

MICHAEL K. JEANES
Clerk of the Superior Court
By Adam Asher, Deputy
Date 02/01/2010 Time 16:48:08

Description	Amount
CASE# CV2010-003278	
CIVIL NEW COMPLAINT	301.00
TOTAL AMOUNT	301.00

Receipt# 20323123

1 **JENKINS LAW FIRM**
2 695 West Baseline Rd.
3 Suite 102
4 Phoenix, AZ 85041
5 Phone: 602-283-9868
6 Fax: 602-412-3954

7 LASHAWN D. JENKINS [021840]
8 lashawn.jenkins@thejenkinslawfirm.com

9 Attorneys for Plaintiff

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
11 IN AND FOR THE COUNTY OF MARICOPA

12 ANNA L. BABLER, a single woman,
13 Plaintiff,
14 v.
15 DAVID GALLAGHER, a single man;
16 MATT POTTER, a single man; JOHN
17 DOE NOS. 1-100, single men; THE
18 SIGMA CHI HOUSE CORPORATION OF
19 EPSILON UPSILON, an Arizona nonprofit
20 corporation; and SIGMA CHI
21 FRATERNITY AT ARIZONA STATE
22 UNIVERSITY, an unincorporated
23 association,
24 Defendants.

CV2010-003278
NO.
COMPLAINT
(Tort—Non-Motor Vehicle)
(Jury Trial Demand)

25 Plaintiff Anna L. Babler (“Ms. Babler”), for her Complaint against Defendants, states as
26 follows:

PARTIES, JURISDICTION, AND VENUE

1. Ms. Babler is a single woman residing in Tucson, Arizona, who was enrolled as a
freshman at Arizona State University (“ASU”) in February 2008.

1 2. Defendant David Gallagher (“Mr. Gallagher”) and Defendant Matt Potter (“Mr.
2 Potter”) were also enrolled as students at ASU in February 2008, were members of Defendant The
3 Sigma Chi House Corporation of Epsilon Upsilon and Defendant Sigma Chi Fraternity at Arizona
4 State University (jointly and interchangeably “Sigma Chi”), and, on information and belief,
5 resided at that time at the Sigma Chi fraternity house.
6

7 3. Sigma Chi owns and operates the fraternity house where Ms. Babler was sexually
8 assaulted, and is the local chapter of the Sigma Chi national social fraternity

9 4. The Court has subject matter jurisdiction over this case pursuant to the Arizona
10 Constitution and A.R.S. § 12-123.
11

12 5. Defendants John Does Nos. 1-100 (“members” or “other members”) are members
13 or pledges of Sigma Chi whose identities are unknown to Ms. Babler at this time. Upon discovery
14 of the identities of the unknown Defendants, Ms. Babler prays for leave to amend her Complaint
15 to identify them.

16 6. Venue is proper in this Court pursuant to A.R.S. § 12-401 as the events complained
17 of herein occurred in Maricopa County, Arizona.
18

19 **GENERAL ALLEGATIONS**

20 **Relationships Among the Defendants**

21 7. As students enrolled at ASU, Mr. Gallagher, Mr. Potter, and other members, at the
22 time of the events complained of herein, were subject to the ASU Student Code of Conduct which
23 prohibited endangering, threatening, or causing physical harm to other students such as Ms.
24 Babler (F.2), misconduct involving alcohol and drugs (F.15 and 16), sexual harassment (F.21),
25 sexual discrimination (F.22), and sexual offenses including sexual assault (F.24).
26

1 8. Mr. Gallagher, Mr. Potter, and other members were also controlled and supervised
2 by Sigma Chi and were subject to its rules of conduct and their enforcement, which, on
3 information and belief, prohibited sexual harassment and assault, other sexual misconduct, and
4 misuse of alcohol and drugs.
5

6 9. The Sigma Chi house where Ms. Babler was sexually assaulted is located on the
7 ASU campus at Alpha Drive and East 6th Street, and is owned and controlled by Sigma Chi.
8

