

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

MICHAEL BELZ, INDIVIDUALLY AND
AS EXECUTOR OF THE ESTATE
OF GERALD M. BELZ and SHERINE
BELZ, INDIVIDUALLY

Plaintiffs,

vs.

UNIVERSITY OF IOWA, BOARD
OF REGENTS AND
STATE OF IOWA,

Defendants.

LAW NO. _____

**PETITION AT LAW AND JURY
DEMAND**

COMES NOW the Plaintiffs, Michael Belz, individually and as executor of the Estate of Gerald M. Belz, and Sherine Belz, individually, and in support of their Petition state as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Michael Belz is the duly appointed, qualified and acting executor of the Estate of Gerald M. Belz, deceased, Linn County, Iowa, Probate Number ESPR042153.
2. At all times material hereto, decedent Gerald M. Belz (hereinafter “Gerald Belz”) was a citizen of the State of Iowa and a student at the University of Iowa, residing in a residential dormitory known as Burge Hall in Iowa City, Johnson County, Iowa.
3. At all times material hereto, Plaintiff Michael Belz was the father of Gerald Belz, and a citizen and resident of Linn County, Iowa.
4. At all times material hereto, Plaintiff Sherine Belz was the mother of Gerald Belz, and a citizen and resident of Linn County, Iowa.
5. Defendant University of Iowa (“University”) is located in Iowa City, Johnson County, Iowa and is established and maintained pursuant to Iowa Code Chapter 263.

6. Defendant Board of Regents, the State of Iowa (“Board”), resides and has its principal place of business in Des Moines, Polk County, Iowa, and is established and maintained pursuant to Iowa Code Chapter 263.

7. The Board of Regents’ purpose is to govern five public education institutions in the state through policymaking, coordination and oversight.

8. The State of Iowa (“State”) is a sovereign state as defined in the Code of Iowa, with a presence in all 99 Iowa Counties.

9. All allegations herein as to Defendant State of Iowa refer also to acts or omissions by the University of Iowa and Board of Regents.

10. At all times material hereto, the University of Iowa was in possession and control of Burge Hall.

11. The acts about which Plaintiff complaints occurred in Iowa City, Johnson County, Iowa.

PROCEDURAL REQUIREMENTS

12. Plaintiff timely filed a claim with the State Appeal Board on February 10, 2020.

13. By acquiring final disposition of the claim from the attorney general by letter dated July 6, 2020, Plaintiff has satisfied all requirements to permit a suit under Iowa Code Section 669.5.

14. Plaintiff’s suit against the State of Iowa is filed within the time permitted by Iowa Code Section 669.13.

15. On January 30, 2019, Gerald Belz was found frozen to death on the University of Iowa campus.

16. At the time of his death, Gerald Belz was a student at the University of Iowa and resided in Burge Hall, in Iowa City, Iowa.

FACTUAL BACKGROUND

17. On Tuesday, January 29, 2019, temperatures in Iowa City dropped to dangerous lows, prompting the University of Iowa to issue extreme weather alerts to its students and to cancel all classes for Wednesday, January 30, 2019.

18. Burge Hall has four primary entrances, each of which contain a set of exterior and interior doors.

19. The University of Iowa's general practice was to leave the exterior set of doors to all four entrances open at all times, while the inner set of doors were generally locked.

20. At all times, residents of Burge Hall were able to gain access to the dormitory by scanning their University ID cards.

21. The University of Iowa's general practice of leaving the outer set of doors unlocked allowed students or other visitors to gain access to a heated vestibule area between the exterior and interior sets of doors.

22. On the night of January 29, 2019, the University of Iowa locked the exterior doors to the Burge main entrance located on Clinton Street in an effort to prevent pipes from freezing in the vestibule area.

23. At or about the same time the University of Iowa locked the exterior doors to the other three primary entrances to Burge Hall preventing access to other vestibule areas.

24. The University of Iowa did not provide any advance notice to residents of Burge Hall about its decision to lock the exterior doors.

25. The University's decision to lock the exterior doors created a situation in which no one, including residents of Burge Hall, was able to gain entrance to the heated vestibule areas of the building without a University ID card.

26. The University of Iowa also elected not to place security guards or other personnel in the vestibule areas of the entrances to observe visitors or residents approaching who might need assistance with entering the building.

27. As a result, even residents of Burge Hall did not have the ability to alert anyone inside the dormitory that they needed help entering the building.

28. At some time after 12:45 AM on the morning of January 30, 2020, Gerald Belz exited the Burge Hall dormitory.

29. Despite the fact that the University of Iowa maintains motion activated video cameras positioned at all exits to the building, no video evidence exists of Gerald Belz exiting the building.

30. At 1:09 AM on January 30, 2020, surveillance video captured Gerald Belz attempting to enter Burge Hall through a locked entrance at the northwest corner of the building. Gerald was left to bang frantically on the door in an attempt to get the attention of someone who might help him enter the building.

