

**IN THE CIRCUIT COURT OF ADAIR COUNTY
STATE OF MISSOURI**

Melissa Bottorff-Arey,)
on her own behalf, and as)
Personal Representative of the Estate of,)
and as Parent of Alexander David Mullins,)
deceased,)

And)

Suzanne and Michael Thomas,)
On their own behalf, and as)
Personal Representatives of the Estate of,)
and as Parents of Joshua Michael Thomas,)
deceased,)

Plaintiffs,)

vs.)

Truman State University Foundation,)
d/b/a Truman State University,)
Serve: Ernie T. Hughes)
100 East Normal Avenue)
Kirksville, MO 63501)

The Fraternity of)
Alpha Kappa Lambda, Inc.,)
d/b/a Alpha Kappa Lambda,)
Xi Chapter,)
Serve: Keith Gilchrist)
5613 Skyridge Drive)
Indianapolis, IN 46250)

And)

Brandon Grossheim,)
Serve at:)
4802 Wick Mor Drive)
Alton, Illinois 62002)

Defendants.)

Case No.:

Division:

JURY TRIAL DEMANDED

PETITION

Plaintiffs Melissa Bottorff-Arey, Suzanne Thomas, and Michael Thomas, on their own

behalfes, as Personal Representatives of the Estates of, and on behalf of their respective deceased sons, Alexander David Mullins (Alex Mullins) and Joshua Michael Thomas (Josh Thomas), and further by and through their attorney Nicole E. Gorovsky, of Gorovsky Law, LLC, for their Petition against Defendants named herein, hereby allege as follows:

1. Plaintiffs Melissa Bottorff-Arey, Suzanne Thomas, and Michael Thomas, bring this lawsuit on their own behalfes, as Personal Representatives of the Estates of, and on behalf of their respective deceased sons, Alex Mullins and Josh Thomas, to hold Defendants responsible for the injuries they suffered due to the negligence, misrepresentation, and other wrongful conduct of Defendants Truman State University and their agents, Alpha Kappa Lambda and their agents, and Brandon Grossheim.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the causes of action asserted herein and over the parties to this action. Plaintiffs assert claims under Missouri common law. This Court has jurisdiction because Defendant Truman State University (hereinafter “TSU”) owned and operated the Truman State University campus in Kirksville, Missouri, and Defendant Alpha Kappa Lambda (hereinafter “AKL”) owned and operated the Xi Chapter and fraternity house located at 918 S. Osteopathy St. in Kirksville, Missouri. Defendant Brandon Grossheim committed all acts herein in Kirksville, Missouri.

3. Alexander “Alex” Mullins (hereinafter referred to as “Mullins”) and Joshua “Josh” Thomas (hereinafter referred to as “Thomas”), both deceased, were both students at TSU and attended school at the main campus in Kirksville, Missouri.

4. At all times relevant, Mullins resided at the AKL Xi Chapter fraternity house (hereinafter referred to as “AKL house”), located at 918 S. Osteopathy Street in Adair County,

Kirksville, Missouri.

5. At all times relevant, Thomas resided at West Campus Suites, a student housing facility (“dorm”) on the TSU campus, located at 215 Normal Street in Adair County, Kirksville, Missouri.

6. Defendant AKL is a foreign nonprofit corporation formed under the laws of Missouri with its national headquarters located in Carmel, Indiana. AKL does business in Missouri and has obtained the benefit of Missouri laws for its Kirksville location.

7. Upon information and belief, Defendant TSU is a nonprofit corporation formed under the laws of Missouri and its headquarters are in Missouri. Originally formed as Northeast Missouri State University Development Fund Corporation, it changed its name to Truman State University Foundation in 1996, but it remained a nonprofit corporation. TSU does business in Missouri and has obtained the benefit of Missouri laws for its main campus in Kirksville, Missouri.

8. The deaths of both Mullins and Thomas, described herein, together with the surrounding events described herein, occurred at the AKL house, located at 918 S. Osteopathy Street in Adair County, Kirksville, Missouri.

9. Defendant Brandon Grossheim was a TSU student and AKL fraternity brother during the events described herein.

10. Venue is proper in this Court under R.S.Mo. § 508.010(4) and (11), because Plaintiffs were first injured by the events that occurred at the AKL house, located at 918 S. Osteopathy Street, Adair County, Kirksville, Missouri.

PARTIES

Plaintiffs

11. Plaintiff Melissa Bottorff-Arey is the mother of the deceased Alex Mullins.

Plaintiff Bottorff-Arey was first injured when her son Alex Mullins died at the AKL house on August 7, 2016.

12. At the time of his death, and at all relevant times herein, Alex Mullins was a TSU student and AKL fraternity member.

13. Mullins is believed to have died as a result of suicide by hanging, which was committed in his room at the AKL house.

14. At the time of her son's death, Plaintiff Bottorff-Arey was a resident of Missouri. She is currently a resident of South Dakota.

