

Complicit in Their Own Demise?

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Violent hazing has been a longstanding issue within African American, collegiate fraternities and sororities, otherwise known as black Greek-letter organizations (BGLOs). This article investigates how and what hazing victims know about their hazing experiences. Additionally, the article examines how victims' knowledge of hazing may hold serious implications for tort defense doctrines like assumption of risk and comparative fault. Specifically, the authors conduct two studies—one quantitative and the other qualitative—to find that not only are BGLO pledges aware that their pledge experiences are likely to involve mental and physical hazing, but that they believe such experiences will likely continue throughout the entirety of their induction process. Moreover, appreciation for hazing experiences is often captured in the fraternal chants, greetings, and songs they learn or create, which together reflects some understanding of danger and risk. The authors contend that these elements of black “Greek” hazing culture may serve as evidence of assumption of risk or comparative fault.

INTRODUCTION

On November 19, 2011, Robert Champion, a twenty-six-year-old drum major in Florida A&M University's (FAMU) “Marching 100” band, collapsed on a charter bus

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parked outside an Orlando hotel. The Georgia native had become anxious, complaining of shortness of breath and failed eyesight, and had apparently been vomiting before ultimately losing consciousness (Culver 2011a). Champion was nonresponsive when authorities arrived and was later pronounced dead at a nearby hospital (Kallestad 2011). By November 22, rumors were already circulating on the FAMU campus and via social media that hazing had played a part in Champion's death (Culver 2011a). Law enforcement officials stated that they also believed some form of hazing to have occurred before the 911 emergency call was placed (Frisaro 2011). Ultimately, suspicions that hazing had played a role in Champion's death were confirmed when Champion's death was ruled a homicide by the State Medical Examiner's Office. According to the office, Champion's death resulted from blunt-force trauma suffered during a hazing incident involving some members of FAMU's Marching 100 (Burlaw 2011). Champion endured such severe blows during the incident that he bled out into his soft tissue, particularly in his back, chest, shoulders, and arms. The autopsy further revealed that Champion had been vomiting profusely and died within an hour of the time he suffered the injuries (Culver 2011b). After months of legal wrangling, FAMU blamed Champion for his own death (Hudak and Ordway 2012).

It is somewhat distasteful to blame a victim for his or her injuries or death. In fact, scholars have grappled with the tension between the various psychological theories that explain why individuals may seek out hazing experiences and why it may be difficult for them to extract themselves from such situations once they begin (Parks and Southerland forthcoming). The law, however, has long considered that plaintiffs have assumed the risk of the harm brought to them or that they are at least comparatively at fault. In the context of African American fraternal networks that have had considerable influence on certain aspects of historically black college and university student organizations (e.g., marching bands like the Marching 100), what pledges know, when they know it, and how they know it is instructive in a number of ways. Legally, it should help courts discern how to apportion blame and damages. More practically, however, it should provide insights into whom the various stakeholders are *vis-à-vis* hazing within these groups and the role that they should play in bringing an end to such conduct.

African American fraternal networks have existed for almost two and a half centuries. Serious scholarship on those groups that can claim a secret and temporally distant identity has a contemporary origin (Skocpol, Liazos, and Ganz 2008; Walker 2008; Yacavone 2013), and the same can be said for its more recent—even if less secret—iteration, black Greek-letter organizations (BGLOs) (Fine 2002; Kimbrough 2003; Jones 2004; Brown, Parks, and Phillips 2005; Hughey 2008a, 2008b, 2010; Parks 2008; Whaley 2010; Hughey and Parks 2011, 2012; Parks and Bradley 2011; Hughey and Hernandez 2013). Black Greek-letter organizations had their origins on the campus of Cornell University in 1906, with the founding of Alpha Phi Alpha Fraternity. Alpha Phi Alpha quickly grew, chartering a chapter on the campus of Howard University in 1907. From Howard University, other BGLOs blossomed and expanded, with five of the major BGLOs being founded there (McKenzie 2005). Three others would go on to be founded at Indiana University, Butler University, and Morgan State University (McKenzie 2005).

Black Greek-letter organizations are intriguing, in part because they generally differ from their white counterparts in how they grapple with notions of masculinity and femininity (Berkowitz and Padavic 1999; DeSantis and Coleman 2005; Stompler and

Padavic 2005; Ray and Rosow 2009; Anderson, Buckley, and Tindall 2011; Ray and Spragling 2011; Hernandez et al. 2012). Even more striking is the vital role that alumni members and chapters play within BGLOs, with alumni members investing significant emotional, financial, and physical capital in these organizations decades after their college days have passed (Hernandez 2008). Not surprisingly, membership within BGLOs has long defined contemporaneous membership in the black middle and upper class (Graham 1999). What makes these organizations interesting as an area of study within the law is that both BGLOs and their members played a crucial role in African Americans' quest for civil rights and social justice (Harris 2005; Balaji 2007; Harris and Mitchell 2008; James 2010; Gamson 2011; Weems 2012). This history is, ironically, juxtaposed to the decades-long issue that BGLOs have had with violent, initiatory hazing (Jones 2004). This is particularly so with BGLO fraternities, as members may, over the decades, increasingly grapple with what constitutes authentic black masculinity—for example, heterosexual, hard, aggressive, and able to withstand and be defined by physical violence (Jones 2004; DeSantis and Coleman 2005; Ray and Rosow 2009; Anderson, Buckley, and Tindall 2011; Ray and Spragling 2011; Hernandez et al. 2012).

Parks and Ray (2013) analyzed the role of poetry often learned by BGLO pledges and how such learning may provide evidentiary support for tort defenses like assumption of risk or comparative and contributory negligence. They contend, based on how analogous evidence is admitted at trial, that such evidence is nonhearsay, permissible, nonprejudicial evidence. Parks and Southerland (forthcoming) explore how psychological theories and empirical research as well as legal doctrine explain the tension in thinking about consent to hazing. With regard to the former, arguments abound as to why it is difficult for hazing victims to forego, or extract themselves from, the hazing experience. Within the criminal law, consent is largely rejected as a defense in most cases, with some minor exceptions. Even more, state hazing statutes often bar the use of a victim's consent as a defense by (1) making it irrelevant, (2) explicitly barring the defense, (3) applying a presumption against it, or (4) presuming that hazing activity is forced.

In this article, the authors expound on that work in a number of ways. First, they look more broadly at other elements of BGLO hazing culture—that is, chants, greetings, and songs that BGLO pledges either learn or create during their pledge processes. Second, the authors employ both quantitative and qualitative research methodologies to ascertain their findings. In conclusion, the authors look more broadly at how these findings are situated within the civil context—that is, tort defenses like assumption of risk as well as comparative fault. Ultimately, the authors contend that BGLO pledges' articulations—via chants, greetings, and songs—help underscore what they know about their hazing experience and when they know it. Accordingly, such evidence might be admitted in litigation to determine if such hazing victims assumed the risk or are comparatively at fault.

First, the authors explore how courts have wrestled with the tort defenses of assumption of risk and comparative/contributory negligence within the context of hazing cases. Second, the authors analyze hazing within BGLOs—the history, culture, and specific incidents. Finally, they present findings from quantitative and qualitative studies, respectively, that provide indicia of BGLO pledges' knowledge and appreciation of their hazing experiences.

Hazing and Tort Defenses

The relationship between Greek-letter organizations and the US university system began in 1776 when the nation's first fraternity, Phi Beta Kappa, was formed at William & Mary. Since that original fraternity, Greek-letter organizations continue to permeate college campuses and continue, nationally, to gain awareness, popularity, and relevance through the twenty-first century. In fact, in 1997, 6 percent of college undergraduates participated in the Greek-letter groups (Kendrick 2000). Despite their ubiquitous presence and unwavering commitment to developing strong leaders, Greek-letter organizations continue to injure their members through violent hazing, which continues to plague the system. Hazing has persisted and remained prevalent in both fraternities and sororities despite a recent wave of state legislation aimed at criminalizing and deterring such conduct (Pelletier 2002).

Of the few hazing cases to reach trial, many were civil lawsuits—personal injury suits against the fraternities and their affiliated universities. To the victim, the civil court system availed the only legitimate recovery since criminal sanctions often provided only minimal misdemeanor punishments without “real” compensation to victims (Pelletier 2002). As a result, colleges and universities found themselves “under siege” due to hazing liability, liable under several tort principles (Somers 2007). Defendants, that is, Greek-letter organizations and their affiliate universities, raise several defenses against these attacks, including consent, assumption of risk, contributory negligence, and comparative negligence. Courts hearing issues of liability, however, have proven inconsistent and somewhat confusing as their ad hoc analyses have failed to take a uniform approach toward enforcing liability against fraternities (Kendrick 1999).

Adding to the confusion is the divergence in state tort laws regarding comparative fault and assumption of risk. Sixteen states have language eliminating consent defenses in their antihazing statutes (Pelletier 2002). Most jurisdictions hold that comparative negligence may transfer part of the fault to the plaintiff for culpable participation, but within these jurisdictions some states, such as Tennessee, require the plaintiff to be less than 50 percent at fault for his or her injuries in order to recover (Kendrick 1999; *Alexander v. Kappa Alpha Psi Fraternity* 2006). Other states, such as South Carolina, bar recovery in tort on the plaintiff's behalf for contributory negligence, but refuse to apply the doctrine to fraternity hazing cases.

Assumption of Risk

“Assumption of risk generally bars recovery by an [individual] who knows of the danger in a situation but nevertheless voluntarily exposes himself to that danger. . . . [A]ssumption of risk arises through implied contract of assuming the risk of a known danger; the essence of it is venturousness; it implies intentional exposure to a known danger; it embraces a mental state of willingness; . . . it defeats recovery because it is a previous abandonment of the right to complain if an accident occurs” (*Perkins v. Spivey* 1990, 32). Alabama stands in stark contrast to the various approaches of other courts by using assumption of risk to completely bar recovery for hazing against fraternities. In *Ex Parte Barran* (1998), the Alabama Supreme Court held that Jason Jones assumed the risk

of hazing and that he could not recover against the Auburn chapter of Kappa Alpha for negligent and wanton hazing in violation of an Alabama antihazing statute. Jones pledged a fraternity when he was freshman in 1993. Two days after the commencement of his initiation period, fraternity members began hazing him. Over the course of the next academic year, Jones was paddled, pushed, kicked, and thrown into walls (*Ex Parte Barran III v. Kappa Alpha Order* 1998). Additionally, he was made to dig a ditch and jump in after it had been filled with water, urine, feces, and vomit by the active members.

