

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

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CLAIRE HICKEY AND AKIRA )  
KIRKPATRICK, *on behalf of themselves and all* ) Case No. 2:20-CV-690  
*others similarly situated* )  
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 )  
 ) PLAINTIFFS, )  
 ) **CLASS ACTION COMPLAINT**  
V. ) **AND DEMAND FOR JURY**  
 ) **TRIAL**  
 )  
UNIVERSITY OF PITTSBURGH )  
 )  
 )  
 ) DEFENDANT )  
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Plaintiffs, Claire Hickey and Akira Kirkpatrick (“Plaintiffs”), by and through their undersigned counsel, bring this action against Defendant, University of Pittsburgh (the “University” or “Defendant”), and allege as follows based upon information and belief, except as to the allegations specifically pertaining to them, which are based on personal knowledge.

**NATURE OF THE ACTION**

1. This is a class action lawsuit on behalf of all persons who paid to attend the University of Pittsburgh as full-time undergraduate students enrolled for the Spring 2020 semester at its main campus in Pittsburgh, Pennsylvania (“Pittsburgh Campus”). Such persons paid all or part of the tuition for this semester that ranged from approximately \$18,098 - \$41,508; housing and dining fees of, on average, approximately \$11,814 (if they lived in University housing), and three mandatory fees for the semester including a Student Activity Fee of \$100.00, a Wellness Fee of \$180.00, and a Security, Safety and Transportation Fee of \$90.00 (collectively, “Mandatory Fees”). The University of Pittsburgh has not refunded any amount of the tuition, housing and dining fees (for those who moved out of University housing after April

3, 2020) or any of the Mandatory Fees, even though it has implemented on-line distance learning since March 23, 2020 and also, on or about that date, stopped providing any of the services or facilities the Mandatory Fees were intended to cover because of the University's response to the Coronavirus Disease 2019 ("COVID-19") pandemic. The University has also determined not to charge any of the Mandatory Fees for its Summer 2020 session which will also be conducted on-line.

2. The University's failure to provide the services for which tuition and the Mandatory Fees were intended to cover since approximately March 23, 2020 is a breach of the contracts between the University and Plaintiffs and the members of the Class, and is unjust.

3. The University only provided prorated refunds to students for housing and dining who vacated their campus housing on or before April 3, 2020. Those students who did not move out of University housing until after April 3 should also be entitled to a prorated refund.

4. In short, as to tuition, Plaintiffs and the members of the Class have paid for tuition for a first-rate education and educational experience, with all the appurtenant benefits offered by a first-rate university, and were provided a materially deficient and insufficient alternative, which alternative constitutes a breach of the contracts entered into by Plaintiffs and the Class with the University. As to Mandatory Fees, Plaintiffs and the Class have paid fees for services and facilities which are simply not being provided; this failure also constitutes a breach of the contracts entered into by Plaintiffs and the Class with the University.

5. Plaintiffs seek, for themselves and Class members, the University's disgorgement and return of the pro-rated portion of its tuition and Mandatory Fees, proportionate to the amount of time that remained in the Spring Semester 2020 when the University closed and switched to online distance learning or, in the case of housing and dining, for any members of the Class that

moved out of University housing after April 3, 2020, a prorated portion of the housing and dining fee for the days left in the semester after they moved out.

### **PARTIES**

6. (a) Plaintiff Claire Hickey is a citizen of Pennsylvania. She paid to attend the Spring 2020 semester at the University's Pittsburgh Campus as a full-time undergraduate student. Plaintiff Claire Hickey paid tuition for the Spring 2020 semester and the Mandatory Fees to enable her to obtain an in-person, on-campus educational experience and enable her to participate in the activities and to utilize the services covered by the Mandatory Fees that she paid. She has not been provided a pro-rated refund of the tuition or the Mandatory Fees she paid.

(b) Plaintiff Akira Kirkpatrick is a citizen of Pennsylvania. She paid to attend the Spring 2020 semester at University's Pittsburgh's Campus as a full-time undergraduate student. Plaintiff Akira Kirkpatrick paid tuition for the Spring 2020 semester and the Mandatory Fees to enable her to obtain an in-person, on-campus educational experience and enable her to participate in the activities and to utilize the services covered by the Mandatory Fees that she paid. She has not been provided a pro-rated refund of the tuition or the Mandatory Fees she paid.

