

CAUSE NO. 2012-1125-4

JEFFREY HELAL, and DONNA § IN THE DISTRICT COURT
HELAL, Individually and as Personal §
Representative of the Estate of §
MEGAN ARYANNA HELAL, §

Plaintiffs, §

v. §

SIGMA CHI CORPORATION; RISK §
MANAGEMENT FOUNDATION; §
SIGMA CHI FRATERNITY-ETA § MCLENNAN COUNTY, TEXAS
OMEGA CHAPTER; LINDA §

MYNAR MCWILLIAMS d/b/a §
MYNAR'S BAR; RICHARD ALLEN §
MYNAR d/b/a MYNAR'S BAR; AMY §
DOYALETTE FREE; CAROL §
HLAVATY BAKER; JOHN HUBERT §
WHITFIELD, III; MATTHEW §
HERBERT CROWE; BRADLEY §
GEORGE BARTELS, and DIRK §
MALCOLM MOSIS, §

Defendants. §

§ 170 th JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE COURT:

COME NOW, Jeffrey HeLal and Donna HeLal, Individually and as Personal
Representative of the Estate of Megan Aryanna HeLal (hereinafter "Plaintiffs"), and

file their Original Petition and Request for Disclosure, complaining of Defendants Sigma Chi Corporation, Sigma Chi Fraternity-Eta Omega Chapter, Linda Mynar McWilliams d/b/a Mynar's Bar, Richard Allen Mynar d/b/a Mynar's Bar, Amy Doyalette Free, Carol Hlavaty Baker, John Hubert Whitfield III, Matthew Herbert Crowe, Bradley George Bartels and Dirk Malcolm Mosis, and state the following:

I.
DISCOVERY CONTROL PLAN

Plaintiffs affirmatively plead that they seek monetary relief aggregating more than \$50,000, and request that the Court enter a Discovery Control Plan pursuant to Discovery Control Level III.

II.
PARTIES

1. Plaintiff Jeffrey HeLal is a resident of Kaufman County, Texas.
2. Plaintiff Donna HeLal is a resident of Kaufman County, Texas.
3. Defendant Sigma Chi Corporation is an Illinois corporation doing business in the State of Texas. Service of process on this defendant may be completed by serving its registered agent, Michael H. Dunn, 1714 Hinman Avenue, Evanston, Illinois 60201.

4. Defendant Risk Management Foundation is an Illinois corporation doing business in the State of Texas. Service of process on this defendant may be completed by serving its registered agent, Tracey A. Salinski, 120 South Riverside Plaza, Suite 1200, Chicago, Illinois 60606.

5. Defendant Sigma Chi Fraternity-Eta Omega Chapter is an unincorporated association organized and existing under the laws of the State of Texas at the time this cause of action arose, with its principal location at 817 Bagby Ave, Waco, Texas 76706. Service of process on this defendant may be completed by serving its president, Bradley George Bartels at 508 Sturbridge Drive, Temple, Texas 76502.

6. Defendant Linda Mynar McWilliams d/b/a Mynar's Bar is an individual residing in McLennan County, Texas. Service of process on this defendant may be completed by serving her at her residence, 1011 Donald Street, Waco, Texas 76705.

7. Defendant Richard Allen Mynar d/b/a Mynar's Bar is an individual residing in McLennan County, Texas. Service of process on this defendant may be completed by serving him at his residence, 654 Audrey Street, Waco, Texas 76705.

8. Defendant Amy Doyalette Free is an individual residing in McLennan County, Texas. Service of process on this defendant may be completed by serving her at her residence, 586 Brickyard Road, West, Texas 76691.

9. Defendant Carol Hlavaty Baker is an individual residing in McLennan County, Texas. Service of process on this defendant may be completed by serving her at her residence, 990 Cox's Oak Valley, Waco, Texas 76705.

10. Defendant John Hubert Whitfield III is an individual residing in Collin County, Texas. Service of process on this defendant may be completed by serving him at his residence, 501 Dogwood Drive, Wylie, Texas 75098.

