

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT  
Civil No. 2481CV02869

**ALICE STUART and JASON FOLEY, Individually and Together as the  
Administrators of the ESTATE OF ELI T. STUART and  
Together as Next Friends for GARETH STUART-FOLEY; and  
ALICE STUART as Next Friend for VICTORIA CLARK**

v.

**BRANDEIS UNIVERSITY, KIMBERLY CARTER, and THOMAS ESPADA<sup>1</sup>**

**DECISION AND ORDER ON THE DEFENDANTS’ MOTIONS  
FOR JUDGMENT ON THE PLEADINGS [DKTS. 15, 17, 18]**

Plaintiffs Alice Stuart and Jason Foley, individually and in their respective capacities as administrators of the Estate of Eli T. Stuart and next friends for Gareth Stuart-Foley and Victoria Clark (collectively, “Plaintiffs”), bring this action seeking recovery for the allegedly wrongful death of Eli T. Stuart (“Eli”) on the campus of defendant Brandeis University (“Brandeis” or “University”) while Eli was a student there.

This matter now comes before the Court in connection with motions (“Motions”) filed by Brandeis and individual defendants Kimberly Carter (“Carter”) and Thomas Espada (“Espada”) (collectively, “Defendants”) for entry of judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c). While acknowledging the tragedy of Eli’s death, Defendants contend that they owed no duty of care to Eli as a matter of law.

After hearing, and following review of the parties’ written submissions, the Court **DENIES** the Motions for the reasons set forth below.

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<sup>1</sup> Plaintiffs’ initial Complaint (Dkt. 1) named a fourth defendant, Dana Kelley (“Kelley”). On January 26, 2026, Plaintiffs filed a motion for leave to file a first amended complaint (Dkt. 19). Among other changes, Plaintiffs dropped Kelley as a defendant. Through a separate order issued at the same time as this decision, the Court has allowed Plaintiffs’ motion for leave to amend in substantial part. The Court accordingly does not list Kelley as a defendant.

## BACKGROUND<sup>2</sup>

In December 2023, Eli was a 20-year-old sophomore at Brandeis living in an on-campus dormitory named Rosenthal North.

On December 4, 2023, after believing they<sup>3</sup> had failed a test, Eli made a decision to attempt to end their life. At approximately 4 a.m. on December 5, Eli left their dorm and walked to a tree line adjacent to three chapels located on the Brandeis campus. Either before or after doing so, Eli took various prescription and over the counter medications.

Eli then wrote a series of texts to their loved ones and, at 5:29 a.m., began to audio record on their cell phone what they intended to be the period of time prior to their death. Eli's phone ultimately recorded the next 11 hours and 24 minutes, up until approximately 4:53 p.m. The recording captured statements made by Eli while they remained conscious, including calls for help Eli made during the period 8:31 a.m. to 9:17 a.m. after they changed their mind. The recording also captured Eli's breath sounds after they stopped speaking. Those breath sounds remained audible at the time Eli's phone stopped recording at some point after 4 p.m.

At approximately 9:08 a.m. that morning, a professor at Brandeis telephoned the University's campus police. Carter, who had been a Brandeis campus police officer for twenty-two years, answered the telephone. During the ensuing conversation, which was recorded, the professor told Carter that he had been walking in the area of the three chapels on the Brandeis campus and had seen "a human being lying in the woods." The professor further stated that the individual was dressed in black, lying on the ground, and that the person's hands were moving. The professor then provided Carter with a detailed description of the individual's location.

Carter informed Espada, a fellow campus police officer who also was working that morning, of the call. Subsequently, at approximately 10:16 a.m., and more than an hour after her conversation with the professor, Carter drove in a campus police car down a library service road that was adjacent to the Brandeis Chapel's Field wood line but on the opposite side of where Eli's body later was found. Carter did not stop her vehicle or get out and walk around. She did not see any individual lying on the ground.

Two hours later, at approximately 11:59 a.m., Eli's mother, Alice Stuart ("Stuart"), telephoned Brandeis campus police. Espada picked up the call. Stuart told Espada that Eli's roommate had contacted her (Stuart) and thought that Eli might have harmed themselves. Stuart relayed to Espada the roommate's comment that Eli had been struggling with their mental health lately.