7. Defendant, the University of Pittsburgh, is a state-related but private research university in Pittsburgh, Pennsylvania that was founded as the Pittsburgh Academy in 1787. The University offers numerous major fields for undergraduate students, as well as a number of graduate programs. Defendant's undergraduate program includes students from many, if not all, of the states in the country. Its principal campus is located in Pittsburgh, Pennsylvania. Defendant is a citizen of Pennsylvania.

### **JURISDICTION AND VENUE**

8. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A), as modified by the Class Action Fairness Act of 2005, because at least one member of the Class, as defined below, is a citizen of a different state than Defendant, there are more than 100 members of the Class, and the aggregate amount in controversy exceeds \$5,000,000 exclusive of interests and costs.

9. This Court has personal jurisdiction over Defendant because Defendant maintains its principal place of business in this District.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Defendant resides in this District.

### **FACTUAL ALLEGATIONS.**

11. Plaintiffs and Class Members paid for themselves or for full-time students to attend the University of Pittsburgh Spring 2020 semester at its Pittsburgh Campus including tuition, housing and dining (if they lived on campus) and the Mandatory Fees for the Spring 2020 Semester at the University. The Spring 2020 semester at the University began on or about January 6, 2020. The Spring 2020 semester ended on or around April 25, 2020.

12. Tuition costs at the University at its Pittsburgh Campus for the Spring 2020 Semester for a full-time undergraduate student were as follows:

	<b>Full-time In-State Tuition</b>	<b>Full-time Out-of-state Tuition</b>
Kenneth P. Dietrich School of Arts and Sciences	\$18,628	\$32,656

College of Business Administration	\$20,806	\$36,792
Swanson School of Engineering	\$20,662	\$37,060
School of Nursing	\$23,452	\$41,508
School of Dental Medicine (Undergraduate)	\$18,098	\$32,498
School of Education	\$18,628	\$32,656
College of General Studies	\$18,628	\$32,656
School of Health and Rehabilitation Sciences	\$23,452	\$41,508
School of Computing & Information	\$20,456	\$35,952
School of Pharmacy	\$32,770	\$37,678
School of Social Work	\$18,628	\$32,656

13. Plaintiffs and the members of the Class paid all or part of the applicable tuition for the benefit of on-campus live interactive instruction and an on campus educational experience throughout the entire Spring 2020 semester.

14. Housing and dining at the University of Pittsburgh for the Spring 2020 semester cost, on average, approximately \$11,814. The members of the Class who lived on campus during the Spring 2020 semester paid the applicable cost for the benefit of on-campus housing and meals throughout the entire semester.

15. Plaintiffs and the members of the Class paid the Mandatory fees for the Spring 2020 semester so they could benefit throughout the Spring 2020 semester as follows:

- a. from paying the Student Activity Fee,
  - programs and services for undergraduate students including the Pitt Program Council, WPTS-FM Radio, the Student Office of Sustainability, the Office of PittServes, the Student Organization Resource Center and the Student Government Board;
- b. from paying the Wellness Fee,
  - access to Student Health Services, a campus facility staffed by medical doctors, psychiatrists, nurses, and nurse practitioners. some additional services provided by Student Health services—such as dietary counseling—which are not otherwise covered by health insurance. The fee also covers the co-pay that is required by health insurance with each visit. the University’s Counseling Center, staffed by psychologists, counselors, social workers, and other mental health care professionals;
  - access to the University’s Counseling Center;
  - access to Campus Recreation facilities, including the Baierl Recreation Center, Pitt Sports Dome, Trees Hall, and Bellefield Hall, among others; and
  - access to intramural and club sports programs, as well as recreation and fitness programs, services, and activities.
- c. from paying the Student Recreation Fee,
  - campus transportation services including shuttles, expanded handicapped/disabled transport services, a night on-call van service, an on-call escort service, and security lighting, the University’s Campus Recreation facilities, including the Baierl Recreation Center, Pitt Sports Dome, Trees Hall, and Bellefield Hall, and intramural and club sports programs, as well as recreation and fitness programs, services, and activities;
- d. from paying the Security, Safety and Transportation Fee,
  - the University’s campus transportation services including shuttles, expanded handicapped/disabled transport services, a night on-call van service, an on-call escort service, and security lighting.

