

## MENACING MONIKERS: LANGUAGE AS EVIDENCE

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In March 2014, the *Atlantic* magazine published a piece titled *The Dark Power of Fraternities*.<sup>1</sup> The article was a yearlong study of these organizations. It sparked a broader dialogue about the state of college fraternities—for example, addressing their role in popular culture,<sup>2</sup> their tensions with host institutions,<sup>3</sup> and their place in the context of African American groups.<sup>4</sup> This dialogue reverberated across a host of media, including television,<sup>5</sup> radio,<sup>6</sup> and print.<sup>7</sup> The article was cast against the backdrop of Sigma Alpha Epsilon (“SAE”) fraternity’s—one of the nation’s largest and most storied college fraternities—elimination of pledging, given a *Bloomberg*

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1. Caitlin Flanagan, *The Dark Power of Fraternities*, ATLANTIC (Feb. 19, 2014), <http://www.theatlantic.com/features/archive/2014/02/the-dark-power-of-fraternities/357580/>.

2. Ashley Fetters, *Popular Culture’s War on Fraternities*, ATLANTIC (Feb. 28, 2014), <http://www.theatlantic.com/entertainment/archive/2014/02/pop-cultures-war-on-fraternities/284126/>.

3. Julia Ryan, *How Colleges Could Get Rid of Fraternities*, ATLANTIC (Mar. 3, 2014), <http://www.theatlantic.com/education/archive/2014/03/how-colleges-could-get-rid-of-fraternities/284176/>.

4. Walter M. Kimbrough, *The Hazing Problem at Black Fraternities*, ATLANTIC (Mar. 17, 2014), <http://www.theatlantic.com/education/archive/2014/03/the-hazing-problem-at-black-fraternities/284452/>.

5. *Inside the World of Fraternities: Journalist Discusses Greek System’s Influence on Campus*, CBS (Mar. 8, 2014), <http://www.cbsnews.com/videos/inside-the-world-of-fraternities-journalist-discusses-greek-systems-influence-on-campus/>.

6. *The Business of Frats: Shifting Liability for Trauma and Injury*, NPR (Feb. 25, 2014), <http://www.npr.org/2014/02/25/281994720/the-business-of-frats-shifting-liability-for-trauma-and-injury>.

7. Mark Berman, *The 21 Times Someone Falls Off Something in the Atlantic’s Fraternities Story*, WASH. POST (Feb. 21, 2014), <http://www.washingtonpost.com/news/post-nation/wp/2014/02/21/the-21-times-someone-falls-off-something-in-the-atlantics-fraternities-story/>.

report that found SAE to be the deadliest fraternity, at least in recent years, to join.<sup>8</sup>

Despite *Bloomberg's* recent analysis of SAE, scholars have opined for years that Black Greek-Letter Organizations ("BGLOs") are the most violent types of fraternal entities.<sup>9</sup> Only recently has this speculation been confirmed. In one study, an archival analysis of hazing litigation and media accounts from 1980 to 2009, researchers found that hazing in BGLOs is more physically violent than hazing in historically white fraternities and sororities.<sup>10</sup> Even more, hazing in black fraternities is more physically violent than in black sororities.<sup>11</sup> In a second study, a survey of more than 1300 BGLO members, researchers found that black fraternities exhibited more general hazing, physical hazing, socialization hazing, control hazing, and extreme hazing than black sororities.<sup>12</sup>

Only recently have scholars begun to investigate BGLO hazing and its legal implications.<sup>13</sup> This Essay explores the ways in which black fraternities use language in the context of hazing. Specifically, this Essay focuses on the monikers—nicknames—which some black fraternity chapters use that underscore their endorsement of violence, implicitly in the context of hazing. In Part I, we provide an exemplar of a case in which a chapter moniker was

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8. Paresh Dave, *Fraternity SAE Ends Pledging Rites, Citing Hazing Deaths*, BALT. SUN, Mar. 10, 2014 at 6A.

9. See Gregory S. Parks et al., *Hazing as Crime: An Empirical Analysis of Criminological Antecedents*, LAW & PSYCHOL. REV. (forthcoming 2015) (discussing Ricky Jones's expert witness testimony as in the hazing case of *Ellison v. Delta Sigma Theta Sorority, Inc.*, No. 10-CI-00311, 2010 WL 7926571 (Ky. Cir. Ct. May 23, 2011) where he frames BGLOs as particularly violent in their hazing).

