



Risk Management Foundation

Education • Prevention • Preservation

Case Study: Kelly v. Sigma Chi

Presented by Risk Management Foundation

Directions

1. You have been chosen as either the plaintiff's attorney representing Martin Kelly, or as defense counsel representing Sigma Chi.
2. Discuss with your colleagues the best arguments and prepare to present your position to the opposition in a mock trial.

The Case

The end of the spring semester drew to a close, and the Sigma Chi Chapter members' finals would begin in the week ahead. It was a Saturday afternoon and some of the brothers sought a break from their studies. A few of the pledges also hung out at the chapter house that day. One of the pledges was 19 year-old Martin Kelly.

Some of the brothers, whose finals were complete, had already packed up their belongings and returned home for the summer, leaving a number of the rooms vacant. On this afternoon, the remaining brothers thought it would be fun to set up mattresses from these vacant rooms outside one of the second story windows of the house and jump out the window onto the mattresses below. They asked the pledges to gather the mattresses and stack them in the yard. Once done, a brother told the pledges that they should jump onto the mattresses first; some of the brothers said the pledges' induction into Sigma Chi Fraternity may depend upon it. However, the brothers later said that this last remark was a joke that the pledges misunderstood as an order. "We were all just having fun. We thought they were, too," remarked the Magister later in a deposition.

One of the pledges jumped and landed without injury. Encouraged by this, Martin jumped next. He landed on the mattresses, but the impact ruptured one of his vertebrae, causing paralysis in his pelvis and legs. Neither the Fraternity nor the university was informed of this accident until that October.

After the accident, surgeons were able to fuse four of Martin's vertebrae together. This allowed him to walk and a year later, he was back in school, attending a community college. However, Martin still lacked bladder control and continued to suffer from significant leg and back pain. Martin's mother quit her job to care for him at home. The Kelly family's bills soared to \$200,000, including medical bills and the accumulated costs to retrofit the house, allowing easy access for Martin.

The Kelly family filed suit against Sigma Chi International Fraternity, the university, and the local chapter, seeking damages for medical bills, lost earning capacity, pain and suffering, and punitive damages.

Facilitator's Guide

LEADING THE CASE STUDY

We suggest this exercise be completed in one of two ways:

1. All participants being assigned to “plaintiff” and “defendant” teams.
2. If there is a larger group, assign a group to be “jurors,” and send them out of the room while the “plaintiffs” and “defendants” prepare their arguments. Next, hold the trial and have the “jurors” decide fault and monetary reward.

Read to the participants:

By the end of this exercise, you will know more about Risk Management while also learning new ways to use preventative measure in all chapter activities in order to lower the chances of a claim occurring. The case study you will be given is based upon an actual claim. All names have been changed.

Hand out the case study. Spend a few minutes with the group, reading through the case study. Depending upon the size of the group, read one of the following:

1. We will divide into two groups. One will play the role of “plaintiff,” arguing facts in an attempt to convict the fraternity. The other group will take on the role of “defendant” and defend the fraternity against the accusations that they were responsible for the activities that took place. Please take 15 minutes to prepare your arguments. Please agree on one representative to present your case.
2. I need volunteers – you will be jurors and decide the fault and monetary reward in this case. Please leave the room, returning in 15 minutes. The remaining group will be divided into two groups. One will play the role of “plaintiff” and argue facts that will attempt to convict the fraternity. The other group will take on the role of “defendant” and defend the fraternity against the accusation that they were responsible for the activities that took place. Please take 15 minutes to prepare your arguments. Please agree on one representative to present your case.

During this time, spend a few minutes with each group and ensure they are discussing the issues at hand. Also, be sure to set up the room in order to facilitate a mock trial.

CONCLUSION

The total cost incurred for the RMF was \$10,000 in legal fees. However, because hazing is an exclusion in the RMF's policy and the jury found this act to be in violation of the state's antihazing law, the undergraduate members of the chapter were forced to contribute equally in the jury's award of \$120,000 to Martin Kelly.

REFLECTION QUESTIONS

- Put yourself in Martin's situation. A number of guys that you want to impress, though you may not want to admit it, surround you. What would you do?
- For many freshmen, finding clubs and organizations that appeal to them brings with it a sense of belonging; they are woven into the college community by joining them. What is the best way to inspire lifelong trust and loyalty in chapter pledges?
- Have you ever said or done something that could be interpreted as hazing?