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To Survive, Fraternities Need to Stand for Something, *Anything*

In my post entitled "Fraternities: Disastruous for Free Speech on Campus" (available on huffingtonpost.com), I talked about how Delta Kappa Epsilon's decision not to fight its suspension at Yale University could have serious ramifications for the free speech rights of college students across the country. In this post, I plan to take a step back and explain to fraternities why standing up for free speech--or at least standing up for something--is not only a good thing as a matter of principle, but may also be crucial to their survival as a matter of law. While the legal analysis here applies equally well to sororities, I'm continuing to focus on fraternities because, frankly, fraternities, in my experience, are far more likely to be the ones getting in serious trouble than sororities.

A lot of fraternities seem to know that their freedom of association is protected by the First Amendment. (While the freedom to join and form groups is not technically listed in the text of the First Amendment, it is understood to arise from the protections of freedom of speech and the right to assembly.) What fraternities often do not know, however, is that there are several different kinds of freedom of association protected by the First Amendment, and they are *not* all made equal.

The strongest kind of freedom of association protected by the First Amendment is the right to "intimate" association, best represented by the family. Our government recognizes that the bonds of family are particularly important and that it should do its best to avoid actions that interfere with this bond. The second strongest kind of freedom of association is called "expressive" association. Sensibly, courts understand that the right to freedom of expression would not mean a great deal if we are forbidden from joining together with like-minded individuals to amplify the power of our voices and take collective action. This understanding forms the basis of our right to form groups around commonly held beliefs whether they are religious, secular, or ideological. Everything from Mothers Against Drunk Driving to NORML is a kind of expressive association. (This includes my nonprofit, the Foundation for Individual Rights in Education, as well.)

Far, far below these two strongly protected forms of association is the weakling of the group: "social" association. Social associations are those groups that are built around activities like hanging out, drinking beer, having fun, or generally just excluding people you think are not quite as cool. While social associations do enjoy some protection under the First Amendment, it's a very weak protection because, frankly, courts simply do not believe that social associations are that important. Therefore, the government can assume greater powers over the regulation of purely social associations than they could ever assume for expressive or intimate associations.

So what does this all mean for fraternities? It means that if all you do is party and hang out on your campus, it's possible that even public universities bound by the First Amendment can kick you off campus. The case law is a bit mixed, but in a 2007 case at the College of Staten Island, for example, the United States Court of Appeals for the Second Circuit allowed the college to eliminate a fraternity altogether, holding that the fraternity enjoyed very limited associational rights because it was merely a social institution.

Fraternities faced with such challenges to their existence in the past have tried to argue that they are "intimate" associations. Sorry, guys, but courts haven't fallen for that because you're not *literally* brothers.

The next best hope for fraternities is to claim that they operate as expressive associations, but in order to enjoy the strong protection of expressive associations you have to, well, stand for something. In a 2000 case, the United States Court of Appeals for the Third Circuit threw out a fraternity's expressive association claim because the fraternity failed to demonstrate that it had ever stood up for a larger cause or principle in any sustained way, observing:

"While the international organization of Pi Lambda Phi has an admirable history that includes being the country's first non-sectarian fraternity, there is no substantial evidence in the record that the University chapter of Pi Lambda has done anything to actively pursue the ideals underlying this stance. Although members of the Chapter claimed in their deposition testimony that the Chapter still promotes these ideals, they did not give any specific examples of how it does so. Furthermore, while Pi Lambda Phi's international organization runs various programs aimed at individual development, there is no evidence in the record that even a single member of the University chapter participated in any of these programs.

The Chapter also points to a couple of relatively minor acts of charity performed in 1996 as proof of its expressive aspects, but these are underwhelming. The Chapter represents that it once helped run a Halloween

haunted house for the Pittsburgh School for the Blind, raised $350 through selling raffle tickets for a charity called the Genesis House, and ran a "Breakfast with Santa" to raise money for Genesis House. The Chapter's counsel admitted at oral argument that this was the extent of the Chapter's charitable activities.

A few minor charitable acts do not alone make a group's association expressive, and community service must have more than a merely incidental relationship to the group's character for such service to implicate the constitutional protection of expressive association. The Chapter has not shown in the record that its sporadic acts of community service are related to its basic nature or goals." *Pi Lambda Phi Fraternity Inc. v. University of Pittsburgh*, 229 F.3d 435, 444 (3rd Cir. 2000) (internal citations omitted).