10. Gregory S. Parks et al., *White Boys Drink, Black Girls Yell: A Racialized and Gendered Analysis of Violent Hazing and the Law*, J. GENDER RACE & JUST. (forthcoming 2015).

11. *Id.*

12. *Id.* General hazing consists of relatively milder forms of hazing (e.g., pledges were required to dress alike, learn information about sisters/brothers, referred to by line numbers, etc.). Physical hazing consists of physical punishment (e.g., pledges were paddled). Socialization hazing consists of things like requiring pledges to learn rules of etiquette, Black history, etc. Control hazing consists of things like requiring pledges to be celibate, maintain a restrictive diet, etc. The last type of hazing examined extreme forms of hazing (e.g., pledges were left in unfamiliar locations or required to consume alcohol or drugs).

13. See generally Gregory S. Parks et al., *Belief, Truth, and Pro-social Organizational Deviance*, 56 HOWARD L.J. 399 (2013); Gregory S. Parks et al., *Complicit in Their Own Demise?* 39 LAW & SOC. INQUIRY (forthcoming 2014); Parks et al., *supra* note 9; Gregory S. Parks, "Midnight Within the Moral Order": *Organizational Culture, Unethical Leaders, and Members' Deviance*, T. MARSHALL L. REV. (forthcoming 2015); Gregory S. Parks & Rashawn Ray, *Poetry as Evidence*, 3 U. CAL. IRVINE L. REV. 217 (2013); Gregory S. Parks et al., *Victimology, Personality, and Hazing: A Study of Black Greek-Letter Organizations*, 36 N.C. CENT. L. REV. 16 (2013).

at least raised in hazing litigation. In Part II, we seek to discern the meaning behind black fraternity chapters' use of such monikers. Even beyond the violent hazing employed by black fraternity members, it is problematic that the Federal Rules of Evidence have been construed narrowly in the admissibility of such evidence.<sup>14</sup> In Part III, we contend that such evidence, in the context of these organization and vis-à-vis hazing cases, should be much broader.

### I. DANGER! DANGER! THE DEATH OF DONNIE WADE

In the fall of 2009, Donnie Wade was a twenty-year-old Phi Beta Sigma fraternity pledge at Prairie View A&M University.<sup>15</sup> He had transferred from Stephen F. Austin State University to major in biology and hopefully study medicine.<sup>16</sup> On September 29, 2009, Wade and thirteen other Prairie View A&M University students attended an initial interest meeting for the Delta Theta Chapter of Phi Beta Sigma.<sup>17</sup> On October 9, the same group of students attended a Membership Intake Process ("MIP") meeting; they received interviews on October 14, and after paying an initial intake fee of \$900, they became members of the fraternity.<sup>18</sup>

At four o'clock in the morning on October 20, Wade and his fellow pledges were instructed to meet at Hempstead High School in Hempstead, Texas, near Prairie View, for an exercise routine with Marvin Jackson.<sup>19</sup> Jackson, MIP Chairman, directed the exercise, with other members of the fraternity present, and instructed the students to perform "Indian runs."<sup>20</sup> These runs required the students to line up, with whoever was in the back sprinting to the front as the students ran around the high school track.<sup>21</sup> Following this exercise, the students were instructed to run up and down the bleachers in a "snake" run.<sup>22</sup> This involved running up one bleacher, over and down the next bleacher, and then up the next bleacher.<sup>23</sup>

Following the snake run, the students were instructed to do push-ups and jumping jacks and perform "six-inchers," in which they laid on their backs and held their legs six inches off the ground for a certain amount of time.<sup>24</sup> After performing the six-inchers, Wade collapsed as he tried to stand up and told Jackson and the

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14. *United States v. Caesar*, 368 F. Supp. 328, 334–35 (E.D. Wis. 1973), *aff'd*, 519 F.2d 1405 (7th Cir. 1975).

15. Amended Petition at 4, *Wade v. Phi Beta Sigma Fraternity, Inc.*, No. 09-14756 (D. Tex. 2010).

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* at 5.

20. *Id.* at 6.

