

Valley & State || Courts

Mother of frat pledge who drowned sues main chapter

Lawsuit seeks to hold group accountable for binge-drinking event.

Jim Walsh and Anne Ryman
The Republic • azcentral.com

A lawsuit seeks justice for the mother of a 19-year-old fraternity pledge who tragically drowned in the Salt River, but it also seeks to hold a national fraternity accountable for the behavior that culminated in his death.

Jack Culolias' death in November 2012 after a fraternity-sponsored social event at a Tempe bar helped galvanize support for crackdowns on dangerous binge drinking that has resulted in a series of deaths and injuries near Arizona State University.

The suit filed this week on behalf of Culolias' mother, Grace, attempts to hold the Sigma Alpha Epsilon fraternity legally liable for the actions of the officers in its local chapter. It is part of a national trend also unfolding in Indiana, where another fraternity is under fire after the death of a student from Tucson.

"We're looking for accountability and responsibility from the national fraternity to change the way the local fraternity operates," attorney Pat McGroder said. "They are creating an environment of irresponsibility and recklessness."

ASU revoked recognition of SAE in June after a member turned up at the emergency room with a blood-alcohol level nearly six times the legal limit for driving. The action meant the fraternity couldn't recruit members on campus or hold meetings or fundraisers on university property. The national fraternity has also since suspended the local chapter. By then, the ex-ASU fraternity had a notorious reputation. *Rolling Stone* magazine named it the Most-Out-of-Control Fraternity in America in August.

Bloomberg News reported that at least 10 deaths have been linked

to hazing, alcohol or drugs at SAE events since 2006. SAE has a zero-tolerance policy toward hazing and eliminated pledging in March. It has 241 groups and 15,000 undergraduate members nationally, according to its website.

Legal experts say lawsuits against national fraternities are rarely successful.

National fraternities frequently take the position that they are an educational resource and leave the day-to-day decisions up to the local chapters, said Stephen Wagner, an Indiana attorney who has a lawsuit against a national fraternity, Delta Tau Delta, before the Indiana Supreme Court. Wagner represents a Tucson family whose son died after drinking at a fraternity party at an Indiana college.

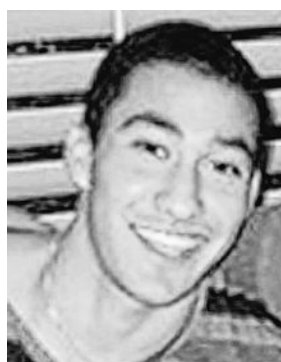
"(The national fraternity is) creating an environment of irresponsibility and recklessness."

PAT MCGRODER
Attorney

The Indiana case is being watched closely by the legal community because it is believed to be the first time the Indiana Court of Appeals has ruled that a national fraternity must stand trial in the death of a local fraternity member. Many fraternities have national headquarters in Indiana. The Court of Appeals decision is awaiting a ruling in the Indiana Supreme Court.

Brandon Weghorst, a spokesman for the SAE national fraternity in Evanston, Ill., said the fraternity suspended its ASU chapter in 2013 but would like to return to the university in the future. ASU officials say the fraternity won't be eligible to reapply for recognition until September 2017.

Weghorst declined to comment on the Culolias



Sigma Alpha Epsilon pledge Jack Culolias drowned in the Salt River in November 2012.

lawsuit.

Myles Hassett, a local attorney representing the fraternity, said in an e-mail: "Sigma Alpha Epsilon again expresses its condolences to Jack's family, but will defend itself against the allegations in the lawsuit filed by Ms. Culolias in this unfortunate case."

McGroder said fraternities blame the victim for their behavior and that national fraternities argue they cannot be held responsible for the actions of their local chapters, an argument he rejects.

On Nov. 30, 2012, Culolias attended a "pre-game party" at an off-campus apartment complex where underage pledges and members consumed large quantities of alcohol before they were bused to Cadillac Ranch, a bar, according to the suit.

Several underage pledges and members "were visibly intoxicated when they arrived," the suit says. Fraternity members and pledges switched wristbands so that the underage pledges were served alcohol, the suit says.

Although two leaders, Cole Pennington and Connor Grimes, were notified by Cadillac Ranch staff that Culolias was kicked out for urinating on a patio, the men "did nothing to help or ensure Jack got home safely and did nothing to prevent injury to Jack while inside or outside the bar," the suit says.

The suit says that Culolias could barely stand when he left the bar and that he wandered into the nearby Salt River and drowned.

"As a direct and proximate result of defendants' negligence and gross negligence, Jack Culolias was killed," the lawsuit states.

Cadillac Ranch has since closed, after state regulators imposed fines and sanctions after concluding the bar failed to follow rules aimed at preventing underage drinking.

McGroder said the bar's owners reached an out-of-court settlement with Grace Culolias, who plans to use some of the money for an alcohol-awareness program either in Tempe or in Culolias' hometown in California.

