

1 Steve W. Berman (*Pro Hac Vice* Forthcoming)  
2 *steve@hbsslaw.com*  
3 HAGENS BERMAN SOBOL SHAPIRO LLP  
4 1301 Second Avenue, Suite 2000  
5 Seattle, WA 98101  
6 T: (206) 623-7292  
7 F: (206) 623-0594

5 Christopher R. Pitoun (SBN 290235)  
6 *christopherp@hbsslaw.com*  
7 HAGENS BERMAN SOBOL SHAPIRO LLP  
8 301 North Lake Avenue, Suite 203  
9 Pasadena, CA 91101  
10 T: (213) 330-7150  
11 F: (213) 330-7152

9 [Additional Counsel listed on signature page]  
10 *Attorneys for Joseph Pinzon, individually and on*  
11 *behalf of all others similarly situated*

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14 **WESTERN DIVISION**

15 JOSEPH PINZON, individually and on  
16 behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 PEPPERDINE UNIVERSITY,

20 Defendant.

Case No. 2:20-cv-4928

CLASS ACTION

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1 Plaintiff, JOSEPH PINZON, individually and on behalf of all others similarly  
2 situated, for his Class Action Complaint against Defendant PEPPERDINE  
3 UNIVERSITY (“Pepperdine”), based upon personal knowledge as to his own actions  
4 and based upon the investigation of counsel regarding all other matters, complains as  
5 follows:

6 **I. NATURE OF ACTION**

7 1. This Class Action Complaint comes during a time of hardship for so  
8 many Americans, with each day bringing different news regarding the novel  
9 coronavirus COVID-19.<sup>1</sup> Social distancing, shelter-in-place orders, and efforts to  
10 ‘flatten the curve’ prompted colleges and universities across the country to shut down  
11 their campuses, evict students from campus residence halls, and switch to online  
12 “distance” learning.

13 2. Despite sending students home and closing its campus(es), Defendant  
14 continues to charge for tuition, fees, and/or room and board as if nothing has changed,  
15 continuing to reap the financial benefit of millions of dollars from students. Defendant  
16 does so despite students’ complete inability to continue school as normal, occupy  
17 campus buildings and dormitories, or avail themselves of school programs and events.  
18 So while students enrolled and paid Defendant for a comprehensive academic  
19 experience, Defendant instead offers Plaintiff and the Class Members something far  
20 less: a limited online experience presented by Google or Zoom, void of face-to-face  
21 faculty and peer interaction, separated from program resources, and barred from  
22 facilities vital to study. Plaintiff and the Class Members did not bargain for such an  
23 experience.

24 3. While some colleges and universities have promised appropriate and/or  
25

26 \_\_\_\_\_  
27 <sup>1</sup> Plaintiff and Plaintiff’s counsel are mindful of the severe impact of the  
28 coronavirus on all aspects of society. To minimize the burden on the Court and to  
reasonably accommodate Defendant, Plaintiff will work with Defendant to reach an  
agreeable schedule for their response to this Class Action Complaint.

1 proportional refunds, Defendant excludes itself from such other institutions treating  
2 students fairly, equitably and as required by the law. And for some students and  
3 families, Defendant does so based on outdated financial aid equations and collections,  
4 without taking into account disruptions to family income, a particular concern now  
5 where layoffs and furloughs are at record levels.

6 4. As a result, Defendant's actions have financially damaged Plaintiff and  
7 the Class Members. Plaintiff brings this action because Plaintiff and the Class  
8 Members did not receive the full value of the services paid, did not receive the  
9 benefits of in-person instruction. They have lost the benefit of their bargain and/or  
10 suffered out-of-pocket loss, and are entitled to recover compensatory damages,  
11 trebling where permitted, and attorney's fees and costs.