15. Prior to his death at age 21, Mullins was a long-time resident of Missouri. Prior to moving to Kirksville, Missouri to attend TSU, he lived with his mother, Plaintiff Bottorff-Arey, in North Kansas City, Missouri. He died leaving his mother, father, and two siblings.

16. As a parent of Alex Mullins, Plaintiff Bottorff-Arey is entitled under Missouri law to bring this action for wrongful death of her son. Plaintiff Bottorff-Arey is a proper party pursuant to R.S.Mo. § 537.080.

17. Plaintiff Suzanne Thomas is the mother of the deceased Josh Thomas. Plaintiff Suzanne Thomas was first injured when her son Josh Thomas died at the AKL fraternity house on April 6, 2017.

18. At the time of his death, and at all relevant times herein, Josh Thomas was a TSU student and AKL fraternity member.

19. Plaintiff Michael Thomas is the father of the deceased Josh Thomas. Plaintiff Michael

Thomas was first injured when his son Josh Thomas died at the AKL fraternity house on April 6, 2017.

20. Josh Thomas is believed to have died as a result of suicide by hanging, which was committed in a storage closet at the AKL house.

21. Plaintiffs Suzanne Thomas and Michael Thomas are and at all relevant times were residents of Missouri.

22. Prior to his death at age 18, Josh Thomas was a lifelong resident of Missouri. He lived in St. Louis, Missouri and St. Peters, Missouri with his parents Suzanne Thomas and Michael Thomas before moving to Kirksville, Missouri. He died leaving his mother, father, and two siblings.

23. Plaintiffs Suzanne Thomas and Michael Thomas are husband and wife. As parents of the deceased Josh Thomas, they are entitled under Missouri law to bring this action for wrongful death of their son. They are proper parties pursuant to R.S.Mo. § 537.080.

Defendants

Truman State University

24. Defendant Truman State University (TSU) is a public university located in Kirksville, Missouri, Adair County. Upon information and belief, the same University was formerly known as Northeast Missouri State University.

25. Defendant TSU does business in Missouri and has obtained the benefits of the laws of the State of Missouri.

26. At all times relevant, Defendant TSU managed, operated, and maintained the entire TSU campus facility, including the student housing called West Campus Suites, located at 215 Normal Street in Kirksville, Missouri.

27. At all times relevant, TSU Police Department is an agency of or department within TSU,

and all of its officers and employees, were working as employees and/or agents of

Defendant TSU. Campus police work within TSU's Department of Public Safety (DPS).

28. At all times relevant, TSU's University Counseling Services (UCS) is an agency of or department within TSU, and all of its employees were working as employees and/or agents of Defendant TSU.

Alpha Kappa Lambda

29. Defendant AKL is a national all men's fraternity doing business as Alpha Kappa Lambda and runs the Xi Chapter of AKL in Kirksville, Missouri. AKL was established 105 years ago. The corporation currently has approximately 42 active chapters and 28,000 initiated members.

30. The AKL Fraternity House located at 918 S. Osteopathy Avenue, Adair County, Kirksville, Missouri, is situated less than half a mile from the TSU campus and, upon information and belief, is the sole headquarters and office of the Xi Chapter of AKL.

31. Defendant AKL does business in Missouri and has obtained the benefits of the laws of the State of Missouri and the benefits of its Xi Chapter in Kirksville, Missouri.

32. At all times relevant, Defendant AKL managed, operated, administered, and maintained the Xi Chapter location and fraternity house located at 918 S. Osteopathy Avenue, Kirksville, Missouri, Adair County.

33. Upon information and belief, the Xi Chapter does not exist as a separate corporate entity and is wholly subsidiary to or subsumed within AKL, Inc.

34. At all times relevant, the deceased, Alex Mullins and Josh Thomas, were active members of the AKL Fraternity, Xi Chapter.

35. The national office of AKL sets standards, dues, fees, guidelines, rules, bylaws, policies, regulations, disciplinary procedures, academic criteria, and recruitment targets for its chapters and members.

36. Each chapter of AKL has a General Chapter Advisor and a Faculty Advisor.

Brandon Grossheim

37. Defendant Grossheim is a twenty-two year old man who currently resides in Alton, Illinois.

38. At all times relevant herein, Defendant Grossheim lived in Kirksville, Missouri.

39. Defendant Grossheim was a student at TSU and was a member of the AKL fraternity.

40. Upon information and belief, Brandon Grossheim became an AKL member in or around February 2016 and was an AKL member in 2016 and 2017. Upon information and belief, he also lived at the AKL house. Upon information and belief, he also worked as a House Manager at the AKL house in 2016 and 2017.