**In Response to COVID-19, the University Closed Campus, Preventing Access to its Facilities, Services, Housing, and Dining, and Cancelled All In-Person Classes**

16. On March 11, 2020, during the University's Spring Recess, the University announced that it was extending the Spring Recess, canceling all classes the week of March 16, 2020, and transitioning to remote online courses for the remainder of the Spring 2020 Semester beginning March 23, 2020. It further canceled all campus events for the foreseeable future and suspended all spring varsity athletic practices and games until further notice. It encouraged students not to return to campus following their extended Spring Recess.

17. Specifically, on March 11, 2020, University of Pittsburgh Chancellor Patrick Gallagher issued a new university-wide letter that stated in pertinent part that:

The pandemic has already forced us to take a number of proactive steps. These include recalling students, faculty and staff from hard hit parts of the world; canceling study abroad programs; canceling or postponing certain events; expanding public health communication; and enhancing cleaning efforts to minimize potential exposure.

[ . . . ]

The steps that we are now taking include:

- Replacing in-person instruction with online and alternative learning options at all five Pitt campuses.
- Requesting that students not return to University housing, if they have this option.
- Canceling all study abroad and study away programming for the spring and summer terms.
- Restricting all nonessential domestic and international university travel until further notice.
- Canceling or postponing all events that exceed 25 participants or that are considered nonessential. When possible, we will seek to replace in-person events with virtual engagements.
- Expanding work flexibility to allow remote work arrangements, when needed.

To prepare for this transition and give our faculty time to contact students directly, we are postponing the start of classes to Monday, March 23, 2020.

These changes, which will be effective through the end of the current semester, mean that distance learning strategies will replace all face-to-face classes in satisfying the academic

requirements toward a student's degree. As a result, there is no immediate need for most undergraduate students to return to campus after spring break concludes.

18. The University has not held any in-person classes since March 6, 2020, which was just before the commencement of its Spring Recess that was initially scheduled to end on March 15, 2020. Classes that have continued since March 16, 2020 have only been offered in a remote online format with no in-person instruction or interaction. Even classes for students with concentrations in areas where in-person instruction and laboratory time is especially crucial have only had access to sub-par online educational options.

19. On March 17, 2020, University of Pittsburgh spokesman Kevin Zwick stated that "Students who are moving out of the residence halls by April 3, 2020, will receive a pro rata reduction of housing and meal plan fees on their student account," Specifically, he stated that "Those moving out by March 20 are to receive a 36% refund; those who move out between March 21 and April 3 . . . receive 30%, and those after that do not receive a refund."

20. The next day, on March 18, 2020, Chancellor Gallagher announced that the University would be closing "many on-campus academic support facilities, except to specific personnel. These changes will affect access to nearly all of the remaining shared facilities, such as libraries, recreational facilities, computer labs, study areas and group spaces, that are currently available to University faculty, staff and students."

21. Chancellor Gallagher subsequently announced on March 20, 2020, that the University had limited its campus operations and ceased non-essential services, and that the University of Pittsburgh building access was limited to those with essential activities.

22. Specifically, with regard to the services the Wellness Fee was intended to cover,

- Effective March 19, 2020, the Student Health Service no longer provided in-person visits and while telehealth services were continued to be provided, only if paid for by health insurance,



- Effective March 20, 2020, all Campus Recreation facilities, including the Baierl Recreation Center, Pitt Sports Dome, Trees Hall, and Bellefield Hall, among others were closed, and
- Effective March 20, 2020, all intramural and club sports programs, as well as recreation and fitness programs, services, and activities were closed.

23. The services for which the Student Activity Fee and Security, Safety and Transportation Fee were assessed were also terminated at or about this time.