Jones was aware that 20–40 percent of his fellow pledges dropped out of the process because of the violent hazing, but Jones refused to give in. Eagerly anticipating full Kappa Alpha membership at the conclusion of the year, he soldiered on. While lying to school administrators and his parents about the activities, Jones continued submit to the hazing despite knowing that he was free to leave at any time. Eventually, poor academics forced Jones's hand. He finally quit the pledging process (and subsequent beatings) after the university suspended him for poor grades. Shortly thereafter, Jones sued the fraternity.

At trial, Kappa Alpha presented the assumption of risk defense, arguing that Jones (1) knew and appreciated the risk and (2) voluntarily exposed himself to the risk (*Ex Parte Barran III v. Kappa Alpha Order* 1998). The trial court granted summary judgment. On appeal, the Alabama Court of Appeals reversed, holding that because the fraternity violated Alabama's antihazing statute, it was negligent per se and therefore liable for Jones's damages. On final appeal, the Alabama Supreme Court, however, held that both elements of the assumption of risk defense were satisfied. First, Jones knew and appreciated the risk because he first experienced the hazing merely two days into initiation yet continued to return through the school year, he knew the activities were illegal, and he lied to both parents and school administrators in order to conceal the practice. Second, Jones voluntarily exposed himself to the risk by coming back for repeated abuse (*Ex Parte Barran III v. Kappa Alpha Order* 1998). The court explained that peer pressure was insufficient to negate the voluntary element of assumption of risk and that Jones must be held accountable for his decisions since he had reached the age of majority at the time of the activities. There existed a safe alternative available to Jones (leaving the fraternity) of which he was aware, he failed to choose it, and therefore he had assumed the risk of hazing and was barred from recovery as a matter of law (*Ex Parte Barran III v. Kappa Alpha Order* 1998).

Comparative and Contributory Negligence

Unlike Alabama, most jurisdictions adhere to the doctrine of comparative negligence (Kendrick 1999). "Under the principles of comparative negligence . . . a [plaintiff's] recovery will be reduced [based on the plaintiff's percentage of fault toward the injury] if he knew or should have known of a safer alternative" (*Lombas v. Moran Towing & Transp. Co.* 1995, 1094).

While most jurisdictions allow either the assumption of risk or comparative negligence defenses, a few still recognize contributory negligence (Karangelen 2004). Contributory negligence has the same, objective standard as comparative negligence—that is, that the plaintiff "knew or should have known" of the risk (*Weil v. Seltzer* 1989). The distinction, however, lies in the fact that contributory negligence bans all recovery to the

plaintiff due to his or her own negligence. This defense has been abandoned by most jurisdictions (only Alabama, Maryland, North Carolina, Virginia, and the District of Columbia still recognize the pure contributory negligence doctrine) (Karangelen 2004).

In *Ballou v. Sigma Nu General Fraternity* (1986), the South Carolina Court of Appeals expressly rejected assumption of risk as a defense to injuries caused by alcohol-related hazing. Barry Ballou, a freshman at the University of South Carolina, pledged a fraternity. The pledges were required to attend a party and participated in a ceremony where they drank an unknown brew of strong liquor from a “cup of truth” as it was passed around the room. After this part of the ritual concluded, the pledges were led to another part of the house and were encouraged to consume beer and more liquor while singing drinking songs dedicated to their fraternity.

The following morning, fraternity brothers discovered that Ballou was dead. His cause of death was acute alcohol intoxication with terminal aspiration and his blood alcohol level was still an astounding 0.46 the following day.

At trial, the jury awarded Ballou’s family a verdict of \$200,000 and an additional \$50,000 in punitive damages. Sigma Nu argued on appeal that Barry’s own negligence should preclude the judgment on three fronts: proximate causation of the injuries, contributory negligence, and assumption of risk. The court rejected Sigma Nu’s contributory negligence argument. In South Carolina, a defense of contributory negligence is defeated when the defendant’s conduct is willful. The court held that Ballou’s conduct was not willful; it held, rather, that it was reasonable for the jury to find that Sigma Nu willfully furnished Ballou with alcohol and pressured him into drinking an excessive amount leading to his injuries (*Ballou v. Sigma Nu General Fraternity* 1986).

The court also rejected Sigma Nu’s assumption of risk defense. In South Carolina, a plaintiff assumes the risk when it clearly appears that the plaintiff (1) had knowledge of and appreciated the danger or (2) the danger was so obvious that knowledge should be imputed to him or her. The court held that Ballou had assumed a risk of verbal and physical hazing up to the point of intoxication. However, once he was intoxicated, Ballou could not have assumed the risks created by Sigma Nu’s action of promoting extreme intoxication. As a result, the jury could reasonably find that Ballou’s further imbibing no longer constituted “deliberate drinking with knowledge of what was being consumed, so that the result was deliberately risked” (*Ballou v. Sigma Nu General Fraternity* 1986, 495). The court, therefore, affirmed the verdict.

In *Quinn v. Sigma Rho Chapter of Beta Theta Pi* (1987), the Illinois Court of Appeals held that any fault of a pledge for voluntarily participating in hazing would be applied through comparative negligence defense and would not, therefore, bar the action altogether. William Quinn pledged Beta Theta Pi as an eighteen-year-old and was required to attend the fraternity’s initiation ceremony known as “Pledge Dad Night.” At the ceremony the brothers required each pledge either to finish chugging pitchers of alcohol or to vomit trying; Quinn finished his pitcher. The brothers further instructed Quinn to drink a bottle of whiskey. Afterward, they took Quinn to a bar where the brothers fed him more liquor. At around 1:00 A.M., the brothers and Quinn returned to the fraternity house where Quinn passed out on the floor. The brothers left him to “sleep off his intoxication” until 2:30 P.M. the following day. Upon waking up, Quinn could not use his hands and arms and was taken to the hospital, where his blood alcohol level registered at 0.25. Quinn suffered permanent disability as a result of his injuries.

The court observed: “The plaintiff was coerced into being his own executioner” and the social pressures he faced blinded him to the dangers of the activity. Thus the court held that the defense of comparative negligence reduced the damages Quinn was entitled to because he willfully participated in the consumption of alcohol, which caused the injuries. While comparative negligence reduced his damages, it did not serve as a bar to the action (*Quinn v. Sigma Rho Chapter of Beta Theta Pi* 1987).

In *Morrison v. Kappa Alpha Psi Fraternity* (1999), the Louisiana Court of Appeals, applying the doctrine of comparative fault, held that a pledge was not at fault for participating in hazing. Kendrick Morrison pledged a fraternity as a freshman at Louisiana Tech. In April 1994, he was beaten during a mandatory meeting in the chapter president’s residence hall room, resulting in head and neck injuries that required hospitalization.

The trial court held the fraternity, the State of Louisiana, and the chapter president liable to Morrison while it apportioned no fault to the plaintiff. Louisiana considers the following factors in apportioning fault through comparative negligence: (1) whether the conduct resulted from inadvertence or involved an awareness of the danger, (2) how great a risk the conduct created, (3) the significance of what the actor sought by the conduct, (4) the capacities of the actor, and (5) any extenuating circumstances that might require the actor to proceed in haste. The court assigned fault of 33 percent to Kappa Alpha Psi, 33 percent to Louisiana, and 34 percent to the fraternity brother who administered the beating. On appeal, the court held that although Kendrick willingly attended the meeting, he did not volunteer to be beaten and did not feel free to leave the ceremony. Because these dangers were not fully appreciated or willingly entered into, the jury was reasonable in apportioning none of the blame to Morrison (*Morrison v. Kappa Alpha Psi Fraternity* 1999).

In *Alexander v. Kappa Alpha Psi Fraternity* (2006), a federal district court found, under Tennessee law, that a pledge could be less at fault for hazing than the perpetrators. Akeem Alexander pledged a Fisk University fraternity. He submitted to physical beatings each night, including some with canes and paddles—some lasting up to three hours. One particularly violent session left Alexander dehydrated and physically scarred with a deep laceration that required hospitalization. Under comparative negligence law, the court found that a reasonable jury could find that Alexander’s portion of fault for his injuries was less than 50 percent, denying summary judgment for the fraternity. However, his voluntary attendance of the ceremonies precluded the action from being brought forth (*Alexander v. Kappa Alpha Psi Fraternity* 2006).

In *Griffen v. Alpha Phi Alpha Fraternity* (2007), University of Pennsylvania fraternity pledges were hazed. Among them, E. Martyn Griffen was punched repeatedly in the thighs and had a rubber band snapped repeatedly on his arm. As a result, he suffered permanent damage and ossification of his thigh muscles, as well as permanent scarring on his upper arm from the rubber bands. Griffen filed a ten-count complaint against Alpha Phi Alpha and two individuals alleging that he was assaulted and battered during hazing. A Pennsylvania court denied a contributory negligence defense because the Pennsylvania antihazing statute expressly stated that voluntary participation in hazing could not be a defense at trial (*Griffen v. Alpha Phi Alpha Fraternity* 2007).

In *Lloyd v. Alpha Phi Alpha Fraternity* (1999), a Cornell University student participated in fraternity initiation activities, which involved various forms of physical beatings and abuse, psychological coercion, and embarrassment. Sylvester Lloyd filed

suit in federal district court against the fraternity and Cornell University. The court stated in dicta that contributory negligence and assumption of risk would not bar recovery in hazing cases in New York; instead, it stated that the doctrine of comparative negligence would be applied to diminish the damages in proportion to the plaintiff's culpability. Hazing is not an assumed risk of joining a fraternity and even if some hazing is expected, severe physical or psychological abuse is not expected or assumed by the plaintiff in such cases.

In *Edwards v. Kappa Alpha Psi Fraternity* (1999), Northern Illinois University fraternity members gave their pledges the option of being hazed or not. The pledges, among them Donald Edwards, chose the hazing option. Edwards and the other initiates were required to provide food, drugs, and money to fraternity members. Fraternity members poured hot candle wax on Edwards and slapped him across the head. Two pledges quit the pledge process, but Edwards and the others continued. Over the next month, Edwards was paddled on the face and buttocks and a cigarette was put out on him. Ultimately, Edwards went to the hospital with a head contusion and he returned the following day with blood in his urine.