FACTUAL ALLEGATIONS

The Deaths

41. On or between August 2016 and August 2017, five young people in Kirksville died by alleged suicide: Alex Mullins, Victim John Doe 1, Victim John Doe 2, Plaintiff Joshua Thomas, and Victim Jane Doe. Three of the young people – Plaintiff Mullins, Plaintiff Thomas, and Victim Doe 1 were TSU students and AKL fraternity members, and two were local Kirksville residents in their early twenties – Victim Doe 2 and Jane Doe.

42. TSU student and AKL member Brandon Grossheim had close ties to all five suicide victims during their lives and was involved in all of their deaths.

43. The four male victims, including Plaintiffs, had serious depression issues and/or prior suicide thoughts and attempts known to Defendants. Less is known about the fifth, female victim.

44. The four male students all “committed suicide” in a similar manner – by hanging. Plaintiffs do not know how Jane Doe died.

45. All four boys lived in places where TSU student and AKL member Brandon Grossheim had keys to their rooms/apartments and/or had access to the location where they died:

a. When Plaintiff Mullins died in the AKL fraternity house, Grossheim

was the “House manager” and had access to all of the fraternity rooms.

Grossheim “found” Mullins following his hanging;

b. When Victim Doe 1 died in the AKL fraternity house, Grossheim was the “House manager” and had access to all of the fraternity rooms. Grossheim “found” Victim Doe 1 following his hanging;

c. When Victim Doe 2 died, Grossheim had moved into an apartment building, lived across the hall from Victim Doe 2, and was, upon information and belief, the building manager with keys to the apartments; and

d. Plaintiff Joshua Thomas died in a general area of the AKL fraternity house that Grossheim had access to. Plaintiff Thomas was found hanging near a scrap of paper with Grossheim’s name and contact information on it.

46. TSU student and AKL member Brandon Grossheim was connected to all five deaths:

a. Grossheim allegedly found Plaintiff Mullins hanging in his room;

b. Grossheim handled Mullins’ body before the police entered the room;

c. Grossheim was alone in the room with Mullins behind a locked door before police arrived;

d. Grossheim was the last person to speak with Victim Doe 1 before his death;

e. Grossheim knew Victim Doe 1 was suffering from severe depression;

f. Grossheim was asked to “watch” Victim Doe 1 for his safety;

g. Grossheim was the first person to allegedly find Victim Doe 1 following a hanging;

h. Grossheim handled Victim Doe 1’s body before police arrived;

i. Grossheim saw Victim Doe 2 on the night he died by hanging;

- j. Grossheim was the person to let the police into Victim Doe 2's apartment to see the Doe 2's body;
- k. Grossheim's name and contact information was found on a scrap of paper next to where Plaintiff Thomas was found hanging; and
- l. Upon information and belief, Jane Doe was Grossheim's friend and he found her following her alleged suicide.

47. Grossheim had proclivities that others found concerning:

- a. AKL members who held supervisory positions, Ian Rothbarth and Seth Baskett reported to police that they had "problems" with Grossheim.
- b. Grossheim wore the clothing of one of the suicide victims and walked around with large amounts of money and drugs that went missing following his death.
- c. They further reported that Brandon had been acting "strangely."

48. Grossheim had a known fascination with death.

49. Grossheim reported that he had found his grandmother's body following her death when he was young.

50. He further reported that he told all his friends he was "there for them" and gave them "advice" and "step by step" directions on how to deal with things like depression.

51. Upon information and belief, the "advice" and "step by step" directions that Grossheim gave his friends on how to "deal with depression" included advice on how to commit suicide.

52. Grossheim reported that he saw himself as a "superhero" and gravitated toward "these [depressed] people."

53. Grossheim reportedly called himself the "peacemaker."

54. Brandon reported that he sees himself as a person people "can go to" and he can "counsel them" and "give them advice" on how to "do their own free will."

55. Upon information and belief, based on his own words and the information above, TSU student and AKL member Brandon Grossheim aided or encouraged the deaths of multiple young people including Plaintiffs.

56. Upon information and belief, Defendants were aware of Grossheim's dangerous proclivities before Plaintiffs' deaths.

57. Grossheim's behavior in aiding and/or encouraging the deaths of Plaintiffs was foreseeable to Defendants in that Grossheim openly spoke of his "advice" and "step by step" directions, he was repeatedly found in the proximity of each suicide, he had access to each suicide victim before his death, and upon information and belief, his family was contacting the Defendants with concerns.

58. Defendants also had specialized knowledge that Plaintiffs had extremely vulnerable mental states:

- a. Plaintiffs had reported to Defendants that they suffered from depression;
- b. They both reported before their deaths that they had stopped taking their prescribed depression medications;
- c. Both reported thoughts of suicide and/or had a history of prior suicide attempts known to Defendants.