9 10. The ASU University Initiatives Manual, USI 1301-01, set forth conditions and
10 minimum expectations ASU had of Sigma Chi in exchange for the university's recognition and
11 support. These included, without limitation, that Sigma Chi and its members, including Mr.
12 Gallagher and Mr. Potter, comply with the ASU Student Code of Conduct and all applicable
13 federal, state, and local laws; maintain chapter liability insurance; follow ASU risk management
14 policies; participate in risk management and alcohol education programs; report critical incidents
15 and Code of Conduct violations; and minimize the risk of harm to others while accepting
16 accountability for actions of the chapter.
17

18 11. Sigma Chi was also subject to ASU policies prohibiting hazing, including USI 104-
19 03.
20

21 12. Sigma Chi and its members were subject to additional rules and policies including
22 Interfraternity Council and Greek Life rules, which, on information and belief, prohibited alcohol,
23 drug, and sexual misconduct.

24 **The Sexual Assault of Ms. Babler at the Sigma Chi House**

25 13. On February 1, 2008, Ms. Babler was an ASU freshman who had resided for
26 roughly two weeks at the Pi Beta Phi sorority house.

1 14. Ms. Babler attended a party given by Sigma Chi the evening of February 1, 2008.
2 The party was a Sigma Chi "toga party" and "bid night" at which new Sigma Chi pledges were
3 present, and partygoers wore costumes based on Roman Empire themes.

4 15. Sigma Chi arranged for a bus to pick up and take Ms. Babler and other Pi Beta Phi
5 members to the toga party at a sushi restaurant rented by Sigma Chi and closed for the evening to
6 the public.

7 16. On information and belief, each member and pledge of Sigma Chi contributed
8 money to pay for alcohol to be served at the toga party, either individually or through social dues.
9 Sigma Chi and its members and pledges knew that many of the female guests at the toga party
10 would be underage, but followed the Sigma Chi practice of serving them alcohol and encouraging
11 their drunkenness.
12

13 17. At the toga party at the restaurant, Sigma Chi and its members and pledges illegally
14 served alcoholic beverages to underaged minors including Ms. Babler, who was 19 years old at
15 the time.
16

17 18. At the restaurant, Mr. Potter or another Sigma Chi member prepared and gave Ms.
18 Babler an adulterated alcoholic drink that had been spiked with a drug designed to incapacitate her
19 and impair her memory.
20

21 19. While the Pi Beta Phi women were inside the restaurant, without their knowledge,
22 Sigma Chi members took purses that had been left on the bus to the Sigma Chi house in order to
23 lure the women at the toga party, including Ms. Babler, to the fraternity house afterwards to
24 retrieve them.
25
26

1 20. Ms. Babler's memory is impaired about events after the spiked drink until waking
2 on February 2, 2008, at the Sigma Chi house, missing her purse and some of her clothes, and in
3 severe rectal pain.

4 21. After she awoke in pain at the Sigma Chi house, Ms. Babler returned to the Pi Beta
5 Phi house, and her suitemate took her to the Tempe St. Luke's Hospital Emergency Department.

6 22. At the hospital, Ms. Babler underwent a sexual assault examination. The
7 examination findings were that she had a significant anal injury with bruising, bloody stool, and
8 exposure to bodily fluids. The diagnosis was "sexual assault" and "exposure to bodily fluids"
9 through "forced anal penetration" and possible vaginal penetration also.

10 23. On February 3, 2008, Ms. Babler drove to Tucson to the care of her sister, where
11 she was evaluated and counseled by the Southern Arizona Center Against Sexual Assault, and
12 referred to a therapist.

13 24. Mr. Gallagher was seen with Ms. Babler the evening of February 1 and 2, 2008,
14 and has been identified by both Pi Beta Phi and Sigma Chi members as an assailant of Ms. Babler.

15 25. Mr. Gallagher and/or other Sigma Chi members raped and sodomized Ms. Babler
16 at the Sigma Chi house without her consent and when she was incapable of consent.

17 26. On information and belief, Mr. Gallagher had a history before Ms. Babler's sexual
18 assault of sexual misconduct, including attempted sexual assault, that was known to Sigma Chi.

19 27. In April 2008, after Ms. Babler's assault, Mr. Gallagher attempted to digitally
20 sexual assault a different Pi Beta Phi member at the Sigma Chi house while she was sleeping.

1 28. At the time of Ms. Babler's assault, Mr. Gallagher's nickname among Sigma Chi
2 members was "Therapist" – which stood for "The Rapist" – which was written on the door of his
3 room.

