

David K. Jaffe of Brown Paindiris & Scott, who has expertise in personal injury and wrongful death suits, was quoted recently in the below newspaper article of Yale Daily News.

## **Le suit alleges Yale at fault in death**

By Everett Rosenfeld

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The estate of former pharmacology student Annie Le GRD '13 filed a wrongful death lawsuit against the University in New Haven Superior Court on Tuesday, alleging that pervasive sexual harassment at the University "emboldened" her killer, Raymond Clark III, who is serving a 44-year sentence for the murder and who the suit claims was hired through Yale's negligence.

The complaint lists court-appointed estate administrator and attorney Glorie Romaniello as the plaintiff and Yale University and the School of Medicine as defendants, and is authored by Le family lawyer Joseph Tacopina and attorney Paul Slager. They argue that Yale is liable for Le's Sept. 8, 2009, death in 11 different ways, including "fostering an atmosphere of tolerance of sexual harassment and sexual assaults" related to potential violations of Title IX regulations currently under investigation by the federal government. The Le estate also accuses Yale of failing to promptly investigate Le's disappearance, and asks for unspecified damages "significantly greater" than the minimum damages of \$15,000 needed to qualify the case for Connecticut Superior Court.

"[B]efore Sept. 8, 2009, Yale had long taken inadequate steps to ensure the safety and security of women on its campus," Tacopina wrote in a Tuesday email to the News. "Yale's persistent tolerance of sexual harassment and sexual assaults on campus caused students to file a Title IX complaint against Yale University. ... Annie Le was a victim of that environment."

University General Counsel Dorothy Robinson, the representative named in the suit for both the University and the medical school, deferred comment to the Yale Office of Public Affairs and Communications.

"Yale believes there is no basis for the civil suit filed on behalf of the estate of Annie Le," Yale spokesman Tom Conroy said in a statement Tuesday.

Conroy said Yale would "defend against [the suit] as appropriate." The Yale community reacted to Le's death with shock and grief and tried to "create a lasting memorial" to the slain student, he added, saying that the lawsuit does little to secure justice for Le or preserve her memory.

The complaint alleges that Yale was negligent in its screening of Clark, who had shown “a violent propensity towards women” before he was hired in 2004. As police began to investigate his possible involvement in Le’s death in mid-September 2009, the New Haven Independent reported that Clark forced his high school girlfriend to have sex with him when they were students at Branford High School in Branford, Conn. When she attempted to break up with him, he “confronted” her. According to a police report the Independent reviewed, the woman decided not to press charges against Clark.

In addition to Clark’s records, the suit alleges Yale had access to information about Clark’s violent past because the University also employed Clark’s sister and brother-in-law as laboratory technicians in the 10 Amistad St. building where Le was killed. Those two employees were both “well aware” of Clark’s past behavior given their relationship to him, the suit claims. The suit alleges that Yale lacked “reasonable care” when it hired Clark for a position that put him in unsupervised contact with others.

But Yale could not be assumed to know about Clark’s past legal issues because employers cannot access a job seeker’s juvenile criminal records, according to Paul Carty, a New Haven lawyer who has been practicing personal injury law for 26 years. He said that the Le estate’s allegations that an employer needs to screen job candidates so intensely “border on the ridiculous.”

Aside from a speeding ticket, Clark had no adult criminal record in the state of Connecticut as of fall 2009, according to the Independent.

Conroy denied that the University could have known Clark was a danger to others.

“Yale had no information indicating that [former lab technician and Le’s killer] Raymond Clark [III] was capable of committing this terrible crime, and no reasonable security measures could have prevented his unforeseeable act,” Conroy said.

David K. Jaffe, a partner at Brown, Paindiris & Scott in Hartford and an expert on personal injury cases, said that Tacopina and Slager must be able to show that Yale had information that indicated Clark was dangerous.

“Depending on what’s in [Clark’s personnel] file, and if Yale has a reasonable screening process or not, then there could be a good suit,” Jaffe said. “But these suits are not easy to prove.”

Clark aside, the suit alleges that Yale failed to “take reasonable steps to provide a safe and secure environment” at 10 Amistad and employed improperly trained and underqualified security staff at the building.

The lawsuit also alleges that Yale is liable for damages because it failed to “promptly and adequately” investigate Le’s disappearance.

The University should have noticed something amiss when Le did not evacuate 10 Amistad for a fire alarm that went off at 12:55 p.m. on the day she was killed, Tacopina and Slager argue.

Additionally, when a housemate of Le's called the authorities at Yale at 10:40 p.m. to report her missing that day, the University did not begin to investigate her absence until the next morning.

Carty and Jaffe both said that this argument will only succeed if the Le estate's lawyers can prove that starting the investigation earlier would have prevented Le's death. If evidence shows Le died sometime between when her friend contacted the University and when the search began, Carty said, then Yale could be liable.

All things considered, Jaffe said, the case could be worth as much as \$10 million if the University were found completely liable for Le's death. If Yale were only partially liable, the estate would win damages proportional to Yale's liability, he added. Wrongful death damages are determined by a metric that takes into account lost wages and life expectancy of the victim, Jaffe said, adding that he would expect the Le estate to seek "pain and suffering" damages since Le died a painful death after an intense physical struggle with Clark.

Still, Jaffe said juries have few guidelines for awarding damages to plaintiffs and might decide differently in Le's case. Carty doubted at all whether the estate could win in court, and said he believes Yale's case is stronger.

"The only way [Yale wouldn't win] under these circumstances is if the jury pool is swayed by sympathy," he said.

The Le family first hired lawyers last summer to privately look into the death. Last September, Brian King, an attorney with Tacopina's firm, appeared at a routine court hearing for Clark and afterward spoke with the media outside the courthouse, where he raised questions about Yale's handling of the tragedy.

"Why wasn't anybody helping her when this was happening?" King said. "Where was anybody? Apparently Yale has police, also have security. What was their role that day in checking for her? So those are the things that we're looking into right now."

Clark, 26, is ineligible for parole, and will be released in 2053.