59. Plaintiff Mullins suffered from depression before his death and told others about it:

- a. Plaintiff Mullins specifically told numerous fraternity members about his struggles with depression, including but not limited to Tommy Lona and Ben Russell;
- b. Plaintiff Mullins told everyone present at a fraternity/executive meeting on a Sunday in the spring of 2016 that he was depressed and suicidal. Member Ben Russell was present for this meeting, along with numerous other members. Mullins stated he did not know why he was so depressed because he knew he had a good life, but that he could not stop feeling it.
- c. Plaintiff Mullins had experienced depression on other occasions throughout his life.

However, in or around February 2016, while attending TSU and living at the AKL house, his symptoms of depression became much worse. He began having regular nightmares and angry moods. He obtained mental health treatment for the first time and reported suicidal thoughts.

- d. In early June 2016, however, Mullins began missing his scheduled counseling appointments. This happened on two or three occasions in June 2016. Upon information and belief, University Counseling Services (UCS) emailed Mullins to follow up once or twice about his missed appointments but did not call him or otherwise make any attempt to reach out to him or do any welfare checks. Upon information and belief, UCS did not send anyone out to check on Mullins or his welfare after his no-shows. UCS simply closed Mullins' file due to his no shows in early July 2016.

60. Plaintiff Mullins died by hanging the morning of August 7, 2016, but the exact time of death is unknown.

61. AKL Fraternity member Steve Shearman called the police that morning because he was unable to reach Mullins and his door was locked.

62. When Shearman asked Grossheim to open Mullins door, Grossheim told Shearman that he was unable to get the door opened despite being the fraternity house manager and having the key.

63. When police arrived at approximately 12:24 p.m. on August 7, 2016, the door to Mullins' room was locked. Grossheim escorted police outside to the window of Mullins' room. Without talking to police or waiting for police, Grossheim immediately removed the screen, opened the window, crawled through the window, went into the room, and went straight over to Mullins, before officers could tell him to stand back.

64. Grossheim then moved Mullins' body in an attempt to pick him up but was unable to. Grossheim later stated that he ran over and tried to move him in order to "help" him.

65. After that, Grossheim walked to the door to the room, opened it without difficulty, and walked out of the room.

66. It was common knowledge among AKL members that fraternity member Victim Doe 1 had issues with depression and anxiety. AKL members Conner Templeton, John Gilbert, Seth Baskett, Ian Rothbarth and Logan Hunt reported knowing that Victim Doe 1 suffered from depression and anxiety before he died. Many fraternity members witnessed Doe 1 in a suicide attempt a few months before he died.

67. Upon information and belief, Fraternity officials even called Doe 1's father to ask if Doe 1 was a drug user but did not warn or inform the parents of their son's severe suicide risk.

68. Brandon Grossheim was aware that Doe 1 had been battling depression and anxiety before he died.

69. On August 26, 2016, when Doe 1 was making suicidal statements during a party in the AKL house, Grossheim was asked to "watch" him for safety. Doe 1 was seen crying and upset in the parking lot of the party.

70. Later, Grossheim tells a similar story to what he told regarding Plaintiff Mullins – he tried opening the door to Doe 1's room but it was locked. Grossheim then got the key and entered. He saw Doe 1 hanging and grabbed him and tried to "help" by picking him up and allegedly attempting CPR but he was dead. Doe 1 had blood on his face and on his chest and forearm and a head injury that he did not have earlier in the night.

71. Shortly after Doe 1's death, Grossheim was seen with large amounts of drugs and cash (that upon information and belief were missing from Doe 1's room and upon information & belief some of which had been missing from Mullins room 3 weeks earlier), and Grossheim also began wearing Doe 1's clothes shortly after Doe 1's death. Lastly, Grossheim began dating Doe 1's girlfriend following Doe 1's death.

72. Numerous AKL members noticed this and were disturbed and upset by it to the point that they reported these concerns about Grossheim to the police.

73. Following the death of Doe 1, Grossheim moved out of the AKL house into an apartment that was located across the hallway from Doe 2's apartment.

74. Grossheim and Doe 2 were neighbors, friends, and coworkers.

75. Grossheim also worked as the building manager for the apartment complex in which Doe 2 and Grossheim lived. Upon information and belief, as building manager, Grossheim had access to keys to all of the apartments. It was common knowledge among AKL members who were his friends, that Doe 2 had issues with depression. Doe 2 had been diagnosed with bipolar disorder and had attempted suicide in the past, and some AKL members were aware of this.

76. Doe 2 made some suicidal statements at school on one occasion in 2014, at which time police were called and Doe 2 was transported to a psychiatric facility. He had another suicide attempt in November 2016.

77. Grossheim saw Doe 2 on January 27, 2017, the night before Doe 2's death.

78. At 7:00 am the next morning, Doe 2's girlfriend woke up in Doe 2's apartment to find him hanging in the loft. She reported this immediately to Grossheim who had the keys to the apartment and opened the door for police when they arrived.

