

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

RHO CHAPTER OF THE CHI PHI
FRATERNITY,
Plaintiff/Petitioner,

v.

LAFAYETTE COLLEGE,
Defendant/Respondent.

No.: C-48CV20114454

NOTICE

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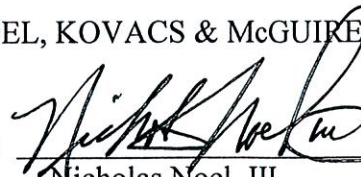
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NOEL, KOVACS & McGUIRE, P.C.

By:



Nicholas Noel, III
Attorney I.D. No. 25758
2505 Newburg Road
Easton, Pennsylvania 18045-1963
(610) 258-0866

Attorneys for Plaintiff, Rho Chapter of the
Chi Phi Fraternity

COPY

Date: May 17, 2011

COURT OF COMMON PLEAS
CIVIL DIVISION
NORTHAMPTON COUNTY, PA

2011 MAY 17 A 8:55

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We do hereby certify that the within is a true copy of the original filed in this action.

[Handwritten Signature]

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

RHO CHAPTER OF THE CHI PHI
FRATERNITY,

Plaintiff,

v.

LAFAYETTE COLLEGE,

Defendant.

No.:

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, the Rho Chapter of the Chi Phi Fraternity ("Chi Phi"), an unincorporated not for profit association with its fraternal headquarters at 4 West Campus of Lafayette College, brings this Complaint against Defendant, Lafayette College (the "College"), a not for profit corporation with its headquarters on its campus at 730 High Street, Easton, Pennsylvania and hereby alleges as follows:

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CIVIL DIVISION
NORTHAMPTON COUNTY, PA

INTRODUCTION

1. This action seeks to enjoin the proposed unauthorized taking by the College of Chi Phi's Chapter House known as "Vallamont." That unauthorized taking would violate many covenants the College has made to Chi Phi. Specifically, a recent agreement mandates that Chi Phi, not the College, is to have possession of the Vallamont premises beginning May 24, 2011. On that date, another fraternity, the Delta Upsilon fraternity, which has temporarily used Vallamont, will move out and take up residence in another building provided by the College to Delta Upsilon for its continuing use as a fraternal lodge.

2. Chi Phi, in 1909, built, at its own expense, a gracious fraternal lodge, Vallamont,

for its perpetual use as a fraternity. It has maintained and managed Vallamont for over 100 years.

3. Chi Phi owns Vallamont.

4. As explained below, for the past six years, Chi Phi permitted the Delta Upsilon fraternity to use Vallamont, but that permitted use ends on May 24, 2011.

5. On March 25, 2011, Chi Phi appeared before the Lafayette Board of Trustees to present the plan by which it intended to repopulate its existing fraternity with new members. This Plan of Return is attached as Exhibit 1, and is hereinafter referred to as the "Chi Phi Plan."

6. Attached to the Chi Phi Plan, in its Appendix A, are the three agreements between Chi Phi and the College which are at issue. They include an agreement dated April 10, 1909, by which the College granted Chi Phi the right to build and own the Vallamont premises, hereinafter referred to as the "1909 Agreement," Exhibit 2.

7. Also attached in Appendix A of the Chi Phi Plan is an Agreement dated August 23, 2006, under the terms of which the College and Chi Phi agreed to allow the Delta Upsilon temporary use of Vallamont. The Agreement states in Article 13, that upon its expiration the College is to "return the premises to the Rho Chapter." Thereafter, the College no longer has any right to possess Vallamont. The Agreement dated August 23, 2006 is hereinafter referred to as the "2006 Agreement," Exhibit 3.

8. Also attached in Appendix A of the Chi Phi Plan is a one year extension of the 2006 Agreement, hereinafter referred to as the "Extension Letter," Exhibit 4.

9. The 2006 Agreement contains the criteria by which the College is to assess whether the Chi Phi Plan of return meets College standards. By Article 12 of the 2006 Agreement, these criteria were agreed by the College to be the criteria which would "guide" the development of

the Chi Phi Plan. They were adopted by the College's "Trustee Committee on Athletics and Student Affairs" on June 21, 1993 and are hereinafter referred to as the "1993 Guidelines."

