

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

JESSICA TAYLOR, INDIVIDUALLY
AND ON BEHALF OF OTHERS
SIMILARLY SITUATED,

PLAINTIFF,

vs.

CHARLESTON SOUTHERN
UNIVERSITY,

DEFENDANT.

C.A. NO. 2:20-cv-2731-BHH

**DEFENDANT CHARLESTON
SOUTHERN UNIVERSITY'S
NOTICE OF REMOVAL**

COMES NOW, Defendant Charleston Southern University (“Charleston Southern” or “Defendant”), and files this Notice of Removal pursuant to 28 U.S.C. §§ 1332(d), 1441, 1446, and 1453. In support of this Notice of Removal, Charleston Southern would respectfully show the Court as follows:

I. PROCEDURAL BACKGROUND

1. On May 28, 2020, Plaintiff Jessica Taylor, individually and on behalf of others similarly situated (hereinafter “Plaintiff”) filed a Complaint in the Court of Common Pleas, Ninth Judicial Circuit, State of South Carolina, County of Charleston, under Case No. 2020-CP-10-02357 (“State Court Action”). The Complaint alleges claims for breach of contract, unjust enrichment, and conversion against Defendant, Charleston Southern. Plaintiff bases these claims on Charleston Southern’s alleged withholding of tuition and fees after moving its courses online-only in response to the COVID-19 global pandemic.

2. The time period for filing a responsive pleading in the State Court Action has not expired as of the filing of this Notice of Removal. No orders have been entered in the State Court Action as of the filing of this Notice of Removal.

3. Defendant Charleston Southern was served with Plaintiff's Complaint on June 24, 2020. This Notice of Removal is being filed within the thirty (30) day time period required by 28 U.S.C. §1446(b).

II. REMOVAL IS PROPER UNDER THE CLASS ACTION FAIRNESS ACT

4. The Court has original jurisdiction over this action, and the action may be removed to this Court, pursuant to the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4 (codified in scattered sections of 28 U.S.C.) ("CAFA").

5. As set forth below, this is a putative class action in which: (1) there are 100 or more members in Plaintiff's alleged classes; (2) the citizenship of at least some members of the proposed classes are minimally diverse from the citizenship of Charleston Southern; and (3) based on Plaintiff's allegations, the claims of the putative class members exceeds the sum or value of \$5,000,000 in the aggregate, exclusive of interests and costs. Thus, this Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §1332(d).

A. The Proposed Class Action Consists of More Than 100 Members.

6. In the Complaint, Plaintiff seeks to represent two classes of individuals:

Tuition Class:

All individuals who paid tuition and fees, either for themselves or on behalf of a student, for enrollment in-person classes and educational services at Charleston Southern University for the Spring 2020 Semester who were denied live, in-person instruction and opportunities and instead forced to take classes online from the date Defendant imposed online instruction.

Fees Subclass

All individuals who paid fees, either for themselves or on behalf of a student, for enrollment in-person classes and educational services at Charleston Southern University related to on-campus facilities or services or particular to certain courses, such as lab fees, clinical fees, etc. for the Spring 2020 Semester.

See Ex. A., Compl. at ¶ 39.

7. Charleston Southern enrolls approximately 3,724 students. See id., Compl. at ¶ 10.

8. Every student at Charleston Southern owes tuition and fees. Thus, all 3,724 students alleged in the Complaint, or the person paying the tuition or fees on their behalf, qualifies as a member of one or both of the putative classes.

9. Accordingly, the classes Plaintiff seeks to represent exceeds the 100 class members necessary for purposes of 28 U.S.C. § 1332(d)(5)(B).

B. Minimal Diversity Is Satisfied.

10. CAFA requires only minimal diversity, *i.e.*, that any member of a class of plaintiffs is a citizen of a state different from any defendant. See 28 U.S.C. § 1332(d)(2)(A). That requirement is met here.