4 29. No action or discipline of any kind was taken by Sigma Chi against Mr. Gallagher,
5 Mr. Potter, or other members on account of Ms. Babler's rape or otherwise.

6 30. Ms. Babler was severely traumatized by having been raped and sodomized at the
7 Sigma Chi house February 2, 2008.

8 31. Ms. Babler attempted to return to ASU afterwards but was beset by panic attacks
9 and uncontrollable fear on campus, especially at night. She was terrified of being alone at night.
10 She had great difficulty attending classes. She felt helpless and isolated.

11 32. On her therapist's advice that, if she stayed at ASU, she would continue to relive
12 the trauma and therefore should leave, Ms. Babler withdrew from ASU without completing her
13 freshman year.

14 33. Ms. Babler is presently enrolled in community college in Tucson.

15 34. Ms. Babler has been diagnosed with ongoing severe post traumatic stress disorder
16 from the rape and sodomy.

17 35. Ms. Babler's college education has been severely disrupted. She will never be able
18 to return to ASU. As a direct and proximate result of her sexual assault, she has and will suffer
19 severe emotional and psychological distress which has and will interfere with her life,
20 relationships, and education in countless ways.
21
22
23
24
25
26

1 **History of Severe Sexual Harassment, Discrimination, and Abuse by Sigma Chi and its**
2 **Members**

3 36. For more than five years preceding Ms. Babler's rape, Sigma Chi and its members
4 committed continual Code of Conduct violations and sexual and violent offenses in a series of
5 incidents that, taken together, created a sexually hostile environment for female students like Ms.
6 Babler.

7 37. Sigma Chi's activities involving women and alcohol encouraged its members to
8 engage in opprobrious acts that put female students at risk of sexual harassment and assault.

9
10 38. In 2003 ASU placed Sigma Chi on probation for one year, and the national
11 fraternity suspended it for 45 days, for hazing, paddling that bruised naked buttocks, and forced
12 drug use.

13 39. During this first probationary period, the ASU Greek Life office received a report
14 of screams for help and a possible violent sexual assault at the Sigma Chi house.

15 40. Sigma Chi's probation was extended by ASU to November 2004 due to continuing
16 incidents.

17
18 41. In spring 2004, multiple incidents of hazing, abuse of pledges, and alcohol
19 violations at Sigma Chi were reported.

20 42. On May 4, 2004, the mother of a female ASU student complained about coerced
21 sexual acts, nakedness, and alcohol consumption at a Sigma Chi party, and her daughter's fear of
22 retaliation against her by Sigma Chi members.

23 43. On August 31, 2004, ASU notified Sigma Chi of ongoing probation violations.
24
25
26

1 44. On August 14, 2005, a woman complained about Sigma Chi members threatening
2 to kill her cats. The woman later found a pet cat mutilated and decapitated by Sigma Chi
3 members.

4 45. On September 24, 2005, a couple complained about harassment of hotel guests and
5 thousands of dollars of damage to a San Diego hotel by Sigma Chi members, which was
6 confirmed by the hotel.

7 46. In late 2005 and throughout 2006, there were continuing complaints about hazing
8 at Sigma Chi, and reports of "disturbing information" about Sigma Chi to the national Sigma Chi
9 fraternity.

10 47. During the spring and summer of 2006, there were reports that Sigma Chi aided in
11 the hazing of Alpha Phi sorority pledges by forced inappropriate dancing, simulated stripteases,
12 and sexually suggestive "girl on girl" activities involving unwilling new female members.

13 48. In 2006-07, there were ongoing letter and police reports about improper and illegal
14 party activities at Sigma Chi.

15 49. On August 19, 2007, a sexual assault by Sigma Chi members was reported to and
16 investigated by police.

17 50. There were "no less than 10 alcohol related violations" at the Sigma Chi house in a
18 3-day period in August 2007.

19 51. ASU placed Sigma Chi on still another probation January 31, 2008, *the day before*
20 *Ms. Babler's rape*, for the duration of spring semester 2008. This probation was for violations
21 during the preceding four and one half months involving hazing, alcohol, threats of physical harm,
22
23
24
25
26

1 bathrooms intentionally soiled with vomit and fecal matter, and improper activities at a "party
2 house."