11. Defendant Matthew Herbert Crowe is an individual residing in Harris County, Texas. Service of process on this defendant may be completed by serving him at his residence, 103 Bellaire Court, Bellaire, Texas 77401.

12. Defendant Bradley George Bartels is an individual residing in Bell County, Texas. Service of process on this defendant may be completed by serving him at his residence, 5008 Sturbridge Drive, Temple, Texas 76502.

13. Defendant Dirk Malcolm Mosis is an individual residing in Kendall County, Texas. Service of process on this defendant may be completed by serving him at his residence, 118 Kitty Kat Lane, Boerne, Texas 78006.

III.
JURISDICTION & VENUE

1. Jurisdiction is proper in this Court because the amount in controversy exceeds the minimum jurisdictional requirements of this Court.

2. Venue is proper in McLennan County pursuant to §15.001 *et seq.* of the Texas Civil Practice & Remedies Code because multiple defendants reside in McLennan County, Texas, and all or part of this cause of action accrued in McLennan County.

IV.
FACTUAL BACKGROUND

1. Defendant Sigma Chi Corporation owns, controls, maintains and/or operates an all-male social fraternity, organized into chapters at various institutions of higher learning throughout the United States of America and Canada. Defendant Risk Management Foundation is a corporation created to provide each chapter of Sigma Chi Fraternity with policies, guidelines, certificates, contracts, agreements, and other materials pertaining to risk management. Many of these policies, guidelines, certificates, contracts, agreements, and other materials purport to address the management of risks created by the purchase, sale, service and/or consumption of alcohol by fraternity members and their guests.

2. On or about March 20, 2010, Sigma Chi Corporation owned, controlled, maintained and/or operated a fraternity chapter in Waco, Texas, affiliated with Baylor University. Each chapter of Sigma Chi Fraternity has its own Greek-letter designation; the first chapter founded was designated “Alpha;” the second chapter founded was designated “Beta;” the third chapter was designated “Gamma,” and so forth in like fashion. The Baylor chapter of Sigma Chi Fraternity bore the Greek-letter designation “Eta Omega.”

3. On or about March 20, 2010, Bradley George Bartels was the President of the Eta Omega Chapter of Sigma Chi Fraternity, Dirk Malcolm Mosis was Vice President and Matthew Herbert Crowe was the Social Chariman.

4. On or about March 20, 2010, Sigma Chi Corporation and the Eta Omega Chapter of Sigma Chi Fraternity, acting by and through their members, agents, and officers, hosted a party at Mynar’s Bar in West, Texas. Members of Sigma Chi fraternity and/or their guests, paid for admission to this party. In exchange for purchasing admission to the party, Sigma Chi provided guests with transportation to and from the party location, as well as alcoholic beverages.

5. On or about February 26, 2010, Sigma Chi Fraternity, by and through its members, agents, and officers, hired Duram School Services to provide transportation

between a meeting place at 1409 South James Street, Waco, Texas 76706, and Mynar's Bar at 121 Oak Street, West, Texas 76991 on March 20, 2010, departing at 8:30 p.m. and returning at midnight. Sigma Chi Fraternity hired two school buses using the alias "Young Libertarians Club" instead of "Sigma Chi Fraternity" to identify the group.

6. Sigma Chi Fraternity, by and through its members, agents, and officers, paid in advance for the alcoholic beverages that were served at Mynar's Bar during the party in question. The funds used to purchase the said alcoholic beverages consisted of contributions made by the members of Sigma Chi Fraternity-Eta Omega Chapter, including but not limited to money paid in the form of membership dues, and/or money paid for admission to the party in question.

7. The Texas Alcoholic Beverage Commission license that Mynar's bar held on or about March 20, 2010 only permitted the sale of beer and wine. Prior to the party in question, Sigma Chi Fraternity, by and through its members, agents, and officers, purchased multiple bottles of liquor and/or spirits, which members, agents, and officers delivered to Mynar's bar for consumption by party guests. The funds used to purchase this liquor and/or spirits consisted of contributions made by the members of Sigma Chi Fraternity-Eta Omega Chapter, including but not limited to

money paid in the form of membership dues, and/or money paid for admission to the party in question.