11. Plaintiff is a member of both the “Tuition Class” and the “Fees Subclass”. See id., Compl. at ¶ 39. Plaintiff is an individual purportedly domiciled in the State of South Carolina, Dorchester County. See id., Compl. at ¶ 14. Defendant is a citizen of the State of South Carolina. See id., Compl. at ¶ 13.

12. Plaintiff asserts claims on behalf of herself, and classes consisting of all individuals who paid tuition or fees to Charleston Southern for the Spring 2020 Semester. See id., Compl. at ¶ 39.

13. Charleston Southern has a significant out-of-state student population. Citizens of other states are members of either or both of these putative classes – as citizens of other states paid tuition or fees to Charleston Southern on behalf of themselves or on behalf of a student for the Spring 2020 Semester.

14. Based on the foregoing, minimal diversity exists because at least one member of the putative classes is a citizen of a different state than Defendant. See 28 U.S.C. § 1332(d)(2)(A).

C. The Aggregate Value of the Amount in Controversy Exceeds \$5,000,000

15. Charleston Southern enrolls approximately 3,724 students. See Ex. A. Compl. at ¶ 10. Each of these students (or the individual paying their tuition/fees) qualifies as a member of each of the putative classes.

16. Charleston Southern charges \$13,000 for tuition per semester for 12-18 undergraduate credit hours (full-time students). See id., Compl. at ¶ 3. Charleston Southern charges \$490 per credit hour for online courses. See id., Compl. at ¶ 3.

17. Charleston Southern also charges various fees, including \$115 graduation fee, \$50 lab fee, \$500 athletic training fee, \$1,000 nursing clinical fee, and \$5,200 room and board fee (lower “White Level” accommodations). See id., Compl. at ¶ 4-5.

18. The Spring Semester at Charleston Southern ran from January 13, 2020 through April 28, 2020 (not including exams). See id., Compl. at ¶ 20. Using a five (5) day school week, the Spring 2020 Semester at Charleston Southern was approximately seventy-one (71) days. Charleston Southern switched its classes to online-only on March 11, 2020. See id., Compl. at ¶ 2. As of March 11, 2020, thirty-three (33) school days or approximately 46% of the Spring Semester remained.

19. If each student (or the person paying the student's tuition) joined the "Tuition Class", and was entitled to a tuition refund as requested in the Complaint, the damages would be \$22,269,520.00 [3,724 (number of students) x \$5,980 (46% of \$13,000 tuition)]. In fact, only approximately 837 students (approximately 22%) would need to join the "Tuition Class" for Plaintiff to exceed the \$5,000,000 threshold for jurisdiction under CAFA. This does not include the damages that are possible for the "Fees Subclass" (the 3,724 students or the person paying the student's fees), which would only add to the aggregate value of the amount in controversy in this case.

20. Therefore, based on the allegations of the Complaint, Charleston Southern reasonably calculates that the amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, thus establishing jurisdiction under CAFA.

III. COMPLIANCE WITH PROCEDURAL REQUIREMENTS

21. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court within thirty (30) days after Defendant was first served with the Complaint, the initial pleading setting forth the claims for relief upon which Plaintiff's action is based.

22. Pursuant to 28 U.S.C. § 1441(a), venue of the removal action is proper in the District of South Carolina, Charleston Division because it is the district and division embracing the place where the State Court Action is pending.

23. Promptly after filing this Notice of Removal, Charleston Southern shall give written notice of the removal to the Plaintiff and will file a copy of this Notice of Removal with the Court of Common Pleas, Ninth Judicial Circuit, State of South Carolina, County of Charleston under Case No. 2020-CP-10-02357 ("State Court Action"), as required by 28 U.S.C.

§ 1446(d). Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon the Defendant in the State Court Action is attached hereto as “**Exhibit A**”.

24. Trial has not commenced in the Court of Common Pleas, Ninth Judicial Circuit, State of South Carolina, County of Charleston, (“State Court Action”).

WHEREFORE, Charleston Southern respectfully prays that the action be removed to the United States District Court, District of South Carolina, Charleston Division and that this Court assume full jurisdiction as if it had been originally filed therein.

