

NO. 84657-4

**COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

AUSTIN CORNELIUS,

Appellant,

v.

WASHINGTON STATE
UNIVERSITY,

Respondent.

RESPONDENT'S
OPPOSITION TO
APPELLANT'S
THIRD
STATEMENT OF
ADDITIONAL
AUTHORITIES

More than seven years after the hazing incidents underpinning Appellant Austin Cornelius' lawsuit, the federal government enacted H.R. 5646 (Stop Campus Hazing Act) in December 2024. Nothing in this federal legislation imposes any new, retroactive legal duty on Washington State University with respect to the 2017 hazing of Cornelius by the private ETA fraternity chapter—nor does Cornelius argue that it does so.

Washington State University does not dispute that hazing is a nation-wide societal problem, but the existence of that serious problem is not the issue before this Court. The

Washington State Supreme Court’s seminal decision in *Barlow v. State*, 2 Wn.3d 583, 540 P.3d 783 (2024) is the binding case law that directly governs the circumstances under which a university owes—and does not owe—a common law duty of care to its students. *Restatement (Second) of Torts* § 344 premises liability applies off campus only during curricular activities that are “university sponsored and controlled.” *Id.* at 587 (emphasis added).

Here, the off-campus hazing between adults occurred without the University’s knowledge, much less sponsorship, inside a private residence over which the University exercised no control. Nor did the University have any legal authority to enter and search a private, off-campus residence to police and monitor the actions of adult students. Moreover, there was nothing curricular about the ETA fraternity chapter’s criminal hazing events. As a matter of law, the University did not owe Cornelius a duty. *See Barlow*, 2 Wn.3d at 597-98. The trial court properly granted the University summary judgment.

Appellant's Third Statement of Additional Authorities fails to offer any new authority that is relevant to the question of a legal duty.

This document contains 275 words, excluding the parts of the document exempted from the word count by RAP 18.17(c).

RESPECTFULLY SUBMITTED this 31st day of December 2024.

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CERTIFICATE OF SERVICE

I certify below I electronically filed and served via email a true and accurate copy of the RESPONDENT'S OPPOSITION TO APPELLANT'S THIRD STATEMENT OF ADDITIONAL AUTHORITIES in Court of Appeals, Division I to the following:

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I certify under penalty of perjury under the laws of the
State of Washington that the foregoing is true and correct.

EXECUTED this 31st day of December 2024 at Olympia,
Washington.

s/ Beverly Cox

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Paralegal

ATTORNEY GENERAL'S OFFICE, TORTS DIVISION

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