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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 **RYAN CLIFFORD**
11 Plaintiff,

Case Number:

COMPLAINT FOR DAMAGES

12 vs.

13 **REGENTS OF**
14 **UNIVERSITY OF**
15 **CALIFORNIA; TRACY**
16 **GRISSOM (as an individual);**
17 **PAUL CODY (as and**
18 **individual); And Does 1**
19 **through 50, Inclusive,**
20 **Defendants.**

- 21 **1. TITLE IX (HOSTILE**
- 22 **EDUCATIONAL**
- 23 **ENVIRONMENT)**
- 24 **2. DUE PROCESS (14TH**
- 25 **AMENDMENT; EQUAL**
- 26 **PROTECTION; 42 USC §1983)**
- 27 **3. SUBSTANTIVE DUE**
- 28 **PROCESS (1ST**
- AMENDMENT;**
- WHISTLEBLOWING; 42 USC**
- §1983)**
- 4. VIOLATION OF CAL. CIVIL**
- CODE §52.1/52.7**
- 5. NEGLIGENCE**
- 6. INTENTIONAL INFLICTION**
- OF EMOTIONAL DISTRESS**

DEMAND FOR JURY TRIAL

29 Plaintiff Ryan Clifford (hereinafter “Clifford” or “Plaintiff”), in his
30 individual capacity, hereby complains against Defendants Board of Regents for
31 University of California Davis, Tracy Grissom in her individual capacity, and Paul
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1 Cody in his individual capacity (hereinafter respectively “U.C. Davis”, “Grissom”
2 and “Cody”, collectively referred to as “Defendants”), and on information and
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4 belief, alleges as follows:

5 **PARTIES**

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7 1. At all times mentioned relevant hereto, Plaintiff Ryan Clifford was a student
8 at University of Davis and a resident of the City of Woodland, County of Yolo,
9 state of California.

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11 2. Defendant U.C. Davis is a government entity operating pursuant to its
12 Charter.

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14 3. Defendant Grissom is an individual working as an Advisor for U.C. Davis,
15 residing in the County of Yolo, in the state of California.

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17 4. Defendant Paul Cody is an individual working as an Advisor and
18 administrator for U.C. Davis in the County of Yolo, in the state of California.

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20 5. Plaintiff is ignorant of the true names and capacities, whether corporate,
21 associate, individual, or otherwise, of Defendants sued herein as DOES 1 through
22 50, Inclusive, and therefore sues said Defendants, and each of them, by such
23 fictitious names pursuant to Code of Civil Procedure Section 474. Plaintiff will
24 seek leave of court to amend this Complaint to assert the true names and capacities
25 of the fictitiously named Defendants when the same have been ascertained.

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27 Plaintiff is informed and believes, and thereon alleges, that each Defendant
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1 designated as “DOES” herein is legally responsible for the events, happenings,
2 acts, occurrences, damages, and liabilities hereinafter alleged and caused.
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5 **FACTS**

6 6. On or about the fall of 2007, Ryan transferred to UC Davis. He was
7 majoring in communication and had plans to attend UC Davis’ graduate school
8 program. During the semesters before he joined the AEPi fraternity, he had
9 excellent grades and was admitted to Dean’s Honor List in Spring 2008 for his
10 academic excellence. Ryan was healthy and enjoyed working out at the gym and
11 playing the guitar.
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15 7. In the Fall of 2008, Ryan pledged the Chi Delta chapter of Alpha Epsilon Pi
16 (AEPi) fraternity. AEPi is a registered student organization of UC Davis. As a
17 registered organization, UC Davis bestows certain privileges upon the fraternity,
18 including but not limited to official university recognition of the organization,
19 access to on-campus activities, access to university funding and financing for
20 projects, access to training and support services, access to electronic mail
21 privileges and permission to recruit new members from the UC Davis student
22 body.
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26 8. As a registered fraternity of the UC Davis Campus, AEPi is subject to UC
27 Davis’ student code of conduct for student organizations which contains
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1 regulations prohibiting alcohol abuse and hazing in initiation and pre-initiation
2 activities.

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4 9. As part of the pledging and applying for admission to AEPi, Ryan was
5 required to participate in various initiation and pre-initiation activities.

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7 10. AEPi is a Jewish fraternity. Ryan was the only one of 24 pledges who was
8 not of the Jewish faith. Ryan was specifically targeted for the harshest form of
9 hazing known as “ratfucking” because of his non-Jewish religious affiliation.

