

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION

JANE DOE NO. 72, by and through  
MOTHER DOE and FATHER DOE  
as Parents and Natural Guardians,

Plaintiff,

CASE NO.:

vs.

PI KAPPA PHI FRATERNITY, INC., and  
PI KAPPA PHI ZETA ETA CHAPTER

Defendants.

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**PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff JANE DOE No. 72, by and through MOTHER DOE and FATHER DOE as her parents and natural guardians, by and through undersigned counsel, hereby files this Complaint against Defendants PI KAPPA PHI FRATERNITY, INC. and PI KAPPA PHI FRATERNITY ZETA ETA CHAPTER, and alleges as follows:

**GENERAL ALLEGATIONS**

1. This case arises out of the alleged sexual assault of sixteen year old JANE DOE No. 72 by Dillon LaGamma, a member of PI KAPPA PHI FRATERNITY ZETA ETA CHAPTER at the University of South Florida, after JANE DOE was provided with, and encouraged to drink copious amounts of alcohol, despite her age, to the point in which she became unconscious.

2. The alleged unlawful acts of Defendants giving rise to this action were committed in Hillsborough County, Florida, within the jurisdiction of the Circuit Court for the Thirteenth Judicial Circuit in and for Hillsborough County, Florida.

3. Plaintiff, JANE DOE No. 72 (“JANE DOE”) is a minor female and resident of Pinellas County. She is not *sui juris* by virtue of her minority. Mother Doe and Father Doe bring this action on behalf of JANE DOE as her parents and natural guardians. In this action, Plaintiff is identified by a pseudonym because this matter concerns the sexual assault of a minor. The identity of the Plaintiff is known to the Defendants.

4. Defendant PI KAPPA PHI ZETA ETA CHAPTER is the local chapter of the PI KAPPA PHI FRATERNITY, INC., at the University of South Florida.

5. The PI KAPPA PHI house, where PI KAPPA PHI members reside and where the subject incident took place, is located at 4723 USF Birch Drive, Tampa, FL 33620.

6. PI KAPPA PHI FRATERNITY, INC., is non-profit entity and national fraternal organization. Its National Headquarters is located in Charlotte, North Carolina. At all material times, PI KAPPA PHI FRATERNITY, INC., controlled, operated, and maintained the local PI KAPPA PHI chapters, including PI KAPPA PHI ZETA ETA CHAPTER.

7. For purposes of this Complaint, Defendants will be hereinafter referred to collectively as “PI KAPPA PHI”.

8. All conditions precedent to bringing this action have been performed, have occurred, or have been waived.

9. This is an action for damages in excess of five million dollars (\$5,000,000.00), above the jurisdictional amount of fifteen thousand (\$15,000) dollars, exclusive of interest and costs.

### **FACTUAL ALLEGATIONS**

10. At all times material hereto, Dillon LaGamma was a member of PI KAPPA PHI.

11. At all times material hereto, JANE DOE was a sixteen year-old female.

12. On or about October 1, 2016, JANE DOE and her two older sisters went to the University of South Florida campus. While there, they discovered that there was a party taking place at the PI KAPPA PHI house.

13. Upon information and belief, prior to the party, PI KAPPA PHI members obstructed the video surveillance cameras in the PI KAPPA PHI house so that there would be no video evidence of what took place at the PI KAPPA PHI house during the party.

14. JANE DOE and her two sisters approached a table outside the house where it appeared as if PI KAPPA PHI members were checking ID's.

15. When the three sisters approached the table, they were told that they did not need to produce ID's, and the PI KAPPA PHI members are just "making it look like they were checking ID's, so they didn't get in trouble".

16. A PI KAPPA PHI member then wrote an "x" on JANE DOE's oldest sister's hand, indicating that she was under the age of 21, despite the fact that she was, in fact, over the age of 21. The PI KAPPA PHI member explained that he did this to make it appear as if some visitors are identified as being under 21, and not to worry because everyone will be able to drink alcohol at the party.

17. Upon information and belief, the PI KAPPA PHI member then placed "over 21" wrist bands on JANE DOE and her other sister, both of whom were under the age of 21. JANE DOE informed the PI KAPPA PHI member that she was under 21 years old, but he insisted she take an "over 21" band.

18. The three sisters entered the party and JANE DOE and her oldest sister were provided pre-poured cups of a mixed alcoholic beverage.

19. Throughout the night, JANE DOE was provided multiple alcoholic beverages, without anyone questioning her age or level of inebriation.

20. At one point in the night, PI KAPPA PHI fraternity members approached JANE DOE with a “slap bag”, which is a bag filled with a potent alcoholic beverage.

