

The Honorable Sean O'Donnell
Without Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

ALEXANDER BARRY, individually and on
behalf of all others similarly situated;

Plaintiff,

v.

UNIVERSITY OF WASHINGTON,

Defendant.

No. 20-2-13924-6-SEA

~~[PROPOSED]~~ AMENDED ORDER
GRANTING PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL

WHEREAS, a class action is pending before the Court entitled *Barry v. University of Washington*, Case No. 20-2-13924-6-SEA (the "Action"); and

WHEREAS, Plaintiff Alexander Barry ("Plaintiff") and Defendant, the University of Washington ("Defendant" or "UW") (collectively, the "Parties") have entered into a Class Action Settlement Agreement, which, together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice upon the terms and conditions set forth therein (the "Settlement Agreement"), and the Court having read and considered the Settlement Agreement and exhibits attached thereto;

This matter coming before the Court upon the agreement of the Parties, good cause being shown, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Terms and phrases in this Order shall have the same meaning as ascribed to them in the Settlement Agreement.

1 2. Plaintiff has submitted an unopposed motion requesting the Court enter an order
2 approving the settlement of the Action in accordance with the Settlement Agreement, which,
3 together with the documents incorporated therein, sets forth the terms and conditions for a
4 proposed settlement and dismissal of the Action with prejudice, and the Court having read and
5 considered the Settlement Agreement and being fully advised in the premises, hereby preliminarily
6 approves the Settlement Agreement in its entirety subject to the Final Approval Hearing referred
7 to in this Order.

8 3. This Court finds that it has jurisdiction over the subject matter of this Action and
9 over all Parties to the Action.

10 4. The Court finds that, subject to the Final Approval Hearing, the Settlement
11 Agreement is fair, reasonable, and adequate, within the range of possible approval, and in the best
12 interests of the Settlement Class as set forth below. The Court further finds that the Settlement
13 Agreement substantially fulfills the purposes and objectives of the Action and provides substantial
14 relief to the Settlement Class without the risks, burdens, costs, or delay associated with continued
15 litigation, trial, and/or appeal. The Court also finds that the Settlement Agreement (a) is the result
16 of arm's-length negotiations between experienced class action attorneys; (b) is sufficient to
17 warrant Notice of the Settlement and the Final Approval Hearing to be disseminated to the
18 Settlement Class; (c) meets all applicable requirements of law, including Washington Civil Rule
19 23; and (d) is not a finding or admission of liability by the Defendant, the Released Parties, or any
20 other person, nor a finding of the validity of any claims asserted in the Action or of any wrongdoing
21 or any violation of law or other obligation.

22 **I. FINAL APPROVAL HEARING**

23 5. The Final Approval Hearing shall be held before this Court on July 11, 2025 at 9:00
24 AM at the Superior Court of the State of Washington in and for King County, to determine (a)
25 whether the proposed settlement of the Action on the terms and conditions provided for in the
26 Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the
27 Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether
28 to approve the payment of attorneys' fees, costs, and expenses to Class Counsel; and (d) whether

1 to approve the payment of a Service Award to the Class Representative. The Court may adjourn
2 the Final Approval Hearing without further notice to the Settlement Class.

3 6. Class Counsel shall file papers in support of their Fees & Costs Award and Class
4 Representative's Service Award (collectively, the "Fee Petition") with the Court on or before May
5 16, 2025. Class Counsel may file a response to any objections to their Fee Petition with the Court
6 on or before June 27, 2025.

7 7. Papers in support of final approval of the Settlement Agreement and any
8 supplementation to the Fee Petition shall be filed with the Court on or before June 27, 2025.

9 8. For purposes of settlement only Hagens Berman Sobol Shapiro LLP and Lynch
10 Carpenter LLP are appointed Class Counsel for the Settlement Class, and Plaintiff is the named
11 Class Representative for the Settlement Class. The Court finds that these attorneys are competent
12 and capable of continuing to exercise the responsibilities of Class Counsel and that Plaintiff will
13 adequately protect the interests of the Settlement Class.

14 9. For purposes of this Settlement Agreement only, the Court preliminarily approves
15 the following Settlement Class as defined in the Settlement Agreement:

16 All Students who were enrolled in and paid for the University of
17 Washington's in-person based educational programs, services, and
18 courses for the Winter Quarter 2020 and/or Spring Quarter 2020
academic term(s).