## 12 II. JURISDICTION AND VENUE

13 5. This Court has jurisdiction over the subject matter presented by this  
14 Complaint because it is a class action arising under the Class Action Fairness Act of  
15 2005 ("CAFA"), Pub. L. No. 109-2, 119 Stat. 4 (2005), which explicitly provides for  
16 the original jurisdiction of the Federal Courts of any class action in which any member  
17 of the Class is a citizen of a State different from any Defendant, and in which the  
18 matter in controversy exceeds in the aggregate sum of \$5,000,000.00, exclusive of  
19 interest and costs. Plaintiff alleges that the total claims of individual Class Members in  
20 this action are in excess of \$5,000,000.00 in the aggregate, exclusive of interest and  
21 costs, as required by 28 U.S.C. §§ 1332(d)(2) and (6). Plaintiff is a citizen of Texas,  
22 whereas Defendant is a citizen of California for purposes of diversity. Therefore,  
23 diversity of citizenship exists under CAFA as required by 28 U.S.C. § 1332(d)(2)(A).  
24 Furthermore, Plaintiff alleges that less than two-thirds of all of the members of the  
25 proposed Class in the aggregate are citizens of California, where this action is  
26 originally being filed, and that the total number of members of the proposed Class is  
27 greater than 100, pursuant to 28 U.S.C. § 1332(d)(5)(B).

28 6. Venue is appropriate in this District because Defendant is located within

1 the Central District of California. And on information and belief, events and  
2 transactions causing the claims herein, including Defendant's decision-making  
3 regarding its refund policy challenged in this lawsuit, has occurred within this judicial  
4 district.

### 5 III. PARTIES

6 7. Plaintiff Joseph Pinzon is a citizen and resident of the State of Texas.  
7 Plaintiff is the parent of a current Pepperdine graduate student and paid his son's  
8 tuition and fees for the Spring 2020 and Summer 2020 academic term at Defendant.

9 8. Plaintiff and Plaintiff's son are in good financial standing at Defendant,  
10 having paid in whole or in combination tuition, fees, costs, and/or room and board  
11 charges assessed and demanded by Defendant for the Spring 2020 term.

12 9. Plaintiff paid Defendant for opportunities and services that his son did not  
13 receive, including on-campus education, facilities, services, and activities.

14 10. With Pepperdine's campus closure and transition to an online-only  
15 educational experience, Plaintiff's son suffered a decreased quality of experience,  
16 education, and lost access to important university facilities and experiences that were  
17 bargained for by selecting in-person experiences.

18 11. For example, Plaintiff's son lost use of vital library access and special  
19 tools and resources available only physically in the library, which Defendant cannot  
20 and/or has been unable to make available to students online.

21 12. And with the transition to online-only classes, Plaintiff's son noticed a  
22 shift in and loss of academic rigor.

23 13. While Plaintiff paid Pepperdine for an in-class experience that would  
24 enable his son to communicate directly with his professors, attend office hours, and  
25 provide access to resources unique to his in-person program, such experiences are  
26 non-existent following Defendant's campus closure. Such a transition has also made it  
27 difficult to connect with professors and staff, a critical component to the bargained-for  
28 experience.



1 capabilities as a primary component of their efforts to deliver educational value (*see*,  
2 *e.g.*, Western Governors University, Southern New Hampshire University, University  
3 of Phoenix-Arizona), Defendant is not such a school.

4 21. Rather, a significant focus of Defendant’s efforts to obtain and recruit  
5 students pertains to the campus experience it offers along with face-to-face, personal  
6 interaction with skilled and renowned faculty and staff.

7 22. A few examples of such efforts to promote that experience follow.  
8 Pepperdine promotes its Malibu campus as developing “the next generation of leaders  
9 through rigorous academics, faculty mentorship, and a robust campus life.”<sup>4</sup>  
10 Pepperdine highlights “small classes, a nurturing campus environment, opportunities  
11 for diverse social interaction, and individual attention from these teacher-mentors” in  
12 the administration, faculty, and staff.<sup>5</sup>

13 23. Pepperdine’s graduate programs are “recognized as among the best in  
14 higher education” and boast distinguished faculty that is “committed to the challenge  
15 of nurturing the intellectual growth of students through meaningful scholarship.”<sup>6</sup>

