

State of Illinois)
)
County of DuPage) ss

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DU PAGE COUNTY, ILLINOIS – LAW DIVISION

CHARLES NAGY,

Plaintiff,

vs.

Case No.

WHEATON COLLEGE, a private
educational institution, BEN
PETTWAY, SAM TeBOS, JAMES
COOKSEY, KYLER KREGEL,
DANIEL IBSEN, NICK BLAZECK,
and TYLER SIGLER,

Defendants.

COMPLAINT AT LAW

NOW COMES Plaintiff, Charles Nagy, by and through his attorneys, Ekl, Williams & Provenzale, LLC, and complaining against the Defendants, Wheaton College, Ben Pettway, Sam TeBos, James Cooksey, Kyler Kregel, Daniel Ibsen, Nick Blazeck, and Tyler Sigler, states upon information and belief as follows:

1. Plaintiff, Charles Nagy, is currently a 21 year old college student, who was enrolled in and attended college at the Defendant, Wheaton College, located in Wheaton, DuPage County, Illinois, early in 2016 until approximately March 20, 2016.
2. Defendant, Wheaton College, is a private and not-for-profit Christian educational institution located in Wheaton, DuPage County, Illinois, that has for

years maintained and continues to maintain athletic teams that compete in intercollegiate athletics, including men's Football.

3. Defendant, Ben Pettway, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as Plaintiff. Defendant Pettway is 6 feet, 5 inches tall and weighs 290 pounds.

4. Defendant, Sam TeBos, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as Plaintiff. Defendant TeBos is 6 feet, 1 inch tall and weighs approximately 200 pounds.

5. Defendant, James Cooksey, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as Plaintiff. Defendant Cooksey is 6 feet, 2 inches tall and weighs approximately 250 pounds.

6. Defendant, Kyler Kregel, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as Plaintiff. Defendant Kregel is 6 feet, 2 inches tall and weighs approximately 280 pounds.

7. Defendant, Daniel Ibsen, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as Plaintiff. Defendant Ibsen is 6 feet, 1 inch tall and weighs approximately 240 pounds.

8. Defendant, Nick Blazek, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as

Plaintiff. Defendant Blazek is 6 feet, 1 inch tall and weighs approximately 200 pounds.

9. Defendant, Tyler Sigler, was a male student athlete who was enrolled, resided and played football at Wheaton College in early 2016 at the same time as Plaintiff. Defendant Sigler is 6 feet, 2 inches tall and weighs approximately 220 pounds.

10. Plaintiff enrolled in Wheaton College at the start of 2016 as a freshman and also as a member of the football team. At the time, Plaintiff was 5 feet, 10 inches tall and weighed approximately 190 pounds.

11. This Court has jurisdiction and venue as the acts giving rise to this complaint all occurred in Wheaton, DuPage County, Illinois.

FACTS COMMON TO ALL COUNTS
Wheaton College Football's Culture and History of Hazing

12. Before enrolling, the Plaintiff was invited by agents and/or employees of the Defendant, Wheaton College, to enroll in the school and play football on the men's football team and to reside in an on-campus and/or college owned and operated dorm hall. On that invitation, the Plaintiff enrolled at Wheaton College in early 2016 and resided in the campus housing at Fischer Hall.

13. Unknown to Plaintiff prior to enrolling, Wheaton College and its football program had a long history of hazing new members of the team, including the practice of "kidnaping." Specifically, prior to March 19, 2016, all of the Defendants and others, including another player, Noah Spielman, were aware of prior hazing incidents within the football team, either because they had been

“kidnaped” or were personally involved in other prior kidnaping/hazing incidents on the team.

14. In fact, according to Justin Miller, another member of the football team, hazing was done regularly in Wheaton College football program before March 19, 2016, as an effort to bring the team closer together and was done “out of love.”

15. Consistent with the hazing practice within the Wheaton College football team, a student-athlete named Demarte Arafles was a victim of an incident perpetrated by members of the football team earlier in the academic year.