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<sup>2</sup> In reciting the facts pertinent to the Defendants' Motions, the Court has, as it must, accepted all well-pleaded factual allegations in Plaintiffs' complaint as true and drawn all reasonable inferences in favor of the non-moving parties. *UBS Fin. Servs., Inc. v. Aliberti*, 483 Mass. 396, 405 (2019). The Court also notes that the allegations on which it principally relies do not differ materially between Plaintiffs' Complaint (Dkt. 1, ¶¶ 20-54) and Plaintiffs' proposed First Amended Complaint (Dkt. 19, Ex. A, ¶¶ 20-51).

<sup>3</sup> Consistent with Eli's reported preferences, the Court refers to Eli using gender neutral pronouns – i.e., they/them/their.

Stuart also advised Espada that Eli had sent Stuart some text messages early that morning that, although sweet, were potentially concerning, and that the location tracker on Eli's cell phone was turned off. Finally, Stuart told Espada that Eli had attempted suicide in the past, including one attempt that had resulted in Eli's admission to an intensive care unit.

Espada told Carter about his call with Stuart. Carter was the patrol officer in charge of the day shift on December 5. Neither Espada nor Carter thereafter searched the area where the professor earlier had reported seeing a person lying on the ground. Instead, Espada called the University's Department of Community Living to request any historical data obtainable from Eli's University-issued swipe card. The data showed only that Eli had swiped into their dorm room the previous night (December 4).

At approximately 1:40 p.m., Brandeis campus police began searching for Eli using Eli's cell phone pings. At 4:53 p.m., Brandeis police located Eli's bag and slippers in the approximate vicinity of where the professor had reported seeing a person on the ground. At approximately 5 p.m., Brandeis police requested K-9 assistance from the Waltham police, who in turn contacted the Massachusetts State Police. At 8:00 p.m., a state police trooper discovered Eli's body a few feet from the tree line in a marshy, wooded area near the University's Harlan Chapel.

Subsequent life-saving efforts by emergency medical personnel and emergency room staff at Newton Wellesley Hospital were unsuccessful. Eli was pronounced dead at 10:13 p.m. on December 5. Following an autopsy, the Office of the Chief Medical Examiner determined that the cause of death was drowning and acute intoxication due to the combined effects of various medications.

On October 31, 2024, Plaintiffs filed this wrongful death action (Dkt. 1). In three separate motions (Dkts. 15, 17, 18), each of the Defendants has moved for judgment on the pleadings under Mass. R. Civ. P. 12(c).<sup>4</sup> Defendants contend, principally, that even accepting Plaintiffs' well-pleaded allegations as true, they owed no duty of care to Eli as a matter of law.

## **DISCUSSION**

### **I. Legal Standard**

"A motion for judgment on the pleadings under Mass. R. Civ. P. 12(c) [] is 'actually a motion to dismiss ... [that] argues that the complaint fails to state a claim upon which relief can be granted.'" *Sullivan v. Superintendent, Mass. Corr. Inst., Shirley*, 101 Mass. App. Ct. 766, 775 (2022), quoting *Mullins v. Corcoran*, 488 Mass. 275, 281 (2021); see also *Jarosz v. Palmer*, 436 Mass. 526, 529 (2002).

In ruling on such motions, the Court must assess whether the plaintiff has presented "factual allegations that rise above the level of speculation, and plausibly suggest an entitlement to relief." *Luu v. Fallon Service, Inc.*, 105 Mass. App. Ct. 236, 239 (2025); see also *Curtis v. Herb*

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<sup>4</sup> Kelley also filed a Rule 12(c) motion (Dkt. 16). In light of Plaintiffs' decision to drop Kelley as a defendant, the Court treats that motion as moot.

*Chambers I-95 Inc.*, 458 Mass. 674, 676 (2011); *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008). In making this assessment, the Court accepts all well-pleaded factual allegations in the complaint as true and draws all reasonable inferences from those facts in favor of the non-moving parties. See *UBS Fin. Servs., Inc.*, 483 Mass. at 405.