16 24. Pepperdine describes its campus as “[n]estled in the rolling foothills of  
17 the Santa Monica Mountains, Pepperdine University’s Malibu campus commands a  
18 majestic view of the Pacific Ocean. The winding seashore, the rugged beauty of  
19 Malibu Canyon, and the clean ocean air enhance the towering campus location.”<sup>7</sup>

20 25. Pepperdine also promotes its on-campus recreation facilities and  
21 “moderate seaside climate” for “year-round outdoor activities,” noting “students have  
22 access to nearby beaches with opportunities for surfing, fishing, and boating.”<sup>8</sup>

23 26. Pepperdine recognizes its campus life as integral to student learning  
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25 <sup>4</sup> <https://seaver.pepperdine.edu/about/>.

26 <sup>5</sup> <https://seaver.pepperdine.edu/about/our-story/seaver-mission/>.

27 <sup>6</sup> <https://www.pepperdine.edu/academics/programs/graduate/>.

28 <sup>7</sup> <https://www.pepperdine.edu/about/locations/malibu/>.

<sup>8</sup> <https://www.pepperdine.edu/about/locations/malibu/>.

1 experiences: “Living on campus in Malibu—required for Seaver College freshmen  
2 and sophomores—is the best way to experience all the transformational academic,  
3 social, and spiritual growth that a college lifestyle has to offer. The relationships and  
4 sense of community developed during these years are crucial to the college  
5 experience, particularly within a dynamic environment that promotes fellowship and  
6 unity through social events, mentorship programs, service projects, and other group  
7 activities.”<sup>9</sup>

8 27. Further, “[s]ince there is a significant correlation between the degree of  
9 individual student involvement in the life of the college and success in effecting  
10 student development” Pepperdine makes a “concerted effort . . . to maximize the  
11 involvement of each student in the larger life of the college.”<sup>10</sup>

12 28. To obtain such educational opportunities and activities, Plaintiff and the  
13 Class Members pay, in whole or in part, significant tuition, fees, and/or room and  
14 board.

15 29. For the Spring term 2020, Defendant assesses the following: \$27,820 for  
16 tuition, approximately \$7,835 for room and board, and \$126 for a campus life fee. An  
17 additional fee of \$1,320.99 will be assessed for student health insurance if the student  
18 is not already covered by a family plan.<sup>11</sup>

19 30. Such charges for study are significantly higher than online only  
20 programs, including online courses that Defendant offers.

21 31. Schools delivering an online-only educational experience assess  
22 significantly discounted rates for delivering such educational services. For example,  
23 Western Governor’s University charges flat-rate tuition at \$3,370 per term while  
24 Southern New Hampshire University charges \$960 per course for online

25  
26 <sup>9</sup> <https://www.pepperdine.edu/about/locations/malibu/>.

27 <sup>10</sup> <https://seaver.pepperdine.edu/about/our-story/seaver-mission/>.

28 <sup>11</sup> <https://seaver.pepperdine.edu/admission/financialaid/undergraduate/costs/budget-costs.htm>.



1 undergraduate programs and \$1,881 per course for online graduate programs.

2 **B. The Novel Coronavirus Shutdowns And Defendant’s Campus Closure**

3 32. On December 31, 2019, governmental entities in Wuhan, China  
4 confirmed that health authorities were treating dozens of cases of a mysterious,  
5 pneumonia-like illness. Days later, researchers in China identified a new virus that had  
6 infected dozens of people in Asia, subsequently identified and referred to as the novel  
7 coronavirus, or COVID-19.

8 33. By January 21, 2020, officials in the United States were confirming the  
9 first known domestic infections of COVID-19.

10 34. Due to an influx of thousands of new cases in China, on January 30,  
11 2020, the World Health Organization officially declared COVID-19 as a “public  
12 health emergency of international concern.”

13 35. By March 11, 2020, the World Health Organization declared COVID-19  
14 a pandemic.

