

1 Julian Hammond (SBN. 268489)  
2 jhammond@hammondlawpc.com  
3 Polina Pecherskaya (SBN 269086)  
4 ppecherskaya@hammondlawpc.com  
5 Ari Cherniak (SBN 290071)  
6 acherniak@hammondlawpc.com  
7 HammondLaw, P.C.  
8 1829 Reisterstown Rd, Suite 410  
9 Baltimore, MD 21208  
10 Telephone: (310) 601-6766  
11 Facsimile: (310) 295-2385

12 *Attorneys for Plaintiffs Alex Rayter*  
13 *and Ryan Herendeen*

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 **ALEX RAYTER and RYAN**  
18 **HERENDEEN**, individually and on behalf  
19 of all others similarly situated,

20 **Plaintiffs,**

21 **v.**

22 **DEVRY EDUCATION GROUP INC.**,  
23 formerly known as DeVry, Inc., a  
24 corporation; **DEVRY UNIVERSITY,**  
25 **INC.**, a corporation,

26 **Defendants.**

**CASE NO. 3:16-cv-507**

**PLAINTIFFS' CLASS ACTION  
COMPLAINT FOR INJUNCTIVE AND  
EQUITABLE RELIEF**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Alex Rayter and Ryan Herendeen (“Plaintiffs”), on behalf of themselves and all  
2 others similarly situated respectfully alleges the following, except as to their own actions, upon  
3 information and belief of the investigation of their counsel and the facts that are a matter of  
4 public record:

5 **I. NATURE OF ACTION**

6 1. This is as a class action brought on behalf of a class (the “Class”) consisting of all  
7 persons enrolled in and/or attended classes at one of DeVry University’s five colleges and/or  
8 Keller Graduate School of Management and/or online programs – during four years prior to the  
9 filing of the Complaint (the “Class Period”). This class action is also brought on behalf of a  
10 California Subclass, consisting of all Class Members who are residents of California (“California  
11 Subclass” or “Subclass”).

12 **II. SUMMARY OF THE ACTION**

13 2. Defendants (“Defendants” or “DeVry”) operate DeVry University, Inc. (“DVU”),  
14 which offers online and on-campus classes to more than 40,000 students at about 55 campuses  
15 throughout the country.

16 3. As demonstrated below, throughout the Class Period DeVry has engaged in a  
17 pattern of improper and illegal behavior in an effort to recruit students. In particular, DeVry has  
18 subjected Plaintiffs and all members of the Class to uniform misleading recruitment tactics in  
19 form of misleading advertisements regarding students’ post-graduation job prospects,  
20 employability and earnings potential.

21 4. DeVry advertises on television, radio, online, in print and other media that 90  
22 percent of its graduates who actively seek employment become employed in their field of study  
23 within six months of graduation and that their income one year after graduation is 15 percent  
24 higher on average than graduates of all other colleges or universities.

25 5. The 90 percent figure of graduates “employed in their field of study”, however,  
26 includes an MBA graduate with a specialization in health services management working as a  
27 server in a restaurant and other graduates whose work was listed as unpaid volunteer positions.  
28

1       6.       Students rely on these misrepresentations when deciding to enroll because they  
 2 are led to believe that they will receive graduate with a degree that qualifies them for high paying  
 3 employment in their chosen professional. As demonstrated below however, students graduate  
 4 with a degree that does not qualify them for any job placement other than low-wage, low-skill  
 5 employment.

6       7.       DeVry continues to make these misrepresentations after students enroll, by falsely  
 7 and misleadingly reassuring students that they are receiving a high quality education and that the  
 8 degrees the enrolled students will receive will greatly benefit them in seeking and obtaining  
 9 high-wage employment in their chosen profession.

10       8.       DeVry systematically makes these misrepresentations to prospective and enrolled  
 11 students for one reason only: to recruit and enroll as many students as possible, regardless of the  
 12 students' stated academic and career objectives, or the best interests of the students. DeVry's  
 13 wrongdoing result in irreparable harm to the Class because students invest in DeVry's higher  
 14 education programs as a means to high-qualify careers only to find out upon graduation that the  
 15 promised career success was false.

## 16   **II.       JURISDICTION AND VENUE**

17       9.       Jurisdiction is conferred pursuant to 28 U.S.C. Section 1332(d)(2)(A), because  
 18 this is a class action in which minimal diversity exists and the amount in controversy exceeds the  
 19 sum or value of \$5,000,000, exclusive of interest and costs.

