

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

THOMAS SANTULLI AND MARY PAT
SANTULLI, AS CO-GUARDIANS OF
DANIEL SANTULLI AND CO-
CONSERVATORS OF THE ESTATE OF
DANIEL SANTULLI

Plaintiffs,

v.

507 KENTUCKY LLC; THE
FRATERNITY OF PHI GAMMA DELTA,
INC.; SAMUEL LANE; THOMAS
SHULTZ; JACK CRAYTON; JACOB
SEIDNER; BENJAMIN PARRES;
SAMUEL LINSON; GRANT WALL;
BLAKE MORSOVILLO; COLE
BREITENWISCHER; COLLIN CLARK;
SAMUEL MORRISON; RYAN
DELANTY; JACK O'NEILL; DUNCAN
ROBERTSHAW; CALEB WINKLE; JEFF
WAGONER; ERIC JASSO; TAD JUILFS;
PHILLIP DIGASBARRO; CHRIS
PALERMO AND SEAN MOISE,

Defendants.

Case Number: 22BA-CV00267

**DEFENDANT THE FRATERNITY OF PHI GAMMA DELTA, INC.'S SEPARATE
ANSWER TO PLAINTIFFS' FIRST AMENDED PETITION**

COMES NOW separate Defendant THE FRATERNITY OF PHI GAMMA DELTA, INC.
("Defendant"), by and through its counsel of record, and for its Answer to Plaintiffs' Amended
Petition states, admits and denies as follows:

1. Answering Defendant is without information sufficient to form a belief as to the
truth of the allegations set forth in Paragraph 1 of Plaintiffs' Amended Petition and therefore,
denies same.

2. Answering Defendant is without information sufficient to form a belief as to the
truth of the allegations set forth in Paragraph 2 of Plaintiffs' Amended Petition and therefore,
denies same.

3. Answering Defendant admits it is and was at all relevant times a non-profit-corporation organized and existing outside the State of Missouri. Defendant denies the remaining allegations set forth in Paragraph 3 of Plaintiffs' Amended Petition.

4. The allegations set forth in Paragraph 4 contain legal conclusions to which no response is required. To the extent an answer is required, answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of Plaintiffs' Amended Petition, inclusive of subparts a.-d., and therefore, denies same.

5. Defendant admits on information and belief that 507 Kentucky LLC was at all relevant times the owner and/or lessee of the Chi Mu Chapter house located at 507 Kentucky Blvd., Columbia, Missouri. As to any remaining allegations in Paragraph 5, answering Defendant is without information sufficient to form a belief as to the truth of those allegations and therefore, denies same.

6. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of Plaintiffs' Amended Petition and therefore, denies same.

7. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of Plaintiffs' Amended Petition and therefore, denies same.

8. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of Plaintiffs' Amended Petition and therefore, denies same.

9. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of Plaintiffs' Amended Petition and therefore, denies same.

10. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10 of Plaintiffs' Amended Petition and therefore, denies same.

11. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 of Plaintiffs' Amended Petition and therefore, denies same.

12. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of Plaintiffs' Amended Petition and therefore, denies same.

13. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of Plaintiffs' Amended Petition and therefore, denies same.

14. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiffs' Amended Petition and therefore, denies same.

15. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiffs' Amended Petition and therefore, denies same.

16. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of Plaintiffs' Amended Petition and therefore, denies same.

17. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiffs' Amended Petition and therefore, denies same.

18. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of Plaintiffs' Amended Petition and therefore, denies same.

19. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiffs' Amended Petition and therefore, denies same.

20. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiffs' Amended Petition and therefore, denies same.

21. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiffs' Amended Petition and therefore, denies same.

22. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of Plaintiffs' Amended Petition and therefore, denies same.

23. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of Plaintiffs' Amended Petition and therefore, denies same.

24. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of Plaintiffs' Amended Petition and therefore, denies same.

25. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of Plaintiffs' Amended Petition and therefore, denies same.

26. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of Plaintiffs' Amended Petition and therefore, denies same.

27. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of Plaintiffs' Amended Petition and therefore, denies same.

28. On information and belief, this answering Defendant admits the allegations set forth in Paragraph 28.

29. Answering Defendant responds to the allegations set forth in Paragraph 29 as follows:

- a. Admit.
- b. Admit that Thomas Schultz was the Treasurer.
- c. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 c. and therefore denies same.
- d. Admit.
- e. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 e. and therefore denies same.
- f. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 f. and therefore denies same.
- g. Admit.
- h. Admit.

