

1 David C. Hawkes (SBN 224241)
2 BLANCHARD KRASNER & FRENCH
3 800 Silverado Street, Second Floor
4 La Jolla, CA 92037
5 Telephone (858) 551-2440
6 Facsimile (858) 551-2434

7 Attorneys for Plaintiffs

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
12/21/2018 at 01:54:27 PM
Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11
12 CHRISTOPHER DAVIS, CHARLES GOMEZ,) **CASE NO.:** 37-2018-00064832-CU-FR-CTL
13 DAVID VASQUEZ, DAVID PALUSZKA,)
14 JEREMY BRIDGES, KEVIN BOWERSOX,) **COMPLAINT FOR DAMAGES,**
15 EMMANUEL DOMINGUEZ LOPEZ,) **INJUNCTIVE RELIEF, RESTITUTION &**
16 AUSTIN SNOW, SHAWN JOSEPH,) **DISGORGEMENT OF PROFITS:**
17 ELIZABETH BLOXHAM, BRIAN SIMPSON,)
18 DARREN SCOTT, ADAM SMITH, KEVIN) **1. FRAUD;**
19 POORBAUGH, TYSON VOIGTLANDER,) **2. NEGLIGENT MISREPRESENTATION;**
20 STEPHEN SUCH, FRANCISCO LOPEZ,) **3. BREACH OF CONTRACT;**
21 JIMMIE SMITH, SEAN DAUGHERTY,) **4. UNLAWFUL AND UNFAIR BUSINESS**
22 JOHNELLE ROBERSON, AARON UPP,) **PRACTICES (BUSINESS &**
23 JONATHAN CRISOSTOMO, KEN) **PROFESSIONS CODE § 17200 ET**
24 CARPENTER, MATTHEW GUTIERREZ,) **SEQ.).**
25 MATTHEW LIBERATORE, THOMAS)
26 MAURER, and ERIC EPPERSON, on behalf of)
27 themselves and on behalf of the general public,)
28 Plaintiffs,)
v.)
COLEMAN UNIVERSITY, a California)
Corporation; and DOES 1 through 50, inclusive,)
Defendants.)

1 COME NOW Plaintiffs CHRISTOPHER DAVIS, CHARLES GOMEZ, DAVID
2 VASQUEZ, DAVID PALUSZKA, JEREMY BRIDGES, KEVIN BOWERSOX, EMMANUEL
3 DOMINGUEZ LOPEZ, AUSTIN SNOW, SHAWN JOSEPH, ELIZABETH BLOXHAM, BRIAN
4 SIMPSON, DARREN SCOTT, ADAM SMITH, KEVIN POORBAUGH, TYSON
5 VOIGTLANDER, STEPHEN SUCH, FRANCISCO LOPEZ, JIMMIE SMITH, SEAN
6 DAUGHERTY, JOHNELLE ROBERSON, AARON UPP, JONATHAN CRISOSTOMO, KEN
7 CARPENTER, MATTHEW GUTIERREZ, MATTHEW LIBERATORE, THOMAS MAURER and
8 ERIC EPPERSON, individuals, on behalf of themselves and on behalf of the general public, and
9 bring this action against Defendant Coleman University and Does 1 through 50. Plaintiffs are
10 informed and believe, and on the basis of that information and belief, allege as follows:

11 **GENERAL ALLEGATIONS AND IDENTIFICATION OF THE PARTIES**

12 1. Plaintiff, CHRISTOPHER DAVIS (hereinafter "DAVIS"), is a competent adult who
13 resides in the County of San Diego, State of California. DAVIS was a student at Coleman University
14 in San Diego, California. DAVIS brings this suit on behalf of himself and on behalf of the general
15 public.

16 2. Plaintiff, CHARLES GOMEZ (hereinafter "GOMEZ"), is a competent adult who
17 resides in the County of San Diego, State of California. GOMEZ was a student at Coleman
18 University in San Diego, California. GOMEZ brings this suit on behalf of himself and on behalf of
19 the general public.

20 3. Plaintiff, DAVID VASQUEZ (hereinafter "VASQUEZ"), is a competent adult who
21 resides in the County of San Diego, State of California. VASQUEZ was a student at Coleman
22 University in San Diego, California. VASQUEZ brings this suit on behalf of himself and on behalf
23 of the general public.