21. The PI KAPPA PHI fraternity member then poured the alcoholic beverage directly into JANE DOE’s mouth and encouraged her and her oldest sister to drink the entirety of the bag.

22. JANE DOE became dangerously intoxicated to the point in which she had difficulty standing up and was incoherent. Despite this, PI KAPPA PHI members continued to encourage and pressure JANE DOE to drink alcohol.

23. JANE DOE “blacked out” as a result of the copious amounts of alcohol she was provided with, pressured, and encouraged to drink by PI KAPPA PHI members.

24. Dillon LaGamma, a nineteen year-old male and member of the PI KAPPA PHI fraternity, then escorted JANE DOE into a room, despite the difficulty JANE DOE had standing up and walking without assistance.

25. While JANE DOE was in LaGamma’s room, JANE DOE’s two sisters tried desperately to locate her but could not find her anywhere.

26. JANE DOE was intoxicated to the level in which she was incapable of consenting to sexual intercourse with LaGamma.

27. Due to her age, JANE DOE was legally incapable of consenting to sexual intercourse with LaGamma.

28. In LaGamma’s room, JANE DOE passed out and became unconscious due her level of extreme intoxication. Dillon LaGamma then had sexual intercourse with JANE DOE’s unconscious body, despite her age and obvious level of intoxication.

29. Upon information and belief, subsequent to the sexual assault, a PI KAPPA PHI fraternity member found JANE DOE unconscious, and had JANE DOE taken to the hospital because she was intoxicated to the point in which she could not stand up and was completely non-responsive.

30. Finally, a member of PI KAPPA PHI fraternity informed JANE DOE's older sister that JANE DOE was found unconscious and had to be taken to the hospital.

31. The next thing JANE DOE remembers is waking up in the hospital with the bottom half of her clothes covered in her own blood.

32. As a proximate result of the acts and omissions of Defendant, Plaintiff has suffered emotional pain, suffering, inconvenience, mental anguish, embarrassment, humiliation, loss of enjoyment of life, loss of dignity, emotional distress, and other non-pecuniary losses and intangible injuries.

**COUNT I**  
**NEGLIGENCE PER SE FOR VIOLATION OF**  
**SECTION 856.015 FLORIDA STATUTES**

33. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 32 above.

34. At all relevant times, PI KAPPA PHI had control of the PI KAPPA PHI house.

35. PI KAPPA PHI allowed an open house party/social gathering to take place at the PI KAPPA PHI house.

36. PI KAPPA PHI permitted minors, including JANE DOE, to consume alcohol at the PI KAPPA PHI house during the open house party.

37. Alcoholic beverages were possessed or consumed by a minor, JANE DOE, at the PI KAPPA PHI residence, where PI KAPPA PHI knew that alcoholic beverages were in the possession of, and being consumed by minors, including JANE DOE.

38. PI KAPPA PHI failed to take reasonable steps to prevent the possession or consumption of alcohol by minors, including JANE DOE.

39. PI KAPPA PHI encouraged, enticed, and/or coerced JANE DOE, a minor, to possess and consume alcohol.

40. As a result of JANE DOE's consumption of alcohol at the PI KAPPA PHI house, JANE DOE suffered severe physical and mental injuries.

41. Under §856.015, Florida Statutes, it is a criminal violation for any person having control of a residence to allow a social gathering to take place where it knows that alcoholic beverages are in the possession of or being consumed by a minor.

42. JANE DOE was at all material times a minor and a member of the class of persons §856.015, Florida Statutes is designed to protect.

43. As a proximate result of PI KAPPA PHI's violation of §856.015, Florida Statutes, Plaintiff has suffered significant damages.

44. As a direct and proximate consequence of the foregoing, JANE DOE suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life. These injuries have ongoing and continuing effects.

WHEREFORE, Plaintiff, JANE DOE, demands judgment against Defendants PI KAPPA PHI FRATERNITY, INC. and PI KAPPA PHI ZETA ETA CHAPTER for compensatory damages, costs and such other and further relief as this Court deems just and proper.

**COUNT II**  
**GENERAL NEGLIGENCE**

45. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 32 above.

46. Defendant PI KAPPA PHI had a duty of care to prevent a foreseeable harm to guests at the PI KAPPA PHI party.

47. Defendant PI KAPPA PHI breached its duty of care by failing to take adequate steps or measures to prevent minors, including JANE DOE from consuming a dangerous amount of alcohol while she was its guest.

48. Defendant PI KAPPA PHI breached its duty of care by failing to take reasonable steps to prevent JANE DOE from becoming dangerously intoxicated.