3 52. On December 8, 2007, an ASU student complained about having been assaulted by
4 Sigma Chi members and hospitalized with a broken nose and bloodied face.

5 53. On January 13, 2008, approximately two weeks before Ms. Babler's assault, an
6 alarmed female passerby reported having observed inappropriate behavior, gestures, and
7 comments, alcohol and drugs, and mostly naked girls at the Sigma Chi house.
8

9 54. After Ms. Babler's rape, throughout 2008 and 2009, Sigma Chi misconduct
10 continued, including the yelling of obscenities at passersby, "girls stripping and beer bonging" at
11 the Sigma Chi house, the resignation of the female Sigma Chi faculty sponsor, the harassment
12 with gay slurs ("faggot" and "stupid gay loser") of a family with three young children by Sigma
13 Chi members at a basketball game, and the telephone sexual harassment of residence hall advisors
14 ("it is really uncomfortable getting sexually harassed on your work phone at 4:45 a.m.").
15

16 55. For over five years, university students and the public endured a stream of over
17 three dozen reported incidents of misconduct at the Sigma Chi house and its events involving
18 sexual assault and harassment, physical assault, humiliation, physical and verbal abuse, coercion,
19 hazing, alcohol and drug offenses, vandalism, animal abuse, and violence.
20

21 56. The out of control and sexually hostile environment at Sigma Chi encouraged and
22 promoted the improper sexual activity and alcohol and drug misconduct that led to Ms. Babler's
23 rape.
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FIRST CLAIM FOR RELIEF (Against all Defendants)
(Civil Conspiracy)

57. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-55 above.

58. Mr. Gallagher, Mr. Potter, Sigma Chi, and other members of Sigma Chi, in February 2008 agreed, by words or conduct, to accomplish the unlawful goal, through unlawful means, of luring, incapacitating, and taking sexual advantage of Ms. Babler and other women similarly situated, to the point of sexual assault.

59. Acts, including unlawful acts, that were performed to accomplish this unlawful goal included, without limitation, planning the toga party as a means of sexual entrapment of young female ASU students, supplying Ms. Babler (though she was only 19 years old) and other women with alcohol, drugging her, luring her and others to the Sigma Chi house by taking purses there without their owners' knowledge, and raping and sodomizing Ms. Babler while she was incapacitated, drugged, non-consenting, and incapable of consent.

60. Ms. Babler suffered injuries, damages and losses in consequence, as set forth in paragraphs 29-34 above.

61. Ms. Babler's injuries, damages and losses set forth in paragraphs 30-35 above were caused by the acts performed to accomplish the unlawful goal.

SECOND CLAIM FOR RELIEF (Against Defendants Gallagher, Potter, and John Doe Nos. 1-100)
(Assault)

62. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-61 above.

1 63. Mr. Potter and/or other Sigma Chi members provided Ms. Babler with a drink
2 which, without her knowledge, had been mixed with a drug designed to make her susceptible to
3 sexual assault.

4 64. Mr. Gallagher and/or other Sigma Chi members sexually assaulted Ms. Babler
5 while she was incapacitated, both without her consent and when she was incapable of consent, by
6 sodomizing her anally and forcefully against her will, and otherwise sexually assaulting and
7 harassing her.

8 65. Mr. Gallagher's, Mr. Potter's, and/or other Sigma Chi members' conduct was
9 intended to and did cause Ms. Babler imminent apprehension of harmful or offensive contact.

10 66. Ms. Babler was subjected to harmful and offensive contact due to Mr. Gallagher's,
11 Mr. Potter's, and/or other Sigma Chi members' sexual misconduct, and, as a result, suffered the
12 injuries, damages, and losses set forth in paragraphs 30-35 above.

13
14
15 **THIRD CLAIM FOR RELIEF (Against Defendants Gallagher, Potter, and John Does Nos.**
16 **1-100)**
17 **(Battery)**

18 67. Plaintiff realleges and incorporates by this reference the allegations of paragraphs
19 1-66 above.

20 68. Mr. Gallagher's, Mr. Potter's, and/or other Sigma Chi members' acts resulted in
21 physical contact with Ms. Babler.

22 69. These Sigma Chi members intended to cause or make harmful or offensive
23 physical contact with Ms. Babler.