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

thirteen pledges that he was not feeling well.<sup>25</sup> Jackson, nevertheless, told the group that “Donnie was alright and that he was just tired,”<sup>26</sup> and Jackson then splashed water on Wade’s face. Wade eventually passed out, yet Jackson and the other members of the fraternity denied any assistance and advised against a bystander getting medical help.<sup>27</sup> Jackson, the other members of fraternity, and the thirteen pledges then placed Wade into a car and drove him to his home where two pledges and/or fraternity members volunteered to take Wade to the hospital.<sup>28</sup>

Upon arrival at the hospital, CPR was performed and Wade was pronounced dead.<sup>29</sup> The Assistant Harris County Medical Examiner ruled that Wade’s death was caused by the combination of an inherited sickle cell trait and a rare medical syndrome, acute exertional rhabdomyolysis, which can be triggered by strenuous exertion.<sup>30</sup> Following the incident, the fraternity was ordered to suspend all operations through 2013 and was later disbanded after a university review board determined that members violated hazing rules and plotted a cover-up after Wade’s death.<sup>31</sup> The fraternity was also sanctioned with a suspension lasting through December 2014 and a probation ending in May 2015.<sup>32</sup>

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, negligence (of varying degrees), *res ipsa loquitur*, wrongful death, and survival.<sup>33</sup> Most unique about the plaintiff’s complaint is that it was the first time that a victim’s family focused on a BGLO chapter’s moniker.<sup>34</sup> Throughout the amended petition, the plaintiffs underscored that their son had been killed by the “Dangerous Delta Theta Chapter.”<sup>35</sup> The Wades sought \$97 million in damages but later elected to settle their lawsuit.<sup>36</sup> A final judgment was signed September 1, 2010, by a district court judge in

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25. *Id.*

26. *Id.* at 7.

27. *Id.*

28. *Id.*

29. *Id.*

30. Cindy Horswell, *Tough Drills, Rare Condition Led to Prairie View Frat Pledge’s Death*, HOUS. CHRON. (Jan. 20, 2010), <http://www.chron.com/news/houston-texas/article/Tough-drills-rare-condition-led-to-Prairie-View-1707831.php>.

31. Cindy George, *Family of Prairie View A&M Student Settles Lawsuit Against Fraternity*, HOUS. CHRON. (Sept. 15, 2010), <http://www.chron.com/news/houston-texas/article/Family-of-Prairie-View-A-M-student-settles-1532466.php>.

32. *Id.*

33. Amended Petition, *supra* note 15, at 1, 9, 12–13, 15–16.

34. *Id.* at 2, 4–5, 9–10, 12–14.

35. *Id.*

36. Horswell, *supra* note 30.

Beaumont.<sup>37</sup> On January 21, 2011, a tape surfaced revealing that Marvin Jackson, who had not been indicted by a grand jury for the death despite the university's sanctions against the fraternity, had admitted to the police that he was responsible for Wade's death only two days after the incident had occurred.<sup>38</sup>

## II. AN EMPIRICAL ANALYSIS

BGLOs are organizations with a unique hazing culture. For example, research has shown that the way these organizations use language underscores how hazing is interpreted by their members. In one study, researchers found that BGLO members learn and internalize poems like William Ernest Henley's *Invictus* and Rudyard Kipling's *If* during their hazing experience.<sup>39</sup> Even more, they interpret these poems as referent to their experience of persevering through their violent hazing experience.<sup>40</sup> In another study, similar findings were made in the context of hazing victims' creation or learning of chants, songs, and greetings to big brothers and big sisters.<sup>41</sup>

To date, scholars have paid little attention to what monikers/nicknames signify or their effect. The limited existing research on the topic suggests that monikers/nicknames can alter others' evaluative judgments of the moniker/nickname holder.<sup>42</sup> These findings underscore the fact that monikers/nicknames are rarely benign and thus may have an impact on litigation, especially before a jury. Accordingly, we conducted two studies.