10. The 1993 Guidelines set forth the following applicable guides: 1) evidence an understanding of the "Mission of the College" (summarized in paragraph 11 below); 2) have the Chi Phi Alumni Board conduct the recruitment and selection of new members; 3) include details of the new member orientation plan; 4) identify the local alumni of Chi Phi who will assist with the management of Chi Phi; 5) comment on how Chi Phi will abide by regulations of the College; 6) involve Chi Phi alumni in health and safety inspections by the City of Easton and the College; 7) present a strategy for any repairs and improvements to Vallamont, together with a financial plan by which they could be accomplished; and 8) submit a two-year budget. There are other guides that, since 1993, seem to be inapplicable. These portions of the 1993 Guidelines include mention of a "Continued Recognition Questionnaire," which may never have come into being; a four hour alumni training program to be provided by the Office of the Dean of Students, which may never have come into being; and guidance pertaining to chapters which have been suspended, which does not apply to Chi Phi, since it has not been "suspended."

11. The Mission of the College sets forth laudable goals. They include: 1) fostering free exchange of ideas; 2) nurturing inquiring minds to integrate intellectual, social and personal growth; 3) developing the ability to engage in critical thinking, verbal communication, quantitative reasoning and capacity for creative endeavor; 4) encouraging the examination of ones own traditions and culture own culture and those of others; 5) developing a system of values and personal, social and professional responsibility; and 6) recognizing education as an indispensable life-long process.

12. The Chi Phi Plan meets all the criteria of the 1993 Guidelines.

13. The Chi Phi Plan is aligned with all aspects of the Mission of the College.

14. Despite complete compliance with the 1993 Guidelines and alignment with the Mission of the College, the College recently provided notice to Chi Phi of its intention to take possession of Vallamont in direct breach of its obligations set forth in agreements between Chi Phi and the College.

15. As a result of the College's announced intention to disregard its obligations under the agreements, Chi Phi sent the College a Notice of Default on April 26, 2006, attached hereto as Exhibit 5.

16. At all times since the 1909 Agreement, the College and Chi Phi have worked cooperatively together, until now. The objectives of the College and Chi Phi complemented one another. Their respective missions support the Mission of the College and meet all regulations of the College. In particular, Chi Phi has provided Vallamont as part of a fraternal experience which affords the College diverse living options for its student body and affords it members to accomplish the Mission of the College, while the College provides educational services, also aimed at supporting the Mission of the College.

PARTIES

17. Plaintiff, the Rho Chapter of Chi Phi, is an unincorporated, not for profit association made up of Chi Phi Alumni who are active members of Chi Phi and who constitute its Officers and Board members.

18. Defendant, the College is a not for profit corporation with its headquarters in Easton, Pennsylvania.

THE AGREEMENTS

19. The College initially executed the 1909 Agreement with Chi Phi which contains

no term of years and is stated to be “perpetual” provided that Chi Phi did not become inactive or extinct. Chi Phi is an organization governed by its own requirements in concert with its National Organization, Chi Phi Fraternity, Inc, headquartered in Atlanta, Georgia (hereinafter “Chi Phi National”). Chi Phi National expressly recognizes its Rho Chapter as an active Chapter with authority to recruit new members. The 2006 Agreement, in and of itself, is testament to the fact the College recognizes Chi Phi as an active Chapter.

20. The 1909 Agreement clearly states that Chi Phi intended to erect a Chapter House at its own expense and the College assigned a site, approved the location, plans and cost of the initial building.

21. The 1909 Agreement states “the College agrees that Chi Phi shall have the right to occupy the said house for the purposes of a fraternity house.” Chi Phi has ever after made Vallamont available to students of the College seeking to join the Chi Phi fraternity and has actively managed and operated Vallamont. Vallamont is the fraternal heart of Chi Phi, and has been so for over 100 years with immeasurable value to all Lafayette graduates who have had the privilege of being in Vallamont as members of Chi Phi, as have non-member participants of its Eating Club or as attendees at functions held at Vallamont, including alumni talks and faculty taught courses. No amount of money or new building can replace this historic edifice and its significance to all its Chi Phi alumni. Vallamont is their fraternal home for all time.