24 4. Plaintiff, DAVID PALUSZKA (hereinafter "PALUSZKA"), is a competent adult
25 who resides in the County of San Diego, State of California. PALUSZKA was a student at Coleman
26 University in San Diego, California. PALUSZKA brings this suit on behalf of himself and on behalf
27 of the general public.

1 5. Plaintiff, JEREMY BRIDGES (hereinafter "BRIDGES"), is a competent adult who
2 resides in the County of San Diego, State of California. BRIDGES was a student at Coleman
3 University in San Diego, California. BRIDGES brings this suit on behalf of himself and on behalf
4 of the general public.

5 6. Plaintiff, KEVIN BOWERSOX (hereinafter "BOWERSOX"), is a competent adult
6 who resides in the County of San Diego, State of California. BOWERSOX was a student at Coleman
7 University in San Diego, California. BOWERSOX brings this suit on behalf of himself and on behalf
8 of the general public.

9 7. Plaintiff, EMMANUEL DOMINGUEZ LOPEZ (hereinafter "LOPEZ"), is a
10 competent adult who resides in the County of San Diego, State of California. LOPEZ was a student
11 at Coleman University in San Diego, California. LOPEZ brings this suit on behalf of himself and
12 on behalf of the general public.

13 8. Plaintiff, AUSTIN SNOW (hereinafter "SNOW"), is a competent adult who resides
14 in the State of Illinois. SNOW was a student at Coleman University in San Diego, California.
15 SNOW brings this suit on behalf of himself and on behalf of the general public.

16 9. Plaintiff, SHAWN JOSEPH (hereinafter "JOSEPH"), is a competent adult who
17 resides in the County of San Diego, State of California. JOSEPH was a student at Coleman
18 University in San Diego, California. JOSEPH brings this suit on behalf of himself and on behalf of
19 the general public.

20 10. Plaintiff, ELIZABETH BLOXHAM (hereinafter "BLOXHAM"), is a competent
21 adult who resides in the County of San Diego, State of California. BLOXHAM was a student at
22 Coleman University in San Diego, California. BLOXHAM brings this suit on behalf of himself and
23 on behalf of the general public.

24 11. Plaintiff, BRIAN SIMPSON (hereinafter "SIMPSON"), is a competent adult who
25 resides in the County of San Diego, State of California. SIMPSON was a student at Coleman
26 University in San Diego, California. SIMPSON brings this suit on behalf of himself and on behalf
27 of the general public.

28

1 12. Plaintiff, DARREN SCOTT (hereinafter “SCOTT”), is a competent adult who resides
2 in the County of San Diego, State of California. SCOTT was a student at Coleman University in
3 San Diego, California. SCOTT brings this suit on behalf of himself and on behalf of the general
4 public.

5 13. Plaintiff, ADAM SMITH (hereinafter “A SMITH”), is a competent adult who resides
6 in the County of San Diego, State of California. A SMITH was a student at Coleman University in
7 San Diego, California. A SMITH brings this suit on behalf of himself and on behalf of the general
8 public.

9 14. Plaintiff, KEVIN POORBAUGH (hereinafter “POORBAUGH”), is a competent
10 adult who resides in the County of San Diego, State of California. POORBAUGH was a student at
11 Coleman University in San Diego, California. POORBAUGH brings this suit on behalf of himself
12 and on behalf of the general public.

13 15. Plaintiff, TYSON VOIGTLANDER (hereinafter “VOIGTLANDER”), is a
14 competent adult who resides in the County of San Diego, State of California. VOIGTLANDER
15 was a student at Coleman University in San Diego, California. VOIGTLANDER brings this suit on
16 behalf of himself and on behalf of the general public.

17 16. Plaintiff, STEPHEN SUCH (hereinafter “SUCH”), is a competent adult who resides
18 in the State of Texas. SUCH was a student at Coleman University in San Diego, California. SUCH
19 brings this suit on behalf of himself and on behalf of the general public.