10
11 11. On October 17, 2008, the fraternity hosted a mandatory, and alcohol-filled
12 retreat in Lake Tahoe. The pledges were compelled by active and alumni members
13 of the fraternity to drink inordinate amounts of alcohol and consume beverages
14 containing unknown narcotic substances. Ryan was drugged and sexually assaulted
15 by members of the fraternity. His clothing was pulled off while members of the
16 fraternity touched his penis and made sexual comments. These activities
17 constituted hazing and were required as a condition of membership in the
18 fraternity. Ryan was targeted for the harshest form of hazing because of his
19 religious affiliations.
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23 12. On October 18, 2008, during the retreat, a parent called UC Davis Police to
24 report forced drinking and hazing violations, and a police officer went to the
25 fraternity house to check out about the parent’s phone call. That night at the retreat,
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1 the pledges were drilled and threatened with regard to the parent's phone call to the
2 police by members of the fraternity. The University was notified of the call
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4 13. On October 20, 2008, Ryan's mother called AEPi National Headquarters to
5 report hazing that included forced drinking, members smoking marijuana,
6 strippers, "rat-fucking" and her son's sexual assault. The fraternity and the
7 university knew that the call was made by Ryan's parent.
8

9 14. During and after the Tahoe retreat, Ryan and the other pledges were
10 chastised and ridiculed and subjected to threats of violence because of the
11 complaints by pledges' parent to the University which undermined the fraternities
12 rigid "code of silence."
13

14 15. On November 5, 2008, Ryan and the other pledges were instructed to meet
15 at the fraternity house for an official fraternity event. Ryan and the other pledges
16 were taken to an Alumni's house and compelled to drink excessive amounts of
17 alcohol, but Ryan refused to participate. Ryan was ordered to put on a padded vest
18 and was then punched in the stomach by a fraternity member and a pledge. Ryan
19 was ridiculed by fraternity members as he bent over in pain. Thereafter, Ryan and
20 the other pledges were returned to the fraternity house. At this point, the fraternity
21 members were intoxicated. Fraternity members including Ryan's "big brother" and
22 the "father" of his "family" Danny Sacher, pressured Ryan to drink and play
23 drinking games.
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1 16. At the conclusion of the drinking game, Danny Sacher, charged at Ryan and
2 tried to grab him but fell on chairs in the room. Ryan told him he didn't want to
3 get hurt. As Ryan headed toward the front door to leave the fraternity house,
4 Sacher grabbed Ryan from behind, began to choke him, stomped on Ryan's right
5 foot and knocked him to the floor. Ryan screamed for him to stop, however, the
6 assault continued, severely injuring Ryan's foot. Sacher continued to choke and
7 attack Ryan. The night's events constituted hazing, and in fact caused Ryan serious
8 bodily injury. Ryan was targeted for the harshest form of hazing because of his
9 religious affiliations. Ryan was targeted for the harshest form of hazing because
10 his parents had reported to AEPi national headquarters of hazing, sexual abuse,
11 drugs and drinking and because parents of pledges had given notice to the
12 University of same.

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18 17. Ryan was left by the fraternity members with his foot crushed,
19 incapacitated, and unable to walk.

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21 18. Ryan's parents took Ryan to the emergency room where he was treated for
22 serious injuries to his foot.

23 19. Ryan was directed to an orthopedic specialist. He suffered multiple
24 fractures in his foot that required two surgeries, including a fusion of the joints.
25 The result of this injury included lost range of motion, permanent limp, severe
26 pain, and increased susceptibility to arthritis.
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1 20. On October 28, 2008, Paul Cody of the Office of Student Programs and
2 Activities Center, who had been aware of previous egregious violations by AEPi
3 and its membership, met with the president of AEPi to discuss parental complaints
4 related to the events in Lake Tahoe. He also contacted AEPi national headquarters.
5

6 21. On November 3, 2008, Paul Cody placed AEPi on “conditional registration”
7 status for a seven-month period. According to the University’s policies, the
8 minimum conditional registration period was one year.
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10 22. As part of the “conditional registration,” AEPi was allowed to continue the
11 pledge process and instructed to submit a detailed pledge education program to the
12 University for review by November 2008. At the same time, UC Davis and Paul
13 Cody informed AEPi that the University was committed to supporting the
14 fraternity.
15