Given the court's analysis, however, it does seem clear that a fraternity that had made a sincere and concentrated effort to stand for something more than social events might enjoy the strong protections of expressive association. As the court noted, "We add that we are not holding that fraternities per se do not engage in constitutionally protected expressive association. It is entirely possible that a fraternity (or sorority, or similar group) could make out a successful expressive association claim..."

So, long before your fraternity ever gets itself in trouble, choose a cause to stand up for and commit to defending and advocating for it. Given that fraternities often run afoul of controversies involving free speech, choosing to host activities and seminars advocating freedom of speech, academic freedom, and expressive rights is a natural, but really any commitment to a larger cause would do. Standing up for a cause is not only a good way to show that fraternities can make a positive contribution to society, but it also helps ensure the future survival of the fraternity.

- Greg Lukianoff

Mr. Lukianoff is the President of the Foundation for Individual Rights in Education (FIRE).

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Publisher's Note on Associational Rights

Greg Lukianoff makes his point in the accompanying article in a harsh and potentially upsetting way. But it has great validity. Those chapters that lose track of the purpose for which their national organization was founded endanger both their own existence and that of the Greek system as we know it.

Fraternities and sororities do great things. They can and do offer enormous benefits to their members. But like most good news, that is too often overlooked.

Fraternities and sororities strengthen their position in attempting to enforce their First Amendment Freedom of Association rights by rededicating themselves to the purposes for which their organizations exists. Those purposes are typically established in governing documents or other core statements.

Sigma Nu, for example, includes in its creed, "to guard with jealous care, not only ancient rights of human freedom … but also the newer rights of social service." Delta Gamma prides itself on "a strong dedication on personal values and standards, academic excellence, leadership and service." Alpha Phi Alpha includes in its Visions Statement, "to aide down-trodden humanity in its efforts to achieve higher social, economic and intellectual status." Similar language can be found among the purpose statements of virtually every national fraternity and sorority.

Fraternities and sororities on a national level encourage a broad range of philanthropic activities. Chapters, to be in the best position to fight for their associational rights, must actively participate in the philanthropic activities supported by the national organizations. Philanthropic efforts by national Greek organizations and their foundations include programs like Sigma Gamma Rho's dedication to teaching young people the concepts of financial savings and investing. Phi Delta Theta is maintaining a commitment to defeating ALS, which took the life of Lou Gehrig, one of their most famous brothers. Chi Omega supports Make a Wish Foundation. These are but examples. Supporting such philanthropies in a public way aids in demonstrating the expressive nature of fraternities and sororities.

Greek groups can be advocacy organizations. Delta Sigma Theta, for example, has included in their programming for decades the advocacy of voter rights. Chapters of other groups could join with them or the League of Women Voters to conduct a voter registration drive on campus. At a state university, a chapter could advocate with local legislators to support public colleges and universities. Chapters could join with the efforts of the Fraternity and Sorority Political Action Committee to support legislation that will help preserve and improve safety of fraternity and sorority houses.

All of these activities emphasize the fact that Greek organizations are and must be other than the drinking clubs that some media portray them as. Those chapters that deserve such portrayals need to rededicate themselves to and be advocates for the purposes for which their parent organizations were founded.

The long term defense of the single-sex Greek system may well depend on it.

- Timothy M. Burke

Insurers Won't Defend Hazing or Alcohol Claims

When hazing causes a tragic death, or serious injury, it often leads to litigation. Some insurance providers are now taking a very hard look at whether or not they have responsibility to defend such litigation.

In March of this year, Liberty Corporate Capital, an insurance provider for Sigma Alpha Epsilon, filed suit seeking a declaration that it was not responsible for defending the fraternity's chapter at California Polytechnic State University or its members who participated in the hazing of Carson Starkey. Starkey died after, as Liberty said in its complaint,[1] "he was hazed and forced to consume alcohol by chapter members as part of a chapter big brother event called 'Brown Bag Night.'" Liberty argued that it had no duty to defend because the insurance policy issued to the national fraternity specifically excluded coverage for hazing and alcohol violations. Further, the insurance company points out that the policy provided for no coverage to any of the undergraduate insureds for any claim arising out of or in any way related to any violation of the fraternity's alcohol policy.