22. The building so erected was to “be used exclusively as a fraternity house, not to be occupied or used by any other person than members of the fraternity or for any other purpose...”. The 2006 Agreement expressly prohibits the College from placing students or faculty in it without the written consent of Chi Phi. [See Exhibit 5, 2006 Agreement.] The

College has never asked Chi Phi for permission, but has simply announced its plans to take Vallamont for use as a dormitory.

23. ~~None of the College's Agreements with Chi Phi provide the College the right to take Vallamont while Chi Phi remains an active chapter.~~

24. Chi Phi is not "inactive or extinct." The College does not have the right to announce to the world that it is going to take the Vallamont, nor does it have the right to deny Chi Phi access to Vallamont on May 24, 2011. Article 13 of the 2006 Agreement clearly states the "College shall return the premises to the Rho Chapter at the expiration of" the 2006 Agreement.

25. The College has been advised by Chi Phi's counsel that its announced intent to take possession of the Chapter House is completely antithetical to its obligations under the 1909 and 2006 Agreements. Nothing in the 2006 Agreement references the "withdrawal of recognition" of Chi Phi by the College, nor has any such action been taken by the College.

26. In 2005, Chi Phi determined its then undergraduate members were not living up to the standards of conduct of the fraternity.

27. The Chi Phi National Organization therefore passed a resolution recognizing that the Lafayette Chapter of Chi Phi (Rho Chapter) would remain an active Chi Phi chapter in reorganization with authority to recruit new members. The resolution simultaneously granted the then undergraduate members "alumni status," meaning they would not be expelled from the fraternity, but could not enter the Rho Chapter until after they all had graduated and become alumni. A copy of the Resolution is attached hereto and marked as Exhibit 6.

28. After that National Resolution was passed, the Chi Phi alumni organization and

Lafayette officials met to determine the best plan by which Lafayette could “use the Rho Chapter house.” This accommodated the College's need to temporarily house the Delta Upsilon fraternity, to allow the graduation of all the undergraduate members of Chi Phi and to allow Delta Upsilon a reasonable amount of time to use Chi Phi's large residence hall. Chi Phi agreed that it would not take possession of its house until May 24, 2010 and, by the Extension Letter Agreement, now May 24, 2011.

29. During 2005 and 2006, Chi Phi and representatives of Lafayette negotiated for a period of approximately one year and entered into the 2006 Agreement between the parties, regarding the temporary use of Vallamont by another fraternity. The parties met on a regular basis throughout 2005 and 2006 to finally reach agreement. Reaching this 2006 Agreement took a very long time and many meetings.

30. In 2009, Chi Phi was advised that taking possession of Vallamont on May 24, 2010 might disadvantage the Lafayette Board of Trustees in reviewing the Chi Phi Plan by which Chi Phi would return, since a new sub-committee of the Board had been formed, “The Greek Life Working Group” (hereinafter the “Group”). There was no discussion, nor agreement that the work of the Group would in any way replace the contractual standard of review set forth in the College’s 1993 Guidelines. The 1993 criteria agreed to be the guide and remains the contractual standard of review to be used by the College’s Board of Trustees in reviewing Chi Phi’s Plan of Return.

31. Chi Phi was advised by the College that this Group’s mission was to broadly study Greek life at Lafayette. Its final report was initially scheduled to be complete in the fall of 2010. That date later proved to be inaccurate and the next date for final report was projected to be mid-spring semester 2011. The date of completing this report continues to slip and Chi Phi

has recently been informed it may or may not be available to the Board of Trustees at its meeting on May 20, 2011. Chi Phi has also been advised that there is a real probability the Board will take no action in response to its receipt of this possibly incomplete report and that the next meeting of the Lafayette Board of Trustees will not occur until October, 2011. The unavailability of this Group's report, a report that has been worked on by the by the College since 2009, does not in any way suspend the College's contractual duty to Chi Phi under its Agreements with the College. Chi Phi has also been advised that there is a real probability that the Board of Trustees may take no action as to the Chi Phi plan, not at its meeting in May, 2011, nor even at its meeting in October, 2011.

