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Stop Campus Hazing Act Becomes the Law of the Land

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Late last month, President Biden signed the Stop Campus Hazing Act[1] after it was unanimously passed by both the House and the Senate. Part of the bipartisan support stemmed from the tremendous legislative support from the fraternity and sorority community.

The law does not create additional affirmative duties for international fraternities or sororities. Instead, it places obligations on colleges and universities that receive federal funding, which is nearly all colleges and universities in the United States.

Perhaps the greatest change that will result from the law is the annual requirement that each impacted college and university must now publicly post hazing disciplinary results in its Clery Report and also in a separate Hazing Report. It is critical to note that these reports will cover all students and student organizations, and not just hazing in the fraternity and sorority community. One can expect that this reporting data will include incidents from sports teams, marching bands, and other types of student organizations, in addition to hazing in fraternities and sororities. Colleges and universities must now also post statements of their current hazing policies and

[1] Stop Campus Hazing Act, H.R. 5646, 118th Cong. (2023-2024).

processes, along with policy statements regarding their prevention and awareness programs pertaining to hazing.

The act also defines hazing (for purposes of this law) as:

> Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that (1) is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization (e.g., a club, athletic team, fraternity, or sorority); and (2) causes or creates a risk, above the reasonable risk encountered in the course of participation in the IHE or the organization, of physical or psychological injury.

Possible examples of hazing listed in the law include:

> Whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity; causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity; causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances; causing, coercing, or otherwise inducing another person to perform sexual acts; any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct; any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law.

It is important to note that this law does not change any state law definitions of hazing nor does it require any college or university to change its current definition of hazing.

It is exciting to see a law of this nature pass with unanimous bipartisan support. Fraternal Law will continue to provide updates on the implementation and practical impacts that follow.

Cornell Lawsuit Over The Future Use Of A Fraternity House Will Continue After All

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As reported in the January 2023 issue of *Fraternal Law*, the New York Alpha Chapter of Phi Kappa Psi Association, Inc. (the "Association" or the "Chapter") was embroiled in litigation with Cornell University over the future use of the Gables, the property that once served as the Phi Kappa Psi Chapter house at Cornell.[1] While Cornell owns the real estate on which the Chapter house was built, pursuant to an Agreement, the Association had the right to occupy and possess the property "in perpetuity," contingent upon good behavior. The Agreement also stipulated that if the Association were suspended or terminated, the property "shall be reserved for reorganization" of the Association. Relying on these terms, the Association had invested an estimated $10 million (present value) into the Gables.

The controversy arose after a Cornell student, Antonio Tsialas, died as a result of falling from a cliff after leaving a party at the Chapter. Cornell, perhaps as part of a settlement with Antonio's family, "permanently" revoked the Association's recognition as a campus fraternity. The Association, in turn, attempted to exercise its rights to determine who would occupy the Gables until the time when it could return to campus as a fraternity. It planned to use the Gables as student veteran housing. Cornell, however, had other ideas and apparently acted to devote the Gables to use by another campus fraternity.

In December 2022, the Association sued Cornell over the perceived breach of the Agreement. Cornell responded, filing a motion to dismiss. The trial court granted that motion,

[1] *See* Tim Burke, *Cornell University vs. New York Chapter of Phi Kappa Psi Assoc.*, 178 FRATERNAL L. 1, 8 (Jan. 2023).

finding that the Association's claim was time barred, reasoning that "the 'true nature' of plaintiff's [breach of contract claim] is a challenge to defendant's disciplinary decision and, therefore, it is subject to [a] four-month statute of limitations."[2] The trial court further concluded that since the Chapter could never return to campus, Cornell was not obligated to reserve the Gables for the Association's future use.