79. While police were investigating the scene, Grossheim asked police if he could view the body.

80. During the investigation into Doe 2's death, Grossheim's family members contacted Truman counseling services to try to get information about Grossheim's involvement in the deaths, but Grossheim refused to allow them to speak with his Truman counselors about him.

81. Plaintiff Joshua Thomas was an AKL fraternity member but lived in on-campus TSU housing.

82. It was common knowledge among AKL members that Thomas had issues with depression,

for which he had received and had been receiving professional counseling and mental health treatment through TSU.

83. AKL President Troy Marroquin, AKL member Steve Powers, AKL member Jesse McInvale, AKL member Long Le, AKL member Mason Goser, AKL member Austin Kerwood, Paige Durovic, Danni Nahm, Thomas's roommate Cole Flottman, and other AKL members were all aware of Thomas's ongoing struggles with depression.

84. It was also common knowledge among AKL members that Thomas was openly gay and some members had difficulties with his sexual orientation.

85. It was also common knowledge among AKL members that Thomas had personal conflicts with fellow fraternity member Steve Powers during this time. Powers stated that he and Thomas had "different lifestyles" and "did not get along." Powers also stated that he received a text from Thomas in mid-March 2017 that stated, "You're the reason I want to kill myself." As a result of that, the two got into a physical altercation where Powers punched Thomas.

86. During the week of March 13-17, 2017, Thomas spent spring break in South Padre Island with many of his AKL friends and other friends from TSU. During that week, Thomas was extremely depressed and openly attempted suicide by hanging in front of numerous other friends, TSU students, and/or fellow AKL members, on at least one occasion.

87. AKL member and official Seth Baskett also reported that Thomas had confided in him during Spring Break that he had been experiencing stress about fitting into the heterosexual environment at AKL. AKL member Joel Brumfield also reported that Thomas had confided in him during Spring Break that he had been under a lot of stress. Then, one night during Spring break, Thomas was found passed out with a belt around his neck.

88. Brumfield and Baskett reported the belt incident to the entire AKL fraternity.

89. On March 20, 2017, after everyone returned from Spring Break, Thomas told the entire Xi

Chapter about his depression at the Chapter meeting. He told them he needed extra support after his suicide attempt on Spring break.

90. Upon information and belief, neither AKL nor TSU took any action to intervene after Thomas's March 2017 suicide attempt or to inform his parents.

91. On the night of April 5, 2017, Thomas went to a rock concert in St. Louis. Following the concert, he arrived at the AKL House at approximately 2:30-3:00 a.m. and said he was going to study.

92. At approximately 4:00 a.m., April 6, Paige Durovic found a note handwritten on a napkin that had been slipped under her boyfriend's AKL room door from outside of the room in the hallway. The note said, "Smoke a bowl for me," and was signed, "Josh." There was \$48.00 in cash attached to the note.

93. Austin Kerwood and Paige Durovic went downstairs in the AKL house and they began to look around the building for Thomas.

94. While looking for Thomas, Kerwood and Paige Durovic found an open laptop computer in the AKL house library. The laptop was playing music, and there was a note handwritten onto a napkin in pink highlighter laying on top of the open computer that said, "Read me."

95. On the computer, there was an essay that had been typed into the computer. The essay was a long suicide note or manifesto of sorts and appeared to have been written by Thomas. At the end of the essay it said, "I can't do it, It won." The essay was last modified at 4:12 a.m.

96. Kerwood took a quick look at the laptop and found Thomas's dead body hanging from a dog leash in the AKL storage closet.

97. Another handwritten note was found in the storage closet near Thomas's body with Brandon Grossheim's name and contact information on it.

98. After Thomas's death, police visited Grossheim at his off-campus apartment to ask him questions.

99. Thomas was known to be close friends with Grossheim.

100. When the officer approached Grossheim's apartment, he saw that the doorknob on his apartment door was missing. When he peeked through the hole where the missing doorknob should have been, he saw a young man lying face down in the living room. He pushed the door open to check on the man. Then, Grossheim suddenly appeared from right behind the officers and led them into his apartment.

101. Police were accompanied this time by Nichole Salmons, a mental health counselor at Mark Twain Behavioral Health, who talked with Grossheim directly. Grossheim told Salmons that he was a friend of Thomas's.

102. Grossheim was very curious about the details of Thomas's death and questioned police about this, but police, concerned, did not divulge any additional information to him.

103. Sometime after Thomas's death, Grossheim's friend Jane Doe died under suspicious circumstances – making hers the fifth death connected to Grossheim. Grossheim stated he was the last person to see Jane Doe alive. When Grossheim was interviewed about her death, the computer voice stress analyzer (CVSA) test detected deception in his statements to police about her death.

104. Upon information and belief, neither Grossheim nor any other individual has ever been criminally charged in connection with any of these apparent deaths.

AKL's Representations

105. AKL's five ideals, which are part of its official Creed, are: (1) Judeo-Christian Principles; (2) Leadership; (3) Scholarship; (4) Loyalty; and (5) Self-Support.