24. On or around April 16, 2020, in tacit acknowledgement that not rebating a pro-rata portion of the Mandatory Fees was improper for the period when there were no on-campus activities and only distanced on-line learning, the University announced that it would waive the Mandatory Fees across all campuses for students enrolled in courses during summer 2020 sessions:

***The University's Online Courses Are Subpar to In-Person Instruction, For Which Plaintiffs and the Class Members Contracted with the University to Receive by Paying Tuition and Fees***

25. Students attending the University of Pittsburgh's Spring 2020 semester at its Pittsburgh Campus did not choose to attend an online institution of higher learning, but instead chose to enroll in the University's in-person educational program.

26. On its website, the University markets the University's on-campus experience as a benefit of enrollment:

## Admissions



### **Eliza Schally, bioengineering, Class of 2019**

"Pitt has a great sense of community. It's not competitive, people don't step all over each other to get to the top. There is also a great sense of pride; we know Pitt has a great reputation and we work hard to uphold that."



### **Undergraduate Admissions**

With more than 60 percent of classes enrolling fewer than 30 students, Pitt undergraduates get to interact with some of the world's finest professors. And Pitt is one of the country's most consistent producers of top-performing undergraduates, including four Rhodes Scholars since 2007. [Read More »](#)

## Admissions



### **Dylan Woods, nursing, Class of 2020**

"Our campus has the perfect mix. It has both a strong community and an intense academic drive. If you are interested in something — inside or outside the classroom — Pitt has it available for you."



### **Cole Bryan, computer science, Class of 2020**

"I love the atmosphere of Pitt's campus. We have a strong sense of pride and we are also very collaborative. Students want to help each other, and we have a great sense of community."



**Bradley Alderama, electrical engineering, Class of 2019**

"Pitt is what you make of it. If you want to challenge yourself, you can find a lot of opportunities here. Co-ops, internships, and more. If you are motivated for something, you can find it."

27. The online learning options being offered to the University's students are sub-par in practically every aspect as compared to what the educational experience afforded Plaintiffs and the members of the Class once was. During the on-line portion of the Spring 2020 semester, the University principally used programs by which previously recorded lectures were posted on-line for students to view on their own. See <https://teaching.pitt.edu/#Teach>. Therefore, there was a lack of classroom interaction among teachers and students and among students that is instrumental in interpersonal skill development. Further, the on-line formats being used by the University of Pittsburgh do not require memorization or the development of strong study skills given the absence of any possibility of being called on in class and the ability to consult books and other materials when taking exams.

28. Students have been deprived of the opportunity for collaborative learning and in-person dialogue, feedback, and critique.

29. Access to facilities such as libraries, laboratories, computer labs, and study rooms, are also integral to a college education, and access to the myriad activities offered by campus life fosters social development and independence, and networking for future careers, all substantial and materials parts of the basis upon which the University of Pittsburgh can charge the tuition it charges, are not being provided.

30. The University has not made any refund of any portion of the tuition Plaintiffs and the members of the Class paid for the Spring 2020 semester for the period it moved to subpar on-line distance learning.

31. Nor has the University refunded any portion of the Mandatory Fees it collected from Plaintiffs and the members of the Class for the Spring 2020 semester even though it closed or ceased operating the services and facilities for which the Mandatory Fees were intended to pay and even though the University has determined not to charge any of the Mandatory Fees for the Summer 2020 session because teaching will be conducted by off-campus on-line learning.

32. There are also members of the Class who were unable to leave the campus prior to April 4, 2020. These members of the Class should not be penalized by the University and are entitled to a pro-rata refund of housing and dining charges for the remaining days of the Spring 2002 semester after these students left.

33. Plaintiffs and the Class members are therefore entitled to a pro-rated refund of the tuition and Mandatory Fees they paid for the Spring 2020 semester and any students who were unable to leave the campus prior to April 4, 2020 should be entitled to a pro-rata refund of housing and dining charges that they paid or were paid on their behalf for the Spring 2020 semester for the remaining days of that semester after they left the campus.

#### **CLASS ACTION ALLEGATIONS**

34. Plaintiffs bring this case individually and, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of the class defined as all persons who paid tuition and/or the Mandatory Fees for a student to be enrolled as a full-time undergraduate in the Spring 2020 semester at University of Pittsburgh's Pittsburgh Campus (the "Class").