19 Excluded from the Settlement Class are the University of
20 Washington, any entity in which the University of Washington has
21 a controlling interest, and the University of Washington's legal
22 representatives, predecessors, successors, assigns, and non-student
23 employees. Further excluded from the Settlement Class are the
Court, its employees, as well as any Student who previously
elected to opt out of the class following the Court's June 28, 2023,
order certifying the class in this case.

24 10. The Court finds, subject to the Final Approval Hearing referred to in Paragraph 5,
25 that the Settlement Agreement is fundamentally fair, adequate, and reasonable, and, solely within
26 the context of and for the purposes of settlement only, reaffirms its June 28, 2023 certification
27 order that the Settlement Class satisfies the requirements of Rule 23 of the Washington Civil Rules.
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II. NOTICE AND ADMINISTRATION

11. The Court approves, as to form, content, and distribution, the Notice Plan set forth in the Settlement Agreement, including all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits B, C, and D thereto (the "Notice Forms"). The Notice Plan shall be completed by March 31, 2025 as outlined in Section 4.1 of the Settlement Agreement. The Court finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Washington Civil Rules. The Court also finds that the Notice constitutes valid, due and sufficient notice to all Persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise the Settlement Class of the pendency of this Action, the terms of the Settlement Agreement, and the right to object to the Settlement and to opt out or exclude themselves from the Settlement Class. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this Action. The Parties, by agreement, may revise the Notice Forms in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

12. The Court approves the request for the appointment of Epiq Class Action & Claims Solutions, Inc. as Notice and Settlement Administrator of the Settlement Agreement.

13. Pursuant to Section 4 of the Settlement Agreement, the Settlement Administrator is directed to publish the Notice Forms on the Settlement Website and to send direct notice via email and/or U.S. Mail, in accordance with the Notice Plan called for by the Settlement Agreement. The Settlement Administrator shall also maintain the Settlement Website to provide full information about the Settlement.

14. This Order shall constitute a "judicial order" within the meaning of the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 C.F.R. § 99.31(a)(9), sufficient to compel University of Washington to provide Class Members' contact information to the Settlement Administrator in accordance with Section 4.1(a) of the Settlement Agreement. The Court further rules that the Notice Plan outlined in Section 4.1 of the Settlement Agreement and the Notice Forms constitute a reasonable effort per 34 C.F.R. § 99.31(a)(9)(ii) to notify eligible

1 Students of this order sufficiently in advance of disclosure to allow the Students an opportunity to
2 seek protective action, including filing a motion to quash with this Court.

3 **III. REQUESTS TO OPT OUT FROM THE SETTLEMENT CLASS**

4 15. Any Person falling within the definition of the Settlement Class may, upon valid
5 and timely request, “opt out” from the Settlement Class. Any such Person may do so if, on or
6 before the Objection/Opt-Out Deadline, which the Court orders to be set as 60 days after the Notice
7 Date, he or she complies with the opt-out procedures set forth in the Settlement Agreement and
8 Notice. Those who opt out of the Settlement Class shall neither be bound by the terms of the
9 Settlement Agreement nor entitled to any of its benefits.

10 16. As set forth in the Settlement Agreement, Persons in the Settlement Class who elect
11 to exclude themselves or “opt-out” of the Settlement Agreement must file a written request with
12 the Settlement Administrator, received or postmarked no later than the Objection/Opt-Out
13 Deadline. The request to opt-out must comply with the opt-out procedures set forth in the
14 Settlement Agreement and Notice and include the Person’s name and address, a signature, the
15 name and number of the case (*Barry v. University of Washington*, Case No. 20-2-13924-6-SEA in
16 the Superior Court of the State of Washington for King County), and a statement that the Person
17 wishes to opt-out or be excluded from the Settlement Class for the purposes of this Settlement.
18 Each request to opt-out must be submitted individually. So-called “mass” or “class” opt-outs shall
19 not be allowed.

20 17. Individuals who opt-out of the Settlement Class relinquish all rights to benefits
21 under the Settlement Agreement and will not release their claims. However, Persons included in
22 the Settlement Class who fail to submit a valid and timely request to opt-out shall be bound by all
23 terms of the Settlement Agreement and the Final Judgment.

24 **IV. APPEARANCES AND OBJECTIONS**

25 18. At least twenty-one (21) calendar days before the Final Approval Hearing, any
26 Person who falls within the definition of the Settlement Class and who does not request to opt-out
27 of the Class may enter an appearance in the Action, at their own expense, individually or through
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1 counsel of their own choice. Any Person who falls within the definition of the Settlement Class
2 who does not enter an appearance will be represented by Class Counsel.