8. On or about March 20, 2010, two buses arrived at 1409 South James Street, Waco, Texas and picked-up members of the Eta Omega chapter of Sigma Chi Fraternity and their guests. The buses drove Sigma Chi Fraternity members and guests to Mynar's Bar at 121 Oak Street, West, Texas. At Mynar's Bar, Sigma Chi Fraternity members and guests received alcoholic beverages in exchange for their paid admission to the party.

9. Mynar's Bar served and/or sold beer and wine by and through its owners and/or employees to party guests, including Megan HeLal. Sigma Chi Fraternity-Eta Omega Chapter by and through its members, agents and officers, sold liquor and/or spirits to party guests, including Megan HeLal.

10. On or about March 20, 2010, the Eta Omega Chapter of Sigma Chi Fraternity, acting by and through its members, agents and officers, provided alcoholic beverages in exchange for money paid by Sigma Chi Fraternity Members and/or their guests, including Megan HeLal. Sigma Chi Fraternity-Eta Omega Chapter, its members, agents and its officers were at all relevant times a "Provider" of alcohol within the meaning of TEX. ALC. BEV. CODE § 2.01 *et seq.*

10. On or about March 20, 2010, the Eta Omega Chapter of Sigma Chi Fraternity acting by and through its members, agents and officers, including but not limited to John Hubert Whitfield III, Matthew Herbert Crowe, Bradley George Bartels, and Dirk Malcolm Mosis, provided one or more alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated. This act violated TEX. ALC. BEV. CODE § 2.01 *et seq.*

11. On or about March 20, 2010, Megan Aryanna HeLal was 19 years of age.

12. On or about March 20, 2010, Linda Mynar McWilliams d/b/a Mynar's Bar and Richard Allen Mynar d/b/a Mynar's bar, provided one or more alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated. This act violated TEX. ALC. BEV. CODE § 2.01 *et seq.*

13. On or about March 20, 2010, Carol Hlavaty Baker and/or Amy Doyalette Free, acting as agents and employees of Mynar's Bar provided one or more alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated. This act violated TEX. ALC. BEV. CODE § 2.01 *et seq.*

14. At all times relevant to this lawsuit, all Defendants joined in this action were engaged in a joint venture.

15. On or about March 20, 2010, Megan Aryanna HeLal consumed an excessive quantity of alcoholic beverages.

16. On or about the morning of March 21, 2010, John Hubert Whitfield, III found Megan Aryanna HeLal unconscious and unresponsive at his apartment. Paramedics were called at approximately 6:54 a.m., and arrived approximately 10 minutes later. When the paramedics reached Megan, she was not breathing and her heart was fibrillating. Paramedics unsuccessfully attempted electrical defibrillation of Megan's heart, and transported her by ambulance to Hillcrest Baptist Medical Center, performing CPR *en route*.

17. Upon admission to Hillcrest Baptist Medical Center, the emergency medical service intubated Megan, and attempted to resuscitate her. By 8:30 a.m., it was clear to Megan's treating physicians that their efforts to resuscitate her were medically futile, and that she had no chance of surviving.

18. Physicians kept Megan alive using a pacemaker and a mechanical ventilator while her parents drove to Waco from their home in Combine, Texas. When Megan's parents arrived, a physician explained Megan's condition while they stood at her bedside. Megan's mechanical life support was then discontinued, and she was declared dead at 12:05 p.m.