### A. Study I

In the first study, we sought to ascertain the public accessibility of BGLO monikers and the extent to which some of those monikers may be perceived as "menacing."<sup>43</sup> In the fall of 2011, we e-mailed

37. George, *supra* note 31.

38. Danny Robbins, *Unindicted Prairie View A&M Fraternity Leader Told Police that Dallas Pledge's Death was "My Fault,"* HOUS. CHRON. (Jan. 22, 2011), <http://www.dallasnews.com/news/community-news/dallas/headlines/20110122-unindicted-prairie-view-am-fraternity-leader-told-police-that-dallas-pledge%E2%80%99s-death-was-%E2%80%98my-fault%E2%80%99.ece>.

39. Parks & Ray, *Poetry as Evidence*, *supra* note 13.

40. *Id.* at 256–57.

41. Parks et al., *Complicit in Their Own Demise?*, *supra* note 13.

42. See generally JANE MORGAN ET AL., NICKNAMES: THEIR ORIGINS AND SOCIAL CONSEQUENCES (1979); Albert Mehrabian & Marlina Piercy, *Differences in Positive and Negative Connotations of Nicknames and Given Names*, 133 J. SOC. PSYCHOL. 737 (1993); Leif D. Nelson & Joseph P. Simmons, *Moniker Maladies: When Names Sabotage Success*, 18 PSYCHOL. SCI. 1106 (2007).

43. Gregory S. Parks et al., "[A] Man and a Brother": *Intersectionality, Violent Hazing, and the Law* (Wake Forest Univ. Legal Studies, Working Paper No. 2409764, 2014), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2409764](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2409764).

the National Pan-Hellenic Council's<sup>44</sup> Yahoo group and asked members what monikers they commonly found employed by BGLO chapters.<sup>45</sup> Members responded with sixty-eight unique monikers.<sup>46</sup> Similar monikers, such as "deadly" and "death" or "money-making" and "money," were conflated into one general moniker.<sup>47</sup> An e-mail was sent to 823 student affairs professionals, who were asked to label each of the sixty-eight words as either "positive" or "negative." Eighty-three individuals responded. With a cutoff of 75% labeling the words as "negative," twenty-six words remained.<sup>48</sup> The student affairs professionals were also asked to label each of those twenty-six words as being either "associated with violence" or "not associated with violence." With a cutoff of 50% labeling the word as "associated with violence," sixteen words remained.<sup>49</sup> Using these words, Facebook, Google, and YouTube searches were conducted, employing black fraternity names—Alpha Phi Alpha ("Alpha"), Kappa Alpha Psi ("Kappa"), Omega Psi Phi ("Omega"), Phi Beta Sigma ("Sigma"), and Iota Phi Theta ("Iota")—with each of the sixteen monikers.<sup>50</sup> In essence, these searches provided a crude way to discern which black fraternity chapters market themselves with such monikers. The results are indicated in Table 1.

TABLE 1: MENACING MONIKERS BY FRATERNITY ORGANIZATION

Monikers	Alpha	Kappa	Omega	Sigma	Iota
Bloody	15	5	17	2	1
Death/Deadly	10	0	3	0	0
Evil	3	0	0	0	1
Gangsta/Gangster	2	4	2	1	0
Killa/Killer	2	0	2	0	0
Monster/Monstrous	2	0	0	0	0
Murder	2	0	1	0	0
Vicious	0	0	1	0	0
Total	36	9	26	3	2

While these hits should not be construed as adequately representing how frequently violent-themed monikers are used by black fraternities, those monikers discovered on the Internet are

44. The National Pan-Hellenic Council is the umbrella organization for the nine major BGLOs. *About Us*, NAT'L PAN-HELLENIC COUNCIL, INCORPORATED (Aug. 19, 2014), <http://www.nphcq.org/about-us/>.

45. Parks et al., *supra* note 43.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

particularly problematic because they highlight the publicly accessible nature of monikers, which may suggest a violent hazing culture within black fraternities.<sup>51</sup>

### B. Study II

In order to further assess the impact of BGLO monikers, an online survey of 1822 BGLO members was conducted. This survey investigated the relationships between undergraduate chapter monikers and various outcomes, including any suspensions, allegations of hazing, and chapter awards.<sup>52</sup> Respondents were also asked about the meaning of their chapter monikers in order to explore any differences between internal and external perceptions.