35. This action has been brought and may properly be maintained on behalf of the Class proposed herein under the criteria of Rule 23 of the Federal Rules of Civil Procedure.

36. The requirements of Rule 23(a)(1) have been met. The Class is so numerous that joinder of all members is impracticable. Although the precise number of Class members is unknown to Plaintiffs, the University has reported that 19,200 undergraduate students currently attend its Pittsburgh Campus. The identity of all such students is known to the University and can be identified through the University's records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

37. The requirements of Rule 23(a)(2) have been met. There are questions of law and fact common to the members of the Class including, without limitation:

- a. Whether the University accepted money from Plaintiffs and the Class members in exchange for the promise to provide an in-person and on-campus live education, as well as certain facilities and services throughout the Spring 2020 semester;
- b. Whether Defendant breached its contracts with Plaintiffs and the members of the Class by failing to provide them with an in-person and on-campus live education after March 15, 2020;
- c. Whether Defendant breach its contracts with Plaintiffs and the by failing to provide the services and facilities to which the Mandatory Fees pertained after mid-March 2020;
- d. Whether Defendant breached its contracts with members of the Class by requiring them to leave the University housing they had paid for by April 3 or forfeit any refund; and

- e. The amount of damages and other relief to be awarded to Plaintiffs and the Class members.

38. The requirements of Rule 23(a)(3) have been met. Plaintiffs' claims are typical of the claims of the members of the Class because Plaintiffs and the other Class members each contracted with Defendant for it to provide an in-person and on-campus live education for the tuition they paid and the services and facilities for the Mandatory Fees that they paid, that the University stopped providing in mid-March.

39. The requirements of Rule 23(a)(4) have been met. Plaintiffs are adequate class representatives because their interests do not conflict with the interests of the other Class members who they seek to represent, Plaintiffs have retained competent counsel who are experienced in complex class action litigation, and Plaintiffs intend to prosecute this action vigorously. Class members' interests will be fairly and adequately protected by Plaintiffs and their counsel.

40. Class certification of Plaintiffs' claims is also appropriate pursuant to Rule 23(b)(3) because the above questions of law and fact that are common to the Class predominate over questions affecting only individual members of the Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. The damages or financial detriment suffered by individual Class members are relatively small compared to the burden and expense of individual litigation of their claims against the University. It would, thus, be virtually impossible for the Class, on an individual basis, to obtain effective redress for the wrongs committed against them. Furthermore, Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the

court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances.

**FIRST CLAIM FOR RELIEF**

**BREACH OF CONTRACT  
(On Behalf of Plaintiffs and the Class)**

41. Plaintiffs repeat and re-allege the allegations in Paragraphs 1-30, above, as if fully alleged herein.

42. Plaintiffs bring this claim individually and on behalf of the members of the Class.

43. By paying the University tuition and Mandatory Fees for the Spring 2020 semester, the University agreed to, among other things, provide an in-person and on-campus live education as well as the services and facilities to which the Mandatory fees they paid pertained throughout the Spring 2020 semester. As a result, Plaintiffs and each member of the Class entered into binding contract with the University.

44. The University has failed to provide this contracted for in-person and on-campus live education as well as the services and facilities to which the Mandatory Fees pertained throughout the Spring 2020 semester, yet has retained monies paid by Plaintiffs and the Class for a live in-person education and access to these services and facilities during the entire Spring 2020 semester. Plaintiffs and the members of the Class have therefore been denied the benefit of their bargain.

45. Plaintiffs and the members of the Class have suffered damage as a direct and proximate result of the University's breach in the amount of the prorated portion of the tuition and Mandatory Fees they each paid during the remaining approximately 35 days of the Spring

semester (calculated from March 16, 2020 when the campus was closed to most students), as well as any unused housing and meal plans for those Class members who moved out on or after April 4, 2020.

46. The University should return such portions to Plaintiffs and each Class Member.

## **SECOND CLAIM FOR RELIEF**

### **UNJUST ENRICHMENT (On Behalf of Plaintiffs and the Class)**

47. Plaintiffs repeat and re-allege the allegations in Paragraphs 1-30, above, as if fully alleged herein.

48. Plaintiffs bring this claim individually and on behalf of the members of the Class in the alternative to the First Claim for Relief.