V.
CAUSES OF ACTION AGAINST DEFENDANT
SIGMA CHI FRATERNITY-ETA OMEGA CHAPTER

1. Defendant Sigma Chi Fraternity-Eta Omega Chapter, acting by and through its members, agents and officers, was negligent and/or negligent *per se* by providing alcohol to Megan Aryanna HeLal, and by continuing to provide alcohol to Megan Aryanna HeLal when she was obviously intoxicated. Defendant Sigma Chi Fraternity-Eta Omega Chapter, acting through its members, agents and officers, was negligent and/or grossly negligent in:

- A. Providing alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated, in violation of Tex. Alco. Bev. Code §2.03;
- B. Failing to have adequate policies and procedures in place to prevent the provision of alcohol to persons under the age of 21;
- C. Negligently providing alcohol to persons under the age of 21;
- D. Deliberately and intentionally providing alcohol to persons under the age of 21;
- E. Failing to adequately monitor guests' alcohol consumption, and
- F. Failing to have adequate policies and procedures in place to

monitor their guests' alcohol consumption.

2. Defendant Sigma Chi Fraternity-Eta Omega Chapter is a subsidiary of Defendant Sigma Chi Corporation. At all relevant times, Defendant Sigma Chi Fraternity-Eta Omega Chapter engaged in a joint enterprise with Defendant Sigma Chi Corporation and Defendant Risk Management Foundation.

3. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth below, for which Defendants are jointly and severally liable.

VI.
CAUSES OF ACTION AGAINST
DEFENDANT SIGMA CHI CORPORATION

1. Defendant Sigma Chi Corporation, acting by and through its members, agents and officers, was negligent, negligent *per se*, and/or grossly negligent by providing alcohol to Megan Aryanna HeLal, and by continuing to provide alcohol to Megan Aryanna HeLal when she was obviously intoxicated. Defendant Sigma Chi Corporation, acting through its members, agents and officers, was negligent, negligent *per se*, and/or grossly negligent in:

A. Providing alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated, in violation of Tex. Alco. Bev. Code

§2.03;

- B. Failing to have adequate policies and procedures in place to prevent the provision of alcohol to persons under the age of 21;
- C. Negligently providing alcohol to persons under the age of 21;
- D. Deliberately and intentionally providing alcohol to persons under the age of 21;
- E. Failing to have adequate policies and procedures in place to monitor their guests' alcohol consumption;
- E. Failing to adequately monitor guests' alcohol consumption;
- F. Failing to have adequate policies and procedures in place to monitor their guests' alcohol consumption;
- G. Failing to employ adequate risk management policies and procedures, and
- H. Failing to enforce adequate risk management policies and procedures.

2. Defendant Sigma Chi Fraternity-Eta Omega Chapter is a subsidiary of Defendant Sigma Chi Corporation. At all relevant times, Defendant Sigma Chi Corporation engaged in a joint enterprise with Defendant Sigma Chi Fraternity-Eta

Omega Chapter and Defendant Risk Management Foundation.

3. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth below, for which Defendants are jointly and severally liable.

VII.
CAUSES OF ACTION AGAINST
DEFENDANT RISK MANAGEMENT FOUNDATION

1. Defendant Risk Management Foundation is an entity created, organized, funded, maintained and controlled by Sigma Chi Corporation. Defendant Risk Management Foundation undertakes to educate chapters of Sigma Chi Fraternity about risk management, and promulgates risk management policies on behalf of Sigma Chi Fraternity, including but not limited to policies addressing party planning as well as the use of alcohol.

2. Defendant Risk Management Foundation, acting through its members, agents and officers, was negligent and/or negligent *per se* in:

- A. Failing to exercise adequate control over its Sigma Chi Fraternity-Eta Omega Chapter and/or its members;
- B. Failing to employ adequate risk management policies and procedures, and

C. Failing to enforce adequate risk management policies and procedures.

3. Defendant Risk Management Foundation is a subsidiary of Defendant Sigma Chi Corporation. At all relevant times, Defendant Risk Management Foundation engaged in a joint enterprise with Defendant Sigma Chi Fraternity-Eta Omega Chapter and Defendant Sigma Chi Corporation.

4. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth below, for which Defendants are jointly and severally liable.