20 17. Plaintiff, FRANCISCO LOPEZ (hereinafter “LOPEZ”), is a competent adult who
21 resides in the County of San Diego, State of California. LOPEZ was a student at Coleman University
22 in San Diego, California. LOPEZ brings this suit on behalf of himself and on behalf of the general
23 public.

24 18. Plaintiff, JIMMIE SMITH (hereinafter “J SMITH”), is a competent adult who resides
25 in the County of Riverside, State of California. J SMITH was a student at Coleman University in
26 San Diego, California. J SMITH brings this suit on behalf of himself and on behalf of the general
27 public.

28

1 19. Plaintiff, SEAN DAUGHERTY (hereinafter "DAUGHERTY"), is a competent adult
2 who resides in the County of San Diego, State of California. DAUGHERTY was a student at
3 Coleman University in San Diego, California. DAUGHERTY brings this suit on behalf of himself
4 and on behalf of the general public.

5 20. Plaintiff, JOHNELLE ROBERSON (hereinafter "ROBERSON"), is a competent
6 adult who resides in the County of San Diego, State of California. ROBERSON was a student at
7 Coleman University in Solano, California. ROBERSON brings this suit on behalf of himself and on
8 behalf of the general public.

9 21. Plaintiff, AARON UPP (hereinafter "UPP"), is a competent adult who resides in the
10 County of San Diego, State of California. UPP was a student at Coleman University in San Diego,
11 California. UPP brings this suit on behalf of himself and on behalf of the general public.

12 22. Plaintiff, JONATHAN CRISOSTOMO (hereinafter "CRISOSTOMO"), is a
13 competent adult who resides in the State of Wisconsin. CRISOSTOMO was a student at Coleman
14 University in San Diego, California. CRISOSTOMO brings this suit on behalf of himself and on
15 behalf of the general public.

16 23. Plaintiff, KEN CARPENTER (hereinafter "CARPENTER"), is a competent adult
17 who resides in the County of San Diego, State of California. CARPENTER was a student at
18 Coleman University in San Diego, California. CARPENTER brings this suit on behalf of himself
19 and on behalf of the general public.

20 24. Plaintiff, MATTHEW GUTIERREZ (hereinafter "GUTIERREZ"), is a competent
21 adult who resides in the County of San Diego, State of California. GUTIERREZ was a student at
22 Coleman University in San Diego, California. GUTIERREZ brings this suit on behalf of himself
23 and on behalf of the general public.

24 25. Plaintiff, MATTHEW LIBERATORE (hereinafter "LIBERATORE"), is a competent
25 adult who resides in the County of San Diego, State of California. LIBERATORE was a student at
26 Coleman University in San Diego, California. LIBERATORE brings this suit on behalf of himself
27 and on behalf of the general public.

28

1 26. Plaintiff, THOMAS MAURER (hereinafter "MAURER"), is a competent adult who
2 resides in the County of San Diego, State of California. MAURER was a student at Coleman
3 University in San Diego, California. MAURER brings this suit on behalf of himself and on behalf
4 of the general public.

5 27. Plaintiff, ERIC EPPERSON (hereinafter "EPPERSON"), is a competent adult who
6 resides in the County of Riverside, State of California. EPPERSON was a student at Coleman
7 University in San Diego, California. EPPERSON brings this suit on behalf of himself and on behalf
8 of the general public.

9 28. Defendant COLEMAN UNIVERSITY (hereinafter "DEFENDANT" or
10 "COLEMAN") is a California corporation. At all times mentioned herein, Defendant COLEMAN
11 was doing business in the State of California and the County of San Diego and was headquartered at
12 8888 Balboa Avenue, San Diego, California. COLEMAN is a non-profit higher education company
13 offering associate, undergraduate and graduate programs online and at one physical campus.
14 According to said Defendant's website www.coleman.edu, COLEMAN offers undergraduate
15 programs in primarily technology-related subjects such as software development, network security,
16 graphic design, and game programming development and design, and also graduate programs in
17 subject such as business administration and information systems management.