15 36. Travel and assembly restrictions began domestically in the United States  
16 on March 16, 2020, with seven counties in the San Francisco, California area  
17 announcing shelter-in-place orders. Other states, counties, and municipalities have  
18 followed the shelter-in-place orders and as of April 6, 2020, 297 million people in at  
19 least 38 states, 48 counties, 14 cities, the District of Columbia, and Puerto Rico are  
20 being urged or directed to stay home.

21 37. As it relates to this suit, on March 4, 2020 California Governor Gavin  
22 Newsom proclaimed a State of Emergency as a result of the threat of COVID-19.<sup>12</sup>

23 38. On March 19, 2020, Governor Newsom issued via Executive Order N-33-  
24 20, a stay-at-home order to protect the health and well-being of all Californians.<sup>13</sup>

26 <sup>12</sup> <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>.

27 <sup>13</sup> <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>.

1           39. On the same date, the Los Angeles County Health Officer, Muntu Davis,  
2 M.D., MPH, issued a Safer At Home Public Order requiring Los Angeles County  
3 residents to isolate themselves in their residences with exceptions for essential  
4 activities.<sup>14</sup> The order was later extended on April 10, 2020 through May 15, 2020.<sup>15</sup>

5           40. On March 11, 2020, Pepperdine President James Gash sent a message to  
6 the Pepperdine community announcing that the last day of in-person classes will be  
7 March 13, 2020. Classes would transition online beginning the week of March 16 and  
8 continue online for the remainder of the spring semester.<sup>16</sup> Residential students were  
9 asked to move out of on-campus housing by 3:00 p.m. on March 15, 2020.<sup>17</sup>

10           41. On or about March 15, 2020, Pepperdine decided to close its campus,  
11 migrating all or substantially all classes online.

12           42. Though the reasons for such closures are justified, the fact remains that  
13 such closures and cancellations present significant loss to Plaintiff and the Class  
14 Members.

15           43. College students across the country have offered apt descriptions of the  
16 loss they have experienced as a result of the pandemic, highlighting the disparity  
17 between students' bargained for educational experience and the experience that  
18 colleges and universities, including Defendant, now provide.

19           44. For example, as reported in The Washington Post, one student "wonders  
20 why he and others . . . are not getting at least a partial tuition refund. Their education,  
21 as this school year ends in the shadow of a deadly pandemic, is nothing like the  
22 immersive academic and social experience students imagined when they enrolled. But  
23 tuition remains the same: \$27,675 per semester . . . 'Our faculty are doing a good job  
24

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25 <sup>14</sup>[http://file.lacounty.gov/SDSInter/lac/1070029\\_COVID-19\\_SaferAtHome\\_HealthOfficerOrder\\_20200319\\_Signed.pdf](http://file.lacounty.gov/SDSInter/lac/1070029_COVID-19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf).

26 <sup>15</sup>[http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO\\_Safer\\_at\\_Home\\_Order\\_for\\_Control\\_of\\_COVID\\_04102020.pdf](http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO_Safer_at_Home_Order_for_Control_of_COVID_04102020.pdf).

27 <sup>16</sup> <https://emergency.pepperdine.edu/page/4/>.

28 <sup>17</sup> *Id.*

1 of working with us,’ said Patel, 22, who is from New Jersey. ‘But at the end of the  
2 day, it’s not the same as in-person learning. . . . It shouldn’t just be a part of the  
3 business model where, no matter what happens, you have to pay the same amount. The  
4 cost needs to reflect some of the realities.’”<sup>18</sup>