Edwards filed suit against Kappa Alpha Psi. He alleged that the fraternity was liable for battery because its members were agents of the organization. Additionally, Edwards alleged negligence by Kappa Alpha Psi for permitting an aura of violence. The court refused summary judgment for the defendant on both counts. The court followed the *Quinn* (1987) decision and denied assumption of risk as a complete defense. Voluntary participation in hazing did not qualify as an assumption of risk, but would be factored into the apportionment of fault under the comparative negligence doctrine (*Edwards v. Kappa Alpha Psi* 1999).

Alabama stands out as an exception by shielding fraternities from liability under the assumption of risk doctrine. Most states, on the other hand, hold fraternities liable for injuries arising from hazing if the fraternity's conduct was extremely dangerous toward the pledge (Kendrick 1999). The assumption of risk defense has been defeated in many jurisdictions by finding that the pledge did not truly voluntarily submit to the hazing because of excessive social pressures. Additionally, courts often state that the physical injuries suffered were not a risk that was appreciated by the pledge. Courts do, however, frequently allow for use of comparative negligence, which shifts the focus from liability to damages and apportions the fault among all negligent parties (Somers 2007). The linchpin issue in the cases discussed above, as with any case, is the importance of facts and the evidentiary utility and admissibility of those facts. The authors address this matter in the following section.

Hazing and the Black "Greek" Experience

Hazing is not unique to BGLOs; nor is litigation around the issue of hazing. Historically white fraternities and sororities, as well as other types of organizations and institutions, grapple with hazing, including from a legal standpoint. What makes BGLOs unique is the how hazing is manifested within these organizations—the culture that undergirds the practice. It is this unique culture that raises interesting, fact-based questions about, inter alia, what might be valuable and admissible as evidence in

litigation. As articulated by Parks and Ray (2013), BGLO pledge culture took its definitive form as early as the 1920s. Throughout cities and university campuses across the country, BGLOs formed pledge clubs as a way to acculturate prospective members into black “Greek” life. Pledge clubs originally served BGLOs as practical, organizing features; however, they quickly served a much broader role—that is, pageantry and public ritual. Between the 1920s and 1960s, pledges were given monikers: “barbarians” (Delta Sigma Theta, Sigma Gamma Rho), “apes” (Alpha Phi Alpha), “dogs” (Alpha Phi Alpha, Omega Psi Phi, Phi Beta Sigma), “plugs,” and “worms” (Alpha Kappa Alpha) (Parks and Brown 2005). In the 1930s, members began to distinguish themselves from their pledges with designations of little brother/sister vis-à-vis big brother/sister. By the 1940s, pledges began carrying objects that held unique organizational significance—for example, ivy plants for Alpha Kappa Alpha pledges and lamps for Omega Psi Phi pledges (Parks and Brown 2005). In the 1950s, pledges began uniformly dressing to resemble the fellow members of their pledge group; for example, some wore elaborate outfits like tuxedos, capes, top hats, and even carried walking canes. During this same period, BGLO members referred to their pledge clubs as a “line.” By the 1960s, male pledges were required either to shave their heads or to wear atypical styles such as mohawks. The 1960s also saw BGLOs give pledges individual line numbers and line names. Alongside this elaborate evolution of BGLO pledge culture, the BGLO simultaneously developed a culture of violent hazing (Parks and Brown 2005).

By the 1970s, the media began to take note of BGLO hazing incidents and an increasing number of BGLO hazing incidents began to find their way into court. For example, in 1977, Robert Brazile—a University of Pennsylvania, Omega Psi Phi pledge—died from hazing (Valente 1977). The next year, in 1978, the same happened to Nathaniel Swinson—another Omega Psi Phi pledge, this time from North Carolina Central University (Associated Press 1989). In 1983, Tennessee State University student and Omega Pi Phi pledge, Van Watts, died from hazing (Associated Press 1983). The watershed moment for BGLO hazing, however, was the 1989 death of Morehouse College, Alpha Phi Alpha pledge, Joel Harris (Ricks 1989). The National Pan-Hellenic Council, the umbrella organization of the major BGLOs, agreed to end pledging and its perceived byproduct—that is, hazing. Black Greek-letter organization hazing persisted, nonetheless (Parks and Brown 2005).

An examination of BGLO hazing incidents within just the two decades after Harris’s death—between 1990 and 2009—demonstrates that despite efforts to abate the violence toward its pledges, BGLO hazing has still resulted in deaths, injuries, and numerous lawsuits. Specifically, there have been sixteen major incidents that the authors identified via a search of Westlaw news, federal and state court cases, and federal and state trial pleadings. Of those sixteen incidents, fifteen involved fraternities and one a sorority. Fifteen involved civil litigation and three involved some form of criminal proceedings. Five hazing deaths occurred during this two-decade span. Accounts of these incidents are provided in the Appendix.¹

Despite efforts to curtail hazing, often violent, within BGLOs the behavior persists. Even more, year after year, potential victims continue to enlist themselves for the

1. To minimize redundancy, BGLO hazing incidents between 1990 and 2009 that were included in section I are not included in the appendix.

paddling, punching, and punishment. The explanations for such conduct are varied. Generally, a host of psychological theories—for example, ingroup/outgroup dynamics, an escalation of commitment, group-think, obedience to authority, organizational prestige—elucidate why organizational membership may be appealing for some people despite the possibility of hazing and why people persist in seeking membership despite being hazed (Parks and Southerland forthcoming). Arguably, prospective BGLO members accept the argument that hazing will commit them more to their organization, the members, the other pledges, and, more broadly, the organization's ideals (Parks, Jones, and Hughey 2013). Constrained notions of masculinity may also be at work in undergirding and propelling hazing within BGLO fraternities. These fraternities, at least contemporarily, are defined by fairly calcified stereotypes associated with each organization. For example, one study demonstrates that women in black sororities associate various notions of masculinity (e.g., masculine or effeminate; man's man, ladies' man, gentleman) with certain BGLO fraternities (Hernandez et al. 2012). Other research suggests that BGLO fraternity members may define themselves in terms of physicality (e.g., aggression and sex) in ways that underscore their masculinity (DeSantis and Coleman 2005; Anderson, Buckley, and Tindall 2011). Much of this may have to do with anxiety about homosexual members within their ranks or being perceived as effeminate or gay (DeSantis and Coleman 2005; Ray and Spragling 2011). Not surprisingly, physical violence through hazing becomes the defining feature of BGLO fraternity membership, with BGLO sororities mimicking such conduct but to a much lesser extent.

Laws are hollow without understanding how they are applied to a certain set of facts, and facts are largely understood in the context of the type of evidence brought before a court in a given litigation. As such, to understand how tort defense doctrines like assumption of risk or comparative or contributory negligence operate vis-à-vis BGLOs, it is necessary to understand the types of evidence that might be used in hazing litigation involving these organizations. Accordingly, the remainder of this article demonstrates a unique type of evidence that could be used to demonstrate what BGLO pledges know about their hazing experiences and when they know it.

Several years ago, Andrea Dennis (2007) wrote a quirky yet insightful law review article about how rap music lyrics could be admitted as evidence in criminal trials. Then, just a few years later, Rashawn Ray, Danielle Heard, and Ted Ingram (2012) published a similarly insightful yet quirky study where they found that BGLO members ascribe significant meaning to a select number of poems that they traditionally learn during their pledge processes. With these works as a frame of reference, Parks and Ray (2013) conducted a study on what these poems mean to BGLO members as they reflect upon their pledge experiences. What these authors discovered was that these poems are often learned at a time when BGLO pledges are experiencing violent physical hazing. The poems, in turn, teach them lessons about perseverance and stoicism in the face of obstacles. The authors go on to argue that the memorization of such poems within the context in which they are learned seems to put BGLO pledges on notice about their pledge experiences. Furthermore, the memorization of the poems in such a context could be admissible in hazing tort trials as evidence of what BGLO pledges knew about their hazing experiences. In essence, such evidence would be admissible under the Federal Rules of Evidence. Two weaknesses of the study were that it failed to consider

when BGLO pledges come into this knowledge about what their hazing experiences are likely to be and the range of other experiences that BGLO pledges have that put them on notice about their hazing experiences. To remedy these two issues, the authors conducted the following empirical studies.

WHAT HAZING VICTIMS KNOW, WHEN THEY KNOW IT: QUANTITATIVE STUDY

For the quantitative portion of this article, data were collected as part of a larger research project on BGLO hazing. An e-mail list containing approximately 30,000 recipients was created. The e-mail addresses were generated from organizational directories and Yahoo! Groups as well as chapter, district, provincial, and regional websites for the nine major BGLOs. The e-mail informed recipients about a study of BGLOs being conducted online and the hyperlink to that study. Questions in the survey covered a variety of domains and topics surrounding hazing within BGLOs. Participation was anonymous and the study was approved by an institutional review board.

Sample

Of the 30,000 recipients of the e-mail, approximately 1,300 individuals responded to the study. (Due to missing data on individual questions, the sample ranged from 1,289 to 1,365.) The sample was predominantly female (62 percent) and African American (90.9 percent), with a mean age of 40.04 years. Most participants belonged to a sorority (61.5 percent). Geographic regions in which participants were initiated were diverse, including the Southeast (48.2 percent), Midwest (20.8 percent), Northeast and the District of Columbia (19.1 percent), Southwest (7.4 percent), West (4 percent), and international (0.4 percent). The mean year of initiation was 1993 (range: 1950–2010) and the mean age at initiation was 23 years. The majority of participants attended a predominantly white institution (59.2 percent), while nearly two fifths of the participants attended a historically black college or university (38.3 percent).

Results

Participants were asked a series of questions to ascertain whether they knew prior to the process of joining that hazing could be part of the process. Participants were also asked whether they thought the hazing would continue after the first encounter. Fully 84.9 percent indicated that they knew prior to joining that mental hazing was likely and 75.1 percent suggested that they knew physical hazing was likely. After the initial incidents of hazing, very few thought that mental (23.3 percent) or physical (30.6 percent) hazing would discontinue.

For a more nuanced look at these data, the same questions were examined using only those who joined a fraternity or sorority after 1990. The results were largely the same. Most participants expected there to be mental (85.2 percent) or physical (77.4

percent) hazing involved as part of the initiation process. Once encountered, few expected it would cease (mental: 21.5 percent; physical: 27.7 percent).