The main component of the survey asked respondents to identify their chapter moniker, if they had one, which was then classified as either menacing or nonmenacing based on the previously discussed Yahoo group study.<sup>53</sup> In addition to questions regarding organizational outcomes, the survey included membership identifiers (fraternity or sorority, current membership status, etc.), time period and path to membership (e.g., pledge process as an undergraduate student), as well as general demographic information.<sup>54</sup> This study was limited to only those who became members of their organizations as undergraduate students (N =

51. It may also be significant that Alpha Phi Alpha and Omega Psi Phi fraternities have the highest counts, with thirty-six and twenty-six, respectively. Of note, black sorority women tend to more readily stereotype Alpha Phi Alpha members as “gentlemen,” “nice guys,” “nerds,” “social event escorts,” and ideal “husbands.” Marcia Hernandez et al., *What a Man: The Relationship Between Black Fraternity Stereotypes and Black Sorority Mate Selection*, in *AFRICAN AMERICAN FRATERNITIES AND SORORITIES: THE LEGACY AND THE VISION* 377, 384 (Tamara L. Brown et al. eds., 2d ed. 2012). Accordingly, some Alphas, especially college members, may eschew the gentleman-scholar image in exchange for a more “bad boy,” masculine image. This may include embracing menacing monikers for their chapter. On the other hand, black sorority women tend to more readily stereotype Omega Psi Phi members as a “man’s man,” “bad boys,” “anti-intellectuals,” “masculine,” and ideal “sexual partners.” *Id.* However, Alphas are, or perceive themselves as being, maligned for “[b]eing too intellectual, refined, or well-spoken.” See Allan DeSantis & Marcus Coleman, *Not My Line: Attitudes About Homosexuality and Black Fraternities*, in *BLACK GREEK-LETTER ORGANIZATIONS IN THE TWENTY-FIRST CENTURY: OUR FIGHT HAS JUST BEGUN* 291, 299 (Gregory S. Parks ed., 2008). This is consistent with the image that some, maybe many, Omega Psi Phi members seek to play up. See Reynaldo Anderson et al., *Black Greek-Letter Fraternities and Masculinities*, in *BLACK GREEK-LETTER ORGANIZATIONS 2.0: NEW DIRECTIONS IN THE STUDY OF AFRICAN AMERICAN FRATERNITIES AND SORORITIES* 114, 127–30 (Matthew W. Hughey & Gregory S. Parks eds., 2011). (Accordingly, some Omega Psi Phi members may be embracing their bad boy, masculine image with the use of such chapter monikers.)

52. Parks et al., *supra* note 43.

53. *Id.*

54. *Id.*

1262), because the majority of graduate chapters do not employ monikers in the same manner as their undergraduate counterparts. Of the 1262 respondents, 56% reported that their chapters had monikers, and 39% reported monikers classified as menacing.<sup>55</sup>

TABLE 2: DESCRIPTIVE STATISTICS BY MONIKER (CASES = 1262)

	Moniker	No Moniker	Total
Percentage of Sample	55.78%	45.22%	100%
Number of Cases	704	558	1262
Variable	Mean (SD)	Mean (SD)	Description
Fraternity	59.38%	29.21%	1 = Fraternity, 0 = Sorority
HBCU	30.40%	44.80%	1 = HBCU, 0 = Non-HBCU
Urban University	48.30%	51.25%	1 = Urban, 0 = Non-Urban
African American	97.02%	98.39%	1 = African American, 0 = Non-African American
Period of Initiation	2.44 (1.62)	1.21 (1.51)	0 = Pre-1990, 1 = 1991-95, 2 = 1996-2000, 3 = 2001-05, 4 = 2006-present
Pledged	27.98%	50.00%	1 = Pledge only, 0 = Did not only pledge
Membership Intake Process	20.17%	18.10%	1 = MIP only, 0 = No MIP only
Both Pledged and MIP	51.85%	31.90%	1 = Both pledge and MIP, 0 = Not both pledge and MIP
Menacing Moniker	38.63%	N/A	1 = Chapter nickname with negative connotation
Organization Awards	82.39%	68.46%	1 = Won organizational awards, 0 = No awards
University Awards	93.89%	84.41%	1 = Won university awards, 0 = No awards
Suspended by National Organization	35.09%	28.14%	1 = Suspended by national organization for hazing, 0 = Not suspended for hazing
Suspended by University	35.37%	30.47%	1 = Suspended by university for Hazing, 0 = Not suspended for hazing
Alleged Hazing by Organization	53.41%	40.68%	1 = National organization alleged hazing, 0 = no alleged hazing
Alleged Hazing by University	54.55%	43.37%	1 = University alleged hazing, 0 = no alleged hazing
Stop Intake	38.78%	32.08%	1 = Ordered to stop intake, 0 = Not ordered to stop
Active	81.68%	69.00%	1 = Active, 0 = Non-Active
Age	2.74 (1.31)	3.97 (1.49)	1 = 17-22, 2 = 23-30, 3 = 31-39, 4 = 40-49, 5 = 50-59, 6 = 60+