3 19. Any Person who falls within the definition of the Settlement Class who has not
4 timely filed a request to opt-out may object to the fairness, reasonableness, or adequacy of the
5 Settlement Agreement or to a Final Judgment being entered dismissing the Action with prejudice
6 in accordance with the terms of the Settlement Agreement, or to the attorneys' fees and expense
7 reimbursement sought by Class Counsel in the amounts specified in the Notice, or to the Service
8 Award to the Class Representatives as set forth in the Notice and Settlement Agreement. At least
9 fourteen (14) days prior to the Objection/Opt-Out Deadline, papers supporting the Fee Petition
10 shall be filed with the Court and posted to the Settlement Website. Settlement Class Members
11 may object on their own or may do so through separate counsel at their own expense.

12 20. To object, Persons who fall within the definition of the Settlement Class must sign
13 and file a written objection no later than on or before the Objection/Opt-Out Deadline, which the
14 Court orders to be set as 60 days after the Notice Date. To be valid, the objection must comply
15 with the objection procedures set forth in the Settlement Agreement and Notice. Specifically, the
16 objection must contain a caption or title that identifies it as "Objection to Class Settlement in *Barry*
17 *v. University of Washington*," contact and address information for the objecting Person, documents
18 sufficient to establish the Person's standing as included in the definition of the Settlement Class
19 (such as, for example, the Person's Winter Quarter 2020 and/or Spring Quarter 2020 tuition
20 invoice(s)), the facts supporting the objection, and the legal grounds on which the objection is
21 based, the name and contact information of any and all attorneys representing, advising, or in any
22 way assisting him or her in connection with the preparation or submission of the objection or who
23 may profit from the pursuit of the objection (the "Objecting Attorneys"), and a statement indicating
24 whether he or she intends to appear at the Final Approval Hearing (either personally or through
25 counsel who files an appearance with the Court in accordance with King County Local Rules). If
26 an objecting Person or any of the Objecting Attorneys has objected to any class action settlement
27 where the objecting Person or the Objecting Attorneys asked for or received any payment in
28 exchange for dismissal of the objection, or any related appeal, without any modification to the

1 settlement, then the objection must include a statement identifying each such case by full case
2 caption. Class Counsel and Defendant's Counsel may petition the Court for discovery of any
3 objecting Person to determine whether the objecting Person has standing as a Settlement Class
4 Member. So-called "mass" or "class" objections shall not be allowed.

5 21. Persons who fall within the definition of the Settlement Class who fail to file and
6 serve timely written objections in compliance with the requirements of this paragraph and the
7 Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from
8 making any objections (whether by appeal or otherwise) to the Settlement Agreement or to any of
9 the subjects listed in paragraph 5, above, *i.e.* (a) whether the proposed settlement of the Action on
10 the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate
11 and should be given final approval by the Court; (b) whether a judgment and order of dismissal
12 with prejudice should be entered; (c) whether to approve the payment of attorneys' fees and
13 expenses to Class Counsel; and (d) whether to approve the payment of a Service Award to the
14 Class Representative.

15 22. To be valid, objections by Persons represented by counsel must be filed with the
16 Court (using the Court's electronic filing system or in any manner in which the Court accepts
17 filings). Pro se objecting Persons may mail their objections to the Clerk of Court, Superior Court
18 of the State of Washington in and for King County, 516 Third Avenue, Room E-609, Seattle, WA
19 98104, with a copy also sent to Class Counsel, Steve W. Berman, Daniel J. Kurowski and Whitney
20 K. Siehl, Hagens Berman Sobol Shapiro LLP, 455 N. Cityfront Plaza Dr., Suite 2410 Chicago, IL
21 60611 and (Eddie) Jae K. Kim and Tiffine Malamphy, Lynch Carpenter LLP, 1133 Penn Avenue,
22 Floor 5, Pittsburgh, PA 15222; and to Defendant's Counsel, Marc R. Shapiro, Orrick Herrington
23 & Sutcliffe LLP, 51 West 52nd Street, New York, NY 10019-6142 and Matthew D. LaBrie, Orrick
24 Herrington & Sutcliffe LLP, 222 Berkeley Street, Suite 2000, Boston, MA 02116).