Finally, the data including those who joined after 1990 were examined by sex. For males, nearly all the participants expressed awareness that mental (91.6 percent) or physical (90.2 percent) hazing was likely, with a small minority expecting that the mental (13.4 percent) or physical (15.2 percent) hazing would discontinue. Among females, most expected mental (83.7 percent) or physical (71.4 percent) hazing to be part of the initiation process, with few expecting the mental (23 percent) or physical (34.7 percent) hazing to stop. Chi-square tests indicated significant differences between males and females on each of the four questions.

WHAT HAZING VICTIMS KNOW, WHEN THEY KNOW IT: QUALITATIVE STUDY

To gather the qualitative data required to investigate the types and the meaning of information learned during an initiation process, we conducted an online survey of members of the nine BGLOs represented in the National Pan-Hellenic Council (NPHC). We sent an e-mail, soliciting survey participation, to a large listserv composed mostly of BGLO alumni. Using a confidential online survey, we recorded 1,281 responses. Besides collecting standard demographic information, the survey gauged what types of information (e.g., songs, chants, greetings) the respondent learned, when he or she learned the information, and the interpretative meaning associated with the poems as they relate to the initiation process, the pledge experience, and hazing. Accordingly, we asked respondents two open-ended questions. First, we asked respondents to give us the names, details, and descriptions of songs, chants, and greetings they remember from their initiation process. Second, we asked them to tell us the meaning of those songs, chants, and greetings. We gathered 132 responses from men and 330 responses from women on these open-ended questions. In line with previous research on BGLOs, we searched each of the responses for key words (e.g., perseverance, challenge, hope, coping, pride, optimism, unity) and synonyms to these words to establish patterns in these data about the meaning of the information used during the initiation process (Ray and Spragling 2011; Ray and Rosow 2012). These data were searched again, looking for examples that both confirmed and contradicted emerging patterns. These propositions were refined or eliminated to explain negative cases.

Sample

As mentioned above, 1,281 respondents participated in the online survey. As seen in Table 1, nearly 80 percent of these respondents were sorority members (women), while slightly over 20 percent were fraternity members (men). These percentages are also similar to the gender disparity in college attendance and graduation rates, as black women significantly outnumber black men (Massey et al. 2003).

Concerning the initiation process, 63 percent of men and nearly 50 percent of women became members solely through a pledge process, while 9 percent of men and 24

TABLE 1.
Descriptive Statistics, N = 1,281

	Fraternity	Sorority
Sample Size		
Percentage	22.6	77.4
Number	289	992
Initiation Process		
Pledge	63.0	49.3
Membership intake process (MIP)	9.0	23.5
Pledge and MIP	28.0	27.2
Initiation Period		
Before 1980	22.1	24.5
1980–1990	22.8	21.2
1991–1995	11.1	12.3
1996–2000	12.8	12.7
2001–2005	21.1	15.4
2006–2010	10.0	13.9
Initiation Stage		
Undergraduate	76.1	73.6
Alumni	23.9	26.4
Initiation Region		
Northeast	10.0	9.7
Midwest	22.1	16.7
South	63.3	68.0
West	4.5	5.4
Abroad	0.0	0.1
Type of University Attended		
Historically black college/university	41.0	47.6
Predominately white institution	59.0	52.4
Parent Is/Was Member of Respondent's Greek Organization		
Yes	15.9	19.9
No	84.1	80.1
Participates in Initiating New Members		
Yes	58.1	48.7
No	41.9	51.3
Financially Active		
Yes	77.2	65.6
No	22.8	34.4
Age		
18–24	3.8	5.4
25–29	12.1	10.6
30–39	28.7	24.4
40–49	26.3	22.5
50 and older	29.1	37.1
Race		
Black	94.5	96.1
Nonblack	5.5	3.9
Sexual Orientation		
Heterosexual	92.7	98.8
Gay or lesbian	3.8	0.3
Bisexual	3.5	0.9

Table 1.
(Continued)

	Fraternity	Sorority
Religion		
Protestant Christian	58.0	55.7
Non-Protestant Christian	19.8	23.2
Muslim	1.4	0.7
Other	14.9	17.8
Nonreligious	5.9	2.6
Education Level		
Some college	1.4	1.0
Bachelor's degree	36.7	26.0
Master's degree	44.3	51.8
PhD/MD or equivalent	17.6	21.2
Relationship Status		
Married	61.6	45.7
Single	38.4	54.3

percent of women became members solely through the membership-intake process (MIP). Twenty-eight percent of men and 27 percent of women became members by participating in a pledge process and the MIP. The type of initiation process that individuals go through is mostly attributable to their initiation period. Roughly 50 percent of the sample became members before pledging was outlawed in 1990 (Parks and Brown 2005). Slightly over 10 percent became members during the transition period of the early 1990s as BGLOs formulated a MIP. The remaining 40 percent became members from 1996–2010. The initiation period also corresponds to the age of the respondents. Only about 5 percent of the sample was the traditional college age of 18 to 24. Slightly over 10 percent were in their late twenties, while roughly a quarter were in their thirties. Nearly 25 percent were in their forties and over 30 percent were fifty years of age or older. In this regard, our sample has respondents who became members in the 1960s.

Interestingly though, there are few differences in the types of information learned and responses given by age or period of initiation. This finding speaks to the history, consistency, and depth of BGLOs. However, there is a difference in the amount of information provided by gender. Fraternity members are more likely to provide specific details about the types and the meaning of the information learned during the pledge process. This difference can be mostly attributed to the initiation process. As noted above, a substantial percentage of men pledged and did not go through the MIP, while a much larger percentage of women became members solely through MIP compared to men.

Using census region codes, over 60 percent of the sample became members in the South (US Census Bureau 2012). Twenty-two percent of fraternity members were initiated in the Midwest compared to 17 percent of sorority members. About 10 percent of the sample became members in the Northeast, while only about 5 percent became members in the western region. Considering that about half of African

Americans are born and live in the southern region of the United States and a much smaller percentage live in the West, this finding is expected. Our sample is pretty similar across university contexts as 54 percent became members at predominately white universities, while 46 percent became members at historically black colleges and universities.

Twenty percent of the women's mothers were members of their sororities, while 16 percent of men's fathers were members of their fraternity so we do see some status transmission in our sample. Fifty-eight percent of fraternity members, compared to 49 percent of sorority members, participated in initiating new members. This gender difference is also seen concerning financial activity. Over 75 percent of fraternity members, compared to 67 percent of sorority members, are financially active. Participation in initiating new members and financial activity may also contribute to fraternity members being better able to recall information learned during their initiation process as they are more likely to see and hear the information more than sorority members. Still, the breadth of information learned during a pledge process compared to MIP is more of the main culprit for fraternity men being more likely to provide specific information than sorority women.

Over 90 percent of the sample report being black and heterosexual and over 75 percent report being Christian. Sixty-two percent of men and 46 percent of women are married. This marriage disparity is similar to the broader African American population (Banks 2011). Over 30 percent have a bachelor's degree, nearly 50 percent have a master's degree, and about 20 percent have a PhD/MD. As a whole, the respondents in this sample are a reliable, valid, and generalizable representation of the BGLO community.

Results

Figure 1 shows the percentage of fraternity and sorority members who learned information about pledging and hazing during their initiation process. Nearly 90 percent of fraternity members and 85 percent of sorority members learned or made up at least one song, chant, or greeting about the pledge experience. This is an overwhelming majority of respondents who were introduced to information about the pledge process and what it means to pledge. A much smaller percentage, however, report learning songs, chants, or greetings that suggested hazing. While 56 percent of fraternity members report learning information that suggested hazing, only 16 percent of sorority members do. Although a similar gender gap exists, an even lower percentage of respondents report making up songs, chants, or greetings that suggested hazing. Thirty-seven percent of fraternity members and 13 percent of sorority members report making up information that suggested hazing.

The gender disparity between fraternity and sorority members is not unusual. As seen by the case review, fraternities are more likely to be involved in criminal and civil suits involving hazing. As mentioned earlier, they are also more likely to pledge. As we see later, however, when sorority members do recall information about pledging and hazing, their responses and reactions are similar to that of fraternity members.

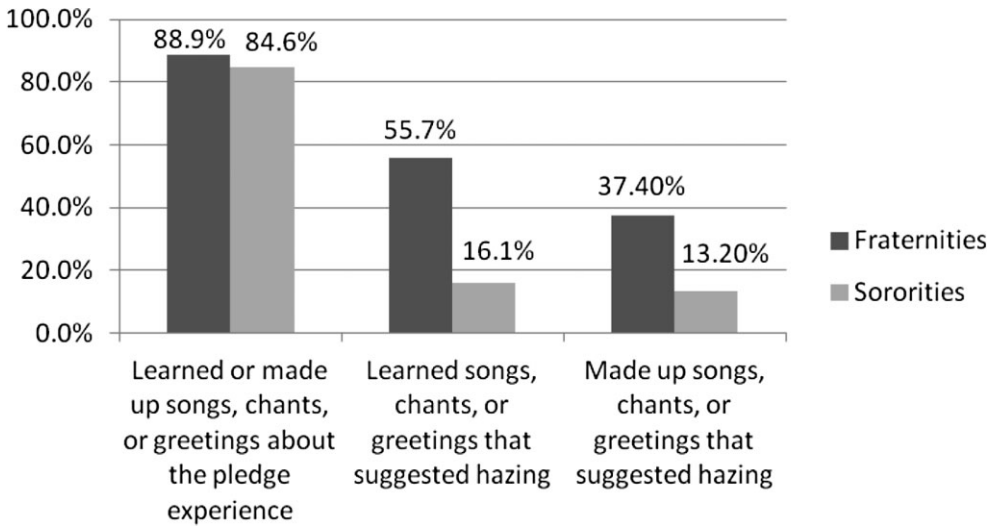


FIGURE 1.
Learned Information About Pledging and Hazing

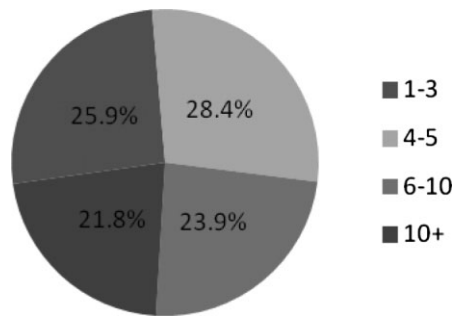


FIGURE 2.
Number of Songs, Chants, or Greetings Learned During Initiation Process

Figure 2 shows the number of songs, chants, and greetings learned during the initiation process. While roughly 26 percent of the sample learned only one to three pieces of information, nearly that same number (22 percent) learned ten or more songs, chants, and greetings. Slightly over 50 percent report learning four to ten pieces of information during their initiation process.