16 23. Although, the University’s policies required diligent and consistent follow-
17 up and monitoring of organizations on conditional registration, the University and
18 Cody conducted no follow-up to monitor or enforce the “conditional registration”
19 requirements until June 22, 2009, three weeks after the University was notified
20 about Ryan’s civil case against the fraternity.
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22 24. Ryan was not informed, at this time, by Cody or anyone at the University
23 that AEPi had been placed on conditional registration or given any information
24 regarding the terms of the probation.
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1 25. On November 6, 2008, 3 days after the commencement of the “conditional
2 registration,” Ryan’s foot was crushed by an AEPi members who subjected Ryan
3 to inordinately harsh hazing and initiation activities.
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5 26. In Fall 2008, Ryan alerted his UC Davis Advisor for Undergraduate
6 Education, Tracy Grissom, of the AEPi event in Tahoe wherein he was sexually
7 assaulted by fraternity members. Ryan informed Grissom that the pledges were
8 compelled to drink excessive amounts of alcohol and unknown narcotic substances
9 and subjected to demeaning and humiliating acts as part of the initiation process.
10 Ryan further advised Grissom that he was afraid of being on campus due to
11 continuing hazing and the assault by AEPi members. Grissom chose not to report
12 or make note of the incident. During the same time frame, Ryan reported these
13 events to his professors.
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18 27. In Winter 2009, Ryan again reported to UC Davis through his advisor Tracy
19 Grissom and other advisors about hazing and assaults that he endured by AEPi and
20 the fear of retaliation.
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22 28. In Winter 2009, on several occasions Ryan was approached by fraternity
23 brothers and interrogated as to why he wasn’t attending fraternity meetings. On
24 one occasion, subsequent to questioning Ryan about his absenteeism, a member
25 pulled out his cell phone and reported to someone that he saw Ryan on campus
26 walking into the Wellman building.
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1 29. In Spring 2009, Ryan, who was attending classes full-time, informed the
2 Office of the Dean of Students of continuing emotional and physical distress
3 caused by attending classes with members of the fraternity. During this time
4 period, the University was informed of the state lawsuit that had been filed against
5 the fraternity. Thereafter, Ryan was advised by the Office of the Dean to withdraw
6 from classes and to discontinue his attendance at UC Davis. Pursuant to the
7 University's recommendation Ryan withdrew from his classes.
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11 30. In Summer 2009, after plaintiff filed suit in Yolo County, Paul Cody,
12 endeavored to conceal information regarding AEPi's conditional registration status
13 from plaintiff and limited his follow-up of AEPi in order to avoid the generation of
14 information regarding the conditional registration.
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16 31. In Fall 2009, Ryan re-enrolled and attended classes part-time. He advised
17 the Office of the Dean of continuing distress due to the events that took place with
18 respect to fraternity in 2008. Ryan advised the Dean's Office that he was
19 undergoing extensive medical treatment and under psychiatric care due to injuries
20 he sustained at the initiation events. He further informed his advisors and the
21 Dean's Office that he was intimidated and in fear of retaliation because he was
22 attending classes with members of the fraternity. Ryan received no support;
23 instead, on November 2, 2009, he was notified by Tracy Grissom that he should
24 drop out of classes, indefinitely.
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1 32. In Winter 2010, Ryan advised the Office of the Dean of continuing distress
2 due to the events that took place at the fraternity in 2008 and the permanent
3 injuries he suffered. He received no support and no response from the Office of
4 the Dean of Students. Thereafter, Ryan discontinued his attendance at UC Davis.
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6 33. Ryan was 6.5 credits short of the required credits for graduation in Spring
7 2010.
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9 34. In Winter 2010, Ryan filed a complaint with the Office of the Dean of
10 Students notifying the Dean of the distress of attending classes at the University
11 due to the intimidating presence of the fraternity members and requesting that he
12 be excused from the requirement of completing the final 6.5 credits and be
13 permitted to graduate. The Office of the Dean refused to accept the request and
14 arbitrarily and summarily rejected Ryan's complaint. He was advised to find
15 another school to take classes so that he could graduate in the Fall.
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18 35. In Spring 2010, Ryan attended classes online at the Rio Hondo and
19 Woodland Community Colleges.
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22 36. Ryan received his degree from UC Davis at the end of the Spring quarter of
23 2010, a year behind his scheduled date for graduation. Ryan could not attend the
24 graduation ceremony, due to fear of reprisals by fraternity members attending the
25 graduation ceremony.
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1 37. UC Davis failed to investigate the harassment and failed to take steps to
2 protect Ryan from further harassment and distress. UC Davis failed to administer
3 its duties under its student policies to investigate and address formal and informal
4 complaints of harassment and discrimination, discipline student organizations for
5 hazing and alcohol consumption, and/or report abuse to the authorities for
6 prosecution.
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9 38. On June 23, 2010, Ryan requested through a Public Records Act request
10 documents as evidence to what AEPi fraternity had committed against him. He
11 spoke with Lynette Temple of the Campus Counsel and advised her he had been
12 assaulted by AEPi fraternity.
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15 39. On August 18, 2010, by phone, Ryan reported his assault to Marisa Messier,
16 UC Davis Victim Advocate. On August 24, 2010 he met with Ms. Messier to
17 discuss what could be done for him.
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19 40. On August 20, 2010, Ryan met with Lynette Temple to review the
20 requested documents and he let her know that he had been both physically and
21 sexually assaulted.
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23 41. On September 2, 2010, he met with UC Davis Police Officer Shedd and Ms.
24 Messier and a police report was taken about the sexual assault. Officer Shedd
25 stated that hazing was not illegal.
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1 42. On September 9, 2010, Ryan's mother spoke with the UC Davis Office of
2 the Chief Compliance Officer about what happened to Ryan.

