judgment against the Defendants, jointly and severally, in an amount, to be determined by a jury at trial, that will fairly compensate Plaintiffs for all damages sustained, including but not limited to the following:

5.1. Economic and non-economic damages for the Estate of Samuel Martinez including, but not limited to, wrongful death, pre-death pain and suffering, fear of impending death and lost earning capacity;

5.2. Economic and non-economic damages suffered by each and every statutory wrongful death beneficiary herein, pursuant to RCW 4.20 *et seq.*, including but not limited to loss of a child, loss of a sibling, loss of consortium, loss of liberty and other damages in an amount to be proved at trial;

5.3 Exemplary damages as allowed by law;

5.4. Costs and reasonable attorneys' fees;

5.5. Interest calculated at the maximum allowable by law; and

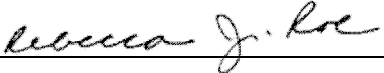
5.6. For such further relief as the Court deems just and proper.

5.7 Plaintiffs reserve the right to seek such other damages as are permitted by statute, constitution, regulation and common laws.

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DATED this 31st day of July, 2020.

SCHROETER GOLDMARK & BENDER



REBECCA J. ROE, WSBA No. 7560
SERGIO A. GARCIDUEÑAS-SEASE, WSBA No. 46958
Counsel for Plaintiffs

THE FIERBERG NATIONAL LAW GROUP, PLLC

s/ Douglas E. Fierberg

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Counsel for Plaintiffs