Potentially more important than understanding *what* an individual learned about pledging and hazing, is *when* they learned it. Figure 3 breaks the pledge process into four quarters. If we think that an initiation process lasted four to eight weeks, then each quarter represents one to two weeks of time. We asked respondents during which quarter of their initiation process did they learn songs, chants, and greetings that suggested the process would be difficult or challenging. Nearly 60 percent of respondents report learning the information in the first quarter of their process. An additional 25 percent report learning information suggesting difficulty and challenges within the

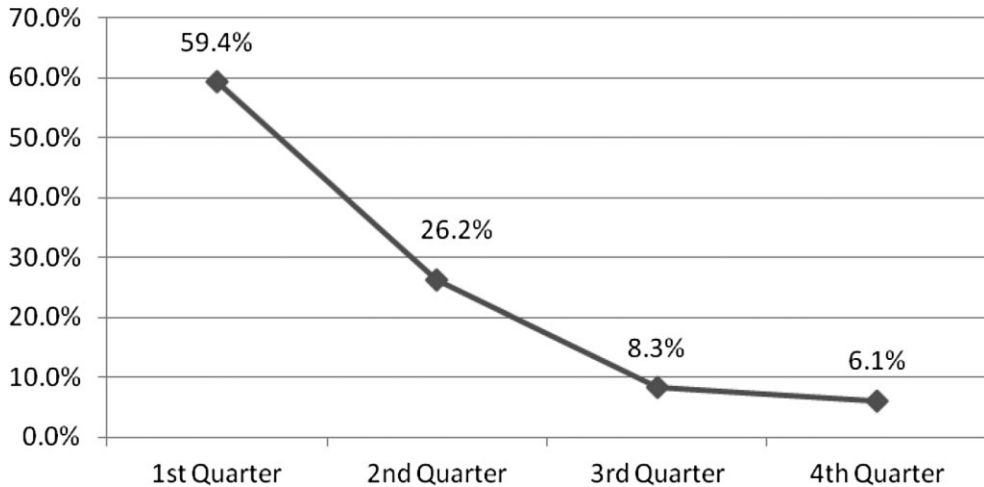


FIGURE 3.
Time Period Respondents Learned Songs, Chants, or Greetings Suggesting the Process Would be Difficult or Challenging

second quarter. Thus, 85 percent of respondents who learned information during their initiation process made the link between the information they were expected to learn and retain and the current and future difficulty and challenges of their process within the first half of their initiation.

Types of Information Learned During Initiation

Now that we have detailed how much and when information is learned, we turn our attention to specific types of information. Figure 4 shows exactly which type of information BGLO members report learning during initiation. Members were most likely to learn chants, followed by songs, poems, and greetings. Interestingly, sorority members were more likely to learn chants and songs than fraternity members, who were more likely to learn greetings and poems. As seen in Figure 4, nearly 45 percent of sorority members report learning chants compared to slightly over 35 percent of fraternity members. Songs have a closer margin as slightly over 25 percent of sorority members learned songs and slightly fewer than 25 percent of fraternity members did. While fraternity members report learning over 15 percent of greetings and poems, less than 10 percent of sorority members do. Although the Greek alphabet is frequently seen as a way to showcase the proficiency of information (and viewed in some ways as a gold standard of Greek information), a very small percentage of respondents report learning it or associating it with pledging and hazing (Parks and Brown 2005). Considering that less than 5 percent of respondents report learning other types of information, we are confident that songs, chants, greetings, and poems make up an overwhelming majority of the types of information learned during an initiation process. Still, the information presented here should be viewed as the main exemplars that members recall instead of an all-inclusive list.

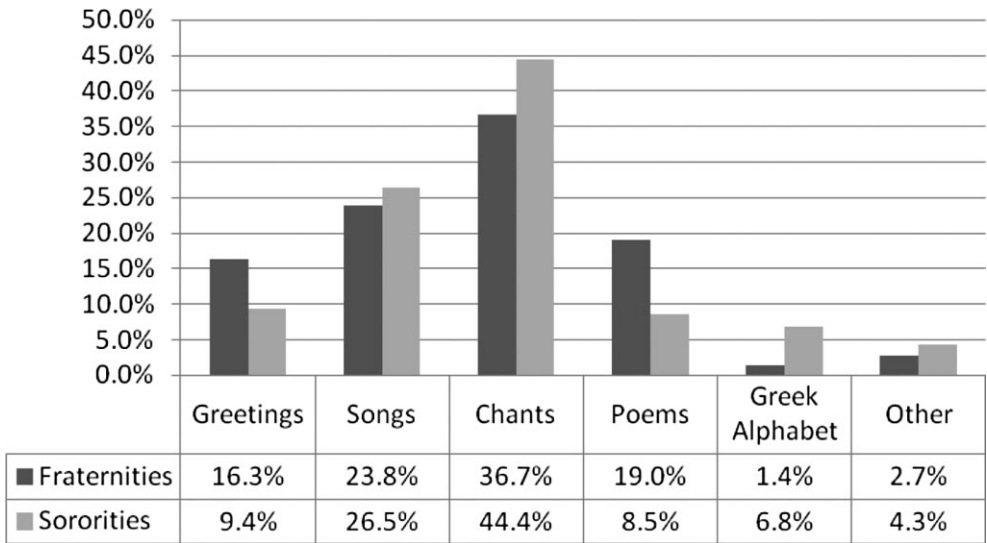


FIGURE 4.
Information Learned During Initiation Process

Some of the songs, chants, and greetings learned during an initiation process are humorous; however, many of them speak to the brutality that individuals endure to become members. We provide examples of some below. Because we do not want to single out any particular organization, names or acronyms that readily identify an organization directly have been omitted.

Songs

Song 1

Across the Seas, Across the sands
 Who do you want to be?
 All in my heart, the peace and happiness
 My heart & Soul
 Bleeding Ankles
 They're pledging my mind, my body, and soul
 I want to be [a member] for that [organization colors]
 Mama, Mama can't you see, what [organization name] done for me
 I want to wear the [organization colors]
 I want to wear them till I'm old
 Don't want to be [other organization], not even [other organization]
 I want to wear the [organization colors], I want to wear them till I'm old
 I've got a feeling
 I've got a feeling Brothers
 I've got a feeling
 Some dirty rat is trying to sneak in the frat
 And it ain't going to be no shit like that.

Song 2

Trying to Make It in, Trying to make it in, we are trying to make it in
 We are trying to make it in to an [organization name]
 We are pressing toward our goal to be among the [organization colors]
 We are trying to make it into an [organization name]
 Our Big Brothers, they know their stuff
 They don't have time for petty things
 This journey's so long and oh so rough
 We are pressing toward our goal, to be among the [organization letters]
 We are trying to make it into an [organization name].

Chants*Chant 1*

Somebody Please (Call and Response)
 Help Me I wanna be [organization name]
 I am down on my knees
 I want to wear The [organization colors]
 Even When I'm Tired and Old
 I am calling
 Please answer my plea
 Guide me to [organization name]
 Set my spirit free
 The light of the world
 It belongs to me
 Motherland Shining
 As Bright as can be
 Go Down Go Down
 Brother Way Down to Egypt Land
 Tell the people The light has come
 Many years ago Black men Couldn't take no more
 They professed to have seen the light
 The Light Of The World
 They journeyed to the motherland where they crossed those burning sands
 Marching onward they had to see
 Just what The end would bring (What the end would bring).

Chant 2

It's so good to be a [organization name]
 It's so good to join that noble clan
 Going to get to that promised land
 Brothers, we don't know, we don't know if we can make it over
 Brothers we don't know if we can make it into
 The Big Brothers say we won't make it
 But, Boy we got a surprise
 We said to ourselves, no matter how hard it gets
 We gonna make it anyhow.

Chant 3

All of my love, my peace and happiness,
 I will give to [organization name]
 Fuck that [other organization], that bullshit [organization name]
 All Black men came from Kunta Kinte and all Black Greeks came from [organization name]!
 Respect your roots, motherfucka! Respect your roots!

Chant 4

60 hours an soon will be over
 60 hours and soon will be _____s no more wishing for 80 or a hundred!
 Just to be with the men of _____
 HIT ME HARD HIT ME QUICKA BIG BROTHA
 THE SOONER YOU HIT ME THE SOONER WE'LL BE OVER
 WE'LL BE OVERRRRR, OVERRRRR, OVER WHERE THE REAL MEN ARE!

Chant 5

Yesterday all my troubles seem so far away
 Now it looks as if they are here to stay
 Oh I believe in an [organization name], an [organization name]
 Why we had to pledge, I don't know you wouldn't say
 Now it's up to me, to become an [organization name] an [organization name]
 Yes I believe in an [organization name].

Greetings*Greeting 1*

Greetings Dean [name] Bloody [chapter name] Dean and a thorough critic
 A blast from the past with his old school style they call him court jester cuz he'll
 pleeeeeeeeeeeedge you with a smile
 The third guardian of the luxor clan A scientist, An engineer, An ebony man
 Our protector and savior by day and by night lead us from this darkness to [organization name] shining light
 Lead us from this darkness of hatred, shame, and grief
 To the pain, strife and adversity of the Black man's unbelief
 To the light and hope and destiny that shines for us today
 Lead and guide us to the land of an [organization name] where Blacks are kings and
 queens [organization name] where Egyptians taught the Greeks an [organization name] where scholarship is first of all And even though this period, is vigilant and long
 We pledge to ever give you praise and always be strong
 Because we know that if we don't we will feel the wrath
 And the fire and the brimstone of your deadly grasp
 Our most noble dean Imhotep, sage of ancient years
 We call upon your wisdom, to save us from our fears
 Help us cross those burning sands
 And make it into [organization name] land
 We'll always hold the banner high

And always give the battle cry
 There's nothing greater
 Than Bloody [chapter name]!