20       10.      Venue is properly in this district pursuant to 28 U.S.C. § 1391(b)(2) and (c)(2).

## 21   **IV.       THE PARTIES**

22       11.      Plaintiff Alex Rayter is a California resident. Plaintiff Rayter enrolled in a  
 23 Bachelor's of Science in Technical Management degree program offered by DVU at its Fremont,  
 24 California campus after seeing an DVU advertisement promising career success and post-  
 25 graduation employment in the chosen field of study. Plaintiff attended the program from about  
 26 2012 to 2015. Plaintiff has also studied at DeVry's San Francisco campus.

27       12.      Plaintiff Ryan Herendeen is a California resident. Plaintiff Herendeen enrolled in  
 28 a Bachelor's of Science in Technical Management degree program offered by DVU after seeing

1 a DVU advertisement promising career success and post-graduation employment in the chosen  
2 field of study. Plaintiff Herendeen has studied at DeVry's Folsom, Elk Grove, and Oakland,  
3 California campuses from about 2014 until about 2015.

4 13. Defendant DeVry Education Group Inc., formerly known as DeVry Inc., is a  
5 publicly traded Delaware corporation with its principal place of business at 3005 Highland  
6 Parkway, Downers Grove, Illinois. DEG transacts or has transacted business in this district, as  
7 well as throughout the United States. At all relevant time, DEG dominated or controlled the acts  
8 and practices of DeVry University, Inc. (collectively "Defendants" or "DeVry") described  
9 below, benefited from those acts or practices and knew or approved of those acts or practices.

10 14. Defendant DeVry University, Inc. (DVU), a Delaware corporation, is a subsidiary  
11 of DEG with its principal place of business at 3005 Highland Parkway, Downers Grove, Illinois.  
12 DVU transacts or has transacted business in this district and throughout the United States. At all  
13 relevant time, DVU, acting alone or in concert with others, has advertised, marketed, distributed,  
14 or sold educational products and services to consumers throughout the United States.

#### 15 **V. CLASS ACTION ALLEGATIONS**

16 15. Plaintiffs bring this action both on behalf of themselves and as a class action  
17 under F.R.C.P. 23(a) and 23(b) on behalf of a Class and California Subclass as set forth in ¶ 1  
18 above.

19 16. Plaintiffs do not know the exact number of Class or Subclass members because  
20 such information is in the exclusive control of Defendants. Upon information and belief,  
21 Plaintiffs believe that there are tens of thousands of Class members, dispersed throughout the  
22 country, and thousands of Subclass Members dispersed throughout California, such that joinder  
23 of all Class members is impracticable.

24 17. Plaintiffs' claims are typical of the claims of the Class and Subclass in that:

25 a. Plaintiffs were enrolled in the Bachelor's of Science in Technical Management  
26 degree program offered by DVU and attended classes at DVU's California campuses during the  
27 Class Period;

28 b. Plaintiffs were induced to enroll in this program by uniform written

1 misrepresentations published by DeVry, uniform oral misrepresentations made by DeVry  
2 enrollment advisors, and through DeVry's material omissions;

3 c. Plaintiffs and all Class and Subclass members were damaged by the same  
4 wrongful conduct of Defendants as alleged herein; and

5 d. The relief sought is common to the Class and to the Subclass.

6 18. Numerous questions of law or fact arise from Defendants' unfair and deceptive  
7 conduct that is common to the Class and the Subclass. Among the questions of law or fact  
8 common to the Class are:

9 a. Whether Defendants misrepresented material information about students'  
10 prospects to Plaintiffs and the Class;

11 b. Whether Plaintiffs and the Class and Subclass were recruited by Defendants to  
12 attend one of DeVry's academic institutions;

13 c. Whether Plaintiffs and the Class and Subclass enrolled in and/or attended online  
14 classes offered by DeVry's academic institutions;

15 d. Whether Defendant engaged in unfair and/or unlawful business practices during  
16 the  
17 Class Period;

18 e. Whether Defendant engaged in unfair and/or unlawful deceptive marketing  
19 practices, including false advertising, during the Class Period;

20 f. Whether Defendant violated the laws the violation of which is alleged herein;

21 g. Whether Class-wide damages, declaratory and/or injunctive relief is appropriate  
22 and, if so, the proper means of measure of the damages, declaratory and/or injunctive relief.

