

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-48CV-2011-4454

**PLAINTIFF'S SUPPLEMENTAL REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT, LAFAYETTE COLLEGE**

TO: Daniel E. Cohen, Esq.  
Seidel, Cohen, Hof & Reid, LLC  
Crown Pointe Corporate Center  
3101 Emerick Boulevard  
Suite 205  
Bethlehem PA 18020

Neill C. Kling, Esq.  
Harkins Cunningham LLP  
One Commerce Square  
2005 Market Street  
Suite 2800  
Philadelphia PA 19103-7042

The within Supplemental Request for Production of Statements, Documents and Things is served on you pursuant to Pennsylvania Rules of Civil Procedure Nos. 4009 and 4003.4. Demand is made that you file an Answer to this Request for Production and that the Answer be filed within the time limits set pursuant to the Pennsylvania Rules of Civil Procedure.

This Request for Production is of a continuing nature and requires you to file supplementary responses pursuant to Rule 4007.4 of the Pennsylvania Rules of Civil Procedure, if you obtain further or different statements, documents or things after your initial response and before trial.

## INSTRUCTIONS

(a) Where possession, knowledge or information of a party is requested, such request includes possession, knowledge or information of the party's agents, representatives, attorneys and insurers.

(b) The pronoun "you" refers to the party to whom this Request for Production is addressed and the persons mentioned in clause (a).

(c) As used herein, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, book records, memorandum, note, contract, minutes, memorandum of telephone and other conversations and of any meeting or agreement or the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any document, microfilm or other film record; any photograph; and sound recording on whatever type of device; any punch card; disc or disc pack; and any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc or disc pack, tape or other type of memory and together with printouts of such punch card, disc or disc pack, tape or other type of memory). "Document" includes all electronically stored material and/or information.

(d) When a document is requested herein, you shall produce the original of such document, if available, and the following:

(1) Every copy of each document which is not an exact duplicate of the document which is produced,

(2) Every copy which has any writing, figure, notation, annotation or the like on it,

(3) All drafts of each document,

(4) All attachments to or enclosures with each document,

(5) Each document referred to in any other document,

(6) You are to produce these statements, documents and things for inspection and/or photocopying at the office of the undersigned within the time limits set forth in the Pennsylvania Rules of Civil Procedure,

(7) As used herein all singular terms unless specified otherwise shall include the plural and all plural terms shall include the singular.

## REQUESTS

1. All documents which set forth the filing and record retention policies, procedures and customs that have been implemented by Lafayette from 1990 to present. This includes electronic and paper documents.

2. Any and all documents, including notes and drafts relating to the creation or interpretation of the 1909 Agreement (Exhibit "2" attached to the Complaint), the August 23, 2006, Agreement (Exhibit "3" attached to the Complaint), and the Extension Agreement of July 29, 2010, (Exhibit "4" attached to the Complaint).

3. All documents, including notes or drafts, either electronic or paper, correspondence, internal memoranda, which in any way relate to the subject matter of the issues contained in the above-captioned Complaint including but not limited to all the files of the following individuals:

- a. Mr. Daniel Weiss;
- b. Mr. Arthur Rothkaup;
- c. Mr. Edward Ahart;
- d. Mr. Robert Sell;
- e. Ms. Barbara Levy;
- f. Mr. James Krivoski;
- g. Ms. Terry Weber; and
- h. Mr. Herman Kasiah

4. With regard to the Working Group on Greek Life & Campus Community Report previously requested, please provide copies of all drafts of said report and internal memoranda discussing said report during its creation.

5. All documents, correspondence, notes, memoranda of whatever nature concerning discussions, strategies and/or plans relating to the Rho Chapter of Chi Phi Fraternity from 1995 to the present.

6. Any documents relating to the 1993 Guidelines as referenced in the 2006 Agreement in Paragraph 10 of the Complaint, that reflects said guidelines prior use, interpretation and inclusion in the 2006 Agreement.

7. All documents that explain or comment upon the terminology used in official policies and procedures adopted by the College Board of Trustees or any other informal policies or directives from any employee of the College, or any documents from whatever source, including those that contain or comment upon the custom or practices related to the following:

- a. What is meant by a “closed” fraternity;
- b. What is meant by an “inactive” fraternity;
- c. What is meant by an “extinct” fraternity;
- d. What is meant by a “recognized” fraternity;
- e. What is meant by a “withdrawal of recognition” relative to fraternities;
- f. What is meant by “colonize” with regard to fraternities;
- g. What is meant by “recolonize” as it relates to fraternities;
- h. What is meant by “chapter charter” as it relates to fraternities;
- i. What is meant by the term “procedure or customs relating to withdrawing recognition” as relating to fraternities;
- j. What is meant by the terms “gauging student interest” as relating to interest in fraternities;
- k. What is meant by the term “decolonization” as it relates to fraternities;
- l. What is meant by “recolonization” as it relates to fraternities;
- m. What is meant by the terms “fraternity recruitment” as relating to fraternities;
- n. What is meant by the terms “college rooming lottery or rooming selection” as related to fraternities and housing in general at the College; and
- o. What is meant by the terms “gauging unmet student interest in fraternities”

8. Any and all documents that the College relies upon in its position that the Plaintiff, Rho Chapter of the Chi Phi, “closed in 2005” or that the Plaintiff was “inactive” in 2005 as stated by Mr. James Krivoski in an email communication directed to Chi Phi’s College Relations Committee.

9. Please provide any documents that reflect the procedure Lafayette College follows in determining when, how and why a fraternity "recolonizes".

10. In the prior Request for Production of Documents directed to Defendant, Request No. 12, please consider this a supplement to also include all such correspondence sent from the Lafayette College Presidents as well as their respective agents or representatives who were communicating on their behalf.

11. Copies of all documents from Members of the Greek Life Committee and the previous Ad Hoc Committee on Greek Life that would include the files of all faculty, Board of Trustees and Student Members wherein said documents outline policies, recommendations or proposed courses of action to be taken with respect to all Greek Organizations, including the Plaintiff.

12. A copy of the list of email addresses to whom James F. Krivoski emailed regarding "Legal Action by the Rho Chapter" on June 8, 2011, wherein he argued Lafayette College's position in this litigation directly to the membership of the Chi Phi Rho Chapter, Plaintiff herein.

NOEL, KOVACS & MCGUIRE, P.C.

By: 

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Date: June 10, 2011

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**PROOF OF SERVICE**

I hereby certify that I am this day serving the foregoing Plaintiff's Supplemental Request for Production of Documents Directed to Defendant, Lafayette College, upon the persons and in the manner indicated below, which service satisfies the requirements of Pa. R.C.P. 440:


Service by first class mail  
Postage Prepaid, Addressed as follows:

Daniel E. Cohen, Esq.  
Seidel, Cohen, Hof & Reid, LLC  
Crown Pointe Corporate Center  
3101 Emerick Boulevard  
Suite 205  
Bethlehem PA 18020

Neill C. Kling, Esq.  
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One Commerce Square  
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NOEL, KOVACS & McGUIRE, P.C.

By: \_\_\_\_\_

  
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Attorneys for Plaintiff

Date: June 10, 2011