Greeting 2

Greetings Big Brothers of XXX Chapter of an [organization name], Inc.
 You are the butt kickers, the lady stickers, the back breaker, the woman taker;
 Smoother than smooth, richer than gold, but most of all you're too damn cold!
 Is there anything we can do for you?

Greeting 3

What hoth dusky naïve
 Hear thy Greetings of thy slave
 Thou lover of fine wine and beautiful women
 Is there anything I can do for you today, my lord?

Meaning of Information Learned During the Initiation Process

Now that we know in detail the language, style, and tone of the types of information that members learn, we shift our focus to the meaning of the information. In what ways is this information important to members and how important is it? Table 2 shows the percentage of respondents who agree or disagree that the songs, chants, or greetings learned helped them persevere during initiation. An overwhelming majority of fraternity members (65 percent) agree that this information helped them to persevere, while only 53 percent of sorority members do. Roughly the same percentage (about 17 percent) of fraternity and sorority members disagree that this information helped them persevere. As a whole, a substantial percentage of respondents report the songs, chants, and greetings learned during the initiation process helped them to persevere.

Figure 5 shows the meaning of the information learned during the initiation process. Similar to previous work on the meaning of information learned during Greek-letter organization initiation processes (Ray, Heard, and Ingram 2012), our qualitative analysis revealed six primary themes regarding the meaning of information—unity, mental/physical challenges, coping, pride, collective memory, and self-mastery. Extending the literature, we show how these themes vary by gender.

For fraternity and sorority members, unity was the dominant theme of the information learned during initiation. While 29 percent of fraternity responses link to unity,

TABLE 2.
Songs, Chants, and Songs Helped Fraternity Members Persevere During Initiation

	Agree	Neutral	Disagree	Total
Fraternities	65.0%	18.6%	16.4%	100.0%
Sororities	52.7%	30.2%	17.1%	100.0%

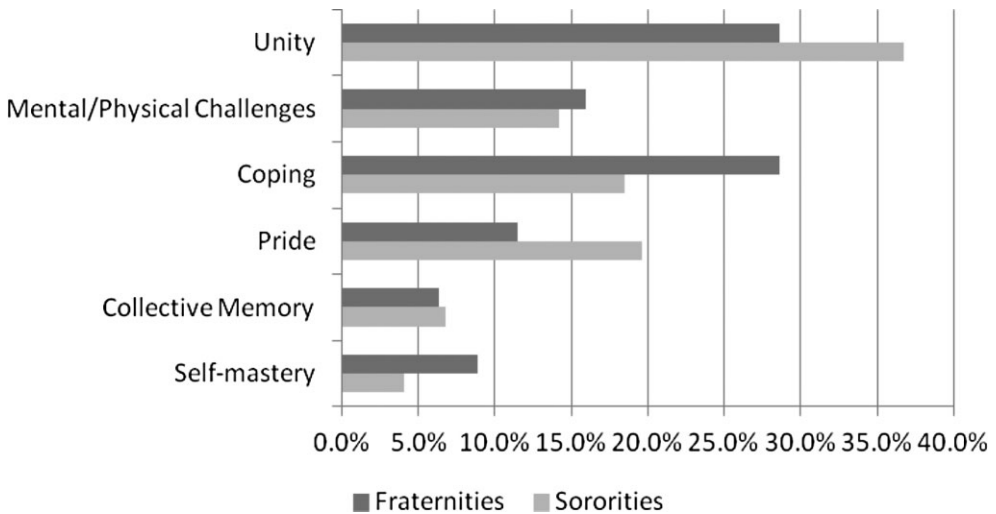


FIGURE 5.
Meaning of Information Learned During Initiation Process

37 percent of the sorority responses do. Coping was the second major theme. Similar to unity, 29 percent of the fraternity responses link to coping. However, only 18 percent of the sorority responses link to coping. Pride also displays a gender difference as nearly 20 percent of sorority responses link to pride compared to 11 percent of fraternity responses. The mental/physical challenges theme is about 15 percent across the whole sample. Collective memory and self-mastery both have less than 10 percent.

Building on Table 2, we start with mental/physical challenges because responses that link with this theme are perhaps most aligned with the information discussed during court proceedings. The theme of mental/physical challenges speaks to the ability to overcome obstacles that stand in your way, never to give up, and to be steadfast toward a goal. In this sense, mental/physical challenges not only involve actually dealing with these challenges but also involve one's persevering and motivation to continue on in spite of them. In this context, the theme of mental/physical challenges speaks to pledges having the ability and stamina to confront the stigma and turmoil of being on line.

The statements below are some responses that tend to characterize this theme. A fraternity member stated the following about how the information he learned during his initiation process helped him deal with the mental/physical challenges of being on line.

“Invictus” and “If—” were both Poems which spoke to me regarding endurance and the ability to cope or better yet, surmount situations that may be difficult and hard to bear. The Songs/Chants/Greetings kept my spirits lifted, more so helping me to persevere which is why I marked the above answers as “neutral.” I enjoyed that part of the process because it gave us time to display our creativity while learning the history and pertinent information regarding the organization.

Another respondent actually mentions how a fraternity poem still helps him in his daily life.

[Organization name] was something to aspire to. “If—” was truly something. I used to get me through the difficult times. I continue to use it today. I’ve also given that Poem to each of my three children and they and I have talked about it at length.

A sorority member says, “[it] spoke of the constant struggles and pain we must endure to move along our journey to better days as a people.” Another says:

It meant that it was a hard long process, but only the strong survived. It meant that I could make it through if I stayed strong, and that the letters on my front and back had to be earned and not just paid for.

The “earned” and “paid for” language above speaks to possibly the most salient division within organizations—whether a person pledged (“made real”) or only went through MIP (“paper made” via national paperwork and not hard work at the chapter/local/university level). Most members accepted the fact that, as one respondent said, “things you want will not come easily.” But, possibly one of the most salient responses that captured the severity of how important being a member is to some individuals was simply, “I have to make it no matter what.” Another respondent stated: “Helped you understand that hardship is only for a season. They helped you to be motivated to persevere and see what the end was going to be.”

Another component of mental/physical challenges is the brutality involved with pledging. One fraternity man stated: “If you didn’t learn the required material swinging of wood could become a motivator.” By “swinging of wood” this respondent meant “getting wood” or being mandated to “get in the cut” by being struck with a wooden paddle across the butt. Sorority members also made similar comments. One stated: “It was just a reminder that I needed to know specific pieces of information to save me from being in the cut.” Pledges are often given wood when they do not know historical organization information deemed important or cannot properly recall or verbalize songs, chants, or greetings in unison or individually.

Another respondent reacted to the accepted brutality of some members. He said: “[Songs, chants, and greetings] perpetuated in some ways the destructive backward notions of manhood and brotherhood linked through physical violence.” And even more starkly, two respondents had very different reactions to their initiation processes. One respondent said: “It’s a tough process, but it’s worth it.” Another said, “I can’t believe I participated in that foolishness.”

Altogether, these responses show the main reactions to what was learned during an initiation process. Most members embrace that their experience is emblematic of their right to wear their Greek letters, while some view it as a disgrace that they submitted to these mental/physical challenges.

As implied above, the information learned during an initiation process is constructed to build a sense of collective identity regarding how status is maintained and goals are accomplished. In this sense, songs, chants, and greetings create symbolic boundaries that form a sense of competition, one-upmanship, and bravado that speak to unity and a sense of pride in one’s organization, chapter, line, and self. A sorority member said: “The Songs and Chants helped forge a sense of solidarity within our line.” Another said: “It was meant to foster sisterhood as we met the challenges of having to

do tasks as a group of varied personalities.” Another respondent simply said: “Loyalty, camaraderie, brotherhood.” Furthermore, a sorority member said: “Ties that were binded during and after the process. This is the reason why I am still an active member.” It is the “unity of spirit/purpose/goal.”

A sorority member who pledged during the 1970s stated the following:

We were so creative . . . and tasteful . . . able to take Songs of the day and personalize it for us! Our Songs emphasized our exclusive/sophisticated/“classy” aura. Indeed, we were quite proud to “make line”—over 120 women rushed that year . . . only 40 made it! The Songs were definitely touching and heartfelt . . . I still hum them to myself when working with over 100 women to accomplish a common goal in my local chapter . . . over 30 years later! I am active in my local chapter . . . something I think the pledging process helped to foster . . . something that was hard to achieve is less likely to be ignored/discarded.

In addition to this respondent’s fervor, display of collective identity, and pride in her organization, her statement was telling in light of the percentage of her class that did not “survive” the process. Her pledge class from the 1970s started with more than 120 women and ended with only forty. The mental/physical challenges that one must endure to be a member are suspected to be severe if only one-third “made it.”

The quotation below not only speaks to the mental/physical challenges that had to be overcome to become a member but also to the pride that individuals feel in their organizations.

The first two Songs reflected on the difficulty involved with the pledge process and the sacrifices you were willing to endure to become [a member]. This [chant] is about the ego, pride, bravado, and arrogance associated with being [a member] (This was and still is my favorite).

Potentially just as important as embracing unity within the organization is showing unity in public and displaying one-upmanship or “trumping” other organizations by being in sync when performing songs, chants, and greetings to the student and local communities. The following respondent discusses this point in detail.

Strivin, & Wine—These were Songs we did as we were marching across campus or jogging from one place to another. To me as long as we were singing Chants we did not concentrate on any pain our bodies may have felt at that time. It truly helped me. When I am jogging on my treadmill I often sing the Chants I did when I was on line. Somebody Please & Go Down Brother—These were songs that we chanted during our Death March (finale pledge week and march across campus) on campus. My father [1959 initiate] and my brother [1984 initiate] were both in attendance and I remember them both telling me that they enjoyed the experience as well as hearing me do “Somebody Please.” With my father and my brother participating in my death march, those Songs allowed us to share the experience even though we pledged at different times and at different chapters. Greetings are the one place in the pledge process where a public display is awesome. This is where as a line you can find your strengths and weaknesses and perform for the

crowd. Since many people don't know what happens behind closed doors, this is the one time where you can showcase your talents to the public while still in the pledging state. Brothers that can sing or perform well in public, this helps them the most. I was never good at Greetings; however, I still remember them.