23 19. These questions of law or fact are common to the Class and predominate over any  
24 other questions affecting only individual Class and Subclass members.

25 20. Plaintiffs will fairly and adequately represent the interests of the Class and  
26 Subclass in that:

27 a. Plaintiffs are typical former students of one of the programs offered by  
28 Defendants;

1           b. Plaintiffs were induced to enroll in the program offered by Defendants through  
2           deceptive marketing and/or unfair business practices; and

3           c. Plaintiffs will fairly and adequately represent the interests of the Class. Plaintiffs  
4           have no conflict with any other member of the Class and has no conflict with any  
5           other member of the Subclass.

6           21. Plaintiffs have retained competent and experienced counsel in complex class  
7           action litigation. Plaintiffs' counsel has the expertise and financial resources to adequately  
8           represent the interests of the Class and Subclass.

9           22. Class action treatment is superior to any alternative to ensure the fair and efficient  
10          adjudication of the controversy alleged herein. Such treatment will permit a large number of  
11          similarly situated persons to prosecute their common claims in a single forum simultaneously,  
12          efficiently, and without duplication of effort and expense that numerous individuals would entail.  
13          No difficulties are likely to be encountered in the management of this class action that would  
14          preclude its maintenance as a class action, and no superior alternative exists for the fair and  
15          efficient adjudication of this controversy. The Class and Subclass members are readily  
16          identifiable from Defendants' records.

17          23. Defendants' actions are generally applicable to the entire Class. Prosecution of  
18          separate actions by individual members of the Class creates the risk of inconsistent or varying  
19          adjudications of the issues presented herein, which, in turn, would establish incompatible  
20          standards of conduct for Defendants.

21          24. Because joinder of all members is impractical, a class action is superior to other  
22          available methods for the fair and efficient adjudication of this controversy. Furthermore, the  
23          amounts at stake for many members of the Class and Subclass, while substantial, may not be  
24          sufficient to enable them to maintain separate suits against Defendants.

25          25. Injunctive relief is appropriate as to the Class as a whole because Defendants have  
26          acted or refused to act on grounds generally applicable to the Class.

27          26. Plaintiffs reserve the right to expand, modify, or alter the Class and Subclass  
28          definition.

## VI. FACTUAL ALLEGATIONS

### *Background*

27. DeVry operates DVU, a private, for-profit postsecondary educational institution, which currently has more than 55 campuses throughout the United States, and at times has had as many as 96 campuses. DVU also offers online classes and degree programs. DVU's predecessor, DeVry Institute of Technology, began offering bachelor's degrees in 1970. DVU comprises five colleges, as well as a graduate school of business and offers more than ten majors and 40 specializations.

28. Annual new-student enrollment between 2008 and 2014 ranged from approximately 29,000 to 49,000. Since 1975, more than 870,000 students have enrolled at DVU, and approximately 278,000 undergraduate students have obtained degrees from DVU.

29. DVU tuition is \$609 for each credit hour for new students and \$365 for each credit hour in excess of seven credit hours for continuing students. According to DEG's 2015 10-K filing with the Securities and Exchange Commission, based upon current tuition rates, a full-time student enrolled in the five-term undergraduate network systems administration associate degree program will pay total tuition of \$39,585 and a full-time student enrolled in the eight-term undergraduate business administration program will pay total tuition of \$75,516. Most DVU students do not attend full-time, and the total cost for a part-time student is higher than the cost for a full-time student.

30. DEG's total gross revenues between 2008 and mid-2015 exceeded \$14.5 billion. DVU's gross revenues between 2008 and mid-2015 exceeded \$8.6 billion.

31. In each fiscal year between and including 2011 and 2014, DVU spent over \$135 million on the advertising, marketing, or other promotion of DVU's educational products and services.

### *DeVry's False Advertisements*

32. Defendants have made deceptive and misleading representations about the benefits of obtaining a degree from DVU through the use of English and Spanish-language advertisements and other marketing materials.

1           33.     Defendant have made such misrepresentations to induce prospective students to  
2 purchase DVU's educational products and services.