Respectfully Submitted,

s/ Wilbur E. Johnson

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Dated: July 24, 2020

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

**JESSICA TAYLOR, individually and on
behalf of others similarly situated,**

Plaintiff,

vs.

**CHARLESTON SOUTHERN
UNIVERSITY,**

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO:

COMPLAINT*(Class action)
(Jury Trial Demanded)*

Plaintiff Jessica Taylor (“Plaintiff”) brings this action individually and on behalf of all others similarly situated against Defendant Charleston Southern University (“Defendant” or “CSU”). Plaintiff makes the following allegations and claims:

NATURE OF THE ACTION

1. This is a class action on behalf of people who paid tuition and fees for the Spring 2020 academic semester at Charleston Southern University, and who, because of CSU’s response to the Novel Coronavirus Disease 2019 (“COVID-19”) pandemic, were deprived the benefits of the education for which they paid, and/or the services or facilities for which their fees were paid, without having their tuition and fees refunded to them.
2. On March 11, 2020, Defendant announced it was cancelling all in-person classes and moving to online-only classes. The transition to all online classes was extended several more times until, ultimately, Defendant announced that the entire Spring 2020 semester would be conducted solely online.
3. Defendant charges \$13,000 for tuition per semester for 12-18 undergraduate credit hours. Defendant charges between \$392 and \$490 per credit hour for online courses. This means

Defendant charges between 47% and 176% more for regular session in-person classes than online only classes.

4. Defendant also charges several fees to various students, such as a \$115 graduation fee, a \$50 lab fee, a \$500 athletic training fee, a \$1,000 nursing clinical fee, and a \$1,500 physician assistant fee.
5. Defendant also charges room and board to students living on campus, which goes from \$5,200 for the “White Level” accommodations to \$6,000 for the “Platinum Level” accommodations.
6. On March 15, 2020, Defendant announced its decision to close its campus, including residence halls, recreation facilities, and other facilities to all students beginning March 18, 2020. The campus remains closed to students through the end of the Spring semester.
7. On April 6, 2020, Defendant announced “There will be no reimbursement for charges or fees, other than those outline [sic] for room and board charges” and “There are no refunds for tuition” and “Income from the graduation fee is used to offset the various expenses related to commencement...Completion fees will be reallocated to the expenses related to virtual commencement as well as future events being planned to honor our 2020 graduates.”¹
8. Defendant announced it would give a prorated rebate for board payments (i.e. prepaid meal plans) calculated on actual food service costs eliminated to registered residential students. Individual students’ rebates will be reduced based on their personal financial aid awards. The rebate will be applied to outstanding student balances and the next academic term.

¹ <https://www.charlestonsouthern.edu/csu-offers-board-rebate-to-residential-students/> (last accessed May 28, 2020)

Defendant announced it would give a partial room rebate to residential students, which would be reduced based on “financial aid awards and other factors.” Thus far, the dollar amount of rebates students can expect and how Defendant is arriving at those amounts has not been announced. Defendant has announced conflicting answers as to whether room and board rebates will be refundable directly to the student rather than held as a future credit.

9. As a result of Defendant’s closure facilities and cancellation of services and events, Defendant has not delivered the educational services, facilities, access, and opportunities that Plaintiff and the putative class contracted and paid for. The online learning options offered to CSU students are subpar in practically every aspect, including lack of facilities, materials, and access to faculty. Students have been deprived of the opportunity for collaborative learning and in-person dialogue, feedback, and critique, including but not limited to the discontinuance of clinical work, hands-on experience, internships, etc. Remote learning options are in no way the equivalent of the in-person education that Plaintiff and the putative class members contracted and paid for. As such, Defendant’s educational services have diminished in value significantly compared to the in-person education services that Defendant was providing prior to canceling in-person classes.
10. CSU is a private university in North Charleston, South Carolina with a total enrollment of approximately 3,724 students. CSU received \$2,880,272 in federal stimulus money under the CARES Act. The CARES Act directs that \$14 billion be distributed to colleges and universities based upon enrollment and requires that institutions use at least half of the funds they receive to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to COVID-19.