18 29. PLAINTIFFS CHRISTOPHER DAVIS, CHARLES GOMEZ, DAVID VASQUEZ,
19 DAVID PALUSZKA, JEREMY BRIDGES, KEVIN BOWERSOX, EMMANUEL DOMINGUEZ
20 LOPEZ, AUSTIN SNOW, SHAWN JOSEPH, ELIZABETH BLOXHAM, BRIAN SIMPSON,
21 DARREN SCOTT, ADAM SMITH, KEVIN POORBAUGH, TYSON VOIGTLANDER,
22 STEPHEN SUCH, FRANCISCO LOPEZ, JIMMIE SMITH, SEAN DAUGHERTY, JOHNELLE
23 ROBERSON, AARON UPP, JONATHAN CRISOSTOMO, KEN CARPENTER, MATTHEW
24 GUTIERREZ, MATTHEW LIBERATORE, THOMAS MAURER, and ERIC EPPERSON
25 (hereinafter collectively referred to as "PLAINTIFFS") attended COLEMAN. Prior to enrolling at
26 COLEMAN, COLEMAN intentionally or negligently misrepresented to PLAINTIFFS that credits
27 earned while attending COLEMAN would be transferrable to other universities and educational
28

1 institutions and that any degree earned at Coleman would likewise be transferrable to other
2 universities and educational institutions. These misrepresentations were made to induce
3 PLAINTIFFS to enroll and attend COLEMAN and PLAINTIFFS did indeed rely on the
4 misrepresentations in deciding to enroll and attend COLEMAN. PLAINTIFFS would not have
5 enrolled or attended COLEMAN but for this material misrepresentation. COLEMAN knew or
6 should have known that credits earned at COLEMAN would not be transferable to other universities
7 or academic institutions. Prior to enrolling and attending COLEMAN, and in order to induce them
8 to enroll and attend, Plaintiffs DAVIS, VASQUEZ, PALUSZKA, BRIDGES, JOSEPH, SIMPSON,
9 SUCH, LOPEZ, GUTIERREZ, MAURER, and UPP (hereinafter collectively referred to as
10 "CERTIFICATION PLAINTIFFS") were told by COLEMAN that they would be able to obtain up
11 to five certifications for free up to two years after graduating. However, COLEMAN later failed to
12 perform this promise and only allowed PLAINTIFF at most six months after graduation (if any time
13 at all) to complete all such certifications for free, which was not reasonably possible, and thereafter
14 required students to pay for approximately ninety percent (90%) of the cost of such certifications.

15 30. COLEMAN concealed, suppressed, and omitted the material fact that credits earned
16 by PLAINTIFFS at COLEMAN would not be transferrable to other academic institutions and/or an
17 associates or undergraduate degree from COLEMAN would not be recognized by or satisfy the
18 academic prerequisites for an undergraduate or graduate program at other universities. Rather,
19 COLEMAN only disclosed these material facts, if ever, after PLAINTIFFS had already executed
20 enrollment agreements and were attending classes at COLEMAN, and after the time for obtaining a
21 full refund (or any refund at all) had passed. In fact, COLEMAN usually never disclosed the truth
22 regarding the inability to transfer any credits earned at COLEMAN to other educational institutions
23 to PLAINTIFFS. PLAINTIFFS and other students only learned the truth about the inability to
24 transfer credits earned at COLEMAN, if ever, when they attempted to do so and were unsuccessful.
25 Prior to enrolling and attending, PLAINTIFFS were specifically told by COLEMAN that credits
26 earned at COLEMAN would be transferable to other universities (community colleges and/or four-
27 year universities). This was a material misrepresentation that induced them to enroll at COLEMAN
28

1 and attend. PLAINTIFFS are informed and believe that COLEMAN implemented this scheme and
2 made the same misrepresentations to other students in order to induce them to enroll, execute
3 “enrollment agreements”, and attend and pay for classes at COLEMAN. PLAINTIFFS were
4 damaged thereby in that they enrolled and paid tuition for non-transferable credits/degrees and/or
5 they would not have enrolled at all if they knew the truth.

6 31. PLAINTIFFS do not know the true names and capacities of defendants sued herein
7 as DOES 1 through 50, inclusive and will amend her Complaint to name the same as soon as
8 ascertained. PLAINTIFFS are informed and believe and, on that basis, allege that each of the
9 fictitiously named defendants was in some manner legally responsible for the actionable and
10 unlawful actions, policies and practices as alleged herein. PLAINTIFFS will amend their Complaint
11 to set forth the true names and capacities of said defendants, along with the appropriate charging
12 allegations when the same have been ascertained.