106. AKL's Creed further states that its membership is "an affiliation that is binding for life" and that the goals of membership is to achieve a "wholeness of manhood that is prepared to assume leadership responsibilities in fulfilling the obligations of life."

107. AKL's mission statement is to "Develop brothers who, guided by the Five Ideals, share a lifelong commitment to AKL and are dedicated to assuming leadership roles in meeting the challenges of life."

108. AKL claims to better its members and the world.

109. The motto for the national Alpha Kappa Lambdas is “Men of Character Committed to Making a difference.” The creed requires that Brothers have a goal of “achieving a wholeness of manhood that is prepared to assume leadership responsibilities in fulfilling the obligations of life. Their mission is to develop brothers who can “meet the challenges of life.” They promise to instill their values and fortify and strengthen the young men in every chapter across the United States.

110. The AKL policies posted on their website do not include any regarding what to do in the case of suicide attempts, mental health issues, dangerous members or crisis situations not related to substance abuse, alcohol, hazing or sexual assault.

111. Plaintiffs Mullins and Thomas and/or their families paid for AKL membership and TSU tuition.

112. They endured the application process, initiation process and other requirements in becoming members

TSU’s Representations

113. TSU advertises the following on its website: “We make sure you have the resources to stay healthy, be safe, and feel well.”

114. TSU has a team of professionals called a Students of Concern (SOC) team. The focus of the team is to support students and maintain a safe environment at TSU.

115. The team meets every week to discuss each of the students of concern who are referred to the team, and then “creates courses of action for each student that includes the best supportive, but least intrusive action for intervention.”

116. TSU through UCS states on its website:

If you share thoughts of suicide with your counselor, they will talk to you about how to maintain your safety while you are on campus. If you are not able to guarantee your safety your counselor will likely want to collaborate with you to find appropriate outside

resources (this may include: other faculty/staff, parents/guardians, support people, AND/OR hospitalization) in order to help ensure your safety.

117. UCS does not offer after hours crisis services during the summer months.

DUTY

118. Missouri law generally holds that there is no special relationship between a college or fraternity (or any business) and its own students/members (or business invitees). However, Missouri recognizes that a duty arises when a person, known to be violent, is present on the premises or an individual is present who has conducted himself so as to indicate danger and sufficient time exists to prevent injury. This case fits squarely into the exception to the general rule.

119. Missouri law considers a person who “knowingly assists another in the commission of self-murder” to have committed Voluntary Manslaughter. §565.023 RSMo. Voluntary manslaughter is a violent crime.

120. As shown above, and using Missouri law, Defendants knew Grossheim to be violent, his violence toward Plaintiffs was foreseeable, and Defendants failed to intervene.

121. Additionally, Brandon Grossheim conducted himself in front of TSU and AKL personnel so as to indicate danger and Defendants had sufficient time to prevent the resulting injuries.

122. Brandon Grossheim’s behavior endangered Plaintiffs, and Defendants had notice of his behaviors. Additionally, Grossheim’s behaviors in combination with the particular vulnerability of the Plaintiffs of which Defendants were aware, made this particular danger foreseeable and preventable in this matter.

123. Defendants had a duty to warn Plaintiffs regarding Grossheim’s dangerous behavior, a duty to supervise their members and students, and a duty to supervise their employees.

**COUNT I NEGLIGENCE/PREMISES LIABILITY
AGAINST DEFENDANTS TSU AND AKL**

124. Each allegation contained in this Petition is hereby incorporated by reference into Count I of this Petition.

125. Defendants AKL and TSU had a legal duty to use ordinary care to protect its members, including Plaintiffs from a person, known to be violent, who was present on the premises or an individual who was present who has conducted himself so as to indicate danger and sufficient time exists to prevent injury.

126. Defendants breached their duty to Plaintiffs by failing to intervene in Grossheim's dangerous behavior and/or failing to warn or protect Plaintiffs.

127. Defendants, by and through their agents, servants, and employees, knew or reasonably should have known that death or serious bodily harm (including self-harm) was likely to occur.

128. Defendants, by and through their agents, servants, and employees, despite having such knowledge, negligently failed to supervise Mullins and Thomas, to prevent them from committing self-harm.

129. Defendants, by and through their agents, servants, and employees, knew or reasonably should have known of Grossheim's dangerous proclivities after receiving information regarding his dangerous proclivities, and, despite such knowledge, Defendants negligently failed to supervise Grossheim's actions, such that he was able to commit wrongful acts against Plaintiffs and their sons, and/or to coerce, persuade, and/or convince Mullins and/or Thomas to commit wrongful acts against themselves.

130. Defendant AKL chose not to supervise Grossheim more closely after the warnings from other members and officers, nor limit nor prevent Grossheim's access to the AKL house or its members, including but not limited to Mullins and Thomas.