3           34.     Defendants have advertised and promoted DVU's degree programs through  
4 television commercials, DVU's website, YouTube advertisements, radio spots, brochures, print  
5 advertisements, Facebook, Twitter, sales pitches with prospective students, and other advertising  
6 and promotional materials. DeVry's target audience includes, but is not limited to, high-school  
7 students and current and former members of the military.

8           35.     One of the messages of Defendants' advertisements and recruitment efforts is that  
9 obtaining a degree from DVU is highly likely to result in obtaining a desirable job soon after  
10 graduating—a well-paying, career-oriented job in the student's chosen field of study.

11           36.     Among other methods, Defendants convey this message by representing that, as a  
12 result of obtaining a DVU degree, 90% of DVU graduates who were actively seeking  
13 employment landed or obtained new jobs in their field of study within six months of graduation.  
14 In some instances when Defendants make this representation, they claim this statistic applies to  
15 DVU graduates from a recent year, while in other instances, Defendants claim this statistic  
16 applies to all graduates since 1975, or "for more than 30 years." In its advertising and in its  
17 presentations to prospective students, Defendants present this 90% "employment rate" as  
18 evidence of the likelihood that obtaining a DeVry degree leads to finding a job. While  
19 Defendants' advertisements and sales pitches most commonly express DVU's employment rate  
20 for recent graduates as exactly 90%, in some instances, during certain limited time periods,  
21 Defendants have stated a percentage that is slightly less or more than 90% (e.g., 87% or 92%).  
22 As explained below, these representations are false and unsubstantiated.

23           37.     Defendants also have conveyed the message that DVU graduates obtain desirable  
24 jobs by representing that DVU graduates obtain jobs that pay significantly more than jobs that  
25 graduates of other colleges and universities obtain. For example, Defendants have represented  
26 that, one year after graduation, DVU graduates with bachelor's degrees earned 15% more than  
27 graduates with bachelor's degrees from all other colleges and universities.

28



1           38.     Since at least 2008, Defendants have widely disseminated other advertisements  
2 containing the same or substantially similar statements and depictions to induce prospective  
3 students to purchase DVU's products and services.

4           39.     DVU's websites also represents itself as being committed to preparing students  
5 for their chosen career paths; promises employment in the student's field of study; touts itself as  
6 providing high quality world-class education; and prepare students for successful job placement.

7           40.     When settling disputes with DVU students or graduates, Defendants have  
8 frequently required the settlement agreement to include a "non-disparagement clause," which  
9 prohibits the student or graduate from, e.g., indirectly or directly saying, writing, or doing  
10 anything that would disparage, reflect negatively upon, or otherwise call into question  
11 Defendants' business operations, products, services, integrity, reputation, or business relations,  
12 except as may be required by law.

13           ***Defendants' 90% Claim Is Not Reasonably Substantiated***

14           41.     To substantiate their 90% claims, Defendants have relied upon files maintained by  
15 DVU's Career Services department, which consists of information DVU obtained from students  
16 and graduates, information its Career Services department maintained concerning  
17 communications with students and graduates, related information obtained by Career Service  
18 department personnel, and analysis that DVU's staff conducted of those files. These records  
19 contain information about the students' majors, graduation dates, their employment, and DVU's  
20 classifications of their employment status. Defendants used these records to calculate the 90%  
21 figure that they use in their advertisements and sales pitches.

22           42.     These student records, however, do not provide a reasonable basis that  
23 substantiates Defendants' 90% claims. Among other reasons, when calculating the 90% claims,  
24 Defendants count a substantial number of DVU graduates who should not be counted and  
25 similarly exclude a substantial number of DVU graduates who should not be excluded. For  
26 example, Defendants count graduates who did not obtain a job as a result of obtaining a degree  
27 from DVU. In fact, Defendants include the substantial percentage of DVU graduates who, after  
28 graduation, continued with the same job they had when they enrolled in DVU. Defendants also

1 count graduates who did not obtain jobs in their field of study. A significant percentage of the  
2 jobs that Defendants count as being in the graduate's field of study include jobs that employers,  
3 industry experts, graduates, and consumers would not reasonably consider to be in the graduate's  
4 field of study. Several examples of graduates from DVU's class of 2012 who did not believe  
5 they were employed in their field of study but whom Defendants nonetheless classified as "in  
6 field" include (but are not limited to):