13 32. PLAINTIFFS are informed and believe and thereon allege that, at all times mentioned
14 herein, all Defendants, and each of them, were acting as the agent and/or employee of each remaining
15 co-defendant, and were acting with permission and consent of each other, and within the course and
16 scope of said agency and/or employment, and also carried out a joint scheme, business plan or policy
17 in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other
18 Defendants. PLAINTIFFS are further informed and believe that each co-defendant, by and through
19 its officers, directors or managing agents ratified, authorized and approved, expressly or implicitly,
20 all of the conduct alleged herein.

21 33. When, in this Complaint, reference is made to any act of the “Defendants,” such shall
22 be deemed to mean that officers, directors, agents, employees, or representatives of the Defendants
23 committed or authorized such acts, or failed and omitted to adequately supervise or properly control
24 or direct their employees while engaged in the management, direction, operation or control of the
25 affairs of the Defendants and did so while acting within the scope of their employment or agency.

26
27
28

1 34. When, in this Complaint, reference is made to any act by a “Defendant” or
2 “Defendants,” such allegations and reference shall also be deemed to mean the acts and failures to
3 act of each Defendant acting individually, jointly and severally.

4 **ALTER EGO**

5 35. PLAINTIFFS are informed and believe and thereon allege that Defendants
6 COLEMAN and DOES 1 through 50 were at all times relevant the partners, officers, agents,
7 assignees, successors-in-interest, co-conspirators, principals, alter egos, or employees of each other
8 or were otherwise responsible for, contributed to, or participated in the acts and omissions alleged
9 herein, and thereby incurred liability therefore.
10

11 36. Among other things, PLAINTIFFS are informed and believe, and on that basis
12 alleges, that there exists a unity of interest and ownership between Defendants COLEMAN and
13 DOES 1 through 50 (herein collectively referred to as “DEFENDANTS”), such that any
14 individuality and separateness have ceased and each defendant is the alter ego of the other in that
15 PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS among other things
16 (1) commingled funds and other assets; (2) diverted corporate funds between entities or to other than
17 corporate purposes; (3) treated corporate assets as personal assets; (4) failed to observe corporate
18 formalities; (5) failed to maintain an arms-length relationship with the corporation or between
19 entities; and (6) failed to maintain adequate capitalization. Adherence to the fiction of the separate
20 existence of DEFENDANTS, would permit an abuse of the corporate privilege, sanction fraud, and
21 promote injustice.
22
23

24 **JURISDICTION AND VENUE**

25 37. This Court has jurisdiction over all causes of action asserted herein pursuant to
26 California Constitution, Article VI, Sec. 10, because this case is a cause not given by statute to other
27 trial courts.
28

1 38. This Court has jurisdiction over Defendants because they are sole proprietors,
2 partnerships, corporations or other business entities authorized to do business in the State of
3 California and registered with the California Secretary of State, do sufficient business with sufficient
4 minimum contacts in California, and/or otherwise intentionally avail themselves of the California
5 market through the advertising, marketing and sale of their services, to render the exercise of
6 jurisdiction over Defendants by the California courts consistent with traditional notions of fair play
7 and substantial justice.

8 39. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
9 Civil Procedure § 395(a) and 395.5 because Plaintiffs reside in the County of San Diego and
10 DEFENDANTS' actionable and unlawful practices complained of herein occurred in San Diego
11 County. Additionally, the relationship between DEFENDANTS and PLAINTIFFS was entered into
12 and performed in San Diego County and the DEFENDANTS either own or maintain a campus,
13 transact business, or are otherwise found within San Diego County and are within the jurisdiction of
14 this Court for purposes of service of process.

15 **FIRST CAUSE OF ACTION**

16 **Fraud**

17 40. PLAINTIFFS herein reallege and incorporate by reference, as if fully set forth herein,
18 each and every one of the allegations contained in all of the foregoing paragraphs.