5 45. As another example, as reflected in a Change.org petition, with nearly  
6 5,000 supporters, students at another major university highlight the loss experienced  
7 by students: “As a result of the COVID-19 global pandemic crisis, Governor Pritzker  
8 has declared a state of emergency in Illinois. In response, Northwestern University  
9 made the sensible decision to offer all Spring 2020 courses online for the start of the  
10 quarter and will likely extend this to the rest of the quarter as the situation worsens.  
11 While this is certainly the right call to ensure the health and safety of all students,  
12 Northwestern’s tuition and fees do not accurately reflect the value lost by switching to  
13 online education for potentially an entire term. For the following reasons, we are  
14 seeking a partial refund of tuition and full refund of room and board for the Spring  
15 2020 quarter. Since Northwestern is a top private university, the estimated annual cost  
16 of attendance of \$78,654 goes towards a comprehensive academic experience that  
17 cannot be fully replicated online. Due to the COVID-19 crisis, students paying for the  
18 Northwestern experience will no longer have access to invaluable face-to-face  
19 interaction with faculty, resources necessary for specific programs, and access to  
20 facilities that enable learning.”<sup>19</sup>

21 46. Another university’s student newspaper reflects another example: “At this  
22 time, most of the campus and dorms need not be rigorously maintained. No events will  
23 be held, nor speakers hosted. The world-class education that consists in having  
24 opportunities to work and interact with academics and peers (not to mention the vast  
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26 <sup>18</sup> <https://www.washingtonpost.com/education/2020/04/16/college-students-are-rebelling-against-full-tuition-after-classes-move-online/>.

27 <sup>19</sup> <https://www.change.org/p/northwestern-university-tuition-fees-reduction-for-spring-2020>.

1 numbers of innovators, creators, doctors, organizers, and more that congregate on our  
2 campus) will no longer be provided.”<sup>20</sup>

3 **C. Defendant’s Refusal To Issue Tuition, Fee, And/Or Room And Board**  
4 **Refunds**

5 47. Given Defendant’s transition to online classes and COVID-19 concerns,  
6 Defendant asked students to vacate student housing as soon as possible and no later  
7 than March 15, 2020.

8 48. While Defendant has agreed to prorate housing and dining, the proration  
9 was inconsistent amongst the five schools.<sup>21</sup>

10 49. Defendant has not agreed to prorate or refund tuition or mandatory fees.

11 50. Such denial of tuition and fee refunds was reported in the Pepperdine  
12 Graphic after a Virtual Town Hall hosted by Provost Rick Marrs, Vice President of  
13 Student Affairs Connie Horton, President Jim Gash, and Seaver Dean Michael  
14 Feltner.<sup>22</sup>

15 51. Instead, Defendant announced tuition for Plaintiff’s son’s graduate  
16 program will increase 3.8% for the Fall 2020 term.

17 52. Defendant does so notwithstanding its recognition that its “unprecedented  
18 actions that have significantly impacted the academic experience for many of our  
19 students.”<sup>23</sup>

20 **V. CLASS ACTION ALLEGATIONS**

21 53. Plaintiff sues under Rule 23(a), (b)(2), and Rule 23(b)(3) of the Federal  
22 Rules of Civil Procedure, on behalf of himself and a Class defined as follows:

23 All people paying Defendant, in whole or in part, personally  
24 and/or on behalf of others, for Spring 2020 tuition, fees,

25 <sup>20</sup> <https://www.chicagomaroon.com/article/2020/3/19/uchicago-lower-tuition-spring-2020/>.

26 <sup>21</sup> <https://community.pepperdine.edu/housing/housingduringcovid-19.htm>.

27 <sup>22</sup> <http://pepperdine-graphic.com/live-updates-pepperdine-administration-holds-virtual-town-hall-about-rest-of-the-semester/>.

28 <sup>23</sup> <https://emergency.pepperdine.edu/page/4/>.

1 and/or room board for in-person instruction and use of  
2 campus facilities, but who were denied use of and/or access  
3 to in-person instruction and/or campus facilities by  
4 Defendant.

5 Excluded from the Class is Defendant, any entity in which Defendant has a controlling  
6 interest, and Defendant's legal representatives, predecessors, successors, assigns, and  
7 employees. Further excluded from the Class is this Court and its employees. Plaintiff  
8 reserves the right to modify or amend the Class definition including through the  
9 creation of sub-classes if necessary, as appropriate, during this litigation.