- 7 a. graduates with degrees in technical management who were working as: a rural  
8 mail carrier (human resources specialization);
- 9 b. a yard salesman at a nursery (business information systems specialization); a  
10 sales associate at Macy's (general technical specialization);
- 11 c. a driver delivering rain gutters for a construction services company;
- 12 d. a data entry specialist for a radio station (human resources specialization); and  
13 unpaid volunteers at medical centers (human resources management and health  
14 services management specializations);
- 15 e. a graduate with a degree in business administration (health services management  
16 specialization) working as a server at the Cheesecake Factory;
- 17 f. a graduate with a degree in business administration (health care management  
18 specialization) working as a car salesman;
- 19 g. a graduate with a degree in business administration (accounting specialization)  
20 working as a secretary at a prison;
- 21 h. graduates with various degrees working as customer service representatives.

22 43. Defendants also exclude certain students from the calculation who in fact were  
23 actively seeking employment. For example, in June 2013, Defendants excluded one 2012  
24 graduate who, prior to being classified as inactive: viewed 177 jobs leads in DVU's jobs  
25 database; had at least six job interviews in the previous two months (including two interviews  
26 eleven days before DVU classified him as inactive); sent an email to DVU's Career Services  
27 department, two weeks before being classified as inactive, in which he stated that he "wanted to  
28 let you know I've been getting more response now that I am much more actively applying to

1 positions,” and that he “had two face to face interviews a while back and now 2 Skype  
2 interviews”; attended a DVU “Career Fair” the following day; and then sent the Career Services  
3 department an email informing them that, after attending the career fair, he sent three thank you  
4 notes to companies whose representatives he had spoken to at the fair.

5 44. The actual percentage of DVU graduates who, at or near the time they graduated,  
6 found jobs that could be reasonably considered “in their field” is significantly smaller than 90%.

7 ***Defendant’s Higher Salary Claim is Not Reasonably Substantiated***

8 45. To substantiate Defendants’ higher-income claim, Defendants have relied upon a  
9 report and summary information that Defendants received from a third-party company in 2012.  
10 This income report, relating to income data the company had received from people who had  
11 graduated from DVU and other schools in 2010, does not provide a reasonable basis to  
12 substantiate Defendants’ higher-income claim. Among other reasons, the income report is  
13 insufficient because DVU had good cause to question, and did question, the reliability of the  
14 conclusions and information contained in the income report.

15 46. The sampling methods and methodology of the survey that underlay the income  
16 report all gave or should have given Defendants reason to question the reliability of the  
17 conclusions and information contained in the report. In fact, DVU personnel expressed concerns  
18 over whether the data sufficiently supported the higher-income claim. Among other problems,  
19 the comparison of the incomes of DVU graduates with incomes of graduates from other schools  
20 did not account or adjust for significant salary drivers such as age, experience, and degree field.  
21 In addition, statistics that DVU had directly collected from thousands of its graduates each year  
22 about their incomes differed significantly from the third party’s statistics, which consisted of  
23 information from only several hundred individuals per graduation year.

24 47. Defendants not only had extensive information in their own files about the income  
25 of DVU graduates, but they also had ready access to publicly available data reflecting the  
26 incomes of graduates of schools throughout the United States, by school and by field. Comparing  
27 the information in Defendants’ own files with publicly available income data shows that DVU  
28 graduates a year after graduating do not in fact earn significantly more than graduates from all

1 other schools combined, casting doubt on Defendants' higher-income claim. Defendants'  
2 reliance on the third-party data for its higher-income claim was therefore unreasonable.

3 **FIRST CAUSE OF ACTION**  
4 ***Breach of Implied Contract***  
5 ***(On behalf of the Class)***

6 48. Plaintiffs re-allege and incorporate by reference each and every allegation set  
7 forth in the preceding paragraphs.

8 49. Plaintiffs, members of the Class and Defendants entered into implied contracts  
9 based upon numerous promises of performance made by Defendants. Specifically, Defendants  
10 misrepresented to Plaintiffs and the Class that they would deliver the following benefits:

- 11 a. Provide a high quality world-class education;
- 12 b. Prepare students for successful job placement in their chosen field of study;
- 13 c. Provide students the opportunity to earn higher salaries in their chosen  
14 professions than any graduates of any other school.