19 41. Defendants intentionally misrepresented to PLAINTIFFS that credits earned while
20 attending COLEMAN would be transferrable to other universities and educational institutions and
21 that any degree earned at Coleman would likewise be transferrable to other universities and
22 educational institutions. These misrepresentations were made to induce PLAINTIFFS to enroll and
23 attend COLEMAN and PLAINTIFFS did indeed rely on the misrepresentations in deciding to enroll
24 and attend COLEMAN. PLAINTIFFS would not have enrolled or attended COLEMAN but for this
25 material misrepresentation. COLEMAN knew that credits earned at COLEMAN would not be
26 transferable to other universities or academic institutions (particularly WASC accredited
institutions).

27 42. Defendants further intentionally failed to disclose, concealed, and omitted the
28

1 material fact, which was known by Defendants at the time, that credits earned by PLAINTIFFS at
2 COLEMAN would not be transferrable to other (particularly WASC accredited) academic
3 institutions and/or an associates or undergraduate degree from COLEMAN would not be recognized
4 by or satisfy the academic prerequisites for admission to a undergraduate or graduate program at
5 other universities. Transferability of credits and degrees earned at COLEMAN to other academic
6 institutions was a material fact that PLAINTIFFS relied upon in enrolling and/or attending
7 COLEMAN. This reliance by PLAINTIFFS and members of the Class was reasonable and
8 justifiable.

9 43. Defendants also intentionally misrepresented, failed to disclose, concealed, or
10 omitted material facts that CERTIFICATION PLAINTIFFS would be allowed to obtain up to five
11 certifications for free up to two years after graduation when, in fact, they would have to pay for said
12 certifications.

13 44. In making these material misrepresentations, concealments, and/or omissions,
14 Defendants intended PLAINTIFFS to rely upon them in deciding to enroll and/or attend
15 COLEMAN. PLAINTIFFS did indeed rely upon these misrepresentations and such reliance was
16 justifiable. PLAINTIFFS executed enrollment agreements, enrolled, and begin attending classes
17 based upon these material misrepresentations made by Defendants and were already enrolled and/or
18 attending classes (or had completed their attendance) when they were informed by Defendants or
19 otherwise learned on their own that, in fact, the credits earned at COLEMAN were not transferable
20 to other academic institutions and/or they were unable to obtain up to five certifications for free up
21 to two years after graduation. PLAINTIFFS were damaged by Defendants' material
22 misrepresentations, concealments, and/or omissions in that they were required to pay tuition they
23 would not have otherwise paid, paid additional out-of-pocket amounts, were unable to transfer
24 credits that they paid for and earned, and/or they would not have enrolled at all but for these material
25 misrepresentations, concealments, and/or omissions.

26 45. At all times, Defendants hid and failed to disclose to PLAINTIFFS that credits earned
27 at COLEMAN were not transferrable to other academic institutions and/or failed to disclose to
28

1 CERTIFICATION PLAINTIFFS that they would not have the ability to earn up to five certifications
2 for free for up to two years after graduation. Rather, Defendants only disclosed these material facts,
3 if ever, after PLAINTIFFS were already enrolled and attending classes at COLEMAN and, in
4 addition, after the time for obtaining a full refund (or any refund at all) had expired.

5 46. Not knowing that the representations were false, PLAINTIFFS did in fact reasonably
6 rely upon Defendants' misrepresentations with respect to the transferability of credits and ability to
7 obtain certifications for free. As a proximate and legal result of Defendants' aforementioned
8 conduct, PLAINTIFFS have been damaged and will continue to be caused damage in an amount to
9 be proven at trial.

10 47. Civil Code Section 3294 provides for punitive damages as an additional remedy for
11 any plaintiff who establishes that a defendant has been guilty of oppression or malice in an action
12 for the breach of an obligation not arising from contract. PLAINTIFFS are informed and believe,
13 and thereon allege, that in doing, ordering, authorizing, approving and ratifying the acts, policies and
14 practices alleged herein, Defendants, and each of them, acted in conscious and intentional disregard
15 for the economic rights, health and welfare of PLAINTIFFS. In so doing, the Defendants acted with
16 malice, as such term is defined in Civil Code Section 3294, in that they engaged in despicable
17 conduct carried out with a willful and conscious disregard for the rights of others, in blatant violation
18 of public policy. The conduct of Defendants as described herein entitle PLAINTIFFS to recover
19 punitive and exemplary damages against these Defendants in an amount deemed by the trier of fact
20 sufficient to punish, deter and make an example of them.