49. Sexual assault is a foreseeable harm of an underage girl becoming intoxicated at a fraternity party.

50. Despite the known foreseeable harm of sexual assault, PI KAPPA PHI not only allowed JANE DOE to consume alcohol, but provided alcohol, and encouraged and pressured her to consume dangerous quantities of alcohol.

51. Upon information and belief, PI KAPPA PHI has a history of underage drinking violations at USF.

52. Upon information and belief, PI KAPPA PHI has a history of sexual assault allegations at USF.

53. Upon information and belief, PI KAPPA PHI had actual and/or constructive notice that Dillon LaGamma was dangerous to be around intoxicated females at a party.

54. Upon information and belief, PI KAPPA PHI ignored actual and/or constructive notice concerning the threat Dillon LaGamma posed to intoxicated females, and allowed him to attend the party and bring JANE DOE into his room.

55. Upon information and belief, PI KAPPA PHI members witnessed Dillon LaGamma bringing a visibly intoxicated female to his room, and failed to take any measures to prevent what was a foreseeable sexual assault.

56. Defendant PI KAPPA PHI breached its duty of care by failing to take reasonable steps to prevent Dillon LaGamma from committing a sexual assault on an underage female party guest.

57. As a proximate cause of Defendant's negligence, Plaintiff was sexually assaulted.

58. As a direct and proximate consequence of the foregoing, JANE DOE suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life. These injuries have ongoing and continuing effects.

WHEREFORE, Plaintiff, JANE DOE, demands judgment against Defendants PI KAPPA PHI FRATERNITY, INC. and PI KAPPA PHI ZETA ETA CHAPTER for compensatory damages, punitive damages, costs and such other and further relief as this Court deems just and proper.

**COUNT III**  
**PREMISES LIABILITY**

59. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 32 above.

60. At all relevant times, JANE DOE was an invitee/guest of PI KAPPA PHI.

61. Defendant PI KAPPA PHI, as premises owner, manager and/or operator, owed a general duty to invitees/guests to protect them from dangers and risks to their safety.



62. PI KAPPA PHI owed a duty of care to protect the health, safety and welfare of JANE DOE, an invitee/guest on the PI KAPPA PHI property. In this regard, PI KAPPA PHI owed JANE DOE a duty to provide security to prevent reasonably foreseeable criminal acts.

63. At all relevant times, the risk of battery, sexual assault, and other intentionally tortious conduct was reasonably foreseeable to PI KAPPA PHI, and constituted a danger and hazard to persons on the PI KAPPA PHI property. This risk was substantially increased and exacerbated by PI KAPPA PHI condoning the intoxication of persons on the premises, particularly the intoxication of minors such as JANE DOE.

64. It was reasonably foreseeable to PI KAPPA PHI that, as a result of the consumption of alcohol, the safety of residents and their guests would be endangered, particularly for minors consuming alcohol who were rendered in a vulnerable state.

65. As a foreseeable result of the consumption of alcohol on PI KAPPA PHI premises at a party, there was a likelihood of extreme levels of intoxication, and an increased risk of sexual assault.

66. The inadequate security on the PI KAPPA PHI premises constituted a dangerous condition. Likewise, the facilitation and encouragement of underage drinking and the presence of men who would prey on intoxicated underage female constituted a dangerous condition on the premises.

67. PI KAPPA PHI breached its duties of care to JANE DOE by, among other things, allowing her, a minor, to become intoxicated; failing to respond appropriately when she was observed intoxicated; and failing to otherwise provide adequate security that could have deterred or prevented the sexual assaults.

68. Defendant could have prevented the harm inflicted upon Plaintiff JANE DOE had it taken the proper remedial actions and security measures on the premises, by for example, controlling the provision of alcohol to minors, monitoring suspicious activities on the premises, and exercising a modicum of authority and control over the activities of residents and guests on its premises.

69. The sexual assault by Dillon LaGamma of JANE DOE was reasonably foreseeable. It could have been prevented or thwarted with the provision of reasonable security and the exercise of reasonable care.

70. As a direct and proximate consequence of the foregoing, JANE DOE suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life. These injuries have ongoing and continuing effects.

WHEREFORE, Plaintiff, JANE DOE, demands judgment against Defendants PI KAPPA PHI FRATERNITY, INC. and PI KAPPA PHI ZETA ETA CHAPTER for compensatory damages, punitive damages, costs and such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands pursuant to Fla. R. Civ. P. 1.430 a trial by jury on all issues so triable.

Dated: **July 6, 2017**

Respectfully Submitted,

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