Not only does this information lead to a level of unity among members, it also speaks to a collective memory that binds family members and links black people via ancestral trials and tribulations such as surviving the Middle Passage, American slavery, Jim Crow, de facto segregation, and discrimination. The Middle Passage was recorded as taking an average of about eight weeks (Harper Dickinson 2005). Some BGLO pledging processes try to mimic this timeline and even call their pledge lines/classes "ships" to further capture the association between pledging and the slave experience (Kimbrough 2003). In this regard, the collective memory theme has an inspirational and spiritual component that speaks to racial uplift (Ray, Heard, and Ingram 2012). Below are some responses that capture this theme.

One respondent stated: "It helped me and tied in the Negro spiritual aspects." Another stated: "These songs set to the tune of religious hymns seemed to give my experience more purpose and meaning. I felt as if I was going through a rite of passage." A fraternity member said: "In reflection, it made it fun, and because many of them sounded like Negro Spirituals, I felt linked to my history." Still another said: "The National Hymn and ritual hymns or songs allow me to relate to the larger organization throughout our nation and world."

The following respondent stressed his point with detail and recollection:

I think for our line what those Chants, Songs, and Greetings did for us was build that brotherhood. We learned our history as an African American people and fraternity what it meant to step, so Chants, what our letters meant, why no one can break our line. . . . Looking back I am glad we earned the right to wear those letters and did not take the paper route. I do understand some pledges are being hazed; that is why there should be a universal pledge handbook. Taking wood, maybe in a hell week situation, should be part of the process, but I just don't get the slapping, punching, kicking, buying someone's food, and the like should be part. Maybe cut out those parts for calisthenics, what's wrong with pushup, sit-ups, jumping jacks, I think that supports keeping in shape.

In addition to having a collective memory of the past, individuals must also display a certain level of self-mastery or hyper-individualism in their pursuit to maximize personal sacrifice and dedication by being "all you can be" to yourself and the organization. One respondent said, "I think that the Songs, Chants, and Greetings made me angry at the time this happened but now reflecting it helped me realized it was trying to bring brotherhood and get me stronger as an individual." A sorority member said: "It helped me know my worth and how important it is to work for something." Another said: "These words reinforced my commitments to service and help speed me onward towards my goals." Another stated: "It meant get the job done to the best of your ability and don't make excuses." Another mentioned the importance of making choices. She said: "Don't make an excuse for not doing something or not having what you should have. Made me more aware of the choices I made on a daily basis."

Collectively, songs, chants, and greetings carry significant meaning to members. Most take pride in the mental/physical challenges they endured to become members. While other members shun hazing and certain types of behaviors, they still participated because they viewed pledging and hazing as mandatory for membership.

CONCLUSION

In the article “Poetry as Evidence,” Parks and Ray (2013) make the point that the poems that BGLO pledges memorize during their hazing process provides some indicia of what those individuals know about their hazing experiences and when they know it. Even more, their memorization of such poems, and the context in which they memorize those poems, may be valuable and admissible evidence with regard to tort defenses like assumption of risk and comparative fault.

In this article, and in building on Parks and Ray’s (2013) work, the authors make two important claims. First, many BGLO pledges are not only aware of the physical and psychological hazing that they will experience prior to their pledge processes, they are also aware that it is likely to persist once it has begun. Second, the chants, greetings, and songs that they learn or create as pledges often reflect their understanding of how arduous and dangerous the BGLO pledge process is.

While this article underscores the legal significance of the authors’ findings—their implications for tort defense doctrines vis-à-vis the evidentiary value of similar information as evidence in “Poetry as Evidence” (Parks and Ray 2013)—there is also a practical implication to this work. It may be convenient to argue that hazing will end when hazers simply stop their actions. Such an argument, however, is provincial in that it fails to consider the role that all stakeholders might play in eradicating hazing. This article underscores that BGLO hazing victims are aware, at various stages in their hazing experiences, that their pledge processes will be a grueling one. Accordingly, they might play an active role in militating against hazing, and universities as well as BGLOs should play an active role in empowering them to be engaged in their own preservation.

More broadly, this article underscores that the fact that hazing exists within BGLOs is not unique, but the ways it is manifested are. Black Greek-letter organizations’ rich hazing culture should put interested parties on notice not only for concerns about how such cultural artifacts could be employed in litigation; it should also provide insight into junctures where solutions may be brought to the fore and applied as a way to help eradicate hazing within these groups.

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APPENDIX

Roderick Green was a student at Clark Atlanta University and pledging Phi Beta Sigma fraternity. In March 1991, seven fraternity members blindfolded Green, transported him to an undisclosed location and struck him with paddles during a ritual (*Green v. Phi Beta Sigma Fraternity* 1992). The members forced Green to crawl up a hill while he was struck over 100 times, suffering knee and kidney damage. The fraternity contended it did not condone hazing or mental or physical abuse. A default judgment

was entered against the national organization after it failed to release files documenting past incidents of hazing by chapters around the country (*Green v. Phi Beta Sigma Fraternity* 1992). A judgment of \$300,000 in compensatory damages and \$250,000 in punitive damages was entered for Green (*Green v. Phi Beta Sigma Fraternity* 1992).

Harold Thomas was a Lamar University student who had applied for membership in the Omega Psi Phi. Harold died of heart failure as a result of a six-mile run while being hazed. His mother brought suit against the university, the fraternity, and David Smith, who had allegedly directed the hazing. The trial court had entered summary judgment in favor of Lamar University and the fraternity, but the court held on appeal in 1992 that entry of summary judgment in favor of the fraternity was inappropriate and remanded the case for trial on the merits (*Thomas v. Lamar Univ. & Omega Psi Phi Fraternity* 1992). Entry of summary judgment for the university was affirmed (*Thomas v. Lamar Univ. & Omega Psi Phi Fraternity* 1992).

In finding summary judgment inappropriate in favor of the Omega Psi Phi, the court found that there was a genuine issue of material fact regarding one or more essential elements of Thomas's cause of action. The existence of evidence that Thomas was pursuing membership in the group, that David Smith was acting for the organization, and that members had knowledge of Smith's activities and held him out as an authority figure to pledges (despite Omega's claim that Smith is not an official member) creates an issue that should be determined by a jury (*Thomas v. Lamar Univ. & Omega Psi Phi Fraternity* 1992).

Duronne K. Walker sought membership into Phi Beta Sigma at Southern University in 1992. Walker claimed he was beaten and abused during his initiation activities and the resultant injuries were allegedly severe (*Walker v. Phi Beta Sigma Fraternity* 1997). Walker and his parents filed suit against Phi Beta Sigma, the university board, and several members of the fraternity. The appellate court affirmed that the fraternity did not owe a duty to prevent Walker's injuries and affirmed the trial court's summary judgment in favor of the defendants (*Walker v. Phi Beta Sigma Fraternity* 1997).

Phi Beta Sigma had a detailed guide and policies regarding hazing prevention and all members of the organization were sent a copy of the guide. The national organization had no knowledge of the hazing at the Southern University chapter and no national member of the national organization was present at any of the incidents. Further, it was stated that any hazing was purposely hidden from the national fraternity and that Phi Beta Sigma was not in a position to control the action of its chapters on a day-to-day basis. The court considered the totality of these factors in determining that there was no duty owed by the group to the defendant (*Walker v. Phi Beta Sigma Fraternity* 1997).

Over a period of four weeks in 1993, Joseph Snell was beaten by members of the University of Maryland chapter of Omega Psi Phi with a hammer, horsehair whip, broken chair leg, and brush (Frazier 1997). The beatings sometimes took place in a fraternity member's apartment, other times behind a school at night. Pledges were made to eat vomit and received concussions and broken ribs, and six pledges suffered serious injuries ranging from a ruptured spleen to a fractured ankle (Waldron 1994). In addition to the beatings, the members once put a space heater next to Snell's face to darken his skin because he was not black enough. As a result of the abuse, Snell called a suicide hotline and was hospitalized (Frazier 1997). Snell alleged he was assaulted and battered by the fraternity's members and they intentionally and/or negligently inflicted

emotional distress (*Snell v. Omega Psi Phi Fraternity* 1997). The defendants argued the abuse did not occur, but if it did, they did not authorize the beatings and that Snell consented to the abuse by continuing to return to the fraternity house (*Snell v. Omega Psi Phi Fraternity* 1997).

In July 1997, a jury awarded Snell a \$375,000 verdict against Omega Psi Phi, with \$300,000 of the award in the form of punitive damages and \$75,000 for physical and emotional injuries (Frazier 1997). Twenty-three members of the fraternity were also charged with beating new members, but they avoided trial by agreeing to apologize to Snell, pay his medical bills, and perform anywhere from 100 to 150 hours of community service (Waldron 1994). The fraternity was also required to make an open-ended offer to Snell for membership.

In February 1994, the Southeast Missouri State chapter of Kappa Alpha Psi took on five pledges for initiation, one of whom was Michael Davis (*Missouri v. Allen* 1995). Between February 7 and 14, Keith Allen and other fraternity members subjected the pledges to repeated physical abuse. The young men were slapped on their necks and backs, caned on their buttocks and feet, and beaten with heavy books and cookie sheets (*Missouri v. Allen* 1995). The pledges were also kicked, punched, and body slammed by fraternity members. After two of the five pledges dropped out, the remaining three were put through a seven-station circle of physical abuse on February 14. At some point during this activity, Michael Davis passed out (Bryant 1994). Fraternity members thought he was playing a joke, so they decided to carry him to his residence hall. Once at his residence hall, the fraternity brothers stripped Davis of his bloodied clothes and left him on his bed (Bryant 1994). He never regained consciousness, dying the following day (*Missouri v. Allen* 1995). The autopsy revealed that Davis had suffered broken ribs, a lacerated kidney, a lacerated liver, and multiple bruises (*Missouri v. Allen* 1995). A pathologist stated that the cause of death was a subdural hematoma of the brain.

Keith Allen was charged with five counts of hazing, a misdemeanor in Missouri. A jury found Allen guilty on all counts and he appealed, claiming that the Missouri hazing statute violated the First Amendment right to association and the Fifth and Fourteenth Amendment rights to equal protection and due process. The Missouri Supreme Court held that the statute is valid and affirmed the conviction (*Missouri v. Allen* 1995).