## II. Duty of Care

To sustain their wrongful death and accompanying negligence claims, Plaintiffs must allege and ultimately establish, *inter alia*, that the Defendants owed Eli a duty of reasonable care, that Defendants breached that duty, and that the breach proximately caused Eli's death and the other injuries for which Plaintiffs seek recovery. See *Jupin v. Kask*, 447 Mass. 141, 146 (2006); see also *GGNSC Admin. Servs., LLC v. Schrader*, 484 Mass. 181, 188 (2020) (elements of wrongful death action based on negligence "mirror those of an ordinary negligence claim").

In their Motions, Defendants take aim at the first element – the existence of a duty of care. Placing particular emphasis on the Supreme Judicial Court's decision in *Nguyen v. Massachusetts Institute of Technology*, 479 Mass. 436 (2018), Defendants contend they owed no such duty to Eli as a matter of law.

*Nguyen* addressed the legal viability of a wrongful death action filed against MIT by a student's father following the suicide of his son. In the portion of the decision on which Defendants most heavily rely, the SJC held that any duty on the part of a university to take reasonable measures to prevent a student's suicide "is limited" and "created only by actual knowledge of a student's suicide attempt that occurred while enrolled at the university or recently before matriculation, or a student's stated plans or intentions to commit suicide." *Nguyen*, 479 Mass. at 457. Citing the absence of any well-pleaded allegations that either Brandeis or the individual defendants possessed such knowledge here, Defendants argue, as a matter of law, that they owed no duty to Eli "to prevent their suicide."

Defendants' argument suffers from one fatal deficiency. Unlike in *Nguyen*, Plaintiffs do not base their claims on an assertion that Defendants had a duty to prevent Eli's suicide. More specifically, Plaintiffs make no claim that Defendants had a duty to anticipate or take preemptive measures to prevent Eli from ingesting the pills they swallowed in the pre-dawn hours of December 5 in an effort to end their life. Rather, citing *Helpman v. Northeastern University*, 485 Mass. 308 (2020), Plaintiffs argue that Defendants' duty arose later that morning, when Carter and Espada learned of facts – at a time when Eli was still alive – that would have led a reasonable person to conclude that a student on campus was in imminent danger of serious physical harm and incapable of seeking help for him- or herself. Plaintiffs assert that at *that* point, possessed of such knowledge, and based on the special relationship a university has with its students, Defendants had a duty to take reasonable measures to protect its student – Eli – from harm, and that it failed to do so.

Based on its review of the well-pleaded allegations in Plaintiffs' complaint, the Court agrees with Plaintiffs' characterization of their claims. The Court further agrees that *Helpman* sets forth the governing legal standard.

As here, the duty articulated in *Helpman* was not a duty on the part of the university to anticipate and take steps to protect its student from the *initial* events that ultimately placed the student at risk – events about which the university had no advance knowledge. In *Helpman*, those events involved the student’s decision to drink a sufficiently substantial quantity of alcohol to become intoxicated. Here, the initial event(s) involved Eli’s decision to ingest medication in an attempt to end their life.

Rather, as the SJC explained in *Helpman*, the duty that arises from the “special relationship” between a university and its students “applies only when a university is already aware that a student is at imminent risk of harm.” *Helpman*, 485 Mass. at 321. At that point, “[e]quipped with such knowledge,” a university must act reasonably under the circumstances. *Id.* Specifically, the university “has a duty to take reasonable measures to protect that student from harm.” *Id.*

*Helpman* contains no language limiting the duty to certain types of harm. In other words, there is nothing in *Helpman* saying that a university’s duty is limited to harm arising from intoxication or harm arising from suicide. Rather, what matters is reasonable foreseeability – specifically, whether the university possesses information that makes it aware a student is at imminent risk. *Id.* at 316 (rejecting university’s contention that the plaintiff’s voluntary choice to drink alcohol negated any duty that might otherwise have arisen from the special relationship that exists between university and student).

Application of the foregoing principles to the well-pleaded facts of Plaintiffs’ complaint leads the Court to conclude it must deny Defendants’ Motions. As alleged, Carter received a call from a Brandeis professor at 9:08 a.m. reporting that there was a person lying on the ground in the woods in the vicinity of the three chapels area of the Brandeis campus. Given the time of day, the month of the year, the on-campus location, and the professor’s report that the person’s hands were moving, the facts – as alleged – were sufficient for a reasonable person to conclude that the individual was quite possibly a student, in apparent distress, and at risk of imminent harm from, at minimum, exposure to the elements if left lying on the ground on a December morning.