11. Plaintiff and the putative class are entitled to a refund of tuition, fees, room, and board for in-person educational services, facilities, access and/or opportunities that Defendant has not provided. Although it may have been a safe and prudent choice to close its campus and transition to online classes, and even if Defendant claims it did not have a choice at all, CSU has nevertheless improperly retained funds for services that have diminished in value or are not being provided at all.
12. This class action seeks refunds of the amounts Plaintiff and putative class members are owed, prorated to the amount of time that remained in the Spring semester when classes moved online and campus services ceased being provided, along with other damages as pleaded herein.

PARTIES

13. Defendant Charleston Southern University is a private university with its principal place of business at 9200 University Blvd, North Charleston, South Carolina.
14. Plaintiff is a citizen and resident of Dorchester County, South Carolina. She is a nursing student of Defendant CSU who paid approximately \$13,000 in tuition and more than \$1,000 in additional fees to Defendant for the Spring 2020 Semester. She has not received a refund for any portion of the tuition or fees paid despite the fact that in-person classes have not been held since March 11, 2020 and access to Defendant's campus facilities and services was cut off on March 18, 2020. Plaintiff has not received the benefit of in-person instruction, meaningful student presentations, peer collaboration, or access to labs, clinical learning, recreational facilities, and other services.

JURISDICTION AND VENUE

15. Plaintiff and others similarly situated have standing to bring their claims pursuant to South Carolina law.

16. This court possesses subject matter jurisdiction over this dispute pursuant to Article V, § 11 of the South Carolina Constitution.
17. This Court has personal jurisdiction over the Defendant pursuant to S.C. Code Ann. § 36-2-802 and S.C. Code Ann. § 36-2-803(A)(1)-(3) and (A)(7) because:
- a. CSU owns and operate its campus and facilities in Charleston County, South Carolina;
 - b. CSU has contracted with Plaintiff and putative class members in Charleston County, South Carolina;
 - c. CSU's breach of its contract with Plaintiff and putative class members occurred in Charleston County, South Carolina;
18. Venue is proper in this forum pursuant to S.C. Code Ann. § 15-7-30 because it is where Defendant CSU maintains its principal place of business and it is where the most substantial part of the alleged breach, acts, and omissions giving rise to these causes of action occurred.

FACTUAL ALLEGATIONS

19. Plaintiff and putative class members are individuals who paid the cost of tuition and other mandatory fees for the Spring 2020 Semester at CSU.
20. Spring semester 2020 classes at CSU began on or about January 13, 020. They were scheduled to end on April 28, 2020 with final exams concluding on or about May 3, 2020.
21. Examples of approximate tuition and mandatory fees at CSU for the Spring 2020 semester are as follows:
- Undergraduate regular session: \$13,000
 - Graduate studies: \$450 - \$625 per credit
 - MS in Physician Assistant studies: \$15,500
 - Room and board: \$5,200 - \$6,000
 - Nursing clinical fee: \$1,000

- Physician Assistant fee: \$1,500
- Graduation fee: \$115

22. The tuition and fees described above are provided as an example; total damages – which may include other fees and tuition expenses that are not listed herein but that were not refunded – will be proven at trial.

23. Plaintiff and members of the putative class chose to enroll in CSU’s in-person classes rather than online-only course offerings or enrolling in another online-only institution.

24. Defendant markets the on-campus experience as a benefit of enrollment.

25. The level and quality of instruction an educator can provide through online-only classes is lower than the level and quality of instruction that can be provided in person.

26. As noted in a July 9, 2017 study by Eric Betting and Susanna Loeb of the Brookings Institute (the “Brookings Study”)², the promises of online courses are “far from fully realized.” Of note, the Brookings Study uses data from DeVry University, comparing both DeVry’s online and in-person courses. The results are telling and provide evidence that students learn less in the online setting:

- Taking courses online reduces student grades by 0.44 points on the traditional four-point grading scale, a 0.33 standard deviation decline relative to taking courses in-person.
- Specifically, students taking the course in-person earned roughly a B- (2.8) grade on average while if they had taken it online, they would have earned a C (2.4).
- Taking a course online reduces a student’s GPA the following term by 0.15 points, with larger drops of 0.42 points and 0.32 points respectively in the next term’s grades for courses taken in the same subject area or for courses in which the online course is a prerequisite.