But the Association just got another bite at the apple. On December 5, 2024, the Appellate Division of the New York Supreme Court overruled the trial court's dismissal, breathing new life into the Association's case. [3] The Appellate Court observed that:

> In the future, a different administration of defendant might allow for plaintiff's return, where the Chapter will have new members unaffiliated with previous members. This concern is distinct from trying to retain short-term status by challenging defendant's disciplinary decision. Since the cause of action to recover damages for breach of contract specifically relates to nonacademic matters, for which recovery may be sought in a plenary action, [the Trial] Court erred in dismissing the first cause of action as time-barred.[4]

The Appellate Court also noted there was a dispute between the parties as to whether the Agreement had language agreed to by both parties that included the termination provision. The Court found that, at a minimum, ambiguity exists and that where ambiguity is present, a motion to dismiss must be denied allowing the parties to engage in discovery. It noted that the termination provision of the Agreement "seemingly conflicts" with the "in perpetuity" provision, and therefore

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[2] N.Y. Alpha of Phi Kappa Psi Assn., Inc. v. Cornell Univ., 2024 N.Y. App. Div. LEXIS 6487 (App. Div. 3rd Dept. Dec. 5, 2024), * 4.

[3] *Id.*

[4] *Id.* at *5–6.

the "plaintiff is entitled to discovery and the opportunity to present extrinsic evidence as to the parties' intent."[5]

With the appellate court's decision, this litigation is far from over and will return to the trial court first for discovery, additional motion practice, and perhaps a trial. While the outcome remains uncertain, the Association now has a renewed opportunity to argue its position—and perhaps secure the future use of the Gables.

[5] *Id.* at *7.

Dartmouth Fraternity Members and Sorority Charged in Death of Student

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In July 2024, Won Jang, a 20-year-old Dartmouth student and member of the Beta Alpha Omega Fraternity, attended an off-campus party held by the local chapter of the Alpha Phi Sorority.[1] According to representatives of the Hanover Police Department, Beta Alpha Omega members purchased and served alcohol to attendees of the party, most of whom, including Mr. Jang, were under the age of twenty-one (21).[2] Following the party, Mr. Jang and other attendees decided to swim in the Connecticut River.[3] Heavy rainfall caused many swimmers to leave the area in groups, but Mr. Jang was not among them.[4] Mr. Jang was found deceased in the river the following day.[5] His family later confirmed that he could not swim.[6]

Two members of the Beta Alpha Omega fraternity were charged with misdemeanors for providing alcohol to underage individuals.[7] The Alpha Phi chapter was also charged with a misdemeanor for facilitating an underage alcohol house.[8] An attorney for one of the charged students wrote to Dartmouth's student newspaper, stating that the charges for providing alcohol to underage individuals "[appeared] to be unrelated to the tragedy that occurred hours later."[9] While

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[1] Chandelis Duster, *2 Dartmouth Fraternity Members and a Sorority Have Been Charged in Death of a Student*, NPR (November 24, 2024, 1:24 PM), https://www.npr.org/2024/11/24/nx-s1-5204436/dartmouth-alpha-phi-beta-alpha-omega-student-drowning.
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] Kate Selig, *Dartmouth Sorority and 2 Fraternity Members Are Charged After Student's Drowning*, N.Y. Times (November 24, 2024), https://www.nytimes.com/2024/11/24/us/dartmouth-student-drowning-charges.html.
[6] Duster, *supra* note 1.
[7] *Id.*
[8] *Id.*
[9] *Id.*

the Hanover Police Department investigated whether hazing had contributed to Mr. Jang's death, it ultimately concluded it had not.[10]

At the time of the party and Mr. Jang's unfortunate passing, Beta Alpha Omega was on alcohol probation after a three-term suspension imposed by Dartmouth College that lasted through the spring 2024 semester.[11] Similarly, the Alpha Phi chapter had been on an alcohol probation imposed by Dartmouth College in fall 2023, which ended before the incident.[12] Unsurprisingly, in response to Mr. Jang's death, Dartmouth College immediately suspended both chapters and launched an internal investigation.[13] As of November 2024, the suspensions remained in effect pending the investigation's outcome.[14]

While the institutional investigation continues, the events surrounding Mr. Jang's passing underscore the critical importance of adherence to alcohol policies, risk management protocols, and proactive education on personal and group safety. By reinforcing these measures and promoting a culture of accountability, fraternal organizations can better protect their members and surrounding communities.