25 V. FURTHER MATTERS

26 23. The Court authorizes the Parties, without further approval from the Court, to agree
27 to and adopt such amendments, modifications and expansions of the Settlement Agreement and its
28 implementing documents (including all exhibits to the Settlement Agreement) so long as they are

1 consistent in all material respects with the terms of the Settlement Agreement and do not limit or
2 impair the rights of the Settlement Class or expand the obligations of Defendant.

3 24. All further proceedings in the Action are ordered stayed until Final Judgment or
4 termination of the Settlement Agreement, whichever occurs earlier, except for those proceedings
5 necessary to obtain and/or effectuate final approval of the Settlement Agreement.

6 25. Persons who fall within the definition of the Settlement Class who do not timely
7 exclude themselves in accordance with the Settlement Agreement and this Order shall be bound
8 by all determinations and judgments concerning the Settlement Agreement and Final Approval of
9 same, whether favorable or unfavorable.

10 26. The Court retains jurisdiction to consider all further applications arising out of or
11 connected with the proposed Settlement Agreement. The Court may approve the Settlement
12 Agreement, with such modifications as may be agreed to by the Parties, if appropriate, without
13 further notice to the Class or Settlement Class.

14 27. Any Persons who fall within the definition of the Settlement Class who do not
15 timely and validly request to opt-out from the Class pursuant to Paragraphs 15-17 hereto: (a) shall
16 be bound by the provisions of the Settlement Agreement and all proceedings, determinations,
17 orders and judgments in the Action relating thereto, including, without limitation, the Final
18 Judgment, and the Releases provided for therein, whether favorable or unfavorable to the
19 Settlement Class; and (b) shall forever be barred and enjoined from directly or indirectly filing,
20 commencing, instituting, prosecuting, maintaining, or intervening in any action, suit, cause of
21 action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United
22 States or elsewhere, on their own behalf or in a representative capacity, that is based upon or arises
23 out of any or all of the Released Claims against any of the Defendant or the other Released Parties,
24 as more fully described in the Settlement Agreement.

25 28. The Settlement Agreement is not a concession or admission. The Settlement
26 Agreement shall not be used against University of Washington or any of the Released Parties as
27 an admission or indication with respect to any claim of any fault or wrongdoing or omission by
28 University of Washington or any of the Released Parties. Whether or not the Settlement

1 Agreement is finally approved, neither the Settlement Agreement, nor any document, statement,
2 proceeding, or conduct related to the Settlement Agreement, nor any reports or accounts thereof,
3 shall in any event be:

- 4 a. Construed, offered, or admitted in evidence as, received as, or deemed to be
5 evidence for any purpose adverse to the Released Parties, including, but not
6 limited to, evidence of a presumption, concession, indication, or admission
7 by the University of Washington or any of the Released Parties of any
8 liability, fault, wrongdoing, omission, concession, or damage; or
- 9 b. Disclosed, referred to, or offered or received in evidence against any of the
10 Released Parties in any further proceeding in this Action or in any other
11 civil, criminal, or administrative action or proceeding or in any arbitration,
12 mediation, or any other form of alternative dispute resolution, except for
13 purposes of settling this Action pursuant to the Settlement Agreement and
14 by the Parties for purposes of enforcing the Settlement Agreement.

15 29. Pursuant to this Order:

- 16 a. The Notice Plan shall be completed by March 31, 2025 (the "Notice Date")
17 as outlined in Section 4.1 of the Settlement Agreement;
- 18 b. Requests to Opt Out shall be submitted in accordance with Paragraph 15-
19 17 of this Order on or before May 30, 2025;
- 20 c. Objections shall be filed in accordance with Paragraph 18-20 of this Order
21 on or before May 30, 2025;
- 22 d. Any Election Forms shall be submitted on or before May 30, 2025;
- 23 e. Class Counsel shall file papers in support of their Fee & Cost Award and
24 Class Representative's Service Award (collectively, the "Fee Petition")
25 with the Court on or before May 16, 2025;
- 26 f. Papers in support of final approval of the Settlement Agreement and any
27 responses to objections (if any)/supplementations to the Fee Petition shall
28 be filed with the Court on or before June 27, 2025;

1 g. The Final Approval Hearing shall be held before this Court on July 11,
2 2025, at 9:00 AM at the Superior Court of the State of Washington in and
3 for King County, 516 Third Avenue, Courtroom W-817, Seattle, WA
4 98104.

5 IT IS SO ORDERED, this 4 day of March, 2025.

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7 
8 The Honorable Sean O'Donnell

9 Proposed Order Submitted By:

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