24 70. The contact was harmful and offensive, and caused Ms. Babler's injuries, damages,
25 and losses set forth in paragraphs 30-35 above.

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FOURTH CLAIM FOR RELIEF (Against all Defendants)
(Negligence)

71. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-70 above.

72. The Defendants owed duties of care to Ms. Babler to take reasonable steps at Sigma Chi events and house to prevent her from being harmed by its members.

73. The Defendants' duties of care included compliance with the rules and precepts of the ASU Student Code of Conduct, the ASU Student Initiatives Manual, the ASU Interfraternity Council and Greek Life rules, and its national fraternity's and other rules, all of which the Defendants violated in connection with Ms. Babler's sexual assault.

74. Sigma Chi and its members knew or should have known that Mr. Gallagher, Mr. Potter, and other members were dangerous to others, especially underage female students like Ms. Babler.

75. The Defendants had a special relationship with each other and duties of care to guests of their parties and at their fraternity house.

76. The Defendants were negligent in that they failed to exercise reasonable care in their actions toward and treatment of Ms. Babler.

77. The individual Defendants were negligent in that they failed to determine that Ms. Babler was unable to consent to sexual contacts. In the alternative, their conduct was intentional.

78. The Defendants failed to exercise reasonable care to prevent harm to Ms. Babler, who suffered injuries, damages, and losses as a result, as set forth in paragraphs 30-35 above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FIFTH CLAIM FOR RELIEF (Against Sigma Chi and John Does Nos. 1-100)
(Negligent Supervision)

79. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-78 above.

80. Sigma Chi and its members owed duties of care to Ms. Babler to select, train, educate, guide, control, discipline, and supervise its members to keep them from harming women at Sigma Chi events and the fraternity house.

81. Sigma Chi and its members knew of the dangers posed by Mr. Gallagher, Mr. Potter, and other Sigma Chi members, and of reasonable steps that could be taken to prevent them from causing harm.

82. Sigma Chi and its members failed reasonably to fulfill its duties of care to prevent harm to Ms. Babler, who suffered, in consequence, the injuries, damages and losses set forth in paragraphs 30-35 above.

SIXTH CLAIM FOR RELIEF (Against all Defendants)
(Negligent Infliction of Emotional Distress)

83. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-82 above.

84. Defendants' negligence created an unreasonable risk of physical harm to Ms. Babler, which caused her to be put in fear for her own safety, as shown by physical consequences and long-continued emotional disturbance.

85. Ms. Babler's fear has caused her injuries, damages, and losses, as set forth in paragraphs 30-35 above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

SEVENTH CLAIM FOR RELIEF (Against Sigma Chi)
(Premises Liability)

86. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-85 above.
87. Sigma Chi owned the building in which Ms. Babler was raped and sodomized.
88. Sigma Chi failed to use reasonable care with respect to the dangerous condition of risks of sexual harassment and assault at the Sigma Chi house which it created or allowed to exist.
89. Injury to guests at Sigma Chi parties and fraternity house because of the dangerous condition was foreseeable.
90. Sigma Chi actually knew about or, with reasonable care, should have known about these dangers.
91. Sigma Chi had a duty to reasonably ensure the safety and security of its guests at parties and on its premises.
92. As an invitee of Sigma Chi and its members, Ms. Babler was within the class of persons likely to be injured by the dangerous condition and Defendants' negligence.
93. Sigma Chi failed to use reasonable care to protect Ms. Babler and to warn her about these dangers which it knew about and which were not ordinarily present in on campus ASU residential housing.
94. Sigma Chi's failures caused Ms. Babler's injuries, damages, and losses, as set forth above in paragraphs 30-35 above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EIGHTH CLAIM FOR RELIEF (Against Sigma Chi)
(Nuisance)

95. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-94 above.

96. The conduct of Sigma Chi complained of herein constituted a public nuisance which proximately caused Ms. Babler's injuries, damages, and losses set forth in paragraphs 30-35 above.

NINTH CLAIM FOR RELIEF (Against all Defendants)
(Joint Venture)

97. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-96 above.

98. The Defendants had a mutual understanding, express or implied, from which arose a joint interest in taking sexual advantage of female ASU students.

