

# Family sues fraternity over alcohol death

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Page 1 of 1

## Lawsuit claims members wrote 'vulgar' messages on him after he passed out

By Tony Plohetski

HOUSTON — The lawsuit, filed Thursday by grieving parents against a University of Texas fraternity, describes how guests at a December party brought liquor, and how the seven Lambda Phi Epsilon pledges were pressured to drink all of it.

It describes how Phanta "Jack" Phoummarath, an 18-year-old freshman from Houston, drank until he passed out. And it claims that fraternity members, guests and fellow pledges broke out a permanent marker and began writing vulgar graffiti on his body. Some of them may have signed their names on his skin, the lawyer for Phoummarath's family said.

By morning, Phoummarath was dead from alcohol poisoning. The alcohol level in his urine was 0.5, according to Travis County Medical Examiner Roberto Bayardo, who added that Phoummarath's blood alcohol level was slightly less. In Texas, a driver is considered legally intoxicated with a blood-alcohol level of .08.

Thursday's lawsuit, filed in Houston by Khongsavay and Soukha Phoummarath, blames the fraternity and more than 40 current and former members for his death, including the group's president and vice president.

Numerous fraternity members named in the lawsuit, which seeks unspecified damages, declined to comment Thursday.

The family's Houston lawyer, Randy Sorrels, said the family filed the suit to seek more information about what happened the night Phoummarath died — the lawsuit gives them the right to question witnesses — to raise awareness about alcohol abuse among college students and to possibly hold people accountable for Phoummarath's death.

Sorrels said the descriptions in the lawsuit are based on "bits and pieces of information" lawyers have learned. He said the family has spoken to a couple of fraternity members, who expressed sadness over his death but declined to discuss details of the night he died.

Police and the Travis County medical examiner's office have refused to release Phoummarath's autopsy or other information on the incident, which remains under investigation by police, prosecutors and the Texas Alcoholic Beverage Commission.

Travis County Attorney David Escamilla said Thursday that he and other investigators will meet next week to again discuss whether releasing the autopsy report would hinder their work.

During an emotional news conference in Houston, Marion Phoummarath, 25, described her brother as a "very extroverted and fun-loving person" who was seeking a family away from home.

"He enjoyed being in the company of others," she said. "One of the things he said is that he enjoyed making people laugh. I guess it shows how much he wanted to belong."

The Phoummarath family came to Houston from Laos in 1979. Marion Phoummarath said her father, Khongsavay, was a soldier who fought with U.S. forces during the Vietnam War.

She said her brother — who was 5 feet, 7 inches tall, weighed 165 pounds and was the youngest of four children — played tennis at MacArthur High School in Houston and graduated in the top 10 percent of his class.

At MacArthur High, Phoummarath's death triggers sadness among his former classmates and teachers.

"Jack had a personality that was unique in the sense that even if you didn't have him as a student, people remembered him," Erich Klopp,

Phoummarath's tennis coach, said Thursday. "He was just friendly."

According to the lawsuit, Phoummarath attended a "new member" party Dec. 9 at Lambda Phi Epsilon, an Asian-American interest fraternity at 2816 San Pedro St., west of the UT campus.

Phoummarath, a computer science major, and six other pledges were "encouraged and/or required to drink all of the alcohol provided by the officers, active members and guests of the fraternity," the lawsuit says.

When Phoummarath passed out from drinking, fraternity members, alumni and other pledges "defaced his body by writing vulgar and obscene messages over his body with a permanent marker," the lawsuit claims.

Sorrels said lawyers hope to subpoena fraternity members.

TABC Capt. David Ferrero on Tuesday said that his agency has identified a person who brought a keg of beer to the party but haven't determined whether any underage partygoers drank from the keg — which could result in misdemeanor charges against the keg provider.

On Dec. 19, UT officials cited multiple examples of hazing — but didn't claim that hazing caused Phoummarath's death — when it canceled the fraternity's status as a student organization until 2011. UT officials said Lambda Phi Epsilon pledges were subjected to paddling and lineup interrogations, were expected to wear certain types of clothing, shave their heads and clean up after active members.

UT Associate Dean of Students Margarita Arellano said the fraternity had until Thursday to appeal the university's decision. Officials in the Office of the Vice President for Student Affairs said they had not received an appeal by 4:45 p.m.