- i. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 i. and therefore denies same.
- j. Admit.
- k. Deny.
- l. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 l. and therefore denies same.
- m. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 m. and therefore denies same.
- n. Admit.
- o. Admit.

30. Based on information and belief, answering Defendant admits that the individuals identified in subparts a. through f. were volunteers who served on the Board of Chapter Advisors at the time of the subject incident. Answering Defendant lacks sufficient information to form a belief as to the truth of any remaining allegations contained in Paragraph 30 of Plaintiffs' Amended Petition and therefore denies same.

31. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of Plaintiffs' Amended Petition and therefore, denies same.

32. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of Plaintiffs' Amended Petition and therefore, denies same.

33. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of Plaintiffs' Amended Petition and therefore, denies same.

34. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of Plaintiffs' Amended Petition and therefore, denies same.

35. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of Plaintiffs' Amended Petition and therefore, denies same.

36. Answering Defendant admits that it generally sends out a letter entitled "Welcome to the Phi Gamma Delta Family" after an undergraduate member accepts a bid from a chapter and registers himself as a new member with Phi Gamma Delta. The content of the document speaks for itself and is not recounted in its entirety. As such, the allegations regarding the letter are misleading. Therefore, answering Defendant denies those allegations in Paragraph 36 of Plaintiffs' Amended Petition that contain recitations to the document and any inferences drawn from the content of that document. With respect to any remaining allegations in Paragraph 36, Defendant is without information sufficient to form a belief as to the truth of those allegations and therefore denies same.

37. Answering Defendant denies the allegations set forth in Paragraph 37 of Plaintiffs' Amended Petition.

38. Answering Defendant admits Phi Gamma Delta was founded in 1848 and since its founding, 201,000+ men have been initiated into the fraternity. Answering Defendant admits there are three chapters that have been issued charters by The Fraternity of Phi Gamma Delta, Inc. located in Missouri which are Missouri State University in Springfield, MO, William Jewell

University in Liberty, Missouri and Williams Woods University in Fulton, MO. Answering Defendant denies the remaining allegations contained in Paragraph 38 of Plaintiffs' Amended Petition.

39. Answering Defendant admits that the Mission of Phi Gamma Delta is accurately re-stated in subpart a. as set forth on its website. Answering Defendant admits that the Vision of Phi Gamma Delta is accurately re-stated in subpart b. as set forth on its website. Answering Defendant admits that the Values of Phi Gamma Delta are accurately stated in subpart c. as set forth on its website. The remainder of the allegations in Paragraph 39 are argument to which no response is required. To the extent a response to is required, answering Defendant is without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 39 of Plaintiffs' Amended Petition and therefore denies same.

40. Answering Defendant admits that chapter house facilities and chapter properties not possessing an exemption from Defendant shall be alcohol-free. Answering Defendant admits the Chi Mu Chapter did not have an exemption in effect in October 2021. The remainder of the allegations contained in Paragraph 40 of Plaintiffs' Amended Petition are either improper argument or are taken out of context and therefore, the remaining allegations in Paragraph 40 are denied.

41. Answering Defendant denies the allegations set forth in Paragraph 41 of Plaintiffs' Amended Petition.

42. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42 of Plaintiffs' Amended Petition and therefore, denies same.

43. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43 of Plaintiffs' Amended Petition and therefore, denies same.

44. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 44 of Plaintiffs' Amended Petition and therefore, denies same.

45. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 45 of Plaintiffs' Amended Petition and therefore, denies same.

46. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 46 of Plaintiffs' Amended Petition and therefore, denies same.

47. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 47 of Plaintiffs' Amended Petition and therefore, denies same.

48. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 48 of Plaintiffs' Amended Petition and therefore, denies same.

49. The allegations set forth in Paragraph 49 contain argument and information taken out of context from documents which are not fully set forth and on those grounds, this answering Defendant is without sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 49 and therefore denies same.

50. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 50 of Plaintiffs' Amended Petition and therefore, denies same.

51. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 51 of Plaintiffs' Amended Petition and therefore, denies same.

52. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 52 of Plaintiffs' Amended Petition and therefore, denies same.

53. Answering Defendant denies the allegations set forth in Paragraph 53 of Plaintiff's Amended Petition.

54. Answering Defendant denies the allegations set forth in Paragraph 54 of Plaintiff's Amended Petition.

55. The allegations set forth in Paragraph 55 of Plaintiffs' Amended Petition contain legal conclusions to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 55 of Plaintiff's Amended Petition.

