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Judge rejects USU's immunity claim in death

Lawsuit says school had duty to warn students of dangers.

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Logan » Utah State University is not immune from civil liability in the hazing death of fraternity pledge Michael Starks, 1st District Judge Clint S. Judkins ruled Thursday.

An 18-year-old freshman from Salt Lake City, Starks died of alcohol poisoning after a Rush Week activity Nov. 20, 2008. More than a dozen Sigma Nu fraternity and Chi Omega sorority members were prosecuted for related misdemeanors.

Michael's parents, George and Jane Starks, have settled civil claims against the Greek chapters' national organizations, but they filed a lawsuit against the university alleging officials should have exercised better control over Greek life, ignored years of bad behavior among Sigma Nu members and owed a duty to students to warn them of the dangers of Greek life.

"Information is power," George Starks said. "There is a world full of parents who need to know what is happening. We want to bring it into the light and illuminate it."

Reed Stringham of the Utah Attorney General's Office asked the court to dismiss the lawsuit, arguing that Utah law shields the university from civil damages because the Starkses are alleging their son died as a result of "a negligent misrepresentation." This is a circumstance where case law specifically allows governmental immunity, he wrote in court filings.

The Starkses' lawyer, Charles Thronson of Salt Lake City, said USU officials have denied any responsibility for Michael Starks' fate. Yet, the Sigma Nu chapter at USU had a long history of activities that required law enforcement intervention, he alleged. Police records indicate the presence of alcohol, drugs and explosives, as well as episodes of arson, assault, alcohol-induced suicide, disorderly conduct and more.

"The university knew of these activities -- or should have known -- and remained silent," he said. "There was nothing but absolute silence."

After hearing arguments, Judkins rejected the state's immunity claim, allowing the lawsuit to move forward. USU general counsel Craig Simper declined to comment.

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