10 54. The definition of the Class is unambiguous. Plaintiff is a member of the  
11 Class Plaintiff seeks to represent. Class Members can be notified of the class action  
12 through contact information and/or address lists maintained in the usual course of  
13 business by Defendant.

14 55. Per Rule 23(a)(1), Class Members are so numerous and geographically  
15 dispersed that their individual joinder of all Class Members is impracticable. The  
16 precise number of Class members is unknown to Plaintiff but may be ascertained from  
17 Defendant's records. However, given the thousands of students enrolled at Defendant  
18 in a given year, that number greatly exceeds the number to make joinder possible.  
19 Class Members may be notified of the pendency of this action by recognized, Court-  
20 approved notice dissemination methods, which may include U.S. Mail, electronic  
21 mail, Internet postings, and/or published notice.

22 56. Defendant has acted or refused to act on grounds generally applicable to  
23 Plaintiff and the Class Members, making appropriate final injunctive relief and  
24 declaratory relief regarding the Class under Rule 23(b)(2).

25 57. Consistent with Rule 23(a)(2), Defendant engaged in a common course of  
26 conduct giving rise to the legal rights sought to be enforced by the Class Members.  
27 Similar or identical legal violations are involved. Individual questions pale by  
28 comparison to the numerous common questions that predominate. The injuries  
sustained by the Class Members flow, in each instance, from a common nucleus of

1 operative facts—Defendant’s campus closure and student evictions, its complete  
2 transition to online classes, and Defendant’s refusal to fully refund tuition, fees, and/or  
3 room and board.

4 58. Additionally, common questions of law and fact predominate over the  
5 questions affecting only individual Class Members under Rule 23(a)(2) and Rule  
6 23(b)(3). Some of the common legal and factual questions include:

- 7 a. Whether Defendant engaged in the conduct alleged;
- 8 b. Whether Defendant has a policy and/or procedure of denying refunds,  
9 in whole or in part, to Plaintiff and the Class Members;
- 10 c. Whether Defendant breached identical contracts with Plaintiff and the  
11 Class Members;
- 12 d. Whether Defendant violated the common law of unjust enrichment;
- 13 e. Whether Defendant converted Plaintiff and the Class Members  
14 refunds and/or rights to refunds; and
- 15 f. The nature and extent of damages and other remedies to which the  
16 conduct of Defendant entitles the Class Members.

17 59. The Class Members have been damaged by Defendant through its  
18 practice of denying refunds to Class Members.

19 60. Plaintiff’s claims are typical of the claims of the other Class Members  
20 under Rule 23(a)(3). Plaintiff’s son is a student enrolled at Defendant in the Spring  
21 2020 term. Like other Class Members, Plaintiff’s son was instructed to leave  
22 Defendant’s campus, forced to take online classes, and has been completely or  
23 partially denied a refund for tuition, fees, and/or room and board.

24 61. Plaintiff and Plaintiff’s counsel will fairly and adequately protect the  
25 interests of the Class as required by Rule 23(a)(4). Plaintiff is familiar with the basic  
26 facts that form the bases of the Class Members’ claims. Plaintiff’s interests do not  
27 conflict with the interests of the other Class Members he seeks to represent. Plaintiff  
28

1 has retained counsel competent and experienced in class action litigation and intends  
2 to prosecute this action vigorously. Plaintiff's counsel has successfully prosecuted  
3 complex class actions, including consumer protection class actions. Plaintiff and  
4 Plaintiff's counsel will fairly and adequately protect the interests of the Class  
5 Members.

6 62. The class action device is superior to other available means for the fair  
7 and efficient adjudication of the claims of Plaintiff and the Class Members under Rule  
8 23(b)(3). The relief sought per individual members of the Class is small given the  
9 burden and expense of individual prosecution of the potentially extensive litigation  
10 necessitated by the conduct of Defendant. It would be virtually impossible for the  
11 Class Members to seek redress individually. Even if the Class Members themselves  
12 could afford such individual litigation, the court system could not.