In addition, approximately three hours later, Espada received a call from Eli’s mother. As alleged, Espada – who knew by that point of Carter’s earlier call with the professor – learned from the mother (Alice Stuart) that Eli had a history of mental illness, including prior suicide attempts; that Eli had sent the mother some potentially concerning text messages very early that morning; that Eli’s roommate had reported to the mother (also that morning) that Eli was struggling and might have harmed themselves; and that Eli’s cell phone location tracker had been turned off.

Accepting the foregoing allegations as true, and combining the information that Espada had received from Eli’s mother with the information reported by the professor earlier that morning, the Court concludes that Plaintiffs’ complaint alleges a sufficient factual basis to trigger the duty of care set forth in *Helpman*. Specifically, as alleged in the complaint, and in the language of *Helpman*, Brandeis – through campus police officers Carter and Espada – “had actual knowledge of conditions that would lead a reasonable person to conclude that a student on campus was in imminent danger of serious physical harm” and that the student was “incapable

of seeking help for him- or herself.” *Helfman*, 485 Mass. at 321. Possessed of such knowledge, and based on the special relationship that exists between a university and its students, Brandeis had “a duty to take reasonable measures to protect that student from harm.” *Id.*

Undeterred, Defendants advance two further arguments in support of their Motions. First, citing *Irwin v. Town of Ware*, 392 Mass. 745 (1984) and other negligence cases involving municipal police officers, Defendants assert that police neither have a “special relationship” with the general public nor voluntarily assume a duty to members of the general public simply by virtue of their status as public safety officers. Carter Mem. (Dkt. 17.1) at 9. Whatever the accuracy of the foregoing legal assertion, this case does not involve municipal police or the general public. It involves the relationship between a university and its students, which is different.

Second, Defendants argue that Plaintiffs nowhere allege that the professor ever explicitly identified the person on the ground as a *student*. Absent a specific allegation that Carter and Espada knew this fact, and putting aside the later information showing this to be true, Defendants contend that *Helfman* does not support the existence of a duty because *Helfman* requires actual knowledge that the person in imminent danger of serious physical harm is a *student*.

Even if Defendants’ construction of *Helfman* is correct,<sup>5</sup> the Court finds the allegations of Plaintiffs’ complaint sufficient to support a reasonable inference of such knowledge. As already noted, the time of day, the month of year, and the on-campus location were sufficient for a reasonable person in Carter’s and Espada’s positions to conclude that the individual the professor reported seeing on the ground was quite possibly a student.

To the extent the professor’s call was insufficient, however, Plaintiffs’ complaint alleges more. Specifically, in a call placed to Espada – which Espada subsequently relayed to Carter – Eli’s mother provided specific information about a particular student – her child, Eli – that was sufficient to alert the officers there was a student at imminent risk of harm. When viewed in combination with the call from the professor, and drawing all reasonable inferences in favor of the Plaintiffs, as it must, the Court concludes that the foregoing allegations plead a legally sufficient factual basis for the existence of a duty adequate to ground Plaintiffs’ claims against the Defendants.<sup>6</sup>

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<sup>5</sup> Defendants’ interpretation, strictly applied, raises some concerns. What if campus police receive a call reporting that an individual had fallen over a stairway railing during a weekend dorm party and landed on the ground two stories below? Is there no duty absent an express statement *during the call* that the injured person is a student – even if there is reason to believe this is likely and later-acquired information establishes that fact to be true?

<sup>6</sup> The Court notes that the facts as alleged by Plaintiffs in this case are materially stronger than the facts in *Helfman*, which the SJC deemed insufficient to put the university on notice that its student was in peril. *Helfman*, 485 Mass. at 324-25.

### III. Additional Issues

In addition to their principal argument challenging the existence of a duty, Defendants advance a handful of other contentions in support of their Motions. None warrants extensive discussion.