32. The Letter Extension Agreement of the 2006 Agreement, Exhibit 4, makes the new repossession date, May 24, 2011, upon which date Chi Phi will take possession of its house.

33. Anticipating the expiration of the initial term of the 2006 Agreement, representatives of Chi Phi began meeting with representatives of the College to review the Chi Phi plan of return seeking the College's input as to how that plan might be improved. There were many meetings with the College at which the Chi Phi Plan was presented, but the College has never given Chi Phi any guidance as to what it expected from Chi Phi. All representatives of the College with whom Chi Phi has met state that they are agents without authority as to anything related to a fraternity and state that only the Board of Trustees can give guidance to Chi Phi. .

34. In early 2010, the College, for the first time, suggested that it would be prudent to extend the 2006 Agreement by one year so as not to disadvantage its Board of Trustees as they awaited a special report on Greek Life from the Group which had been formed in November 2009. To cooperate with the College, Chi Phi met with Mr. Wein, VP of Finance in January, 2010. At that meeting, a simple change in the expiration date of the 2006 Agreement was

proposed to make the new date of expiration become May 24, 2011, instead of 2010. After several months of silence on this simple change, the College waited until the initial term went by and then started to renegotiate material terms of the 2006 Agreement, which was totally unexpected by Chi Phi. The negotiations to extend the 2006 Agreement by one year took 9 months and many meetings to conclude.

35. Two of the material provisions the College sought to renegotiate in this extension included: 1) their request that Chi Phi take out the agreement by the College that the Chi Phi fraternity would not be asked to be coeducational as a condition of its return; and 2) that instead of the objective criteria by which the Board of Trustees were to review the Chi Phi plan of return (the 1993 Guidelines), the standard requested was that of "sole discretion" on the part of the Board of Trustees.

36. Both requests were rejected by Chi Phi and the compromise extension simply acknowledges that the Board of Trustees may look at many different materials in exercising its discretion, but the reasonable discretion the Board must exercise is whether Chi Phi's Plan is adequately "guided" by the 1993 Guidelines. If the Greek Life Report is unavailable, as it is, that does not suspend the College's duty to exercise its reasonable discretion to provide Chi Phi input as to whether the Chi Phi Plan is adequately guided by the 1993 Guidelines. As to the coeducational issue, Chi Phi agreed that if ALL fraternities and sororities were ordered by the Board of Trustees to become coeducational facilities, Chi Phi would not be exempt.

37. This Extension Letter Agreement, Exhibit 4, does not delete nor alter the contractual standard of review by the Board of Trustees. It simply states the Board of Trustees may consider, if available, many materials in exercising its discretion to see if Chi Phi has been correctly "guided" by the 1993 Guidelines. The College cannot now claim that their failure to

complete the Greek Life Report, after two years of study, in any way suspends their duty to honor its contractual obligations to Chi Phi. Yet, the Board of Trustees has taken no action on the Chi Phi Plan and the College, instead, just announces that it will take Vallamont to use as a dormitory.

CONDUCT OF THE COLLEGE

38. To assist in exercising Chi Phi's contractual right to take possession of its house' on May 24, 2011, Chi Phi prepared the Chi Phi Plan (Exhibit 1 hereto) and forwarded drafts to Mr. Krivoski and others at the college in December, 2010. Chi Phi sought the College administration's input on the draft plan and requested that the Chi Phi Plan be placed on the Board of Trustee's agenda for its January, 2011 meeting. Chi Phi received no input on the Chi Phi Plan from anyone at the College. If the Board would have acted upon the Chi Phi Plan at the January 2011 Board meeting, Chi Phi would have been afforded sufficient time remaining in that semester to identify Lafayette students interested in joining Chi Phi such that they could select Chi Phi as their rooming choice, which choices had to be made before the end of March 2011. Recruitment of new members by Chi Phi alumni is required by the 1993 Guidelines.