In addition to Keith Allen, thirteen other fraternity members were arrested. Eric Keys, Terrence Rodgers, Ronald Johnson, Tyrone D. Davis, Karl E. Jefferson, Larry H. Blue, Eric A. Massey, and Isaac Sims III either pled out or were released (Brown 1994; New York Times 1994; O'Neil and Riley 1994). The other five members, however, ended up serving jail time. Vincent L. King received the longest sentence, five years for involuntary manslaughter (Los Angeles Times 1994). Michael Q. Williams reached a deal with prosecutors and agreed to five years of probation and ninety days. Mikel Giles, Cedric Murphy, and Carlos Turner all received thirty days in jail and five years of probation for their involvement (Associated Press 1994). Kappa Alpha Psi was banned from the university as a result.

In 1996, Santana Kenner sought initiation into Kappa Alpha Psi at the University of Pittsburgh. During two February chapter meetings, fraternity members engaged in psychological and physical hazing of Kenner and other initiates (*Kenner v. Kappa Alpha Psi Fraternity* 2002). Then, in March, fraternity members told Kenner to attend another chapter meeting at a member's apartment. Kenner was greeted by four chapter members

who proceeded to paddle him more than 200 times on the buttocks (*Kenner v. Kappa Alpha Psi Fraternity* 2002). After the beating, Kenner noticed his buttocks were numb and his genitals were swollen. He checked into the hospital the next day with blood in his urine and genital swelling (*Kenner v. Kappa Alpha Psi Fraternity* 2002). As a result of the beating, Kenner suffered renal failure, seizures, and hypertension requiring three weeks of hospitalization and kidney dialysis.

Kenner filed a lawsuit for negligence against the defendants, both individually and in their official capacity with the fraternity (*Kenner v. Kappa Alpha Psi Fraternity* 2002). The trial court had granted summary judgment for the defendants, holding that there was no duty owed to Kenner. On appeal, the court held that Kappa Alpha Psi and the individual members in fact owed a duty to Kenner (*Kenner v. Kappa Alpha Psi Fraternity* 2002). Renal failure and the possibility of death were both found to be foreseeable harms of the initiation process and the court found that Kappa's relationship with Kenner (including the application for membership, which the court viewed as establishing a contractual relationship) was substantial enough to give rise to a duty to protect against this harm (*Kenner v. Kappa Alpha Psi Fraternity* 2002). Additionally weighing in favor of establishing a duty was the public interest of assuring safety during intake procedures. However, the court found that Kenner had failed to establish a prima facie case of negligence for the fraternity through the breach element because there was no evidence to back his assertion that a two-year moratorium on hazing was merely symbolic in nature and thus summary judgment in favor of the organization was affirmed (*Kenner v. Kappa Alpha Psi Fraternity* 2002).

Kenner had, however, established a prima facie case against one of the individual defendants and the summary judgment for that defendant was reversed and remanded for trial (*Kenner v. Kappa Alpha Psi Fraternity* 2002). The prima facie case against the individual was established by setting forth facts alleging that the defendant knew there was a moratorium on hazing. He failed to address the issue adequately at interest meetings for prospective members. He also did not understand the new intake process and he did not take steps to find out what activity had occurred after an informational meeting he had conducted. Had he been more engaged in the intake process, according to the allegation, Kenner would not have sustained his injuries and this was sufficient to survive the defendant's summary judgment motion (*Kenner v. Kappa Alpha Psi Fraternity* 2002).

In 1997, fifteen members of Omega Psi Phi at the University of Louisville were involved in the off-campus hazing of Shawn Blackston (Lexington Herald-Leader 1997). Blackston, a twenty-three-year-old freshman, was repeatedly beaten with a large wooden paddle and forced to eat dog food. As a result of the beatings, Blackston sustained significant cuts to his body and kidney failure. Fortunately, dialysis was used to treat his life-threatening condition and he gained a full physical recovery (*Blackston v. Omega Psi Phi* 1999). In his lawsuit, Blackston sued the national organization in the amount of \$500,000 punitive damages, alleging it knew or should have known that hazing was taking place at the local chapter (*Blackston v. Omega Psi Phi* 1999). There was evidence that the regional trainer for Omega Psi Phi knew of the hazing rituals but did nothing about them.

During the summations, the attorney for the fraternity apologized but put the blame on Blackston for voluntarily participating in this conduct and keeping it silent

(*Blackston v. Omega Psi Phi* 1999). Furthermore, the defense attorney argued that the fraternity should not be responsible for the actions of a few renegades and that there were no damages since Blackston completely healed. The jury was not persuaded and found that the fraternity was negligent but apportioned a 5 percent comparative fault to Blackston. The verdict totaled \$190,977, minus Blackston's 5 percent fault, for suffering, medical bills, and lost wages. The jury also awarded Blackston \$750,000 for punitive damages (*Blackston v. Omega Psi Phi* 1999).

Joseph T. Green collapsed while jogging on a high school track at 5:30 A.M. on January 29, 2001, in an initiation ritual for the Omega Psi Phi at Tennessee State University (Green 2001). Green, a daily runner, was in good health with no history of asthma. He was rushed to the hospital in cardiopulmonary distress with a temperature of 103.7 degrees. Green died of environmentally induced hyperthermia and an acute asthma attack (Green 2001). Green's parents filed a \$15 million lawsuit against Omega Psi Phi, alleging that fraternity members ordered Green and seven other pledges to commit illegal hazing activities. The suit also named two individual members as defendants, Rajual Brown and Tyrone Rogers. The suit alleged that these two were in charge of the hazing activities. No criminal charges were ever filed, but TSU suspended the chapter for five years (Black Issues 2002).

In 2001, five members of the SIU-Edwardsville, Phi Beta Sigma chapter faced felony hazing charges for paddling Prentice Motley (Brueggemann 2002). Motley was beaten with a wooden paddle throughout March and April of 2001. After one session in a wooded area off campus, Motley was taken to the hospital with internal bleeding. Motley, who entered the hospital complaining of fever and severe pain, stayed three days in the hospital. Initial reports that his kidney was ruptured proved to be false (Horrell 2004). He filed a civil suit against the fraternity for \$50,000, citing severe and permanent injuries from the paddling (Donald 2003). Three fraternity members received a year's probation for the incident and a fourth member was allowed to plead guilty to misdemeanor disorderly conduct. The civil suit against Phi Beta Sigma was ultimately settled out of court.

In 2002, California State University, Los Angeles students Kristin High and Kenitha Saafir died as a result of a hazing incident involving Alpha Kappa Alpha (Zook 2003). Saafir's husband filed suit against Alpha Kappa Alpha after his wife drowned in a hazing incident (Cinisomo-Lara 2003). Sometime after 10:00 P.M. in September 2002, Saafir and other pledges were blindfolded and driven to a California beach wearing black sweatsuits, socks, and tennis shoes. The women were forced to do exhausting calisthenics, then directed toward the ocean, still blindfolded and fully dressed. Saafir's hands were tied and she protested that she could not swim, but she was still made to walk into the surf. One local resident recalling the weather from that evening said "the ocean was ferocious that night. . . . Any reasonable person wouldn't have gone anywhere near that water" (Zook 2003, 185). While on the beach, witnesses say a large wave crashed and pulled Saafir under.

Tragically, Saafir was not the only pledge who drowned that evening; fellow CSLA senior Kristin High also died in the same incident (San Gabriel Valley Tribune 2002). High was also blindfolded and tied by the hands before being led into the riptide in jogging clothes and shoes, with waves cresting at six to eight feet and creating a deadly undercurrent. High's death came while trying to rescue Saafir, whom she knew could

not swim. High's family filed a \$100 million lawsuit against Alpha Kappa Alpha alleging that the sorority's hazing policy was a "sham" (Zook 2003).

Two pledges survived the hazing incident and were tight-lipped and not willing to go into details about what happened. When High's car was discovered, all sorority paraphernalia and her mandatory pledge journal were missing (Zook 2003). Her family says there is evidence she was a "slave," having to perform duties such as paint fingernails, buy and cook food, chauffeur, run errands, and braid hair for the big sisters. High's mother described her daughter as having lost "close to 30 pounds" by the time of her death. No criminal charges were filed in the matter (Montgomery 2002). The Los Angeles Police Department officially closed the case, contending that High and Saafir drowned accidentally.

In 2009, Donnie Wade, II was a twenty-year-old biology major at Prairie View A&M University who was pledging Phi Beta Sigma (George 2010). He and other pledges were put on strict bread and water diets, paddled, and forced to endure torturous exercise sessions. Pledges would be forced to arise at 4 or 5 A.M. and do pushups on their knuckles or hold their feet six inches off the ground while lying on their back. During one such session, Wade collapsed while running on the track and never regained consciousness (George 2010). The pledges had been required to do activities known as the "Indian run" and the "snake" that day (Horswell 2009). The "Indian run" consisted of running in a line, with the last pledge required to sprint to the front of the line with the process being repeated over and over. The "snake" referred to running up and down the bleachers (Horswell 2009). The final exercise that morning before Wade collapsed was "6 inchers," during which he was forced to hold his legs six inches off the ground while lying on his back.

A bystander initially offered to call for help but was waved off by the group. Instead of calling an ambulance, the members bypassed a nearby hospital and dropped Wade off at one nearly forty miles away (George 2010; Horswell 2010). Wade died as a result of acute exertional rhabdomyolysis, which can be triggered by extreme exertion. His death was further complicated by sickle cell trait, which can predispose someone to acute exertional rhabdomyolysis. Following his death, Wade's room was broken into and documentation showing he had pledged the fraternity was destroyed.

Wade's parents eventually settled a wrongful death suit with the fraternity, which was suspended from Prairie View A&M until 2014. A grand jury declined to indict a fraternity member linked to Wade's death in October 2010 (Robbins 2011). Several months later the press obtained a tape of that member tearfully saying "I killed him. It's my fault" in a recorded interview with the police following the incident (Robbins 2011). Hazing that leads to death is a state jail felony in Texas punishable by up to two years in prison. Wade's parents, Katrina and Donnie Wade Sr., filed a suit against Phi Beta Sigma, Marvin Jackson, and several other members of the fraternity, alleging claims of vicarious liability, varying degrees of negligence, *res ipsa loquitur*, wrongful death, and survival (*Wade v. Phi Beta Sigma Fraternity* 2010).