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4 43. On September 16, 2010, Ryan's mother spoke with Michael Sweeney, UC
5 Davis Campus Counsel, about what happened to Ryan.

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7 44. On September 16, 2010, Ryan's mother spoke with Branden Petitt, UC
8 Davis Director, Office of Student Development about what happened to Ryan and
9 voiced her concerns about UC Davis' failure to investigate what happened to her
10 son.

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12 45. On September 22, 2010, Ryan's mother spoke with the UC Regents, Office
13 of President, Educational Outreach about what happened to Ryan, but they failed
14 to follow up with her request of investigating what happened to Ryan.

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16 46. On January 6, 2011, Ryan, his parents, and his attorney met with Emily
17 Galindo, UC Davis Associate Vice Chancellor of Student Affairs. Ryan shared
18 numerous documents and photos with her showing AEPi had been violating state
19 laws and university policies for years. He and his attorney asked that the fraternity
20 be closed, that action be taken against those that assaulted Ryan, and to release the
21 fraternity documents during Ryan's pledge quarter and any documents pertinent to
22 AEPi's student misconduct for the last 10 years. Ms. Galindo didn't comply with
23 any request.
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27 47. In June 2011, Ryan spoke with Captain Joyce Souza, UC Davis Police
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1 about what happened to him and asked that something be done with AEPi for
2 physically and sexually assaulting him. Souza said it was out of her jurisdiction,
3 although she was informed that University policy includes jurisdiction over Off-
4 Campus student organizations such as a fraternity.
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6 48. Despite Plaintiff's continuous complaints and request for a meaningful
7 response from UC Davis, Defendants failed to meaningfully respond, adequately
8 investigate, or take action against the fraternity. In failing to investigate and take
9 steps to protect Ryan, UC Davis and its administrator acted in a manner that was
10 discriminatory as compared with its treatment of female students reporting similar
11 abuse and harassment.
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14 49. The absence of any meaningful response by Defendants and
15 administrators to the harassment suffered by Ryan shocks the conscience and was
16 negligent, reckless, wanton, knowing, intentional, discriminatory and deliberately
17 indifferent to the health and safety of Ryan Clifford.
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20 50. As a direct and proximate result of Defendants actions and inaction,
21 Ryan Clifford suffered and continues to suffer severe emotional distress, pain and
22 suffering, and extreme humiliation and embarrassment.
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25 51. The harassment Ryan suffered was so severe, pervasive and objectively
26 offensive that it deprived him of access to educational opportunities and benefits
27 provided by the school.
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DAMAGES

52. Plaintiff Ryan Clifford suffered extensive personal injuries to his body and has sustained severe emotional distress.

INCORPORATION BY REFERENCE

53. Each of the paragraphs of this initial complaint are incorporated reference into each of the following causes of action, and each of the allegations within each cause of action are incorporated by reference into each of the other causes of action.

FIRST CAUSE OF ACTION-20 U.S.C §1681

(Against Defendant UC Davis)

54. Defendant violated Plaintiff Ryan Clifford’s right to be free from discrimination on the basis of sex in federally funded education programs and activities. Clifford’s reported harassment that was severe, pervasive, and objectively offensive to an appropriate person, as the Defendant’s policies instructed. The Defendant’s response to this report was clearly unreasonable in light of the known circumstances, depriving Ryan Clifford of his access to the educational opportunities and benefits that the school provides and creating a hostile learning environment. Defendant’s failures and omission with respect to investigating, addressing and/or remedying Plaintiff’s complaints of abuse constituted a conscious discriminatory act amounting to deliberate indifference.

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SECOND CAUSE OF ACTION-42 U.S.C. §1983 (Equal Protection)

(Against UC Davis, Defendants Grissom and Cody and Doe defendants in their individual capacity)

55. Defendants have, under color of law, deprived Plaintiff of clearly established rights, privileges, and immunities secured by the Fourteenth Amendment of the Constitution. These are rights of which a reasonable person would have known. These rights include, but are not limited to, the right of equal protection and the right to due process of law. The Defendants' actions shocks the conscience and violated the Plaintiff's right to equal protection by failing to address Plaintiff's complaints of harassment when they had previously intervened for other students.