² <https://www.brookings.edu/research/promises-and-pitfalls-of-online-education/> (last accessed May 28, 2020)

- Taking a course online, instead of in-person, increases the probability that the student will drop out of school, citing that students are approximately 9% less likely to remain enrolled in the semester after taking an online course.

27. The Brookings Study concludes that the “analyses provide evidence that students in online courses perform substantially worse than students in traditional in-person courses and that experiences in these online courses impact performance in future classes and their likelihood of dropping out of college as well.

28. Additionally, a January 2019 paper by Spiros Protopsaltis of George Mason University’s Center for Education Policy and Evaluation and Sandy Baum of the Center on Education Data and Policy at Skidmore College documents that a growing and powerful body of evidence suggests that online learning has failed in numerous respects and that a wide range of stakeholders, including faculty, academic leaders, employers, and the general public, view online education as inferior to face-to-face education. In fact, in national surveys of chief academic officers, no more than about a third ever reported that faculty accept the value and legitimacy of online education. These findings are replicated across various surveys and studies.

29. Perhaps in recognition of these shortcomings, or simply because it is less expensive to offer online-only courses, Defendant usually charges significantly less per credit hour for online-only course work compared to in-person classes. For example, one online course credit for a BS in Criminal Justice costs \$392 but a traditional, regular session, in-person credit costs \$722.22 - \$1,083 per credit depending on how many credits are taken that semester (between 12 and 18 credits per semester).

30. A true collegiate experience encompasses more than just credit hours and degrees. The collegiate experience consists of face-to-face interaction with professors, mentors, and

peers; access to learning facilities such as computer labs, study rooms, laboratories, and libraries; student groups; extra-curricular activities, groups, intramurals, *etc.*; student art, cultures, and other activities; social development, independence, and maturation; hands on learning and experimentation; and networking and mentorship opportunities.

31. Simply put, the online instruction forced upon Plaintiff and the putative class members is not commensurate with the in-person classes they paid for.

32. In addition, Plaintiff and the putative class members paid certain fees related to on-campus activities and in-person learning.

33. As a result of the campus closing, Plaintiff and the putative class members no longer have the benefit of the services for which the fees were paid.

34. Defendant has announced it will not refund any portion of students' tuition or fees paid: "There will be no reimbursement for charges or fees, other than those outline [sic] for room and board charges" and "There are no refunds for tuition" and "Income from the graduation fee is used to offset the various expenses related to commencement...Completion fees will be reallocated to the expenses related to virtual commencement as well as future events being planned to honor our 2020 graduates."³

35. In addition, room and board expenses were paid by some members of the putative class. Defendant has announced incomplete, inconsistent, and insupportable approaches to determining if and how much of class members' room and board expenses will be refunded.

36. On information and belief, Defendant has saved costs and expenses as a result of its shutdown of its campus and facilities.

³ <https://www.charlestonsouthern.edu/csu-offers-board-rebate-to-residential-students/> (last accessed May 28, 2020)

37. Although Defendant is still offering some level of academic instruction via online classes, Plaintiff and members of the putative class paid tuition for a first-rate education and educational experience, with all the appurtenant benefits offered by a first-rate university's in-person and physical experiences; instead, Plaintiff and the putative class received a materially deficient and insufficient alternative.
38. Plaintiff and members of the putative class have been and will be deprived of the benefits and services for which they have already paid.

CLASS ACTION ALLEGATIONS

39. Pursuant to Rule 23 of the South Carolina Rules of Civil Procedure, Plaintiff brings this action on behalf of herself and the putative plaintiff classes, which are defined as:

The Tuition Class:

All individuals who paid tuition and fees, either for themselves or on behalf of a student, for enrollment in-person classes and educational services at Charleston Southern University for the Spring 2020 Semester who were denied live, in-person instruction and opportunities and instead forced to take classes online from the date Defendant imposed online instruction.