16. Moreover, in December of 2015, only mere months before March 19, 2016, The Wheaton Record, a student newspaper at Wheaton College, openly reported on the tradition of hazing within Wheaton College sport teams, including the football team, quoting an unnamed member of the football team who believed team bonding is a product of hazing on campus.

17. In March of 2016, and for or a decade or more prior thereto, the Wheaton College football team employed a practice of hazing new and/or freshman football players, including through a kidnapping practice often referred to by players as “grabbing” or “nabbing”, which was well-known throughout the team, school administration, and/or athletic coaches.

18. Specifically, coaches of Wheaton College’s football team and/or administrators of Wheaton College knew, or should have known, of the history of hazing incidents involving new and/or freshman football players given the well-known practice of hazing by the practice of “kidnaping” within the football program.

19. For example, upon information and belief, almost 10 years earlier, around the time period of 2008, a member of the football team was kidnapped as part of this hazing ritual, and as a result of the incident, sustained injuries that prevented him from playing football for a time, and under such circumstances as the head coach, Mike Swider, or other assistant coaches, trainers or other team officials, knew or should have known of the hazing causing the injuries.

20. Also, Jeff Peterson, who is a parent of two other football players within the last 10 years (one believed to be a current student, the other an alum), was himself aware of the kidnapping hazing ritual of new or freshman members of the team, as his sons were subjected to the ritual, and he was aware of such even though he resides in Grand Rapids, Michigan.

21. Upon information and belief, at some time within 5 years prior to March 19, 2016, a resident of Wheaton called the Wheaton Police Department because of another of the hazing “kidnaping” incidents, involving loud screaming and what appeared to be an individual being kidnaped from a dorm by a group of males. When the police responded, they were told by individuals, including but limited to persons believed to be dorm security, that it was just a prank and nothing criminal.

22. Finally, the head football coach, Mike Swider, had two sons who both competed as student-athlete members of the football team within the last ten years. Upon information and belief, both of Mike Swider’s sons had personal experiences with and/or were actually aware of the hazing rituals within the football program, including but not limited to the “kidnaping” ritual.

23. Given the pervasive and continuous nature of the hazing ritual of kidnaping freshman football players, well known among current and former players, parents of players and even known and discussed among dorm security and the student body in student publications to be well established in the culture and norms of the football program over a lengthy period of time, officials and/or administrators of the Defendant, Wheaton College, including but not limited to the head football coach, Mike Swider, actually knew about it, or should have known but for deliberately turning a blind eye to it.

The Plaintiff is Kidnaped by a Group of 8 Players

24. On the evening of March 19, 2016, Plaintiff was watching television in a dorm room on the third floor of Traber Hall, on campus housing owned and operated by the Defendant, Wheaton College, when he was kidnaped as part of the well-established and long-standing hazing ritual of freshman players on the football team

25. Prior to going to the dorm room where Plaintiff was located, the individual Defendants identified herein, as well as other as-yet unidentified co-conspirators including Noah Spielman (hereinafter collectively referred to as “the attackers”), entered into an implicit or explicit agreement, through express or implied means, via text and/or verbal conversation, to “kidnap” Plaintiff as part of a hazing event among the football team that night. Another new or freshman player was also designated to be kidnaped that night, as well, by these individuals. The attackers agreed that Plaintiff would be one target of their hazing and they would “kidnap” him from the dorm room.

26. Prior to attacking Plaintiff in the dorm room and in furtherance of their conspiracy, these attackers, each acting individually and/or in concert with each other, created a plan to lure Plaintiff out of the dorm room so they could “kidnap” him by binding his arms and legs with duct tape and placing a pillow case over his head while one or more other members kept the elevator available.

27. As part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, obtained the duct tape and pillow case to be used in the “kidnaping” ahead of time, and brought those items to the dorm room in Traber Hall for the purpose of using them in furtherance of their agreement to “kidnap” Plaintiff.

28. As part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, attempted to lure Plaintiff out of the dorm room by calling Plaintiff out of the dorm room.

29. Plaintiff refused to leave the dorm room, so the attackers, individually each acting and/or in concert with each other, stormed into the dorm room, surprised Plaintiff and forcibly tackled Plaintiff to the ground.