#### A. Loss of Consortium

Citing *Klairmont v. Gainsboro Restaurant, Inc.*, 465 Mass. 165, 182 (2013), Defendants contend that Plaintiffs' complaint improperly asserts several freestanding loss of consortium counts when recovery of such damages may only be sought as part of a claim asserted under the wrongful death statute. *See* Complaint, Dkt. 1, Counts III-VI. Apparently conceding the point, Plaintiffs have revised their complaint to move the consortium damage allegations into the wrongful death count. *See* Dkt. 19, Ex. A, at ¶ 108. The issue is therefore moot.<sup>7</sup>

#### B. Voluntary Assumption

The parties contest whether Plaintiffs' well-pleaded allegations support an additional ground for the existence of a duty – namely, actions by Carter and/or Espada that Plaintiffs claim constituted the voluntary assumption of a duty. Given the Court's ruling that Plaintiffs' allegations are sufficient to plead that a duty arose by virtue of the special relationship between university and student discussed in *Helfman*, the Court need not and does not decide – at this stage of the litigation – whether the facts alleged by Plaintiffs, if ultimately established, are sufficient to prove there was a voluntary assumption of duty as well.

#### C. Breach

On the face of their Rule 12 pleadings, none of the Defendants challenge the sufficiency of Plaintiffs' allegations with respect to the other elements required to plead and prove negligence-based claims – i.e., breach, causation, and injury. Instead, Defendants stake their motions on the argument that they owed no duty of care to Eli at all.

That said, Espada's Rule 12 memoranda contain an extensive discussion of the actions reportedly taken by him after his call with Eli's mother, coupled with a lengthy refutation of any assertion by the Plaintiffs that Espada should have done more. *See* Dkt. 18.1, at 2, 14-19. Espada organizes this discussion under a series of sub-headings in which he disputes that he had any "duty" to do more. *Id.* at 16-18.

Although Espada frames these arguments as turning on the question of duty, the Court thinks it more accurate to view them as contesting Plaintiffs' allegations of breach. Thus, Espada's vigorous challenge to Plaintiffs' assertions that he should have "connected the dots," "co-investigated" the professor's early morning call, or taken steps to log that call, is – at heart – a challenge to Plaintiffs' claim that Espada, in breach of his duty of care, failed to take reasonable measures to protect Eli from harm.

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<sup>7</sup> To the extent Defendants also challenge the ability of Eli's siblings to recover consortium damages, that issue can be addressed through motions in limine at the time of any trial.

As noted above, neither Espada nor any of the other Defendants purport to challenge the sufficiency of Plaintiffs' allegations to plead breach (or causation or injury). Even if the Court were to construe Espada as implicitly making such a challenge, the Court finds it unpersuasive. Plaintiffs' initial complaint and their subsequent amended complaint allege in considerable detail what Carter and Espada did and didn't do in the first four and a half hours that followed receipt of the professor's 9:08 a.m. call – a time when Eli was still alive. Plaintiffs then, through the allegations of their complaint, contrast Carter's and Espada's actions (and inactions) with the multiple investigative efforts that began later, at 1:40 p.m., which included use of cell phone pings, K-9 personnel, an on-foot search of campus grounds, and the ultimate discovery of Eli's body.

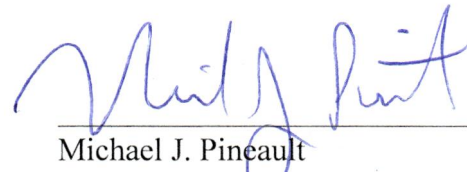
Accepting the foregoing allegations as true, and drawing all reasonable inferences in Plaintiffs' favor, the Court finds the allegations more than sufficient to plead breach, causation, and harm. The Court further finds the allegations sufficient to plead that the breach was willful, wanton, or reckless. *See Boyd v. Nat'l R.R. Passenger Corp.*, 446 Mass. 540, 546-48 (2006) (summarizing legal standards).

For all of the foregoing reasons, the Court **DENIES** Defendants' Motions.

### **CONCLUSION AND ORDER**

For the reasons set forth above, the Court **DENIES** the motions of Brandeis University, Kimberly Carter, and Thomas Espada for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c).

**SO ORDERED.**



Michael J. Pineault  
Associate Justice of the Superior Court

Dated: March 24, 2026