13 63. In addition under Rule 23(b)(3)(A), individual litigation of the legal and  
14 factual issues raised by the conduct of Defendant would increase delay and expense to  
15 all parties and to the court system. The class action device presents far fewer  
16 management difficulties and provides the benefits of a single, uniform adjudication,  
17 economies of scale, and comprehensive supervision by a single court.

18 64. Under Rule 23(b)(3)(C), it is desirable to concentrate the litigation of the  
19 claims of Plaintiff and the Class Members in this forum given that Defendant is  
20 located within this judicial district and discovery of relevant evidence will occur  
21 within this district.

22 65. Given the similar nature of the Class Members' claims and the absence of  
23 material differences in the state statutes and common laws upon which the Class  
24 Members' claims are based, a nationwide Class will be easily managed by the Court  
25 and the parties per Rule 23(b)(3)(D).  
26  
27  
28

1 **VI. CAUSES OF ACTION**  
2 **COUNT I**  
3 **BREACH OF CONTRACT**

4 66. Plaintiff restates and re-alleges, and incorporates herein by reference, the  
5 preceding paragraphs as if fully set forth herein.

6 67. Plaintiff and the Class Members entered into identical, binding contracts  
7 with Defendant.

8 68. Under their contracts with Defendant, Plaintiff and the members of the  
9 Class paid Defendant tuition, fees, and/or room and board charges for Defendant to  
10 provide in-person instruction, access to Defendant's facilities, and/or housing services.

11 69. Plaintiff and the Class Members have fulfilled all expectations, having  
12 paid Defendant for all Spring 2020 term financial assessments.

13 70. However, Defendant has breached such contracts, failed to provide those  
14 services and/or has not otherwise performed as required by the contract between  
15 Plaintiff and the Class Members and Defendant. Defendant has moved all classes to  
16 online classes, has restricted or eliminated Plaintiff's son's and the Class Members'  
17 ability to access university facilities, and/or has evicted Class Members from campus  
18 housing. In doing so, Defendant has and continues to deprive Plaintiff and the Class  
19 Members from the benefit of their bargains with Defendant.

20 71. Plaintiff and the Class Members have been damaged as a direct and  
21 proximate result of Defendant's breach, including.

22 72. Plaintiff and Class Members are entitled to damages, including but not  
23 limited to tuition refunds, fee refunds, and/or room and board refunds.

24 **COUNT II**  
25 **UNJUST ENRICHMENT**

26 73. Plaintiff restates and re-alleges, and incorporates herein by reference, the  
27 preceding paragraphs as if fully set forth herein.

28 74. At all times relevant hereto, Plaintiff and the Class Members directly



1 conferred non-gratuitous benefits upon Defendant, *i.e.*, monetary payments for tuition,  
2 fees, and/or room and board, so that Plaintiff's son and the Class Members could avail  
3 themselves of in-person educational opportunities and utilize campus facilities,  
4 including campus dormitories.

5 75. Defendant knowingly accepted the benefits conferred upon it by Plaintiff  
6 and the Class Members.

7 76. Defendant appreciated or knew of the non-gratuitous benefits conferred  
8 upon it by Plaintiff and members of the Class.

9 77. Defendant accepted or retained the non-gratuitous benefits conferred by  
10 Plaintiff and members of the Class, with full knowledge and awareness that, because  
11 of Defendant's unjust and inequitable actions, Plaintiff and members of the Class are  
12 entitled to refunds for tuition, fees, and/or room and board.

13 78. Retaining the non-gratuitous benefits conferred upon Defendant by  
14 Plaintiff and members of the Class under these circumstances made Defendant's  
15 retention of the non-gratuitous benefits unjust and inequitable.

16 79. Because Defendant's retention of the non-gratuitous benefits conferred by  
17 Plaintiff and members of the Class is unjust and inequitable, Plaintiff and members of  
18 the Class are entitled to, and seek disgorgement and restitution of, the benefits unjustly  
19 retained, whether in whole or in part, including through refunds for tuition, fees,  
20 and/or room and board.