30. Plaintiff resisted this physical attack by yelling for the attackers to stop and kicking at the attackers. Plaintiff could not use his arms because the attackers, each acting individually and/or in concert with each other, wrapped arms around Plaintiff's arms.

31. Plaintiff could not break free from the attack and fell violently to the ground. Plaintiff continued to wrestle with the attackers, acting individually and/or in concert with each other, but he was overcome by their sheer number and size.

During the Plaintiff's struggle to free himself, the attackers, each acting individually and/or acting in concert with each other, punched Plaintiff at least two (2) times.

32. As part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, sat on Plaintiff's legs and wrapped duct tape around Plaintiff's ankles. Plaintiff was wearing shorts, so the duct tape was applied to his bare skin.

33. Further, once on the ground, as part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, forcefully pulled Plaintiff's arms behind his back and wrapped duct tape binding Plaintiff's hands and wrists.

34. During this initial stage of the "kidnaping," the attackers, each acting individually and/or in concert with each other and as part of and in furtherance of their agreement and plan, hid their identities from Plaintiff by not speaking and forcefully keeping Plaintiff from turning his head to see them.

35. Also, as part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, placed a pillow case over Plaintiff's head and secured it with duct tape around his neck so the Plaintiff could not see.

36. Once Plaintiff was secured with duct tape so he could not move, and the pillow case was secured over his head so he could not see, the attackers, as part of and in furtherance of their agreement and plan, each acting individually and/or

in concert with each other, picked Plaintiff off the ground and carried him down the hallway to the waiting elevator.

37. As part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, carried Plaintiff out of the dorm room while holding the elevator so there would be no delay in removing him from Traber Hall.

38. As part of and in furtherance of their agreement and plan, the attackers, each acting individually and/or in concert with each other, then carried Plaintiff into the elevator, rode the elevator down to the first floor, and carried Plaintiff out of Traber Hall against his will.

39. At the time of the kidnaping, there was a school sponsored social event at Traber Hall. Upon information and belief, when Plaintiff was paraded out of Traber Hall by the attackers, each acting individually and/or in concert with each other, there were security officials, who were duly authorized agents and/or employees of Wheaton College, monitoring Traber Hall for security issues, including at least one stationed at the entrance of the dorm to monitor ingress and egress from the dorm and to maintain the orderly and peaceable conduct of those present, coming and going, and to intervene to protect residents and invitees thereon.

40. The aforementioned dorm security personnel present observed and were aware of the forcible removal of Plaintiff by the attackers, each acting individually and/or in concert with each other.

41. No agent or employee of Wheaton College intervened or attempted to intervene in Plaintiff's removal from Traber Hall nor reported the incident to law enforcement officials to intervene and stop the hazing from continuing.

42. The failure of the resident assistants and/or security personnel to intervene or attempt to intervene in Plaintiff's "kidnaping" evidences the depth of familiarity and acceptance the Wheaton College community had to the well settled football team hazing ritual and/or evidences that Wheaton College, by and through its duly authorized agents and/or employees, condones the practice or deliberately "looks the other way" to the well-established policy of hazing student-athletes on campus, including the practice of "kidnaping."

43. Once removed from Traber Hall, the attackers, each individually and/or in concert with each other, placed Plaintiff in the back of a pick-up truck in order to drive him off campus.

44. In furtherance of their agreement, the attackers, each acting individually and/or in concert with each other, placed Plaintiff in the back seat of the pick-up truck, with one individual on each side of him to keep physical restraint of him and keep him from struggling.

45. Plaintiff's arms, legs, and ankles remained duct-taped while in the back seat. Plaintiff's torso was leaning on one attacker, acting individually and in concert with the others, while another attacker, acting individually and in concert with the others, held Plaintiff's legs.

46. Soon after the vehicle started to move, the attackers, each acting individually and/or in concert with each other, began playing middle-Eastern music

and making racially and religiously offensive comments about people of the Islamic faith and/or of Middle-eastern ethnicity while speaking in Middle-Eastern accents. Specifically during this drive, the attackers, each acting individually and/or in concert with each other, continued to speak in Middle-eastern accents and played Middle-eastern music and verbally made sexual assault references.

47. Moreover, the attackers, each acting individually and/or in concert with each other, made statements about having sex with a goat and that “they had their goat right here” while patting Plaintiff’s foot to imply he was the goat.

48. According to one or more of the attackers, the use of Middle-eastern music and accents was designed to scare and disorient Plaintiff, since one or more of the attackers believed that Arabic and Muslim people are “goat fuckers.”

49. At this time, Plaintiff felt someone pull his athletic shorts down and try to pull his boxer shorts down. Plaintiff began struggling to stop the person from pulling off his shorts and boxers, fearing he would be sodomized, but his legs were further restrained by the attackers, each acting individually and/or in concert with each other.

50. After Plaintiff’s legs were further restrained, he felt an object placed near to and being pushed into his rectum. Plaintiff resisted and yelled stop, but he was physically punched and/or elbowed by the attackers, each acting individually and/or in concert with each other and in furtherance of their agreement. Plaintiff ceased resisting.

51. After the physical assault, Plaintiff again felt an object near and being inserted into his rectum. Plaintiff again resisted and yelled stop, and he was again

physically punched and/or elbowed by the attackers, each acting individually and/or in concert with each other and in furtherance of their agreement. Plaintiff again ceased resisting.

52. While they were inside the truck, the attackers, each acting individually and/or in concert with each other, told Plaintiff that he was elbowed in the ribs violently because Plaintiff almost kicked one or more of the attackers when struggling, and also told Plaintiff that he was punched in the leg several times in order to injure his leg, or give him a “dead leg.” At that point, more duct tape was wrapped around the Plaintiff’s shins, thighs and torso.

53. The attackers, each acting individually and/or in concert with each other and in furtherance of their agreement, drove to a park located far off campus and dragged Plaintiff out from the backseat. The attackers, acting individually and/or in concert with each other and in furtherance of their agreement, hauled Plaintiff to the dirt baseball diamond and left him on the ground, in the dirt.

54. The attackers, each acting individually and/or in concert with each other and in furtherance of their agreement, then pulled Plaintiff’s shirt up as far as it would go and pulled his shorts and boxers partially down, exposing his buttocks.

55. The attackers, each acting individually and/or in concert with each other and in furtherance of their agreement, threw dirt on Plaintiff and punched and slapped him repeatedly while he was seated, half-naked on the baseball diamond in the cold night air of March.

56. After the attackers, each acting individually and/or in concert with each other, were done beating and humiliating Plaintiff on the baseball field, one of them partially removed and/or cut the duct tape so Plaintiff could free himself.

57. After freeing his hands, Plaintiff removed the pillow case from his head and found himself alone on the baseball field with duct tape around his ankles and his shorts down his legs. Plaintiff did not know his location, having just moved to the Wheaton area, and he was beaten and cold; his cellphone and wallet were missing.

58. After approximately 10 minutes, Plaintiff saw another person who appeared to be another victim of the hazing kidnaping get pushed out of a vehicle near the same baseball diamond. Shortly thereafter, a separate vehicle pulled up and picked up that person. Plaintiff yelled in the direction of that person and the vehicle.

59. At this juncture, Plaintiff saw the person who was pushed out of the car as another member of the football team who was also hazed that night.

60. Plaintiff and the other hazed player were driven back to the Wheaton College campus by that last vehicle that had come by, and Plaintiff was dropped off at Traber Hall. He entered the dorm without any resident assistants and/or security personnel present at the entrance assisting or attempting to assist him, went to the dorm room where the "kidnaping" began, and found his phone, wallet, and one shoe sitting on the couch.

61. Plaintiff was emotionally and physically traumatized so he walked back to his dorm room, called his family, and drove himself to the hospital, where he

remained for hours into the late evening and early hours of March 20, 2016, at which time hospital staff summoned the Wheaton Police who initiated an investigation, and because of which the Plaintiff was forced to suffer through the indignity of a rape kit examination.

62. On March 20, 2016, around 5pm, Plaintiff and his father arrived back at campus and began removing his personal belongings from his dorm room in Fischer Hall, and Plaintiff left the school because he no longer felt safe. Plaintiff formally withdrew from Wheaton College shortly thereafter.

63. As the result of the above described attack, the Plaintiff, Charles Nagy, has suffered extreme and permanent injuries, including torn labrums in each shoulder requiring surgery, numerous abrasions, bruises and friction injuries, as well as extreme embarrassment, humiliation and shame.

The Aftermath and the Cover-up

64. By 5:30pm on March 20, 2016, one or more of the attackers knew Plaintiff was moving his things out of his dorm and leaving the school. At this time, knowing the above, one or more of the attackers, acting individually and/or in concert with each other, immediately notified Mike Swider, the head football coach, on or about March 20, 2016, around 6pm. Rather than promptly turn the matter over to the College's investigatory and disciplinary apparatus to preserve the integrity of any criminal or disciplinary hazing investigation of his own football players, Mike Swider set about a plan to cover up the hazing.

65. Specifically, first, Mike Swider spoke with one or more of the involved attackers on March 20, 2016, together, to concoct and coordinate a common story to

excuse and/or exonerate the attackers' conduct by (a) creating a narrative to blame the victim, (b) claiming that Plaintiff was a voluntary participant, (c) creating a common story that no one intended to hurt Plaintiff, and further (d) to develop a common claim that Plaintiff was exaggerating what occurred, specifically as to any attempts to insert an object into the Plaintiff's rectum.

66. Notably, neither during nor as a result of these communications with one or more of the attackers was Swider surprised by the fact that a hazing kidnaping incident was perpetrated by his football players, and he did not to turn the matter immediately over to the College's disciplinary apparatus.

67. Second, Mike Swider made numerous efforts immediately to contact and speak with the Plaintiff and his father, directly and indirectly, to try to calm Plaintiff down so as to prevent him from reporting this incident to anyone and to convince him to return to the school.

68. Specifically, on March 20, 2016, around 6pm, Mike Swider enlisted others, directly and indirectly, including an assistant coach and other football players, to contact the Plaintiff to return to school "to get this resolved." Pursuant to these directions, the Plaintiff received no less than 8 texts and voicemail messages, including from Swider, an assistant coach, and several other players whom the Plaintiff considered friends on the team, from 6:26pm through 7:20pm, in which short span of time these individuals, at the direction of Swider, were appealing to Plaintiff to return to campus

69. Specifically, at 6:26pm an assistant coach texted the Plaintiff to "stay part of this," and shortly before 6:36pm, Swider left Plaintiff a voicemail message on

Plaintiff's phone arguing that the incident was not hazing, but meant to be a joke, and followed up by text at 6:36pm that he "Would like to speak to you to get this resolved."

70. Upon information and belief, Swider's intent in communicating with the Plaintiff, and in directing others to do so, was not to "get this resolved," in such a manner as to independently determine through a proper disciplinary hazing investigation whether and whom should be punished, but rather his intent was to control the Plaintiff so as to conceal the fact that the hazing occurred and preserve the culture and norms of the football team and his autonomous control over it.

71. In fact, it was not until approximately March 22, 2016, after the Plaintiff ignored the above pleas (and more) by Swider, directly and indirectly, that Swider apparently finally communicated the incident to the proper investigatory and disciplinary authorities in the College because, by then, it was clear that a law enforcement investigation was underway on account of the Wheaton Police Department response to the hospital on March 19, 2016, and that any efforts to prevent the Plaintiff from telling any authorities what happened were too late.

72. After March 19, 2016, and through until September of 2017, neither Wheaton College nor Mike Swider enforced any meaningful discipline of any of the attackers for the hazing incident, and all of them remained members in good standing of the football team until felony criminal charges were filed against Noah Spielman and the Defendants, Pettway, TeBos, Cooksey and Kregel, in September of 2017.

COUNT I – Willful & Wanton Conduct – Wheaton College

73. Plaintiff incorporates the allegations of paragraphs 1 through 72, above, as if fully set forth herein.

74. On and prior to March 19, 2016, the Plaintiff, Charles Nagy, was a transferring incoming freshman on the Wheaton College football team.

75. The Wheaton College football team has for years maintained and fostered a practice of hazing, including kidnaping new transferring or incoming freshman players.

76. This hazing practice was well-known by members of the football team, dorm security personnel, students in general and, specifically, the head coach, Mike Swider, and other coaching staff continuously over the years.

77. The Defendant, Wheaton College, by and through its duly authorized agents and/or employees, including but not limited to Mike Swider, other assistant coaches, as-yet unidentified dorm security and others, knew or should have known of the practice and substantial risk to those persons whom were subjected to hazing by kidnaping.

78. Wheaton College, by and through its duly authorized agents and/or employees, was deliberately indifferent to such risks, and specifically the risk to the Plaintiff, Charles Nagy, by, but not limited to, turning a blind eye to the practice, failing to meaningfully investigate and discipline students known to have engaged in or abetted the practice, and not properly training and teaching players and employees of the risks of the practice despite the obvious need to do so.

79. Rather, the Defendant, Wheaton College, played lip service to the practice and the risks associated with it by creating a sham hazing policy that it never intended to or actually did enforce in any meaningful way, despite opportunity and need to do so. In fact, by merely paying lip service to the hazing and its risks, the Defendant, Wheaton College, actually promoted and encouraged individuals to continue the practice with impunity, including specifically the defendants and conspirators identified herein.

80. Prior to March 19, 2016, the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, by overlooking or ignoring hazing incidents among student-athletes about which it knew or should have known, including prior hazing by kidnaping within the football team, failing to properly and independently investigate incidents of hazing, including prior hazing by kidnaping within the football team, and failing to meaningfully discipline individuals engaging in hazing practice, created an environment wherein members of the football team believed they could engage in such violent and criminal conduct without consequence.

81. On and prior to March 19, 2016, the Defendant, Wheaton College, had a duty to protect Plaintiff, a business invitee resident student-athlete who lived on campus, from risks to the Plaintiff's health about which it knew or should have known.

82. On and prior to March 19, 2016, Wheaton College, by and through its duly authorized agents and/or employees, breached its duty to the Plaintiff, Charles Nagy, in one or more of the following ways:

- a. deliberately failing to educate and train its employees and student-athletes about risks of hazing, despite that it knew or should of known of the need to do so and the substantial risk of not;
- b. deliberately failing to meaningfully investigate employees and/or students involved in prior instances of hazing, despite that it knew or should of known of the need to do so and the substantial risk of not;
- c. deliberately failing to meaningfully discipline employees and/or students involved in prior instances of hazing, despite that it knew or should of known of the need to do so and the substantial risk of not;
- d. deliberately failing to halt the hazing practice within the football program as evidenced by the long history of hazing, despite that it knew or should of known of the need to do so and the substantial risk of not;
- e. deliberately failing to meaningfully enforce its own hazing policy, despite that it knew or should of known of the need to do so and the substantial risk of not ;
- f. deliberately or failing to warn the Plaintiff of the long-standing and well-established practice of hazing within the football team, despite that it knew or should of known of the need to do so and the substantial risk of not; and
- g. was otherwise willful and wanton.

83. As a proximate result of the above acts and or omissions of the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, and the facts set forth otherwise in this Complaint at Law, the Defendant, Wheaton College, owed the Plaintiff, Charles Nagy, a duty to act with reasonable care and to refrain from gross negligence and/or deliberate indifference to a substantial risk to the Plaintiff's safety.

84. As a result of one or more of the aforesaid acts and/or omissions of the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, this duty was breached, which breach proximately caused Plaintiff to suffer in the past and continue to suffer in the future permanent and severe injuries of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Wheaton College, in a sum in excess of \$50,000.00, plus costs of this suit.

COUNT II – Negligence – Wheaton College

85. Plaintiff incorporates paragraphs 1 through 84, above, as if fully set forth herein.

86. On March 19, 2016, the Plaintiff was lawfully present within Traber Hall on the property of the Defendant, Wheaton College, and otherwise enrolled as a student in the College, having been invited by the Defendant, Wheaton College, to enroll in the college and participate as a student-athlete on the men's intercollegiate football team.

87. On March 19, 2016, the Plaintiff, Charles Nagy, was a lawful business invitee on the premises of Wheaton College to whom the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, owed a duty of reasonable care.

88. On March 19, 2016, numerous members of the Wheaton College football team bound Plaintiff's hands and legs with duct tape so he was unable to move, duct taped a pillow case over his head so he could not see, and openly and

conspicuously carried him down a hallway in Traber Hall on the premises of the Defendant, Wheaton College, down an elevator, and out into the open area in full view of the front desk / reception area for Traber Hall where the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, had one or more stationed security personnel.

89. On and prior to March 19, 2016, the Defendant, Wheaton College, voluntarily undertook the duty to provide physical and property security at the dorms specifically so as to monitor, record and regulate the ingress and egress of persons present within the dorm, including verification of the identities of persons coming and going and recording the times of such, so as to protect persons residing in and/or visiting those in the dorm from moral and/or criminal transgressions of residents, visitors or third persons.

90. On March 19, 2016, the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, saw the Plaintiff, bound and hooded, being carried out of Traber Hall by numerous individuals in open and conspicuous view of the lobby and security station otherwise, while obviously struggling and under such circumstances as was apparent was against Plaintiff's will.

91. On March 19, 2016, the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, breached its duty to the Plaintiff, Charles Nagy, in one or more of the following ways:

- a. failed to prevent the Plaintiff's imprisonment and/or battery by others;
- b. failed to intervene in the Plaintiff's imprisonment and/or battery by others;

- c. failed to properly train security personnel as to proper and sufficient response to suspected criminal activity;
- d. failed to properly screen persons entering and/or leaving the dorm with instrumentality of criminal conduct;
- e. was otherwise careless and negligent.

92. As a result of the facts set forth in this Complaint at Law, the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, owed the Plaintiff, Charles Nagy, a duty to act with reasonable care, which duty was breached by the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, proximately resulting in severe and permanent injuries to the Plaintiff, Charles Nagy.

93. As a proximate result of one or more of the aforesaid acts and/or omissions of the Defendant, Wheaton College, by and through its duly authorized agents and/or employees, this duty was breached, which breach proximately caused Plaintiff to suffer in the past and continue to suffer in the future permanent and severe injuries of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Wheaton College, in a sum in excess of \$50,000.00, plus costs of this suit.

COUNT III – Battery (Conspiracy) - Pettway

94. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

95. On March 19, 2016, the Defendant, Ben Pettway, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

96. In furtherance of said agreement, the Defendant, Ben Pettway, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and/or carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout, and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

97. As a proximate result of the aforesaid acts of the Defendant, Ben Pettway, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Ben Pettway, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT IV – Battery (Conspiracy) – TeBos

98. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

99. On March 19, 2016, the Defendant, Sam TeBos, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

100. In furtherance of said agreement, the Defendant, Sam TeBos, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

101. As a proximate result of the aforesaid acts of the Defendant, Sam TeBos, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Sam TeBos, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT V – Battery (Conspiracy) - Cooksey

102. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

103. On March 19, 2016, the Defendant, James Cooksey, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

104. In furtherance of said agreement, the Defendant, James Cooksey, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

105. As a proximate result of the aforesaid acts of the Defendant, James Cooksey, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, James Cooksey, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT VI – Battery (Conspiracy) - Kregel

106. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

107. On March 19, 2016, the Defendant, Kyler Kregel, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

108. In furtherance of said agreement, the Defendant, Kyler Kregel, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

109. As a proximate result of the aforesaid acts of the Defendant, Kyler Kregel, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Kyler Kregel, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT VII – Battery (Conspiracy) - Ibsen

110. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

111. On March 19, 2016, the Defendant, Daniel Ibsen, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

112. In furtherance of said agreement, the Defendant, Daniel Ibsen, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

113. As a proximate result of the aforesaid acts of the Defendant, Daniel Ibsen, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Daniel Ibsen, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT VIII – Battery (Conspiracy) - Blazek

114. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

115. On March 19, 2016, the Defendant, Nick Blazek, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

116. In furtherance of said agreement, the Defendant, Nick Blazek, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

117. As a proximate result of the aforesaid acts of the Defendant, Nick Blazek, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Nick Blazek, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT IX – Battery (Conspiracy) - Sigler

118. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

119. On March 19, 2016, the Defendant, Tyler Sigler, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful and unreasonable battery against the Plaintiff, Charles Nagy.

120. In furtherance of said agreement, the Defendant, Tyler Sigler, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including physical contact without lawful justification, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

121. As a proximate result of the aforesaid acts of the Defendant, Tyler Sigler, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Tyler Sigler, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT X – False Imprisonment (Conspiracy) - Pettway

122. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

123. On March 19, 2016, the Defendant, Ben Pettway, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy.

124. In furtherance of said agreement, the Defendant, Ben Pettway, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including restraining the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout, and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

125. As a proximate result of the aforesaid acts of the Defendant, Ben Pettway, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Ben Pettway, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT XI – False Imprisonment (Conspiracy) - TeBos

126. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

127. On March 19, 2016, the Defendant, Sam TeBos, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy.

128. In furtherance of said agreement, the Defendant, Sam TeBos, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including restraining the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

129. As a proximate result of the aforesaid acts of the Defendant, Sam TeBos, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Sam TeBos, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT XII – False Imprisonment (Conspiracy) - Cooksey

130. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

131. On March 19, 2016, the Defendant, James Cooksey, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy.

132. In furtherance of said agreement, the Defendant, James Cooksey, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including restraining the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

133. As a proximate result of the aforesaid acts of the Defendant, James Cooksey, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, James Cooksey, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT XIII – False Imprisonment (Conspiracy) - Kregel

134. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

135. On March 19, 2016, the Defendant, Kyler Kregel, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy.

136. In furtherance of said agreement, the Defendant, Kyler Kregel, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including restraining the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

137. As a proximate result of the aforesaid acts of the Defendant, Kyler Kregel, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Kyler Kregel, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT XIV – False Imprisonment (Conspiracy) - Ibsen

138. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

139. On March 19, 2016, the Defendant, Daniel Ibsen, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy.

140. In furtherance of said agreement, the Defendant, Daniel Ibsen, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

141. As a proximate result of the aforesaid acts of the Defendant, Daniel Ibsen, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Daniel Ibsen, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT XV – False Imprisonment (Conspiracy) - Blazek

142. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

143. On March 19, 2016, the Defendant, Nick Blazek, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy.

144. In furtherance of said agreement, the Defendant, Nick Blazek, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including restraining the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

145. As a proximate result of the aforesaid acts of the Defendant, Nick Blazek, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Nick Blazek, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

COUNT XVI – False Imprisonment (Conspiracy) - Sigler

146. Plaintiff incorporates paragraphs 1 through 72, above, as if fully set forth herein.

147. On March 19, 2016, the Defendant, Tyler Sigler, accomplished an unlawful result through individual and/or concerted conduct in that he agreed, through explicit or implicit means, to effect the unlawful detention and restraint of the personal liberty and freedom of movement of the Plaintiff, Charles Nagy

148. In furtherance of said agreement, the Defendant, Tyler Sigler, made physical contact with the Plaintiff without lawful justification, attached himself to the attackers, accompanying them throughout the planning and carrying out of the hazing incident outlined above, and otherwise aided and abetted the unlawful acts of the other attackers, including restraining the personal liberty and freedom of movement of the Plaintiff, Charles Nagy, acting as lookout and after the fact fabricated an account of the incident in concert with the other attackers, Mike Swider and other as-yet unidentified co-conspirators, for the purposes stated above.

149. As a proximate result of the aforesaid acts of the Defendant, Tyler Sigler, individually and in concert with other co-conspirators, the Plaintiff, Charles Nagy, has suffered and will in the future suffer permanent and severe injuries and damages of a personal and pecuniary nature.

WHEREFORE, the Plaintiff, Charles Nagy, demands judgment against the Defendant, Tyler Sigler, jointly and severally, in a sum in excess of \$50,000.00, plus the costs of this suit.

Plaintiff Demands a Trial by Jury on All Issues and Claims so Triable.

Respectfully submitted by:
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