56. The allegations set forth in Paragraph 56 of Plaintiffs' Amended Petition contain legal conclusions to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 56 of Plaintiff's Amended Petition.

57. Answering Defendant denies its conduct was the proximate cause of Danny Santulli's injuries. With respect to the remaining allegations set forth in Paragraph 57 of Plaintiffs' First Amended Petition, answering Defendant is without sufficient information to admit or deny those allegations and therefore denies the same.

COUNT I

Negligence – PHI GAMMA DELTA

58. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 57 as though fully set forth herein.

59. The allegation set forth in Paragraph 59 of Plaintiffs' Amended Petitions is a legal conclusion to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 59.

60. Answering Defendant denies the allegations set forth in Paragraph 60, inclusive of subparts a.-m., of Plaintiffs' Amended Petition.

61. The allegation set forth in Paragraph 61 of Plaintiffs' Amended Petitions is a legal conclusion to which no response is required. To the extent a response is required, answering Defendant denies its conduct was the proximate cause of Danny Santulli's injuries.

COUNT II

Vicarious Liability – PHI GAMMA DELTA (Actual Agency)

62. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 67 of Plaintiffs Amended Petition as though fully set forth herein.

63. The allegations set forth in Paragraph 63 of Plaintiffs' Amended Petitions are legal conclusions to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 63.

64. Answering Defendant denies the allegations set forth in Paragraph 64 of Plaintiffs' Amended Petition.

65. Answering Defendant denies the allegations set forth in Paragraph 65 of Plaintiffs' Amended Petition.

66. The allegations set forth in Paragraph 66 of Plaintiffs' Amended Petitions are legal conclusions to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 66.

67. The allegations set forth in Paragraph 67 of Plaintiffs' Amended Petitions are legal conclusions to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 67.

68. The allegations set forth in Paragraph 68 of Plaintiffs' Amended Petitions are legal conclusions to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 68.

69. The allegation set forth in Paragraph 69 of Plaintiffs' Amended Petitions is a legal conclusion to which no response is required. To the extent a response is required, answering Defendant denies the allegations set forth in Paragraph 69.

COUNT III

Vicarious Liability – PHI GAMMA DELTA (Apparent Agency)

70. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 69 of Plaintiffs Amended Petition as though fully set forth herein.

71. Answering Defendant denies the allegations set forth in Paragraph 71, inclusive of subparts a.-h., of Plaintiffs' Amended Petition.

72. Answering Defendant is without information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 72 of Plaintiffs' Amended Petition and therefore, denies same.

73. The allegation set forth in Paragraph 73 of Plaintiffs' Amended Petitions is a legal conclusion to which no response is required. To the extent a response is required, answering Defendant denies the allegation set forth in Paragraph 73.

74. The allegation set forth in Paragraph 74 of Plaintiffs' Amended Petitions is a legal conclusion to which no response is required. To the extent a response is required, answering Defendant denies the allegation set forth in Paragraph 74.

COUNT IV

Negligence – 507 Kentucky LLC

75. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 74 of Plaintiffs Amended Petition as though fully set forth herein.

76. The allegations in Paragraph 76 are directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, answering Defendant admits on information and belief that 507 Kentucky purchased and/or leased the property located at 507 Kentucky Blvd., Columbia, Missouri for the purpose of housing members of the Chi Mu Chapter of Phi Gamma Delta Fraternity. With respect to the remaining allegations in Paragraph 76, answering Defendant is without sufficient information to admit or deny those allegations and therefore denies the same.

77. The allegations contained in Paragraph 77 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 77 and therefore denies same.

78. The allegations contained in Paragraph 78 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 78 and therefore denies same.

79. The allegations contained in Paragraph 79 of Plaintiffs' Amended Petition are directed to a party other than this answering Defendant to which no response is required. To the

extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 79, inclusive of subparts a.-e., and therefore denies same.

80. The allegation set forth in Paragraph 80 of Plaintiffs' Amended Petitions is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 80 and therefore denies same.

COUNT V

Negligence – SAMUEL LANE

81. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 80 of Plaintiffs Amended Petition as though fully set forth herein.

82. The allegations contained in Paragraph 82 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 82 and therefore denies same.

83. The allegations contained in Paragraph 83 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 83 and therefore denies same.