21 **COUNT III**

22 **CONVERSION**

23 80. Plaintiff restates and re-alleges, and incorporates herein by reference, the  
24 preceding paragraphs as if fully set forth herein.

25 81. Plaintiff's son and the other members of the Class have an undisputed  
26 right to receive educational services, activities, and access to Defendant's facilities for  
27 the Spring 2020 term. Plaintiff's son and the Class Members obtained such rights by  
28

1 paying Defendant tuition, fees, and/or room and board and by otherwise remaining in  
2 good standing with Defendant.

3 82. Defendant wrongfully exercised control over and/or intentionally  
4 interfered with the rights of Plaintiff and members of the Class by effectively closing  
5 its campus to in-person education and switching to an online-only format,  
6 discontinuing paid-for services, and evicting students from campus housing. All the  
7 while, Defendant has unlawfully retained the monies Plaintiff and the Class Members  
8 paid Defendant as well as barred Plaintiff's son from Defendant's facilities.

9 83. Defendant deprived Plaintiff and the other Class Members of the rights  
10 and benefits for which they paid Defendant tuition, fees, and/or room and board.

11 84. Plaintiff and/or Class Members have requested and/or demanded that  
12 Defendant issue refunds.

13 85. Defendant's interference with the rights and services for which Plaintiff  
14 and members of the Class paid damaged Plaintiff and the members of the Class, in that  
15 they paid for rights, benefits, services and/or facility access, but Defendant has  
16 deprived Plaintiff and members of the Class of their rights, benefits, services and/or  
17 facility access.

#### 18 **COUNT IV**

#### 19 **CAL. BUS. & PROF. CODE § 17200**

20 86. Plaintiff restates and re-alleges, and incorporates herein by reference the  
21 preceding paragraphs as if fully set forth herein.

22 87. California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200,  
23 *et seq.*, prohibits an "unlawful, unfair or fraudulent business act or practice."

24 88. Defendant violated the Unfair Competition Law by committing an  
25 unlawful act by breaching its contracts with Plaintiff and Class Members, failing to  
26 provide services paid for, including in-person instruction and access to Defendant's  
27 facilities, and failing to refund tuition, fees, and costs.

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- 1 C. Actual damages and all such other relief as provided under the law;
- 2 D. Pre-judgment and post-judgment interest on such monetary relief;
- 3 E. Other appropriate injunctive relief as permitted by law or equity,
- 4 including an order enjoining Defendant from retaining refunds for tuition, fees, and/or
- 5 room and board;
- 6 F. The costs of bringing this suit, including reasonable attorney's fees; and
- 7 G. All other relief to which Plaintiff and members of the Class may be
- 8 entitled by law or in equity.

9 **JURY DEMAND**

10 Plaintiff demands trial by jury on his own behalf and on behalf of Class  
11 Members.

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1 Dated: June 3, 2020

Respectfully submitted,

2 HAGENS BERMAN SOBOL SHAPIRO LLP

3 By: /s/ Christopher R. Pitoun

4 Christopher R. Pitoun (SBN 290235)

5 301 North Lake Avenue, Suite 203

6 Pasadena, CA 91101

7 T: (213) 330-7150

F: (213) 330-7152

*christopherp@hbsslaw.com*

8 Steve W. Berman

9 (*Pro Hac Vice* Forthcoming)

10 HAGENS BERMAN SOBOL SHAPIRO LLP

11 1301 Second Avenue, Suite 2000

12 Seattle, WA 98101

(206) 623-7292

13 *steve@hbsslaw.com*

14 Daniel J. Kurowski

15 (*Pro Hac Vice* Forthcoming)

16 Whitney K. Siehl

(*Pro Hac Vice* Forthcoming)

17 HAGENS BERMAN SOBOL SHAPIRO LLP

18 455 N. Cityfront Plaza Dr., Suite 2410

19 Chicago, IL 60611

(708) 628-4949

20 *dank@hbsslaw.com*

*whitneys@hbsslaw.com*

21 *Attorneys for Plaintiff, individually and on*  
22 *behalf of all others similarly situated*