99. The Defendants were engaged in a joint venture to sponsor a party and its aftermath at the Sigma Chi house where dangerous conditions existed through furnishing alcohol to underaged females, adulterating their drinks, luring them to the Sigma Chi house in violation of ASU policy, and there taking sexual advantage of them.

100. Each Defendant had some voice or right to be heard in the control or management of the venture.

101. The negligence of any venturer is charged against all venturers.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

TENTH CLAIM FOR RELIEF (Against Sigma Chi)
(Respondeat Superior)

102. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-101 above.

103. Mr. Gallagher, Mr. Potter, and/or other Sigma Chi members, as members in good standing of Sigma Chi, were its agents, acting within the scope of their agency at the time they incapacitated and sexually assaulted and harmed Ms. Babler.

104. The acts and omissions of Mr. Gallagher, Mr. Potter, and/or other Sigma Chi members against Ms. Babler are in law the acts and omissions of Sigma Chi, for which it is liable.

ELEVENTH CLAIM FOR RELIEF (Against Sigma Chi)
(Ratification and Agency)

105. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1-104 above.

106. Sigma Chi learned about Mr. Gallagher's or other Sigma Chi members' rape of Ms. Babler, and may have learned about Mr. Potter's involvement in incapacitating Ms. Babler beforehand.

107. Sigma Chi, despite its knowledge, chose not to expel or discipline Mr. Gallagher, Mr. Potter, or other members, but instead to maintain them as Sigma Chi members in good standing.

108. Sigma Chi had full knowledge of all important facts regarding Mr. Gallagher's, Mr. Potter's, or other members' actions.

1 109. By taking no action against them, Sigma Chi, by words or conduct, ratified or
2 accepted their actions after they were done.

3 110. Sigma Chi's ratification of their conduct is the same as authorization before their
4 actions.

5 111. Mr. Gallagher, Mr. Potter, and/or other members were acting as Sigma Chi's
6 agents in incapacitating, raping, and sodomizing Ms. Babler, and their acts and omissions are in
7 law the acts and omissions of Sigma Chi, for which it is liable.

8
9 **TWELFTH CLAIM FOR RELIEF (Against all Defendants)**
10 **(Intentional Infliction of Emotional Distress)**

11 112. Plaintiff realleges and incorporates by this reference the allegations of paragraphs
12 1-111 above.

13 113. The conduct of Mr. Gallagher, Mr. Potter, Sigma Chi and other Sigma Chi
14 members was extreme and outrageous.

15 114. The Defendants engaged in this conduct with the intent of causing Ms. Babler
16 severe emotional distress.

17 115. The Defendants' conduct did cause Ms. Babler severe emotional distress, as set
18 forth in paragraphs 30-35 above.

19
20 **THIRTEENTH CLAIM FOR RELIEF (Against all Defendants)**
21 **(Punitive Damages)**

22 116. Plaintiff realleges and incorporates by this reference the allegations of paragraphs
23 1-115 above.

1 117. The conduct of Defendants complained of herein was willful and wanton, and
2 attended with malice or a conscious or reckless disregard for a substantial risk of harm to Ms.
3 Babler.

4 118. Ms. Babler is entitled to exemplary or punitive damages to punish and deter such
5 conduct.
6

7 **JURY TRIAL DEMAND**

8 Plaintiff hereby demands a jury trial.

9 **WHEREFORE**, Plaintiff seeks a judgment against Defendants, jointly and severally, as
10 follows:

11 1. An award of damages against all Defendants to be determined at trial, including,
12 without limitation, Plaintiff's past and future economic losses incurred as a consequence of the
13 sexual assault; and damages for past, present and future physical and emotional pain and
14 suffering, ongoing and severe mental anguish, and loss of past, present and future enjoyment of
15 life and impairment of earnings capacity in amounts to be determined by the jury;

16 2. Punitive or exemplary damages;

17 3. Statutory interest on all sums awarded;

18 4. Costs, including witness and expert witness fees, pursuant to A.R.S. § 12-341;


19 5. Attorney fees; and

20 6. Such other and further relief as the Court may deem just and proper.
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED: February 1, 2010

JENKINS LAW FIRM



LaShawn D. Jenkins
695 West Baseline Rd., Ste. 102
Phoenix, AZ 85041
602-283-9868 / phone

Attorneys for Plaintiff