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[10] Selig, *supra* note 5.
[11] *Id.; see also* Katherine Ginger and Arizbeth Rojas, *Four Greek Houses found in Violation of Community Standards*, The Dartmouth (January 16, 2024), https://www.thedartmouth.com/article/2024/01/four-greek-houses-found-in-violation-of-community-standards; *College suspends Beta, APhi following student death*, The Dartmouth (July 9, 2024), https://www.thedartmouth.com/article/2024/07/college-suspends-beta-aphi-following-student-death.
[12] Selig, *supra* note 5.
[13] Duster, *supra* note 1.
[14] *Id.*

Final Sentencing in the Timothy Piazza Hazing Case

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Some seven years after the hazing-related death of Timothy Piazza, Brendan Young and Daniel Casey, the President and Vice President, respectively, of Penn State's Beta Theta Pi Chapter where Piazza died, were the last two defendants to be criminally convicted and sentenced for actions related to Piazza's death. Both Young and Casey were sentenced to serve two to four months in jail, followed by three years of probation and community service. They will be eligible for work release during their incarceration.

Their convictions mark the end of a prolonged legal process in which more than a dozen fraternity members pled guilty to hazing and alcohol violations stemming from the events of February 2017.

Timothy Piazza's death became the impetus that prompted the Pennsylvania state legislature to significantly strengthen criminal penalties for hazing, ensuring harsher consequences for such reckless behavior in the future.

In the aftermath, Piazza's family has been unwavering in their efforts to honor his memory and advocate for change. Speaking at the sentencing, Timothy's mother, Evelyn Piazza, reflected on the irreversible impact of her son's death. Quoted in the *Daily Collegian* article published on October 1, 2024, she commented that although the sentencing provided some justice, "there's no such thing as closure." She added:

> I was happy being a tax accountant and having a family of four…You never in a million years think a "friend" will actually intentionally hurt them in the name of brotherhood and then not value their life and refuse to get them medical attention.

> Granted, Brendan Young and Daniel Casey did not wake up the morning of February 2, 2016 thinking, "let's kill someone today," but they did.[1]

The tragedy reverberated beyond the Piazza family, leaving an enduring mark on Beta Theta Pi as a national organization. Jeff Rundle, Chief Executive Officer and General Counsel of Beta Theta Pi, expressed the fraternity's support for the court's decision while acknowledging the profound harm caused. In his statement, Rundle underscored the failure of those involved:

> While we cannot speak to the appropriate punishment for Brendan Young and Daniel Casey, the fraternity has consistently advocated for those involved to be held fully accountable…. Tim's death has left an indelible scar on our history. We will forever carry the burden that he suffered at the hands of those who bore Beta Theta Pi…. These men were once brothers who took an oath to protect each other, and to act in each other's best interest.[2] Their failure is a reminder to all of us of the deadly consequences of hazing, carelessness, and indifference.[3]

[1] Louise Bennett, *Two Former Fraternity Leaders Sentenced in Timothy Piazza Death*, DAILY COLLEGIAN (Oct. 1, 2024).
[2] *Id.*
[3] *Id.*

A Tale of Two Cases: How Alleged Special Relationships Affect University Liability

Timothy M. Burke and Haellie Gordon, Fraternal Law Partners

Introduction

On January 21, 2025, the Washington State Court of Appeals issued two simultaneous decisions analyzing Washington State University's ("WSU") responsibility for students' injuries stemming from alleged fraternity hazing and alcohol abuse. In one case, *Martinez v. Wash. State. Univ.*, the Court of Appeals overturned summary judgment dismissing WSU from a lawsuit regarding the death of a student, Samuel Martinez ("Mr. Martinez"), from acute alcohol poisoning following what the Court called a "hazing ritual."[1] In the other case, *Cornelius v. Alpha Kappa Lambda*, the Court of Appeals upheld summary judgment dismissing WSU from a lawsuit regarding the alleged hazing of another student, Austin Cornelius ("Mr. Cornelius").[2]