49. Plaintiffs and members of the Class conferred a benefit on the University in the form of tuition and Mandatory Fees paid for the benefit of an in-person and on-campus live education and the services and facilities to which the Mandatory Fees pertained. The payment of tuition and Mandatory Fees for the Spring 2020 semester were intended to provide these benefits to Plaintiffs and the members of the Class throughout the Spring 2020 semester. Similarly, the payment of University housing and dining fees for the Spring 2020 semester conferred a benefit on the University that was intended to provide housing and dining for such students throughout the Spring 2020 semester.

50. The University has retained the full benefit of the tuition and Mandatory Fee payments by Plaintiffs and the members of the Class for the Spring 2020 semester, yet has failed to provide the quality of education and services and facilities for which tuition and the Mandatory Fees were paid, including those for an in-person and on-campus live education, and access to the University's services and facilities. In addition, the University has retained the full



benefit of the housing and dining fees paid by those Class members who were unable to move out of University housing on or before April 3, 2020.

51. The University's retention of the portion of the tuition and Mandatory Fees during the period of time the University has been closed, and Plaintiffs and the members of the Class have been denied an in-person and on-campus live education and access and the services and facilities for which the Mandatory Fees were paid, is unjust and inequitable under the circumstances. Similarly, the University's retention of the portion of the value of housing and dining fees following move outs by Class members after April 3, 2020 is also unjust and inequitable.

52. Accordingly, the University should return the prorated portion of the tuition and Mandatory Fees that Plaintiffs and the Class members each paid during the remaining 35 days of the Spring 2020 semester (calculated from March 16, 2020 when the campus was closed to most students) as well as any unused housing and meal plans for those who were unable to move out of University housing by April 3, 2020.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that judgment be entered in favor of Plaintiffs and the Class against Defendant as follows:

- (a) For an order certifying the Class under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiffs as representative of the Class and Plaintiffs' attorneys as Class Counsel to represent the Class;
- (b) For an order finding in favor of Plaintiffs and the Class on all counts asserted herein;

- (c) For compensatory damages in an amount to be determined by the trier of fact;
- (d) For an order of restitution and all other forms of equitable monetary relief;
- (e) Awarding Plaintiffs' reasonable attorneys' fees, costs, and expenses;
- (f) Awarding pre- and post-judgment interest on any amounts awarded; and,
- (g) Awarding such other and further relief as may be just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to the Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any and all issues in this action so triable of right.

Dated: May 8, 2020

Respectfully submitted,

*s/ Gary F. Lynch*

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## CIVIL COVER SHEET

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

**I. (a) PLAINTIFFS**

CLAIRE HICKEY and AKIRA KIRKPATRICK

(b) County of Residence of First Listed Plaintiff Montgomery

(EXCEPT IN U.S. PLAINTIFF CASES)

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

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**DEFENDANTS**

UNIVERSITY OF PITTSBURGH

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

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

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

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

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

**VI. CAUSE OF ACTION**

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

Breach of Contract

Brief description of cause:

Defendant has failed to provide contracted for live in person education and well as services and facilities.

**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

05/11/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Gary F. Lynch

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

JS 44AREVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the ( ☐ Erie ☐ Johnstown ☒ Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1. ☐ This case is related to Number \_\_\_\_\_. Short Caption \_\_\_\_\_.
2. ☒ This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

I. CIVIL CATEGORY (Select the applicable category).

1. ☐ Antitrust and Securities Act Cases
2. ☐ Labor-Management Relations
3. ☐ Habeas corpus
4. ☐ Civil Rights
5. ☐ Patent, Copyright, and Trademark
6. ☐ Eminent Domain
7. ☐ All other federal question cases
8. ☐ All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. ☒ Insurance indemnity, contract and other diversity cases.
10. ☐ Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: 5/11/2020

/s/ Gary F. Lynch

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [\\$7.85M University of Pittsburgh Settlement Resolves Lawsuit Over COVID Tuition, Fee Refunds](#)

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