21 **SECOND CAUSE OF ACTION**
22 **Negligent Misrepresentation**

23 48. PLAINTIFFS herein reallege and incorporate by reference, as if fully set forth herein,
24 each and every one of the allegations contained in all of the foregoing paragraphs.

25 49. PLAINTIFFS allege, on the basis of information and belief, that Defendants
26 misrepresented the out-of-pocket cost of education services, transferability of credits, and ability to
27 obtain certifications for free, as alleged throughout this Complaint, to PLAINTIFFS. Such
28

1 misrepresentations were communicated to PLAINTIFFS by financial aid representatives and
2 admissions representatives and recruiters at COLEMAN.

3 50. At the time the statements and representations were made, Defendants did not have
4 any reasonable ground for believing them to be true. At the time such statements and representations
5 were made, Defendants knew, or should have reasonably known, that credits earned at COLEMAN
6 were not transferrable to other academic institutions, and that the certifications would not be
7 available for free for the time specified, as represented to PLAINTIFFS, and that the out-of-pocket
8 cost of the educational services would exceed what was represented and promised.

9 51. PLAINTIFFS and members of the Class were unaware that Defendants had
10 misrepresented the out-of-pocket cost of the education services and, additionally, were unaware that
11 credits earned at COLEMAN were not transferrable to other academic institutions, and/or that they
12 would not be able to obtain up to five certifications for free for up to two years after graduation. At
13 all relevant times, PLAINTIFFS acted in reliance on Defendants' misrepresentations, concealments,
14 and/or omissions. Such reliance by PLAINTIFFS was justifiable. In justifiably relying on
15 Defendants' misrepresentations, PLAINTIFFS chose to enroll and/or attend classes at COLEMAN
16 and pay for such classes, credits, and attendance. PLAINTIFFS would not have done so but for the
17 misrepresentations, concealment, and/or material omissions.

18 52. As a proximate and legal result of Defendants' misrepresentations, PLAINTIFFS
19 have been damaged and will continue to be caused damage in an amount to be proven at trial.

20 **THIRD CAUSE OF ACTION**
21 **Breach of Contract**

22 53. PLAINTIFFS herein reallege and incorporate by reference, as if fully set forth
23 herein, each and every one of the allegations contained in all of the foregoing paragraphs.

24 54. Defendants promised to CERTIFICATION PLAINTIFFS and agreed to provide five
25 certification exams free of charge for at least two years after graduation or separation from Coleman.
26 However, COLEMAN later failed to perform this promise/agreement and, instead, required students
27 to pay for approximately ninety percent (90%) of the cost of such certification exams. Defendants
28 induced CERTIFICATION PLAINTIFFS to enter into enrollment agreements by falsely
representing that CERTIFICATION PLAINTIFFS would be provided with these free certification

1 exams.

2 55. CERTIFICATION PLAINTIFFS complied with and/or performed all of their
3 obligations under the agreements.

4 56. CERTIFICATION PLAINTIFFS have been deprived of the benefits of their
5 agreements with Defendants.

6 57. Defendants breached their agreements/promises with CERTIFICATION
7 PLAINTIFFS and members of the Class by requiring payment in excess of what was agreed upon
8 in the agreements.

9 58. As a result of Defendants' breaches of these agreements/promises,
10 CERTIFICATION PLAINTIFFS have suffered damages in an amount to be proven at trial.

11 59. Accordingly, Defendants are liable to CERTIFICATION PLAINTIFFS for
12 breaching the agreements/promises.

13 **FOURTH CAUSE OF ACTION**

14 **Unlawful, Unfair and Fraudulent Business Practices:
15 Business & Professions Code § 17200 *et seq.***

16 60. PLAINTIFFS herein reallege and incorporate by reference, as if fully set forth
17 herein, each and every one of the allegations contained in all of the foregoing paragraphs.