Despite the overwhelming similarities between the cases, the Court of Appeals reached dramatically different conclusions. The reason? The plaintiffs asserted claims under different sections of the Restatement (Second) of Torts, and by extension, alleged different relationships under which WSU allegedly owed a duty of care to the respective students.

In *Martinez*, the plaintiff asserted claims under Sections 344 (alleging a special relationship between WSU and Mr. Martinez) *and* 315(a) (alleging a special relationship between WSU and the Gamma Chi chapter of Alpha Tau Omega ("Gamma Chi Chapter")). In *Cornelius*, however,

[1] *Martinez v. Wash. State Univ*., No. 83853-9-I, 2025 Wash. App. LEXIS 82 (Ct. App. Jan. 21, 2025).

[2] *Cornelius v. Alpha Kappa Lambda*, No. 84657-4-I, 2025 Wash. App. LEXIS 74 (Ct. App. Jan. 21, 2025).

the plaintiff only asserted a claim under Section 344 (alleging a special relationship between WSU and Mr. Cornelius).

The Court of Appeals affirmed summary judgment dismissing WSU for each plaintiff's claims under Section 344, finding no special relationship between WSU and either plaintiff student. However, the Court reversed summary judgment dismissing WSU from Mr. Martinez's Section 315(a) claim, finding WSU owed a duty of care to Mr. Martinez based on the special relationship between WSU and the Gamma Chi Chapter.

Restatement (Second) of Torts §344: Special Relationship with the Student

Both *Martinez* and *Cornelius* involved the question of what responsibility WSU has to protect its students under Section 344 of the Restatement (Second) of Torts.[3] More specifically, each plaintiff alleged WSU owed them a duty due to WSU's special relationship with its students.[4]

Under Section 344, a special relationship may arise where a person is helpless, totally dependent, or under the complete control of someone else for decisions relating to their safety. In both cases, the Court of Appeals applied the decision of the State of Washington Supreme Court in *Barlow v. State,* in which the Supreme Court was asked two questions:

> (1) Does Washington law recognizes a special relationship between a university and its students, giving rise to a duty to use reasonable care to protect students from foreseeable injury at the hands of other students?; and (2) If the answer to question 1 is yes, what is the measure and scope of that duty?[5]

The questions posed in *Barlow* arose from a lawsuit involving a negligence claim against WSU after a student was sexually assaulted by another student at an off-campus party.[6] The

[3] *Martinez*, 2025 Wash. App. LEXIS 82 at *39; *Cornelius*, 2025 Wash. App. LEXIS 74 at *6.
[4] *Martinez*, 2025 Wash. App. LEXIS 82 at *39; *Cornelius*, 2025 Wash. App. LEXIS 74 at *8-9.
[5] *Martinez*, 2025 Wash. App. LEXIS 82 at *34-40 (citing *Barlow v. State*, 2 Wn.3d 583, 588–89 (2024)); *Cornelius*, 2025 Wash. App. LEXIS 74 at *7-12 (citing *Barlow*, 2 Wn.3d at 588–89).
[6] *Barlow*, 2 Wn.3d 583.

Washington Supreme Court held that (1) Washington law recognizes a special relationship between a university and its students, giving rise to a duty to use reasonable care to protect students from foreseeable injury at the hands of other students; (2) the duty exists where a student is on campus or at a university sponsored or controlled event, similar to a business invitee; and (3) the measure and scope of the duty is based on a student's enrollment and presence on campus or participation in university controlled actives.