39. To the great surprise and distress of Chi Phi, Mr. Krivoski, the Assistant to the President of the College, did not agree to support Board of Trustee action in January, despite the Extension Letter inviting Chi Phi to be on that agenda. Instead, he advised that if Chi Phi requested to be included on the agenda, he would recommend that the Board take no action on the Chi Phi Plan, as the College had yet to receive the special report from the Group. At that date, January, 2011 the Group had been working on its report for almost two years, from November or December, 2009. Of course, just being on the agenda of the Board of Trustees with the College administration asking that no action be taken until the Group finished its report

served no purpose if the Board of Trustees needed the report from the Group. With all the time spent by the Group, Chi Phi felt it was possible that the Group's report would be finished before the next Board meeting in March 2011. Then, if put on that agenda, the Board of Trustees would have to exercise its discretion and give Chi Phi its long sought after input so its plan of recruitment could be consistent with whatever the College sought Chi Phi to do. In view of Mr. Krivoski's surprise announcement that he would not support any positive Board action if Chi Phi was on the agenda in January, 2011, Chi Phi, in a continuing effort to cooperate with the College, decided to wait for the March 2011 Board of Trustee's meeting, its last chance to make its presentation and receive from the Board of Trustees the long sought after input before it commenced recruitment.

40. The Chi Phi Plan was presented to the Board of Trustees on March 25, 2011, utilizing a PowerPoint presentation as a discussion guide which is included in Exhibit 7. The Chi Phi representatives present at the meeting read aloud paragraph 13 of the 2006 Agreement to emphasize that the College was obligated to "return the premises ... (of Vallamont) to the Rho Chapter at the expiration of" the 2006 Agreement, as extended one year by the Extension Agreement. That date is May 24, 2011. Chi Phi's request at this Board meeting, was that the Board give Chi Phi its input so that Chi Phi could be the model fraternity the College desired. As the last page of the PowerPoint presentation emphasized to the Board, when did Chi Phi want the Board action? "Now!", March 25, 2011.

41. Since the March 25, 2011 presentation, the Board of Trustees has not responded to the Chi Phi request for immediate action in any way. Instead, Mr. Krivoski of the College contacted Chi Phi to advise that the Board of Trustees would not be taking action because of the report not being finished, and later announced that the College would be taking possession of

Vallamont for use as an overflow dormitory and not allow Chi Phi to take possession of Vallamont which Chi Phi owns for use as its Fraternity's Chapter House.

42. Mr. Krivoski has inaccurately announced in the Lafayette College newspaper and to many others that the College had withdrawn its recognition of Chi Phi and that Chi Phi was deemed by the College to be an inactive or closed Chapter. Copies of emails from Mr. Krivoski stating this are attached hereto and marked as Exhibit 8. These blatant misstatements have naturally made it impossible for Chi Phi to recruit students to become members in the face of announcements from the College that Chi Phi was "closed, inactive" and its recognition by the College "withdrawn", despite its knowledge that no proceedings had ever been initiated against Chi Phi by which recognition could be withdrawn and despite its knowledge that Chi Phi National expressly recognizes Chi Phi as an active Chapter with authority to recruit new members.

43. To date, neither Mr. Krivoski or the College has responded to Chi Phi inquiries as to when and how the College withdrew its recognition of Chi Phi, as there were no pending disciplinary proceedings against Chi Phi, which are a necessary predicate to the College withdrawing recognition of any organization.

44. Despite the fact the College knew that Chi Phi's National Organization had passed the Resolution recognizing Chi Phi as an active Chapter with continuing authority to recruit new members, Exhibit 6, [REDACTED] the College falsely maintains that Chi Phi is an inactive Chapter and therefore the College may take possession of Vallamont.

45. Curiously, even though the College proclaims that Chi Phi has been inactive since

2005, the College has granted Chi Phi many rights to continue managing Vallamont as seen throughout the provisions of the 2006 Agreement.