VIII.
CAUSES OF ACTION AGAINST
LINDA MYNAR MCWILLIAMS d/b/a MYNAR'S BAR
AND RICHARD ALLEN MYNAR d/b/a MYNAR'S BAR

1. Defendants Linda Mynar McWilliams d/b/a Mynar's Bar, and Richard Allen Mynar d/b/a Mynar's Bar, acting individually, as well as by and through their agents and/or employees, Amy Doyalette Free and Carol Hlavaty Baker, were negligent, negligent *per se*, and/or grossly negligent by providing alcohol to Megan Aryanna HeLal, and by continuing to provide alcohol to Megan Aryanna HeLal when she was obviously intoxicated. Defendants Linda Mynar McWilliams d/b/a Mynar's Bar and Richard Allen Mynar d/b/a Mynar's Bar, acting individually, as well as by

and through their agents and/or employees, were negligent, negligent *per se*, and/or grossly negligent in:

- A. Providing alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated, in violation of Tex. Alco. Bev. Code §2.03;
- B. Failing to have adequate policies and procedures in place to prevent the provision of alcohol to persons under the age of 21;
- C. Negligently providing alcohol to persons under the age of 21;
- D. Deliberately and intentionally providing alcohol to persons under the age of 21;
- E. Failing to adequately monitor guests' alcohol consumption, and
- F. Failing to have adequate policies and procedures in place to monitor their guests' alcohol consumption.

2. At all relevant times, Defendant Linda Mynar McWilliams and Richard Allen Mynar were engaged in a joint enterprise doing business as Mynar's Bar.

3. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth below, for which Defendants are jointly and severally liable.

IX.
CAUSES OF ACTION AGAINST
AMY DOYALETTE FREE AND CAROL HLAVATY BAKER

1. Defendants Amy Doyalette Free and Carol Hlavaty Baker, acting individually and as employees and/or agents of Linda Mynar McWilliams and Richard Allen Mynar, were negligent, negligent *per se*, and/or grossly negligent by providing alcohol to Megan Aryanna HeLal, and by continuing to provide alcohol to Megan Aryanna HeLal when she was obviously intoxicated. Defendants Amy Doyalette Free and Carol Hlavaty Baker were negligent, negligent *per se*, and/or grossly negligent in:

- A. Providing alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated, in violation of Tex. Alco. Bev. Code §2.03;
- B. Failing to have adequate policies and procedures in place to prevent the provision of alcohol to persons under the age of 21;
- C. Negligently providing alcohol to persons under the age of 21;
- D. Deliberately and intentionally providing alcohol to persons under the age of 21;
- E. Failing to adequately monitor guests' alcohol consumption, and

F. Failing to have adequate policies and procedures in place to monitor their guests' alcohol consumption.

2. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth below, for which Defendants are jointly and severally liable.

X.

**CAUSES OF ACTION AGAINST DEFENDANTS
JOHN HUBERT WHITFIELD, III, MATTHEW HERBERT CROWE,
BRADLEY GEORGE BARTELS, AND DIRK MALCOLM MOSIS**

1. Defendants John Hubert Whitfield, III, Matthew Herbert Crowe, Bradley George Bartels and Dirk Malcolm Mosis, acting individually and as members, agents and officers of Sigma Chi Corporation and/or Sigma Chi Fraternity-Eta Omega Chapter, were negligent, negligent *per se*, and/or grossly negligent by providing alcohol to Megan Aryanna HeLal, and by continuing to provide alcohol to Megan Aryanna HeLal when she was obviously intoxicated. Defendants John Hubert Whitfield, III, Matthew Herbert Crowe, Bradley George Bartels and Dirk Malcolm Mosis were negligent, negligent *per se*, and/or grossly negligent in:

A. Providing alcoholic beverages to Megan Aryanna HeLal, who was obviously intoxicated, in violation of Tex. Alco. Bev. Code §2.03;

- B. Failing to have adequate policies and procedures in place to prevent the provision of alcohol to persons under the age of 21;
- C. Negligently providing alcohol to persons under the age of 21;
- D. Deliberately and intentionally providing alcohol to persons under the age of 21;
- E. Failing to adequately monitor guests' alcohol consumption, and
- F. Failing to have adequate policies and procedures in place to monitor their guests' alcohol consumption.