With that direction, the Court of Appeals in both *Martinez* and *Cornelius* held that there was no special relationship between WSU and the plaintiff students.[7] The Court further held that even if there was a special relationship between WSU and the plaintiff students, WSU did not owe a duty to the plaintiff students based on such special relationship, as the alleged hazing (1) occurred off campus and/or (2) did not occur during WSU-controlled or sponsored activities.[8]

While each plaintiff alleged WSU's promotion and encouragement of student participation in fraternal organizations, among other things, characterized such organizations as WSU-controlled or sponsored, the Court rejected this idea. Instead, the Court found that hazing is neither part of WSU's curriculum nor closely related to its delivery to educational services and therefore is not an activity sponsored or controlled by WSU.[9] The Court in *Cornelius* went a step further to state that even if the plaintiff could establish the activities were on campus and part of an activity sponsored or controlled by WSU, he would have to also establish that the harmful activities were foreseeable under Restatement (Second) of Torts §344, Comment f, which Mr. Cornelius was unable to do.[10]

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[7] *Martinez,* 2025 Wash. App. LEXIS 82 at *40; *Cornelius*, 2025 Wash. App. LEXIS 74 at *17.
[8] *Martinez,* 2025 Wash. App. LEXIS 82 at *40; *Cornelius*, 2025 Wash. App. LEXIS 74 at *12–14.
[9] *Martinez,* 2025 Wash. App. LEXIS 82 at *39-41; *Cornelius*, 2025 Wash. App. LEXIS 74 at *9–11
[10] *Cornelius*, 2025 Wash. App. LEXIS 74 at *16.

Based on the foregoing, the Court of Appeals upheld the dismissal of both plaintiffs' claims under Section 344 of the Restatement against WSU.

Restatement (Second) of Torts §315: Special Relationship

In *Martinez,* Plaintiff's claim under Section 315(a) of the Restatement contended that a special relationship existed between WSU and Gamma Chi such that WSU had a duty to control and/or mitigate Gamma Chi Chapter's conduct and prevent physical harm to Mr. Martinez.[11] While the plaintiff in *Cornelius* originally pursued a claim under Restatement (Second) of Torts §315(b), the Court of Appeals determined the claim was abandoned based on plaintiff's failure to address it in their appeal.[12]

In reaching its decision, the Court of Appeals considered WSU's continued recognition of the Gamma Chi Chapter for over a century, WSU's interactions with the chapter, the terms of WSU's agreements with Gamma Chi Chapter—including the "Relationship Agreement for Residential Fraternities and Sororities" and the "University Approved Housing Standards Agreement"—and WSU's ability to control the chapter. Based on these considerations, the Court found a defined, established, and continuing relationship between WSU and the Gamma Chi Chapter, and that WSU had sufficient ability to control its recognized fraternities, including this particular chapter. Therefore, the Court held that WSU had a duty to use reasonable care to control Gamma Chi Chapter and to protect foreseeable victims from the harm caused by hazing.

Based on the foregoing, the Court of Appeals in *Martinez* reversed the dismissal of plaintiff's claim under Section §315(a) against WSU and remanded for further proceedings.

Conclusion

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[11] *Martinez,* 2025 Wash. App. LEXIS 82 at *40.
[12] *Cornelius,* 2025 Wash. App. LEXIS 74 n.2.

Martinez and *Cornelius* provide important insight into the differences between a university's relationship with its students versus fraternal organizations and the duties that arise therefrom. While the Court of Appeals found no special relationship between WSU and its students, it did find a special relationship between WSU and Gamma Chi Chapter based on the defined, established and continuing relationship between WSU and Gamma Chi as well as WSU's ability to control its recognized fraternities, including Gamma Chi. As such, while these cases on appeal did not directly involve the potential liability of fraternal organizations, the *Martinez* case is certainly one our readers should be familiar with.

We will also wait to see whether WSU appeals the Court of Appeals' decision in *Martinez* to the Washington Supreme Court or how the case proceeds on remand, as either could significantly shape the scope of liability in similar cases.