55. *Id.*



Findings suggest that chapter monikers are linked to both the behavior of chapter members and the meaning of these behaviors, and influence the formation of a social or organizational identity as well. For example, when asked about the ways in which chapters engage in activities and behaviors that reinforce their monikers, many members gave responses that were intuitive and aligned with reasonable interpretations one might associate with the given moniker (e.g., members of a “death/deadly” chapter indicating that they “kill the competition” in step shows).

As seen in the following tables, the main finding of this study is that having a chapter moniker of any kind leads to a higher likelihood of being suspended at the university and organizational levels. Those with chapter monikers were 64% more likely to be suspended than those without monikers (Table 3).<sup>56</sup> In addition, chapter monikers lead to increased probability that the organization will receive a cease and desist order—chapters with monikers being 78% more likely to receive these orders (Table 4).<sup>57</sup> This pattern holds especially true for groups at Historically Black Colleges and Universities (“HBCUs”) and sororities. Interestingly, results also suggest that having a chapter moniker leads to members being more active, as well as an increase in awards received, with chapters using monikers being 94% more likely to win organizational awards (Table 5).<sup>58</sup>

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56. *Id.*

57. *Id.*

58. *Id.*

TABLE 3: LOGISTIC REGRESSION MODELS OF THE EFFECT OF CHAPTER MONIKER ON SUSPENSION BY ORGANIZATION (N = 1262)

<b>Chapter Moniker</b>	<b>0.322**</b>	<b>0.440***</b>	<b>0.438**</b>	<b>0.480***</b>	<b>0.468***</b>	<b>0.492***</b>
	(2.62)	(3.39)	(3.24)	(3.51)	(3.41)	(3.43)
<b>Fraternity</b>		-0.383**	-0.382**	-0.377**	-0.373**	-0.375**
		(-2.98)	(-2.89)	(-2.84)	(-2.81)	(-2.78)
<b>Pledge</b>			-0.007	-0.045	-0.065	-0.210
			(-0.05)	(-0.33)	(-0.48)	(-1.09)
<b>HBCU</b>				0.337**	0.374**	0.354*
				(2.65)	(2.71)	(2.54)
<b>Urban</b>					0.178	0.185
					(1.43)	(1.48)
<b>Region</b>					0.087	0.089
					(1.57)	(1.60)
<b>Period of Initiation</b>						-0.063
						(-1.10)
<b>University Awards</b>						0.371
						(1.59)
<b>Organizational Awards</b>						-0.115
						(-0.72)
<b>Active</b>						0.016
						(0.11)
<b>Constant</b>	-0.938	-0.833	-0.829	-0.970	-1.218	-1.317

*t* statistics in parenthesis; \**p* < .05, \*\**p* < .01, \*\*\**p* < .001

TABLE 4: LOGISTIC REGRESSION MODELS OF THE EFFECT OF CHAPTER MONIKER ON A CEASE AND DESIST ORDER (N = 1262)

<b>Chapter Moniker</b>	<b>0.294*</b>	<b>0.414**</b>	<b>0.441***</b>	<b>0.488***</b>	<b>0.476***</b>	<b>0.586***</b>
	(2.46)	(3.29)	(3.36)	(3.67)	(3.56)	(4.15)
<b>Fraternity</b>		-0.392**	-0.413**	-0.408**	-0.404**	-0.344**
		(-3.13)	(-3.21)	(-3.16)	(-3.13)	(-2.61)
<b>Pledge</b>			0.095	0.055	0.034	-0.270
			(0.74)	(0.42)	(0.26)	(-1.44)
<b>HBCU</b>				0.375**	0.442**	0.421**
				(3.02)	(3.29)	(3.09)
<b>Urban</b>					0.027	0.004
					(0.22)	(0.04)
<b>Region</b>					0.087	0.088
					(1.62)	(1.62)
<b>Period of Initiation</b>						-0.131*
						(-2.34)
<b>University Awards</b>						-0.097
						(-0.45)
<b>Organizational Awards</b>						0.145
						(0.92)
<b>Active</b>						-0.350*
						(-2.45)
<b>Constant</b>	-0.750	-0.642*	-0.683	-0.839	-1.023	-0.494