THIRD CAUSE OF ACTION-42 U.S.C. §1983 (1st Amendment)

(Against Defendant UC Davis, Grissom, Cody and Doe defendants in their individual capacities)

56. Defendants have, under color of law, deprived Plaintiff of clearly established rights, privileges, and immunities secured by the First Amendment of the Constitution. These are rights of which a reasonable person would have known. These rights include, but are not limited to, the right of protected speech involving matters of public concern addressed to a public forum and the right to due process of law. Defendant, motivated by Plaintiff's complaints and whistleblowing in the

1 form of a lawsuit against AEPi and certain of its members, counseled plaintiff to
2 withdraw from the University and rejected plaintiff's grievance application. The
3
4 Defendants actions shock the conscience and violated the Plaintiff's right to free
5 speech because Defendant retaliated against plaintiff for speaking out against
6
7 AEPi, a registered student organization.

8 **FOURTH CAUSE OF ACTION-VIOLATION OF CAL. CIVIL CODE §52.1**

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10 **(Against Defendant UC Davis)**

11 57. The United States Constitution, Amendment IV, and the California
12 Constitution, Article I, and California Civil Code 52.7 guarantee the right of
13 persons to be free from threats and intimidation based on religious and political
14 affiliations or on the basis of sex. Defendants, by engaging in the wrongful
15 conduct alleged herein, denied this right to plaintiff, thus giving rise to a claim for
16 damages pursuant to California Civil Code § 52.1.

17 58. As a direct and proximate cause of the aforementioned acts of defendants,
18 plaintiff was injured as set forth above and is entitled to statutory damages under
19 California Civil Code § 52, as well as compensatory and punitive (treble) damages
20 according to proof.

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22 **FIFTH CAUSE OF ACTION-NEGLIGENCE**

23
24 **(Against All Defendants)**

25 59. Defendants owed Plaintiff a duty of care and had a fiduciary responsibility
26 to exercise due care.
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1 60. Defendants knew or in the exercise of due care should have known, that the
2 registered fraternity, AEPi engaged in conduct that violated the University's
3 policies and the laws of the state of California and of the United States.
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5 61. At all times material herein, said Defendant entities and supervisors knew or
6 with reasonable care should have known, that the aforementioned traits of
7 character, practices and propensities of AEPi and its members rendered the
8 fraternity unfit for University sponsorship as a "registered" fraternity and unfit to
9 conduct pledge-related activities with UC Davis students.
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11 62. Notwithstanding such knowledge, Defendant entities and supervisors
12 negligently and carelessly retained and failed to properly supervise, train and
13 control AEPi.
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15 63. As a proximate result of the negligent retention and supervision of defendant
16 entities and supervisors and each of them, plaintiff suffered damages and injuries,
17 including but not limited permanent physical injury, beatings, threats, severe
18 mental anguish, emotional distress, severe embarrassment, financial losses, all to
19 the Plaintiff's damage in a sum according to proof.
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1 **SIXTH CAUSE OF ACTION-INTENTIONAL INFLICTION OF**
2 **EMOTIONAL DISTRESS**

3
4 **(Against all Defendants)**

5 64. In doing the aforementioned acts, Defendants' conduct was intentional,
6 outrageous, malicious, and done for the specific purpose of causing Plaintiff to
7 suffer extreme emotional and physical distress, fear, anxiety, and mental anguish.
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9 65. As a proximate result of the aforesaid acts and omissions of Defendants, and
10 each of them, Plaintiff sustained great physical and mental pain and shock to their
11 nervous systems, fear, anxiety, torment, degradation and extreme emotional
12 distress.
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15 66. By reason of the aforementioned acts and omissions of Defendants, and each
16 of them, Plaintiff did and will in the future continue to incur medical and
17 therapeutic expenses in an amount as proved.
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19 67. By reason of the aforementioned acts and omissions of Defendants, and each
20 of them, Plaintiff was prevented from attending to his usual occupations, and has
21 suffered loss and impairment of earnings and employment opportunities all to his
22 damage in an amount as proved.
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24 68. By reason of the aforementioned acts of Defendants, and each of them,
25 Plaintiff was compelled to secure the services of an attorney at law to redress the
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REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury of all legal issues by jury.

Dated: 11/4/11

LAW OFFICE OF LISA HOLDER

By: /s/ Lisa Holder

Lisa Holder
Attorneys for Plaintiff