15 50. In reliance on these misrepresentations, and as consideration for performance of  
16 these promises by Defendants, Plaintiffs and the Class enrolled as students at the programs  
17 offered by DVU, and paid the tuition rates quoted to them by Defendants for their degree  
18 programs.

19 51. Plaintiffs and members of the Class complied with all their obligations under the  
20 implied contracts.

21 52. Plaintiffs and members of the Class have been deprived of the benefits of their  
22 agreements with Defendants.

23 53. Defendants breached their implied contracts with Plaintiffs and members of the  
24 Class by failing to deliver the benefits promised.

25 54. As a result of Defendants' breach of implied contract, Plaintiffs and members of  
26 the Class have suffered damages.

27 55. Defendants are accordingly liable to Plaintiffs and members of the Class for  
28 breach of implied contract.

**SECOND CAUSE OF ACTION**

***Breach of the Implied Covenant of Good Faith and Fair Dealing  
(On behalf of the Class)***

1  
2  
3 56. Plaintiffs re-allege and incorporate by reference each and every allegation set  
4 forth in the preceding paragraphs.

5 57. There is a covenant of good faith and fair dealing implied in every contract. This  
6 implied covenant requires each contracting party to refrain from doing anything to injure the  
7 right of the other to receive the benefits of the agreement.

8 58. Defendants breached the implied covenant of good faith and fair dealing in their  
9 contracts with Plaintiffs and the Class by taking steps to interfere with the ability of the Class to  
10 receive the benefits of the education promised by Defendants.

11 59. As a result of Defendants' breach of the implied covenant of good faith and fair  
12 dealing, Plaintiffs and members of the Class have been damaged.

13 60. Defendants are accordingly liable to Plaintiffs and members of the Class for  
14 breach of the implied covenant of good faith and fair dealing. Plaintiffs seek actual damages and  
15 an injunction ordering Defendants to comply with the obligations of the contracts entered into by  
16 the Class and Defendants, and to refrain from taking any action to interfere with the Class's right  
17 to receive contractual benefits.

18 **THIRD CAUSE OF ACTION**

19 ***Violation of Cal. Bus. & Prof. Code § 17200, et seq.  
(On behalf of the California Subclass)***

20 61. Plaintiffs re-allege and incorporate by reference each and every allegation set  
21 forth in the preceding paragraphs.

22 62. The Unfair Trade Practices Act defines unfair competition to include any "unfair"  
23 or "unlawful" business act or practice. Bus. & Prof. Code § 17200. Unfair competition also  
24 includes "unfair, deceptive, untrue or misleading advertising." *Id.* The Act also provides for  
25 injunctive relief and restitution for violations. *Id.* § 17203.

26 63. This cause of action is brought on behalf of Plaintiffs, members of the California  
27 Subclass and members of the general public pursuant to California Business & Professions Code  
28 17200 *et seq.* Under Bus. & Prof. Code 17200 *et seq.*, Plaintiffs are entitled to enjoin

1 Defendants' wrongful conduct and to obtain restitution for the monies paid to Defendants by  
2 reason of Defendants' unlawful, unfair, and/or deceptive acts and practices.

3 64. As a direct and proximate result of the acts and practices alleged above, members  
4 of the Class and the general public who enrolled in and/or attended classes at DVU programs  
5 have been injured. This Court is empowered to, and should, order restitution to all persons from  
6 whom Defendants unfairly and/or unlawfully took money.

7 65. Defendants violated Bus. & Prof. Code 17200 *et seq.* because they breached their  
8 contracts with Plaintiffs and the Subclass, breached the implied covenant of good faith and fair  
9 dealing, violated the Consumer Legal Remedies Act, violated Bus. & Prof. Code 17500 *et seq.*

10 66. Defendants further violated Bus. & Prof. Code 17200 *et seq.* because they  
11 violated numerous provisions of the California Private Postsecondary Education Act of 2009.  
12 Under this Act, private postsecondary institutions may not:

- 13 a. Promise or guarantee employment, or otherwise overstate the availability of jobs  
14 upon graduation (§ 94897(b)); and  
15 b. Advertise concerning job availability, degree of skill, or length of time required to  
16 learn a trade or skill unless the information is accurate and not misleading (§  
17 94897(c)).

18 67. Defendants violated each of these provisions by virtue of their deceptive,  
19 misleading and unfair business practices complained of herein.