Stanley Strom, an adviser to the local SAE chapter, was named as a defendant in the suit. "I had nothing to do with it, and I hope to be dropped from the suit," Strom said. He said he introduced himself to Grace Culolias during the search for her son's body and assisted in the search, along with students. Jack's body was found on Dec. 16, 2012.

"The kids named in the suit were the ones who loved Jack the most," Strom said.

Wagner, the Indiana attorney, said lawsuits against local chapters are more often successful than suits against the national fraternity. But even cases against local chapters can be difficult to win, he said, depending on circumstances.

"A lot of these cases deal with alcohol," he said. "There's a large segment of people who say, 'Even 18-year-olds are adults, and if they choose to drink, they have to face the consequences.'"

Often, a local chapter will dissolve after the death of a member, Wagner said. Juries sometimes feel the chapter has been punished enough when this happens, he said, and are less likely to hold 18- to 22-year-old students liable for the death.

Lawsuits against fraternities can also take years to work through the courts.

"There's no swift justice in these cases," Wagner said.

MCSO is ruled in compliance on race profiling

Megan Cassidy
The Republic • azcentral.com

The only sector of the Maricopa County Sheriff's Office lagging in completing its required reading material on the recent racial-profiling case is the one whose members aren't paid to be there.

U.S. District Judge G. Murray Snow on Wednesday found that the Sheriff's Office was in compliance with his April 17 order for all employees to read either a summary or an entire ruling that found the office had impermissibly used race as a factor in law-enforcement decisions.

Among the sworn employees, the detention staff and civilian employees, 97.5 percent had signed an "attestation log" that they had read and understood the documents.

Those who had not were either on leave, vacation or had another meticulously tracked explanation.

Sheriff's officials were required to provide the documentation to the court-appointed monitor and, on Wednesday, to Snow.

But although the paid employees reached nearly full compliance with the judge's orders, Sheriff's Posse members, also ordered to read the summary, achieved a less-than-stellar readership of 78.4 percent.

Capt. Larry Farnsworth assured Snow, however, that all the posse members who had not signed the attestation log have been inactivated until they become

compliant.

Reading the "corrective statement" was mandatory homework for sworn personnel below the rank of sergeant, in addition to civilian employees and volunteers such as members of the Sheriff's Posse.

It summed up more than 200 pages of court documents and rectified some of the false statements some high-ranking sheriff's officials made publicly which mischaracterized the racial-profiling ruling and prompted a series of hearings with Snow.

Snow said at a previous hearing that he was at the "end of [his] rope" with officials mischaracterizing his rulings.

Plaintiff attorneys and civil-rights advocates said they hoped the recent fulfillment of the court's order signaled a new era of compliance from Sheriff Joe Arpaio.

"It took too long, and it shouldn't have had to come to this point, but it does appear that finally ... they are making progress," said Dan Pochoda, plaintiff attorney and legal director of the American Civil Liberties Union of Arizona.

Pochoda said having employees read the order was an important step, but it was "very, very far from ensuring that people are aware of what it says, no matter what they've attested to, and even further from changing the practices and culture at the MCSO."

Arpaio's attendance was not required at the hearing if the office had completed the task. He was not present.

Suit over incorrect death report OK'd

Family can sue police for mixing up who died in car accident.

Bob Christie
Associated Press

A family can sue the state for negligence after being incorrectly told by state police that a young woman had died in a car accident, the Arizona Court of Appeals ruled this week, saying officers must use reasonable care when making next-of-kin notifications.

The ruling revives a lawsuit filed by Maria and Jose Guerra and their daughter April against the Department of Public Safety over the July 2010 mix-up, which led officers to tell the parents that the then-19-year-old woman had been killed.

It was actually one of April's friends, 21-year-old Marlena Cantu, who was killed in the rollover accident.

Cantu's parents stood vigil for days at a Phoenix hospital where she was reportedly being treated before learning they had been watching over Guerra and that their own daughter was dead.

Guerra, called Abby by her family and friends, suffered a brain injury, broken back,

collapsed lung and other injuries.

Her face was badly bruised, preventing hospital staff and Cantu's parents from recognizing her.

The Maricopa County Medical Examiner's Office didn't discover the mix-up until six days later, when it compared dental records provided by the family of Guerra.

A trial court previously threw out the lawsuit, which accused state police of negligence, negligent training and intentional infliction of emotional distress.

The Court of Appeals revived only the negligence claim.

"Given the ... inarguably devastating emotional impact a family member's death has on survivors, when the state undertakes the actual (next of kin) notification, it must communicate the information with reasonable care being given to the accuracy of what is conveyed," Judge Kenton Jones wrote in the Tuesday decision, which was joined by two other Appeals Court judges.

Cantu and Guerra were among a group of five friends from Ironwood High School in Glendale who were returning from Disneyland when the sport util-

ity vehicle they were riding in blew a tire on July 18, 2010.

The driver lost control, and the SUV over-

turned several times, authorities said.

Also fatally injured was 20-year-old Tyler Parker.

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