In a similar tragic matter, RSUI, an insurance company from Georgia, contributed to the settlement of a lawsuit growing out of the death of Michael Starks at Utah State University. RSUI then filed suit against four of the members of Sigma Nu who were alleged to have played a role in the alcohol poisoning which led to Starks' death. The insurance company argued "the defendants are required to pay their portion of the amount used to settle the claims against them." Counsel for one of the students was quoted in *The Insurance Journal*[2] as saying "you cannot subrogate against your own insured, that is almost the definition of insurer bad faith."[3]

The Utah State suit was settled prior to any court hearing. The terms were not disclosed, although attorneys for the students were quoted as saying no money was paid to the insurance company. The Liberty suit remains pending.

Whatever the results of the Liberty case, the question of insurance coverage is yet another of the consequences of the tragedies of hazing and alcohol. That insurance companies would seek to avoid coverage is not surprising. Typically, insurance carriers will neither defend nor pay for the consequences of a deliberate act. The insurance company of an individual who punches someone in the mouth is not likely to agree to defend the puncher or agree to pay the victim's dental bill. The punch was a deliberate act. The individual who threw the punch may not have intended to break the individual's teeth, but he sure intended to throw the punch. The same problem exists for those who engage in hazing. They certainly did not intend that the victim die, but they did intend to haze the victim.

The families of victims like Carson Starkey and Michael Starks will long grieve the deaths of their loved ones, but those who engaged in the hazing that led to the deaths, in addition to whatever criminal consequences they may or may not suffer, may also find themselves with enormous uninsured personal financial responsibilities as a result of their actions.

1 *Liberty Corp. Capital, Ltd. v. Cal. Tau Chapter of Sigma Alpha Epsilon Fraternity at Calpoly State University, et al.*, No. 11-2626 (CD Cal) (the Complaint was filed March 29, 2011, in the United States District Court for the Central District of California.)

2 http://www.insurancejournal.dot/news/west/2011/05/03/197163.htm

3 Ibid.

- Timothy M. Burke

Hazing Hotline Enters Fifth Year with 32 Sponsors

The Greek Anti-Hazing Hot Line is now entering its fifth academic year. Established in 2007 by a consortium of national collegiate fraternities and sororities, the Hotline had 95 calls in the academic year concluded in June, 2011.

The Hotline provides an anonymous telephone line for anyone to report a suspected or recent hazing incident to one number, 1-888-NOT-HAZE (1-888-668-4293), that accepts calls 24 hours a day. Those audio reports are transmitted by e-mail to the fraternities or sororities about whose chapters the complaints are made. This is true whether or not the reports are about one of the sponsors or another organization. In some instances, reports are about athletic teams, bands or clubs. When those calls are received, the institution where the organization is located is contacted. Fraternities and sororities receive an audio clip of the phone call and a copy of the hazing law of the state involved.

Manley Burke's webpage (http://www.manleyburke.com/practice-areas/fraternal-organizations/), in addition to the entire archives of *Fraternal Law*, now also contains the nationwide database that includes hazing laws for every state that we assembled in conjunction with our work with the Hazing Hotline. Access to the database is free of charge.

The sustaining men's group sponsors are Alpha Sigma Phi, Beta Theta Pi, Delta Chi, Delta Sigma Phi, Delta Tau Delta, Delta Upsilon, Delta Zeta, Kappa Alpha Order, Lambda Chi Alpha, Phi Gamma Delta, Phi Kappa Psi, Phi Kappa Sigma, Phi Kappa Tau, Pi Kappa Phi, Sigma Alpha Epsilon, Sigma Pi, Tau Kappa Epsilon, Theta Xi, and Zeta Beta Tau. The sustaining women's group sponsors are Alpha Chi Omega, Alpha Delta Pi, Alpha Epsilon Phi, Alpha Gamma Delta, Alpha Phi, Alpha Sigma Tau, Chi Omega, Gamma Phi Beta, Kappa Alpha Theta, Kappa Kappa Gamma, Pi Beta Phi, Sigma Sigma Sigma, and Zeta Tau Alpha.

Trademark and Licensing Case Set For Trial

As colleges and universities have found, licensing the use of their trademarks, mascots, names and the like, can be extremely lucrative. Licensing the use of such marks can also help an organization owning the marks ensure that their name and insignia are only on products of good quality and used in a way the organization deems appropriate and consistent with the purposes for which the organization exists.

Such licensing can also be very lucrative for fraternities and sororities. It is for that reason that current litigation against an unlicensed purveyor of products using such trademarks is being closely watched.

That lawsuit, seeking to enforce the trademark rights of some 32 fraternities that has been pending since 2008, is now scheduled to go to trial in September.