84. The allegations contained in Paragraph 84 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 84, inclusive of subparts a.-i., and therefore denies same.

85. The allegation contained in Paragraph 85 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 85 and therefore denies same.

COUNT VI

Negligence – THOMAS SCHULTZ

86. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 85 of Plaintiffs Amended Petition as though fully set forth herein.

87. The allegation contained in Paragraph 87 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 87 and therefore denies same.

88. The allegations contained in Paragraph 88 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 88 and therefore denies same.

89. The allegations contained in Paragraph 89 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 89, inclusive of subparts a.-i., and therefore denies same.

90. The allegation contained in Paragraph 90 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is

required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 90 and therefore denies same.

COUNT VII

Negligence – JACK CRAYTON

91. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 90 of Plaintiffs' Amended Petition as though fully set forth herein.

92. The allegation contained in Paragraph 92 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 92 and therefore denies same.

93. The allegations contained in Paragraph 93 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 93 and therefore denies same.

94. The allegations contained in Paragraph 94 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 94, inclusive of subparts a.-j., and therefore denies same.

95. The allegation contained in Paragraph 95 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 95 and therefore denies same.

COUNT VIII**Negligence – JACOB SIEDNER**

96. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 95 of Plaintiffs' Amended Petition as though fully set forth herein.

97. The allegation contained in Paragraph 97 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 97 and therefore denies same.

98. The allegations contained in Paragraph 98 of Plaintiffs' Amended Petition are legal conclusions and are directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 98 and therefore denies same.

99. The allegations contained in Paragraph 99 of Plaintiffs' Amended Petition are legal conclusions and are directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 99, inclusive of subparts a.-i., and therefore denies same.

100. The allegation contained in Paragraph 100 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 100 and therefore denies same.

COUNT IX**Negligence – BEN PARRES**

101. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 100 of Plaintiffs' Amended Petition as thought fully set forth.

102. The allegation contained in Paragraph 102 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 102 and therefore denies same.

103. The allegations contained in Paragraph 103 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 103 and therefore denies same.

104. The allegations contained in Paragraph 104 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 104, inclusive of subparts a.-i., and therefore denies same.

105. The allegation contained in Paragraph 105 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 105 and therefore denies same.

COUNT X**Negligence – SAMUEL LINSON**

106. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 105 to Plaintiffs' Amended Petition as though fully set forth herein.

107. The allegation contained in Paragraph 107 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 107 and therefore denies same.

108. The allegations contained in Paragraph 108 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 108 and therefore denies same.

109. The allegations contained in Paragraph 109 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 109, inclusive of subparts a.-i., and therefore denies same.

110. The allegation contained in Paragraph 105 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 105 and therefore denies same.

COUNT XI**Negligence – GRANT WALL**

111. Answering Defendant incorporates its responses to Paragraphs 1 through 110 of Plaintiffs' Amended Petition as though fully set forth herein.

112. The allegation contained in Paragraph 112 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 112 and therefore denies same.

113. The allegations contained in Paragraph 113 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 113 and therefore denies same.

114. The allegations contained in Paragraph 114 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 114 and therefore denies same.

115. The allegations contained in Paragraph 115 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 115, inclusive of subparts a.-d., and therefore denies same.

116. The allegation contained in Paragraph 116 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is

required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 116 and therefore denies same.

COUNT XII

Negligence – BLAKE MORSOVILLO

117. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 116 of Plaintiffs' Amended Petition as though fully set forth herein.

118. The allegation contained in Paragraph 118 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 118 and therefore denies same.

119. The allegations contained in Paragraph 119 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 119 and therefore denies same.

120. The allegations contained in Paragraph 120 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 120 and therefore denies same.

121. The allegations contained in Paragraph 121 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 121, inclusive of subparts a.-h., and therefore denies same.

122. The allegation contained in Paragraph 122 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 122 and therefore denies same.

COUNT XIII

Negligence – COLE BREITENWISCHER

123. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 122 of Plaintiffs' Amended Petition as though fully set forth herein.

124. The allegation contained in Paragraph 124 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 124 and therefore denies same.

125. The allegations contained in Paragraph 125 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 125 and therefore denies same.

126. The allegations contained in Paragraph 126 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 126, inclusive of subparts a.-c., and therefore denies same.

127. The allegation contained in Paragraph 127 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is

required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 127 and therefore denies same.

COUNT XIV

Negligence – COLLIN CLARK

128. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 127 of Plaintiffs' Amended Petition as though fully set forth.