20 68. Defendants' unlawful and unfair business acts and practices, as described above,  
21 present a continuing threat to members of the Subclass and of the general public, in that  
22 Defendants are continuing, and will continue, unless enjoined, to commit violations of Bus. &  
23 Prof. Code § 17200.

24 69. This Court is empowered to, and should, grant restitution to the Subclass as well  
25 as preliminary and permanent injunctive relief against Defendants' acts and practices.  
26  
27  
28

**FOURTH CAUSE OF ACTION**

***Violation of Cal. Bus. & Prof. Code § 17500 et seq.  
(On behalf of the California Subclass)***

1  
2  
3 70. Plaintiffs re-allege and incorporate by reference each and every allegation set  
4 forth in the preceding paragraphs.

5 71. The False Advertising Act makes it is unlawful to “make or disseminate or cause  
6 to be made or disseminated before the public [a statement] which is untrue or misleading, and  
7 which is known, or which by the exercise of reasonable care should be known, to be untrue or  
8 misleading” with the intent to “induce the public to enter into any obligation relating thereto.”  
9 Such statements include statements made through “any advertising device, including “over the  
10 Internet.” Bus. & Prof. Code § 17500.

11 72. This cause of action is brought on behalf of Plaintiffs and the California Subclass  
12 under Bus. & Prof. Code § 17500 *et seq.* Under Bus. & Prof. Code § 17500 *et seq.*, Plaintiffs are  
13 entitled to enjoin Defendants’ wrongful practices by reason of Defendants’ unlawful, unfair,  
14 and/or deceptive acts and practices.

15 73. Defendants violated Bus. & Prof. Code § 17500 *et seq.* by making or  
16 disseminating or causing to be made or disseminated false and misleading statements on  
17 television, radio, online, including their website, in print, and other media regarding students’  
18 post-graduation job prospects, employability and earnings potential. These false and misleading  
19 statements were made with the intent to induce the general public, including Plaintiffs and the  
20 Subclass, to enroll in Defendants’ programs.

21 74. Plaintiffs and the Subclass did in fact rely on these false and misleading  
22 statements when deciding to enroll in Defendants’ online certificate and degree programs. As a  
23 direct and proximate result of the acts and practices alleged above, members of the Subclass and  
24 the general public who enrolled in and/or attended classes at any of the DVU programs have  
25 been injured.

26 75. Defendants’ unlawful and false and misleading advertising, as described above,  
27 presents a continuing threat to members of the Subclass and the general public, in that  
28 Defendants are continuing, and will continue, unless enjoined, to commit violations of Bus. &

1 Prof. Code § 17500 *et seq.* This Court is empowered to, and should, grant preliminary and  
2 permanent injunctive relief against such acts and practices.

3 **FIFTH CAUSE OF ACTION**  
4 ***Violation of Cal. Civil Code § 1750 et seq.***  
5 ***(On behalf of the California Subclass)***

6 76. Plaintiffs re-allege and incorporate by reference each and every allegation set  
7 forth in the preceding paragraphs.

8 77. This cause of action is brought on behalf of Plaintiffs and the California Subclass  
9 under California Civil Code § 1750 *et seq.* (“Consumer Legal Remedies Act”). Under California  
10 Civil Code 1750 *et seq.*, Plaintiffs are entitled to enjoin Defendants’ wrongful practices by  
11 reason of Defendants’ unlawful, unfair, and/or deceptive acts and practices.

12 78. The Consumer Legal Remedies Act prohibits unfair methods of competition and  
13 unfair or deceptive acts or practices undertaken by any person in a transaction intended to result  
14 or which results in the sale of goods and services.

15 79. Defendant violated the Consumer Legal Remedies Act by misrepresenting to  
16 Plaintiffs and members of the Subclass the students’ post-graduation employability, job  
17 placement prospects and earning potential.

18 80. Defendants’ unlawful and unfair business acts and practices, and unfair,  
19 deceptive, untrue, and misleading advertising, as described above, present a continuing threat to  
20 Plaintiffs, members of the Subclass and members of the general public, in that Defendants  
21 continue to mislead prospective students into enrolling in programs offered by DVU in violation  
22 of the Consumer Legal Remedies Act. This Court is empowered to, and should, grant  
23 preliminary and permanent injunctive relief against such acts and practices.