2. At all relevant times, Defendants John Hubert Whitfield, III, Matthew Herbert Crowe, Bradley George Bartels and Dirk Malcolm Mosis engaged in a joint enterprise with one another, and with Defendant Sigma Chi Corporation and/or Defendant Sigma Chi Fraternity-Eta Omega Chapter.

3. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth below, for which Defendants are jointly and severally liable.

XI.
DAMAGES FOR THE ESTATE OF MEGAN ARYANNA HELAL

1. As a result of Defendants' negligence, Megan Aryanna HeLal endured physical pain and suffering and mental anguish.

2. As a further result of Defendants' negligence, The Estate of Megan Aryanna HeLal incurred medical expenses, as well as funeral and burial expenses.

XII.
DAMAGES FOR JEFFREY HELAL

1. Plaintiff Jeffrey HeLal is Megan Aryanna Helal's father. As a result of his daughter's death, Mr. HeLal has suffered damages which include:

- A. Loss of the love, companionship and society in the past, and that would have in all likelihood continued into the future; as well as,
- B. Mental anguish in the past that will in all likelihood continue into the future; as well as,
- C. Pecuniary loss, including but not limited to loss of Megan's care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that would in all likelihood have been provided in future years.

XIII.
DAMAGES FOR DONNA HELAL

1. Plaintiff Donna HeLal is Megan Aryanna Helal's mother. As a result of her daughter's death, Mrs. HeLal has suffered damages which include:

- A. Loss of the love, companionship and society in the past, and

that would have in all likelihood continued into the future; as well as,

B. Mental anguish in the past that will in all likelihood continue into the future; as well as,

C. Pecuniary loss, including but not limited to loss of Megan's care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that would in all likelihood have been provided in future years.

XIV.
REQUEST FOR DISCLOSURE

1. Pursuant to Rule 194, Tex. R. Civ. P., Defendants are requested to disclose to Plaintiff, within fifty (50) days of service of this request, the information or material described in Rule 194.2(a) through (l) to be produced at the Turley Law Firm, 1000 Turley Law Center, 6440 North Central Expressway, Dallas, Texas 75206 during normal business hours.

XV.
CLAIM FOR PRE-JUDGMENT AND POST-JUDGMENT INTEREST

1. Plaintiffs claim interest at the maximum legal rate from March 20, 2010, or as allowed by law, on damages they have suffered.

XVI.
JURY DEMAND

1. Plaintiffs request that a jury be convened to try the factual issues in this case.

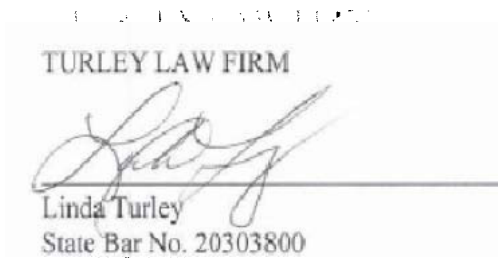
XVII.
PRESERVATION OF EVIDENCE

The Defendants are hereby given notice that any document or other material, including electronically stored information, that may be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded.

XVIII.
PRAYER

WHEREFORE, Plaintiffs pray that Defendants Sigma Chi Corporation, Sigma Chi Fraternity-Eta Omega Chapter, Linda Mynar McWilliams d/b/a Mynar's Bar, Richard Allen Mynar d/b/a Mynar's Bar, Amy Doyalette Free, Carol Hlavaty Baker, John Hubert Whitfield III, Matthew Herbert Crowe, Bradley George Bartels and Dirk Malcolm Mosis, be served and cited to appear and answer herein and upon final hearing of this cause, that Plaintiffs have judgment against Defendants, jointly and severally, for damages described herein, for cost of suit, interest as allowable by law, and for such other relief to which Plaintiffs may be justly entitled.

Respectfully submitted,



*w/Permission
Patrick Wigle*

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