129. The allegation contained in Paragraph 129 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 129 and therefore denies same.

130. The allegations contained in Paragraph 130 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 130 and therefore denies same.

131. The allegations contained in Paragraph 131 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 131, inclusive of subparts a.-c., and therefore denies same.

132. The allegation contained in Paragraph 132 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 132 and therefore denies same.

COUNT XV

Negligence – SAMUEL MORRISON

133. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 132 of Plaintiffs' Amended Petition as though fully set forth.

134. The allegations contained in Paragraph 134 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 134 and therefore denies same.

135. The allegation contained in Paragraph 135 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 135 and therefore denies same.

136. The allegations contained in Paragraph 136 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 136, inclusive of subparts a.-c., and therefore denies same.

137. The allegation contained in Paragraph 137 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 137 and therefore denies same.

COUNT XVI**Negligence – Ryan Delanty**

138. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 137 of Plaintiffs' Amended Petition as though fully set forth herein.

139. The allegation contained in Paragraph 139 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 139 and therefore denies same.

140. The allegation contained in Paragraph 140 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 140 and therefore denies same.

141. The allegations contained in Paragraph 141 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 141, inclusive of subparts a.-c., and therefore denies same.

142. The allegation contained in Paragraph 142 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 142 and therefore denies same.

COUNT XVII**Negligence – JACK O’NEILL**

143. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 142 of Plaintiffs’ Amended Petition as though fully set forth herein.

144. The allegation contained in Paragraph 144 of Plaintiffs’ Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 144 and therefore denies same.

145. The allegation contained in Paragraph 145 of Plaintiffs’ Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 145 and therefore denies same.

146. The allegations contained in Paragraph 146 of Plaintiffs’ Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 146, inclusive of subparts a.-i., and therefore denies same.

147. The allegation contained in Paragraph 147 of Plaintiffs’ Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 147 and therefore denies same.

COUNT XVIII**Negligence – DUNCAN ROBERTSHAW**

148. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 147 of Plaintiffs Amended Petition as though fully set forth herein.

149. The allegation contained in Paragraph 149 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 149 and therefore denies same.

150. The allegations contained in Paragraph 150 of Plaintiffs' Amended Petition are legal conclusions and are directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 150, inclusive of subparts a.-d., and therefore denies same.

151. The allegation contained in Paragraph 151 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 151 and therefore denies same.

COUNT XIX**Negligence – CALEB WINKLE**

152. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 151 of Plaintiffs' Amended Petition as though fully set forth herein.

153. The allegation contained in Paragraph 153 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is

required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 153 and therefore denies same.

154. The allegation contained in Paragraph 154 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 154 and therefore denies same.

155. The allegations contained in Paragraph 155 of Plaintiffs' Amended Petition are legal conclusions and are directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 155, inclusive of subparts a.-e., and therefore denies same.

156. The allegation contained in Paragraph 156 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 156 and therefore denies same.

COUNT XX

Negligence of the Board of Chapter Advisors

157. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 156 of Plaintiffs' Amended Petition as though fully set forth.

158. The allegations contained in Paragraph 158 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 158, inclusive of subparts a.-c., and therefore denies same.

159. The allegations contained in Paragraph 159 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 159, inclusive of subparts a.-f., and therefore denies same.

160. The allegation contained in Paragraph 160 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 160 and therefore denies same.

COUNT XXI

Negligence – Sean Moise

161. Answering Defendant incorporates by reference its responses to Paragraphs 1 through 160 of Plaintiffs' Amended Petition as though fully set forth.

162. The allegations contained in Paragraph 162 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 162 and therefore denies same.

163. The allegations contained in Paragraph 163 of Plaintiffs' Amended Petition are legal conclusions and directed to a party other than this answering Defendant to which no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations set forth in Paragraph 163, inclusive of subparts a.-j., and therefore denies same.

164. The allegation contained in Paragraph 164 of Plaintiffs' Amended Petition is a legal conclusion and is directed to a party other than this answering Defendant to which no response is

required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegation set forth in Paragraph 164 and therefore denies same.

DEFENSES AND AFFIRMATIVE DEFENSES

In further response to Plaintiffs' First Amended Petition, as additional or affirmative defenses to the claims asserted therein, Defendant states as follows:

1. Plaintiffs' Amended Petition fails to state a claim upon which relief may be granted and should be dismissed in that it fails to allege facts that support the elements of a claim for negligence against this answering Defendant.