24 81. By reason of the above-described violations of the Consumer Legal Remedies  
25 Act, Plaintiffs seek an injunction barring Defendants’ illegal and unfair business practices.

26 **SIXTH CAUSE OF ACTION**  
27 ***Negligent Misrepresentation***  
28 ***(On behalf of the Class)***

82. Plaintiffs re-allege and incorporate by reference each and every allegation set  
forth in the preceding paragraphs.



83. Defendants made uniform and identical material written representations regarding students' post-graduation job prospects, employability and earnings potential and omitted to disclose the material facts alleged herein. When Defendants made these representations and omissions, they had no reasonable grounds for believing them to be true. Nonetheless, Defendants made these material representations and omissions in order to induce Plaintiffs and the Class to act in reliance on these representations and to enroll at DVU, or with the expectation that they would so act. Plaintiffs and each member of the Class relied on these negligent representations before enrolling at one of DVU's programs and relied on these misrepresentations in deciding to so enroll.

84. At the time Defendants made the misrepresentations discussed above, Plaintiffs and the members of the Class were ignorant of the true facts. Had they known the true facts, Plaintiffs and the members of the Class would not have enrolled in DVU's program(s).

85. As a proximate result of Defendants' negligent conduct, Plaintiffs and members of the Class have been damaged in an amount in excess of this Court's jurisdiction, the exact amount to be proven at trial.

#### VII. JURY DEMAND

86. Plaintiffs hereby demand trial by jury of his and the Class's and Subclass's claims against Defendants.

#### VIII. PRAYER FOR RELIEF

**Wherefore**, Plaintiffs, on behalf of themselves and the members of the Class and Subclass, pray for judgment against Defendants as follows:

A. A declaration that this action is a proper class action under Federal Rule of Civil Procedure 23 on behalf of the Class as defined herein, and an order directing that reasonable notice of this action be given to each member of the Class;

B. A declaration that Defendants' conduct alleged herein constitutes a breach of contract, breach of the implied covenant of good faith and fair dealing, a violation of Bus. & Prof. Code §§ 17200 and 17500, a violation of the California Private Postsecondary Education Act of 2009, a violation of the Consumer Legal Remedies Act, and negligent misrepresentation;

1 C. An injunction enjoining, preliminarily and permanently, Defendants from  
2 continuing the unlawful conduct alleged herein;

3 D. For restitution to Plaintiffs and each member of the Class, as his or her interest  
4 may appear, of all sums unlawfully collected by Defendants from the Plaintiffs and other  
5 members of the Class during the Class Period;

6 E. For disgorgement of all profits obtained by Defendants as a result of their unfair  
7 business practices;

8 F. For an award of punitive damages sufficient to make an example of Defendants;

9 G. An award for Plaintiffs and the Class for the costs of this suit (including expert  
10 fees), and reasonable attorneys' fees, as provided by law; and.

11 H. An award for such other relief as the nature of this case may require or as this  
12 Court deems proper.

13  
14 Dated: January 29, 2016

Respectfully submitted,

15  
16 s/ Julian Hammond  
17 JULIAN HAMMOND (SBN 268489)  
18 hammond.julian@gmail.com  
19 POLINA PECHERSKAYA  
20 ppecherskaya@hammondlawpc.com  
21 ARI CHERNIAK (SBN 290071)  
22 ari.cherniak@gmail.com  
23 HAMMONDLAW, P.C.  
24 1180 S. Beverly Drive, Suite 610  
25 Los Angeles, CA 90035  
26 (310) 601-6766  
27 (310) 295-2385 (Fax)

Attorneys for Plaintiffs and Putative Class

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ALEX RAYTER and RYAN HERENDEEN, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff San Mateo County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

HammondLaw, P.C., 1829 Reisterstown Rd., Suite 410, Baltimore, MD, 21208; 310-601-6766

DEFENDANTS

DEVRY EDUCATION GROUP, INC., a corporation and DEVRY UNIVERSITY, INC., a corporation

County of Residence of First Listed Defendant DuPage County, IL (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes categories like Citizen of This State, Citizen of Another State, and Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with multiple columns for categories of suits: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, and OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1332(d)

Brief description of cause: Breach of Contract; Breach of Implied Covenant; UCL violations; CLRA violations; Negligent misrepresentation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 01/29/2016 SIGNATURE OF ATTORNEY OF RECORD s/ Julian Hammond

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE