

WALTER DEAN JENNINGS, JR. Individually and as Administrator of the Estate of
WALTER DEAN JENNINGS, III

Plaintiff,

-against-

DECISION and ORDER
RJI #45-1-2004-1237
Index # 2004-2100

SARATOGA COUNTY
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2007 NOV 29 AM 11:21

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JOHN E. BURNIUS, WILLIAM C. KATZ,
KEITH W. LALONE, WILLIAM W. FARMER, III,
ADAM T. ZASTOWNAY, MICHAEL J. WEST,
GARY R. JONES, PSI EPSILON CHI FRATERNITY, INC.,
JASON N. PROCHILLO, CHRISTOPHER M. COLLETTI,
ALEX W. FISCHER, RYAN S. QUINN; ADAM L. ATKINSON;
JEFFREY R. MEYER; PATRICK J. STASIUKIEWICZ

Defendants.

STEPHEN A. FERRADINO, J.

This tragic case involves the senseless death of an eighteen year old young man as a result of the barbaric hazing rituals employed by the members of Psi Epsilon Chi Fraternity chapter located in Plattsburgh, New York. The Greek system has been the focus of increased scrutiny because of, amongst other things, hazing incidents that have resulted in injury or death. In this case a rouge fraternity's brothers exhibited the type of aberrant behavior that has led numerous colleges and universities to ban fraternities. This is unfortunate. Fraternity is a word for brotherhood. The intention of fraternities was to provide social organizations that foster deep friendship and camaraderie along with a support network during a formative and daunting period of a young man's life. Fraternities, at their best, offer a young man lifelong friends, leadership opportunities, social and sports activities, academic support, mentors, networking opportunities and a

life long link to their college or university. At their worst, fraternity hazing sets the stage for showcasing the worst of human traits.

Hazing is defined in the Merriam-Webster's Online Dictionary, 10th Edition

1 a: to harass by exacting unnecessary or disagreeable work;

b: to harass by banter, ridicule, or criticism;

2: to haze by way of initiation <haze the fraternity pledges>.

The proof in this case revealed that while pledging Psi Epsilon Chi, fraternity brothers demanded Dean Jennings perform meaningless and degrading tasks while being harassed, abused or humiliated. Dean Jennings voluntarily sought to become a member of the fraternity and began the initiation process. However the process is set-up in a fashion to isolate the pledges from their normal routines and make the initiation process an all-encompassing endeavor. It is questionable whether Dean Jennings truly was a voluntary participant when, amongst other things, he was deprived of sleep for days over the twelve days prior to his death, forced to drink alcohol in large quantities repeatedly until he vomited, forced to eat digesting foods with the intent to cause illness, and repeatedly forced to do calisthenics, and placed in a hot box called the Jiminy Cricket room. The room was a small storage area in the fraternity house. The fraternity brothers equipped the room with small heaters, strobe lighting and loud music. After heating the room to between 90 to 100 degree, Dean Jennings and another pledge would be stuffed in the storage area, where they were unable to stand, and left for an hour or more. The pledges were placed in the Jiminy Cricket room only after performing physical activities on command to the point of exhaustion. Upon release from this torment the pledges were forced to drink alcohol until they vomited. One of the alcohol

concoctions Dean Jennings was forced to drink was first urinated in by Jonathan Bernius. Dean Jennings was also stapled to a door by his clothing for the amusement of the fraternity brothers. All of these activities were conducted either with the help or knowledge of Jonathan Bernius.

The pledges were further brutalized repeatedly with "water torture." There were two forms of water torture. One form of water torture was carried out by forcing pledges to drink large amounts of water after drinking large quantities of alcohol to induce vomiting. The twisted rationale for this activity was to avoid alcohol poisoning. The second form of water torture was accomplished by forcing the pledge to drink large amounts of water just to induce vomiting. The water may have been forced upon the pledge by pouring it down his throat with a funnel. This torture was performed repeatedly. In fact some of the brothers raised the concern it had gone far enough and should be stopped. Jonathan Bernius was not in that group. He continued to favor this heinous activity. In fact, he was present and forced this activity again upon Dean Jennings on March 12, 2003 after a night full of excessive drinking and water torture. Exhausted and dirty, Dean Jennings was forced to repeatedly drink excessive amounts of water and began to suffer the effects of water intoxication that led to his death. Only when he was unresponsive and foaming a red tinged liquid from his mouth and nose did several fraternity brothers take Dean Jennings to the local hospital. In less than eight hours, Dean Jennings was dead. After being advised that their son was brain dead, with no hope of recovery, his parents gave their approval to cease life support. His death certificate lists his cause of death as brain swelling due to water intoxication caused by being coerced to drink large quantities of water.

The Court is now faced with the task of determining damages in this case. The behavior of Mr. Bernius and his cohorts toward Dean Jennings was hideous and cruel. Certainly, Dean Jennings experienced conscious pain and suffering at the hands of his tormentors. The description of Dean Jennings' condition as dirty, fatigued, dazed, sleep deprived, repeatedly vomiting and ultimately foaming at the mouth and nose until he became unresponsive as a result of repeated physical and mental abuse are evidence of his escalating pain and suffering. The Court awards the plaintiff four hundred thousand dollars (\$400,000.00) for the pain and suffering he endured at the hands of Mr. Bernius.

Mr. Jennings' testimony is a testament to the loving and supportive relationship Dean Jennings shared with his parents. He was a dutiful son who provided regular assistance with household chores and yardwork for both his parents and grandparents. It is clear Dean Jennings valued his family and would have continued to provide assistance to his parents in whatever capacity was needed for many years. Those services provided by children become invaluable to parents as they advance in age. The Court awards one hundred thousand dollars(\$100,000.00) on the wrongful death cause of action.

“Punitive damages may be awarded where a defendant's conduct, even though unintentional, ‘is grossly negligent, or wanton or so reckless as to amount to a conscious disregard of the rights of others’. The purpose of punitive damages goes beyond simply punishing the perpetrator for the morally culpable act committed but is also intended to deter repetition of such acts.” *Guariglia v. Price Chopper Operating Co., Inc.*, 38 AD3d 1043 (3d Dept. 2007)(citations omitted).

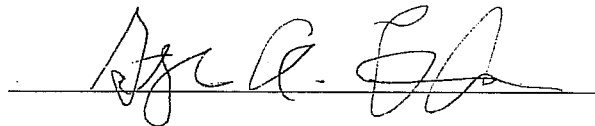
The result of Mr. Bernius actions was unintended. Nonetheless his conduct was cruel, relentless and uncivilized. How Mr. Bernius could urinate in a concoction of liquor and

then force Dean Jennings to drink it until he vomited is unfathomable behavior in a civilized society. He elected throughout the hazing period to totally disregard the rights of Dean Jennings through his own action, participation in group actions and his support of his other fraternity brothers actions. He subjected Dean Jennings to continued water torture, even over the protests of some of he fellow fraternity members who recognized that this was going too far. Such behavior is the epitome of recklessness, arrogance and a conscious disregard for the rights of others. His actions robbed a family of a beloved son, brother and grandson. The Court awards punitive damages in the amount of one million dollars (\$1,000,000.00) to punish Mr. Bernius and to deter others from engaging in the acts of cruelty seen in this case.

It is so Ordered.

Dated: November 21, 2007

Malta, New York



STEPHEN A. FERRADINO, J.S.C.

ENTERED
Kathleen A. Marchione
Kathleen A. Marchione
Saratoga County Clerk

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