2. Defendant further asserts that the incident was beyond the reasonable control or foreseeability of this answering Defendant as Defendant had no actual or constructive knowledge of the circumstances surrounding the Pledge Dad Reveal as carried out by the Chi Mu Chapter, nor did it have anything to do with the planning or participation in the Pledge Dad Reveal as described in Plaintiffs' Amended Petition.

3. Defendant further alleges that the incident in question and any resulting damages occurred in whole or in part due to other parties' negligence over whom this Defendant had neither control nor the right to control. Accordingly, Defendant asserts all rights, privileges, and remedies afforded or available to it, and prays for a determination of the comparative fault of all parties for Plaintiffs' alleged damages and for an appropriate reduction based on the proportionate fault of each person or entity.

4. If Plaintiffs sustained damages caused this Defendant, which this answering Defendant expressly denies and this Defendant is found to be less than 51% at fault, then pursuant to Mo. Rev. Stat. §537.067, answering Defendant shall only be responsible for that percentage of judgment for which Defendant is determined to be responsible by the trier of fact. Defendant

affirmatively claims the applicability of Mo. Rev. Stat. §537.067.3 regarding any fault or determination between this answering Defendant and other alleged tortfeasors.

5. Defendant further asserts that Defendant had no special relationship under Missouri law with Danny Santulli and therefore owed no duty to control the conduct of third parties under Missouri law for the protection of Danny Santulli from harm caused to him by others.

6. Plaintiffs' claims against this Defendant should be reduced, in whole or in part, to the extent Plaintiffs have entered or hereafter enter into any agreement, release, covenant not to sue, and/or covenant not to enforce a judgment with any person or entity which may be liable in tort to Plaintiffs for their alleged injuries and damages that include this Defendant or, if this Defendant is not released, to the extent such agreement shall reduce by credit or set-off Plaintiffs' claims against this Defendant by the stipulated amount of the agreement or the amount of consideration paid for such agreement, whichever is greater, pursuant to Mo. Rev. Stat. §537.060 and/or 537.065 in such amounts as may be later disclosed to Defendant. Defendant reserves the right to supplement this defense and allegation upon discovery of any amounts paid or to be paid to Plaintiffs as alleged herein.

7. Plaintiffs' damages are limited by Mo. Rev. Stat. §490.715.5.

8. Plaintiffs' claims are barred by implied primary assumption of the risk in that Daniel Santulli knowingly and voluntarily encountered and accepted the risk of consumption of alcohol and in acquiescing in such risk, even if created by Defendant's negligence, which Defendant denies, acted unreasonably in doing so specifically, by knowingly and voluntarily consuming alcohol in unreasonably large quantities, and accordingly, Defendant owed no duty to protect Daniel Santulli by virtue of his assumption of the risk.

9. Defendant further asserts there is no conduct on the part of this answering Defendant that was the direct and proximate cause of Plaintiffs' damages.

10. Defendant had no day-to-day control over the activities of the Chi Mu Chapter or any of its members.

11. Defendant did not authorize the Chi Mu Chapter or any of its members to act on its behalf in connection with any of the events and circumstances surrounding the subject incident and therefore, is not vicariously liable for the acts and/or omissions of others.

12. Defendant did not engage in any conduct that would lead a reasonable person to believe that the provision of alcohol to underage individuals in connection with a chapter event or any event associated with new member activities was authorized by this answering Defendant and Defendant is therefore, not vicariously liable for the acts or omissions of others.

13. Defendant further asserts the incident giving rise to the claims set forth in Plaintiffs' Amended Petition did not occur during an event, occasion, or incident planned, controlled, approved by, or known to, this answering Defendant.

14. Defendant reserves the right to assert such other defenses as continuing investigation and discovery may reveal, and the right to amend or supplement this Answer at any time.

WHEREFORE, having fully answered Plaintiffs' First Amended Petition, Defendant prays to be dismissed forthwith with its costs herein incurred and expended, and for such other and further relief as the Court deems just and proper in the premises.

Dated: April 5, 2022

Respectfully submitted,

SPENCER FANE LLP

/s/ Jennifer A. Riso

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ATTORNEYS FOR DEFENDANT
THE FRATERNITY OF PHI GAMMA DELTA,
INC.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed this 5th day of April, 2022, the foregoing was electronically filed using the Missouri eFiling system, which will send notice of electronic filing to all registered attorneys of record.

/s/ Jennifer A. Riso