The Fees Subclass:

All individuals who paid fees, either for themselves or on behalf of a student, to Charleston Southern University related to on-campus facilities or services or particular to certain courses, such as lab fees, clinical fees, etc. for the Spring 2020 Semester.

40. Specifically excluded from all class definitions are Defendant, the Board of Trustees of the Defendant, and any of their respective affiliates, parents, subsidiaries, officers, directors, employees, successors, or assigns; and the judicial officers and their immediate family members and Court staff assigned to this case.
41. Subject to additional information obtained through further investigation and discovery, the foregoing class definitions may be expanded or narrowed by amendment or amended

complaint.

42. This action has been brought and may be properly maintained on behalf of the above-described classes proposed herein under Rule 23 of the South Carolina Rules of Civil Procedure.

43. **Numerosity.** The members of the classes are so numerous and geographically dispersed that individual joinder is impracticable. Upon information and belief, Plaintiff reasonably estimates that there are thousands of members of each class, the precise number being unknown to Plaintiff, but such number is ascertainable from Defendant's records. Class member may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

44. **The existence and predominance of common questions of law and fact.** Common questions of law and fact exist as to all members of the classes and predominate over any questions affecting only individual class members. These common legal and factual questions include:

- a. Whether Defendant accepted money from the class members in exchange for the promise to provide services;
- b. Whether Defendant has provided the services for which the class members have contracted;
- c. Whether there is a difference in value between online classes and live in-person classes;
- d. Whether Defendant has unlawfully converted money from the class members;
- e. Whether Defendant is liable to the class members for unjust enrichment;
- f. Whether certification of the proposed classes is appropriate under SCRCP 23;
- g. The amount and nature of relief to be awarded to the class members.

45. **Typicality.** Plaintiff's claims are typical of the claims of the other members of the Class

and Subclass in that, among other things, she and the Class and Subclass members were similarly situated and comparably injured through Defendant's wrongful conduct as set forth herein. Further, there are no defenses available to Defendant that are unique to Plaintiff.

46. **Adequacy.** Plaintiff will fairly and adequately protect the interests of the classes. Plaintiff has retained counsel competent and experienced in complex litigation, including class action litigation, and Plaintiff and Plaintiff's counsel intend to prosecute the action vigorously on behalf of the classes. Furthermore, Plaintiff has no interests that are antagonistic to the classes.

47. **Amount in controversy: SCRCP 23(a)(5).** Plaintiff is informed and believes that the amount in controversy for each class member exceeds over one hundred dollars. Plaintiff paid \$13,000 in tuition and over \$1,000 in fees for the Spring 2020 Semester.

**FIRST CAUSE OF ACTION
BREACH OF CONTRACT
(On behalf of the Tuition Class and Fees Subclass)**

48. Plaintiff incorporates by reference all allegations in the preceding paragraphs as though fully set forth herein.

49. Plaintiff brings this count on behalf of herself and members of the Tuition Class and Fees Subclass.

50. Plaintiff and the Tuition Class and Fees Subclass entered into contracts with Defendant which provided that they would pay tuition and fees, including for the Fees Subclass course-specific fees, and in exchange Defendant would provide live, in-person instruction in a physical setting.

51. Plaintiff and other members of the Tuition Class and Fees Subclass fulfilled their end of

the bargain when they paid tuition and fees for the Spring 2020 Semester, whether out-of-pocket, through student loan financing, or by other means.

52. Defendant breached the contract with Plaintiff and the Tuition Class and Fees Subclass by moving all classes for the Spring 2020 Semester to online classes without reducing or refunding tuition and fees accordingly.

53. Plaintiff and members of the Tuition Class and Fees Subclass have suffered damage as a direct and proximate result of Defendant's breach, including but not limited to being deprived of the education, experience, and services which they were promised and for which they already paid.