Paddle Tramps sued 32 fraternities and sororities after the Greek groups demanded Paddle Tramps enter into licensing agreements that would have permitted Paddle Tramps to utilize certain trademarked property of the fraternities and sororities. Paddle Tramps would, of course, had to have paid for that right.

Founded in 1961, Paddle Tramps was a response to the perception that fraternity and sorority members did not have a place to go to obtain ceremonial paddles and the Greek letters or crests with which to direct those paddles. What started as a small local effort at Texas Tech University ultimately grew into a nationwide operation with Paddle Tramps' goods being sold in retail stores throughout the country and, more recently, through its own website.

Prior to this controversy, Paddle Tramps never sought a licensing agreement. Likewise, the Greek organizations whose names and materials were being used never attempted to stop Paddle Tramps from continuing its business throughout the first several decades of its existence. Ultimately, after the fraternities and sororities entered into contracts with Affinity Marketing Consultants to manage the licensing of their Greek letters, insignias, crests and symbols, Affinity negotiated some 10,000 licensing agreements. Paddle Tramps refused to enter such an agreement.

Paddle Tramps' suit seeks a declaratory judgment arguing that its business did not constitute trademark infringement. The Greek organizations responded with counterclaims for trademark infringement, unfair competition and trademark dilution.

Having previously ruled that Paddle Tramps' conduct was trademark infringement, in July, the court issued a 50-page decision denying Paddle Tramps' Motion for Summary Judgment.

Paddle Tramps argued that the Greek organizations were barred by the legal doctrine of laches, an inexcusable delay that results in prejudice to Paddle Tramps from enforcing their trademarks against Paddle Tramps, which had been doing business for decades. Paddle Tramps also argued that the Greek organizations had acquiesced in Paddle Tramps' use of their marks and thus could not now prohibit such use.

Both of these arguments are regarded under the law as equitable defenses, and the Greek groups argued that Paddle Tramps was not entitled to assert such defenses because, having deliberately violated the rights of the Greek groups, Paddle Tramps did not have "clean hands." Paddle Tramps retorted that it was not its intention to unfairly capitalize upon the good will of the Greek organizations, but rather to provide a service to members of Greek organizations and, therefore, it was not operating in bad faith and did not have unclean hands.

The court indicated it took "into serious consideration the fact that Paddle Tramps is using virtually identical marks of the Greek organizations being used by other groups in the same markets that were licensed to legitimately engage in such sales." But the court found that it would be the task of a jury to determine whether or not Paddle Tramps' conduct rose to the level of unclean hands, barring it from relying upon the defenses of laches or acquiescence. Alternatively, a jury could find that Paddle Tramps was serving the need of the market and could defend on those grounds.

Analyzing the legal basis for both acquiescence and laches, the court determined that both doctrines required a careful determination of disputed facts and found that those were best determined by a jury after having heard the complete testimony and evidence of both sides in this hotly disputed case. The court noted that, if Paddle Tramps was found to have unclean hands, the question of whether or not the defenses of laches and acquiescence were valid would be irrelevant since an entity that comes to court with unclean hands may not assert such defenses. But Senior Judge Royal Furgeson said, "for the time being, however, the court shall not grant summary judgment on the merits of these defenses," finding it critical to have the jury as a fact-finder, decide whether or not Paddle Tramps had unclean hands.

The Greek groups argued that even if Paddle Tramps was protected by a valid claim of laches or acquiescence from having to pay damages for their past trademark infringements, the Greek groups were entitled to injunctive relief to prohibit Paddle Tramps from continuing infringement in the future. The court acknowledged that there was case law to support arguments on both sides of that question, again finding it best to wait for a jury determination on the disputed issues of fact.

Summing up its decision to deny summary judgment, the court noted that a jury will have "three overarching tasks" – 1) determine if Paddle Tramps possesses the bad faith intent necessary to bar the application of equitable defenses; 2) if no bad faith, Paddle Tramps can assert equitable defenses, but it must meet its burden of proving that laches and acquiescence protect them; and 3) determine the issues of fact necessary to find what relief is appropriate in this case.

The trial in this case is now scheduled for September 12, 2011, beginning at 9:00 a.m. in the court of Senior United States District Judge Royal Furgeson.

1 Thomas Kenneth Abraham, dba Paddle Tramps Mfg. v. Alpha Chi Omega, et al., United States District Court, Northern District of Texas, Dallas Division, Case No. 3:08-CV-570-F.