46. ~~The College has unilaterally announced that Chi Phi is prohibited from recruiting~~ new members, even though the criteria stated in the 1993 Guidelines requires that the Alumni Board of Chi Phi conduct recruitment and selection of new members in its first year of return. Without recruiting new members for the Fall 2011 Chi Phi was faced with the prospect that all students would have left campus for summer break and they would be entirely thwarted by the College's incessant delays. Chi Phi could not delay its recruitment effort or Vallamont might stand vacant in the Fall 2011, or not stand at all in view of the College's past history of knocking down historic fraternity houses in the middle of the night. News coverage of the College destruction of the Delta Upsilon fraternity house (which would be replaced by Farinon Hall) during the wee hours of the night after it learned the alumni of Delta Upsilon were going into court the next morning demonstrates the clear and present danger Vallamont is in unless the College is restrained. Destruction of Delta Upsilon - Exhibit 9.

47. The Delta Upsilon historic fraternity is not the only fraternity house the College has taken. Over the past 25 years, the College has taken the following houses and converted them or the land they used to stand upon to their own use:

Phi Kappa Tau - 1974

Pi Lamda Phi – 1982

Alpha Chi Rho – 1985

Kappa Sigma – 1986

Delta Tau Delta – 1988

Theta Xi – 1992

Phi Delta Theta – 1993

Sigma Nu – 1995

~~Sigma Chi – 1997~~

Sigma Alpha Epsilon – 1997

Theta Delta Chi – 2001

Theta Chi – 2003

Phi Gamma Delta – 2009

Including Chi Phi there are only six fraternities left at the College, down from 19 fraternities at the beginning of this period. The fraternities taken by the College, or the land on which they once stood, have been put to other uses by the College. This has saved the College huge amounts of capital and eliminated, in its mind, any competition from fraternities in their separate fund raising efforts. The other uses include:

Delta Upsilon – now College Student Center Building, Farinon Center

Phi Delta Theta – now Scott Hall

Theta Delta Chi – now Ramer History House

Phi Gamma Delta – 611 High Street, to be converted to a non-residential use

Alpha Chi Rho – now Kappa Kappa Gamma

Kappa Sigma – now Alphi Phi

Sigma Chi – now PT Farinon

Sigma Alpha Epsilon – now Conway House

Sigma Nu – now Alpha Gamma Delta

Delta Tau Delta – now Delta Delta Delta

Sigma Kappa – now Fisher Hall.

Theta Xi – now Pi Beta Chi

48. With this track record, Chi Phi fears the worst as to Vallamont and must restrain the College from any injurious action toward Vallamont.

49. Further, Chi Phi seeks mandatory injunctive relief to force the College to give access to representatives to Chi Phi so they may enter the house they own on a continuous basis. This requires the College to issue the officers of Chi Phi whatever electronic passes are needed to get past the locked exterior doors and issue Chi Phi all interior door keys required to enter all other rooms its house, many of which have been separately and newly keyed since Chi Phi allowed Delta Upsilon the use of its house.

50. The College continues its inaction to this date and has refused requests to grant Chi Phi access to Vallamont and continues to advise of its intent to use Vallamont as a dormitory in the Fall of 2011.

51. In a final effort to reach peace with the College, Chi Phi retained the firm of Manley Burke, a Cincinnati, Ohio law firm expert in the area of fraternal law, to extend to the College the basic structure of a possible resolution of this situation. That proposal is found in the letter dated May 11, 2011, attached hereto as Exhibit 10. To date, the College has not responded, in any way, to the Manley Burke resolution initiative. The firm of Manley Burke is also the firm which represented Chi Phi during its negotiations with the College in 2005 and 2006 which led to the completion of the 2006 Agreement, Exhibit 3 hereto.

PRAYER FOR RELIEF

52. If a preliminary injunction is not issued to stop the College from taking possession or injuring the Chapter House, Plaintiffs will be irreparably harmed by the College's continuing breach of its Agreements with Chi Phi.

53. The College has a reputation and pattern of acting improperly with regard to fraternity chapter houses. Allowing the College to take irreparably injurious action as to fraternity chapter houses can no longer be tolerated.

54. The harm caused by the College's threatened action against Chi Phi will be irreparable because it interferes with the fraternity's ability to attract new students to continue as a viable living group option and, if the house is altered or destroyed, it cannot be replaced.