54. As a direct and proximate result of Defendant's breach, Plaintiff and the Tuition Class and Fees Subclass are to damages, to be decided by the trier of fact in this action, to include but not be limited to reimbursement or disgorgement of the difference between the pro-rated value of the online learning which is being provided versus the value of the live in-person instruction in a physical classroom that was contracted for.

55. Defendant's performance under the contract is not excused due to COVID-19. Indeed, Defendant should have refunded the pro-rated portion of any education services not provided. Even if performance was excused or impossible, Defendant would nevertheless be required to return the funds received for services it will not provide.

**SECOND CAUSE OF ACTION
UNJUST ENRICHMENT
(On behalf of the Tuition Class and Fees Subclass)**

56. Plaintiff incorporates by reference all allegations in the preceding paragraphs as though fully set forth herein.

57. Plaintiff brings this count on behalf of herself and members of the Tuition Class and Fees Subclass.

58. Plaintiff and the Tuition Class and Fees Subclass paid substantial tuition and fees for live, in-person educational services and experiences to be received from January through May 2020.
59. Defendant accepted and realized this benefit by accepting such payment.
60. Defendant has retained this benefit even though Defendant has failed to provide the education, experience, and services for which tuition and fees were collected, making Defendant's retention unjust under the circumstances. Accordingly, Defendant should return the pro-rated portion of any Spring 2020 Semester tuition and fees for education services not provided or diminished in value since CSU shut down.
61. It would be unjust and inequitable for Defendant to retain the benefit, and Defendant should be required to disgorge this unjust enrichment.

**FOR A THIRD CAUSE OF ACTION
CONVERSION
(On behalf of the Tuition Class and Fees Subclass)**

62. Plaintiff incorporates by reference all allegations in the preceding paragraphs as though fully set forth herein.
63. Plaintiff brings this count on behalf of herself and members of the Tuition Class and Fees Subclass.
64. "Conversion is the unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner's rights." *Regions Bank v. Schmauch*, 354 S.C. 648, 667 (Ct. App. 2003). "Conversion may arise by some illegal use or misuse, or by illegal detention of another's personal property." *Id.*

65. Plaintiff and members of the Tuition and Fees Subclass have an ownership right to the portion of the tuition and fees funds for live, in-person education services that Defendant has not provided since it shut down its campus on March 11, 2020.
66. Defendant wrongfully detained these tuition funds when it shut down its campus, moved all of its classes online, and terminated in-person educational services and opportunities for which tuition and fees were intended to pay.
67. Plaintiff and members of the Tuition Class and Fees Subclass demand the return of the pro-rated portion of their Spring 2020 Semester tuition and fees for education services and opportunities not provided since March 11, 2020. Defendant has stated that tuition and fees will not be refunded.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendant as follows:

- a. An Order certifying the Class and Subclass under SCRCP 23 as proposed herein, designating Plaintiff as Class representative, and appointing undersigned counsel as Class Counsel;
- b. An Order declaring that Defendant is financially responsible for notifying the Class members of the pendency of this action;
- c. An Order declaring that Defendant has wrongfully kept monies paid for tuition and fees;
- d. Requiring that Defendant disgorge amounts wrongfully detained for tuition and fees to Plaintiff and the Class and Subclass members;
- e. Awarding Plaintiff and class members actual damages as permitted by contract;
- f. Awarding injunctive relief as permitted by law or equity, including enjoining Defendant from retaining the pro-rated, unused monies paid for tuition, and fees;
- g. An Order for restitution and all other forms of equitable monetary relief;
- h. Scheduling a trial by jury in this action;

- i. Awarding Plaintiff, Class, and Subclass reasonable attorneys' fees, costs and expenses, as permitted by
- j. Awarding pre and post judgment interest on any amounts awarded, as permitted by law; and
- k. Awarding such other and further relief as may be just and proper.

Plaintiffs demand a trial by jury of any and all issues in the action so triable of right.

Respectfully,
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May 28, 2020
Mount Pleasant, SC