- Timothy M. Burke

Ninth Circuit Upholds SDSU's Nondiscrimination Policy

In a decision dated August 2, 2011, the United States Court of Appeals for the Ninth Circuit upheld San Diego State University's nondiscrimination policy that prohibited membership restrictions on certain specified bases.[1] This case differs from the recent *Christian Legal Society v. Martinez*[2] case from the Supreme Court in that the membership restrictions in that case mandated an "all-comers policy." In *Christian Legal Society*, the Court expressly declined to address the constitutionality of a narrower nondiscrimination policy like the one in place at San Diego State that only limited membership restrictions on certain bases, such as race, gender, religion and sexual orientation.

In this case, the plaintiffs were Alpha Delta Chi, a Christian sorority, and Alpha Gamma Omega, a Christian fraternity (along with several of their individual officers). Alpha Delta Chi imposes requirements for membership, including "personal acceptance of Jesus Christ as Savior and Lord," "active participation in Christian service," and "regular attendance or membership in an evangelical church." Likewise, Alpha Gamma Omega requires its members "to sincerely want to know Jesus Christ as their Lord and Savior," and its officers must sign a detailed "Statement of Faith."

Both plaintiff organizations repeatedly applied for official recognition from San Diego State. However, the school refused to recognize both groups because of the school's nondiscrimination policy, which states:

"On-campus status will not be granted to any student organization whose application is incomplete or restricts membership or eligibility to hold appointed or elected student officer positions in the campus-recognized chapter or group on the basis of race, sex, color, age, religion, national origin, marital status, sexual orientation, physical or mental handicap, ancestry, or medical condition, except as explicitly exempted under Federal law."

After San Diego State repeatedly denied recognition to the plaintiffs, they brought suit in federal district court, challenging the school's nondiscrimination policy under the First and Fourteenth Amendments. The parties filed cross-motions for summary judgment, and the district court granted San Diego State's summary judgment motion on all counts. The plaintiffs appealed to the Ninth Circuit Court of Appeals.

The Ninth Circuit first found that San Diego State's student organization program, like the one at issue in *Christian Legal Society*, was subject to the limited public forum doctrine. As such, the court's analysis focused on whether: 1) San Diego State's policy was reasonable in light of the purpose of the forum, and 2) whether the policy was viewpoint neutral.

Based heavily on the Supreme Court's opinion in *Christian Legal Society*, the court found the policy reasonable in light of the student organization program's purpose of promoting diversity and nondiscrimination. The court looked to San Diego State's Student Organizations Handbook and determined the policy was indeed enacted to promote diversity and nondiscrimination.

In its determination of reasonableness, the court also looked at the alternative methods of communication available to plaintiffs. Similar to the Court in *Christian Legal Society*, the Ninth Circuit essentially found the benefits of recognition to be insubstantial. The court noted that San Diego State still allowed the plaintiffs access to campus facilities, just not for free or at the reduced prices available to officially recognized student groups. The court also noted that the plaintiffs have access to non-university electronic resources, presumably such as email, facebook and other social media outlets.

Accordingly, the court held that San Diego State's nondiscrimination policy was reasonable, given its stated policy purpose of promoting diversity and nondiscrimination, combined with the minimal benefits of official recognition that plaintiffs would have received.

The court next addressed whether the policy was viewpoint neutral as written. The plaintiffs attempted to distinguish *Christian Legal Society* on the basis that the all-comers policy in that case was vastly different from the view-point discrimination present in San Diego State's policy. Specifically, the plaintiffs argued that the more limited nondiscrimination policy in this case discriminates on the basis of view-point because it allows secular belief-based discrimination while prohibiting religious-based discrimination. One example the plaintiffs cited involved allowing the campus Republican group from excluding Democrats and vice versa, but not allowing the plaintiffs to exclude non-Christian members.

The court held the plaintiffs failed to prove that San Diego State enacted the policy for the purpose of suppressing plaintiffs' view-point, and that the policy was view-point neutral as written. Specifically, the court held, "Constitutionally speaking… San Diego State's policy is not materially different from the content-neutral all-comers policy approved in *Christian Legal Society*, and must be similarly upheld against First Amendment challenge."

Despite finding the policy constitutional as written, the court remanded the case back to the trial court for a trial to determine whether San Diego State fairly and equally applied its nondiscrimination policy to all student groups. The plaintiffs argued that San Diego State singled them out for disparate treatment based on religious viewpoint.