31. No one came to Gerald's aid, and surveillance video captured him falling to the ground in front of the door at the northwest corner of Burge Hall.

32. Gerald's only safe harbor was the vestibules at the four primary entrances to Burge Hall due to other campus buildings being closed.

33. At 2:48 AM, Gerald Belz was found unresponsive outside Halsey Hall; Gerald Belz was later pronounced dead at the University of Iowa Hospitals, having frozen to death within walking distance of Burge Hall.

34. At the time of his death, Gerald Belz was survived by his father, Michael Belz, and his mother, Sherine Belz.

COUNT I NEGLIGENCE – WRONGFUL DEATH

35. Plaintiff hereby restates and incorporates paragraphs 1 through 34 above.

36. At all times relevant to the incident at issue, Defendant State of Iowa, by and through the University of Iowa, accepted the duty and responsibility for the supervision and safety of the residents of Burge Hall, including Gerald Belz.

37. At all times relevant to the incident at issue, the special relationship between Gerald Belz and the State of Iowa, through the University of Iowa, gave rise to a duty of reasonable care owed to Gerald Belz and all other residents of Burge Hall, to protect them from all foreseeable harms.

38. At the time and place mentioned herein, Defendant State of Iowa through the University of Iowa and its employees, representatives, agents, directors, officers and servants, was negligent in one or more of the following particulars:

(a) In choosing to lock the exterior doors to the entrances of Burge Hall when it knew or should have known that the decision could cause harm to Burge Hall residents including Gerald Belz;

(b) In failing to warn residents of Burge Hall that it intended to lock the exterior doors to Burge Hall when it knew or should have known that its failure to warn residents could cause harm to those residents including Gerald Belz;

(c) In failing to place security or other personnel near the entrances to Burge Hall when it knew or should have known that its failure to do so could cause harm to residents of Burge Hall including Gerald Belz;

(d) In failing to develop, update and implement an appropriate emergency plan to reduce the risk of harm to students in peril;

(e) In failing to provide sufficient numbers of qualified personnel to meet the safety needs of Burge Hall residents including Gerald Belz;

(f) In failing to implement adequate safety measures, training, and supervision to University of Iowa staff to ensure the safety of Burge Hall residents including Gerald Belz; and

(g) Otherwise failing to follow the reasonable standards of care.

39. The negligence of the State of Iowa was a proximate cause of Gerald Belz's death.

40. As a result of Defendant State of Iowa's negligence, Plaintiff Estate of Gerald M. Belz has been damaged in the following respects:

(a) Gerald Belz received severe personal injuries and died as a result of those injuries;

(b) Gerald Belz endured great physical and mental pain and suffering before his death;

(c) The present worth of the estate that Gerald Belz would reasonably have been expected to have saved and accumulated as a result of his own effort from the date of his death, if he had lived out the term of his natural life;

(d) The present worth of the value of support that Gerald Belz would have contributed to his mother and father, had he lived out the term of his natural life;

(e) The present worth of the value of the consortium and services Gerald Belz would have provided to his mother and father had he lived out the term of his natural life;

(g) An award of interest on the reasonable funeral expenses of Gerald Belz for such time as they were prematurely incurred;

(h) The reasonable value of necessary hospital, doctor and/or other medical charges incurred in connection with the death of Gerald Belz; and

(i) Any other element of loss recognized as recoverable under Iowa law but not specifically set forth herein.

WHEREFORE, Plaintiff Michael Belz, individually and as executor of the Estate of Gerald R. Belz, prays for judgment against Defendant State of Iowa, in such an amount as will fully and fairly compensate them for damages alleged herein, together with the costs of this action, and for interest as allowed by law, and for such other relief as may be just in the premises.

**COUNT II
LOSS OF CONSORTIUM
MICHAEL BELZ AND SHERINE BELZ**

41. Plaintiff hereby restates and incorporates paragraphs 1 through 40 above.

42. Gerald Belz's mother and father, Michael Belz and Sherine Belz, are his remaining survivors.

43. The negligent actions of Defendant State of Iowa were a proximate cause of the damage to Michael Belz and Sherine Belz.

44. As a direct result of Defendant State of Iowa's acts and omissions as alleged in the preceding paragraphs, Plaintiffs Michael Belz and Sherine Belz have lost the support, society, companionship, and consortium of their son.

WHEREFORE, Plaintiffs Michael Belz and Sherine Belz pray for judgment against Defendant State of Iowa, in such an amount as will fully and fairly compensate them for damages alleged herein, together with the costs of this action, and for such other relief as may be just in the premises.

By: /s/ Nicholas Rowley

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JURY DEMAND

COME NOW the Plaintiffs, by and through their undersigned attorneys, and request trial by jury on all issues so triable under Iowa law.

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