131. Defendant TSU chose not to supervise Grossheim more closely after the warnings from other students and staff, nor limit nor prevent Grossheim's access to the TSU campus or its

students, including but not limited to Mullins and Thomas.

132. Defendants' actions and/or inactions were willful, wanton, and reckless, for which punitive damages and/or damages for aggravating circumstances are appropriate. Additionally, Defendants knew or had reason to know there was a high degree of probability that their actions would result in injury.

133. As a direct and proximate result of the conduct of Defendants, Plaintiffs have suffered and will continue to suffer significant injuries and damages including, but not limited to, physical pain, emotional distress, pain and suffering, economic damages, loss of enjoyment of life, loss of their personal sense of security, and other psychological and emotional injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendants for compensatory and punitive damages together with interest thereon. Plaintiffs further request that they be awarded their costs and expenses incurred in this action, and that they be granted such other and further relief as the Court deems appropriate and just.

COUNT II
VIOLATIONS OF THE MISSOURI MERCHANDISE PRACTICES ACT AGAINST
TSU AND AKL
R.S.Mo. §§ 407.010 to 407.130

134. Plaintiffs incorporate all paragraphs of this Petition as if fully set forth herein.

135. Plaintiffs purchased consumer merchandise—namely, a membership in AKL, for personal, family, or household purposes.

136. In connection with that purchase, AKL misrepresented and/or made false promises to Plaintiffs that purchasing memberships would enable or allow them to assume leadership roles and responsibilities, fulfill the obligations of everyday life, and meet the challenges of life.

137. Plaintiffs purchased consumer merchandise—namely, admissions to and/or tuition for courses at TSU, for personal, family, or household purposes.

138. In connection with that purchase, TSU misrepresented and/or made false promises to

Plaintiffs that purchasing admissions and/or tuition would give them the resources to stay healthy, be safe, and feel well. Purchasing said admissions and/or tuition did not give them those resources.

139. In connection with that purchase, TSU misrepresented and/or made false promises to Plaintiffs that they would be supported and be in a safe environment. Purchasing said admissions and/or tuition did not provide them with support or a safe environment.

140. In connection with that purchase, TSU misrepresented and/or made false promises to Plaintiffs that they would be provided with a course of action, resources, and/or intervention in the event of a mental health crisis. Purchasing said admissions and/or tuition did not provide them with these things.

141. Defendants' misrepresentations and/or false promises constitute unfair practices which were deceptive, false, fraudulent, unethical, unscrupulous, and/or which otherwise offend public policy as established by state and/or federal law.

142. Plaintiffs suffered an ascertainable loss of money and/or property as a result of Defendants' misrepresentations and/or false promises.

143. Defendants' actions were willful, wanton or reckless for which punitive damages and/or an award for aggravating circumstances are appropriate.

144. Therefore, Defendants are liable for any and all injuries resulting therefrom. Additionally, Defendants knew or had reason to know that there was a high degree of probability that the actions above would result in injury.

145. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and will continue to suffer significant injuries and damages including but not limited to, physical pain, emotional distress, pain and suffering, economic damages, loss of enjoyment of life, loss of their personal sense of security, and other psychological and emotional injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendants for compensatory and punitive damages together with interest thereon. Plaintiffs further request that they be awarded

costs and expenses incurred in this action, and that they be granted such other and further relief as the Court deems appropriate and just.

COUNT III
NEGLIGENT MISREPRESENTATION AGAINST TSU AND AKL

146. Plaintiffs incorporate all paragraphs of this Petition as if fully set forth herein.

147. Defendant AKL had a legal duty to Plaintiffs as stated in the duty section above.

148. Additionally, Defendants had a legal duty to ensure that all representation made to induce purchases were accurate.

149. Defendant AKL made statements in the course of its business, including but not limited to promising that: (1) its members would become men who were “prepared to assume leadership responsibilities [and] fulfill[] the obligations of life;” and (2) its members would “assum[e] leadership roles [and] meet[] the challenges of life.”

150. Defendant AKL intentionally made these statements and other similar statements to guide young men, including Plaintiffs, into purchasing membership into or otherwise becoming members of its organization.

151. Defendant TSU made statements in the course of its business, including but not limited to promising that it would: (1) “make sure [students] have the resources to stay healthy, be safe, and feel well;” (2) “support students and maintain a safe environment;” (3) provide courses of action, support, and intervention for students of concern; and (4) provide resources and support to ensure the safety of students who have shared thoughts of suicide with their UCS counselors.

152. Defendant TSU intentionally made these statements and other similar statements to guide students, including Plaintiffs, into purchasing tuition and/or enrollment in its courses.

153. Defendants failed to exercise reasonable care in making the above statements and other similar statements in the course of their businesses, and the information was false.

154. Plaintiffs reasonably and justifiably relied on Defendants’ statements in entering into

business transactions with Defendants.