Court Rejects Injunction in Mountain West Volleyball Dispute Over Transgender Athlete

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This past NCAA women's volleyball season in the Mountain West Conference (the "Conference") was fraught with controversy over the allegation that one team, San Jose State University (SJSU), had a transgender player. Several teams had forfeited their games against San Jose State. But not until days before the Mountain West Championship Volleyball Tournament was to take place did anyone attempt to challenge the ability of SJSU to play with the transgender player on its team.

Two weeks before the tournament was to begin, multiple players across the Conference challenged the eligibility of the alleged transgender player and the Conference's Transgender Participant Policy. The University of Utah joined the case as an intervenor, but only arguing that the Mountain West Conference's Transgender Player Policy violated Title IX of the Education Act Amendments of 1972.

The case was originally heard by the U.S. District Court for the District of Colorado.[1] With the tournament scheduled to start on November 27th, the court oversaw an expedited briefing schedule and conducted oral arguments on an emergency motion before issuing its 28-page decision on November 25, 2024, denying the Plaintiffs' request for an injunction to prevent SJSU from competing with its alleged transgender player as a part of its team.

The trial court was clearly bothered by the fact that Plaintiffs had not brought their action much earlier; they could have done so as much as two years earlier when the Conference's

[1] *Slusser v. Mt. W. Conference*, 2024 U.S. Dist. LEXIS 214364 (Nov. 25, 2024).

Transgender Participant Policy was originally adopted. The court, however, did give some consideration to the merits of the legality of the Transgender Policy. Critically, the trial court noted that courts in the U.S. Tenth Circuit Court of Appeals "have generally assessed Title IX discrimination claims under the same legal analysis as Title VII claims."[2] The trial court also relied on the U.S. Supreme Court case, *Bostock v. Clayton County*, 590 U.S. 644, 659 (2020). That case was an examination of Title VII in which the court noted that, because Title VII prohibits employers from taking certain actions because of "sex," "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex."[3]

Based on the *Bostock* rational, the trial court concluded that "plaintiffs and USU have failed to meet their burden to establish a likelihood of success on the merits of their Title IX and equal protection claims."[4] Both because of their delay in bringing their claims in a timely fashion and because of their failure to demonstrate a likelihood of success on the merits, the court denied the claims for an injunction.[5]

Plaintiffs promptly filed for an emergency motion for injunction pending appeal before the U.S. Court of Appeals for the Tenth Circuit. That court quickly issued a four-page order upholding the district court's decision, emphasizing the stringent standards required for injunctive relief.

The appellate court noted first that for Plaintiffs to prevail, they must show they are "likely to succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, and that an injunction is in the public interest."[6]

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[2] *Id.* at *25.
[3] *Id.* at *26 (citing *Bostock v. Clayton Cty.*, 590 U.S. 644 (2020)).
[4] *Id.* at *29.
[5] *Id.* at *31–32.
[6] *Van Kirk v. Mountain W. Conf.*, No. 24-1461 (10th Cir. Nov. 26, 2024), at *2.

Because the Plaintiffs failed to satisfy any of the critical factors, the court declined to directly address the likelihood of success on the merits, even though it noted:

> Plaintiffs' claims appear to present a substantial question and may have merit. But plaintiffs have not established clear entitlement to relief, and however potentially meritorious, their showing does not rise to the level of clear entitlement under the appropriate standards.[7]

The Tenth Circuit's decision left the broader legal questions surrounding transgender athlete policies unresolved, and a full determination on similar challenges would have to wait for future cases. The controversy has spotlighted the complex legal and social issues surrounding transgender participation in sports, ensuring continued debate and litigation in the coming years.

The goal of *Fraternal Law* is to provide a discussion of fraternity law, but its contents are not intended to provide legal advice for individual problems of Greek organizations. The latter should be obtained from your attorney.

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[7] *Van Kirk*, Case No. 24-1461 at 4.