55. The College must be affirmatively restrained from any further announcements, internally or externally, that Chi Phi is "closed", "inactive" or has no "recognition". These pronouncements have already caused Chi Phi immeasurable harm in the eyes of their alumni, the student body of the College and the administrators of the College. There is an immediate need to stop such announcements, since they serve only to scare students away from Chi Phi and interfere with its ability to raise funds from the alumni of the College.

56. The College must be ordered to cooperate with Chi Phi by giving Chi Phi a list of students who are unaffiliated with any fraternity so that Chi Phi may successfully fill Vallamont with Lafayette students in the Fall semester 2011. The College must then be ordered to release interested students from any College designated room agreement they were forced to make before Chi Phi was able to commence recruitment. This room selection problem was made known to the College by Chi Phi for years and the College not only failed to take any remedial action, but so delayed Chi Phi that the date for room selection passed in March 2011.

57. The College must be ordered to give Chi Phi a list of its own alumni so that Chi Phi may contact all its alumni. In the past, the College has refused to give Chi Phi its list of Chi Phi's own alumni. Cooperation on this will cost the College nothing, but is causing Chi Phi immeasurable harm.

58. The College must be ordered to give Chi Phi its input as to the Chi Phi Plan to advise how well it has been guided by the 1993 Guidelines and how well the Chi Phi Plan is aligned with the Mission of the College.

59. Declaration of the Chi Phi's rights are immediately necessary to prevent the unjust enrichment of the College, an organization that has never paid for nor adequately maintained the asset which it simply declares is its own by academic fiat.

60. Wherefore Plaintiffs pray for judgment and the entry of a preliminary and permanent injunction as follows:

(a) That the College, its Officers, Agents, Servants and Employees and those persons acting in concert with them be enjoined from interfering with the proper and exclusive possession of Vallamont by Chi Phi or from interfering with Chi Phi's activities by which new students may be attracted to its fraternal organization.


(b) That the College, its Officers, Agents, Servants, and Employees and those persons acting in concert with the College be enjoined to specifically perform all of the obligations under its Agreements with Chi Phi and that the College and its representatives be enjoined from any further public announcements concerning the status or rights of Chi Phi which

are the same or similar to those enumerated in paragraph 53 above.

Respectfully submitted,

NOEL, KOVACS & McGUIRE, P.C.

By: _____


Nicholas Noel, III
Attorney I.D. No. 25758
2505 Newburg Road
Easton, Pennsylvania 18045-1963
(610) 258-0866
Attorneys for Plaintiff

Date: May 17, 2011

OF COUNSEL

Manley Burke & Lipton
Timothy M. Burke, Esq.
225 West Court Street
Cincinnati, OH 45202

VERIFICATION

Craig A. Kudcey, President of Rho Chapter of the Chi Phi Fraternity, deposes and says
~~that he is duly authorized to make this Verification, and that the facts set forth in the foregoing~~
Complaint for Injunctive Relief are true and correct to the best of his knowledge, information
and belief. This Verification is made subject to the penalties of 18 PA. C.S.A. Section 4904
relating to unsworn falsification to authorities.

Date:

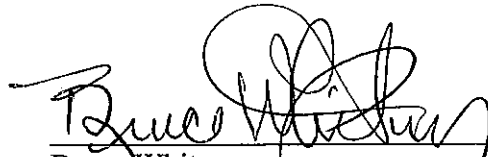
May 16, 2011

Craig A. Kudcey
Craig A. Kudcey, President
Rho Chapter of the Chi Phi Fraternity

VERIFICATION

Bruce Whitney, Member of College Relations Committee of the Board of Rho Chapter of
~~the Chi Phi Fraternity, deposes and says that he is duly authorized to make this Verification; and~~
that the facts set forth in the foregoing Complaint for Injunctive Relief are true and correct to the
best of his knowledge, information and belief. This Verification is made subject to the penalties
of 18 PA. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: May 10, 2011



Bruce Whitney
Rho Chapter of the Chi Phi Fraternity