155. Because Plaintiffs relied on Defendants' statements, they, and their deceased sons, suffered pecuniary loss.

156. Defendants' actions and/or inactions were willful, wanton and reckless for which punitive damages and/or damages for aggravating circumstances are appropriate. Additionally, Defendants knew or had reason to know that there was a high degree of probability that their actions would result in injury.

157. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and will continue to suffer significant injuries and damages, including but not limited to physical pain, emotional distress, pain and suffering, economic damages, loss of enjoyment of life, loss of their personal sense of security, and other psychological and emotional injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendants for compensatory and punitive damages together with interest thereon. Plaintiffs further request that they be awarded costs and expenses incurred in this action, and that they be granted such other and further relief as the Court deems appropriate and just.

**COUNT IV
WRONGFUL DEATH AGAINST BRANDON GROSSHEIM**

158. Plaintiffs incorporate all paragraphs of this Petition as if fully set forth herein.

159. Defendant Grossheim had the intent to aid or encourage Mullins and Thomas to commit self-harm in that he "counseled" them and gave "step-by-step-instructions to them on how to "deal with their depression," make peace and "do their own free will" thereby implying that he counseled them to commit suicide.

160. Defendant Grossheim had the intent to cause harm to Mullins and Thomas by counseling them to harm themselves.

161. Defendant Grossheim's actions caused injuries and death to the Mullins and Thomas.

162. Defendant Grossheim had no justification encouraging Mullins and Thomas to commit self-harm.

163. But for Defendants actions, Mullins and Thomas would likely be alive today.

164. Plaintiffs suffered injuries because of Defendants' actions or failures to act.

Additionally, Defendants knew or had reason to know that there was a high degree of probability that the actions above would result in injury and death.

165. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and will continue to suffer significant injuries and damages, including but not limited to physical pain, emotional distress, pain and suffering, economic damages, loss of enjoyment of life, loss of personal sense of security, loss of companionship, and other psychological and emotional injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendants for compensatory and punitive damages together with interest thereon. Plaintiffs further request that they be awarded costs and expenses incurred in this action, and that they be granted such other and further relief as the Court deems appropriate and just.

**COUNT V
WRONGFUL DEATH AGAINST TSU AND AKL**

166. Plaintiffs incorporate all paragraphs of this Petition as if fully set forth herein.

167. Defendant AKL had a legal duty as shown above, that arose when a person, known to be violent, was present on the premises or an individual, namely Grossheim, was present who had conducted himself so as to indicate danger and sufficient time exists to prevent injury.

168. Defendant TSU had a legal duty as shown above, that arose when a person, known to be violent, was present on the premises or an individual, namely Grossheim, was present who had conducted

himself so as to indicate danger and sufficient time exists to prevent injury.

169. Defendants knew or should have known that Grossheim was dangerous to Plaintiffs before their deaths.

170. Defendants had actual knowledge of a specific threat that Mullins would commit suicide.

171. Defendants knew or should have known that Thomas was likely to commit suicide, before he committed suicide.

172. Defendants breached their respective duties to Mullins and Thomas and were negligent in so doing.

173. Plaintiffs suffered injuries because of Defendants' actions or failures to act.

Additionally, Defendants knew or had reason to know that there was a high degree of probability that the actions above would result in injury and death.

174. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and will continue to suffer significant injuries and damages, including but not limited to physical pain, emotional distress, pain and suffering, economic damages, loss of enjoyment of life, loss of personal sense of security, loss of companionship, and other psychological and emotional injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendants for compensatory and punitive damages together with interest thereon. Plaintiffs further request that they be awarded costs and expenses incurred in this action, and that they be granted such other and further relief as the Court deems appropriate and just.

**COUNT VI
NEGLIGENCE PER SE AGAINST BRANDON GROSSHEIM**

175. Plaintiffs incorporate by reference all paragraphs of the petition as if fully set out herein.

176. Defendant Grossheim committed a violation of Missouri Criminal Statute §565.023

- voluntary manslaughter in that he knowingly assisted Mullins and Thomas in the commission of self-murder.

177. Mullins and Thomas were members of a class that the voluntary manslaughter statute was intended to protect.

178. Death is the type of injury that the voluntary manslaughter statute was designed to prevent.

179. Defendant Grossheim's violation of the voluntary manslaughter statute was the proximate cause of Mullins and Thomas' deaths

180. Plaintiffs demand a trial by jury on all issues triable in this case.

WHEREFORE, Plaintiffs ask that this Court award judgment against Defendants as follows:

1. Compensatory and punitive damages in favor of Plaintiffs against Defendants for damages sustained as a result of the wrongdoing of Defendants, together with interest thereon;
2. Costs and expenses incurred by Plaintiffs in this action; and
3. Other and further relief as the Court deems appropriate and just.

Dated this 31st day of July 2019.

Respectfully submitted,

/s/ Nicole E. Gorovsky
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