*t* statistics in parenthesis; \* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

TABLE 5: LOGISTIC REGRESSION MODELS OF THE EFFECT OF CHAPTER MONIKER ON WINNING ORGANIZATION AWARDS (N = 1262)

<b>Chapter Moniker</b>	<b>0.768***</b>	<b>0.697***</b>	<b>0.709***</b>	<b>0.785***</b>	<b>0.661***</b>
	(5.71)	(4.96)	(4.83)	(5.27)	(4.22)
<b>Fraternity</b>		0.244	0.235	0.255	0.131
		(1.71)	(1.60)	(1.73)	(0.86)
<b>Pledge</b>			0.042	-0.020	0.210
			(0.29)	(-0.13)	(1.00)
<b>HBCU</b>				0.610***	0.562***
				(4.10)	(3.49)
<b>Urban</b>					0.174
					(1.24)
<b>Region</b>					-0.030
					(-0.49)
<b>Period of Initiation</b>					0.105
					(1.66)
<b>Active</b>					0.741***
					(4.91)
<b>Constant</b>	0.775	0.706	0.688	0.456	-0.255
<i>t</i> statistics in parenthesis; * <i>p</i> < .05, ** <i>p</i> < .01, *** <i>p</i> < .001					

Delineating between menacing and non-menacing monikers, findings indicate that menacing monikers have no moderating or mediating effect on having a chapter moniker overall. In fact, the only instance in which a menacing moniker is significant is related to hazing allegations at the university level.<sup>59</sup> Put another way, the presence of a menacing moniker leads to more accusations of hazing activity, but not necessarily to more suspensions. This suggests that menacing monikers may be a stigma that influences external perception, but may not lead to any real consequences for organizations that employ them. This pattern also exists for groups that change the color of chapter letters (for example to red, indicative of a "bloody" moniker).<sup>60</sup>

59. *Id.*60. *Id.*

These findings further support the idea that monikers hold significant meaning in the context of black fraternities. While this study suggests that having a menacing moniker largely has no differing effect than having any moniker overall, it does suggest that menacing monikers do have a significant effect in regards to external perceptions of a particular chapter held by university administration, even if these perceptions do not lead to actionable consequences. In short, having a menacing moniker causes these groups to be *seen* as more likely to be involved in illegal hazing activities; the resulting allegations could be viewed as consequence enough for some.

### III. A LEGAL ANALYSIS

Given the violence associated with BGLO hazing, these organizations have been likened to gangs and gang subculture.<sup>61</sup> As such, the ways in which gang members employ nicknames may be particularly instructive with regard to how black fraternity chapter monikers might be analyzed. In gang culture, nicknames are used “to reflect . . . gang-related deeds [and] . . . to confer special status or identity for those named.”<sup>62</sup> Even more, by providing an identity and acting as a status sign, negative nicknames among criminals could perpetuate criminal activity. For example, if an individual is subconsciously drawn to the outcomes in which he sees his name reflected, then a nickname of “Homicide” or “Killer” could draw the individual to commit, or continue to commit, such acts.<sup>63</sup>

This begs the question, however, as to whether such monikers could make their way into court as an evidentiary matter. The Federal Rules of Evidence have codified the use of aliases in cases, admitting them for an indictment and as evidence if necessary to connect the defendant with the act charged.<sup>64</sup> Courts, however, have been mindful of what aliases, monikers, and nicknames suggest about people. As such, courts generally disapprove of their use.<sup>65</sup> Admitting an alias as evidence is widely recognized to have the prejudicial effect of implying that the defendant is a member of a criminal underclass. For example, in *Petrilli v. United States*,<sup>66</sup> the Eighth Circuit stated that “[t]he preliminary reading of the aliases in an indictment is not a practice which should be encouraged in an

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61. See generally Matthew W. Hughey, “Cuz I’m Young and I’m Black and My Hat’s Real Low?: A Critique of Black Greeks as “Educated Gangs,” in *BLACK GREEK LETTER ORGANIZATIONS IN THE TWENTY-FIRST CENTURY: OUR FIGHT HAS JUST BEGUN*, *supra* note 51, at 385.