While this case will proceed before the district court to determine the constitutional application of San Diego State's nondiscrimination policy, this case serves as yet another bad precedent, on the heals of *Christian Legal Society,* for freedom of association on public campuses. Though this case concerned the religious aspects of San Diego State's nondiscrimination policy, as written, the policy would also prohibit official recognition of single-sex organizations.

1 *Alpha Delta Chi-Delta Chapter v. Reed* (9th Cir. Aug. 2).
2 *Christian Legal Society v. Martinez*, 561 U.S. ___, 130 S.Ct. 2971 (2010)

- Daniel J. McCarthy

Mother Sues Sigma Alpha Epsilon and 20 Individuals Following Son's Death

George Desdunes, a 19-year-old sophomore at Cornell University, died on February 25, 2011. His mother, Marie Lourdes Andre, filed a wrongful death lawsuit in June in state court in Brooklyn. The lawsuit seeks at least $25 million in damages from Sigma Alpha Epsilon (SAE) and 20 former SAE members and pledge members.

The lawsuit alleges that Mr. Desdunes, an initiated member of the fraternity, was kidnapped by pledge members, had his feet and hands bound with zip ties and duct tape, then was taken to an off-campus apartment. He was then forced to drink until he passed out. According to the suit, Mr. Desdunes was returned to the chapter house and placed on a couch at the chapter house, with his hands and feet still tied.

He was found later that same morning on the couch unconscious. The suit alleges that an autopsy showed Mr. Desdunes had a blood-alcohol content of .409, which is five times the legal limit for driving in most states.

In addition to the civil suit, four pledges were charged criminally with first-degree hazing and first-degree unlawfully dealing with a child. One of the four was also charged with tampering with physical evidence after he allegedly tried to get rid of some of the left over zip ties and duct tape. All have pleaded not guilty.

Following the filing of the suit, SAE released a statement that states, in part:

> "An investigation was launched immediately when the incident occurred. Following that investigation, Sigma Alpha Epsilon suspended the chapter's charter and suspended all of its members until they graduate from the university. There is no active chapter currently at the institution.
>
> Cornell University officials decided to remove recognition of the chapter for a period of no less than five years.
>
> Sigma Alpha Epsilon maintains stringent policies and guidelines for its chapters as part of its risk-management program and reaffirms its zero-tolerance policy for actions that do not comply with our regulations. Members are expected to adhere to our fraternity policies and to uphold behavior consistent with our creed, "The True Gentleman." The organization actively promotes its anti-hazing initiative program called We Stand Together, which educates both members and non-members on ways to recognize and prevent hazing. In addition, Sigma Alpha Epsilon sponsors an anonymous hazing hotline at 1-888-NOT-HAZE that anyone may use to report inappropriate behavior."

The University, in addition to withdrawing recognition of the SAE chapter, also amended its recognition policy for fraternities and sororities. In a memorandum dated August 4, 2011 and distributed to the Greek chapters on campus and their national organizations (among others), Travis T. Apgar, the Associate Dean of Students at Cornell, announced the implementation of the new policy. The memorandum noted that the University was working on amendments to the policy for some time, but due to the death of Mr. Desdunes and the resulting lawsuit, implementation of the new policy was advanced.

Under the new policy, first semester freshmen students cannot attend any form of fraternity or sorority sponsored event or activity, regardless of location, if alcohol is present. The policy also established a four-quarter schedule to more strictly regulate the recruitment of new members.

Mr. Apgar concluded by stating, "As stated before, the adoption of these new guidelines and rules is aimed at establishing a safe environment in which the guiding values and historic culture of the fraternity system at Cornell are assured for the present and future. To achieve this, we must recruit members into our fraternities and sororities for all the reasons and values we exist, and not simply for the social aspects of our programming. For a chapter to thrive, they must adapt to these changes and adopt substantive and creative ways to attract new members, while adhering to the laws, rules, and protocols under which we must operate."

This is yet another sad and unnecessary reminder of the dire consequences that can happen when college students recklessly disregard the dangers of binge drinking and hazing. Look for updates on this case in future issues of *Fraternal Law*.

- Daniel J. McCarthy

Fraternal Law Archives Now Available On-Line

In the past, Manley Burke has charged a minimal fee for back issues of *Fraternal Law*. Now, through the wonders of modern technology, the entire archives of this publication, dating all the way back to first issue published in September, 1982, are available free of charge at www.manleyburke.com/firm-news/.

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