18 61. PLAINTIFFS hereby bring this action individually and on behalf of the general public
19 pursuant to Business & Professions Code § 17200 *et seq.*

20 62. By committing the alleged acts and/or omissions as described in this Complaint,
21 Defendants have engaged, and continue to engage, in unlawful, fraudulent and/or unfair business
22 practices within the meaning of California Business & Professions Code § 17200 *et seq.*

23 63. PLAINTIFFS allege, on the basis of information and belief, that as a result of
24 Defendants' alleged acts and/or omissions as described in this Complaint, Defendants have
25 unlawfully and unfairly obtained money from, or due to, PLAINTIFFS and have subsequently
26 unlawfully earned profits from such unlawful, fraudulent, and/or unfair business practices.

27 64. As a result of their unlawful acts, Defendants have reaped and continue to reap unfair
28 benefits at the expense of PLAINTIFFS. Defendants should be enjoined from this activity, caused

1 to specifically perform their obligations, and made to disgorge these ill-gotten gains and restore to
2 PLAINTIFFS the wrongfully obtained monies pursuant to Business and Professions Code section
3 17200 *et seq.* PLAINTIFFS are informed and believe that Defendants are unjustly enriched through
4 their unfair, fraudulent, or unlawful actions against PLAINTIFFS. PLAINTIFFS are further
5 informed and believe and thereon allege that PLAINTIFFS are prejudiced by Defendants' unfair
6 trade practices.

7 65. A request for injunctive relief, restitution and for the disgorgement of unlawfully
8 earned profits is specifically authorized by California Business & Professions Code § 17200 *et seq.*
9 Thus, PLAINTIFFS seek injunctive relief, restitution of all unlawfully obtained and/or withheld
10 funds, and the disgorgement of all unlawfully earned profits obtained by Defendants as a result of
11 Defendants' alleged acts and/or omissions as described in this Complaint. The acts complained of
12 herein occurred, at least in part, within the last four (4) years preceding the filing of the original
13 Complaint in this action.

14 66. PLAINTIFFS are informed and believe and thereon allege that unless restrained and
15 ordered to pay restitution and disgorge profits derived from said unfair, fraudulent, and/or unlawful
16 business practices, Defendants will continue to engage in the alleged acts and/or omissions as
17 described in this Complaint.

18 67. Business and Professions Code § 17200, *et seq.*, prohibits acts of unfair competition
19 which shall mean and include any "unlawful, unfair or fraudulent business act of practice." Under
20 California law, the unlawful conduct alleged herein constitutes unfair competition as defined by §
21 17200 entitling PLAINTIFFS to a restitution remedy authorized by § 17203. PLAINTIFFS are
22 therefore entitled to the relief requested below.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, PLAINTIFFS, individually and on behalf of the general public, pray for
25 judgment as follows:

- 26 1. For compensatory damages according to proof;
- 27 2. For punitive and exemplary damages in an amount deemed sufficient by the trier of

1 fact to punish, deter and make an example of Defendants;

2 3. For interest at the legal rate pursuant to Civil Code §§ 3287, 3288 & 3289, and any
3 other legal rate that may be applicable to plaintiffs causes of action, including based on contract;

4 4. For issuance of a permanent injunction enjoining Defendants, and each of them, from
5 continuing to engage in the unlawful, unfair and/or fraudulent business practices alleged herein;

6 5. For an order compelling Defendants, and each of them, to pay restitution to
7 PLAINTIFFS who have suffered as a result of Defendants' unlawful, unfair and/or fraudulent
8 business practices alleged herein;

9 6. For an order compelling Defendants, and each of them, to disgorge and pay over to
10 PLAINTIFFS all profits and savings resulting from Defendants' unlawful, unfair and/or fraudulent
11 business practices alleged herein;

12 7. For attorneys' fees pursuant to Code of Civil Procedure Section 1021.5 and as
13 otherwise permitted by statute or contract;

14 8. For costs of suit incurred herein; and

15 9. For such other and further relief as the court deems just and proper.

16 Respectfully Submitted,

17 DATED: December 21, 2018

18 BLANCHARD KRASNER & FRENCH

19 By 

20 DAVID C. HAWKES,

21 Attorneys for PLAINTIFFS, on behalf of themselves
22 and on behalf of the general public.