62. B. H. Zaitzow, *Nickname Usage by Gang Members*, 5 J. GANG RES. 35–36 (1998).

63. Nelson & Simmons, *supra* note 42, at 1111.

64. *United States v. Wilkerson*, 456 F.2d 57, 59 (6th Cir. 1972).

65. 41 AM. JUR. 2D *Indictments and Informations* § 139 (2014).

66. 129 F.2d 101 (8th Cir. 1942).

ordinary criminal prosecution, but rather one which should be curbed."<sup>67</sup>

While the use of alternative names is generally disapproved by courts, their inclusion may be allowed if they are relevant to identifying the defendant in relation to the acts charged in the indictment. In *United States v. Clark*,<sup>68</sup> for example, the Fourth Circuit established that if the prosecution "intends to introduce evidence of an alias and the use of that alias is necessary to identify the defendant in connection with the acts charged in the indictment, the inclusion of the alias in the indictment is relevant and permissible."<sup>69</sup> If, however, the prosecution fails to provide proof relating to the alias or the alias has no relationship to the acts charged, the alias may be stricken and an appropriate instruction given to the jury.<sup>70</sup>

Even where disapproved, the admission of a defendant's alias will not always be stricken or reversed on appeal. For example, in *United States v. Esposito*,<sup>71</sup> defendants moved to strike references to aliases in the indictment.<sup>72</sup> The government, however, argued that the defendants were repeatedly referred to by these aliases in wiretapped conversations.<sup>73</sup> The court denied the motion and found that the "inclusion of the alias[es] in the indictment is proper and, indeed, may well serve to obviate jury confusion."<sup>74</sup> Even in instances in which proof is not sufficiently present regarding the aliases, the court may still find that prejudicial effect does not warrant dismissal. In *United States v. Wilkerson*,<sup>75</sup> the government failed to provide proof of the defendants' aliases.<sup>76</sup> Additionally, the court stated that it even appeared that the government's principal use of the aliases was to indicate to the jury that people who use aliases were inherently suspect.<sup>77</sup> However, because of the strength of the evidence against the defendants, the court found that the prejudicial effect created by the government's use of aliases still did not warrant a reversal.<sup>78</sup>

The *Esposito* opinion marks a step in the right direction, at least in the context of BGLO hazing. A further step forward, however, should be taken. It is not likely prejudicial to admit chapter monikers for more than identification, because the monikers

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67. *Id.* at 104.

68. 541 F.2d 1016 (4th Cir. 1976).

69. *Id.* at 1018.

70. *Id.*

71. 423 F. Supp. 908 (S.D.N.Y. 1976).

72. *Id.* at 911.

73. *Id.*

74. *Id.*

75. 456 F.2d 57 (6th Cir. 1972).

76. *Id.* at 59.

77. *Id.*

78. *Id.*

mean something and are tied to a certain type of conduct. Also, such an interpretation is consistent with the Federal Rules of Evidence. Even more, to the extent that legal sanctions, and knowledge of such sanctions,<sup>79</sup> militates against unlawful behavior, including hazing, then such evidence should be admitted. Doing so may preserve lives.<sup>80</sup>

#### CONCLUSION

BGLOs have significant hazing issues. The hazing manifested in these organizations has a unique and robust culture that litigators and stakeholders need to consider. Part of that culture is the use of chapter monikers—often enough, menacing in nature. Whether a chapter with the moniker “Bloody” or “Deadly” or “Ruthless” is any more inclined to haze than a chapter with a benign or positive or no moniker is beyond the scope of this Essay. It seems accurate to say, however, that black fraternity chapters do not select these monikers at random; they mean something to the chapter members and are intended to signal something to others. While courts have resisted admitting aliases into evidence, admitting them may have the effect of reducing violence against aspiring members of these auspicious groups.

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79. Parks et al., *supra* note 9.

80. *Id.*